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311196

FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of:)	C.F. 311196
)	
Application of Mary H. Murphy to)	FINDINGS, CONCLUSIONS
rezone 6,400 sq. ft. of land at 6300)	AND DECISION
Seaview Ave NW from Single Family)	
5000 (SF) to Commercial 1-40' (C1-40))	
(Project No. 3011490, Type IV).)	
)	
)	

Introduction

This matter involves the petition of Mary H. Murphy (“Proponent”) for a rezone of approximately 6,400 square feet of property located at 6300 Seaview Avenue NW (“Property Portion”), from Single Family 5000 (SF 5000) to Commercial 1 with a 40 foot height limit (C1-40). The petition also requests a rezone to C1-40 of the portion of the NW 65th Street right-of-way that is currently zoned SF 5000, lies between the Property Portion and Seaview Avenue NW, and comprises approximately 285 square feet (“NW 65th Street Portion”). Attachment A shows the Property Portion and the NW 65th Street Portion.

On April 28, 2011, the Director of the Department of Planning and Development recommended approval of the proposed rezone. The Hearing Examiner held an open record hearing on May 26, 2011 and left the record open until June 16, 2011 to allow for a site visit and additional materials for the record. On June 20, 2011, following the close of the record, the Hearing Examiner issued Findings and Recommendations recommending approval of the rezone of the Property Portion and the NW 65th Street Portion.

On August 10, 2011, the matter came before the Committee on the Built Environment (COBE), which reviewed the Hearing Examiner file and staff report. COBE recommended approval of the rezone of the Property Portion and the NW 65th Street Portion, and adoption of the Hearing Examiner's findings and conclusions.

COBE then requested staff to prepare draft Findings, Conclusions and a Decision and a related Ordinance to change the City's Official Land Use Map, and referred the matter to a full Council vote.

Findings of Fact and Conclusions

The Council hereby adopts the Hearing Examiner's Findings of Fact, Conclusions and Recommendation for C.F. 311196, dated June 20, 2011.

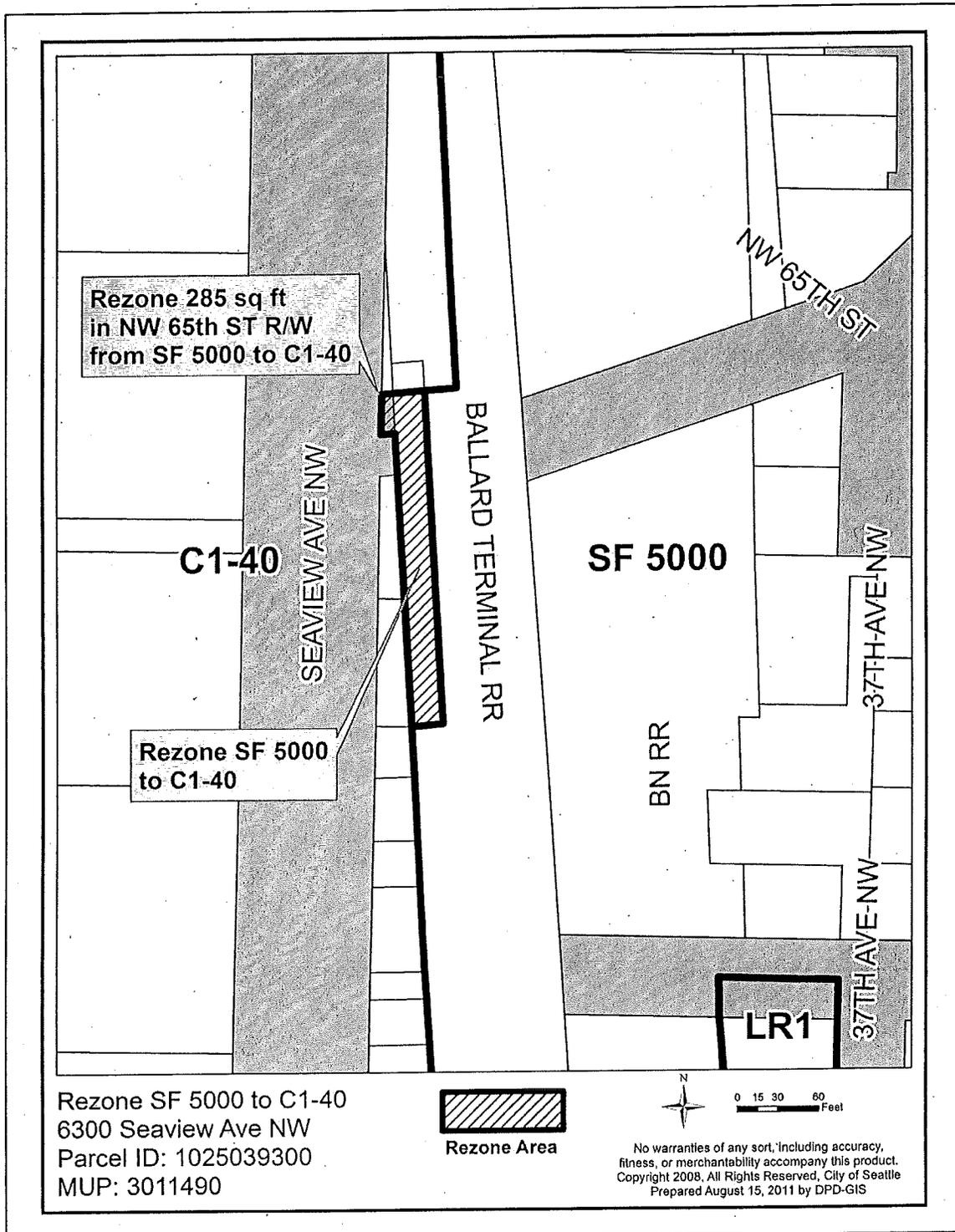
Decision

The Council hereby GRANTS a rezone of the Property Portion and the NW 65th Street Portion from SF 5000 to C1-40, as shown in Attachment A.

Dated this _____ day of _____, 2011.

City Council President

ATTACHMENT A





**Legislative Department
Seattle City Council
Memorandum**

Date: August 8, 2011

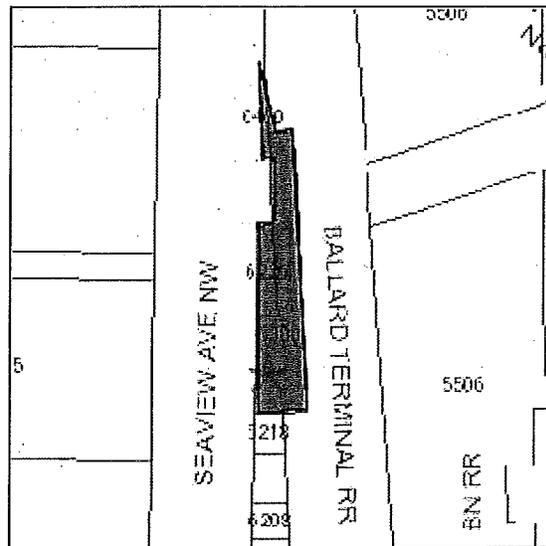
To: Sally Clark, Chair
Tim Burgess, Vice Chair
Sally Bagshaw, Member
Committee on the Built Environment (COBE)

From: Michael Jenkins, Council Central Staff

Subject: Clerk's File (CF) 311196: Application of Mary H. Murphy to rezone 6,400 sq. ft. of land at 6300 Seaview Ave NW from Single Family 5000 (SF) to Commercial 1-40' (C1) (Project No. 3011490, Type IV).

Overview

Mary Hanna Murphy, on behalf of Paul Sharma, ("Proponents") has requested a rezone of a 6,400 square foot portion of a 9,419 square foot split zoned lot. The 6,400 square foot portion of the lot is zoned Single Family 5000 (SF 5000); the remaining portion of the lot is zoned Commercial 1 with a 40 foot height limit (C1-40). The request is to rezone the entire lot to C1-40. The rezone would also extend over a 285 square foot portion of an unopened split-zoned segment of NW 65th Street, rezoning the segment from SF 5000 to C1-40. Attachment 3 is a detailed map showing the rezone area.



The split zoned lot is part of a three lot development site between the 6200-6400 blocks of Seaview Avenue NW, in the Shilshole Bay area of NW Seattle. The following table details the three lots and right of way affected by this rezone. Mr. Sharma owns all three lots:

Parcel Identification Number (PIN)	Address	Current zoning	Proposed zoning	Area, in square feet
1025039300	6300 Seaview Ave NW	SF5000 and C1-40	C1-40	9,419
1025039159	6226 Seaview Ave NW	C1-40	C1-40	1,620
1025039076	6400 Seaview Ave NW	C1-40	C1-40	360
NW 65 th Right of Way	Between 6300 and 6400 Seaview Ave NW	SF5000 and C1-40	C1-40	285

The lots are developed with three separate one- and two-story commercial structures. No development has been proposed with this rezone request. If the rezone request is approved, the site could be redeveloped with single purpose commercial or multifamily structures, or a mixed use structure containing both commercial and residential uses.

The split zoned lot lies to the west of the former Great Northern Railroad right of way ("former right of way"), now part of the Burke-Gilman trail system. The NW 65th Street right of way is 60 feet wide and extends only 10 feet into the development site east from Seaview Ave NW. The result is that NW 65th Street bisects a portion of the development site (is there a way to show this on the map? Maybe it's on the attached map?). An existing Burlington Northern Railroad right of way lies to the east of the former right of way.

2. Type of Action – Standard of Review - No Appeal or Request to Supplement the Record

This rezone is a Type IV quasi-judicial rezone under Seattle Municipal Code (SMC) 23.76.036. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication and the Council's rules on quasi-judicial proceedings (Resolution 31001). The Hearing Examiner establishes the record for the decision at an open-record hearing. After the hearing, the record may be supplemented through a timely request to Council only. No appeal of the Hearing Examiner's recommendation was filed, and there was no timely request to supplement the record.

Because there was no appeal or timely request to supplement the record, the Council's quasi-judicial rules require that the decision be based upon the record as submitted by the Hearing Examiner, and that no oral argument be presented by the parties to the COBE. The Council's quasi-judicial rules provide that the action by Council must be supported by substantial evidence in the record.

The record contains the substance of the sworn testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. Those exhibits include but are not limited to:

- The recommendation of the Director of DPD;
- The environmental (SEPA) checklist for the proposal;
- The rezone application, and other application materials; and
- An audio recording of the Hearing Examiner's open record hearing.

The entire Hearing Examiner's record is kept in my office and is available for your review.

3. Materials from the Record Reproduced in COBE Notebooks

I have provided copies of the following exhibits from the Hearing Examiner's record:

1. The Hearing Examiner's Recommendation (including the findings of fact and conclusions supporting the recommendation) (Attachment 1);
2. DPD Director's Analysis and Recommendation¹ (Attachment 2);

¹ Hearing Examiner's Exhibit 8

3. A detailed plan showing the current and proposed zoning for each property (Attachment 3)²;
4. Photos of existing structures (Attachment 4)³; and
5. Overhead photos of the rezone site and surrounding properties (Attachment 5)⁴.

4. Summary of the record

The Hearing Examiner recommended that Council **APPROVE** the rezone request.

The following is a brief summary of the zoning history, the proposed development and the Hearing Examiner's conclusions.

A. Zoning and development history

Attachment 3 shows the rezone area in relation to the larger development site.

The split zoned lot was created through a combination of platting actions and a deed. In 1907 the C1-40 portion of the split-zoned lot⁵, fronting on Seaview Ave NW, was platted as a separate lot and zoned Commercial General (CG). In 1971, a 7,000 square foot portion of the former right of way was deeded to the previous owner of the lots that comprise the development site. This deeded area lies between the former right of way on the east, and on the west by the lots in the development site that front Seaview Ave NW and NW 65th Street. At the time of the transfer, the deeded area was zoned RS 5000, renamed SF 5000 in 1982.

The record is not clear on how the deeded lot was combined with the separate C1-40 zoned lot. Regardless, the impact of joining these separate lots created the split zoned lot that is the subject of the rezone request.

Between 1971 and 1986, various rezones in the area affected the split-zoned lot. Areas within the former right of way north of the deeded area were rezoned from RS 5000 to CG, later renamed C1-40. These rezones extended over a 600 square foot portion of the deeded lot that is northeast of NW 65th Street. In 1982, the CG zone was renamed the C1-40 zone and was extended from the C1-40 portion of the split-zoned lot up to the centerline of NW 65th Street. However, these rezones did not extend over the remaining portion of NW 65th Street north of its centerline; that portion is still zoned SF 5000.

Three separate structures are located on the development site. Two, two story structures are located on the split zoned lot. One of these structures is in the SF 5000 portion of the lot near the south lot line, while the other structure straddles both the SF 5000 and C1-40 zones at the north portion of the split zoned lot. The remaining structure, a one-story restaurant, is on one of the C1-40 zoned lots fronting Seaview Ave NW. All of these structures were built around 1971⁶. Attachment 4 includes pictures of these three structures.

² Hearing Examiner's Exhibit 12

³ Hearing Examiner's Exhibits 5-7

⁴ Hearing Examiner's Exhibits 9-10

⁵ The record includes has various figures concerning the size of this portion of the lot, ranging between 2,419 and 2,480 square feet.

⁶ The Hearing Examiner noted that it was not clear how commercial uses were allowed to be developed in the SF zoned portion of the lot.

B. Surrounding area

Areas to the south and west of the rezone site are zoned C1-40. Areas to the east of the rezone site are zoned SF 5000. The C1-40 zone is developed with auto-oriented commercial structures, residential and mixed use structures, and marinas located near the shoreline along Shilshole Bay. The SF zone to the east includes the former railroad right of way, an existing Burlington Northern right of way and single family residences. The single family residences to the east are approximately 300 feet from the rezone site, at a grade of approximately 50 feet higher than the rezone site.

Properties that abut the rezone area to the south are also zoned C1-40; most are developed with single family structures, some of which are in commercial use.

C. Rezone request

The proposed rezone is a general rezone. While general rezones and contract rezones are both quasi-judicial, general rezones differ from contract rezones as they do not consider any specific proposal. General rezones are designed to consider, evaluate and, if approved, include conditions that would affect all potential development that can occur.

D. Public comment

DPD did not receive written comments during their initial review period. The Hearing Examiner received no written comments or testimony during the Hearing Examiner's hearing.

E. Summary of the Hearing Examiner's conclusions

Rezone criteria requires an analysis of two factors:

1. Does the requested rezone meets the functional criteria for the proposed zone, and
2. Are the locational criteria defining the characteristics of the surrounding area met.

Both criteria must be satisfied in order to approve a rezone.

Functional criteria:

The Hearing Examiner concluded that the site and surrounding areas do not meet single family zoning criteria, despite the presence of single family structures along Seaview Ave NW immediately to the south of the rezone area. The Hearing Examiner conclusions were based, in part, on the following findings:

- The nearest significant single family areas are located approximately 300 feet distance to the east, at the top of a ridge, and are separated from the rezone area by the current and former railroad rights of ways;
- The site is not developed with single family structures;
- The immediate area is dominated by commercial and multifamily development, along with a significant emphasis on shoreline related marine activities; and

- The single family residences located in the C1-40 zone immediately to the south of the rezone area are not characteristic of nearby single family zones, due to the size of the structures and the size of the lots, which do not meet minimum lot size requirements.

C1 functional criteria emphasizes that the C1 zone is defined by “auto-oriented, retail service areas serving surrounding neighborhoods and the larger community...” The Hearing Examiner concluded that the C1-40 zone’s functional criteria were met, due to existing site development and the predominant C1 zoning in the area.

Locational Criteria:

The Hearing Examiner noted that most of the single family zone locational criteria are not met at the rezone site, finding that:

- Only 53 % of the block face, not the minimum required 70%, is developed with single family structures;
- There is no adopted neighborhood plan;
- No trend for new single family development is occurring in the area; and
- Rehabilitation of the existing adjacent single family structures is not occurring.

The Hearing Examiner noted that the rezone area did meet one single family zone locational criteria, as the relatively flat rezone area is “topographically and environmentally suited” for single family development. However, the Hearing Examiner noted that the site and orientation of surrounding lots are not typical of those found in single family zoned neighborhoods.

The Hearing Examiner concluded that the rezone area was more consistent with C1 -40 locational criteria, evidenced by:

- The lack of urban center or urban village designation;
- Most of the area is developed with auto-oriented retail and commercial uses
- The rezone area and the overall development site is oriented to an arterial;
- The majority of C1 zoned parcels in the area exceed 20,000 square feet⁷;
- The development site and rezone are separated from nearby single family zones by grade changes and the existing and former railroad rights of way; and
- Primary access is by automobile.

Height:

Rezoning property from residential to commercial zone requires an analysis of the appropriate height limit. The Hearing Examiner found that a 40 foot height limit was appropriate for a C1 zone at this location, based on:

- The current height limit on the C1- zoned portions of the development site;
- The zoned height limit of surrounding properties;

⁷ The combined area of the three lots is approximately 11,400 square feet.

- The natural topography, which would ensure that proposed heights would not impact single family development to the east; and
- A lower height limit was not needed to buffer impacts on less intensive zones (the SF zone in the former right of way) as existing development standards already address any impacts.

Zoning principals

General zoning criteria requires that the impact of more intensive zones on less intensive zones be considered. In some cases, potential impacts should be minimized through transitions, buffers, or height changes. The Hearing Examiner's report notes:

- The change in the split-zoned lot from SF 5000 and C1-40 to C1-40 have the effect of clarifying zoning over the development site;
- The existing buffers provided by the current and former railroad right of way, along with the unimproved and disconnected NW 65th Street provides significant protections for the nearest single family zones to the east; and
- Existing buffers are further enhanced by the change in grade between the single family zoned areas to the east and rezone site.

Environmental factors

The environmental impacts of the rezone were subject to review under the City's SEPA ordinance. The rezone would allow for more intensive development on the SF zoned portion of the lot, thereby increasing the amount and intensity of development. However, the Hearing Examiner agreed with DPD's conclusion that any impacts from increased development potential would be mitigated by existing City codes and regulations. The Hearing Examiner noted that any future development would likely be subject to SEPA review and Design Review.

5. Recommendation

I recommend that the COBE move to **APPROVE** the rezone request and adopt the Hearing Examiner's findings conclusions and decision, dated June 20, 2011.

6. Next Steps

If the Committee recommends approval of the rezone as described above, I will draft Council Findings, Conclusion and Decision (FC and D) and prepare for introduction and referral a separate Council Bill (CB). Once the CB is introduced the matter will come back to COBE for a vote on both the FC and D and the CB, prior to full Council review and vote.

**FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

CF 311196

**MARY HANNA MURPHY for
PAUL SHARMA**

for a rezone of property addressed as
6300 Seaview Avenue NW

DPD Project No.:
3011490

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Introduction

The applicant, Mary Hanna Murphy for Paul Sharma, seeks a rezone of property addressed as 6300 Seaview Avenue Northwest, from Single Family 5000 to Commercial-1 with a 40-foot height limit. The subject site is split-zoned, and is designated both SF 5000 and C1-40.

The public hearing on this application was held on May 26, 2011. The Director's SEPA determination on the proposal was not appealed. Represented at the hearing were the Director, Department of Planning and Development (DPD), by Michael Dorcy, Senior Land Use Planner; and the applicant Paul Sharma, by Mary Murphy. The record was held open after the hearing to receive additional information from DPD and a corrected site plan from the applicant, and for purposes of the Examiner's site visit, which occurred on June 3, 2011. The additional information and site plan were submitted by DPD on June 16, 2011, and were added to the record; the record was closed after that date.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code"), as amended, unless otherwise indicated. After due consideration of the evidence elicited during the hearing, the following shall constitute the findings of fact, conclusions and recommendation of the Hearing Examiner on this application.

Findings of Fact

Site and Vicinity

1. The site is addressed as 6300 Seaview Avenue NW, and is located in the Shilshole Bay area. The area proposed to be rezoned is 6,400 square feet in size, and is a portion of three parcels which comprise the site, which is currently split zoned. The entire site is comprised of King County Parcel 1025039300, along with parcels 1025039159 and 1025039076. The current zoning boundary line bisects the site. Portions of the site are zoned as Single Family 5000 (SF 5000) and other parts of the site are zoned Commercial 1 with a 40-foot height limit (C1-40); see Exhibit 11. The north

end of the site (approximately 576 square feet) and the southwest portion of the site (approximately 2,443 square feet) are currently zoned C1-40. The rezone application includes the rezoning of approximately 285 square feet within the unopened NW 65th Street ROW from SF 5000 to C1-40.

2. The site is irregularly shaped, and is long and narrow, with approximately 265 feet of frontage along Seaview Avenue NW, and approximately 50 feet wide at its widest point. South and east of the site is former railroad right-of-way under the control of the Seattle Department of Transportation. Further to the east is the existing railroad right-of-way belonging to the Burlington Northern Santa Fe Railroad. Further north along Seaview are commercial and multifamily structures.

3. There are three structures on the site which are in commercial use. A commercial office building at the south end of the site, which was apparently constructed in 1970, is located entirely (or almost entirely) within the SF 5000 zone. A building at the north end of the site, which was constructed in 1972, is located partially within the C1 and SF 5000 zones. A third building, located midway between the other buildings, is used as a drive-in restaurant, and is mostly or entirely within the C1-40 zone.

4. Seaview Avenue NW at this location is a 100 foot right-of-way, improved with a 55-foot roadway with curbs and sidewalks on both sides of the street. There are street trees on the west side of the street.

5. Development in the vicinity includes the Shilshole Bay Landing and the Ballard Elks Club, which are west across Seaview Avenue NW from the site. To the south and west are two large restaurants, Anthony's Homeport and Ray's Boathouse. The Sunset West condominium complex is located north and west across Seaview Avenue NW. To the east lie the former and current railroad right-of-ways, and the unopened NW 6th Street right-of-way. Further east, residential development is located on the top of a ridge that is separated from the site by the railroad right-of-way areas.

6. The site is relatively flat, and is located in between the lowland shore area to the west and the steep wooded bank to the east. There is a mature greenbelt along the east side of Seaview Avenue NW that merges with an extensive area of forested land in Gold Gardens Park to the north.

7. The west side of Seaview Avenue NW is developed with large commercial buildings, accessory commercial parking lots, multifamily buildings and large marinas. The east side of Seaview Avenue NW between NW 60th Street and NW 65th is developed with residential and commercial structures.

Proposal

8. The applicant proposes to rezone the split-zoned site so that the entire site is zoned C1-40, enabling consolidation of the development site under C1-40 standards. Those portions of the site currently zoned SF 5000 would be rezoned to C1-40.

DPD Review

9. DPD reviewed the proposal, issued a Determination of Nonsignificance (DNS), and recommended approval of the rezone with no conditions. The DNS was not appealed. Other City departments, including SDOT, have reviewed the proposed rezone, and had no comments on the rezone.

Public comments

10. No written public comments were submitted to DPD or to the Hearing Examiner on this proposal, and no public testimony was offered at the public hearing.

11. The zoning history of the site is described in the Director's report. The portion of the site which is currently zoned SF 5000, was designated Single Family Residential (RS) in 1957 when the Land Use Code was adopted. In 1982, when the new code was adopted, this RS portion of the site was designated SF 5000.

12. A portion of the site (at its north end), along with a portion of the railroad right-of-way, was rezoned under two separate ordinances that were enacted in 1986. The ordinances extended the C1 zoning north to the projected southern edge of the NW 65th Court right-of-way, and south to the current C1-40 zoning boundary that bisects the existing commercial structure at the north end of the site. It is not known why the zoning boundaries were drawn in their current locations.

Codes

13. SMC 23.34.007 provides that *"In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions."* The section also states that *"No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion."*

Conclusions

1. The Hearing Examiner has jurisdiction to make a recommendation on the proposed rezone to City Council, pursuant to SMC 23.76.052.

2. Under SMC 23.34.007, the rezone provisions are to be weighed and balanced to determine the appropriate zone designation, and none of the criteria are to be applied as absolute requirements. For a rezone from Single Family to Commercial, the applicable codes include the general rezone criteria of SMC 23.34.008, SMC 23.34.010 (regarding designation of single family zones); and SMC 23.34.080 and SMC 23.34.011 (function and location of Commercial zones and Single Family zones).

General rezone criteria

3. SMC 23.34.008.A applies to areas within urban centers or urban villages. The site here is not within the boundaries of either, so this criterion does not apply.

4. Match between zone criteria and area characteristics. The most appropriate zone designation is that for which the provisions for designation of the zone type and the locational criteria for the specific zone, match the characteristics of the area to be rezoned better than any other designation.

5. The zone criteria for single family zones, set forth in SMC 23.34.011, are not met by the site and its immediate surroundings. The functional criterion for single family zones in SMC 23.34.011.A describes an area "that provides predominately detached single family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods." The single family development in the immediate area lies east of the site is at the top of a ridge and is separated from the site by existing and abandoned railroad right-of-ways. The west side of Seaview Avenue NW in the C1 zone is developed with large commercial buildings, accessory commercial parking lots, multifamily buildings, and large marinas. The east side of Seaview Avenue NW, between NW 60th Street and NW 65th Street, is developed with approximately 20 structures. According to DPD, half of these structures were originally constructed as beach cabins but two have been converted to retail commercial uses. The site itself is developed with commercial buildings. The area does not meet the functional criteria for a single family zone, since it is not providing a predominance of detached single family structures on lot sizes that are compatible with the existing pattern of development and character of single family neighborhoods.

6. Most of the single family locational criteria identified in SMC 23.34.011.B are not met. Only 53 percent, rather than the threshold 70 percent, of the block, is developed with single family structures. The immediate area is not designated by an adopted neighborhood plan for single family residential use. No trend towards single family residential use has been identified in this area; most of the recent development on the block has involved consolidation of smaller lots for multifamily housing. No increase in the construction or rehabilitation of single family structures has been noted. The site is flat and development would not be constrained by environmental factors, and so could be considered "topographically and environmentally suited" for single family development. However, the size and dimensions of the lots at the site and vicinity are not typical of those in single family neighborhoods.

7. Because the site meets one of the locational criteria, the criteria contained in SMC 23.34.011.C are also to be considered. The site would meet one of these criteria, i.e., it abuts a single family zone. The provisions of SMC 23.34.011.D, regarding half-blocks at the edges of single family zones, do not apply to this location.

8. The zoning criteria for the Commercial 1 zone are set forth in SMC 23.34.080. The function of the C1 zone is *"To provide for an auto-oriented, primarily retail/service commercial area that serves surrounding neighborhoods and the larger community, citywide, or regional clientele."* The parcels in this site are already partially zoned C1, and the structures on the sites are in commercial use. The site is part of a larger C1 zone adjacent to Seaview Avenue NW, which provides auto-oriented services, including restaurants, offices and a marina.
9. The locational criteria state that the C1 designation is "most appropriate on land that is generally characterized" by: a location outside urban centers and urban villages, having retail activity in existing commercial areas, being readily accessible from a principal arterial; having edges that buffer residential or commercial areas of lesser intensity; a predominance of parcels of 20,000 square feet or larger; and limited pedestrian and transit access.
10. The site appears to be consistent with the C1 locational criteria. The property is not located within an urban center or an urban village. Retail and service activities take place in the existing commercial areas on either side of Seaview Avenue NW, and portions of the site are developed with commercial buildings. All of the parcels have immediate access to Seaview Avenue NW, which is an arterial, although it is not classified as a principal arterial. There are defined edges that buffer the single family residential areas to the east from the site and other C1 properties. The single family development is located above the site and other C1 areas on a bluff, and is further separated from the C1 properties by the current and former railroad right-of-ways. The larger C1 area across Seaview Avenue NW from the site is composed of parcels exceeding 20,000 square feet in size, but the C1 zone on the east side of Seaview is composed of narrow parcels that are smaller in size. The site is accessible to pedestrians via the Burke-Gilman Trail, but primary access to the commercial development along Seaview Avenue at this location is by vehicle. There is limited transit service available at this location.
11. The site characteristics match the criteria for the C1 zone better than any other zone designation.
12. SMC 23.34.009 contains additional criteria that should be analyzed in a decision to designate height limits in commercial zones. The first criterion is whether the height limit is consistent with the type and scale of development intended in the C1 zone. The proposed 40-foot height limit would meet this criterion, as it would match the C1-40 designation already existing on the site and in the surrounding area. The proposed height limit would reinforce the natural topography of the area, in which the low-lying areas adjacent to Seaview Avenue NW are zoned C1-40, and single family development in the SF 5000 zone is located above. The proposed height limit would match the height limit established for the adjoining C1-zoned areas, including the portions of the site which are zoned C1-40. The current zoning in the area does not appear to include any lower height limits, e.g., C1-30, as a transition, perhaps relying on the physical buffers and topography in the area. In any case, it does not appear that a lower height limit would provide any

buffering functions that are not already addressed by development standards, e.g., upper level setbacks, in the Code. There are no adopted neighborhood plans that are relevant to the height limit for this site. The proposed 40-foot height limit would be consistent with the criteria of SMC 23.34.009.

13. Zoning history and precedential effect. The Director's report notes that property in the vicinity lying west of the railroad right-of-way, was in commercial designation prior to the 1957 Code. The report also notes that the northern portion of the site was rezoned from RS 5000 to General Commercial in 1971, and that the 1986 zoning ordinances "extended the C1 zoning north as far as the projected southern edge of the NW 65th Ct. right-of-way." It is not clear why the southern zoning boundary of the C1 zone was located to run through an existing commercial structure.

14. Neighborhood plans. The site is not subject to an adopted neighborhood plan.

15. Zoning principles. SMC 23.34.008.E.1 provides that the impact of more intensive zones on less intensive zones, and of industrial or commercial zones on other zones, is to be minimized by the use of transitions or buffers if possible, and that a gradual transition, including height limits, is preferred. The proposed rezone would extend the current C1-40 zoning further to the east, but would not remove the existing buffers of railroad right-of-ways and topography that separate the existing single family development from the site and the existing commercial development on the site. Additional transition could be achieved through applicable development standards; e.g., the setback requirements of SMC 23.47A.014, which apply to lots abutting the lot lines of residential-zoned lots.

16. SMC 23.34.008.E.2 provides that physical buffers should be considered. At this site, the rezone would move the C1 zone further east and west. The former and existing railroad right of ways provide a substantial physical buffer of between 230 to 240 feet from the SF 5000 zone to the east; there is also a wooded undeveloped steep slope area that provides additional physical barriers. The rezone would also extend the C1-40 zone to the west, where it would abut Seaview Avenue to the west and other properties which are currently zoned C1-40.

17. SMC 23.34.008.E.3 calls for consideration of physical buffers and platted lot lines when establishing zone boundaries. The proposed rezone would remove split zoning on the site, and adjust the C1-40 zoning line to match the lot lines. SMC 23.34.008.E.4 addresses height limits over 40 feet, and does not apply to this proposal.

18. Impact evaluation. Under SMC 23.34.008.F, the possible positive and negative impacts of a proposed rezone are to be considered. No development proposal is associated with this rezone, but a rezone to C1-40 would allow for multifamily housing to be developed at this site.

19. No negative impacts on public services have been identified.

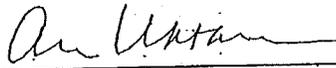
20. Environmental factors. The Director reviewed the proposal pursuant to SEPA, concluded that the proposal would have no significant adverse impacts, and issued a DNS, which was not appealed. The rezone would remove the split zoning at the site, and would therefore allow the site to be developed to C1-40 standards, but future development at the site would be subject to applicable City Codes and regulations, including those addressing stormwater, grading and drainage control, landscaping, street improvements, and energy conservation. Future development, depending on the size and type of the project, may also be subject to SEPA and the City's Design Review process.
21. Pedestrian safety. The proposed rezone may encourage redevelopment at the site under current standards, which could lead to fewer and narrower curbcuts, and sidewalk improvements.
22. Manufacturing activity. No manufacturing activity occurs at the site presently, nor is any specific use proposed as part of this rezone. Manufacturing uses are permitted in the C1 zone, so the rezone creates a potential for future manufacturing uses at the site to a greater extent than is possible under the current split zoning.
23. Employment activity. The rezone would remove the current split zoning at the site and create a site that is entirely zoned C1-40; this may encourage employment activity if new retail uses or other employers locate at the site.
24. Character of areas recognized for architectural or historic value. There are no identified areas of historic or architectural significance at the site.
25. Shoreline view, public access and recreation. The site is located east across Seaview Avenue NW from the shoreline, and west of the public trail along the former railroad right-of-way. It is also near Golden Gardens Park. As noted above, the existing single family residential development to the east is on a slope above the site, but presumably redevelopment of the site under C1-40 standards could affect shoreline views. The public access and nearby recreation uses are not affected by the rezone, but would be accessible to any new uses at the site.
26. Service capacities. The street access to the area is via Seaview Avenue NW. Access would not be impaired by the rezone. Development of the site would be required to meet street improvement standards. The street capacity is not expected to be affected by the rezone. The Director notes that future development at the site would be relatively limited on account of the site's size and narrow width, and that even with new development, traffic would not be expected to affect street capacity in the area. The site is served by transit on Seaview Avenue, and this is not expected to be affected by the rezone. Parking capacity in the area would not be affected by the rezone, but parking demand for new uses at the site would be examined as part of the review of new development. Utility and sewer capacity in the area can accommodate any new development that may occur as a result of the rezone. The site is not within the shoreline area, and shoreline navigation is not affected by the rezone.

27. Changed circumstances. Previous rezones have gradually shifted the C1 zoning line and resulted in split zoning for lots as well as buildings at the site. To the extent these actions constitute a changed circumstance, they would tend to favor further adjustment of the zoning boundaries to remove the split zoning condition.
28. Overlay districts. The site is not within an overlay district.
29. Critical areas. There are no critical areas located on the site.
30. The proposed rezone of the subject 6,400 square foot portion of the site to C1-40 so as to match the existing zoning on the rest of the site, would meet the applicable criteria and should be approved.

Recommendation

The Hearing Examiner recommends APPROVAL of the requested rezone.

Entered this 20th day of June, 2011.



Anne Watanabe
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

NOTE: It is the responsibility of the person seeking further review to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person substantially affected by a recommendation of the Hearing Examiner may submit an appeal of the Hearing Examiner's recommendation to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the Hearing Examiner's recommendation, and be addressed to: Seattle City Council Committee on the Built Environment, c/o Seattle City Clerk, 600 Fourth Avenue Floor 3, P.O. Box 94728, Seattle, WA 98124-4728. The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought.



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Numbers: 3011490
Applicant Name: Mary Hanna Murphy for Paul Sharma
Address of Proposal: 6300 Seaview Avenue NW
Clerk File Number: 311196

SUMMARY OF PROPOSED ACTION:

Council Land Use Action to rezone 6,400 square feet of land from SF-5000 to C-1 40'. The property is bounded by Seaview Avenue NW and by parcel #102503915913704 on the west and on the north, south and east by former railroad right-of-way now under the control of the City of Seattle Department of Transportation.

Rezone – to rezone 6,400 sq. ft. from SF5000 to C-1 40'. (Seattle Municipal Code Section 23.34.004)

SEPA – Environmental Determination (SMC 25.05)

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The proposal site, at 6300 Seaview Avenue NW in the Shilshoe Bay area of Ballard in Seattle, is split zoned C-1 40' and SF 5000. The overall site, consisting of 3 parcels of land, contains approximately 11,400 square feet. The site is long and narrow with an irregular tapering shape, with nearly 265 feet of frontage along Seaview Avenue NW, but barely 50 feet in width at its widest. There are three existing wood-frame, structures currently in commercial uses on the subject site.

City of Seattle Hearing Examiner

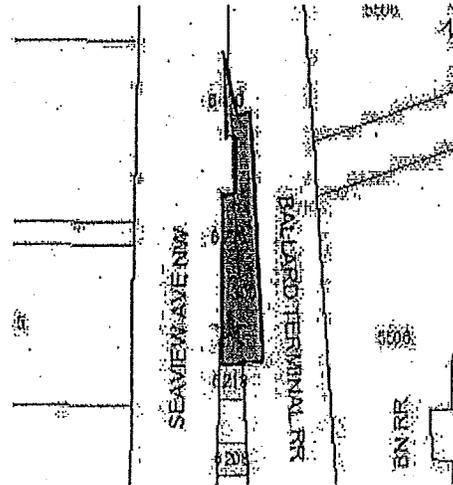
EXHIBIT

Appellant _____
Respondent _____ ADMITTED _____
Department _____ DENIED _____

8

FILE CF #311196, 3011490

The site is located in a transitional geographical region where the lowland shore area meets a steep wooded bank. Residential development is concentrated on the upland area to the east, separated from the shore by a wide swath of railroad right-of-way and former railroad right-of-way. Along the east side of Seaview Avenue NW there is a well-established greenbelt that merges with an extensive area of forested land in Golden Gardens Park to the north. There is virtually no direct vehicular connection between the upland residential development and the shoreline area between NW 57th Street and NW 100th Street. What development exists along the ribbon of road that winds itself beneath the bluffs and the shore is primarily commercial and the commercial development is primarily along the west, shoreline side of the road.



Directly across from the subject site on the west side of the road are located the Shilshoe Bay Landing and the Ballard Elks Club. Two large restaurants, each with extensive parking areas, Anthony's Homeport and Ray's Boathouse, are located just south and west of the site. To the north and west is the large Sunset West condominium complex. The western edge of the subject site is perhaps 250 feet from the actual high-water shoreline at its closest point.

Seaview Avenue NW is a 100 foot right-of way at this point, improved with a 55-foot roadway, and with curbs and sidewalks on either side of the roadway. Street trees have been planted on the west side of the street.

The site topography is generally flat. There are some trees located just east of the site, between the property line and the railroad tracks. The terrain ascends east of the site and the railroad tracks. There is a mapped gully wetland in the unopened NW 65th Street right-of way east of the site. It terminates in a culvert approximately 90 feet east of the subject site.

Proposal Description

Council Land Use Action to rezone 6,400 square feet of land from SF-5000 to C-1 40'. The property is bounded by Seaview Avenue NW and by parcel #102503915913704 on the west and on the north, south and east by former railroad right-of-way now under the control of the City of Seattle Department of Transportation. The northernmost portion (approximately 576 square feet in area) and the southwest portion (approximately 2,443 square feet in area) of the larger parcel proposed to be rezoned are already zoned C-1 40'.

The proposal is to rezone a portion of the subject site so that the entire site is in the Commercial 1 40' zone. Presently, the subject site is split-zoned. Approximately 6,400 square feet of the eastern portion of the site is zoned Single Family 5000. One commercial building lies entirely, or almost entirely, within the SF 5000 zone and parts of two other commercial buildings encroach into the SF 5000 zone. The purpose of the rezone is to enable consolidation of the entire development site under the Commercial 1 standards.

Public Comment

No public comments were received during the comment period that ended on December 29, 2010.

ANALYSIS - REZONE

Rezoning is subject to the procedures outlined in (SMC 23.34.002). A rezone from SF 5000 to Commercial 1 requires several stages of analysis. This analysis of the rezone criteria includes code sections of General rezone criteria (SMC section 23.34.008), Designation of single-family zones (SMC section 23.34.010), where the code states that "single-family zoned areas may be rezoned to zones more intense than single-family 5000 only if the City council determines that the area does not meet the criteria for single-family designation." Any analysis must also consider the function and locational criteria of single-family zones (SMC section 23.34.011) as well as an analysis of the criteria for function and location of the proposed Commercial 1 (C1) zone (SMC section 23.34.080). All rezoning is subject to the provisions of Sub-chapter II, and the general provisions contained in SMC section 23.34.007.

The following analysis will discuss the code criteria and the merits of the proposal. Code language is in italics followed by a discussion of the criteria and site-specific information. This analysis follows the code citations in their numerical order as mentioned above.

The proposed rezone must meet the General rezone criteria of SMC section 23.34.008).

- A. *To be approved a rezone shall meet the following standards:*
1. *In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.*
 2. *For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.*

The site is not located within the boundaries of an urban center or urban village.

- B. *Match Between Zone Criteria and Area Characteristics. The most appropriate zone designation shall be that for which the provisions for designation of the zone type and the location criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.*

Analysis of the match between zone criteria and area characteristic follows in the summary at the end of the rezone analysis section. The analysis more logically follows an evaluation of the site and the proposed project's fit with single family zoning (SMC 23.34.010 and SMC 23.34.011) and C-1 zoning (SMC 23.34.080).

- C. *Zoning History and Precedential Effect. Previous and potential zoning changes both in and around the area proposed for rezone shall be examined.*

The site lies near the margin of the Seattle Shorelines platting done in 1895 and the platted City of Ballard, annexed to the City of Seattle in 1907. The general zoning pattern was to provide a general commercial zone west of the east margin of Seaview Avenue NW and a single family zone east of the east margin of the street right-of-way, incorporating into that zone the undevelopable railroad tracts as a buffer area. (See the fuller historical account under Zoning *History and precedential Effect*, on p.6, below.)

ANALYSIS, DECISIONS, RECOMMENDATIONS AND CONDITIONS

I. REZONE – ANALYSIS AND RECOMMENDATION OF THE DIRECTOR

Seattle Municipal Code section 23.34.007 and the following sections set forth the criteria for rezone application evaluation. The provisions shall be weighted and balanced together to determine which zone designation best meets those provisions. Zone function statements shall be used to assess the likelihood that the area proposed to be rezoned would function as intended. No single criterion or group of criteria shall be applied as an absolute requirement or test of appropriateness of a zone designation, nor is there a "hierarchy of priorities" for rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.

A. General Rezone Criteria -23.34.008

1. Urban Village or Urban Center Zoned Capacity (SMC 23.34.008A1-A2)

As the proposal site is in neither an urban village nor an urban center, criteria relating to zoned capacity and growth targets do not apply.

2. Match between Zone Criteria and Area Characteristics (SMC 23.34.008B)

Subsection SMC 23.34.008.B states as follows: "The most appropriate zone designation shall be that for which the provisions for designation of the zone type and locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation." In this instance, the current zoning designation is split between Commercial 1 and SF5000. The proposal is to designate the entire parcel in the Commercial 1 zone, so it is the function and locational criteria for the Commercial 1 zone that are the focus of this analysis. These criteria are stated in SMC 23.34.080.

The function criterion for the Commercial 1 zone is *"to provide for an auto-oriented, primarily retail/service commercial area that serves surrounding neighborhoods and the larger community, citywide, or regional clientele."*

The locational criteria for a Commercial 1 zone designation is most appropriate on land that is generally characterized by the following conditions: 1. *Outside of urban centers and urban villages or, within urban centers or urban villages, having a C1 designation and either abutting a state highway, or in use as a shopping mall;* 2. *Retail activity in existing commercial areas;* 3. *Readily accessible from a principal arterial;* 4. *Presence of edges that buffer residential or commercial areas of lesser intensity, such as changes in street layout or platting pattern;* 5. *Predominance of parcels of 20,000 square feet or larger;* 6. *Limited pedestrian and transit access.*

The subject site does not meet the first locational criterion except insofar as it is a portion of a site already zoned C-1 and part of a larger area along Seaview Avenue NW already identified as C-1 and presumed to have met the criteria for C-1 zoning. The nearest state highway is a considerable distance away and there are no shopping malls as such in the immediate vicinity.

Relative to the second of the locational criteria, there is existing retail activity on either side of Seaview Avenue NW.

The third locational criterion specifies the Commercial 1 designation as being most appropriate for those areas characterized by the availability of access from a principal arterial. All the parcels are immediately accessible from Seaview Avenue NW, the arterial that serves the shoreline area.

The fourth locational criterion calls for the presence of edges that buffer residential or commercial areas. The developed commercial and single-family residential areas are well defined with clear topographical edges, with the large area of single-family development stretching eastward from the top of the bluff above the strip of commercial development along the shoreline. The edges are further defined by the railroad right-of-way and former right-of-way at the foot of the bluff which, being undevelopable properties, were included in the single-family zoning designation as buffers between the commercial zoning and the developable single family platted areas to the east.

The fifth locational criterion calls for a predominance of parcels of 20,000 square feet or larger. While the parcels along the east side of Seaview Avenue NW are generally quite small in size, many of those on the west (water) side of the avenue exceed 20,000 square feet in extent.

Finally, the fifth set of criteria for Commercial (C1) zones specifies the C-1 designation as being most appropriate for those areas that have only limited pedestrian and transit access. Pedestrian access has been facilitated by the extension of the public pathway in the former railroad right-of-way, but primary access to the marinas, restaurants and retail establishments along this stretch of Seaview Avenue NW remains by private vehicle. There is transit service along Seaview Avenue NW, but it is limited.

3. Zoning History and Precedential Effect

Previous and potential zoning changes both in and around the area proposed for rezone are to be considered.

The area lies at the junction of the area where Seattle Tidelands, which became a part of the City of Seattle in 1895 and the City of Ballard, annexed in 1907, are conjoined. It is also an area characterized by reshuffling of the railroad right-of-ways and city streets. Generally the area west of the railroad right-of-ways was in a commercial designation. In 1982, the general commercial (CG) designation was changed to C-1. In 1957, with the adoption of the new Land Use Code the portion of the subject site proposed for a rezone was zoned, Single Family Residential (RS 5000). In 1982 a new code was adopted and that portion of the site zoned RS 5000 was zoned to a comparable single family zone, SF 5000.

DPD zoning maps indicate that a piece of land within the railroad right-of-way that includes the northern portion of the overall site, a piece of land measuring overall 92.6 feet in length along the Seaview Avenue NW right-of-way, commencing at the north edge of the nub of NW 65th Street right-of-way and varying in width from 32.76 feet at the south to 25 feet in width at the

north, was rezoned from Residential Single-family 5000 to General Commercial in October of 1971 (Ordinance 100313). This area was enlarged in June 1986 (Ordinance 112777) and again in October of 1986 (Ordinance 114011), after the current zoning designations were put in place, to its current dimensions which include the northern portion of the site. The latter two ordinances extended the C1 zoning north as far as the projected southern edge of the NW 65th Ct right-of-way. The reason for locating the southern zoning boundary at its present location, with the Commercial 1 zoning bisecting the commercial structure that, according to King County Assessor records was erected there in 1972, has not been ascertained.

A parcel of approximately 6,500 square feet, lying entirely within the single family (SF 5000) designation, was created through the instrumentation of a Lot Boundary Adjustment in 1986 (LBA #8605858) and added onto assessor parcel # 1025039300. The resulting parcel contained a total of some 9,419 square feet in area. Combined with parcels #1025039159 and #10225039076, already zone C1, these comprise the entire subject site.

Neighborhood Plans

There is no neighborhood plan covering the proposal site.

4. Compliance with Zoning Principles

SMC 23.34.008.E, regarding Zoning Principles, calls for consideration of the following issues:

a. The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.

The height limit for Commercial 1 40'. At 40 feet the height limit is greater than the limit set for single family structures in the single family zone, although the latter zone does allow a maximum height for structures with pitched roofs to be 35 feet high. The dimensional and bulk standards for Commercial 1 development are greater than that allowed for single family development since a single family structure would be restricted by greater yard requirements and lot coverage restrictions. The subject site is adjacent to single family zoning on its east side and if rezoned to Commercial 1 would be subject to the upper level setbacks for structures abutting property lines in a residential zone (23.47A.014).

b. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers: (a) natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines; (b) freeways, expressways, other major traffic arterials, and railroad tracks; (c) distinct change in street layout and block orientation; (d) open space and green spaces.

The single-family zoned area immediately to the east of the proposed rezone is the track bed of what formerly was railroad right-of-way. This former right-of-way has been developed and is being developed as an extension of the Burke-Gilman Trail, an extensive public pedestrian and bicycle pathway. The area containing the public pathway abuts existing railroad right-of-way belonging to the Burlington Northern Santa Fe Railroad, thus creating a distinctive physical buffer of between 230 and 240 feet before there are any single family platted and developed lots.

Primarily along the eastern edge of the open space for pathway and railroad tracks is a substantially wooded, undeveloped steep slope area that provides additional physical buffers.

c. Zone Boundaries: in establishing boundaries the following elements shall be considered: (1) physical buffers as described in subsection E.(2) above; (2) platted lot lines.

The proposed rezone would remove split-zoning on the subject site, making the zone boundary consistent with platted lot lines. As discussed under 23.34.008 E2 above, there are substantial physical buffers provided by railroad tracks, open spaces and greenspaces.

5. Impact Evaluation

Regarding Impact Evaluation, SMC 23.34.008F states that "the evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings." Following are the factors and service capacities to be examined.

Factors to be examined include, but are not limited to, the following:

a. Housing, particularly low-income housing

In general, multifamily housing, in buildings with commercial uses on the ground floor would be the likely housing type provided. This type of housing is generally thought to be more affordable than detached single family housing. Since there are no housing plans associated with this application is it unknown whether any housing that might later be proposed would be low income. The rezone would foster the development of multifamily housing as compared to single family.

b. Public services

No negative impact on public services is expected from the proposed action. All utilities required for the proposed project can be provided by existing connections or extensions thereof. Little additional burden on public safety services is anticipated.

c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation

While there is likely to be more impervious surface and resulting storm water runoff with any future proposals for commercial or mixed commercial and multifamily development than would occur on a lot zoned half single family, any proposed development would be required to provide landscaping and open space. Current code requirements would limit to a good degree water quality impacts (Stormwater, Grading and Drainage Control Ordinance) and any new construction would require a high degree of energy conservation (Energy and Building Codes).

d. Pedestrian safety

The impact would be favorable since future development would likely require fewer and narrower curbcuts and improvements to sidewalks.

e. Manufacturing activity

There are no manufacturing activities in the immediate area.

f. Employment activity

The proposed project would be expected to have no negative effect on area employment activity. To a small degree any additional commercial development or multifamily housing in the area could be expected to encourage economic activity and housing for workers.

g. Character of area's recognized for architectural or historic value

There is no known applicability of this provision.

h. Shoreline view, public access and recreation

The shoreline would be visible and would be an asset for development that responded to the full vertical height allowable if rezoned to C-1 with a forty foot height limit.

Service Capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

a. Street access to the area

Access to the proposal site is via Seaview Avenue NW, a designated arterial. The street lies within a hundred foot right of way. Development of the site would trigger right-of-way improvements. There would be no negative impact on street access.

b. Street capacity in the area

The proposal site is accessed from an existing arterial, Seaview Avenue NW. No development is proposed as a part of this rezone. Future development would be relatively limited on this narrow and restricted site. Even with new development traffic generated by the rezone is not anticipated to have measurable effect.

c. Transit service

The proposed site is located on an arterial served by public transit. Transit service is available on Seaview Avenue and stops for METRO route #46 in either direction are located less than a block to the north of the site.

d. Parking capacity

Any future development is not likely to substantially impact parking capacity on the street; however, this would be examined if future development required review under SEPA.

e. Utility and sewer capacity

No negative effect is anticipated. Existing capacities of utility and sewer services in the area can reasonably be expected to accommodate development enabled by this rezone.

f. Shoreline navigation

This consideration is not applicable.

7. *Changed Circumstances.* Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

The one clear set of changed circumstances involves the progressive shifts in the demarcation line of the C-1 zoning eastward into the Railroad right-of-way at the northern portion of the subject site, although it is unclear from the record exactly what the intended outcome of the three rezone ordinances has been.

8. *Overlay Districts.* If the area is located in an overlay district, the purpose and boundaries of the overlay district shall be considered.

The area does is not located within an overlay district, so this section is not applicable.

9. *Critical Areas.* If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.

The site lies approximately 380 feet east of the shoreline habitat buffer and approximately 170 feet west of a the steep slope buffer. This consideration is not applicable.

Analysis of consistency with SMC Section 23.34.009 (Height Limits):

SMC Section 23.34.009 states that "Where a decision to designate height limits in NC or Industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

- A. *Function of the zone.* Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted good and services and the potential for displacement of preferred uses shall be considered.
- B. *Topography of the area and its surroundings.* Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.
- C. *Height and scale of area.*
 - 1. The height limits established by current zoning in the area shall be given consideration.
 - 2. In general, permitted height limits shall be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area's overall development potential.
- D. *Compatibility with surrounding area.*
 - 1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation
 - 2. A gradual transition in height and scale of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.D.2 are present.

E. Neighborhood plans.

1. *Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.*
2. *Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would otherwise be established pursuant to the provisions of this section and Section 23.34.008.*

The proposal would essentially maintain the height limit of 40 feet already prevailing in the Commercial 1 zone. Any restriction on heights, say rezoning to C1-30', would be without clear purpose, would introduce new anomalies onto the subject site, and would not provide for buffering functions which are already provided for in the Land Use Code and unnecessary given the actual separation of the site from single family development. The proposal is consistent with all applicable height rezone criteria.

B. Designation of Single Family Zones

SMC 23.34.010 provides that areas not within adopted boundaries of an urban village are to be rezoned to zones more intense than SF 5000 only if an applicant can demonstrate the area does not meet the criteria for single-family designation.

SMC 23.34.011 provides the function and locational criteria for single family zones.

The functional criterion for single family zones is "an area that provides predominately detached single family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods." Substantial single family development in the immediate area is confined to the top of the ridge that lies to the east of the site and separated from the site by the existing and abandoned railroad right-of-ways. The west side of Seaview Avenue NW is developed with large commercial buildings, accessory commercial parking lots, multifamily buildings and large marinas. These are located on large waterfront lots that are zoned Commercial 1 with a 40 foot height limit.

The east side of Seaview Avenue NW between NW 60th Street and NW 65th Street is developed with approximately 20 structures. Approximately half of these are, or were originally, single-family structures, mostly of the beach cabin variety. Two of these structures have clearly been converted into retail commercial uses. There are two larger multifamily condominium structures just north of NW 60th Street. Only the three commercial buildings located on the subject site are located totally or partially within the Single Family zone. All the other structure along this stretch of Seaview Avenue NW are located within in the C-1 zone. The area is not characterized by the functions of a single family area in that it is neither predominately developed with single family structures nor does existing development epitomize a pattern of development typical of single family areas.

NW 60th Street is northernmost street within the grid system that connects more or less directly with the shoreline. Between NW 60th Street and the snub end bracket of NW 65th Street right-of-way, which would constitute the last definable "block" along Seaview Avenue NW, the east side of the block contains approximately 1090 lineal feet of frontage along Seaview Avenue NW, of which 53% is developed with single family structures.

Subsection B.3 of SMC 23.34.001 provides that single family zoning is appropriate in areas which consist of blocks with less than 70% of existing structures in single family residential use but in which an increasing trend toward single family residential use can be demonstrated, for example where: construction of single family structures in the last five years has been increasing; or the area shows an increasing number of improvements and rehabilitation efforts to single family structures; or the area's location is topographically and environmentally suitable for single family structures. Most of the more recent development along this block has been the consolidation of smaller lots for multifamily housing; there has been no trend towards the construction of single family structures. While the area could be said to be topographically moderate and environmentally benign making it suitable for single family development, the size and proportions of the platted lots cannot be said to be condign with single family development.

Subsection C of SMC 23.34.001 an area which meets at least one of the criteria of subsection B should also satisfy the following size criteria in order to be designated a single family zone. This criterion is met in that the site abuts a single family zone.

Subsection D of SMC 23.34.001 provides that half blocks at the edges of single family zones which have more than 50% of structures in single family use are subject to a policy of favoring their inclusion in the single family area. This is not the situation in this instance.

Generally the site does not meet the functional or locational criteria for single family zones.

Through the instrument of a Lot Boundary Adjustment (LBA #8605858), a strip of land 25 feet in width and 280 feet in length, at one time a part of Great Northern right-of-way, was added to a thin wedge-shaped piece of land adjoining it to the west. Located on that piece of land was a structure the King County Assessor records identify as a commercial office building constructed in 1970. At the north end of the subject site there is a smaller building also identified by the Assessor as an office building and constructed in 1972. A significant portion of this structure lies within the single family 5000 zone. Midway between the two is another building in commercial use as a drive-in restaurant. The structure that holds that use is said to have been constructed in 1961. A portion of the rear of the building appears to overhang the single family zone.

A rezone of a portion (approximately 6,400 square feet in total) from Single Family 5000 (SF 5000) to Commercial 1 with a forty foot height limit (C1-40') would not appreciably diminish the effect of providing a buffer to the single-family development to the east of the site. It would do away with anomalies between uses and zoning on the site and provide an opportunity for future, more orderly small scale commercial development on the site while still ensuring adequate buffering of the single family development to the east of the site. The rezone would not be without historical precedent since three earlier rezones had expanded the area of Commercial 1 zoning at the north end of the subject site, but in this instance would be executed with clearer sense of resolving anomalies between actual development and desirable zoning outcomes.

RECOMMENDATION - REZONE

Approve the rezone to change 6,400 square feet of property from SF⁵⁰⁰⁰5000 to Commercial 1-40'

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this proposal was made in the environmental checklist dated submitted by the applicant and dated November 23, 2010 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

This action is not specifically addressed as a Categorical Exemption (SMC 25.05:800); therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal, which meets the definition of action and is not categorically exempt.

Short-term Impacts

As a non-project action, the proposal will not have any short-term impact on the environment in that construction is not a direct result of this action. Specific project action will require environmental review if the proposed development consists of more than 8 residential units or exceeds 4,000 square feet of commercial development.

Long-term Impacts

The proposal would modify development standards and density on the subject property. Ultimate impacts would only be realized through the specific project action. SEPA regulations will be applied on a project basis, and appropriate mitigation required where necessary. However, land use impacts and density related impacts resulting from the rezone, such as height, bulk and scale, traffic and parking are discussed further below.

The proposal project-level impacts of the particular development would be mitigated by application of Land Use Code standards of the new zone during specific project review. Specific project impacts subject to environmental review could be additionally mitigated through SEPA if the Code does not sufficiently mitigate adverse impacts.

Height, Bulk and Scale

The SEPA Height, Bulk and Scale Policy (Section 25.06.675.G., SMC) states that “the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories, ...and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning.”

In addition, the SEPA Height, Bulk and Scale Policy states that “(a) project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated.”

Any future project application if more than 8 residential units will be subject to the Design Review process and conditions, if necessary, will be applied to the project to mitigate for height, bulk and scale impacts.

The height limits for the proposed Commercial 1 40' would exceed the limits set for single family development but no development is likely to occur in the areas zoned single family 5000 immediately to the east of the site. The dimensional and bulk standards for Commercial 1 40' likewise would exceed that allowable in the single family zone. The subject site would continue to be adjacent to single family zoning on its east side. Future development of the site would be required to provide a rear setback from the single family property line as required by 23.47A.014. The former railroad right-of-way developed as a public trail and the existing railroad right-of-way would provide an adequate transition to the single family developable area to the east which sits atop a ridge that is substantially higher topographically than the subject site, a condition that helps provide for compatible transitions between zones as well.

Traffic and Parking

The size and proportions of the subject site as well as height limits would not allow for any large development on the site. Impacts due to development that would increase traffic and add to parking on the site would be expected to be minor. Existing traffic on Seaview Avenue NW does not burden roadway capacity and impact to the surrounding traffic network is not of concern. Parking impacts would be further evaluated if there were to be a specific project review.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2C.
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

CONDITIONS – SEPA

None.

RECOMMENDED REZONE CONDITIONS

None.

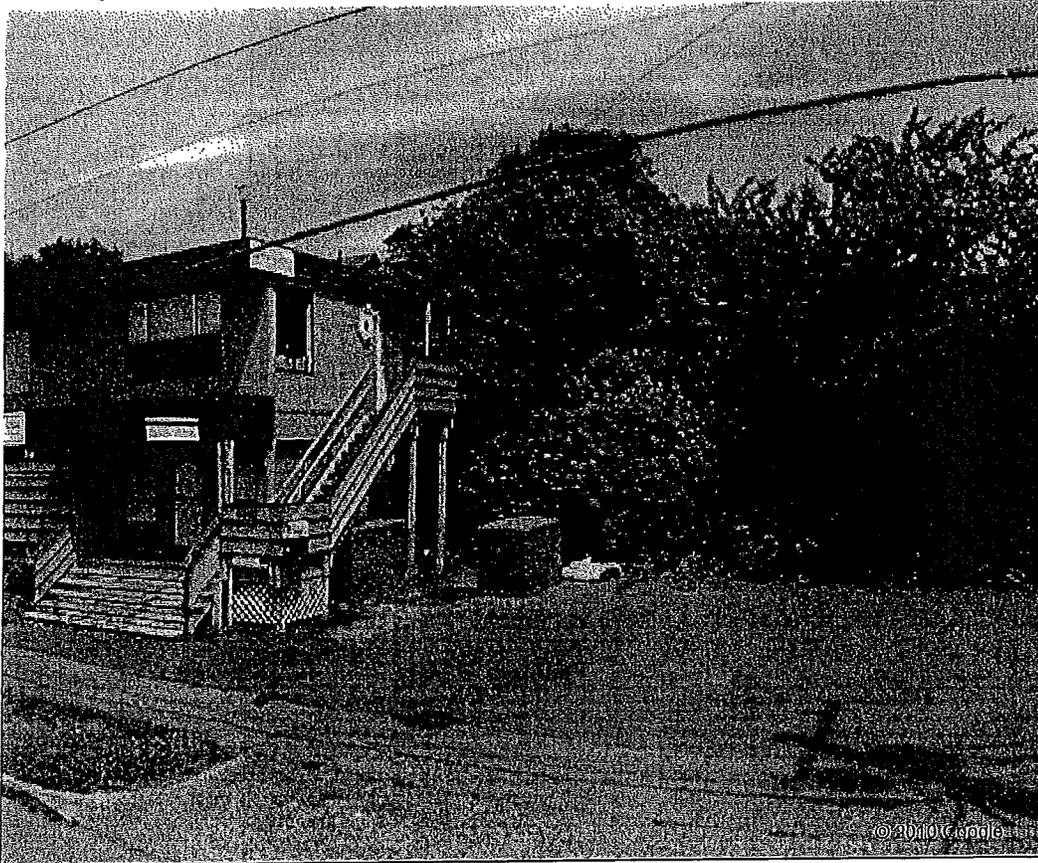
Signature: _____ (signature on file)
Michael Dorcy, Senior Land Use Planner
Department of Planning and Development

Date: April 28, 2011

Google maps

BLDG "A"
Address Seaview Avenue Northwest
Address is approximate

Save trees. Go green!
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6402
(6300) SEAVIEW AV. NW

APN. 1025039076
+ 1025039300

City of Seattle Hearing Examiner
EXHIBIT

Appellant ADMITTED
 Respondent DENIED
 Department ADMITTED

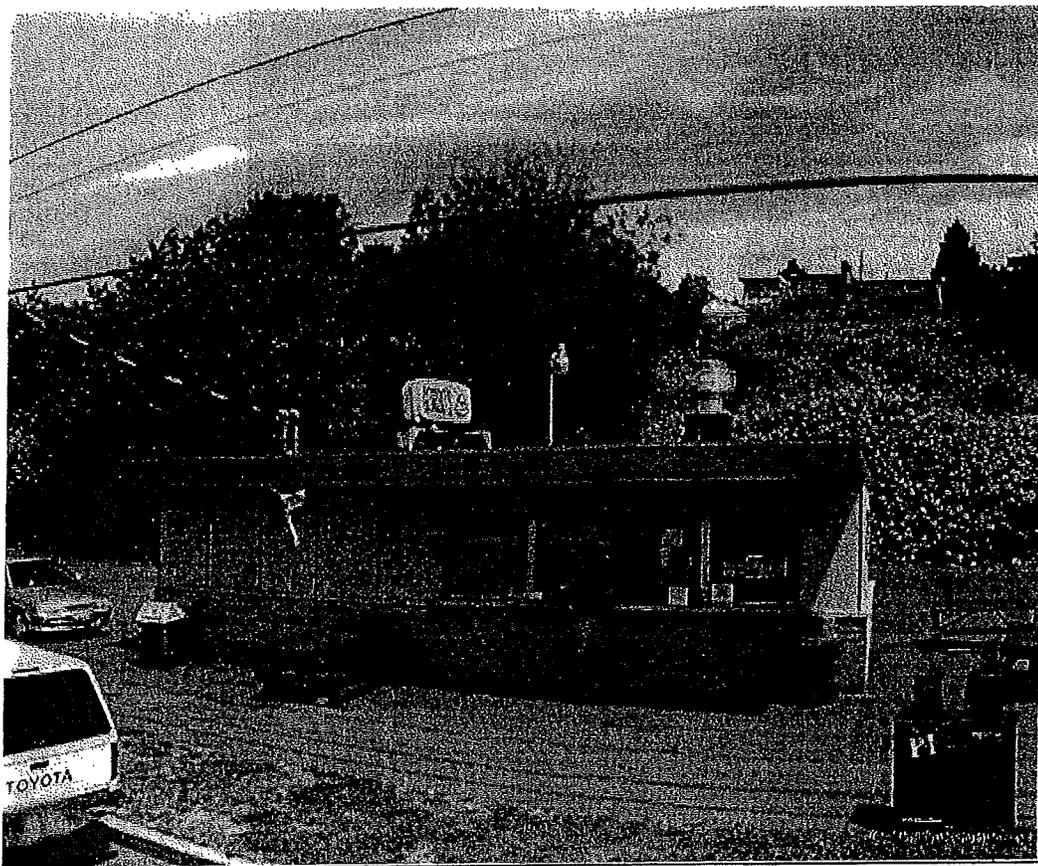
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FILE CF #311196, 3011490

Google maps

BLDG. "B"
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Address is approximate
6226

Save trees. Go green!
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APN 1025039159

City of Seattle Hearing Examiner
EXHIBIT

Appellant _____
 Respondent _____ ADMITTED
 Department DENIED _____

6

FILE CF #311196, 3011490

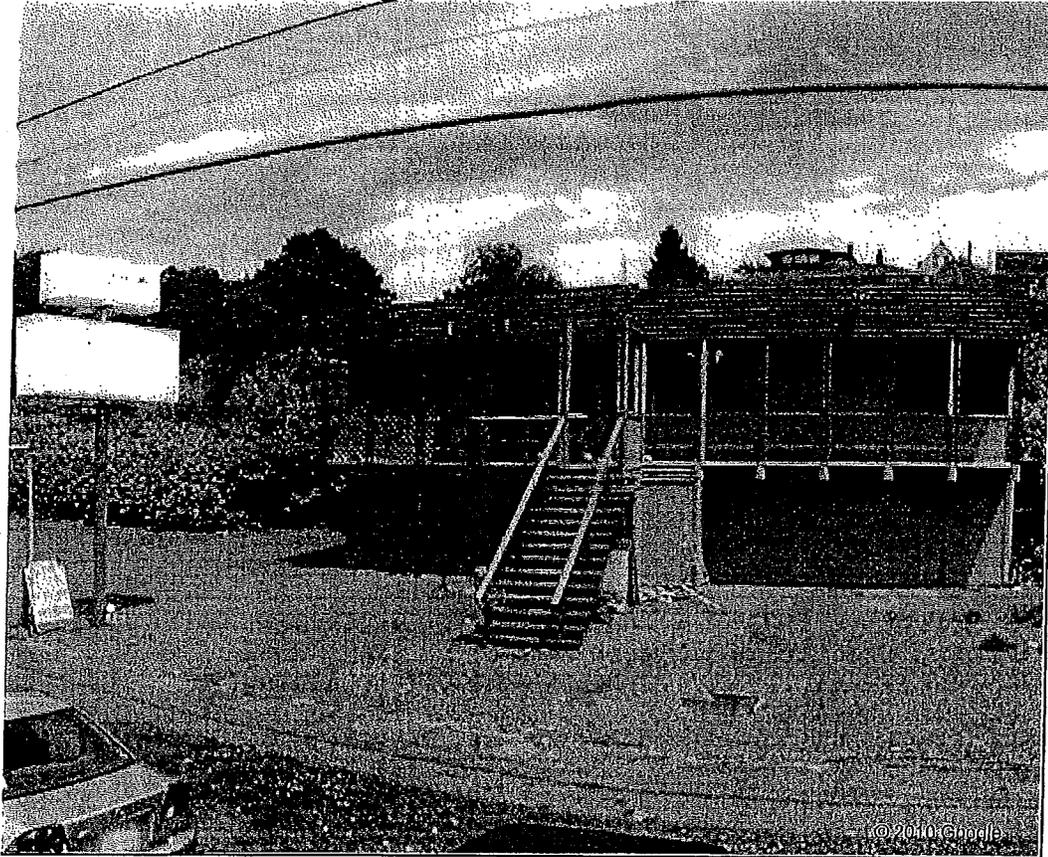
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Google maps

Address ⁶²⁰⁰ 6038 Seaview Avenue Northwest
Address is approximate

Save trees. Go green!

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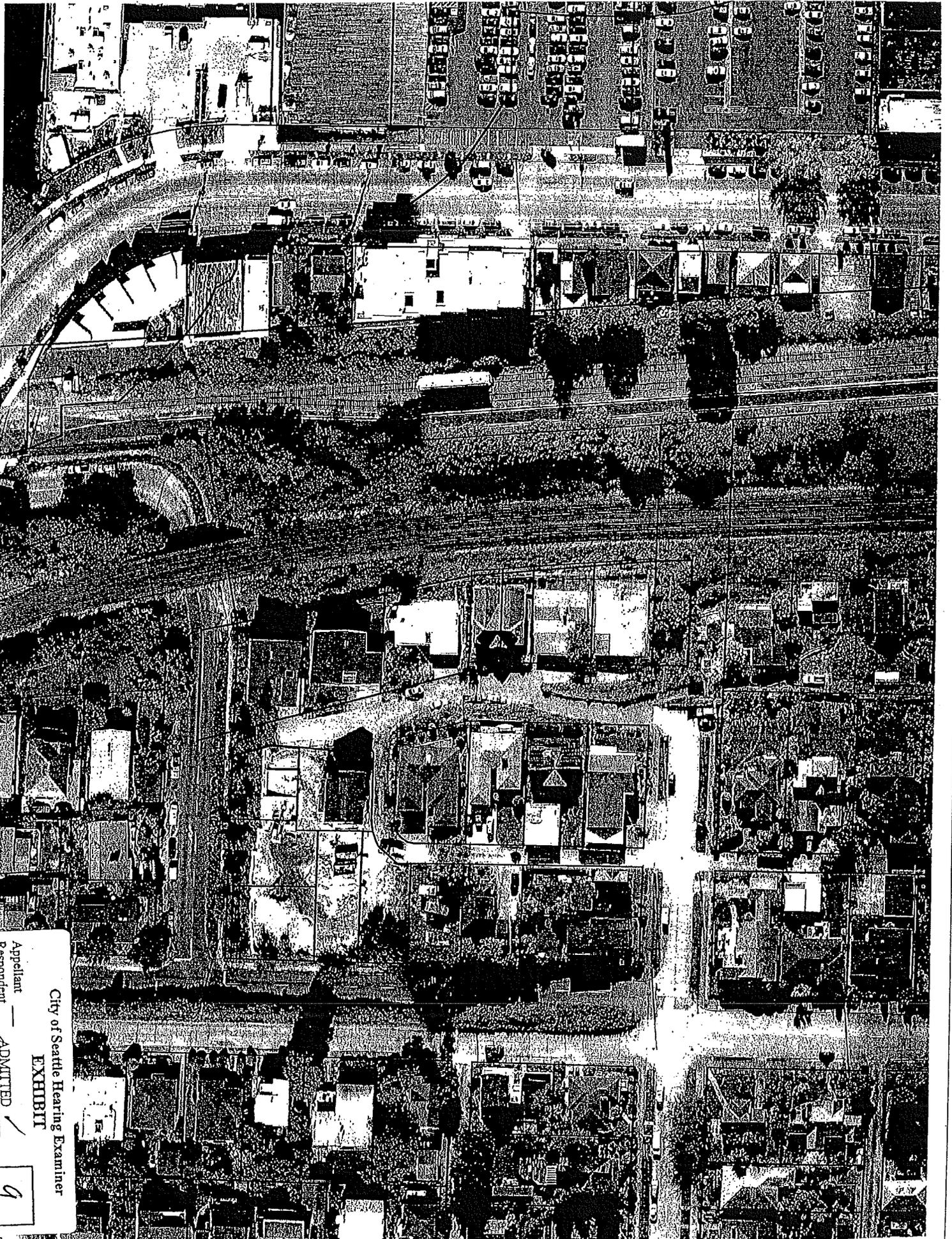
City of Seattle Hearing Examiner

EXHIBIT

Appellant
Respondent ADMITTED
Department DENIED

7

FILE CF #311196, 3011490



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EXHIBIT
Appellant ADMITTED
Respondent



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EXHIBIT
Appellant ADMITTED ✓
Respondent DENIED ✓
Department

10