

#3

CF 311662

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

In the matter of:)	C.F. 311662
)	
Application of Kevin Broderick,)	FINDINGS, CONCLUSIONS
Broderick Architects, for L.R.)	AND DECISION
Columbus, LLC, to rezone 6,600)	
square feet of land at 3902 S. Ferdinand)	
Street from Lowrise 3 (LR3) to)	
Lowrise 3-Residential Commercial)	
(LR3-RC); (C.F. 311662, Project No.)	
3011960, Type IV).)	

Introduction

This matter involves the petition of Kevin Broderick (“Proponent”) for a contract rezone of a portion of a 16,650 square foot property located at 3902 S Ferdinand Street from a split zoned Lowrise 3 (LR3) and Single Family 5000 (SF 5000) to Lowrise 3 with a residential-commercial overlay (LR3-RC) and SF 5000. The LR3 portion of the property to be rezoned is approximately 6,600 square feet and is depicted on Attachment A.

On April 5, 2012, the Director of the Department of Planning and Development recommended approval of the proposed rezone. On April 26, 2012 The City of Seattle’s Hearing Examiner held an open record hearing and left the record open until April 27, 2012 to allow the Hearing Examiner a site visit. On May 1, 2012 the Hearing Examiner issued Findings and Recommendations recommending approval of the rezone.

On June 27, 2012, the matter came before the Planning Land Use and Sustainability Committee (PLUS), which reviewed the Hearing Examiner’s record and Council staff’s report and recommendations. PLUS unanimously voted to approve the rezone, then requested staff to

prepare the Findings, Conclusions and a Decision for this Clerk's File, and a related Ordinance (Council Bill 117517) to change the City's Official Land Use Map, also voting to refer the matter directly to full Council for a vote. PLUS also approved an amendment to the title of the Clerk's File, which is reflected in title of this document.

Findings of Fact and Conclusions

The Council hereby adopts the Hearing Examiner's Findings of Fact, Conclusions and Recommendation for C.F. 311662 dated May 1, 2012.

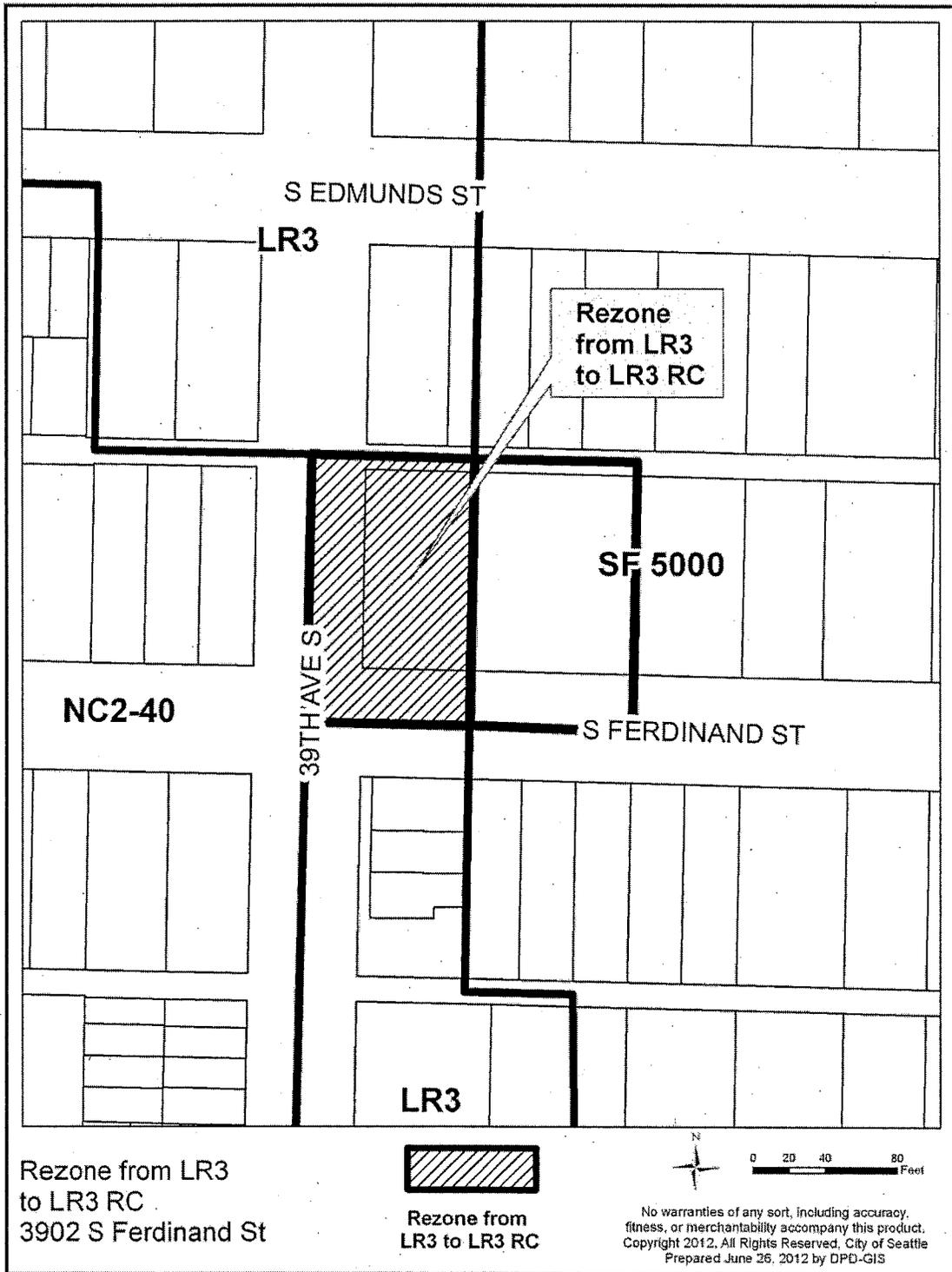
Decision

The Council hereby GRANTS a rezone of the property from LR3 and SF 5000 to LR3-RC and SF 5000 as reflected in Attachment A, subject to the conditions set forth in the Property Use and Development Agreement (PUDA) attached to Council Bill 117517 (Ordinance _____).

Dated this _____ day of _____, 2012.

City Council President

ATTACHMENT A





**Legislative Department
Seattle City Council
Memorandum**

Date: June 25, 2012

To: Richard Conlin, Chair
Tim Burgess, Vice Chair
Mike O'Brien, Member
Planning, Land Use and Sustainability (PLUS) Committee

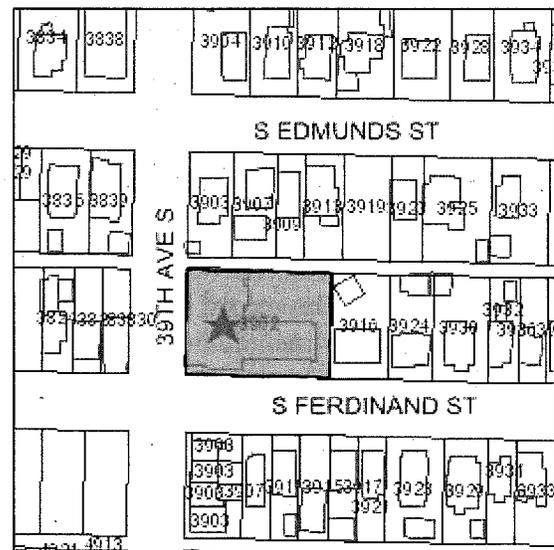
From: Michael Jenkins, Council Central Staff

Subject: Application of Ben Hruska to rezone 6,600 square feet of land at 3902 S. Ferdinand Street from Lowrise 3 (LR3) to Lowrise 3-Residential Commercial (LR3-RC); for modification and expansion of existing residential building by changing three of eight residential units to commercial use (C.F. 311662, Project No. 3011960, Type IV).

1. Overview

Ben Hruska ("Proponent") proposes a contract rezone on a portion of a 16,650 square foot site located at 3902 S. Ferdinand Street. The site is located approximately 1 block to the east of Rainier Avenue S. and the Columbia City business and historic districts.

The lot is currently split zoned Lowrise 3 (LR3) and Single Family 5000 (SF 5000). The proposal calls for the LR3 portion of the site, along with the adjacent right of way, to be rezoned by applying a residential-commercial overlay to the existing LR3 zone (LR3-RC). No rezone is proposed for the SF 5000 portion of the site.



If approved, the rezone would allow the applicant to implement changes to a Master Use Permit (MUP) #3008629 that was issued in May, 2009. That permit authorized the applicant to convert the existing Mission Baptist Church, a minor institution, to a structure with residential uses including:

- Conversion of the LR3 portion of the church into an 8 unit residential structure
- Conversion of the SF 5000 zoned portion of the structure, which was designed for offices accessory to the church, into a bed and breakfast.

Through this rezone, the applicant seeks to convert the 8 residential uses approved under MUP 3008629 into a mixed use structure with 5 residential uses above 3 ground floor commercial spaces; no changes are proposed to the SF 5000 portion of the site. The proposed change of use to allow commercial spaces can only be authorized if the zoning of the property is changed to adopt the RC overlay.

Both the Department of Planning and Development (DPD) and the Hearing Examiner find the proposal to be consistent with the City's rezone criteria and recommend approval of the rezone.

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 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;
- Development plans and photographs showing the rezone area;
- 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 A);

2. DPD Director's Analysis and Recommendation¹ (Attachment B);
3. Copies of public comment² (Attachment C);
4. Photos and plans of the proposed conversion (Attachment D)³;
5. Maps showing the project site in relationship to the surrounding community (Attachment E)⁴;
6. Plan sheets showing the rezone area with the existing structure (Attachment F)⁵; and
7. DPD Director's Decision – Master Use Permit #3008629 (Attachment G)⁶.

4. Summary of the record

The Hearing Examiner recommended that Council **APPROVE** the rezone request, following a similar recommendation by the Department of Planning and Development (DPD), subject to a rezone condition recommended by Director.

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

A. Zoning history

The rezone site is currently split zoned LR3 and SF 5000. The site has been split zoned since at least 1947 in the similar manner (higher density multi-family on the west side of the lot, single family permitted on the east side of the lot) as today.

B. Surrounding area

Attachment E includes map of the site and surrounding area. The site is located within the Columbia City Residential Urban Village and the Southeast Seattle Reinvestment Area (SESRA). The split-zoned site abuts a SF zone to the east and is part of a LR3 zone that extends north/south, buffering the SF zone from a Neighborhood Commercial 2 zone with a 40 foot height limit (NC2-40) to the west across 39th Ave S. A NC3-40 zone is located along Rainier Avenue S., one block to the west.

The area is also marked by significant grade changes, rising to the east from the project site.

C. Project information

If approved, the proposal would allow the conversion of a split level, one to three story former church into a mixed use structure with 3 commercial spaces located at ground level with 5 residential units above. Attachment F shows the rezone area and proposed building modifications. Attachment G is a powerpoint presentation that includes renderings of existing and proposed conditions of the building facades.

¹ Hearing Examiner's Exhibit 4

² Hearing Examiner's Exhibits 5 and 10

³ Hearing Examiner's Exhibit 8

⁴ Hearing Examiner's Exhibit 1

⁵ Hearing Examiner's Exhibit 7

⁶ Hearing Examiner's Exhibit 9

The three-story portion of the structure is located in the LR3 zone. This portion of the structure includes ground floor common areas, offices and storage spaces, while the second and third floors house the main sanctuary areas. If the rezone is approved, the ground floor portion of the structure would be converted into 2 commercial spaces and 8 enclosed parking spaces, accessed from a north facing garage door. Access to the third commercial space would occur from S Ferdinand St, also at ground level.

The second and third floors of this portion of the structure would be converted to 5 dwelling units accessed from a yet-to be created interior courtyard. The courtyard would be created from demolishing part of the existing structure that separates the three story sanctuary from the SF zoned one-story portion of the building. The courtyard also provides separation from the bed and breakfast conversion approved under MUP 3008629 (Attachment G).

D. Public comment

Attachment C includes comment letters received by DPD in support of the project. Two letters were submitted in opposition to the project, citing concerns about increased traffic, density and commercialization of the area resulting from the rezone. A representative of the Columbia City Business Association testified in support of the proposal, citing the need for the type of small scale commercial spaces that would be created if the rezone was permitted.

The comment letters submitted during DPD's review are included with this report. Oral testimony from the hearing is also available on the taped transcript.

E. Summary of the Hearing Examiner's conclusions

The Hearing Examiner provided a summary of general rezone criteria affecting all rezone requests. General rezone criteria require an analysis of the effect of a rezone on zoned capacity. The site is located in the Columbia City Residential Urban Village. This urban village has a growth target of 8 households per acre by 2024. The proposal allowed by this rezone would support this goal.

The Hearing Examiner noted that the area's neighborhood plan does not include policies related to property rezones. The Hearing Examiner also noted that the property's location within SESRA. SESRA planning documents include policies that anticipate the creation of employment opportunities and local business activity; the proposal would help accomplish this goal.

Rezone criteria also call for an analysis of two factors – whether the requested rezone meets the functional criteria for the proposed zone and the locational criteria that state the characteristics of the surrounding area. Both criteria must be satisfied in order to approve a rezone. I have included a summary of the Hearing Examiner's findings on these criteria, as well as a brief review of impacts of the proposal

a. Overlay zone function

The Hearing Examiner noted the purpose of the RC zone's functional criteria in Seattle Municipal Code (SMC) Section 23.34.070A:

- As a means to downzone strip commercial areas which have not been extensively developed with commercial uses;
- As a means to downzone small commercial areas which have not been extensively developed with commercial uses and where commercial services are available nearby;
- To provide opportunities for needed parking in areas where spillover parking is a major problem; and
- As a means of supporting an existing commercial node.

The Hearing Examiner noted that the proposal would support the NC zone located to the west, which extends to Rainier Ave S. The rezone would also allow commercial uses to face each other along 39th Ave S.

The Hearing Examiner further noted that the proposed structure conversion would meet criteria in SMC Section 23.34.070B, concerning the desirable characteristics of RC zones, through the projects "physical appearance resembling the appearance of adjacent residential areas and its mix of uses with small commercial uses at street level".

b. Locational criteria

The Hearing Examiner's report included an examination of locational criteria for RC zones, which defines RC overlays appropriate in:

- Areas which are primarily residential in character (which may have either a residential or commercial zone designation), but where a pattern of mixed residential/commercial development is present; or
- Areas adjacent to commercial areas, where accessory parking is present, where limited commercial activity and accessory parking would help reinforce or improve the functioning of the commercial areas, and/or where accessory parking would help relieve spillover parking in residential areas.

The Hearing Examiner found that these criteria were met for this rezone based on:

- existing conditions in the area, primarily the mix of residential and commercial uses in the immediate area to the west;
- the extent of adjacent residential uses to the east, the west and within the adjacent NC zone; and
- the proposed mix of residential and commercial uses in the structure across from the NC zone.

In addition, locational criteria for RC overlays also look at physical factors that favor overlay designation including:

- Lack of edges or buffer between residential and commercial uses;
- Lack of a buffer between major arterial and residential uses;
- Streets with adequate access and circulation;
- Insufficient parking in adjacent commercial zone results in parking spillover on residential streets.

The Hearing Examiner noted that these conditions were present as demonstrated with the LR3/SF zone change on the property and the traffic capacity along 39th Ave S and S Ferdinand Street. While not stated in the Hearing Examiner's report, the configuration of the LR3 zone is only one-half block in width on this site and the adjacent block, while the L3 zoned areas to the north and south provide a more extensive buffer between the NC and SF zones. Nothing in the record noted issues with insufficient parking in the area; the provision of 8 enclosed parking spaces is not the purpose of the project.

c. Impact evaluation

The rezone was subject to both review under the City's environmental regulations (SEPA) as well as rezone criteria in SMC 23.34.008F. Minimal if any impacts are anticipated as a result of the application of an RC overlay at this site.

5. Recommendation

I recommend that PLUS move to **APPROVE** the rezone request and adopt the Hearing Examiner's findings, conclusions and decision.

I also recommend that PLUS amend DPD's proposed rezone condition to be consistent with the summary provided by the Hearing Examiner, as follows:

DPD's recommended rezone condition:

1. The rezone from LR3 to LR3-RC is granted contingent upon the proposed redevelopment associated with the adaptive re-use of the existing former church sanctuary structure on site as detailed in MUP #3008629.

Hearing Examiner's summary:

The redevelopment of the church sanctuary is required as shown in the approved plan for MUP 3008629, except as modified to allow commercial spaces as shown in the plans submitted to DPD for MUP 3011960.

I also recommend that the title of the Clerk File be amended to reflect DPD's staff report. Since the application was submitted, the property owner's have indicated that there was a change in owners representation for the rezone application.

I recommend that the Clerk File title be amended, as follows:

June 25, 2012
PLUS
Re: C.F. 311662

Application of (~~Ben Hruska~~) Kevin Broderick, Broderick Architects, for L.R. Columbus, LLC, to rezone 6,600 square feet of land at 3902 S. Ferdinand Street from Lowrise 3 (LR3) to Lowrise 3-Residential Commercial (LR3-RC); for modification and expansion of existing residential building by changing three of eight residential units to commercial use (C.F. 311662, Project No. 3011960, Type IV).

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 a draft property use and development agreement (PUDA). I will also prepare for introduction and referral a separate Council Bill (CB). Once the CB is introduced the matter will come back to PLUS for a vote 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 311662

KEVIN BRODERICK

for a contract rezone of property addressed as
3902 South Ferdinand Street

DPD Project No.:
3011960

Introduction

The applicant, Kevin Broderick for LR Columbus LLC, seeks a contract rezone of approximately 6,600 square feet of property from Lowrise 3 to Lowrise 3-Residential-Commercial.

The public hearing on this application was held on April 26, 2012, before the undersigned Deputy Hearing Examiner. 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, LR Columbia LLC, by Peter Lamb and Tom Reid, property owners. The record was held open after the hearing for purposes of receiving additional information noted below, and for the Examiner's site visit, which took place on April 27, 2012. Documents added to the record after the hearing included a copy of the applicant's power point presentation; a copy of MUP decision 3008629; a complete copy of the SEPA checklist; and a public comment letter that was received the day of hearing but after the hearing had ended.

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 3902 South Ferdinand Street, and is in the Columbia City neighborhood. The property which is the subject of the rezone request consists of Lots 230 and 231, Block 10, Columbia Addition, which total approximately 6,600 square feet. The site is bounded to the north by an alley, to the south by South Ferdinand Street, to the west by 39th Avenue South, and to the east by the property also owned by this applicant. The site is occupied by a building which formerly housed the Columbia Congregational Church.

2. The subject site is part of a larger property (which totals five platted lots and 16,500 square feet), all of which is owned by the applicant. The proposal site is zoned Lowrise 3 (LR3), while the rest of the property (which is not a part of this rezone proposal) is zoned Single Family 5000 (SF 5000). The LR3 portion of the property extends 60 feet to the east from 39th Avenue South. The SF 5000 portion of the property extends to the east property line of the larger property.

3. The site is one block east of Rainier Avenue South and is within the Columbia City Residential Urban Village. It is also within the Southeast Seattle Reinvestment District. The site lies outside of the Columbia City Landmark District.

4. The zoning across 39th Avenue South to the west is Neighborhood Commercial 2 with a 40-foot height limit (NC2-40). Further west, along Rainier Avenue South, the zoning is NC3P-40. North and south of the site, the zoning is LR3. Zoning to the east is SF 5000.

5. The NC2-40 zone west across 39th Avenue South, extends eastward approximately 10 feet short of the centerline of 39th Avenue South. (The Director has therefore recommended that the proposed LR3-RC zone extend to the existing zone boundary line, rather than to the centerline of 39th Avenue South.)

6. Development in the area includes a mixture of residential uses, including the single family area east and up the hill from the site, and commercial uses in the NC2-40 zone across 39th Avenue South to the west.

7. The site is near frequent transit service which runs along Rainier Avenue South. The site is approximately six blocks from the Columbia City light rail station.

8. The site is occupied by a structure that was the former church sanctuary building for the Mission Baptist Church aka Columbia Congregational Church. The building is currently vacant. The church sanctuary building was built in 1923, while an office and classroom portion of the building adjacent to the sanctuary was built in 1957. Some additions to the sanctuary were constructed in 1959, including an addition which covered some of the original windows. The church is not designated as an historic landmark.

9. There is a mapped steep slope area which is on the eastern portion of the larger property but not within the area proposed for this rezone. DPD granted a waiver of steep slope requirements on March 5, 2008. The northern half of the site is within a 1000-foot buffer for an abandoned landfill, and is designated as an environmentally critical area. DPD will require a mitigation report related to this buffer area. DPD has concluded that there are no effects on identified critical areas due to the proposed rezone.

Zoning history

10. Columbia City was founded as a mill town in 1892, but was annexed to the City of Seattle in 1907. The general zoning pattern at the time of annexation forward was for

commercial and civic buildings along Rainier Avenue South, surrounded by residential lots to the west and east. Between 1947 and 1992, the west portion of the site was zoned RM (residential multifamily), and the east portion of the site (which is not part of the rezone application) was zoned RD-5000 (residential single family). From 1992 until 2009, the west portion of the site was designated as L3, while the east portion was designated SF 5000. In 2009, the Code was amended so that the L3 designation became LR3; the SF 5000 designation was unchanged.

Permit history

11. In May, 2009, DPD issued Master Use Permit decision 3008629 to allow the church sanctuary to be converted to eight residential condominium units, and to allow the existing education wing of the church building, located within the SF 5000 zone, to be converted to a bed and breakfast use (through grant of administrative conditional use approval). The bed and breakfast was proposed to be five lodging units and a caretaker unit. The proposal included modification to the interiors and exteriors of both buildings, and the demolition of a classroom structure in order to create a common covered walkway separating the bed and breakfast and the condominiums. As noted below, the applicant's current proposal continues to use the SF 5000 portion of the site as a bed and breakfast, but would redevelop the church sanctuary building with a mix of residential and commercial space.

Proposal

12. The applicant seeks approval of a contract rezone for a portion of the site from LR3 to LR3-RC. The rezone is sought in order to redevelop the former church sanctuary building with five residential units and three commercial spaces. The applicant proposes to reuse the church sanctuary building with some modifications to the exterior, including removal of the 1959 addition to the church and restoring some of the original windows and openings in the church sanctuary building. The applicant still intends to utilize the SF 5000 portion of the site as a bed and breakfast in the former education building, which would be separated by a breezeway from the condominiums.

13. The project proposal, if the rezone is approved, would change the use of the church building from the eight residential units described in MUP decision 3008629, to five residential units and three commercial spaces. Parking for thirteen vehicles would be provided. The parking would consist of nine spaces below grade within the church building accessed from the alley, and four spaces within a carport at grade for use of the bed and breakfast. The applicant would re-grade the alley along the length of the property.

14. The commercial spaces would be at ground floor and would be available for retail/commercial uses or live/work uses. Two of the entries to the commercial spaces are shown along 39th Avenue S, with a third entry from S. Ferdinand St. Residential entries would be accessed from the east side of the building.

15. The proposal includes the rezone of the development site (lots 230 and 231), which are approximately 6,600 square feet in size. Together with the redesignation of the zoning within the surrounding rights-of-way (to the centerlines of the alley and Ferdinand Avenue South, and 10 feet beyond the centerline of 39th Avenue South), the total area affected by the rezone would be approximately 14,700 square feet; Ex. 7, RZ.1.

DPD Review

16. DPD has reviewed the proposed rezone and recommends approval. The DPD recommendation notes that the development proposed was specified and approved previously in MUP 3008629 except that the current proposal includes commercial ground floor use of the structure. DPD recommends that a property use and development agreement include one condition, making the rezone contingent upon the proposed redevelopment "associated with the adaptive re-use of the existing former church sanctuary structure on the site as detailed in MUP 3008629."

17. DPD reviewed the proposal pursuant to SEPA, and issued a Determination of Nonsignificance (DNS), which was not appealed. The Director's SEPA decision included a review of the proposal's impacts related to height, bulk and scale, traffic and parking, and concluded that no conditions were required to mitigate the project's impacts.

Public comments

18. Several written comment letters were submitted to DPD and to the Hearing Examiner. Most of the letters are in support of the proposal, but two letters expressed opposition, citing general concerns with increased traffic, density and commercialization of the area. At the hearing, one member of the public offered testimony, Robert Mohn, of the Columbia City Business Association. Mr. Mohn testified in support of the proposed rezone, noting that the area is lacking in small, affordable commercial spaces, such as those proposed by the applicant and that his organization would like to see more zoning to support commercial development in Columbia City east and west of Rainier Avenue.

Neighborhood Plan

19. The Columbia City Neighborhood Plan, as adopted in the Comprehensive Plan, does not identify specific policies or sites for future rezones. The adopted Plan does include a number of goals and policies related to economic development and housing. For example, Economic Development Goal CC-G5 states "A community with retail and service businesses that serve community needs, particularly pedestrian-oriented commercial development," and Goal CC-G6 states "A neighborhood that promotes entrepreneurship within the community." Economic Development Policy CC-P9 provides "Encourage mixed-use and pedestrian-scale development within the Columbia City and Hillman City business districts." CC-P10 states "Strive to retain and build upon the unique pedestrian-friendly qualities of the Columbia City, Hillman City, and Genesee business districts;" and CC-P11 reads "Support opportunities for business incubators and local business ownership within the community."

Codes

20. 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.”*

21. SMC 23.34.008 states the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers, boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; the presence of overlay districts or critical areas, and whether the area is within an incentive zoning suffix.

22. SMC 23.34.070 sets for the zone, function and locational criteria for the Residential-Commercial (RC) zone:

A. Function.

1. Purposes. Areas that serve as the following:

- a. As a means to downzone strip commercial areas which have not been extensively developed with commercial uses;*
- b. As a means to downzone small commercial areas which have not been extensively developed with commercial uses and where commercial services are available nearby;*
- c. To provide opportunities for needed parking in areas where spillover parking is a major problem;*
- d. As a means of supporting an existing commercial node.*

2. Desired Characteristics. Areas that provide the following:

- a. Physical appearance resembling the appearance of adjacent residential areas;*
- b. Mixed use with small commercial uses at street level.*

B. Location Criteria.

1. Requirement. A residential-commercial designation shall be combined only with a multifamily designation.

2. Other Criteria. Residential-Commercial zone designation is most appropriate in areas generally characterized by the following:

a. Existing Character.

- (1) Areas which are primarily residential in character (which may have either a residential or commercial zone designation), but where a pattern of mixed residential/commercial development is present; or*
- (2) Areas adjacent to commercial areas, where accessory parking is present, where limited commercial activity and accessory parking would help reinforce or improve the functioning of the commercial areas, and/or where accessory parking would help relieve spillover parking in residential areas.*

b. Physical Factors Favoring RC Designation.

- (1) Lack of edges or buffer between residential and commercial uses;*
- (2) Lack of buffer between major arterial and residential uses;*
- (3) Streets with adequate access and circulation;*
- (4) Insufficient parking in adjacent commercial zone results in parking spillover on residential streets.*

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. The site is within the boundaries of the Columbia City Residential Urban Village, so the provisions of Chapter 23.34 which apply to those areas apply to this site.

General rezone criteria

3. Effect on zoned capacity. SMC 23.34.008.A requires that, within the urban center or urban village, the zoned capacity taken as a whole shall be no less than 125 percent of the applicable adopted growth target, and not less than the density established in the Comprehensive Plan. The proposed rezone of 6,600 square feet from LR3 to LR3-RC would not cause the zoned capacity for the urban village to be outside the density established by the Comprehensive Plan.

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. As described by the Director's report at pages 6-7, the existing designation of LR3 is appropriate, so in this case, the analysis is whether the addition of the RC designation would best match the characteristics of the area.

5. The RC zone function has several purposes, as noted in SMC 23.34.070.A. While the RC zone can be used as a means to downzone underutilized commercial areas or to

create additional parking, it is also "a means of supporting an existing commercial node." In this case, the purpose of the RC designation would be support the existing NC2-40 zone directly across from the site, and to allow limited commercial uses to face each other across 39th Avenue South.

6. The desired characteristics in the RC zone are areas that have a physical appearance resembling the appearance of adjacent residential areas, and mixed use with small commercial uses at street level. The area and the proposal here would retain and reuse the existing church sanctuary structure and would incorporate small commercial spaces at street level, with entries facing away from the adjacent residential uses. The proposal is consistent with this criterion.

7. The location criteria for the RC designation include a requirement that it is only to be combined with a multifamily designation. Because the site is already zoned LR3, this criterion is met.

8. The RC location criteria identify characteristics of areas most appropriate for the RC designation. The site is within an area that is primarily residential but is characterized by a mix of residential uses as well as commercial uses. The site is also within an LR3 zone that is adjacent to an NC2-40 zone. Limited commercial activity in the form of small, affordable commercial spaces could help to improve the functioning of the commercial area.

9. The physical factors which favor RC designation include a lack of edges or buffers between residential and commercial uses; here, the development pattern includes an eclectic mix of residential and commercial uses, and the built environment in the area lacks clear edges, although 39th Avenue South serves as the line between the zones. Both 39th Avenue South and South Ferdinand Street have adequate access and circulation capacity. It was not shown that there is insufficient parking in the adjacent commercial zone that would result in parking spillover, but the creation of parking is not the purpose of this proposed RC designation.

10. Because the site and area characteristics best match the LR3-RC designation, the rezone would be consistent with SMC 23.34.008.B.

11. Zoning history and precedential effect. The site was zoned RM (residential multifamily) from 1947 through 1992. The zoning designation was changed to L-3 in 1992, and then to LR3 in 2009. It is difficult to predict whether the rezone would have precedential effect, in light of the current mixture of residential and commercial uses that are found west and east of Rainier Avenue South near this location. If the applicant is correct, and there is a demand for smaller commercial spaces in the area, perhaps other LR3 properties located directly across the street from the NC2-40 zone would also seek a RC designation in response to demand.

12. The Columbia City Neighborhood Plan as adopted in the Comprehensive Plan, does not include policies to guide future rezones, and does not provide for rezones of

particular sites or areas. The Plan does include goals and policies that generally support mixed-use, pedestrian scale development in the area, and encourages local business ownership and incubation within the area, which are consistent with the creation of the proposed small commercial spaces under the RC designation.

13. Zoning principles. The zoning principles to be considered include impacts on less intensive zones and transitions, physical buffers, and zone boundaries. The rezone to RC would not introduce any change in height limits, and the existing structure would be reused. The bed and breakfast use would continue to separate the RC-zoned part of the site from other SF 5000 properties to the east. A steep slope at the east edge of the development site also serves as a physical buffer between the site and the lots to the east.

14. The zone boundary line between LR3 and SF 5000 would not be changed by the proposed rezone. The larger site is currently split between the SF 5000 zone and the LR3 zone, and would continue to be split between two zoning designations. The RC-zoned portion of the site would face other commercially-zoned properties across 39th Avenue South.

15. Impact evaluation. Under SMC 23.34.008.F, the possible positive and negative impacts of a proposed rezone are to be considered, with regard to several factors. The project proposal would create multifamily housing, although it is not identified as low-income housing. No impacts on public services or public safety are expected. Environmental factors, such as noise, air and water quality, light and glare, shadows, etc., would not be expected to be different as a result of the change from LR3 to LR3-RC. Pedestrian safety is not expected to be affected. Employment activity might be positively affected by the creation of additional commercial space in this neighborhood. The site is an older church building, which the applicant proposes to reuse, and the change from LR3 to LR3-RC would not change this reuse proposal.

16. Service capacities would not be exceeded as a result of development under the RC designation. There would be no change to existing street access. Vehicles will access the site from an existing alley (which the applicant will improve) on the north side of the property. Adequate on-site parking is proposed to serve the residential and commercial uses proposed for the site, and the site is one block away from frequent transit service along Rainier Avenue, and six blocks away from the Columbia City light rail station. Utility and sewer capacities in the area are adequate to accommodate development proposed under the LR3-RC designation. Shoreline navigation is not a factor which applies to this proposal.

17. Changed circumstances. Changed circumstances have not been identified that would affect the appropriateness of the rezone. The applicant has indicated that there is a need for small, affordable commercial spaces in Columbia City, but if this is the case, it is not clear that this is a new condition.

18. Overlay districts. The site is within the Columbia City Residential Urban Village, and the SE Seattle Reinvestment Area. The Comprehensive Plan goals and policies

applicable to the Columbia City RUV describe the area as one suitable for a variety of available housing options, for mixed use pedestrian-oriented development, and for the creation of opportunities for business incubators and local business ownership. The proposed change to RC is consistent with the Columbia City RUV goals and policies. The proposal would also be consistent with the general purpose and intent of the SESRA, which encourages local business activity and creation of employment opportunities for residents of the area. The site is also within the Airport Height District, which is not relevant to this rezone application.

19. Critical areas. There is a steep slope area on the eastern portion of the larger site, but it is not within the area proposed for this rezone. A waiver of steep slope requirements was granted by DPD in 2008 for this area, and the applicant must comply with DPD's requirements for the waiver with regard to development at the site.

20. The site is not located in a zone with an incentive zoning suffix, so this criterion is not applicable.

21. On balance, the proposal appears to meet the provisions of Chapter 23.34 for rezones, in light of the information provided in this record. Therefore, the Examiner recommends approval of the proposed rezone.

Recommendation

The Hearing Examiner recommends **APPROVAL** of the rezone from LR3 to LR3-RC, subject to a PUDA condition that redevelopment of the church sanctuary structure be required as shown in the approved plans for MUP 3008629, except as modified to allow commercial space as shown in the plans submitted to DPD for MUP 3011960.

Entered this 1st day of May, 2012.



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 Planning, Land Use and Sustainability Committee, 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.