



Legislative Department Seattle City Council Memorandum

Date: May 18, 2011

To: Committee on the Built Environment (COBE)

From: Sara Belz, Legislative Analyst, Council Central Staff

Subject: **Council Bill (CB) 117179 and Clerk File (CF) 310211:** Application of Lesley Bain for approval of a contract rezone of 55,870 square feet of land at 711 Bellevue Avenue East from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60) for future construction of two structures containing 58 residential units and parking for 63 vehicles. (DPD Project Number 3010378 / Type IV)

Overview

Lesley Bain (the “Applicant”) proposes a contract rezone of a site located at 711 Bellevue Avenue East from LR3 to MR-60. COBE was previously briefed on this matter at its April 27, 2011, meeting. The subject property is located on the west side of Bellevue Avenue East and north of East Roy Street in the Capitol Hill Urban Center. The site is comprised of six parcels with a total size of around 55,870 square feet. A 51-unit apartment building (BelRoy Apartments) and five single-family homes are currently located on the property. The Applicant’s proposed development plans for the rezone area call for the preservation of the apartment building, the relocation or demolition of the single-family houses, and the construction of 58 new residential units, 49 additional underground parking spaces, and approximately 900 square feet of commercial space. About 22 more residential units would be constructed under the rezone proposal than would be permitted under current LR3 zoning.

While the eastern portion of the rezone site is relatively flat, the western portion slopes steeply downward toward Interstate 5 and is classified as an environmentally critical area (ECA). No disturbance or development of the ECA is proposed as part of the contract rezone; however, some disturbance of the ECA buffer could occur on the northern portion of the site. The Director of the Department of Planning and Development (DPD) reviewed the proposed rezone pursuant to SEPA and issued a Determination of Nonsignificance (DNS) that was not appealed. The Director also issued a design review approval that was not appealed.

A map of the proposed rezone area is attached to this memorandum. The parcels that immediately surround the rezone site are zoned LR3; however, the height and scale of nearby existing buildings varies widely and many exceed what is currently permitted under LR3 zoning. Both DPD and the Hearing Examiner recommend approval of this rezone, with conditions.

Appeal

The Council received one appeal of the Hearing Examiner's Findings and Recommendation for this rezone proposal. The appeal challenged the Hearing Examiner's conclusion that the steep slope ECA located on the site was created by human activity. Seattle Municipal Code Section 23.34.024.B.2 states that property designated as an ECA may not be rezoned to Midrise unless the ECA was created by human activity or is a designated peat settlement, liquefaction, seismic or volcanic hazard, or flood prone area, or abandoned landfill. The Hearing Examiner's record for this matter contains substantial evidence supporting her conclusion that the steep slope on the proposed rezone site was created by human activity. The appellant did not submit a timely request to supplement the record nor provide any evidence refuting the Hearing Examiner's conclusion.

Staff recommends the appeal be denied.

CB 117179 and CF 310211

Council staff, in consultation with the Law Department, has drafted the necessary documents to complete this rezone. These include CB 117179, a Property Use and Development Agreement (PUDA), and a Council Findings, Conclusions and Decision (FC&D) for CF 310211.

Rezone expiration

It is standard City practice to include termination language in rezone legislation, PUDAs, and Council FC&Ds that cause rezones to expire after two years unless an application for a Master Use Permit is issued within that two-year time period. Given current economic conditions, the Applicant requested the expiration timeline for the proposed rezone at 711 Bellevue Avenue East be extended to six years. Both DPD and the Hearing Examiner considered this request and neither expressed any concerns about it.

Consistent with the applicant's request, CB 117179, the PUDA, and the Council FC&D for CF 310211 all include language that would extend the expiration timeline for the proposed rezone from two to six years.

CB 117179

CB 117179 would amend the Official Land Use Map to reflect the proposed change in zone designation at 711 Bellevue Avenue East from LR3 to MR-60. It would also accept a PUDA that would place several conditions on the rezone. The rezone conditions included in the PUDA are copied below. They were adopted from DPD's and the Hearing Examiner's reports.

General conditions:

- 1) Approval of the rezone shall be conditioned upon the development of the proposed project in accordance with the final approved Master Use Permit drawings, dated June 9, 2010, which substantially conform to the conditions established during the design review process, including the structure design, structure height, building materials, landscaping, street improvements, parking lot design and layout, signage, and site lighting.

- 2) The operation of any form of “drinking establishment” (as that term is defined in SMC Section 23.84A.010) shall be prohibited on the site.

SEPA conditions – prior to issuance of any construction, shoring or grading permits:

- 3) The Owners shall provide to the DPD Land Use Planner for approval a Construction Management Plan that identifies construction worker parking and construction material staging areas; truck access routes to and from the site for excavation and construction phases; and sidewalk and street closures with neighborhood notice and posting procedures.
- 4) The Owners shall provide to the DPD Land Use Planner for approval a Construction Noise Management Plan. The Plan shall include a discussion on management of construction-related noise, efforts to mitigate noise impacts, and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Activities outside the above-stated restrictions may be authorized upon approval of the Plan to address mitigation of noise impacts resulting from all construction activities. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short-term transportation impacts that result from the project.

SEPA conditions – during construction:

- 5) The hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:00 a.m. and 6:00 p.m. and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays (except that grading, delivery and pouring of cement and similar noisy activities shall be prohibited on Saturdays). This condition may be modified by DPD to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DPD.
- 6) For the duration of the construction activity, the Owners/responsible party shall cause construction truck trips to cease during the hours between 4:00 p.m. and 6:00 p.m. on weekdays.

Design Review condition – prior to the issuance of any Certificate of Occupancy:

- 7) The Owners shall arrange for an inspection with the DPD Land Use Planner to verify that the construction of the buildings with siting, materials, and architectural details is substantially the same as those documented in the approved plans dated June 9, 2010.

Staff recommends approval of CB 117179.

CF 310211 (Proposed Council FC&D)

CF 310211 contains the content of the record established by the Hearing Examiner and a proposed Council FC&D. The proposed Council FC&D adopts the Hearing Examiner’s Findings and Conclusions and grants the proposed rezone. A copy of the proposed Council FC&D (labeled “DRAFT”) is included in Committee members’ notebooks and printed on yellow paper.

COBE is also requested to amend the title of CF 310211, as shown below in strikethrough, to make it consistent with the content of the rezone application and the title of CB 117179:

Application of Lesley Bain for approval of a contract rezone of ~~48,885,55,870~~ square feet of land at 711 Bellevue Avenue East from Lowrise 3 (~~L3LR3~~) to Midrise with a 60 foot height limit (MR-60) for future construction of two structures containing ~~6058~~ residential units and parking for ~~7063~~ vehicles. (DPD Project Number 3010378 / Type IV)

Staff recommends approval of the proposed Council FC&D and amending the title of CF 310211 as described above.

Next Steps

A Committee recommendation on May 25 will enable a Full Council vote on both CB 117179 and CF 310211 on May 31.

Map of Proposed Rezone Area: 711 Bellevue Avenue East

