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CITY CLERK

June 20, 2011

City Clerk
City Hall, Floor 3
City of Seattle
P O Box 94728
Seattle, WA 98124

Re: **Clerk's File 309434: Rezone Petition of Lynn Huff for the University Christian Church and the University Presbyterian Church
DPD Reference No. 3004384**

Dear Councilmembers:

University Presbyterian Church (UPres) and University Christian Church (UCC), through their undersigned counsel, submit the following response to the appeal of the Displacement Coalition. Specifically, UPres and UCC are supportive of PUDA rezone condition language that would require a minimum 1 for 1 replacement of existing housing owned by property owners in the rezone area on the east side of 15th Avenue NE for low income residents, as long as those replacement units can be consolidated and provided in the housing project proposed for the UCC property on the east side of 15th Avenue NE (Parcel Nos. 8823902200, 8823902185, 8823902175 and 8823902180).

UPres and UCC are willing to agree to this low income housing commitment even though most of the existing housing stock on UCC and UPres properties are not recipients of any housing subsidies and are not otherwise subject to income-qualified limitations that are present in most of the examples cited by Displacement Coalition in their appeal. In short, while those other examples do not dictate the outcome requested by Displacement Coalition, UPres and UCC are willing to accept a PUDA rezone condition to impose them voluntarily as a condition of the requested rezone. Recording the PUDA against the properties would adequately ensure enforcement of this replacement requirement and would fully respond to concerns expressed in the Displacement Coalition appeal regarding the lack of commitment to this requirement.

To avoid any confusion regarding the obligation in the future, we further recommend that the condition (and the PUDA) specify the number of replacement dwelling units, based on current assessor's information. UPres and UCC would also accept condition language that specified a "functional equivalent unit" requirement based on the current number of bedrooms in the units being replaced. UPres and UCC do not believe, however, that it is appropriate (or

Clerk's File 309434; DPD Ref. 3004384
Rezone Petition of Lynn Huff for UCC/UPres
Response to Displacement Coalition Appeal

Page 1 of 4

workable) to establish a total number of replacement dwelling units based on a current number of tenants, as inferred by the Displacement Coalition's appeal statement. Numbers of tenants can vary. Individual tenants may or may not choose to share a bedroom. The only effective and objective measure would be to base the replacement requirement on number of existing dwelling units (as of the effective date of the rezone) and the number of bedrooms in those units (to address "functional equivalence"). Based on current assessor information¹, the totals for parcels of the east side of 15th Avenue NE are 18 dwelling units and 39 bedrooms. Further, UCC renews its prior commitment that any development on its lots shall contain a minimum of 20% low income units. Further, it is UCC's goal that all dwelling units in its future project would be dedicated for this purpose, assuming we can obtain the funding to achieve this goal. We hope that this clarifies our support for low income and affordable housing in the University neighborhood.

UPres and UCC would further support condition language regarding what constitutes appropriate replacement housing that matches the Seattle Municipal Code definition of low and moderate income housing. The substantial additional detail and federal funding program references contained in the Displacement Coalition condition request exceed City Code requirements and would impose unnecessary burdens on the affected property owners. As noted above, most of the existing housing units are not subsidized or in any other way subject to the more specific federal program requirements reflected in the proposed Displacement Coalition condition. We ask the Council not to include those additional requirements beyond what is specified in the SMC definition.

UPres and UCC reaffirm the request stated in their original appeals that the alternative HE condition (1)(a) be modified so as not to apply on each individual parcel, but rather to apply either to the rezone area as a whole, or to the UCC properties specifically. This requested change would not interfere with the agreed objective to provide 1 for 1 replacement housing. As currently worded, Alternative Condition (1)(a) imposes a "primarily residential" restriction on each parcel, without regard to whether the existing parcel currently contains any residential uses. As an example, Parcel No. 8823902135 currently contains a parking lot, with no residential uses. UPres has acquired its properties over the years, including Parcel No. 8823902135 for ministry-related activities and not specifically for housing. Imposing a new "primarily residential" restriction on UPres parcels will unnecessarily conflict with UPres intentions for its properties. Such a restriction is not necessary to satisfy the desired low-income replacement requirements. It also is not necessary to address other expressed concerns regarding other potential commercial uses in the rezone area. Alternative condition (1)(b) adequately addresses those commercial use concerns by limiting the commercial uses to those associated with church-affiliated entities and non-profit social and human service organizations, including limited retail uses connected with those programs and organizations.

¹ The Hearing Examiner Decision specifies 18 existing units. Parcel 8823902160 is identified as a 10-unit apartment on Assessor records. However, that unit count included a basement, which has not been rented since UPres acquired the property several years ago. Without the basement, that apartment has 7 rental units, one of which is a two-bedroom. For simplicity, however, UCC and UPres are willing to commit to the 18 unit replacement mentioned in the Hearings Examiner decision.

As described in the rezone request, noted in the DPD recommendation, and affirmed by letters supporting the requested rezone, this zoning change is necessary to support and encourage additional low income and affordable housing in this neighborhood, a priority that has been identified in local plans. UPres and UCC are willing to agree to the 1 for 1 replacement request, as long as that replacement can be provided in a consolidated location. We believe with that commitment, the City Council can and should reverse the Hearing Examiner's recommendation of denial and approve the rezone to NC2-65, based on the findings and analysis contained in the DPD recommendation. We further request that the Council modify the Alternative Conditions of approval contained in the HE decision, as follows:

The City Council approves the rezone to NC2-65 designation rather than to the NC3-65 designation requested, and the rezone shall be subject to the following conditions:

- 1. All building elements above 13 feet shall be set back 30 feet from the east property line of the parcels on the east side of 15th Ave. N.E. (Lots 16-30, Block 15, University Park Addition), provided that a development standard departure may be granted by DPD through design review, as part of a Master Use Permit, where it is found that any allowed reductions of this required setback adequately accomplish a sensitive and appropriate transition of height, bulk and scale across the alley to the east.*
- 2. Additional right-of-way setbacks and/or dedications shall be provided, as designated in the Seattle Street Improvement Manual and the Seattle Municipal Code, for each element of redevelopment of the area rezoned (Lots 16-30, Block 15, University Park Addition and Lots 1-15, Block 2, University Heights Addition) without application of any exemption provisions thereof, including situations where the limited size of new construction would not otherwise require application of the provisions.*

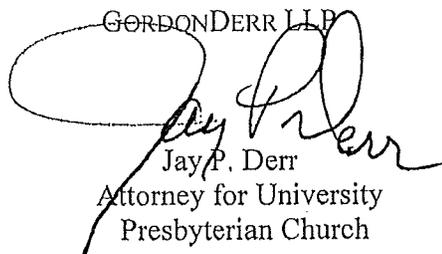
Further, the rezone should be subject to the requirement for a PUDA, agreed to by all owners of property on the east side of 15th Avenue NE, that applies the following provisions to that property:

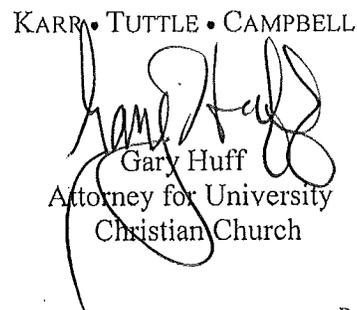
- 1. In the event that a Master Use Permit application is made for any parcel east of 15th Avenue NE, the following restrictions shall apply:*
 - a. New development on Parcel Nos 8823902200, 8823902185, 8823902175 and 8823902180 on the east side of 15th Avenue NE shall be limited to proposals that include primarily residential uses.*
 - b. Street-level commercial uses on the east side of 15th Avenue NE shall be limited to office space and support services for church-affiliated entities, or non-profit social or human service organizations consistent with the mission of the churches. Nothing shall preclude any such entities or non-profit organizations from making limited retail sales of items or materials consistent with its goals and purposes including, without limitation, a church bookstore and church-affiliated coffee shop.*

- c. *Nothing shall preclude any owner of property on the east side of 15th Avenue NE from seeking relief from the restriction in paragraph 2 1b on street-level commercial uses where it can demonstrate that, despite its best efforts, it has been unable to lease the ground floor commercial areas at reasonable rental rates for a period of nine months. However, with the exception of church-related uses, uses that regularly attract night-time crowds, or consistently generate a high demand for on-street parking, are prohibited.*
- d. *A minimum of 18 residential units, or 20 percent of the residential constructed on the property owned by University Christian Church on the east side of 15th Avenue NE, whichever is greater, shall be affordable to those with an annual household income that does not exceed fifty percent of the Washington State median income, as computed annually by the City. One for one replacement of low income housing shall be provided for all existing housing on lots on the east side of 15th Avenue NE. This one for one replacement obligation is applicable to all properties on the east side of 15th Avenue NE, but may be consolidated in the affordable and low income housing project to be constructed on Parcel Nos. 8823902200, 8823902185, 8823902175 and 8823902180 owned by University Christian Church. Based on the current number of residential units and the current number of bedrooms in those existing residential units, a minimum of 18 residential units containing a minimum total of 39 bedrooms, or 20 percent of the residential units to be constructed on Parcel Nos. 8823902200, 8823902185, 8823902175 and 8823902180, whichever is greater, shall be affordable to those with an annual household income that does not exceed fifty percent of the Washington State median income, as computed annually by the City.*

Thank you for your consideration of this appeal request. We believe, with the PUDA conditions as modified in this letter, the City will both ensure replacement of existing housing stock, while also providing an important and significant opportunity for new low income and affordable housing in this University neighborhood.

Respectfully submitted,

GORDON DERR LLP

Jay P. Derr
Attorney for University
Presbyterian Church

KARR • TUTTLE • CAMPBELL

Gary Huff
Attorney for University
Christian Church

RESPONSE BY THE SEATTLE DISPLACEMENT COALITION AND THE INTERFAITH TASK FORCE ON HOMELESSNESS TO THE APRIL 28TH AND MAY 2ND APPEAL LETTERS FILED BY UNIVERSITY CHRISTIAN CHURCH AND UNIVERSITY PRESBYTERIAN CHURCH SEEKING TO OVERTURN PARTS OF THE HEARINGS EXAMINERS DECISION ON THEIR REZONE REQUEST

CF: 309434

DPD REF: 3004384

To: City Clerk and

June 17th, 2017

To: Seattle City Council (Committee on the Built Environment)

FILED
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CITY CLERK

This is the response by the Displacement Coalition and the Interfaith Task Force on Homelessness to the Department of Planning and Development's (DPD) to the appeal by University Christian Church (UCC) and University Presbyterian Church (UPC) of the Hearing Examiner's decision related to these parties' request for a contract rezone of properties in the University District between NE 47th and NE 50th along both sides of 15th Ave. NE.

As stated in our appeal letter dated May 2nd to the City Council's Committee on the Built Environment (COBE), we did NOT appeal the Hearing Examiner's Primary recommendation to deny the parties' request for a rezone from L-3 Residential to Commercial zoning. However, we are appealing her fallback position for failure to attach adequate conditions that would ensure 1-for-1 replacement at comparable rents in order to fully mitigate the loss of low income housing that will inevitably result on this and surrounding blocks should the Council decide to grant the parties request for this upzone.

Here are our responses to arguments raised by rezone proponents in their appeal letters arguing against elements of the Hearing Examiner's decision:

Neither proponents (or the Hearings Examiner) adequately acknowledge the significant negative impacts on low income housing caused by this rezone both with respect to housing losses that would be set in motion on both sides of the affected block and on blocks immediately north and northeast of the affected block. The record is replete with testimony and data indicating that a redesignation of this block from L3 to commercial zoning without a 1-for-1 replacement requirement threatens both the existing lower density character of this block and surrounding blocks and thus also the affordability of existing rental housing in this area.

The Hearing Examiner did not err, however, in her conclusion that this rezone "would constitute an encroachment of commercial development into an established lowrise residential area, which is discouraged by SMC 23.34.072" (See her Conclusion #8). This was the basis for her denial recommendation, i.e., that there were too many conflicts with standards for granting such an upzone including conflicts with

policies and provisions of the Comp Plan, U-District Neighborhood Plan and General Land Use Code criteria. See especially her conclusions 11, 14, 15, 16, and especially in 26 the following words: "Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the site is the existing L3 designation."

This is the key point that rezone proponents are challenging from the Hearing Examiner's conclusions and which formed the basis for her primary recommendation of denial as well as her call for the inclusion of a requirement should you grant the rezone that all developments on the east side of the block be limited to "primarily residential". We dispute proponents' claims that the hearings examiner's analysis was incorrect here or that residential only requirements should be removed. She is correct and there is ample testimony on the record affirming her assessment.

However the Hearing Examiner and proponents ignore considerable testimony on the record and erred in their analysis (See conclusion #12, 17, and 23) that a rezone of this block would not set in motion upzones on surrounding blocks. She further erroneously asserts that because one of the proponents developing on the east side of the block (UCC) has promised to provide low income housing in their new development, therefore that will increase overall the stock of residential units and that, therefore, this rezone would have no negative impact on low income housing or the residential stock of the block or surrounding area. We strongly dispute these conclusions.

In the first place, you'll note that in UPC's appeal letter, they do not want to even be restricted to "primarily residential" development on the east portion of the block they own. UCC supports UPC's position and requests removal of language that would ensure residential when UPC develops its properties. Without such a restriction, as ample testimony on the record indicates, we likely would see intense office and other commercial uses on UPC's portion of the block greatly conflicting with the existing residential character of that area and thus violating standards for a rezone under the code as noted by the hearings examiner. Further, UPC now owns and operates low income housing on these properties and any plan they pursue without a 1-for-1 replacement requirement (in addition to a residential requirement) would cause the loss of these units. Proponents (and the hearings examiner) overlook this.

Further, there are at least three dozen low income and affordable housing units on the west side of the block directly affected by the rezone. The hearing examiner failed to acknowledge this (despite information on the record indicating that) and failed to impose any conditions applied there to ensure primarily residential or, more importantly, in order to ensure 1-for-1 replacement of existing low income housing that is threatened there by this rezone. While we applaud and she was correct in imposing a 1-for-1 requirement effectively for UCC properties, she did not recommend this condition for the other 2/3rd of the block not under UCC's control.

There is ample testimony on the record showing how an upzone on this block would drive property values up, taxes up and rents up on these properties and potentially even cause demolition and further commercial redevelopment on the west side of the affected block leading to more low-income housing losses. The hearing examiner's decision fails to recognize this loss and does not recommend 1-for-1 replacement requirements for the majority of the block including UPC's properties currently containing low income housing.

The Hearing Examiner completely ignores the displacement and gentrification that will accompany subsequent rezones north and northeast of the affected block set in motion by this rezone.

For all these reasons, she has underestimated the impact of the rezone on low income housing. According to SMC **SMC 23.34.008 General rezone criteria, considerable weight is given towards consideration of the impacts a rezone will have on low income housing (see especially F 1(a)).** As a result, she also erred in not fully recognizing how a change from residential to commercial also would set in motion a loss of low income housing on the block and on surrounding blocks where there are currently high concentrations of low income housing. Proponents fail to acknowledge these impacts and offer no mitigation except for the portion of the block owned by UCC.

This is why we have proposed and submitted specific language to ensure 1-for-1 replacement of housing directly threatened by this upzone. The language we submitted in our appeal would at least ensure replacement at comparable price for all of the housing threatened on all properties within the block of the rezone (in the event that this rezone is granted by the Council).

In sum, no rezone should be granted without 1-for-1 replacement language and at comparable price. Without it, the rezone would violate key criteria in the code, neighborhood plan policies calling for preservation of existing low income opportunities, key code requirements that must be met for rezones, and it would contradict a long history of policies and city recommendations calling for preservation of our existing low income stock (see this policy history we submitted with our appeal).

Further, as we testified at hearings and in written testimony and through presentation of our exhibits attached to our appeal, our city is on sound legal footing to require such 1-for-1 "low income" housing replacement as a condition for this rezone. Apparently the Hearing Examiner agrees or she would not have recommended that it applied to UCC properties.

Such 1-for-1 replacement language and at comparable rent levels already is in the land use code for midrise and highrise residential zones, and in locations of the code related to institutional expansion, as well as in numerous other policies in the Comp Plan and neighborhood plans of the city (see our exhibits attached to our appeal where we cite this material).

Further, any claims that these policies are unconstitutional or a violation of any state law is now directly contradicted by the WACs. See especially WAC 365-196-870 Affordable housing incentives including especially excerpts which read:

(b) Counties and cities may establish an incentive program that requires a minimum amount of affordable housing that must be provided by all residential developments built under the revised regulations. The minimum amount of affordable housing may be a percentage of the units or floor area in a development or of the development capacity of the site under the revised regulations.

And,

(c) Counties and cities may choose to offer incentives through development regulations, or through conditions on rezones or permit decisions."

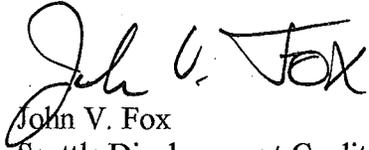
We appreciate and strongly support the good faith promise on the part of UCC to replace all low income housing on properties they own. They even promise to increase the number of such units in their new development should their rezone be granted. And we also strongly support the Hearing Examiner's call for a condition built into the PUDA effectively codifying UCC's promise to do 1-for-1 replacement (See 1(d)) and with rents set at no more than 50% of median income.

But this rezone is not just about what UCC will do with its properties on 1/3rd of the block. This rezone also applies to all other property owners on the block including those owned by UPC that also contain existing low rent units which they intend to redevelop if the rezone is granted. This rezone also threatens to drive rents up on the Westside of the block driving lower income renters out of those units. The rezone will drive up land values and taxes accordingly which invariably lead to higher rents. Granting this rezone also sets in motion and facilitates future rezones of other areas to the north and northeast of this affected block that now are zoned L-3 and predominantly lower density low income rentals.

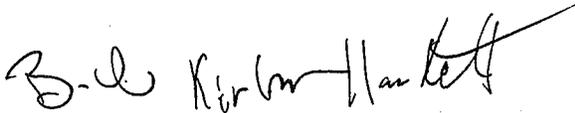
The Hearing Examiner failed to recommend that such housing replacement obligation also be required of other property owners who own rental housing on the remainder of the block – both sides - including University Presbyterian Church (UPC). Lacking such a requirement, notwithstanding UCC's good intentions and Hearing Examiner's replacement recommendation affixed to UCC's properties via the PUDA, this rezone would set in motion significant losses of existing low income housing on the subject block and surrounding blocks – losses that would greatly exceed any addition to the low income stock accompanying UCC's planned redevelopment.

If the council ignores the Hearing Examiner's primary recommendation to deny and goes ahead anyway to grant this rezone, they must affix 1-for-1 replacement requirements across the entire block. Let's get it right this time.

Sincerely,



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cc: all parties on accompanying certificate of service

UNIVERSITY PARK COMMUNITY CLUB

16 June 2011

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FILED
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RE: Comment concerning Appeal of Hearing Examiners Recommendations
CF: 309434 and DPD Ref: 3004384

Dear Councilmembers,

The following comments are provided related to the Hearing Examiners Decision regarding requests to "upzone" properties on both sides of 15th Ave. NE between NE 47th and NE 50th from L3 residential to commercial classification NC3-65.

As previously addressed in University Park's comments regarding the rezone application, our primary concern relates to the potential loss of existing low-income housing. We believe that the Appeal by the Seattle Displacement Coalition and the Interfaith Task Force on Homelessness of 2 May 2011 very clearly and eloquently describes what needs to be changed to that decision should the city council choose to move forward and approve the rezone.

Specifically, take the Hearing Examiners 1 for 1 replacement language and apply it to all affected property owners and future property owners on the block. The comparable replacement housing would require developers replace all units they remove at comparable low income rents serving those at low income levels below 50% area median or less.

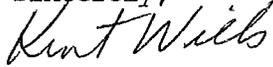
We believe the University District Community Council (UDCC) letter of 9 March 2011, which focuses on the application being out of scale with the surrounding neighborhood particularly on the east side of 15th Ave. NE remains valid. Further, the UDCC stated that at the very least the properties on the east side of 15th Ave. NE should be zoned NC2-65 where a more compatible set of allowable uses are established, and that the setback requirements should be strengthened to ensure an appropriate transition to the less intensively developed properties across the alley. While the Hearing Examiner denied the requested NC3-65 rezone, she indicated that if the Council approves the rezone it should be to an NC2-65 designation. Further, she established specific set back provisions should the upzone move ahead. While we believe the set back conditions appear adequate, we are hesitant to believe DPD would comply with these i.e. setback tradeoffs which benefit the developer at the expense of neighbors. The UDCC letter also indicated that DPD itself acknowledges "would create juxtaposition between zones that which would not transition gradually enough, given its 65 foot height, long length and close proximity to the L-3 areas to the east, to adequately transition between the two areas." In the end, uncertain transition and alley/right

5210 16th Ave. N.E., Seattle, WA. 98105

of way setbacks remain issues that need to firmly documented to prevent future behind the scenes modifications should the rezone move forward.

Thank you for your consideration.

Sincerely,



Kent Wills

On Behalf of the UPCC Board

Copy to:

Gary Huff, Karr, Tuttle, Campbell

Jay & Gordon Derr

David & Anna Dong

Dir. DPD c/o Scott Kemp

John Fox

Robin Schachter, Ryan, Swanson & Cleveland

Don Kennedy

C. Schaefer