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

In the Matter of the Application of

CF 311240

**JENNIFER GRANT on behalf of  
NORTHGATE PLAZA LLC, & T&M JENN LP**

for a rezone for property  
located at 11200 1<sup>st</sup> Avenue NE

DPD Reference:  
**3006101**

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**Introduction**

Jennifer Grant, on behalf of Northgate Plaza, LLC and T&M Jenn, LP, applied for a rezone of property located at 11200 1<sup>st</sup> Avenue NE from Midrise (multifamily) zoning to Neighborhood Commercial 3 zoning with an 85-foot height limit. The Director of the Department of Planning and Development (Director or Department) issued a report recommending that the rezone be approved with conditions. The Director's report included adoption of an existing environmental impact statement (EIS) and issuance of an Addendum to the EIS pursuant to SEPA (Addendum). Appeals of the adequacy of the environmental documents were dismissed in a Hearing Examiner decision issued in consolidated cases MUP-12-007, MUP-12-008 and MUP-12-009. The Applicant's appeal of a condition imposed pursuant to SEPA was dismissed for lack of jurisdiction in MUP-12-010.

A hearing on the rezone application was held before the Hearing Examiner (Examiner) on June 26, and July 6, 2012. The Applicant/Owners were represented by Melody B. McCutcheon, attorney-at-law; and the Director was represented by Shelley Bolser, Senior Land Use Planner, and Cliff Portman, Principal Land Use Planner. The record was held open for the Examiner's site visit and closed on July 23, 2012.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code (SMC or Code) unless otherwise indicated. Having considered the evidence in the record, the Examiner enters the following findings of fact, conclusions and recommendation on the rezone application.

**Findings of Fact**

**Site and Vicinity**

1. The rezone site is composed of two parcels. One is approximately 7.86 acres in size and developed with low density, one- and two-story multi-family housing called "The Northgate Apartments," which was constructed in 1951. The other is approximately one-half acre in size and developed with two single-family residences and one duplex.

2. The 207 units at the Northgate Apartments all rent at levels affordable to those making 50% to 60% of the median income level as defined by the United States Department of Housing and Urban Development. All are nearing the end of their lifespan and require frequent repair to maintain them as rental units. The main utility systems for some of the buildings are failing.

3. The property is located in the northern part of the Northgate Urban Center, within the Northgate District Overlay. Zoning to the north is Midrise (MR), then Lowrise-2 (L-2), and then Single-family. These properties are developed with one- to six-story residential structures. To the south is NE Northgate Way and then the Northgate Mall, which is zoned Neighborhood Commercial 3 with an 85 foot height limit (NC3-85). To the east is 3rd Avenue NE and then a swath of property with four different zoning designations: 1) the property located on the north side of Northgate Way is zoned NC3-65 and developed with the Target/Best Buy complex; 2) north of that is L-4-zoned property that is developed with Hubbard Homestead Park, multifamily residential structures and small commercial structures; 3) further north is L-3-zoned property developed with small commercial and single-family structures; and 4) then single-family zoning and development. To the west is 1<sup>st</sup> Avenue NE and the Interstate 5 freeway and on-ramps. West of the freeway is NC3-65 zoning and development on the south and L-2 zoning and development on the north.

4. The site is flat, as are surrounding areas, and there are no Environmentally Critical Areas on or near it.

5. The predominant scale of development in the area in terms of building width and depth is Neighborhood Commercial. The Midrise scale, with buildings no wider than 150 feet, and filling no more than 75 percent of the lot depth, is seen in only one multifamily structure to the north of the site. A multifamily structure directly north is 447 feet wide and 222 feet deep, a multifamily structure to the northeast is 283 feet wide and 233 feet deep, and the Target/Best Buy complex is 290 feet wide and 274 feet deep. See Exhibit 6.

6. Nearby open space includes Hubbard Homestead Park, Northgate Park approximately six blocks to the southeast, and several other parks to the north, east, southeast and southwest, all within approximately 10 blocks of the site. Two elementary schools and North Seattle Community College are located nearby.

7. The site has excellent transit service. There is frequent bus service along NE Northgate Way, and the site is located approximately one-half mile north of the existing Northgate Transit Center and the site of the future Northgate Light Rail Station, which is expected to open in approximately 2020.

8. NE Northgate Way is classified as a principal arterial, 1<sup>st</sup> Avenue NE is classified as a collector arterial, and 3<sup>rd</sup> Avenue NE is classified as a non-arterial access street. Area parking consists of structured parking, surface parking and limited on-street parking.

9. The Northgate Coordinated Transportation Investment Plan (CTIP) is identified as a "comprehensive, prioritized program of transportation improvements that would be needed to accommodate Northgate's projected 2030 growth employment and households." Exhibit 15 at 4-51. The EIS indicates that installation of the improvements listed in the CTIP will be adequate mitigation for traffic from future development of the entire Northgate Urban Center Rezone area, including the subject property. Exhibit 9 at 3-44 to 3-46.

#### Zoning History

10. The Director found no evidence of recent zoning changes in the immediate area. The zoning history of the site is as follows:

- 1947 – Second Residence District, Area District A (R2-A)
- 1950s – RM zone (Multiple Residence)
- 1982 – MR (Midrise Multi-family)

#### Neighborhood Plan

11. In evaluating a rezone proposal, consideration is to be given to those parts of a neighborhood plan that have been adopted by the City Council, with particular attention given to any adopted policies that guide future rezones. SMC 23.34.008.D.

12. The site is located within what is called the "North Core Subarea" of the Urban Center. Comprehensive Plan (Plan) at 8.136. The adopted portions of the Northgate Neighborhood Plan include policies that relate to rezones. NG-P7 calls for reducing conflicts between activities and promoting a compatible relationship between different scales of development by maintaining a transition between zones that allow significantly different intensities of development. NG-P8 stresses maintaining the character and integrity of existing single-family-zoned areas by maintaining that zoning on properties that meet the single-family locational criteria. NG-P-8.5 calls for supporting future potential rezones to higher intensity designations in the North Core Subarea and indicates that in considering such rezones, particular attention should be paid to creating a network of pedestrian connections and encouraging pedestrian activity. NG-G7 calls for medium to high density residential and employment uses concentrated within a 10-minute walk of the transit center.

#### Proposal

13. The Applicants seek a rezone of the subject property from MR to NC3-85. No development proposal is associated with the rezone application.

#### Public Comment

14. The Director received written public comments in response to the notice of the rezone proposal and the notice of availability of the EIS Addendum. Exhibit 24. The Examiner heard testimony from five members of the public and received additional written comments. *See Exhibits 1, 10, 19, 21 and 22.*

15. Comments supporting the rezone cited the site's suitability to receive additional growth and its proximity to future light rail, as well as the rezone's consistency with the City's planning initiatives in the Northgate Urban Center. Comments in opposition raised concerns about the potential loss of affordable housing in light of the fact that the Code's incentive zoning provisions on affordable housing that apply in the MR zone but not in the NC zone. Other concerns included traffic and parking, the pedestrian environment, encroachment of commercial zoning into residential areas, potential shadows on adjacent properties, reduction in open space, water runoff, the need for a contract rezone, and the perception that the proposal does not meet several rezone criteria.

#### Director's Review

16. The Director reviewed the proposal, the public comments and the SEPA documents and issued a report recommending approval of the rezone with conditions.

17. The Director's Recommended Conditions 1 and 2 are rezone conditions that address the provision of affordable housing in conjunction with development of the site. Exhibit 2 at 33. The Director noted that the Plan includes a policy (H30) stating that the City's share of affordable housing needs should be addressed by planning for specific percentages of expected housing to be affordable to those at certain established income levels. Exhibit 2 at 12. Citing the EIS, the Director also noted that the intent of the Northgate Urban Center Rezone was to provide affordable housing and open space through zoning regulations in the Land Use Code. The Director observed that while MR zoning is subject to incentive zoning provisions to gain additional floor area ratio (FAR), these incentives do not apply in the proposed NC zone. Exhibit 2 at 13. However, the Director recognized that a developer would have the option to build to the base FAR under MR zoning without providing any affordable housing units, a scenario that could result in affordable housing units falling short of what is envisioned for urban centers. Exhibit 2 at 16.

18. The Director analyzed the potential impact of the proposed rezone on low-income housing and concluded that it would allow increased development potential of 638,820 square feet (a 41% increase from the existing maximum FAR under MR zoning) without requiring any mitigation of impacts to affordable housing. Exhibit 2 at 16. On the basis of Plan Policy H30 and the EIS, the Director recommended imposing two conditions to mitigate the impacts of the proposed rezone development potential on the need for affordable housing near transit hubs. Exhibit 2 at 16-17.

19. The Director's recommended Condition 1 would require that prior to issuance of the building permit, the Applicant must "demonstrate that a minimum of 5% of the proposed floor area in each building permit is designed as housing affordable to households making up to 80% of the King County median income, or 3% of the proposed floor area is designated as housing affordable to households making up to 50% of King County median income." Exhibit 2 at 17 and 33. Recommended Condition 2 would require that "prior to issuance of a MUP, the applicant provides DPD with a signed Memorandum of Agreement between the applicant and the Office of Housing which defines the details for implementing a 3-5% affordable housing requirement. At a minimum, this agreement shall include a 50 year term of affordability for the required affordable housing." Exhibit 2 at 17 and 33.

20. Seattle Public Utilities (SPU) determined that water capacity in the area is sufficient for the current and proposed zoning. Exhibits 27, 33 and 34. SPU did not require a full wastewater system capacity analysis at the rezone stage, but stated that no development would be permitted under the rezone unless the analysis was done and any necessary additional infrastructure was built or otherwise committed at that time. Exhibit 26. The Director's Recommended Condition 3 is a rezone condition that responds to SPU's requirements. Exhibit 2 at 19 and 33.

21. The Director analyzed the rezone's height, bulk and scale impacts pursuant to SEPA. Exhibit 2 at 29-33. The EIS addressed height, bulk and scale impacts for the Northgate Urban Center Rezone, including the fact that midrise zoning requires building setbacks from the street and sidewalk lines, whereas NC3 zoning does not. Section II.D of the Addendum discusses the height, bulk and scale impacts of the proposed rezone and includes three options for mitigating those impacts along the northern portion of the rezone site, the only edge that does not abut a street. See Addendum at 13 and 15-18. Option 3 was developed and suggested by the Applicants/Owners and is labeled the "23-foot Modulated Envelope". It is described in detail in the Addendum and includes setbacks from the northern, western and eastern property lines, in addition to the maximum required by the NC3-85 zone, as well as upper level setbacks above 55 feet. Exhibit 3 at 17.

22. The Director determined that massing Option 3 would be sufficient to mitigate the proposed rezone's probable shadow impacts on residential property to the north and the park to the northeast. These impacts were disclosed in Section II.E of the Addendum at 18-44.

23. The Director also determined that Option 3 "appears to provide adequate mitigation for the potential impacts of additional height, bulk and scale of the rezone, for the property to the north and the Park to the northeast". Exhibit 2 at 33. In addition, the Director noted the likelihood that any development on the rezone site would be required to submit to design review, which would include consideration of height, bulk and scale impacts.<sup>1</sup> The Director's Recommended Condition 4 is a SEPA condition that would

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<sup>1</sup> The threshold for design review in NC zones is four dwelling units.

require future development of the site to be consistent with the mitigation described in Section II.D of the Addendum for massing Option 3. Exhibit 2 at 33.<sup>2</sup>

24. The Director noted that in MR zones, maximum building widths and depths provide mitigation of potential building bulk impacts, whereas NC3-85 zones have no maximum building width or depth requirements. The Director's Report states that removal of a maximum building width requirement through the proposed rezone would result in "potential" adverse height bulk and scale impacts, and that when combined with the additional FAR and height, "the *potential* impact *could be* significant". Exhibit 2 at 31 (emphasis added). On this basis, the Director recommended Condition 5, a SEPA condition that would require any future development to be consistent with maximum building width and depth requirements applicable to Midrise zones, with the exception of allowing a continuous street wall on NE Northgate Way. Exhibit 2 at 33.

25. At the hearing, the Director asked the Examiner to consider whether Recommended Condition 5 was truly needed to mitigate the rezone's height bulk and scale impacts.

#### Proposed Condition on Affordable Housing

26. After the prehearing conference in this case, the Applicant, two of the parties who had filed SEPA appeals related to the rezone application (the Seattle Displacement Coalition and the Maple Leaf Community Council), and the Director, assisted by the City Attorney's Office, entered into mediation on the issue of addressing the proposed rezone's impacts on affordable housing. The mediation resulted in a settlement agreement.

27. At the hearing, the parties to the mediation presented the Examiner with an "Agreed Condition on Affordable Housing for Hearing Examiner Rezone Proceeding" (Agreed Condition), Exhibit 20. They asked that if the Examiner recommended approval of the proposed rezone, the Examiner also recommend that the Agreed Condition be imposed on the rezone instead of recommended conditions 1 and 2 in the Director's Report, Exhibit 2.

28. The Agreed Condition requires that the Applicant/Owners make part of the site available for lease, for a minimum of 75 years, with no lease payments due for a minimum of 20 years, to allow a low-income housing developer to construct 66 rental units that would be restricted for 50 years to households with incomes at or below 50% of the median income level, and prescribes criteria for the housing. The Agreed Condition also provides that the Applicant/Owners may charge rents discounted by a prescribed percentage to the lessee during the next 20 years, with rents prohibited from reaching market level until 41 years from the start of the lease. The Agreed Condition makes provision for a payment in lieu of making the land available for lease if the Applicant/Owners are unable to reach agreement with an acceptable lessee for the affordable housing on the site. In addition to the affordable housing or payment, the Agreed Condition requires the Applicant/Owners to allow an additional 10 percent of

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<sup>2</sup> The Addendum Section is misstated as "E" in Exhibit 2.

residential units developed on the site, in excess of 660 units, to be affordable to households with incomes at or below 80% of the median income level. Exhibit 20.

29. Although they had submitted comments opposing the rezone application, representatives of the Seattle Displacement Coalition and the Maple Leaf Community Council each testified that their organizations support the rezone if the Agreed Condition is imposed in place of the Director's recommended conditions 1 and 2. See Exhibits 21 and 22.

#### Applicable Law

30. SMC 23.34.008.A requires that the zoned capacity for urban villages be no less than 125% of the growth targets adopted in the Comprehensive Plan for the village. For residential urban villages taken as a whole, the zoned capacity must be within the density ranges established in the Land Use Element of the Comprehensive Plan.

31. SMC 23.34.024.A prescribes the function of the MR zone as "providing concentrations of housing in desirable, pedestrian-oriented urban neighborhoods with convenient access to regional transit stations" and where a "mix of activity provides convenient access to a full range of residential services and amenities" as well as "opportunities for people to live within walking distance of employment."

32. SMC 23.34.024 provides the relevant locational criteria for the MR zone in terms of "Threshold Conditions" and "Other Criteria" The Threshold Conditions provide that the only properties that may be considered for MR zoning are those already zoned MR, those in areas already developed predominantly to MR intensity, and those within an urban center or urban village where a neighborhood plan was adopted or amended by the Council after January 1, 1995 and indicates that the area is appropriate for MR zoning.

33. The relevant "Other Criteria" for Midrise zoning provide that the designation is most appropriate in areas "generally characterized by" properties that are: 1) "adjacent to business and commercial areas with comparable height and bulk"; 2) "in areas that are served by major arterials and where transit service is good to excellent and street capacity could absorb the traffic generated by midrise development"; 3) "in areas in close proximity to major employment centers"; 4) in areas in close proximity to open space and recreational facilities"; 5) "in areas along arterials where topographic changes ... provide an edge or permit a transition in scale and surroundings"; 6) "in flat areas where the prevailing structure height is greater than 37 feet" or "there is no established height pattern"; and 7) in areas characterized by various levels of slope with specific view conditions.

34. SMC 23.34.072 addresses designation of commercial zones. It discourages encroachment of commercial development into residential areas and encourages compact, concentrated commercial areas or nodes over diffuse, sprawling commercial areas, and the preservation and improvement of existing commercial areas.

35. SMC 23.34.078.A states that the NC3 zone functions to "support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that incorporates offices, business support services, and residences that are compatible with the retail character of the area"; and where it is possible to achieve a "variety of sizes and types of retail and other commercial businesses at street level," "[c]ontinuous storefronts or residences built to the front lot line," "[s]hoppers can drive to the area, but walk around from store to store," and "[t]ransit is an important means of access."

36. SMC 23.34.078.B provides locational criteria for the NC3 zone and states that the designation is "most appropriate on land that is generally characterized by the following conditions: 1. The primary business district in an urban center or hub urban village; 2. Served by [a] principal arterial; 3. Separated from low-density residential areas by physical edges, less-intensive commercial areas or more-intense residential areas; [and] 4. Excellent transit service."

37. SMC 23.34.009 prescribes criteria for a rezone that includes consideration of height limits in commercial zones. Height limits are to be "consistent with the type and scale of development intended for the zone," considering the "demand for permitted goods and services and the potential for displacement of preferred uses." They are also to "reinforce the natural topography of the area and its surroundings," considering the likelihood of view blockage. Height limits established by current zoning are to be considered, and permitted height limits are to 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." They are to be "compatible with actual and zoned heights in surrounding areas," and are to provide a "gradual transition in height and scale and level of activity between zones" unless major physical buffers are present.

38. Under SMC 23.34.007.C, compliance with the requirements of Chapter 23.34 SMC constitutes consistency with the Comprehensive Plan for purposes of reviewing proposed rezones. Thus, Plan goals and policies are not separately reviewed.

39. SMC 23.34.007 provides that the applicable sections of Chapter 23.34 SMC on rezones are to be weighed and balanced together to determine the most appropriate zone and height designation. In addition, the zone function statements are to be used "to assess the likelihood that the area proposed to be rezoned would function as intended." SMC 23.34.007.A. "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement...." SMC 23.34.007.B. The general rezone criteria, including "zoning principles," are set forth in SMC 23.34.008.

40. The most appropriate zone designation is the one "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 zone designation." SMC 23.34.008.B.

## Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 23.76.052.

### Capacity and Density

2. The proposed rezone satisfies SMC 23.34.008.A, as it would increase the zoned capacity of the Northgate Urban Center, and the capacity would be consistent with the density established by the Urban Village Appendix in the Comprehensive Plan.

### MR Zone

3. The site is consistent with the function of the MR zone. The area provides a concentration of multifamily housing with commercial development on the east, south and west that provides convenient access to a full range of services and amenities, as well as opportunities for employment. The site also has convenient access to regional transit. The area is not presently pedestrian friendly due to large block sizes, busy traffic, wide arterials, and the Interstate 5 freeway and on ramps that constitute a barrier to the west. However, pedestrian improvements are in process, and more are planned for the area.

4. The site meets most of the locational criteria for the MR zone. Because it is already zoned MR, it meets the threshold conditions for MR zoning. It is not designated as an environmentally critical area. It is adjacent to the Northgate commercial corridor, which includes structures of comparable height and bulk; is served by NE Northgate Way, a major arterial included within the CTIP; and is located within a 10 minute walk of the existing transit station and future light rail station. The Northgate Urban Center provides many jobs and is designated for future growth as an employment center. The site is within close proximity to City parks and within a 10 to 15 minute walk of the Northgate Community Center. The area is one where a gradual transition between single-family areas and more intensive MR or NC zones is appropriate and presently exists. Although the site is adjacent to two arterials, it is also relatively flat, without topographic changes to provide an edge or transition in scale. There is also no true established height pattern, with existing structures ranging from one to seven stories in height.

### Designation of Commercial Areas

5. The proposed rezone is from a residential zone to a commercial zone and could be considered an encroachment into residential areas. However, the change would be consistent with the pattern of zoning and development in the immediate vicinity, particularly that along NE Northgate Way. The proposal would not conflict with the preferred configuration and edge protection of residential zones established in SMC 23.34.010 and .011. It would constitute a logical extension of the existing concentration of commercial uses along NE Northgate Way and would enhance the corridor by allowing for the increased variety of commercial uses that is permitted in the NC3 zone.

## NC3 Zone

6. The site is a good match for the function of the NC3 zone. The shopping district along NE Northgate Way across from and adjacent to the site, serves the surrounding neighborhood as well as a larger community and, to some extent, a citywide and regional clientele. Pedestrian activity is increasingly busy, with three crosswalks located adjacent to the site. The district is sufficiently large to provide comparison shopping for a wide range of goods and services, and the area incorporates offices, business support services and residences, all within one-quarter mile of the site. Shoppers can drive to the area and, with the increasing number of pedestrian amenities, walk from store to store despite the area's historical auto orientation. There is a variety of sizes and types of retail and other commercial businesses at street level, and more recent developments are achieving continuous storefronts built to the front lot line. Transit is a very important means of access, with frequent busses on adjacent arterials, a major Transit Center within a 10 minute walk, and a Light Rail station anticipated to open in approximately 2020.

7. The site also meets the locational criteria for NC3 zoning. It is located within the area's primary business district, which is within an urban center. As noted, it is served by NE Northgate Way, a principal arterial with frequent transit service, and the Transit Center is a 10 minute walk away. The site is separated from low-density residential areas by MR zoning on the north, and by a street and public park on the northeast.

## Height Limits

8. A height limit of 85 feet is consistent with the type and scale of development intended for the NC3 zone. See Table A for SMC 23.47A.004 (permitted uses in commercial zones). Further, making provision for additional residential units above a retail base promotes increased density within the Urban Center that is consistent with the Plan and the City's Northgate planning initiatives, and supports the pedestrian-oriented shopping area along NE Northgate Way. There is no evidence of a potential for displacement of preferred uses as a result of increased height at this site. The EIS and Addendum indicate that displacement of the existing single-family use of the site is likely whether or not it retains its MR zoning and height.

9. As noted, the topography in the area is flat, so there is no opportunity for height limits to reinforce natural topography. There is a potential that development at 85 feet will block private, territorial views from multifamily residential structures to the north, but it is likely that these views would also be blocked by development to allowed heights under the existing MR zoning.

10. As also noted, there is no predominant height and scale in the area. With the exception of single-family development within single-family zones, structures range from one to seven stories in height regardless of zoning designation. The height and scale of much of the existing development is not a good measure of the area's overall development potential, particularly along NE Northgate Way.

11. An 85-foot height limit would match the 85-foot limit across NE Northgate Way to the south of the site, and the rezone would retain the existing gradual transition in heights and scales. MR zoning north of the site would provide a buffer between the rezone site and LR2 zoning and development. NC3-65 zoning would be located to the east and west of the site, and 3rd Avenue NE and the park would buffer residential development to the northeast. The Neighborhood Plan does not include specific height recommendations but, as noted above, Policy NG-P8.5 supports rezones to higher intensity designations in the North Core Subarea, which includes the rezone site.

#### Precedential Effect

12. Because the Neighborhood Plan encourages higher intensity designations within the Urban Core Subarea, the owners of other property within the Subarea may pursue upzones, as well. This would result more from the City's Northgate Urban Rezone Strategy than from any precedential effect of the proposed rezone.

#### Relationship to Neighborhood Plan

13. The proposed rezone would be consistent with the adopted Neighborhood Plan. It would maintain the existing transition between zones that allow significantly different and intensities of development (NG-P7), maintain the character and integrity of existing single-family zones (NG-P8), and increase the potential for increased residential density and employment uses within a 10 minute walk of the Transit Center (NG-G7). The proposal would also implement NG-P8.5, which supports rezones to higher intensity designations in the North Core Subarea.

#### Zoning Principles

14. The zoning principles listed in SMC 23.34.008.E are generally aimed at buffering less intensive zones from more intensive zones, if possible. As noted, the proposed rezone would leave existing zoning transitions in the area intact. Parcels to the north zoned MR and developed with multifamily structures buffer lowrise zoning and development located for the north. To the west, the I-5 freeway and on ramps create an effective barrier between the subject property and properties to the west. Properties to the east and south are zoned NC, and the site would be effectively clustered with commercial uses located on these properties, although separated from them by a principal arterial in one case and a non-arterial access street in the other. Like the existing zoning, the proposed rezone would follow platted lot lines, and would result in existing and potential commercial uses facing each other across the street and facing away from adjacent residential uses to the north.

#### Impact Evaluation

15. The proposed rezone would have a positive impact on housing by providing additional capacity for new dwelling units within the Urban Center.

16. As to impacts on low income housing, the Examiner adopts the Director's analysis in Exhibit 2 at 11-16. It is clear from that analysis that the proposed rezone would have negative impacts on low-income housing. This is due primarily to the fact that in the NC3 zone, provision of affordable housing is not required to gain additional FAR, as it is in the MR zone. Further, the City's SEPA policy on housing requires only compliance with the City's ordinance on housing relocation assistance. *See* SMC 25.05.675.I. Given this regulatory framework, the Director relied on Plan policies and language in the FEIS to recommend conditions requiring that the Applicant/Owners provide some low-income replacement housing when the subject site is developed. However, the Agreed Condition is superior to DPD's proposed Conditions 1 and 2 because it provides certainty as to the number of units that will be provided and the time period in which they will be constructed. It also ensures that the truly low-income units, available to those at or below 50% of the median income level, will actually be constructed. Exhibit 20; Testimony of Fiori.

17. Development of the site to either the existing MR zoning or the proposed NC3-85 zoning would require additional public services.

18. Noise at the site would be typical of that generated by neighborhood commercial and residential activities and would be unlikely to approach existing noise levels attributable to the I-5 freeway. Any development of the site would be subject to Federal, State and City emission control requirements. Development under MR or NC3-85 zoning would likely result in similar amounts of impervious surface, and stormwater collection and management would be required to conform to City standards in any event. Impacts on flora and fauna would also be similar under the MR and NC3-85 zones, except that vegetation requirements for future development would be reduced from .5 Green Factor to .3 Green Factor. There would be no noticeable changes to glare, odor, energy, or private views impacts as a result of a rezone from MR to NC3-85. Potential development of the site under NC3-85 zoning would result in additional shadows on multifamily development to the north and the park to the northeast. As noted, the Director determined pursuant to SEPA that the use of massing Option 3 would provide sufficient mitigation for these impacts.

19. There is no indication in the record that future development under the proposed zoning would have a negative impact on pedestrian safety. It is likely that pedestrian safety would be improved by street improvements that would be required of future development.

20. Considering the additional variety of commercial uses permitted under the NC3 zone, the proposed rezone may create additional employment opportunities in the area.

21. There are no nearby historic landmarks or historic overlays, and the Landmarks Preservation Board determined that the existing structures on the site were unlikely to meet standards for designation as historic landmarks.

22. There is no manufacturing activity in the area, and there are no shorelines visible or accessible at, or near the site.

23. The Director reviewed the proposed rezone's transportation impacts pursuant to SEPA. Development-level impacts cannot be analyzed at this point, as there is no associated development proposal. The Director determined that the site is within the area analyzed in the EIS and that the proposed rezone is within the range of actions and impacts evaluated in the EIS. The Director also reiterated that the improvements listed in the CTIP are expected to be adequate mitigation for future development traffic in the area, including the subject site.

24. As noted, the Director recommended a rezone condition prohibiting development at the subject site prior to SPU's approval of the sewer system engineering analysis and any required infrastructure improvements.

25. The record does not show a sufficient basis under SEPA to impose the additional requirement in the Director's Recommended Condition 5, which would limit building width and depth to that allowed in MR zones with the exception of NE Northgate Way. Further, such a requirement could eliminate some of the more likely uses for the western part of the property, such as a large hotel, and are at odds with the predominant scale of development within the immediate surrounding area. In any case, the significant setbacks and upper-level setbacks provided by massing Option 3, together with design review of development proposals under the new "Northgate Urban Center and Overlay District Design Guidelines," would provide sufficient mitigation for the height, bulk and scale impacts of the proposed rezone.

#### Changed Circumstances

26. Changed circumstances are not required before a rezone may be approved, and they are to be considered only as they relate to elements or conditions included in the criteria for the relevant zone and/or overlay designation.

27. Since the most recent zoning change in 1982, the City's has adopted the 1994 Comprehensive Plan, designating the Northgate Urban Center, and has adopted a 2024 growth target of 2,500 additional households for the Urban Center. It has also engaged in a concerted planning effort to improve the physical and pedestrian environment in the Urban Center and recently adopted a new neighborhood planning policy to foster rezones within the North Core Subarea. Further, the Transit Center was established since the last zoning change, and the area for the planned Light Rail station was designated. As a result of these actions, the Urban Center, and the North Core Subarea in particular, has increasingly developed into a pedestrian-oriented shopping district that serves the neighborhood as well as a larger community, and an area that incorporates offices, business support services and residences compatible with the retail character of the area. These qualify as changed circumstances and support the requested rezone.

Overlay District

28. The proposed rezone upholds the purpose of the Northgate Overlay District, which is to: "A. Create an environment in the Northgate Area that is more amenable to pedestrians and supportive of commercial development; and B. To protect the residential character of the residential neighborhood; and C. Support the use of Northgate as a regional high-capacity transportation center." SMC 23.71.002.

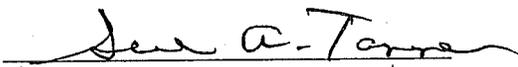
29. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone and height designation for the site is NC3-85.

**Recommendation**

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to the following conditions:

1. Affordable housing impacts shall be mitigated as provided in Exhibit 20, the Agreed Condition on Affordable Housing for Hearing Examiner Rezone Proceeding.
2. No development will be permitted at the subject property prior to Seattle Public Utilities' approval of a sewer system engineering analysis and any required infrastructure improvements.
3. Future development shall be consistent with the mitigation described in massing Option 3 in Section II.D of the "Addendum to the Northgate Urban Center Rezone Final Environmental Impact Statement for Rezone of 11200 1<sup>st</sup> Avenue N.E. and 11205 3<sup>rd</sup> Avenue N.E. from the Midrise to Neighborhood Commercial 3-85," dated November, 2011.

Entered this 27<sup>th</sup> day of July, 2012.

  
Sue A. Tanner  
Hearing Examiner

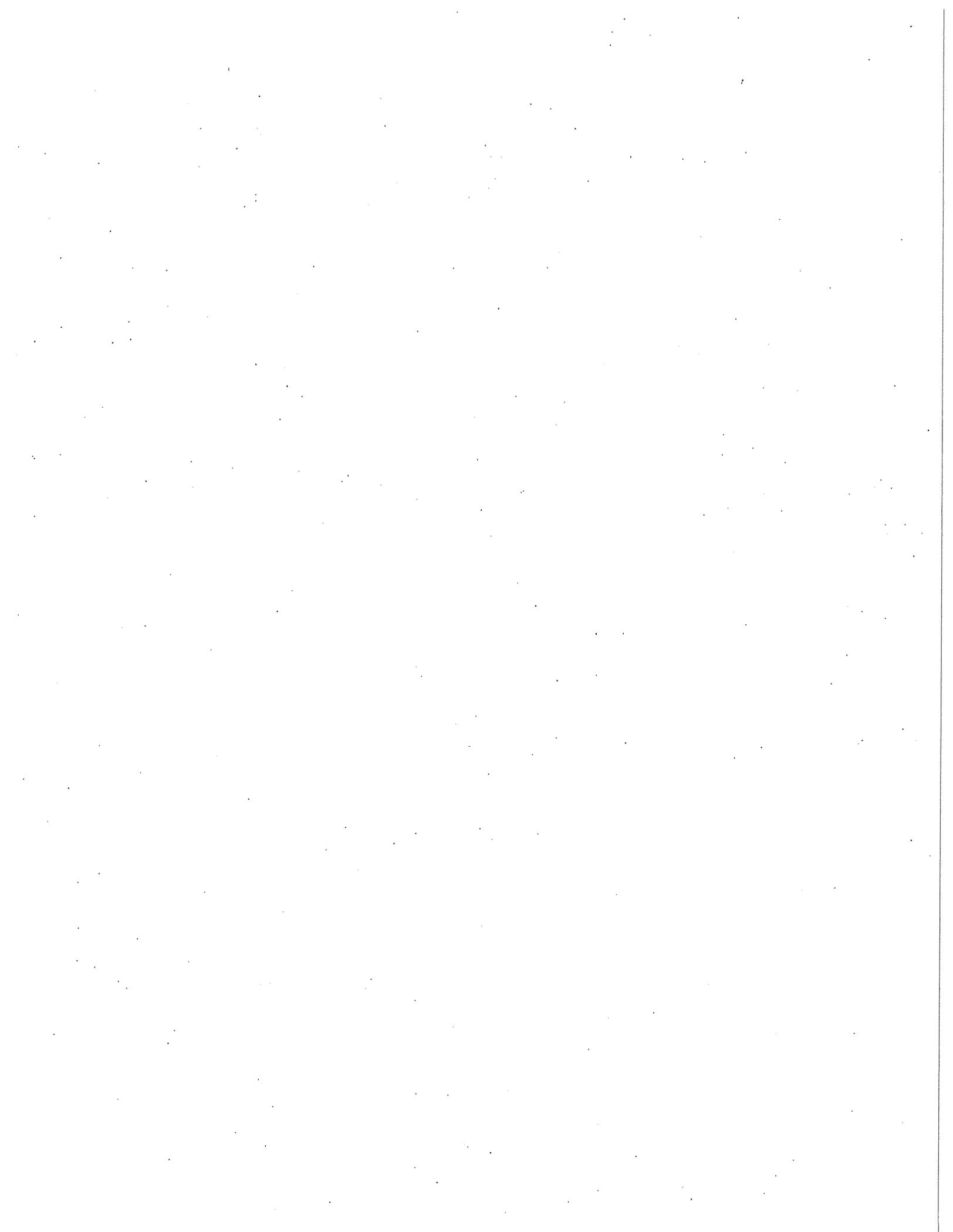
**CONCERNING FURTHER REVIEW**

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner's recommendation 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 recommendation in writing to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the recommendation of the Hearing Examiner, and be addressed to:

Seattle City Council  
Built Environment Committee  
c/o Seattle City Clerk  
600 Fourth Avenue, Floor 3 (physical address)  
P.O. 94728 (mailing address)  
Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Consult the City Council committee named above for further information on the Council review process.



**AGREED CONDITION ON AFFORDABLE HOUSING FOR  
HEARING EXAMINER REZONE PROCEEDING**

**CF# 311240, DPD#3006101**

Submitted by: The Property Owners, Seattle Displacement Coalition, Maple Leaf Community Council, and the City of Seattle Department of Planning and Development

1. The Parties endorse the following as a reasonable affordable housing condition for the Rezone ("Condition"):

a. The Property Owners shall make land at the Rezone Site available for lease, for a minimum period of 75 years, with zero lease payments due for a minimum period of 20 years, for a low-income housing developer ("Lessee") to construct 66 rental units that are restricted to occupancy by households with incomes no higher than 50% of Median Income, for a minimum period of 50 years from the date of issuance of a Final Certificate of Occupancy for the 66-unit project ("Affordable Housing"). In determining the amount of land made available for lease pursuant to this provision, the following criteria shall be followed for the Affordable Housing, to the extent that these criteria are not inconsistent with then applicable provisions of the Land Use Code: 1) the units are contiguous within a single building; 2) "5 over 1" construction with no nonresidential use within the building; parking at a ratio of no more than .5 spaces per unit, with the parking to be constructed in one level below the building, with the exception of Code-required handicapped stalls which are to be provided on grade; and 4) the unit mix generally reflecting the current mix of units at the Rezone Site (which is 30% studios, 42% 1-bedrooms, and 28% 2-bedrooms), unless the Lessee determines that a different unit mix is needed for adequate funding of the Affordable Housing; provided, however, that a building with predominantly all studio units shall not be considered consistent with this Agreement unless there is no reasonable alternative. The definition of "Median Income" in Seattle Municipal Code ("SMC") Section 23.84A.025, as it exists on the date of this Agreement, shall apply.

b. Following the 20-year period of zero lease payments, the Property Owners may charge rent to the Lessee, provided that rents shall be discounted from prevailing market rents for an additional 20 years, with rents not to reach market level until year 41 from the commencement of the Lease. Rent increases during the second, 20-year period shall be incremental. Unless the Property Owners and Lessee agree otherwise, rents shall be increased to no more than 25% of market rate during the first five-year interval (years 21 to 25), increasing to no more than 50% of market rate during the second five-year interval (years 26 to 30), increasing to no more than 75% of market rate during the third five-year interval (years 31 to 35), and increasing to 85% of market rate during the final five-year interval (years 36 to 40). "Market rate" shall be determined by a method agreed to by the Property Owners and Lessee based on commercially reasonable practices, such as a land appraisal or with reference to the Consumer Price Index. The Property Owners shall consult with Lessee regarding the market rate before these rent increases are established and also during the term of the lease beyond year 40.

City of Seattle Hearing Examiner

**EXHIBIT**

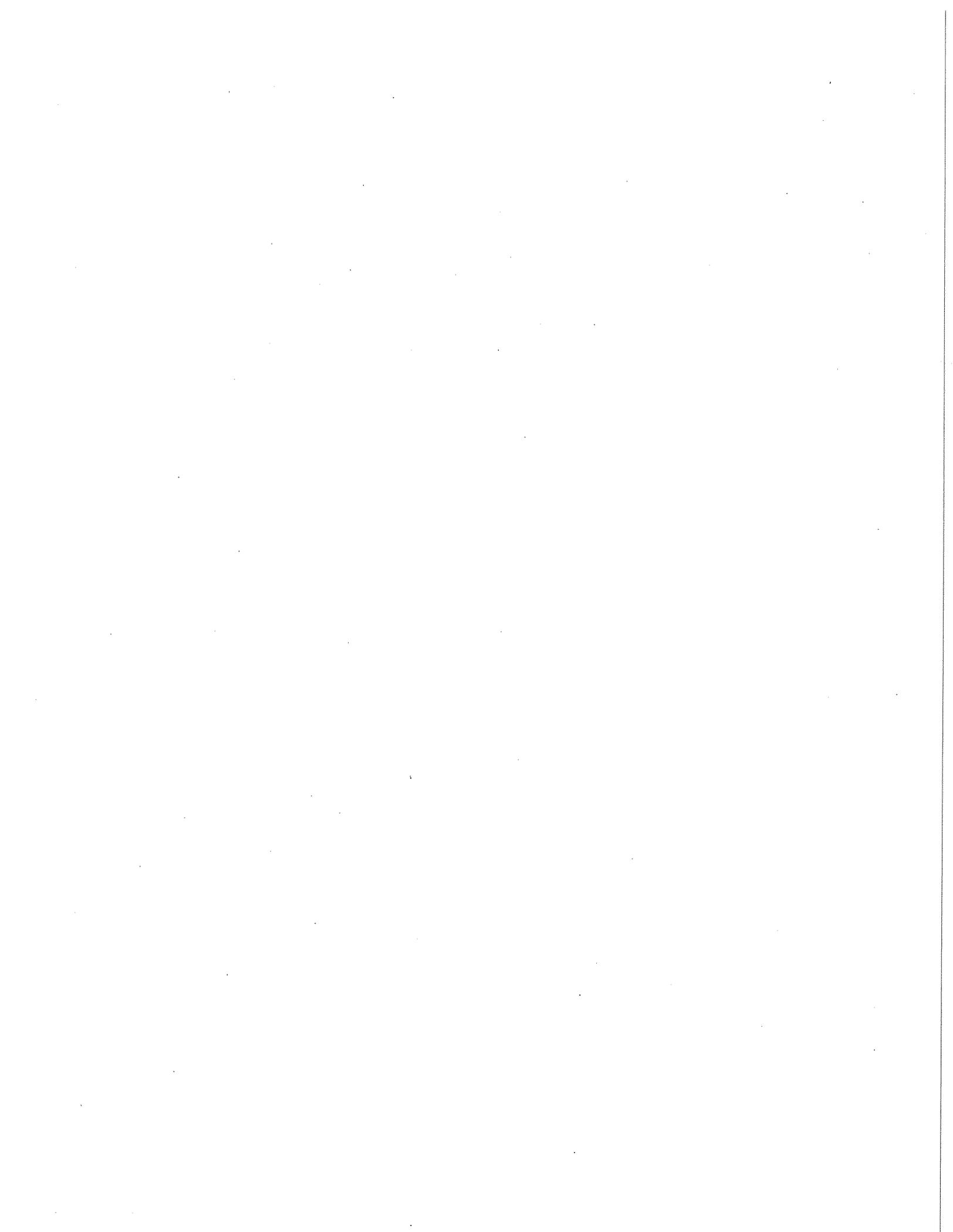
c. Construction of the Affordable Housing shall commence no later than eight years from issuance of a demolition permit for demolition of the first 50 or more existing units on the Rezone Site.

d. The Property Owners intend for the Affordable Housing to be constructed on the Rezone Site. However, in the event the Property Owners cannot come to an agreement with an acceptable Lessee for the Affordable Housing at the Rezone Site, then in lieu of making land available for lease at the Rezone Site, the Property Owners shall instead make a payment to a low-income housing developer or developers selected by the Property Owners in consultation with the City, Seattle Displacement Coalition, and the Maple Leaf Community Council for construction at an off-site location or locations (following the priorities set forth below) of 66 rental units that are restricted to occupancy by households with incomes no higher than 50% of Median Income, as defined herein, for a minimum period of 50 years from the date of issuance of a Final Certificate of Occupancy for that 66-unit project ("Payment"). The Payment amount shall be equal to the present value of both the 20-year period of zero lease payments and the present value of any discounted incremental lease payments, as described in Section II.1.b above, that are reasonably likely from the second, 20-year period of discounted rent, as calculated by the City of Seattle Office of Housing at the time of the Payment. The Payment shall be made no later than seven years from issuance of a demolition permit for demolition of the first 50 or more existing units on the Rezone Site. The Payment agreement with the low income housing developer shall require that the affordable housing built with the Payment be within the City limits, with the following priorities for location: 1) within the Northgate Urban Center, 2) within 0.5 miles of light rail or bus rapid transit stations in northeast Seattle, 3) within 0.25 miles of a bus stop in northeast Seattle, or 4) within 0.5 miles of a light rail or bus rapid transit station or within 0.25 miles of a bus stop elsewhere inside the Seattle city limits.

e. In addition to the Affordable Housing or Payment, the Property Owners shall allow an additional 10% of the residential units developed on the Rezone Site in excess of 660 residential units (not including assisted living or hotel rooms which shall not be considered residential units) to be affordable to households with incomes no higher than 80% of Median Income, as defined herein ("10% Units"). This obligation is satisfied if the Property Owners make a reasonable effort for a developer to lease a portion of the Rezone Site at market rate to develop the 10% Units. This opportunity shall be provided by the time of issuance of a Master Use Permit allowing development of the 660th residential unit on the Rezone Site.

f. The Condition shall apply in the event that the City has not enacted or expanded an affordable housing incentive program providing for the development of low-income housing at the Rezone Site before a Master Use Permit is considered vested under City law. If the City has enacted or expanded such a program that applies to a Master Use Permit on the Rezone Site according to City vesting law, then that program shall apply instead of the Condition; provided, however, that if the newly enacted or expanded affordable housing incentive program requires fewer affordable units than the Condition while still allowing a Floor Area Ratio of at least 4.5 for a single use building and at least 6.0 for a mixed use building on the Rezone Site, then the Property Owners nonetheless agree to implement the Condition, and further, if a Lease has been entered into for the Affordable Housing or the

10% units, or the Payment has been made for affordable housing at an off-site location, then the Affordable Housing or Payment, and the 10% units, shall be credited toward compliance with the applicable affordable housing incentive program, as determined by DPD in consultation with the City of Seattle Office of Housing.





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 Number:** 3006101  
**Applicant Name:** Jennifer Grant  
**Address of Proposal:** 11200 1<sup>st</sup> Ave NE  
**Council File:** 311240

**SUMMARY OF PROPOSED ACTION**

Council Land Use Action to rezone 365,040 sq. ft. of land from MR to NC3-85. The property is bounded on the North by two parcels (11300 1st Ave NE and 11301 3rd Ave NE) on the East by 3rd Ave NE, the South by NE Northgate Way and the West by 1st Ave NE. Addendum to the Northgate EIS has been prepared (Northgate Urban Center Rezone FEIS, 2009).

The following approvals are required:

**Rezone** - To rezone from MR to NC3-85 (Seattle Municipal Code 23.34)

**SEPA** - to approve, condition pursuant to 25.05.660 - Chapter 25.05, Seattle Municipal Code.

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS\*

DNS with conditions

DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

\*This project includes an Addendum to the Northgate Urban Center Rezone Final EIS dated December 2009, which is adopted with this recommendation.

## BACKGROUND DATA

### Site and Vicinity Description

The area proposed to be rezoned is located in the northern area of the Northgate Urban Center. The site is located on a site bounded by 1<sup>st</sup> Ave NE, NE Northgate Way, and 3<sup>rd</sup> Ave NE.

Nearby zoning includes Multi-family Midrise (MR) to the north and west, Lowrise Multi-family (LR3) to the northeast, and Neighborhood Commercial with an 85' height limit to the east and south (NC3-85). Other nearby zones includes NC3-65 ½ blocks to the east, LR2 a block to the north, and LR2 further to the west, across I-5. Single Family (SF 7200) zoning is located approximately two blocks to the north. The entire area is located in the Northgate District Overlay.

Uses in the area include Northgate Mall, one to seven story commercial development and parking garages, one to six story residential and mixed-use structures, and offices. Existing development represents a wide range of ages and styles of construction.

The site is essentially flat, consistent with nearby surrounding areas. There are no Environmentally Critical Areas on or near the site.

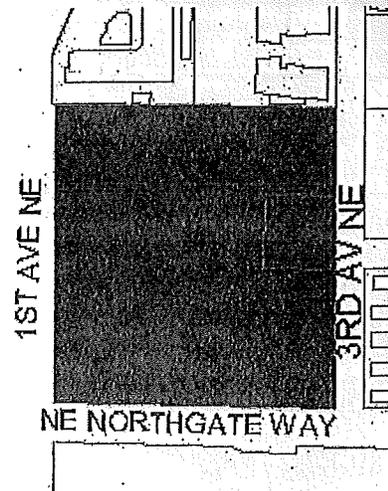
Open space in the area includes a City Park (Hubbard Homestead Park), immediately to the northeast across 3<sup>rd</sup> Ave NE from the site. Other open space includes Northgate Park approximately six blocks to the southeast, and several other parks within approximately 10 blocks of the site to the north, east, southeast and southwest.

Several schools are located nearby. North Seattle Community College is located approximately 10 blocks to the southwest, across I-5. Nearby elementary schools include Northgate Elementary is located approximately 6 blocks to the northwest, but separated from the site by I-5. Pinehurst K-8 is located approximately 14 blocks to the northeast.

Northeast Northgate Way is a principal arterial. 1<sup>st</sup> Ave NE is a collector arterial. 3<sup>rd</sup> Ave NE is a non-arterial access street. (see SDOT Street Classification Map). Parking in the area is a combination of structured parking, surface parking, and limited on-street parking.

### Permitted Use and History

The site includes 39 one-story to two-story apartment buildings including 207 apartments that were constructed in 1951. The site has been continuously in use as multi-family apartments since that time. Prior to 1951, records indicate the site was partially wooded and farmed. The applicant submitted a report on the history of the buildings and site.



*For illustrative purposes only*

Proposal Description

The Land Use Code, Section SMC 23.34, "Amendments to Official Land Use Map (Rezoning)," allows the City Council to approve a map amendment (rezone) according to procedures as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The owner/applicant has made application, with supporting documentation, per SMC 23.76.040 D, for an amendment to the Official Land Use Map.

The proposal includes a rezone of the site from Multi-family Midrise (MR) to Neighborhood Commercial 3 with an 85' height (NC3-85).

Public Comments

Notice of the rezone proposal was issued December 30, 2010. Notice of availability of the Addendum was issued on December 1, 2011. DPD has received public comments in support of the proposed rezone, and comments with concerns related to affordable housing impacts, traffic, parking, shadows on adjacent properties, reduction in open space on the site, encroachment of commercial zoning into residential areas, water runoff, pedestrian environment, concern that the proposal doesn't meet rezone criteria, assertion that the proposal should be reviewed with a contract rezone application, environmental impacts, and the need to respond to incentive zoning provisions.

ANALYSIS - REZONE

The applicable requirements for this rezone proposal are stated in SMC Sections 23.34.007 (rezone evaluation), 23.34.008 (general rezone criteria), 23.34.009 (height limits), 23.34.013 (designation of multifamily zones), 23.34.024 (MR zone, function and locational criteria), 23.34.072 (designation of commercial zones), and 23.34.078 (NC3 zone, function and locational criteria).

Applicable portions of the rezone criteria are shown in italics, followed by analysis in regular typeface.

SMC 23.34.007 Rezone Evaluation.

- A. *The provisions of this chapter shall apply to all rezones, except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets these provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*

This rezone is not proposed to correct a mapping error, and therefore the provisions of this chapter apply. In evaluating the proposed rezone the provisions of this chapter have been weighed and balanced together to determine which zone and height designation best meets the provisions of the chapter. Additionally, the zone function statements have been used to assess the likelihood that the proposed rezone will function as intended.

- B. 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.*

This analysis evaluated the full range of criteria called for and outlined in Chapter 23.34 Amendments to Official Land Use Map (Rezones) as they apply to the subject rezone (listed at the beginning of this "Analysis" section).

- C. Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Area Objectives shall be used in shoreline environment redesignations as provided in SMC Subsection 23.60.060 B3.*

The proposed rezone is not a shoreline environment redesignation and so the Comprehensive Plan Shoreline Area Objectives were not used in this analysis.

- D. Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary.*

The entire development site, including the parcel proposed for rezone, is located within the Northgate Urban Center as established in the Comprehensive Plan. The provisions of this chapter that pertain to areas inside of urban centers shall apply to the proposal.

- E. The procedures and locational criteria for shoreline environment redesignations are located in Sections 23.60.060 and 23.60.220, respectively. The subject rezone area is within the Admiral Residential Urban Village and falls within the boundary established in the Comprehensive Plan.*

The subject rezone is not a redesignation of a shoreline environment and so is not subject to Shoreline Area Objectives.

- F. Mapping errors due to cartographic or clerical mistakes may be corrected through process required for Type V Council land use decisions in SMC Chapter 23.76 and do not require the evaluation contemplated by the provisions of this chapter.*

The subject rezone is not a correction of a mapping error and so should not be evaluated as a Type V Council land use decision.

*SMC 23.34.007 Conclusion:* The proposed rezone meets the requirements of SMC 23.34.007, per the analysis above.

***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 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 not be less than the densities established in the Urban Village Element of the Comprehensive Plan.*

The proposed rezone parcel is located within the Northgate Urban Center, as described in the response to SMC 23.34.007.D.

The growth target listed for this Urban Center as listed in Urban Village Appendix A of the Comprehensive Plan is for 2,500 additional dwelling units between the year 2004 and the year 2024.

The established density target for this Residential Urban Village in Urban Village Appendix A of the Comprehensive Plan is a density of 15 dwelling units per acre by the year 2024. In 2004, the density in this Urban Village was listed at 8 dwelling units per acre.

The proposed rezone will not reduce the zoned capacity for the Northgate Urban Center. In fact, the proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and residential units. No specific development is proposed at this time.

The proposed rezone is consistent with SMC 23.34.008.A.1 because the increase in zoned capacity does not reduce capacity below 125 percent of the Comprehensive Plan growth target.

This rezone is also consistent with SMC 23.34.008.A.2 because the proposed change would not result in less density for this zone than the density established in the Urban Village Element of the Comprehensive Plan.

***B. Match between Established Locational Criteria and Area Characteristics. The most appropriate zone designation shall be 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 zone designation.***

Analyses comparing the characteristics of the area to the locational criteria for MR and NC3-85 zoning can be found in the responses to SMC 23.34.024 and 23.34.078 below. The parcels proposed for rezone seem to generally better match the NC3-85 zoning, for the reasons stated in the analysis in SMC 23.34.024 and 23.34.078.

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

There is no evidence of recent zoning changes in the immediate area. The most recent rezone was to Midrise Multi-family Residential in 1982. The history of zoning for this site includes:

- 1947 Second Residence District, Area District A (R2-A)
- 1950's RM zone (Multiple Residence)
- 1982 – MR (Midrise Multi-family residential), ordinance 110570

In 2011, the Midrise zoning designation became associated with an extensive Land Use Code update that included Midrise and Highrise zones. This recent code change allows more building area, but includes additional requirements such as incentive zoning provisions for additional building height and requirements such as Green Factor.

*D. Neighborhood Plans*

1. *For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.*

The adopted portions of the Northgate Comprehensive Plan can be found in the City of Seattle Comprehensive Plan Adopted Neighborhood Plans section. This Neighborhood Plan was adopted in 1993.

2. *Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.*

The subject property falls within the Northgate Comprehensive Plan area and is covered by the adopted portions of that plan.

3. *Where a neighborhood plan adopted or amended by the City Council after January 1, 1995, establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.*

The adopted portions of the Northgate Comprehensive Plan include policies that relate to rezones:

*NG-P7 Reduce conflicts between activities and promote a compatible relationship between different scales of development by maintaining a transition between zones where significantly different intensities of development are allowed.*

*NG-P8 Maintain the character and integrity of the existing single-family zoned areas by maintaining current single family-zoning on properties meeting the locational criteria for single-family zones.*

*NG-G7 Medium to high density residential and employment uses are concentrated within a 10-minute walk of the transit center, reducing the number and length of vehicle trips and making travel by foot and bicycle more attractive.*

The proposed rezone reduces, but maintains the transition between Neighborhood Commercial zoning to the south and Lowrise Multi-family and Single Family zones further to the north. Midrise Multi-family residential zoning remains as a transition between these two zones, with MR zoned properties north of the subject property.

The proposed rezone doesn't include rezone of any single family zoned properties.

The proposed rezone would allow more density for residential and employment within a 10-minute walk (0.4 miles) from the transit center.

Conclusion:

The proposed rezone appears to be consistent with the adopted Neighborhood Plan policies.

**E. Zoning Principles. The following zoning principles shall be considered:**

1. *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.*

This proposed rezone would result in approximately the same zoning transition from north to south, as described in the response to SMC 23.34.008.D. The transition in height is currently from NC3-85 (85' height) at NE Northgate Way to MR (up to 75' with incentive zoning) to LR2 (up to 30') to SF 7200 (up to 35' with a pitched roof).

The proposed rezone would not create a significant change to the transition that exists in this area, with the MR zone creating a transition between the NC3-85 at NE Northgate Way and the Lowrise and Single Family zoned properties further to the north. Several parcels developed with multi-family structures will remain zoned for MR. These parcels separate the subject property from the LR2 zoning, and the SF 7200 zoning further to the north.



*For illustrative purposes only*

The public park to the northeast of the site will remain LR3 zoning. This Park also serves as a buffer between the NC3-65 zoning to the south, the proposed NC3-85 zoning at the subject property, and the multi-family structures north of the park (zoned LR3). This pattern of more intensive zoning with taller heights near NE Northgate Way, transitioning to SF 7200 zoning further to the north, continues in an east-west corridor through the area.

Future development that exceeds the minimum threshold for design review will be required to go through design review, which will help to mitigate any impacts from the taller buildings allowed with NC3-85 zoning. The proposed rezone would result in a lower threshold for design review than current zoning at the site, offering more ability to ensure future development fits well within the neighborhood. The design review threshold for the current MR zoning is 20 residential units. The threshold for proposed NC3 zoning is 4 residential units or 4,000 square feet of non-residential space. Thresholds are listed in SMC 23.41.

Design review for the subject properties would be reviewed under the existing Design Review Guidelines for Multifamily and Commercial Buildings ("City-wide guidelines"), with supplemental guidance in the Northgate Urban Center and Overlay District Design Guidelines. The design review guidelines include specific guidelines for new development design to respond to adjacent uses.

Examples include Guidelines:

- A-5: Respect for Adjacent Sites
- B-1: Height Bulk and Scale Compatibility

Conclusion:

The existing zoning transitions from Neighborhood Commercial to Single Family Residential would remain approximately the same under either existing zoning or a proposed rezone to NC3-85.

2. *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 greenspaces;*

The topography in this area is essentially flat, with a slight rise in topography to the north. There are no natural physical buffers, arterials, or distinct change in street layout and block orientation that would provide a buffer between the subject property and the properties to the north.

The existing zoning transition in this area is from more intense zoning to the south, to less intense zoning to the north. This zoning follows the same pattern as the slight rise in topography.

As described in response to the previous criterion, a public park provides an effective separation between the subject property and the multi-family structures to the northeast and east.

The properties to the east and south are zoned Neighborhood Commercial (NC3-65 and NC3-85). The proposed zoning would create continuity with those zones. The proposed zoning wouldn't allow uses that would need to be buffered from adjacent commercial uses. Commercial uses typically benefit from concentrating additional commercial uses in adjacent sites. NE Northgate Way is a principal arterial and creates an effective separation between these sites, but that separation may not benefit either site.

Properties to the west are zoned MR and NC3, but are separated from the site by I-5. This major freeway is clearly an effective barrier between the subject property and the properties to the west.

Conclusion:

There is some effective separation provided by the open space at Hubbard Homestead Park, for the multi-family development to the northeast and east. There is no effective separation between the subject property and the multi-family development to the north. There is also no effective separation between the subject property and the NC3 zoned properties to the east, but typically commercial development benefits from adjacent commercial uses. There is effective separation between the subject property and the commercially zoned NC3 properties to the south and west, but this separation is not necessarily beneficial to those properties.

3. *Zone Boundaries*

a. *In establishing boundaries the following elements shall be considered:*

- (1) *Physical buffers as described in subsection E2 above;*
- (2) *Platted lot lines.*

The proposed zoning would replace the existing zoning within the existing platted lot lines, would maintain the existing pattern of few physical buffers between zone boundaries.

b. *Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.*

The proposed rezone would result in a commercial zone and potential commercial uses facing adjacent residential development to the north, and residentially zoned Park property to the northeast. As discussed in response to subsection E2 above, there is no physical buffer from the residential development to the north. A public park provides separation between the subject property and the residential development to the northeast and east.

The proposed rezone would result in commercial zoning and potential development facing the existing commercial zoning and development to the east and south, which may benefit the viability of those commercial developments.

4. *In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.*

As described in response to SMC 23.34.007.D above, the proposed rezone is located within the Northgate Urban Center. The existing and proposed zoning exceeds 40.'

**F. Impact Evaluation.** *The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.*

1. *Factors to be examined include, but are not limited to, the following:*  
a. *Housing, particularly low-income housing;*

Comparison of Zones – Development Potential Summary		
Zone <sup>1</sup>	Midrise (23.45)	NC3-85 (23.47A)
Base Height	60'	85'
Maximum Height	75' with incentive zoning (23.58A)	85'
Base FAR	3.2	4.5
Maximum FAR	4.25 with incentive zoning (23.58A) <sup>2</sup>	6.0 with a mix of uses <sup>3</sup>
Uses allowed outright	Residential	Residential
	Limited commercial <sup>4</sup>	Sales and Service <sup>5</sup>
	Parks	Eating and drinking establishments
	Childcare, schools, educational institutions	Institutions (education, religious, and others)
	Limited medical services	Medical Services
	Community gardens	Agricultural
		Entertainment uses
		Laboratories
		Lodging
		Recycling
		Utility services

<sup>1</sup> See specific code sections for detailed uses and development standard requirements

<sup>2</sup> Incentive zoning requires affordable housing to be provided based on bonus FAR, and requires replacement of existing rental housing that meets income-eligibility as defined in SMC 23.58A.014.D: "If a Master Use Permit application includes establishment of bonus residential floor area and the proposed development entails demolition of a building containing four or more dwelling units occupied as rental housing within 18 months prior to that Master Use Permit application, then the amount of low-income housing to be provided under 23.58A.014.B.1 is increased by the number of units within the building or buildings to be demolished that were rented to tenants who received or are eligible to receive a tenant relocation assistance payment under Chapter 22.210."

<sup>3</sup> Any mix of residential and non-residential uses would allow this FAR

<sup>4</sup> See SMC 23.45 for complete list of permitted and conditional uses

<sup>5</sup> See SMC 23.47A for complete list of permitted and conditional uses

Housing Impacts

The future project will have a positive impact on the supply of housing on the site and its surroundings by providing capacity for additional new dwelling units. The rezone will add housing capacity to the neighborhood, and locate additional housing in the Urban Center, consistent with the City's Comprehensive Plan. Below is an analysis of the impacts to low-income housing in the area.

Existing Affordability

Rent affordability levels are published by HUD and available on the City of Seattle Office of Housing website. For 2012 limits, the information was published by HUD in spring of 2011:

Affordable Rents Including Utilities at 30% of household income <sup>6</sup>						
Unit Size	Percent of Median Income					
	30%	40%	50%	60%	65%	HUD 80%
0 Bedrooms	\$ 462	\$ 616	\$ 770	\$ 924	\$ 1,001	\$ 1,137
1 Bedroom	\$ 495	\$ 660	\$ 825	\$ 990	\$ 1,072	\$ 1,218
2 Bedrooms	\$ 595	\$ 792	\$ 990	\$ 1,188	\$ 1,287	\$ 1,462
3 Bedrooms	\$ 686	\$ 915	\$ 1,144	\$ 1,373	\$ 1,487	\$ 1,690
4 Bedrooms	\$ 766	\$ 1,021	\$ 1,276	\$ 1,531	\$ 1,659	\$ 1,885
5 Bedrooms	\$ 845	\$ 1,127	\$ 1,408	\$ 1,690	\$ 1,831	\$ 2,080

Affordable Rents NOT Including Utilities at 30% of household income <sup>6</sup>						
Unit Size	Percent of Median Income					
	30%	40%	50%	60%	65%	HUD 80%
0 Bedrooms	\$ 362	\$ 516	\$ 670	\$ 824	\$ 901	\$ 1,037
1 Bedroom	\$ 395	\$ 560	\$ 725	\$ 890	\$ 972	\$ 1,118
2 Bedrooms	\$ 455	\$ 652	\$ 850	\$ 1,048	\$ 1,147	\$ 1,322
3 Bedrooms	\$ 471	\$ 700	\$ 929	\$ 1,158	\$ 1,272	\$ 1,475
4 Bedrooms	\$ 476	\$ 731	\$ 986	\$ 1,241	\$ 1,369	\$ 1,595
5 Bedrooms	\$ 480	\$ 762	\$ 1,043	\$ 1,325	\$ 1,466	\$ 1,715

<sup>6</sup> Estimated cost of utilities was provided by Seattle Office of Housing and is available at this website: [http://www.seattle.gov/housing/development/limits\\_Multifamily.htm](http://www.seattle.gov/housing/development/limits_Multifamily.htm)

There are 207 apartments at this site. The rent levels of the existing residences on this site were provided by the applicant and included in the Northgate Urban Center Rezone FEIS Addendum dated November 2011. The rents and unit types from the applicant are affordable at the HUD levels as follows:

Northgate Apartments Rent (assuming utilities included)		
Unit size	Rent	Affordability level per HUD
1 Bedroom (Studio)	\$695	50%
1 Bedroom	\$785-805	50%
2 Bedrooms	\$985-995	50%

It's unclear if these numbers include utilities or do not include utilities. If the numbers provided by the applicant do include utilities, the affordability levels in the table above are correct.

If the numbers provided by the applicant do not include any utilities, the affordability levels are still within a similar range, as follows:

Northgate Apartments Rent (assuming no utilities included)			
Unit size	Rent	Rent + utilities estimated	Affordability level per HUD
1 Bedroom (Studio)	\$695	\$795	50-60%
1 Bedroom	\$785-805	\$885-\$905	50 - 60%%
2 Bedrooms	\$985-995	\$1125-\$1135	50 - 60%

The existing residences at this site include units that rent at the lower end of the rental market. None of the properties are recorded with covenants restricting rents to "income-eligible" housing, as defined by the Land Use Code or Seattle Office of Housing.

The existing units were built in 1951. The units are nearing the end of their lifespan, and require frequent maintenance and repair to keep them operating as rental units. The existing site is developed far below the maximum possible with existing Midrise zoning. Even without a rezone of this site, it's possible that these units would be demolished sometime in the near future.

The City has adopted policies related to affordable housing. The Comprehensive Plan (Policy H30) states:

*"Address the city's share of affordable housing needs resulting from expected countywide household growth, consistent with the countywide affordable housing policies, by planning for:*

- a. *at least 20 percent of expected housing growth to be affordable to households earning up to 50 percent of median income (estimated 9,400 affordable units)*
- b. *at least 17 percent of expected housing growth to be affordable to households earning between 51 percent and 80 percent of median income (estimated 7,990 affordable units).*
- c. *At least 27 percent of expected housing growth to be affordable to households earning between 81 percent and 120 percent of median income (estimated 12,690 units).*

*Both new housing and existing housing that is acquired, rehabilitated or preserved for long-term low-income and affordable occupancy count toward meeting this policy."*

The City has adopted policies and zoning regulations that encourage mixed-income housing in areas near transit stations.

The proposed rezone area is located within a 10 minute walk of the Northgate Transit Station, the site of a future Light Rail station as well as other mass transit.

As indicated in the Northgate Urban Center Rezone (FEIS issued December 2009), the intent of rezones in this Urban Center was to provide affordable housing and open space through zoning regulations in the Land Use Code. For example, in the Northgate FEIS (page 1-17, "Major Conclusions and Remaining Issues to be Resolved"), DPD noted, "6. Application of the City's adopted incentive zoning program to Northgate, which could be accomplished by amendments to the Northgate Overlay District, could help to encourage provision of family-wage/moderate-income housing if property owner's opt to pursue the additional intensity of development."

The existing Midrise (MR) zone is subject to incentive zoning provisions to gain additional Floor Area Ratio (FAR) that can result in the construction of affordable units (see Comparison of Zones table on page 10).

However, at present, amendments that would require affordable housing have not been adopted for Neighborhood Commercial (NC) zoning. Additional FAR is permitted with a mix of uses on the site, and does not require provision of affordable housing.

Therefore, the proposed rezone would result in an impact to affordable housing by allowing substantially more development potential without advancing the City's policy to provide some housing affordability in an urban center.

#### Housing Impact Analysis

MR zone FAR requirements are defined in SMC 23.45.510.D and SMC 23.45.516. The base FAR for this site under existing MR zoning is 3.2. The maximum possible FAR for this site using incentive zoning provisions is 4.25. The site is 365,040 square feet in size. The potential size of a development on this site using existing and incentive zoning FAR is as follows:

Midrise Zone (MR)		
FAR	Site Size	Potential Development
3.2	365,040 square feet	1,168,128 square feet
4.25	365,040 square feet	1,551,420 square feet
Potential bonus floor area with incentive zoning		383,292 square feet
Percent increase with incentive zoning		32.8%

NC zone FAR requirements are defined in SMC 23.47A.013. The Neighborhood Commercial zone does not include provisions for gaining additional Floor Area by constructing affordable units. A designation of NC3-85 would allow 4.5 FAR with a single-use development or 6 FAR with a mixed-use development.

Neighborhood Commercial Zone (NC3-85)		
FAR	Site Size	Potential Development
4.5	365,040 square feet	1,642,680 square feet
6	365,040 square feet	2,190,240 square feet
Potential bonus floor area with a mix of uses		547,560 square feet
Percent increase with a mix of uses		33.3%

Under current MR zoning, new construction at 4.25 FAR and a maximum height of 75', would likely result in a 6-story all-residential or mixed-use development with limited ground floor commercial uses allowed in MR zones (SMC 23.45.504.E). The NC designation would allow a wider variety of uses than MR, as shown in the Comparison of Zones table on page 10.

The comparison below shows the additional development potential that would be gained for a mixed-use building on this site, if the site were rezoned from MR to NC3-85. The comparison shows the increase from the maximum FAR possible in MR zones to the maximum FAR possible in NC3-85 zones.

Development Potential Resulting from Rezone of MR to NC3-85			
MR, mixed-use and incentive zoning development potential maximum	NC3-85 mixed-use development potential maximum	Maximum allowed; additional difference between NC3-85 and MR zoning	Additional floor area in NC3-85 zoning compared with MR zoning
1,551,420 square feet	2,190,240 square feet	638,820 square feet	41% increase

A maximum of 1,551,420 square feet would be possible under existing MR zoning by using incentive zoning provisions. The applicant is seeking a rezone which could allow a maximum of 2,190,240 square feet of development without using incentive zoning provisions. The proposed rezone would allow an increase of 638,820 square feet beyond the existing development potential, or a 41% gain in the potential amount of floor area.

Provisions detailed in SMC 23.58A define how much affordable housing is required to gain additional FAR in multi-family zones such as MR. For MR zones, the affordable housing must be provided on site ("performance option," per SMC 23.58A.014). The affordable housing would be required as follows:

- Amount of affordable housing units equal 17.5% of the bonus floor area, if units are affordable to 51-80% median income
- Amount of affordable housing units equal 10% of the bonus floor area, if units are affordable to 50% median income or below
- Units must remain at these levels of affordability for 50 years

As described earlier, these incentive zoning provisions currently don't apply to NC zones.

Incentive zoning chapter SMC 23.58A.014, which applies to other zones and locations but not NC zoning, requires that 17.5% of the bonus floor area shall be provided as affordable housing (defined as “income eligible households” in SMC 23.58A.004, making up to 80% median income). Alternatively, 10% of the bonus floor area may be provided as affordable housing if the housing is affordable to 50% median income levels or lower. The following chart shows the requirement if incentive zoning provisions were required:

Affordable Housing Consistent with SMC 23.58A					
	Bonus Floor Area	Percent Bonus Floor Area Affordable	Bonus Floor Area Affordable	Total Development Potential NC3-85	Affordable Housing as a Percent of Total Development
Affordable to 51-80% median income	638,820 square feet	17.5%	111,794 square feet	2,190,240 square feet	5%
Affordable to 50% median income or below	638,820 square feet	10%	63,882 square feet	2,190,240 square feet	3%

In terms of replacement housing required in an MR zone, assuming an average unit size of 700 square feet<sup>7</sup>, assuming replacement of all existing 207 units is required<sup>8</sup>, and using the calculations of FAR on page 13, this could translate to the following requirement for affordable housing within MR zoning at this site:

Potential Development and Affordable Housing (Existing MR zoning)					
Affordable Level	Bonus Floor Area with Incentive Zoning	Percent of Bonus Floor Area Affordable	Bonus Floor Area Affordable	New Affordable Housing Units (700 square feet per unit)	Total Maximum Affordable Housing Units (new + max 207 replacement)
51-80% level	383,292 square feet	17.5%	67,076 square feet	96	303
≤50% level	383,292 square feet	10%	38,329 square feet	55	262

Percent of Total Development Required as Affordable (Existing MR zoning)				
FAR max	Total Development site max	Total units (assuming 700 square feet per unit, and no commercial space)	Maximum Affordable Housing units required	Maximum Percent of Units Required to be Affordable
4.25	1,551,420 square feet	2,216	262 to 303	12%-14%

If incentive zoning were used to achieve maximum FAR and/or height, all the affordable housing units would be required to be provided on the development site.(SMC 23.58A.014.C). If the development were built to base FAR, no replacement or new affordable housing units would be required.

<sup>7</sup> 700 square feet is a rough estimate of a possible unit size, including common area, for the purposes of comparison.

<sup>8</sup> As described in footnote 2, not all 207 units may require replacement under SMC 23.58A.

As evidenced elsewhere in the rezone analysis, it is clear that higher density zoning is more appropriate for this site than the current MR zoning. The subject property is a large site in an urban center, originally developed in 1951 with 207 housing units that now rent at affordable rates. The potential MR requirement to replace these units and add new affordable units based on incentive zoning, could constrain future development on the site. A developer would have the option to build to the base FAR and provide no affordable housing units. This result of lower density development and no affordable housing units would fall short of what is envisioned for urban centers.

### Conclusion

The existing MR zone allows increased development potential in exchange for affordable housing through incentive zoning (SMC 23.58A). The proposed zone of NC3-85 is not subject to the requirements of SMC 23.58A. The proposed rezone would allow increased development potential of 638,820 square feet (a 41% increase from existing maximum FAR), without mitigating the impacts to affordable housing.

The intent of the affordable housing mitigation in the Northgate Urban Center Rezone EIS, and the intent of SMC 23.58A was to mitigate the impacts of development on housing affordable to defined income levels.

City policies such as the Comprehensive Plan H30 and expansion of incentive zoning policies near station areas also draw a clear connection between allowing additional development potential and the need to maintain and expand affordable housing near transit hubs.

Currently, 207 existing units are affordable to 50-60% of median income levels. Under existing MR zoning, if the applicant chose to build to the maximum FAR, they could be required to replace up to 207 of the existing affordable housing units on site, plus provide 17.5% of the bonus FAR as additional affordable housing (SMC 23.58A.014). This could translate to a maximum of 12-14% of the new units being designated as affordable housing. The applicant has the choice of using the bonus height and FAR, or not. Depending on a variety of factors, that requirement could potentially discourage development from seeking higher density and providing affordable housing.

For areas in close proximity to major transit locations such as the Northgate Transit Center, the City has developed policies as outlined in the Comprehensive Plan, the Northgate EIS, and the Incentive Zoning chapter to encourage redevelopment of properties with higher density and provide incentives for affordable housing.

Rezoning to NC3-85 to allow increased density with some affordable housing requirement is consistent with City policies that provide both incentives for development and mitigation of affordable housing impacts.

In order to mitigate the impacts of the proposed rezone development potential on the need for affordable housing near transit hubs, consistent with City policies, DPD recommends the conditions described below.

It is possible that this large site could be developed in phases. In order to adequately mitigate the impacts to affordable housing in consideration of phased development, **DPD recommends a condition** that prior to any building permit issuance, the applicant shall demonstrate that a minimum of 5% of the proposed floor area in each building permit is designated as housing affordable to households making up to 80% of King County median income, or 3% of the proposed floor area is designated as housing affordable to households making up to 50% of King County median income.

If the site were subject to Incentive Zoning in SMC 23.58A, there are a number of requirements for the duration, location, and timing of providing affordable housing on site. In this case, the site is not subject to the Incentive Zoning chapter with these requirements. In order to ensure that the affordable housing is adequately provided with future development, **DPD recommends a condition** that prior to issuance of a MUP, the applicant provides DPD with a signed Memorandum of Agreement between the applicant and the Office of Housing which defines the details for implementing the 3-5% affordable housing requirement. At a minimum, this agreement shall include a 50 year term of affordability for the required affordable housing.

*b. Public services;*

Though demand for public services may increase with an increased population of residents, the added population will strengthen the community by contributing to the critical mass necessary to support neighborhood services.

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

Noise – No significant impacts are anticipated from the change in zone. With development in the future, noise will be limited to that typically generated by neighborhood commercial and residential activities. The applicant has noted that commercial uses will most likely be concentrated along NE Northgate Way and the portion of 3<sup>rd</sup> Ave NE that faces existing commercial development across the street. The presence of I-5 immediately to the west creates existing noise. Development as the result of a proposed rezone is unlikely to create significant additional noise in this area.

Air quality – No noticeable change in impacts will result from a change in zoning to allow some additional building mass and height at this site. Future Air Quality measures will comply with applicable Federal, State, and City emission control requirements. If the future development takes advantage of FAR or density bonuses at this site, the development would have to address sustainability measures such as air quality. Sustainable measures related to air quality include CFC reduction in HVAC equipment, Ozone Depletion prevention, and Indoor Environmental Quality measures.

Water quality – No noticeable change in impacts will result from change in zoning. Storm water runoff from future development will be conveyed to a city drainage system. If the future development took advantage of FAR or density bonuses at this site, the development would have to address sustainability measures such as water quality. Sustainable design related to water quality includes pervious concrete paving, rain gardens, and green roofs. Storm water collection and management would be in conformance with City of Seattle standards. The proposed rezone would not create the potential for any more impervious surface than would be possible under existing zoning.

Flora and fauna – The existing site includes several mature trees and shrubs, as detailed in the Arborist report dated 5/17/2011 and submitted to DPD for review. The site includes some exceptional trees. No noticeable change in impacts will result from a change in zoning, with or without the rezone. Existing landscaping and trees will potentially be removed for future construction, but additional vegetation would be required per SMC 23.45 and any exceptional trees proposed for removal would need to go through the process described in SMC 25.11.

The change in zoning would reduce the vegetation requirements for future development. MR zoned proposed development is required to provide 0.5 Green Factor and NC3 zoned proposed development is required to provide 0.3 Green Factor.

Glare – No noticeable change in impacts will result from a change in zoning.

Odor – No noticeable change in impacts will result from a change in zoning.

Shadows – Potential development will create additional shadows, depending on season and time of day. As described in the response to SMC 23.34.008.C above, future development would likely be subject to design review, which would include consideration of shadow impacts. In the Addendum to the Northgate Urban Center EIS, the applicant identifies shadow impacts and potential mitigation for those impacts. Shadows from additional potential height would impact the public park to the northeast and the multi-family development to the north. Given that there are no physical buffers or grade changes to mitigate these shadows, a modification to the massing potential is warranted. DPD recommends that future development shall be consistent with the mitigation described in massing Option 3 in Section E of the Addendum.

Energy – No noticeable change in impacts will result from a change in zoning. Future development in any case will comply with the City of Seattle energy codes. The energy codes are currently in the process of being updated to increase energy efficiency of proposed development.

Views – The only views from or across the development site are territorial views of other development and the nearby Park. There would be no appreciable difference to private views between MR and NC3-85 zoning.

*d. Pedestrian safety*

No noticeable change in impacts will result from change in zoning. Future development will be required to complete any required street improvements such as sidewalks and sight lines for driveways. As described in the response to SMC 23.34.008.C above, future development would likely be subject to design review, which would include review of the pedestrian environment. Future development would also likely be required to submit specific traffic impact information, including consideration of how driveway placement may impact pedestrian traffic on sidewalks and at crosswalks. Pedestrian safety is also regulated by requirements in SMC 23.53 (Streets and Alleys), SMC 23.71 (Northgate Overlay), and the Street Improvement Manual.

*e. Manufacturing activity;*

Not applicable.

*f. Employment activity;*

Future developments may create greater employment opportunities by increasing the variety of allowed commercial uses in the rezone area.

*g. Character of areas recognized for architectural or historic value;*

There are no nearby historic landmarks or historic overlays.

The existing structures and site were reviewed by the Department of Neighborhoods in response to information submitted by the applicant. The Landmarks Preservation Board determined that these structures were unlikely to meet the standards for designation as historic landmarks (LPB 58/11).

*h. Shoreline view, public access and recreation.*

There are no shorelines that are visible or accessible at or near this site.

2. *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;*
- b. Street capacity in the area;*
- c. Transit service;*
- d. Parking capacity;*

Adjacent streets are designated principal arterial (NE Northgate Way), collector arterial (1<sup>st</sup> Ave NE) and non-arterial access street (1<sup>st</sup> Ave NE).

In response to criteria (a) through (d), the street access, street capacity, transit service and parking are discussed in the SEPA analysis below.

*e. Utility and sewer capacity;*

Seattle Public Utilities (SPU) sewer review has indicated that they don't require a full capacity analysis to be completed at this time, given the nature of the proposed rezone and no specific proposed development. However, SPU indicates that no development will be permitted in the rezone area until the analysis is done and any necessary additional infrastructure is planned and built, or otherwise committed to by the applicant at that time. A **recommended condition** related to sewer system capacity has been included below, at the request of SPU.

In response to water system capacity, SPU responded, "Water system capacity in the area of the proposed rezone for Project 3006101 is sufficient for the current and proposed zoning. Depending on specific building size and construction, future development to the proposed zoning limits could require water distribution system improvements to engage the existing water capacity and deliver desired fire flow to specific hydrants supporting future projects."

*f. Shoreline navigation*

The area of the rezone is not located within a shoreline environment so shoreline navigation is not applicable to this rezone.

**No significant impacts are anticipated as a result of this rezone, subject to the recommended conditions at the end of this document.**

***G. 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 designation in this chapter.***

A Growing Population and Economy: In 1990 the Puget Sound Council of Governments projected the need for 34,000 new households over the next 30 years (2020). Since that time the economy in Seattle and the region experienced robust growth as Seattle established itself as one of the most desirable places to live and work. As a result, in 2004 Seattle projected the need for 47,000 additional households by 2024 to accommodate expected growth.

Growth Management Act (GMA): In 1990 the Legislature found that “uncoordinated and unplanned growth, together with a lack of common goals... pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.” (RCW 36.70A.010) This is the foundation for the Growth Management Act (GMA).

As a result, the State directed 29 counties and the 218 cities within the state to establish plans for growth based on certain requirements. These jurisdictions included Seattle and some of the other fastest-growing counties and the cities.

Several goals of the GMA were to focus urban growth in urban areas, reduce sprawl, provide efficient transportation, encourage affordable housing, and encourage sustainable economic development.

Seattle Comprehensive Growth Plan: In 1994, in response to the State Growth Management Act of 1990, the City of Seattle adopted a Comprehensive Growth Plan. The Comprehensive Plan established 20-year housing unit growth targets for Urban Centers, Center Villages, Hub Urban Villages, and Residential Urban Villages.

Investing in Seattle’s Urban Villages: By the year 2000, Seattle’s urban village areas housed 32% of the city’s population. As part of the Comprehensive Growth Plan they are expected to accommodate most of Seattle’s new housing units. As a result, the city is making infrastructure investments in and around urban villages to improve transit access, to create more walkable communities and to provide attractive residential and commercial environments.

In the 2004 Comprehensive Plan update the Northgate Urban Center was given a 2024 growth target of 2,500 additional households.

The adoption of the Comprehensive Plan (1994), the designation of the Northgate Urban Center, and the adoption of the 2024 growth target are all circumstances that have changed since the most recent zoning change for this area in 1982 (described in response to 23.34.008.C above).

Transportation: Since 1990, the city of Seattle and its transit partners have made significant street and transit investments to keep people, goods and services moving. As part of the Complete Streets initiative investments are being made to provide people with options to single occupancy vehicles.

The area near the subject property is within walking distance of the Northgate Transit Center that includes several frequent bus transit options. The Transit Center is also planned as a Light Rail station that is expected to open in 2020.

Seattle Department of Transportation (SDOT), as part of *Bridging the Gap*, is making a number of improvements to the city transportation network. Some of these improvements are targeted to increase transit speed & reliability in the Northgate area.

These transit service increases are circumstances that have changed since the most recent zoning change for this area in 1982 (described in response to 23.34.008.C above).

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

This site is located in the Northgate Overlay, which includes specific street level and other development as described in SMC 23.71. That section notes that the purpose of the Northgate overlay is to “implement the Northgate Area Comprehensive Plan by regulating land use and development within the Northgate Overlay District in order to:

- A. Create an environment in the Northgate Area that is more amenable to pedestrians and supportive of commercial development; and
- B. To protect the residential character of residential neighborhoods; and
- C. Support the use of Northgate as a regional high-capacity transportation center.”

The proposed rezone will allow commercial development at this site where currently only very limited commercial development would be allowed. The proposed rezone will maintain the existing transition to more residential neighborhoods to the north. The proposed rezone will provide additional housing and job capacity within walking distance to the Transit Station.

***I. 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.***

No critical areas are located in or adjacent to the site.

***SMC 23.34.008 Conclusion:*** The proposed rezone meets almost all the requirements of SMC 23.34.008 with the recommended conditions, per the analysis above.

**23.34.009 Height limits of the proposed rezone. Where a decision to designate height limits in Neighborhood Commercial 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:**

The proposed height relates to the specific proposed zone of NC3-85. Therefore the height limits have been analyzed in SMC 23.34.008 and these criteria do not apply.

**SMC 23.34.013 Designation of Multifamily Zones:**

- A. An area zoned single family that meets the criteria of Section 23.34.011 for single-family designation, may not be rezoned to multifamily except as otherwise provided in Section 23.34.010 B.**

The proposed rezone would not rezone any properties from single-family to multifamily.

**SMC 23.34.024 Midrise (MR) Zone, Function and Locational Criteria.**

- A. Function. An area that provides concentrations of housing in desirable, pedestrian-oriented urban neighborhoods having convenient access to regional transit stations, where the mix of activity provides convenient access to a full range of residential services and amenities, and opportunities for people to live within walking distance of employment.**

The area includes a mix of densities of multi-family housing, with a large amount of commercial development east, south, and west of the site. The immediate area is not very pedestrian-oriented, due to the large block sizes, busy traffic arterials, and I-5 as a barrier. However, there are recent and planned projects to make pedestrian improvements in the area. The site has convenient access to a regional transit station (Northgate Transit Station). The mix of activities provides convenient access to a full range of services and amenities and jobs within walking distance of residences.

**B. Locational Criteria.**

- a. Threshold Conditions. Subject to subsection 23.34.024.B.2 of this section, properties that may be considered for a Midrise designation are limited to the following:**

- i. Properties already zoned Midrise;**

The site is already zoned Midrise.

- ii. Properties in areas already developed predominantly to the intensity permitted by the Midrise zone; or**

The site is developed far below the intensity permitted by Midrise zoning. Some nearby properties are developed close to the intensity permitted by Midrise zoning but many appear to be developed below the maximum development potential. Nearby commercially zoned properties are also mostly underdeveloped for the zone, with a few exceptions.

- iii. *Properties within an urban center or urban village, where a neighborhood plan adopted or amended by the City Council after January 1, 1995 indicates that the area is appropriate for a Midrise zone designation.*

The site is located in an Urban Center. The Neighborhood Plan was adopted in 1993, prior to 1995.

- b. *Environmentally Critical Areas. Except as stated in this subsection 23.34.024.B.2, properties designated as environmentally critical may not be rezoned to a Midrise designation, and may remain Midrise only in areas predominantly developed to the intensity of the Midrise zone. The preceding sentence does not apply if the environmentally critical area either*
  - 1) *was created by human activity, or*
  - 2) *is a designated peat settlement, liquefaction, seismic or volcanic hazard, or flood prone area, or abandoned landfill.*

The site does not include any designated Environmentally Critical Areas.

- c. *Other Criteria. The Midrise zone designation is most appropriate in areas generally characterized by the following:*

- i. *Properties that are adjacent to business and commercial areas with comparable height and bulk;*

The subject property is adjacent to the Northgate commercial corridor and nearby zoning includes comparable height and bulk potential to the north, east, and south.

- ii. *Properties in areas that are served by major arterials and where transit service is good to excellent and street capacity could absorb the traffic generated by midrise development;*

The site is adjacent to NE Northgate Way, a major arterial. It is within a 10-minute walk of the transit station that currently offers frequent bus service and will include a Light Rail Station in the future.

- iii. *Properties in areas that are in close proximity to major employment centers;*

The site is located in the Northgate Urban Center, which includes many jobs and is designated for further growth as an employment center.

- iv. *Properties in areas that are in close proximity to open space and recreational facilities;*

The site is across the street from a City Park and within walking distance of several other parks. A Community Center is located approximately a 10-15 minute walk to the southeast of the site (5<sup>th</sup> Ave NE).

- v. *Properties in areas along arterials where topographic changes either provide an edge or permit a transition in scale with surroundings;*

The site is located next to two arterials (NE Northgate Way and 1<sup>st</sup> Ave NE), but the area is relatively flat. The topography rises slowly to the north.

- vi. *Properties in flat areas where the prevailing structure height is greater than 37 feet or where due to a mix of heights, there is no established height pattern;*

The area is primarily flat, and nearby structures range from one to seven stories, depending on the age of the building. There does not appear to be a clear established height pattern in the existing buildings.

- vii. *Properties in areas with moderate slopes and views oblique or parallel to the slope where the height and bulk of existing structures have already limited or blocked views from within the multifamily area and upland areas;*

The area is primarily flat. The site does not appear to meet this criterion.

- viii. *Properties in areas with steep slopes and views perpendicular to the slope where upland developments are of sufficient distance or height to retain their views over the area designated for the Midrise zone;*

The area is primarily flat. The site does not appear to meet this criterion.

- ix. *Properties in areas where topographic conditions allow the bulk of the structure to be obscured. Generally, these are steep slopes, 16 percent or more, with views perpendicular to the slope.*

The area is primarily flat. The site does not appear to meet this criterion.

- x. *Properties where a gradual transition is appropriate between single-family areas and more intensive multifamily or neighborhood commercial zones;*

The existing transition is a gradual one, from Midrise and Neighborhood Commercial at NE Northgate Way, moving north to Lowrise and eventually Single Family zones. The proposed rezone would maintain this transition pattern.

*SMC 23.34.024 Conclusion:* The proposed rezone site appears to meet some of the zone, function, and locational criteria for MR zoning, with the exception of the criteria that relate to topographic changes near the site, and separation between zone edges in the form of arterials, open space, and topography.

**SMC 23.34.072 Designation of Commercial Zones:**

- A. *The encroachment of commercial development into residential areas shall be discouraged.*

The proposed rezone would result in a change from a residential zone (MR) to a commercial zone (NC3-85). The subject property fronts on NE Northgate Way, which is dominated by commercial zones and commercially developed sites. A commercial zone is located immediately to the east of the subject property. I-5 is located immediately to the west of the property. While the proposed rezone would change this site from a residential to a commercial zone, the encroachment would be consistent with the pattern of zoning and land use in the immediate vicinity.

- B. Areas meeting the locational criteria for a single-family designation may be designated as certain neighborhood commercial zones as provided in Section 23.34.010.*

The area does not meet the locational criteria for a single-family designation.

- C. Preferred configuration of commercial zones shall not conflict with the preferred configuration and edge protection of residential zones as established in Sections 23.34.010 and 23.34.011 of the Seattle Municipal Code.*

The site is currently zoned for residential (MR), which is a zone that continues to the north. Adjacent and nearby zones are described in the Site and Vicinity section at the beginning of this document.

SMC 23.34.010 specifies that single family zones in the Northgate Overlay may be rezoned to commercial zones if they meet certain criteria. The subject property isn't zoned single family, or adjacent to single family zoning, but this requirement indicates there may be fewer requirements to 'protect' residential zones in the Northgate Urban Center.

The existing site is zoned MR, which continues to the north. Most nearby properties facing NE Northgate Way are commercially zoned, with residential zones beyond. The proposed rezone would be consistent with this pattern. The preferred configuration of commercial zones in this area does not conflict with the preferred configuration or edge protection of residential zones in this area.

- D. Compact, concentrated commercial areas, or nodes, shall be preferred to diffuse, sprawling commercial areas.*

The proposed rezone from MR to NC3-85 would result in an additional commercially-zoned property facing NE Northgate Way. This corridor includes a high concentration of commercial uses on both sides of a busy arterial, such as Northgate Mall, Northgate North, and lower height commercial development on the blocks to the east and west of I-5. The proposed change would encourage further concentration of commercial uses within this commercial corridor. The proposed rezone would not enable diffusion or sprawl of the existing commercial area.

- E. The preservation and improvement of existing commercial areas shall be preferred to the creation of new business districts.*

The proposed rezone would preserve and enhance the commercial corridor facing NE Northgate Way. The proposed rezone would further enhance this corridor by creating a new commercially zoned parcel between the commercially zoned parcels to the east, south, and west of I-5. No new business districts would be created by the proposal. A rezone of the area could be considered an intensification of the existing business district because it would allow an increase in the variety of commercial uses without creating a new business district.

*SMC 23.34.072 Conclusion:* The subject property is currently zoned for residential use, but the pattern of zoning and land use facing NE Northgate Way is commercial. The subject property faces the busy arterial of NE Northgate Way, which is a commercially developed corridor. The subject property and a WSDOT site to the west are the only nearby properties that face NE Northgate Way and are not currently zoned for commercial use. The proposed rezone will enhance and strengthen the commercial nature of this existing commercial area.

**SMC 23.34.078 Neighborhood Commercial 3 (NC3) zone function and locational criteria:**

***A. Function To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:***

- 1. A variety of sizes and types of retail and other commercial businesses at street level;***
- 2. Continuous storefronts or residences built to the front lot line;***
- 3. Intense pedestrian activity;***
- 4. Shoppers can drive to the area, but walk around from store to store;***
- 5. Transit is an important means of access.***

The pedestrian activity along NE Northgate Way is currently moderate to busy. There is a crosswalk located from this site to the east and south. Crosswalks are located adjacent to the site on 1<sup>st</sup> Ave NE, 3<sup>rd</sup> Ave NE, and NE Northgate Way. There are a wide variety of retail and commercial businesses within ¼ mile of the site. The area was mostly developed in the last half of the 20<sup>th</sup> century and many of the commercial developments are not built to the front lot line. Newer development such as Northgate North (on the block to the east) is built to the front lot line. The area has historically been auto-oriented with busy arterials and surface parking lots. There have been recent efforts to improve pedestrian connectivity and provide safe crossings, allowing shoppers to drive to the area but walk between the commercial sites. The area includes the Northgate Transit Center within a 10-minute walk, and frequent bus services on the adjacent arterials and at the transit center. The Transit Center will include a Light Rail Station, anticipated to open in approximately 2020.

***B. Locational Criteria. A Neighborhood Commercial 3 zone designation is most appropriate on land that is generally characterized by the following conditions:***

- 1. The primary business district in an urban center or hub urban village;***
- 2. Served by principal arterial;***

3. *Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;*
4. *Excellent transit service.*

The site is located in the Northgate Urban Center and is served by the primary arterial NE Northgate Way. Nearby and adjacent zones are described in the Site and Vicinity section at the beginning of this document. The lowest density zone is LR3 zoned public park to the northeast of this site, across 3<sup>rd</sup> Ave NE. A public park and street separates the site from the nearest Lowrise Residential development, which is located approximately 1 block northeast of the site. The area is located within a Frequent Transit Corridor and is walking distance to the Transit Center, the site of a future light rail station and existing frequent bus service.

*SMC 23.34.078 Conclusion:* Overall, the site appears to meet the function and locational criteria for a Neighborhood Commercial 3 zone. The only criterion is the lower quality of the pedestrian amenities and connectivity in the area, due to the historically auto-oriented nature of this area. Recent improvements to crosswalks and sidewalks have helped encourage pedestrian activity. Future development will include more focus on pedestrian activity and enhancing the pedestrian connections to the Transit Center to the south. Pedestrian amenities for future development will be governed by Land Use Code requirements such as the Northgate Overlay (SMC 23.71) and Design Review (SMC 23.41).

#### **RECOMMENDATION – REZONE**

Based on the analysis undertaken in this report, and the weighing and balancing of all the provisions in SMC 23.34, the Director recommends that the proposed rezone from Midrise (MR) to Neighborhood Commercial 3 with an 85' height limit (NC3-85) is **CONDITIONALLY APPROVED.**

#### **ANALYSIS - SEPA**

Environmental review is required pursuant to the Washington Administrative Code 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05). The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

A Final Environmental Impact Statement (FEIS) was published for the Northgate Urban Center Rezone Final Environmental Impact Statement in 2009. The FEIS identified and evaluated the probable significant environmental impacts that could result from rezones in the Northgate Urban Center. That analysis evaluated the direct, indirect and cumulative impacts of the Preferred Alternative and other alternatives.

The subject site is within the geographic area that was analyzed in the FEIS and is within the range of actions and impacts that were evaluated in the various alternatives. The proposed rezone site lies within the North Core Subarea described in the EIS. DPD determined that it is appropriate to adopt the FEIS and prepare an EIS Addendum to add more detailed, project-specific information related to the proposed development.

DPD has identified and adopts the FEIS. DPD relies on SMC 25.05.600, allowing the use of existing environmental documents as part of its SEPA responsibilities with this project. DPD has determined that the proposed impacts for this Master Use Permit are identified and analyzed in the referenced FEIS; however additional analysis is warranted as permitted pursuant to SMC 25.05.625-630, through an Addendum to the FEIS.

The EIS Addendum and related documents addressed the following areas of environmental impact:

- Land Use
- Housing
- Height, Bulk, and Scale
- Shadows on Open Spaces
- Trees (related to Plants and Animals)
- Transportation

An Addendum analyzing these areas of environmental impact was prepared and the Notice of Adoption and Availability of Addendum ("Addendum to the Final Environmental Impact Statement for Rezone of 11200 1<sup>st</sup> Avenue N.E. and 11205 3<sup>rd</sup> Avenue N.E. from Midrise to Neighborhood Commercial 3-85") was published in the City's Land Use Information Bulletin on December 1, 2011. A copy of the Addendum was sent to parties of record that commented on the EIS for the downtown code amendments. In addition, a copy of the notice was sent to parties of record for this project.

### **ENVIRONMENTAL IMPACTS**

The following is a discussion of the impacts identified in each element of the environment, along with indication of any required mitigation for the impacts disclosed. The impacts detailed below were identified and analyzed in the FEIS with more specific project-related discussion in the 2011 Addendum and related documents.

SMC 25.05.600.D allows for existing environmental documents to be used. As stated above, this project includes the adoption of the FEIS along with the development of an Addendum to analyze and mitigate site specific impacts not disclosed in the EIS. An additional area of impact that was not discussed in the EIS – Historic Preservation – is analyzed with the Addendum and related documents for this project. The authority to allow for additional analysis is in SMC 25.05.600.D.3, as long as the analyses and information does not substantially change the analysis of significant impacts or alternatives in the existing environmental document, that being the FEIS.

A. Long Term Impacts Identified in the FEIS

The following is a discussion of the impacts identified in each element of the environment, along with indication of any required mitigation for the impacts disclosed. The impacts detailed below were identified and analyzed in the FEIS.

Land Use

SMC 25.05.675.J establishes policies to ensure that proposed uses in development projects are reasonably compatible with surrounding uses and are consistent with applicable City land use regulations and the goals and policies set forth in the land use element of the Seattle Comprehensive Plan. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decision maker may condition or deny any project to mitigate adverse land use impacts resulting from a proposed project. Density-related impacts of development are addressed under the policies set forth in SMC 25.05.675 G (height, bulk and scale), M (parking), R (traffic) and O (public services and facilities) and are not addressed under this policy.

The FEIS included an analysis of how the code changes were consistent with land use policies based on impacts disclosed in the FEIS. The proposed rezone is consistent with that land use analysis, which identified this site as an 'opportunity site' and evaluated the site for potential rezoning of a range of building heights and intensities of development. The proposed rezone is within that range analyzed in the EIS, and no mitigation was identified in the EIS for those Land Use impacts. Therefore, the department concludes that no adverse land use impacts will occur as a result of the proposal.

Historic Preservation

The Department of Neighborhoods has reviewed information on the existing structures at this site, and determined that they are unlikely to meet the standards for designation as individual landmarks (LPB 58/11). Accordingly, no mitigation of impacts is warranted pursuant to the applicable SEPA policies.

Housing

The affordability levels of existing housing on site and the potential impacts to affordable housing are described in detail in response to rezone criterion SMC 23.34.008.F.1.a in this document.

Height Bulk and Scale

The potential impacts of additional height bulk and scale are discussed in detail in this section of the Addendum.

The proposed rezone would increase the building height and FAR potential, and remove maximum building width and depth requirements.

In MR zones, the maximum FAR is 3.2 to 4.25. The higher FAR is possible if developments meet the requirements of Incentive zoning in SMC 23.58A and 23.45.516. The maximum height is 60-75' tall, using the same provisions. Maximum building widths and depths provide mitigation of potential building bulk impacts.

In NC3-85 zones, the FAR is 4.5 to 6. The lower FAR is for a single-use building, and the higher FAR is possible for a mixed-use building. The maximum height is 85' tall. NC zones don't include maximum building widths and depths, so a rezone to NC3-85 could result in more height bulk and scale impacts to adjacent properties.

The subject property is large and each property line is adjacent to various edge conditions, some of which may warrant height bulk and scale mitigation.

West of the site is the 1<sup>st</sup> Ave NE public right of way and I-5. South of the site is NE Northgate Way with Northgate Mall and NC3-85 zoning. East of the site is 3<sup>rd</sup> Ave NE, with a 60' tall commercial structure (Northgate North) and NC3-65 zoning. Northeast of the site is a Park and LR3 zoning. North of the site is a 4-story multi-family structure (Northgate West) and Midrise zoning.

Adjacent structures and zoning indicate that a rezone to taller buildings at this site could have potential height bulk and scale impacts on the property to the north and the Park to the northeast.

The Park to the northeast is somewhat buffered from this site by the 3<sup>rd</sup> Ave NE public right of way, which is 60' wide. The property to the north shares a property line with the proposed rezone property.

Design Review will include consideration of height bulk and scale impacts from any proposed development that exceeds Design Review thresholds (currently 20 dwelling units for MR zones and 4 dwelling units for NC zones): Design Review Guidelines such as A-5 (Respect for Adjacent Sites) and B-1 (Height, Bulk, and Scale) would be used to review these impacts. This area is also located with a Neighborhood specific Design Guideline area ("Northgate Urban Center & Overlay District Design Guidelines"). These Guidelines include specific direction for the Northgate area that supplements the direction in the City-wide Design Review Guidelines.

The Addendum describes three options for setbacks and modulation at the north side of the site. Option 3 provides for a 23' setback from the north property line with a modulated envelope providing additional setbacks near the northeast and northwest corners, as well as upper level setbacks, described by Figure 5 in the Addendum. This would allow a 55' tall structure located 23' from the property line. From that point, the structure would step back 15' up to a height of 70'. From that point, the structure would step back an additional 12' to a height of 85'. This stepped façade would reduce the appearance of height and bulk at the north façade and the northeast and northwest corners. Design Review would serve to require further modulation, articulation, landscaping as appropriate to specific development at the time of future permit application.

This option appears to provide adequate mitigation for the potential impacts of additional height bulk and scale of the rezone, for the property to the north and the Park to the northeast. Therefore, **DPD recommends a condition** that any future development shall be consistent with the height bulk and scale shown for Option 3 in the Height Bulk and Scale section of the December 2011 Addendum.

The Addendum describes potential mitigation for height bulk and scale in the form of maximum building widths. The proposed rezone would remove the maximum building width requirement for future development at this very large site, resulting in potential adverse impacts to height bulk and scale. When combined with the additional FAR and height, the potential impact could be significant to the residential development to the north and the Park to the northeast. The NE Northgate Way street frontage would not experience these adverse impacts due to the context of development on that street. The NE Northgate Way street frontage could benefit from a continuous street wall to create a stronger commercial corridor.

Therefore, **DPD recommends a condition** that future development at this site is consistent with the maximum building width and depth in Midrise zones, with the exception of a continuous street wall on NE Northgate Way.

### Shadows on Open Spaces

SMC 25.05.675.Q requires that the Director assess the extent of adverse impacts of shadows on designated open spaces and the need for mitigation. In areas outside Downtown, these designated open spaces include publicly owned parks, public schoolyards, and private schools which allow public use of schoolyards during non-school hours.

The only designated open space that falls within these categories in the immediate vicinity of the proposal is Hubbard Homestead Park, across 3<sup>rd</sup> Ave NE, northeast of the site. The applicant also chose to analyze shadow impacts on the property to the north of the site.

Due to the increased building heights contemplated in the FEIS, shadows will increase; however, additional shadowing of the Park is not expected to change significantly. A shadow analysis was prepared for the Addendum that demonstrates shadow impacts from building height and examined potential shadow impacts with a variety of setbacks. The shadow analysis compared a 60' tall building (MR zone, not taking advantage of incentive zoning to allow 75' tall height) with an 85' tall building (NC3-85).

The proposed rezone site is located west of the Park, so the majority of shadow impacts would occur in the later afternoon and evening. On June 21<sup>st</sup> a slightly larger portion of the Park would be shadowed at 6pm as a result of an 85' tall building, compared with a 60' tall building. On September 21<sup>st</sup>, the difference between shadows is larger at 6pm. On December 21<sup>st</sup>, there is a larger difference in the shadowing at 6pm, but it's expected that will be a time of year with few Park users.

The differences between shadow impacts are similar for the property to the north. The applicant also showed the difference in shadow impact with a 23' setback, similar to the Option 3 described in the Height Bulk and Scale analysis. This configuration would reduce shadow impacts from the proposal at the outer edge of the shadows, but mainly to the benefit of the property to the north. The proposed setbacks described for Option 3 would further reduce shadow impacts, but again mainly to the benefit of the property to the north.

In summary, some shadow impacts are anticipated in Hubbard Homestead Park as a result of future development if the site is rezoned to NC3-85. Larger shadow impacts are anticipated for the property to the north, but SMC 25.05.675.Q doesn't require mitigation of shadows on private properties. Therefore, it is anticipated that the proposed action will not adversely impact shadows on designated open spaces, and no mitigation is necessary.

Trees (Plants and Animals)

The applicant provided an arborist report documenting 42 trees on site, eight of which meet the criteria in SMC 25.11 for exceptional trees. In addition, there are two more trees that exceed 24" DBH and would require similar replacement under SMC 25.11. At this time, no specific development is proposed and therefore tree protection plans for these trees would not be useful or timely. At the time of a specific development proposal, the trees will be re-evaluated for exceptional tree status and specific tree protection measures, consistent with SMC 25.05.675.N and 25.11. No mitigation is necessary at this time.

Transportation

SMC 25.05.675R requires that the Director assess the extent of adverse impacts of traffic and transportation and the need for mitigation. The FEIS analysis considered the direct, indirect and cumulative impacts of that proposal and alternatives as they relate to the overall transportation system. The subject site is within the area analyzed in the EIS and the proposed development is within the range of actions and impacts evaluated in the EIS.

The City's Northgate Coordinated Transportation Investment Plan (CTIP) was prepared with a separate EIS and identified a "comprehensive, prioritized program of transportation improvements that would be needed to accommodate Northgate's projected 2030 growth in employment and households." Based on the analysis in the CTIP and the Northgate EIS, it is expected that the installation of the improvements listed in the CTIP will be adequate mitigation for traffic from future development of the entire rezone area, including the subject property.

The proposed rezone does not have an associated development proposal, so specific traffic impacts can't be analyzed at this time. At the time a development permit application is filed for this site, specific traffic impact information related to the size and mix of uses in the proposed development will be required and will be reviewed by DPD. The proposed rezone is consistent with the range of rezones considered in the Northgate EIS Transportation analysis section. Accordingly, no mitigation of impacts disclosed in this section is required.

B. Additional Impacts Not Identified in the FEIS

SMC 25.05.600.D allows for existing environmental documents to be used. The proposed rezone is consistent with the range of rezones analyzed in the Northgate EIS and there is no specific development proposal at this time. Therefore, additional impacts such as Construction, Noise, Traffic, and Air Quality will be further analyzed at the time of a specific development proposal application. The authority to allow for additional analysis is in SMC 25.05.600.D3, as long as the analysis and information does not substantially change the analysis of significant impacts or alternatives in the existing environmental document, that being the FEIS.

**DECISION - STATE ENVIRONMENTAL POLICY ACT**

The proposed recommended action is to **CONDITION** per SMC 25.05.

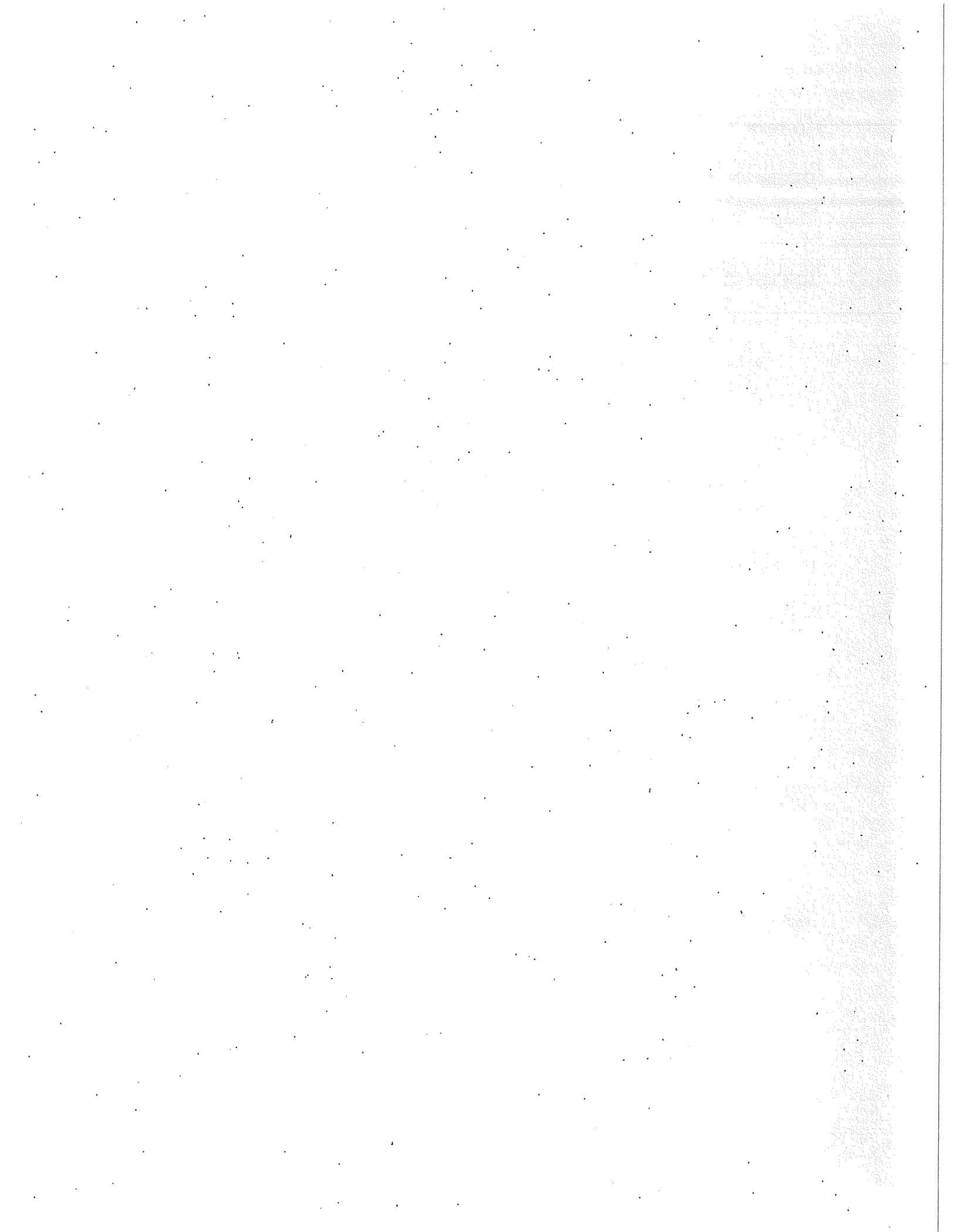
**RECOMMENDED CONDITIONS – REZONE AND SEPA**

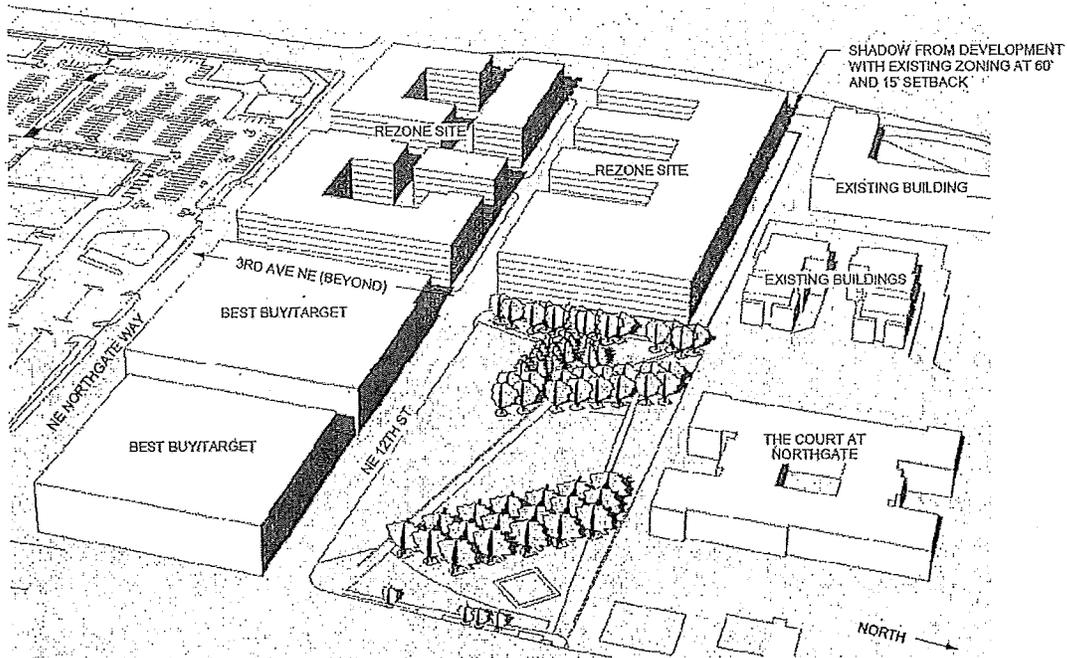
1. Prior to any building permit issuance, the applicant shall demonstrate that a minimum of 5% of the proposed floor area in each building permit is designated as housing affordable to households making up to 80% of King County median income, or 3% of the proposed floor area is designated as housing affordable to households making up to 50% of King County median income.
2. Prior to issuance of a Master Use Permit for development, the applicant shall provide DPD with a signed Memorandum of Agreement (MOA) between the applicant and the Office of Housing that defines the details for implementing the affordable housing requirement. At a minimum, the MOA shall include a term of affordability for the affordable housing of 50 years, at the income levels described in condition #1.
3. No development will be permitted at the subject property prior to Seattle Public Utilities approval of a sewer system engineering analysis and any required infrastructure improvements.
4. Future development shall be consistent with the mitigation described in massing Option 3 in Section E of the December 2011 Addendum.
5. Future development shall be consistent with the maximum building width and depth in Midrise zones, with the exception of a continuous street wall on NE Northgate Way.

Signature: (signature on file)

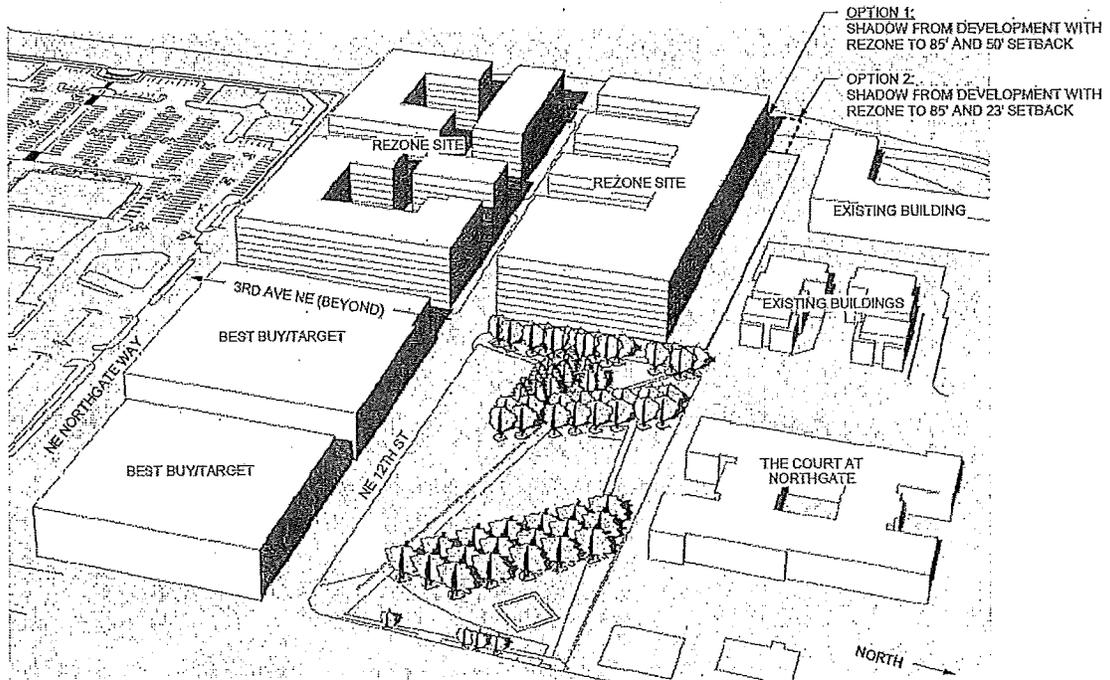
Shelley Bolser AICP, LEED AP  
Senior Land Use Planner  
Department of Planning and Development

Date: March 26, 2012





Existing Zoning - 60'  
15' Setback

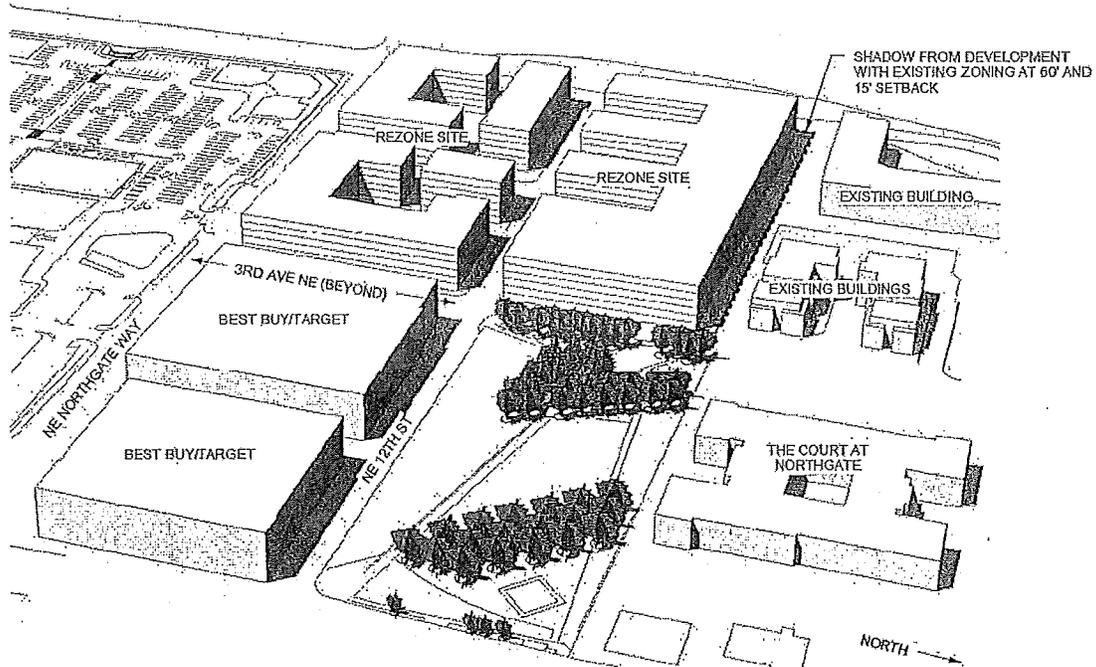


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

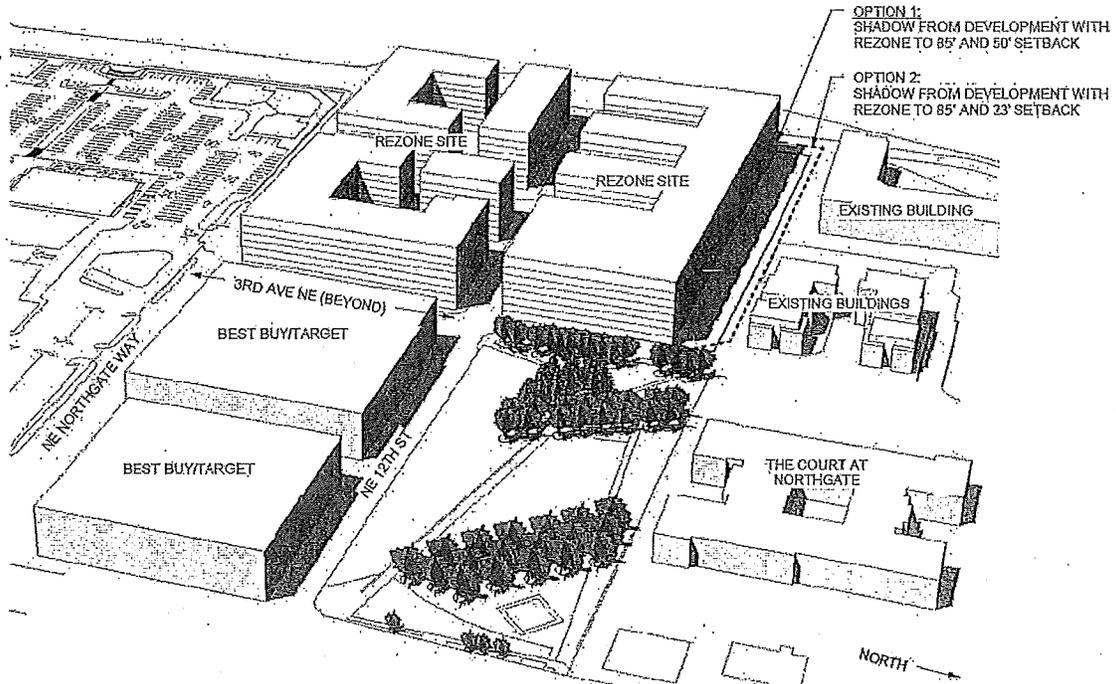
Figure 6  
Shadow Study - Options 1 & 2  
June 21 - 9:00 AM



August 12, 2011

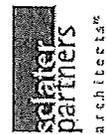


Existing Zoning - 60'  
15' Setback

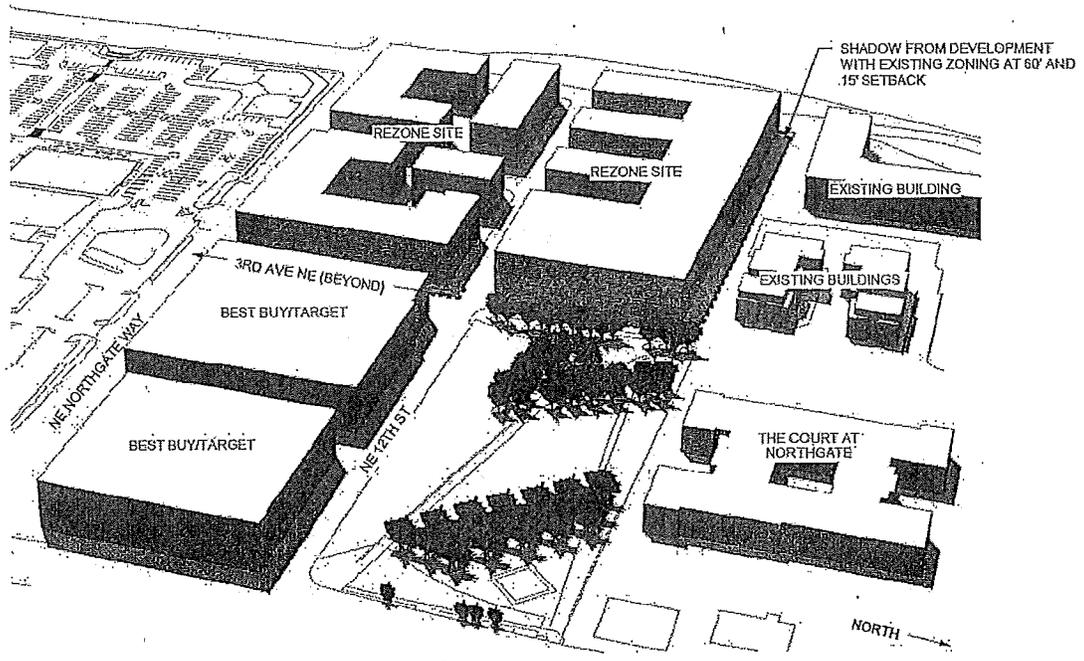


Proposed Zoning - 85'  
Options 1 & 2; 23' & 50' Setbacks

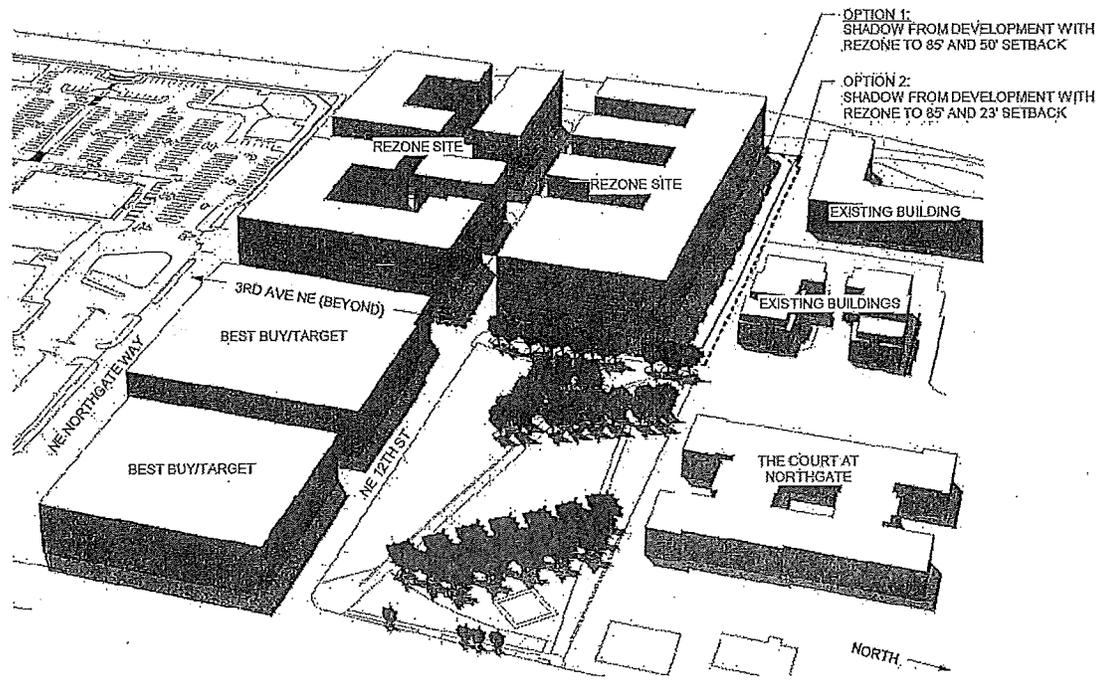
Figure 7  
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June 21 - 12:00 PM



August 12, 2011

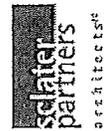


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15' Setback

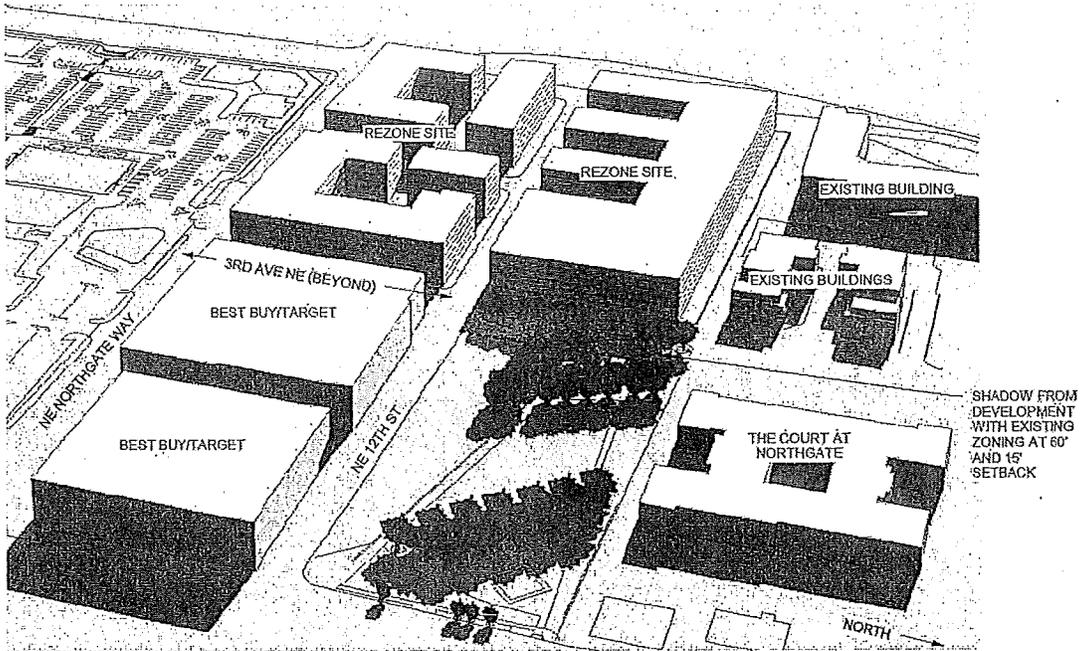


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

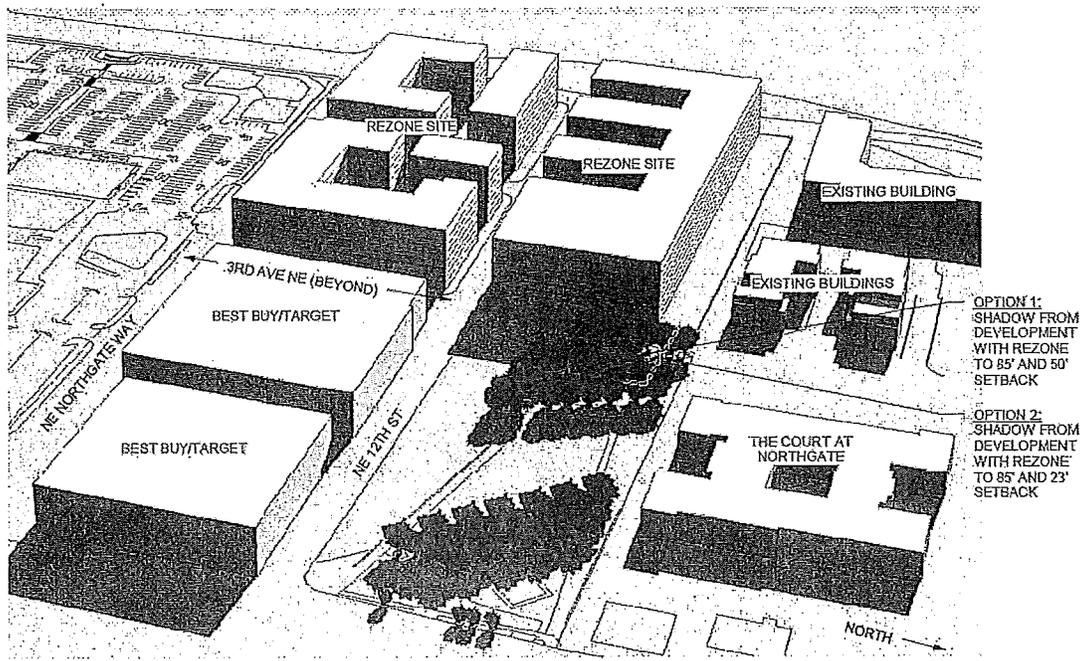
**Figure 8**  
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June 21 - 3:00 PM



August 12, 2011

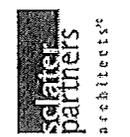


Existing Zoning - 60'  
15' Setback

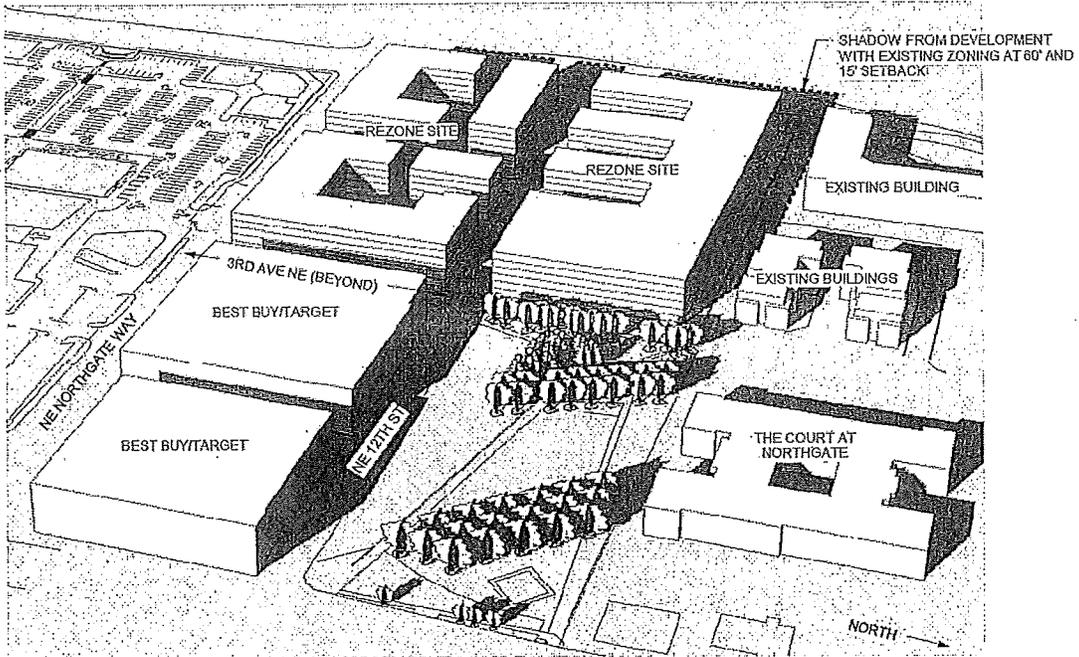


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

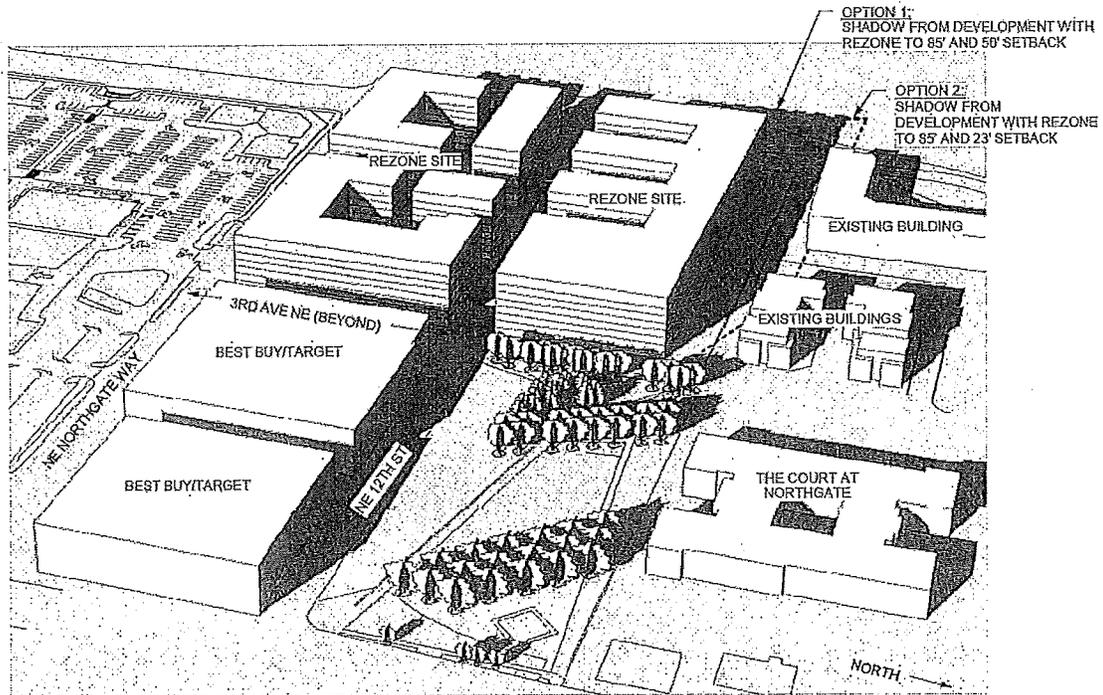
Figure 9  
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June 21 - 6:00 PM



August 12, 2011

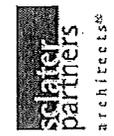


Existing Zoning - 60'  
15' Setback

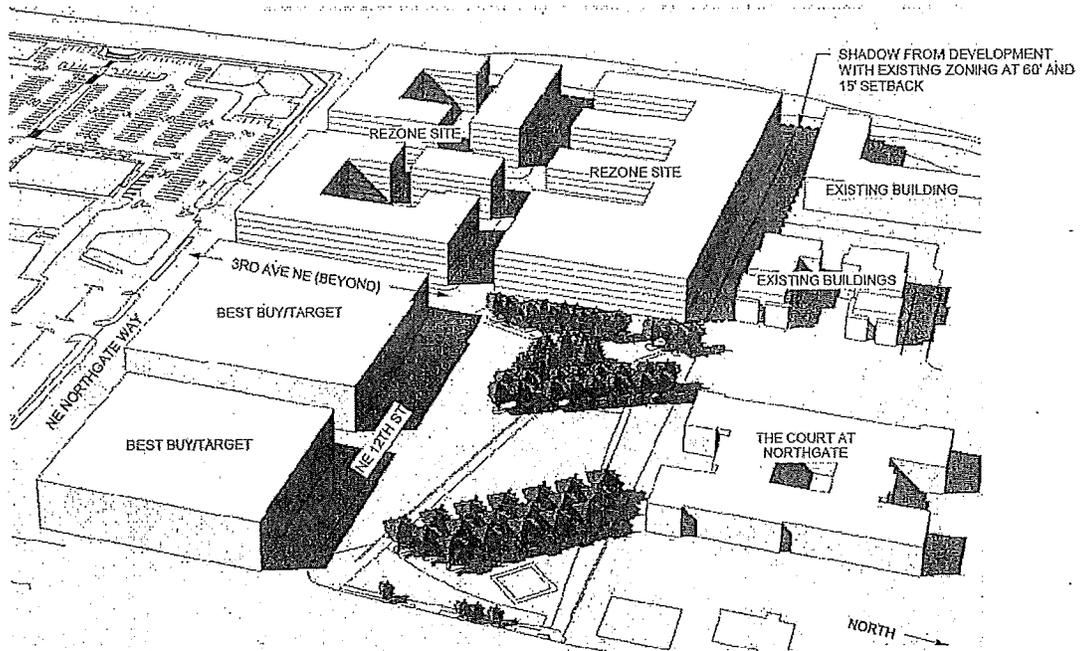


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

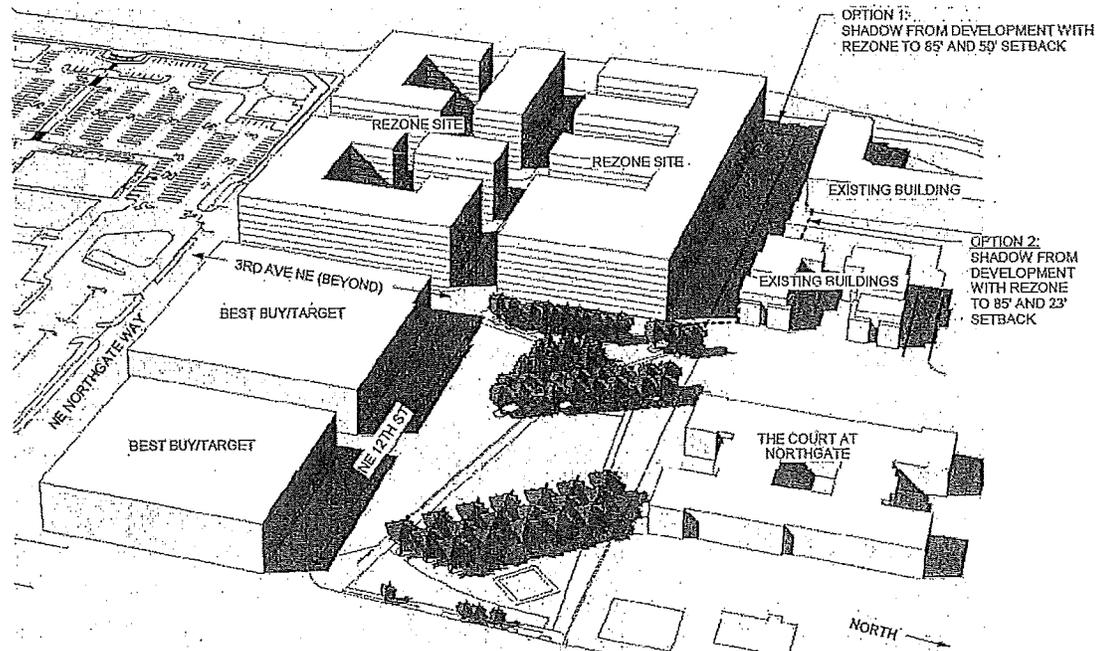
Figure 10  
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September 21 - 9:00 AM



August 12, 2011

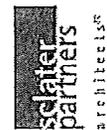


Existing Zoning - 60'  
15' Setback

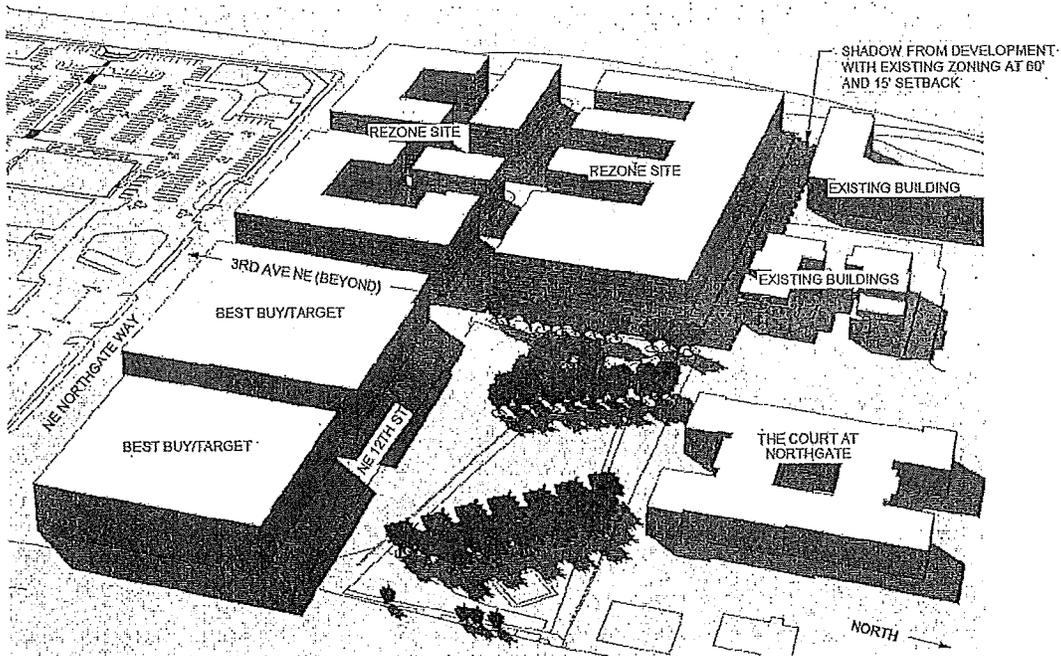


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

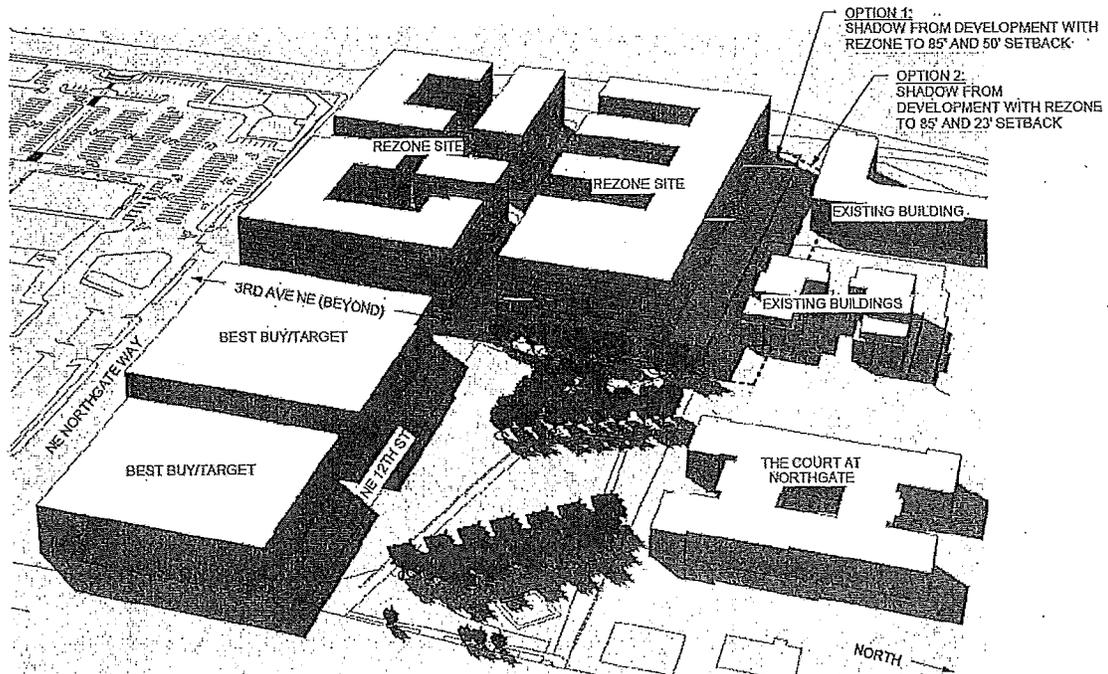
**Figure 11**  
Shadow Study - Options 1 & 2  
September 21 - 12:00 PM



August 12, 2011



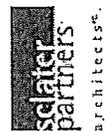
Existing Zoning - 60'  
15' Setback



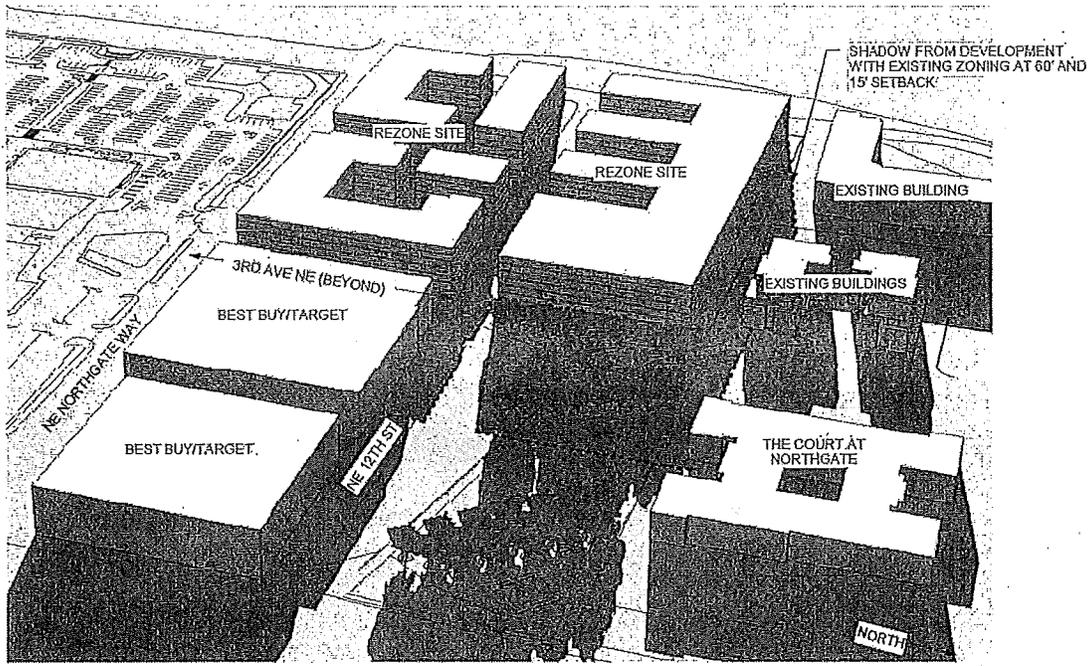
Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

**Figure 12**

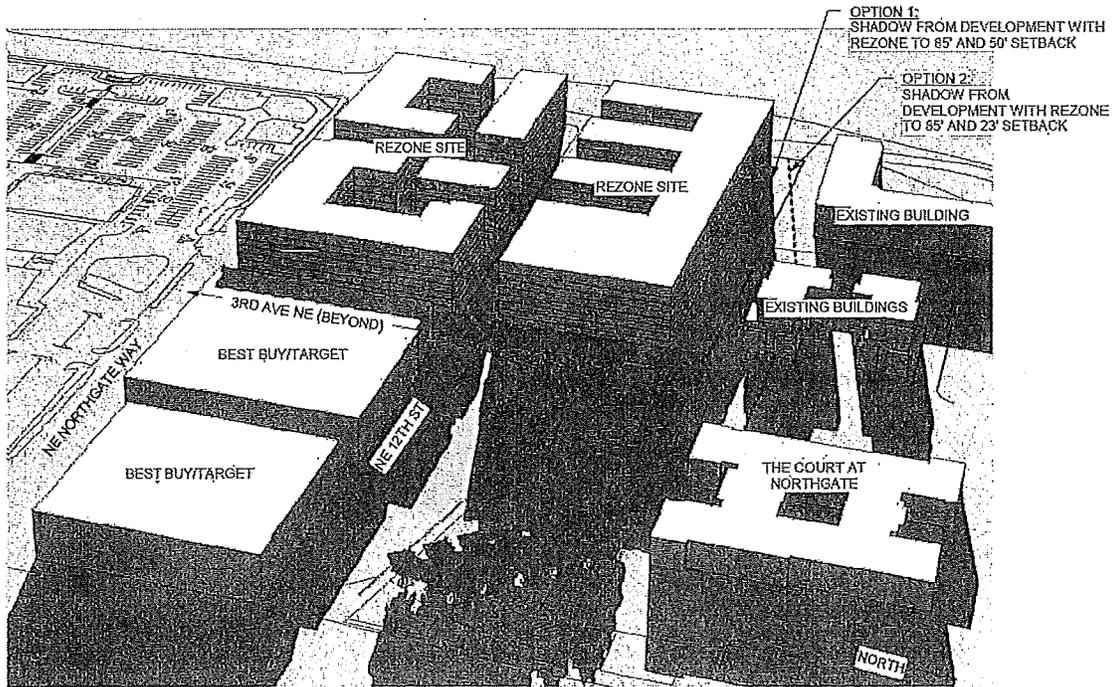
Shadow Study - Options 1 & 2.  
September 21 - 3:00 PM



August 12, 2011

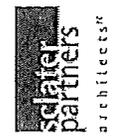


Existing Zoning - 60'  
15' Setback

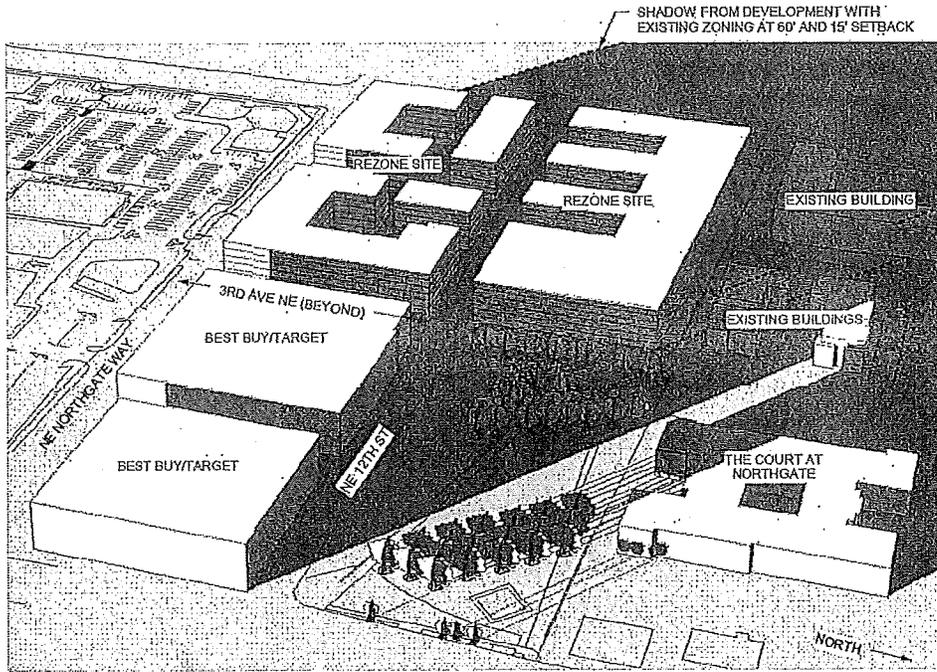


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

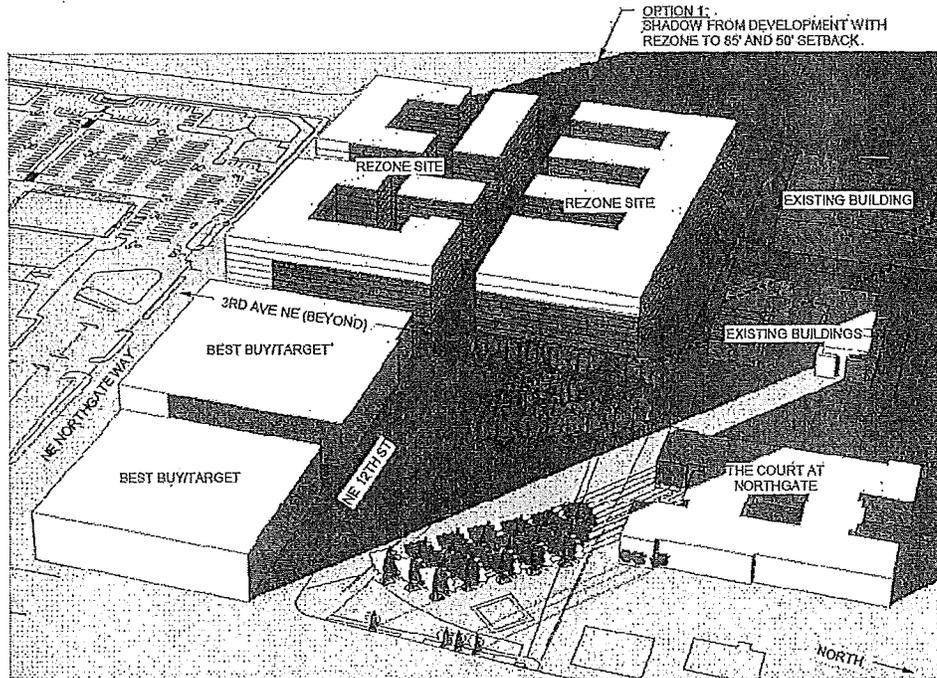
Figure 13  
Shadow Study - Options 1 & 2  
September 21 - 6:00 PM



August 12, 2011



Existing Zoning - 60'  
15' Setback

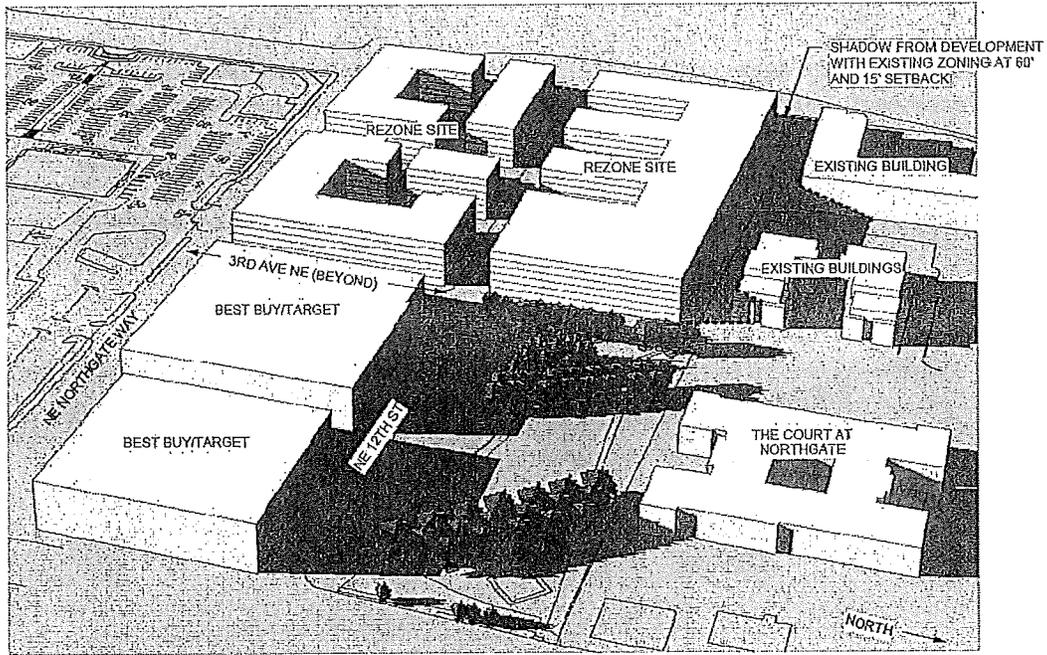


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

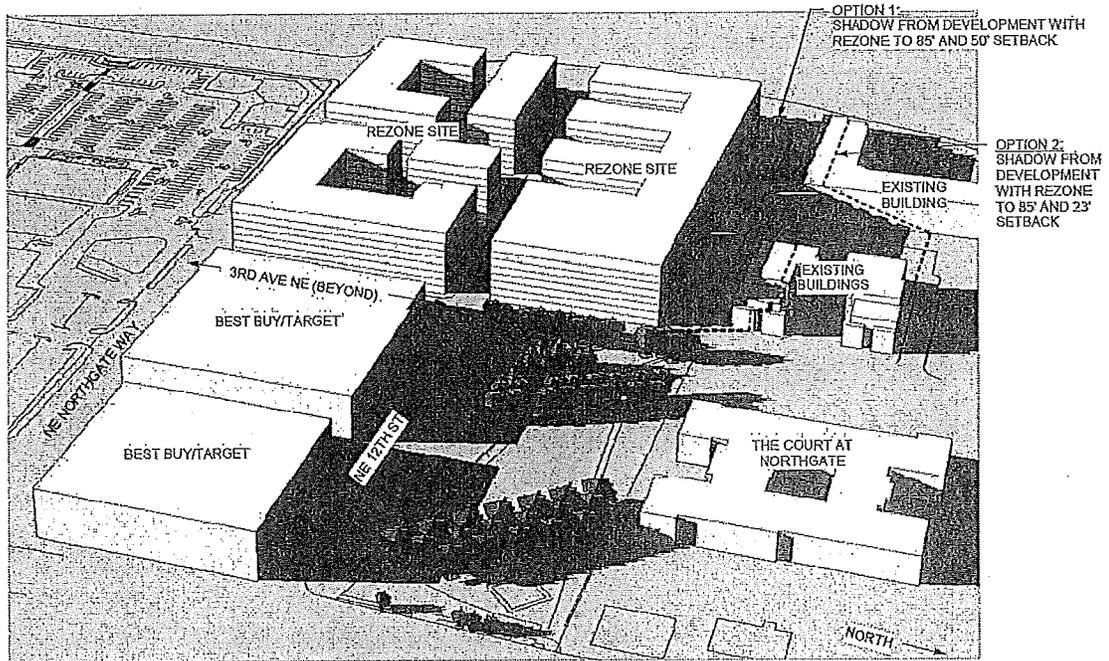
Figure 14  
Shadow Study - Options 1 & 2  
December 21 - 9:00 AM



August 12, 2011

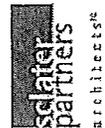


Existing Zoning - 60'  
15' Setback

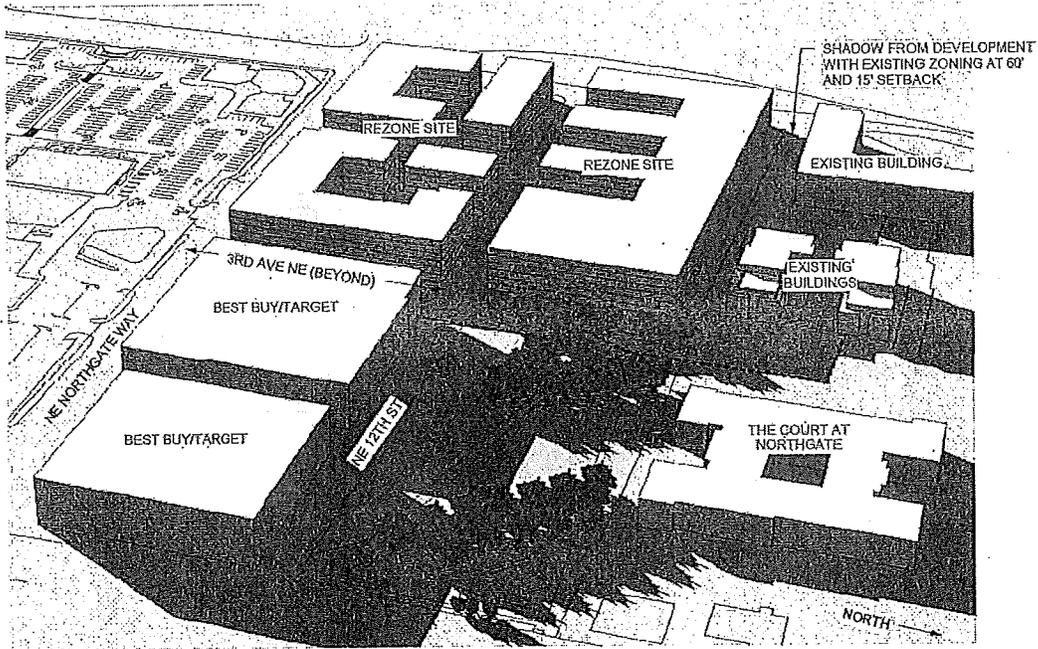


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

**Figure 15**  
Shadow Study - Options 1 & 2  
December 21 - 12:00 PM

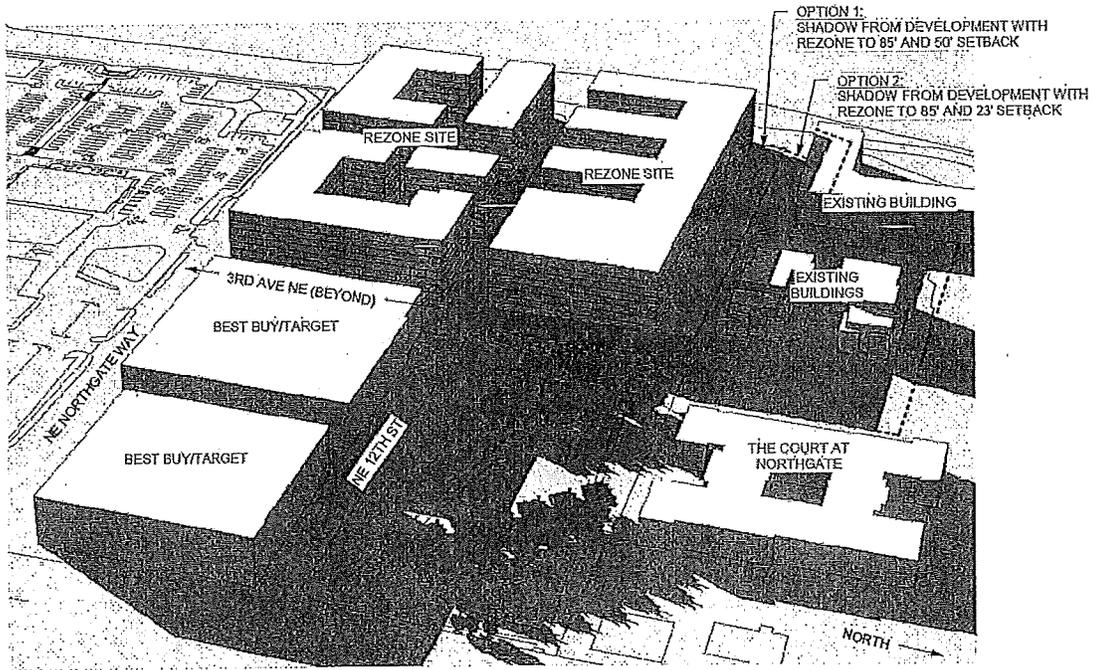


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SHADOW FROM DEVELOPMENT WITH EXISTING ZONING AT 60' AND 15' SETBACK

Existing Zoning - 60'  
15' Setback

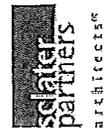


OPTION 1:  
SHADOW FROM DEVELOPMENT WITH REZONE TO 85' AND 50' SETBACK

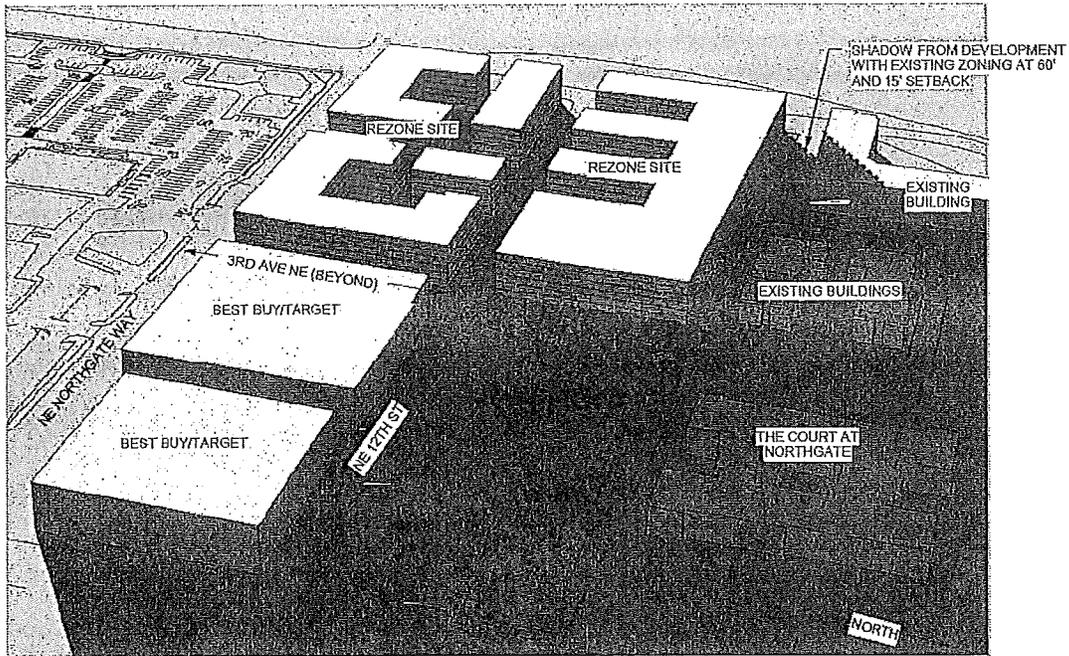
OPTION 2:  
SHADOW FROM DEVELOPMENT WITH REZONE TO 85' AND 23' SETBACK

Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

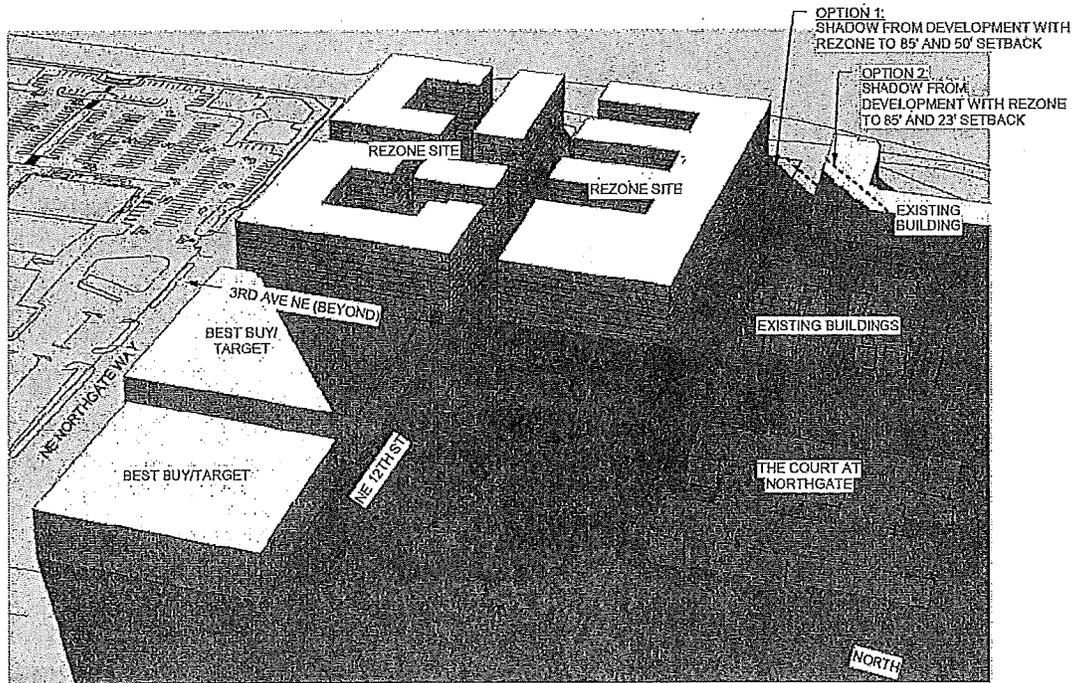
Figure 16  
Shadow Study - Options 1 & 2  
December 21 - 3:00 PM



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Existing Zoning - 60'  
15' Setback

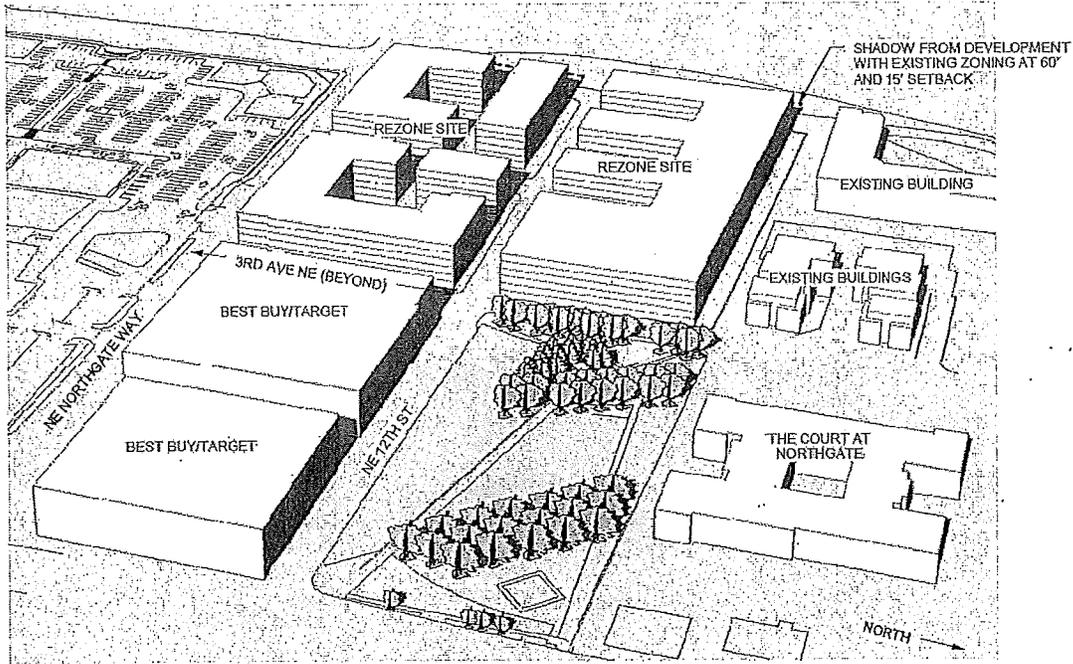


Proposed Zoning - 85'  
Options 1 & 2: 23' & 50' Setbacks

Figure 17  
Shadow Study - Options 1 & 2  
December 21 - 6:00 PM

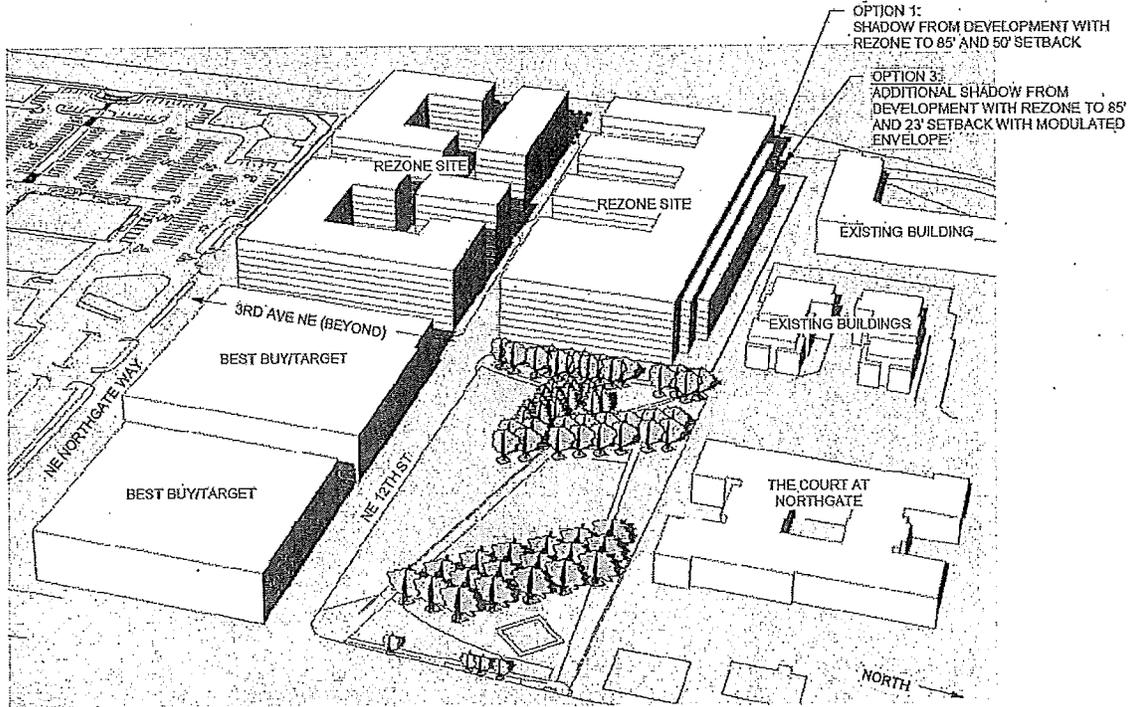


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SHADOW FROM DEVELOPMENT WITH EXISTING ZONING AT 60' AND 15' SETBACK

Existing Zoning - 60'  
15' Setback

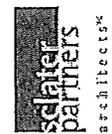


OPTION 1: SHADOW FROM DEVELOPMENT WITH REZONE TO 85' AND 50' SETBACK

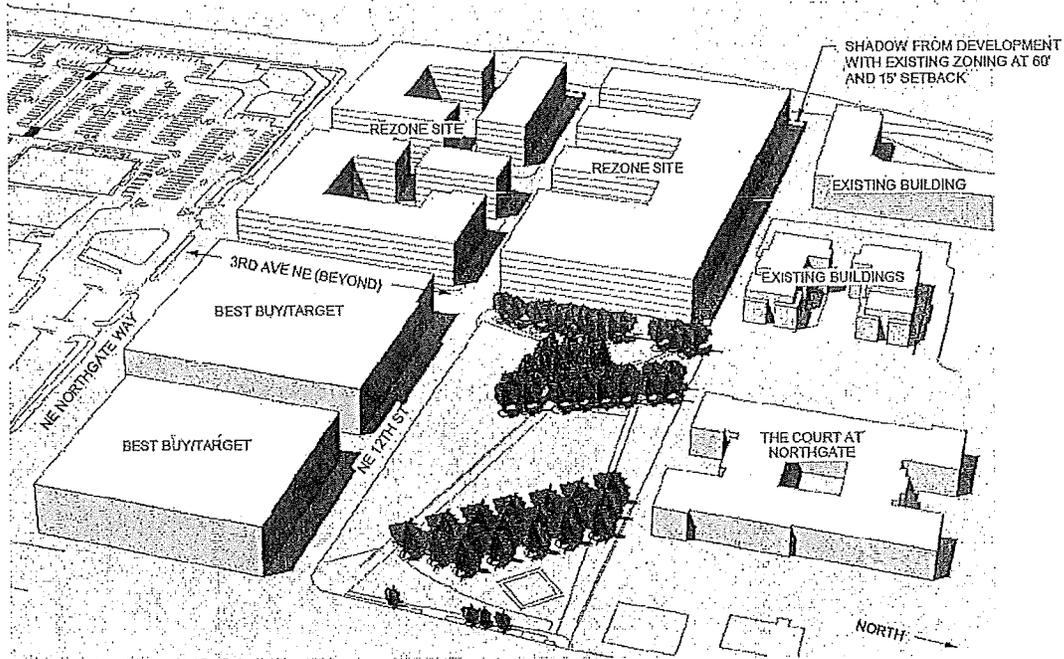
OPTION 3: ADDITIONAL SHADOW FROM DEVELOPMENT WITH REZONE TO 85' AND 23' SETBACK WITH MODULATED ENVELOPE

Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

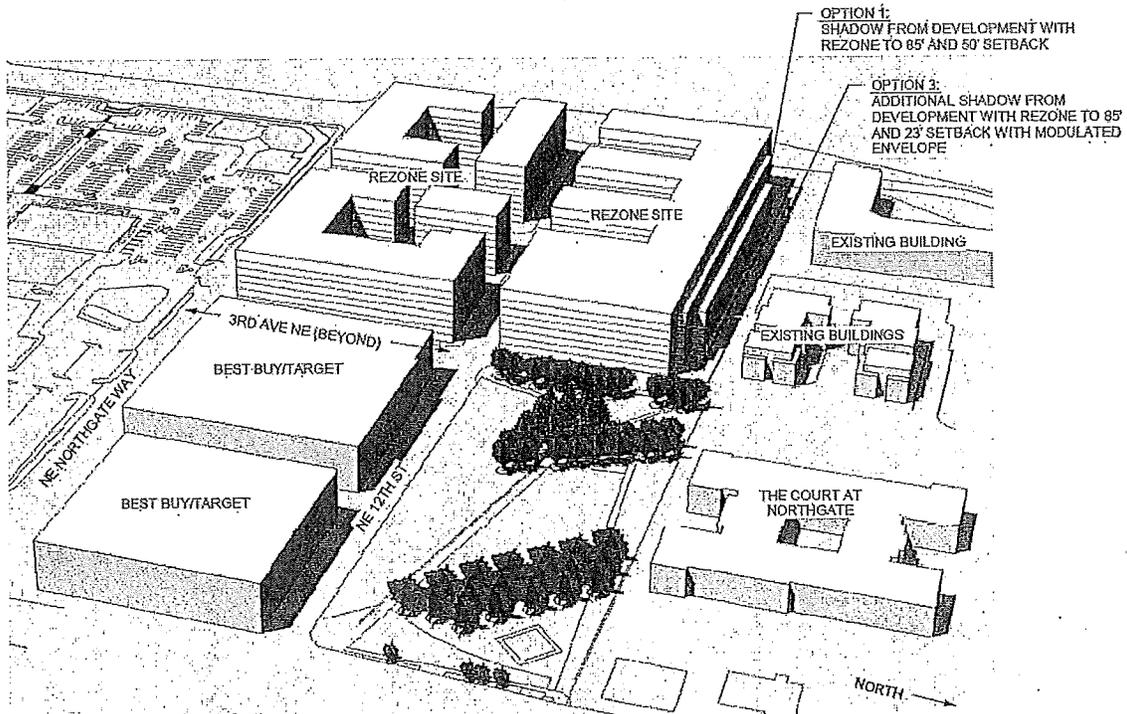
Figure 18  
Shadow Study - Option 3  
June 21 - 9:00 AM



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Existing Zoning - 60'  
15' Setback

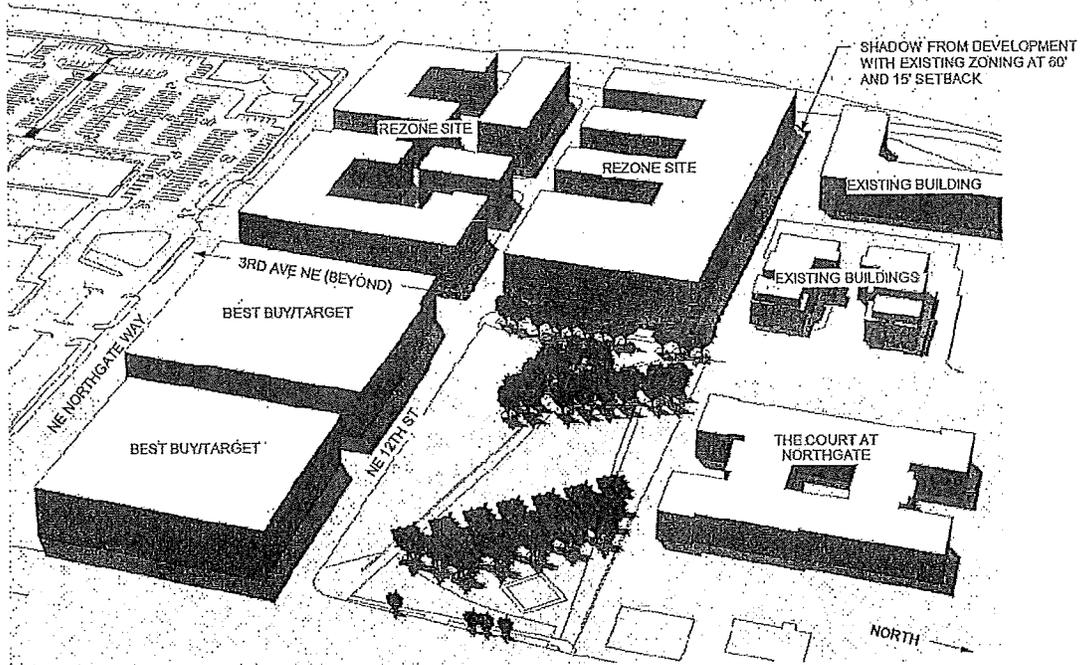


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

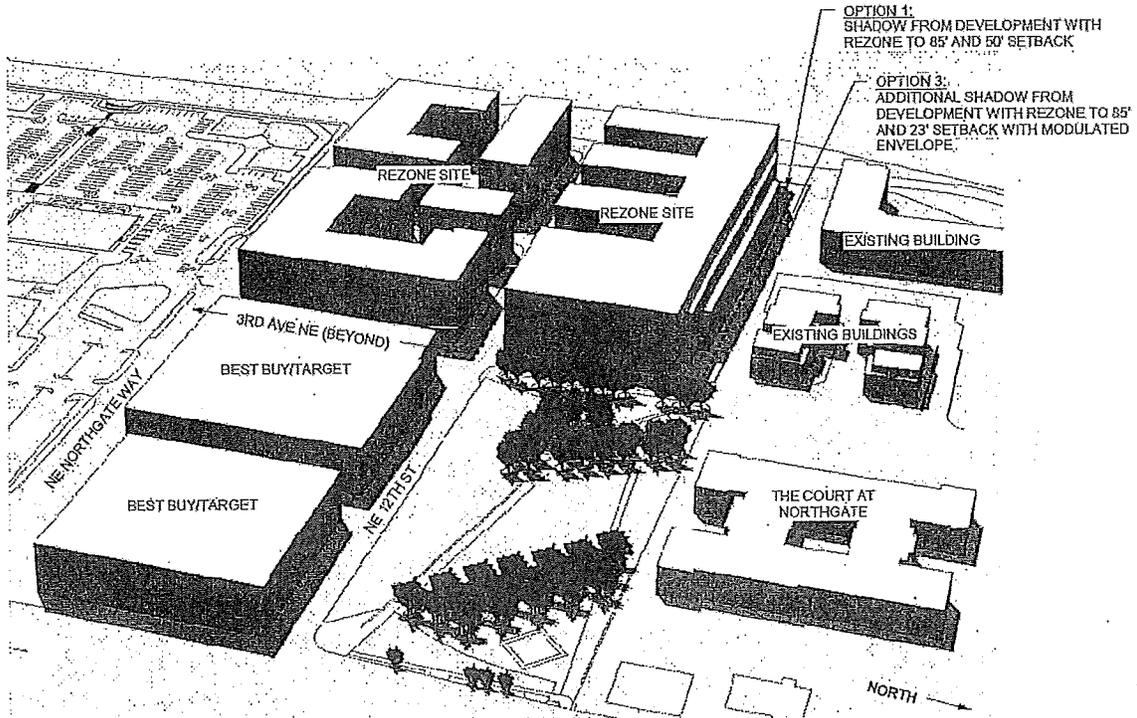
Figure 19  
Shadow Study - Option 3  
June 21 - 12:00 PM



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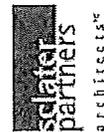


Existing Zoning - 60'  
15' Setback

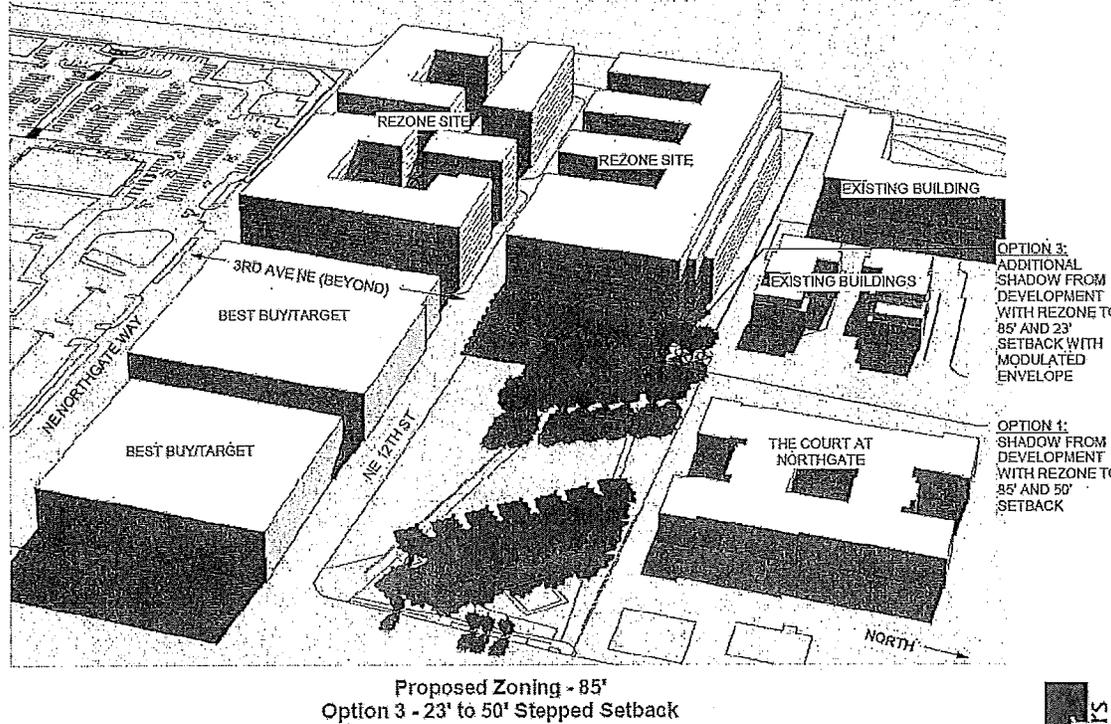
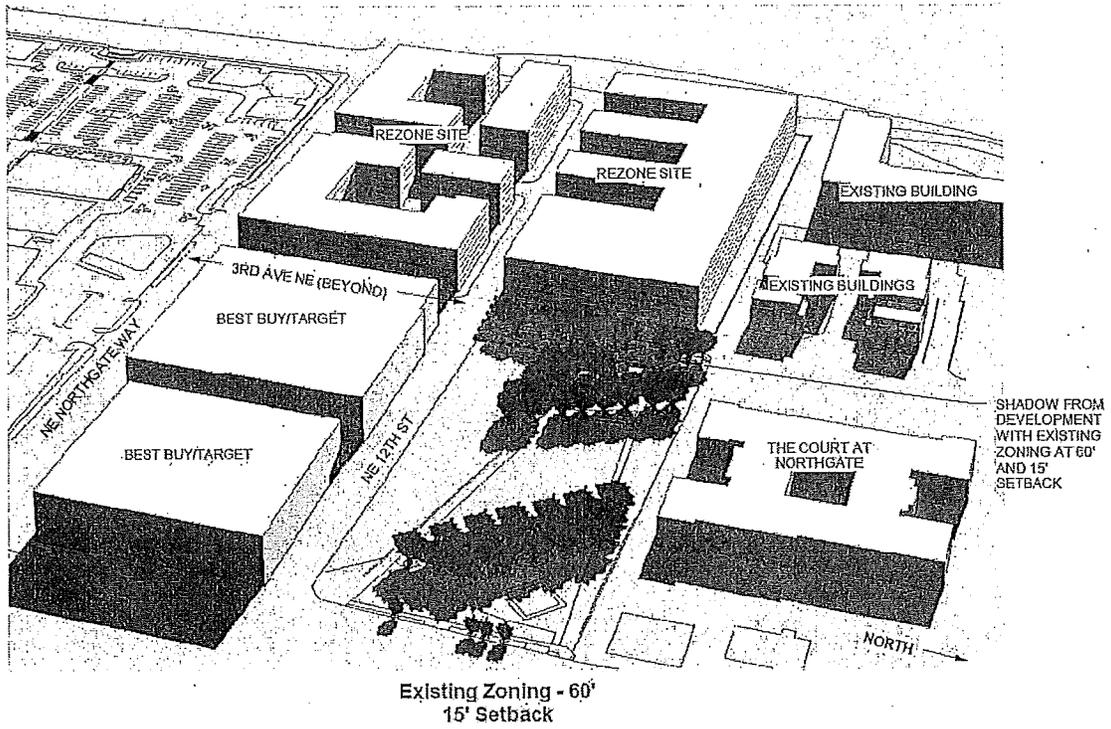


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

Figure 20  
Shadow Study - Option 3  
June 21 - 3:00 PM



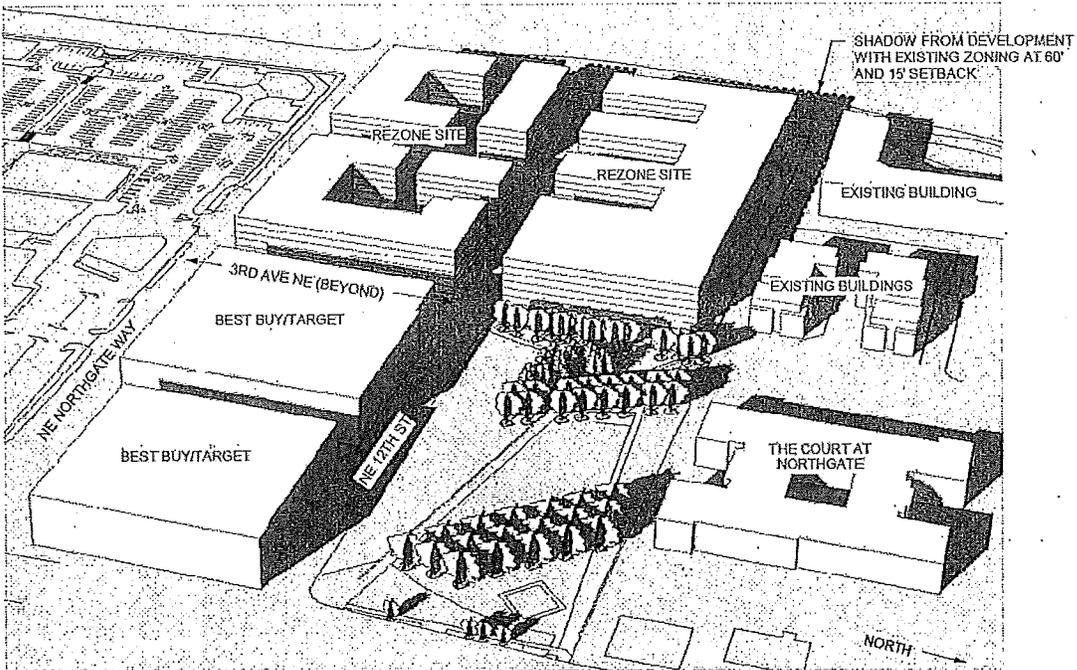
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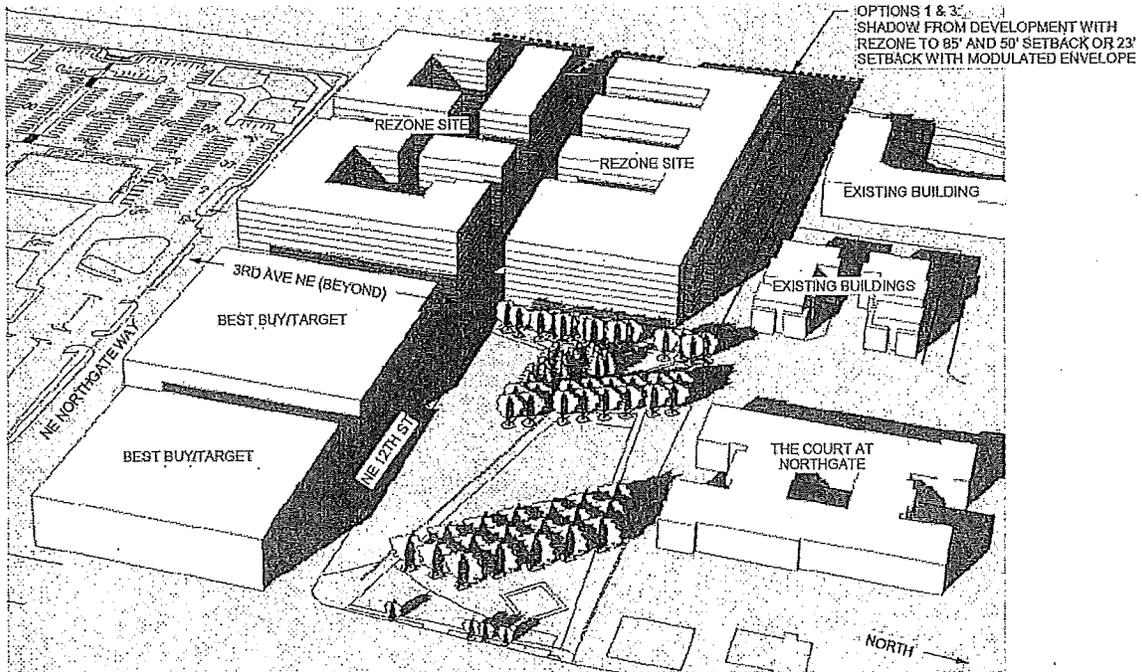
**Figure 21**  
 Shadow Study - Option 3  
 June 21 - 6:00 PM



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Existing Zoning - 60'  
15' Setback

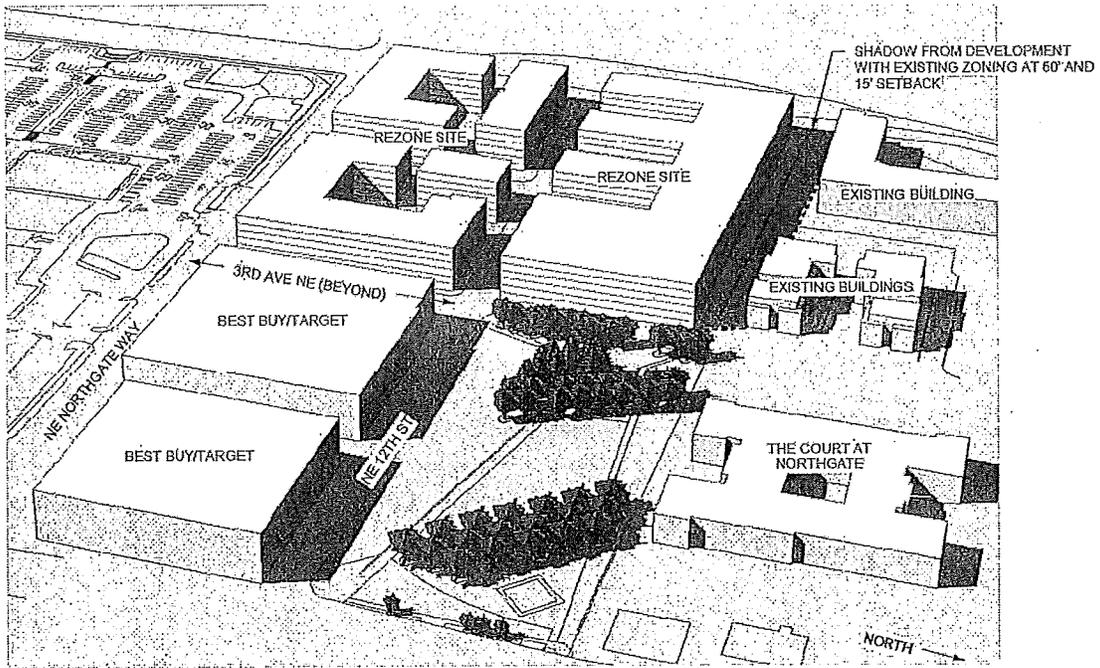


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

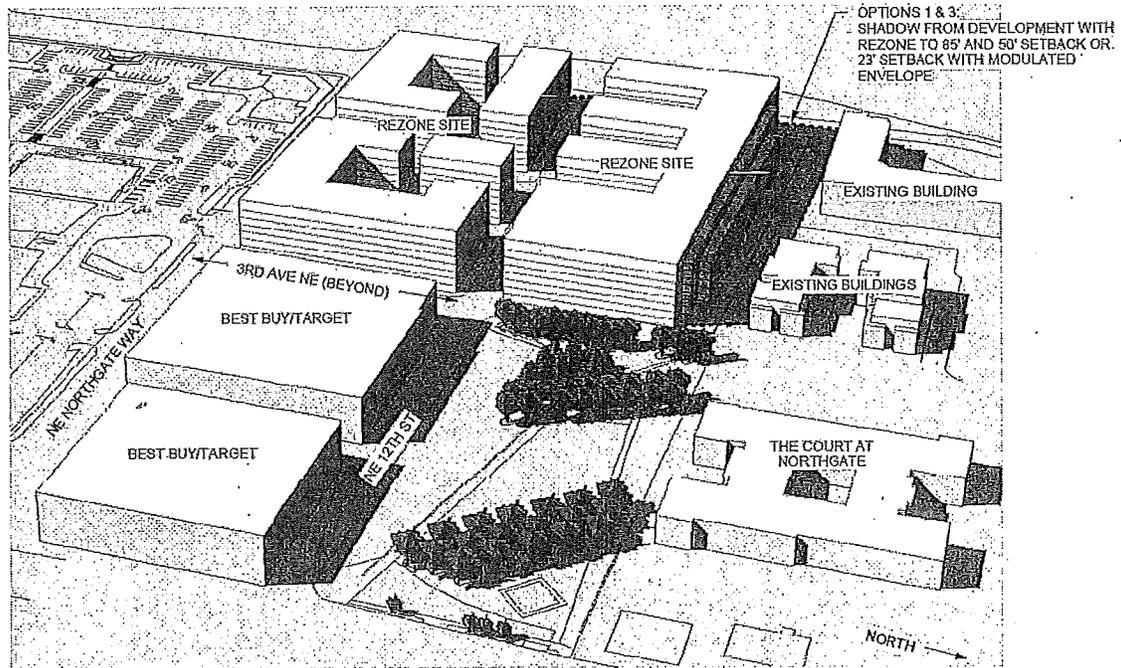
Figure 22  
Shadow Study - Option 3  
September 21 - 9:00 AM



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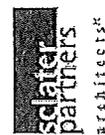
Existing Zoning - 60'  
15' Setback



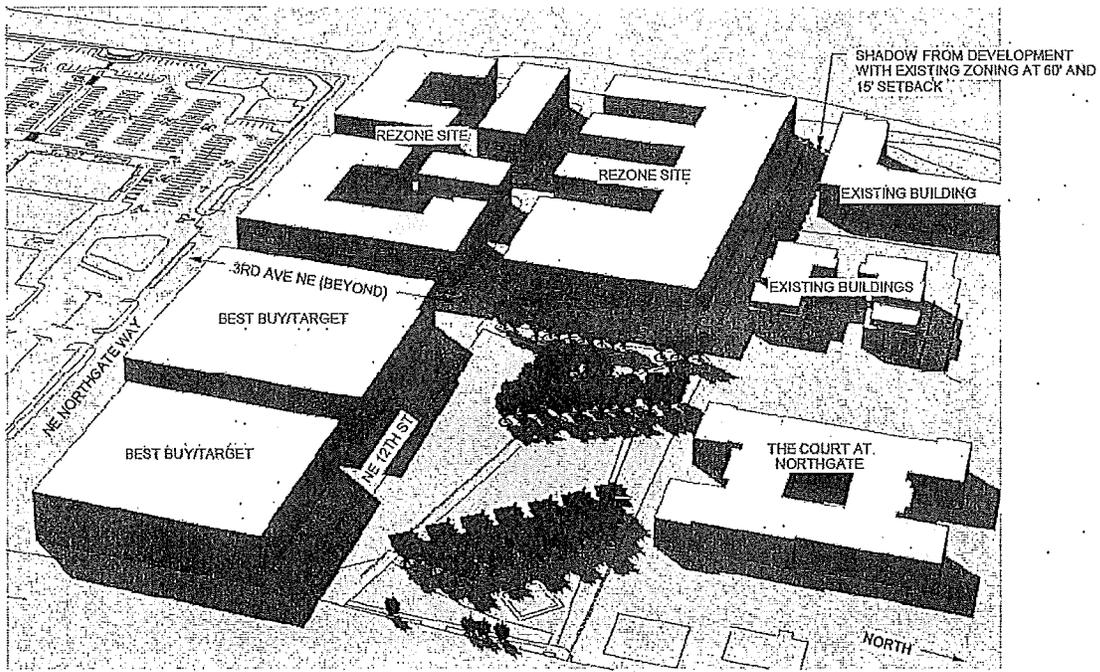
Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

**Figure 23**

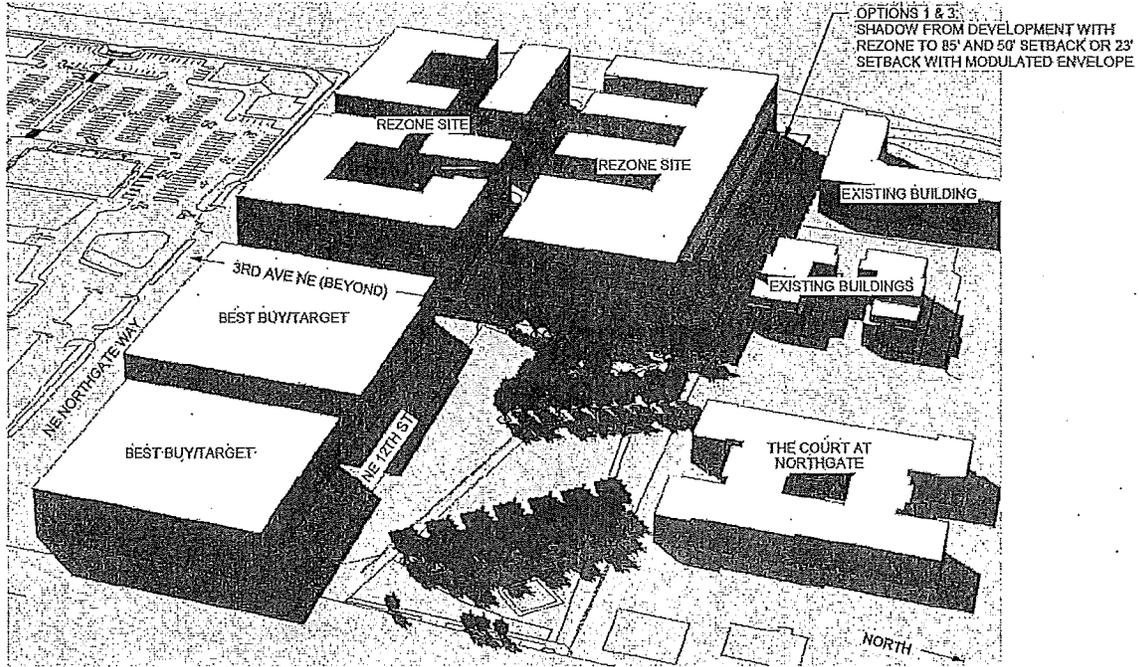
Shadow Study - Option 3  
September 21 - 12:00 PM



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Existing Zoning - 60'  
15' Setback

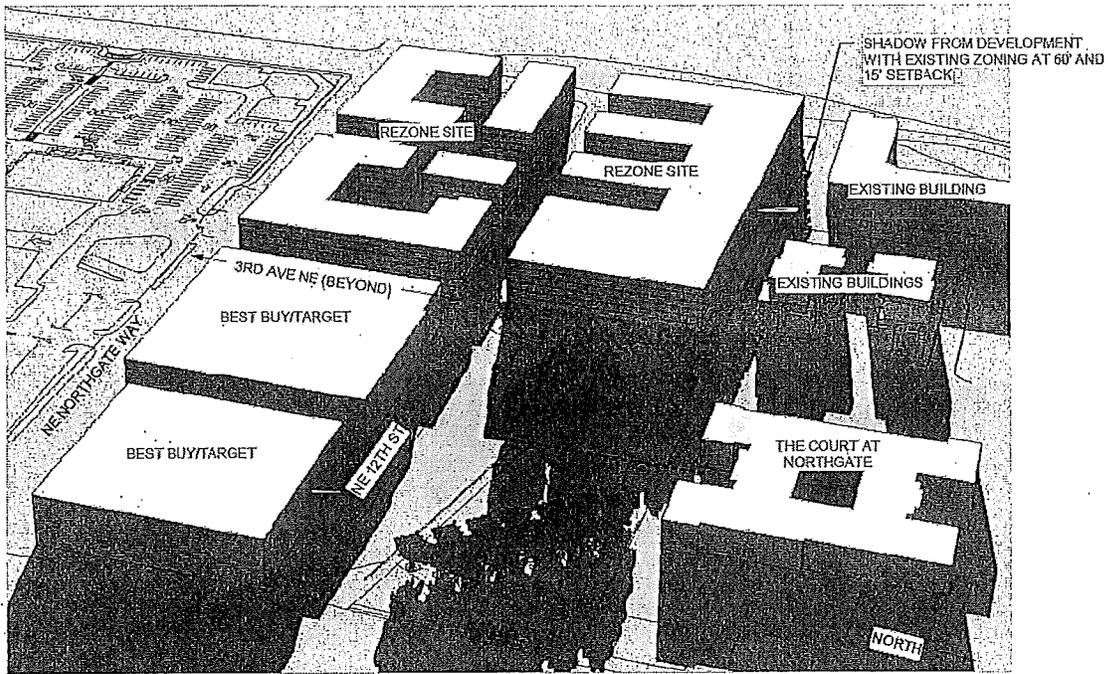


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

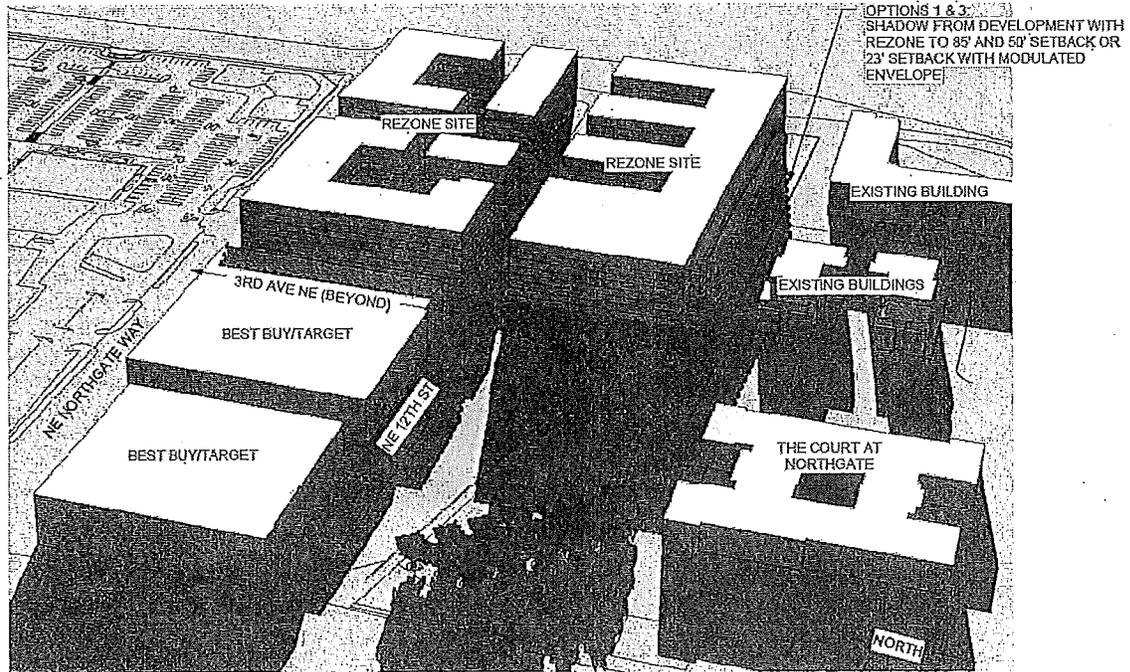
Figure 24  
Shadow Study - Option 3  
September 21 - 3:00 PM



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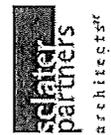


Existing Zoning - 60'  
15' Setback

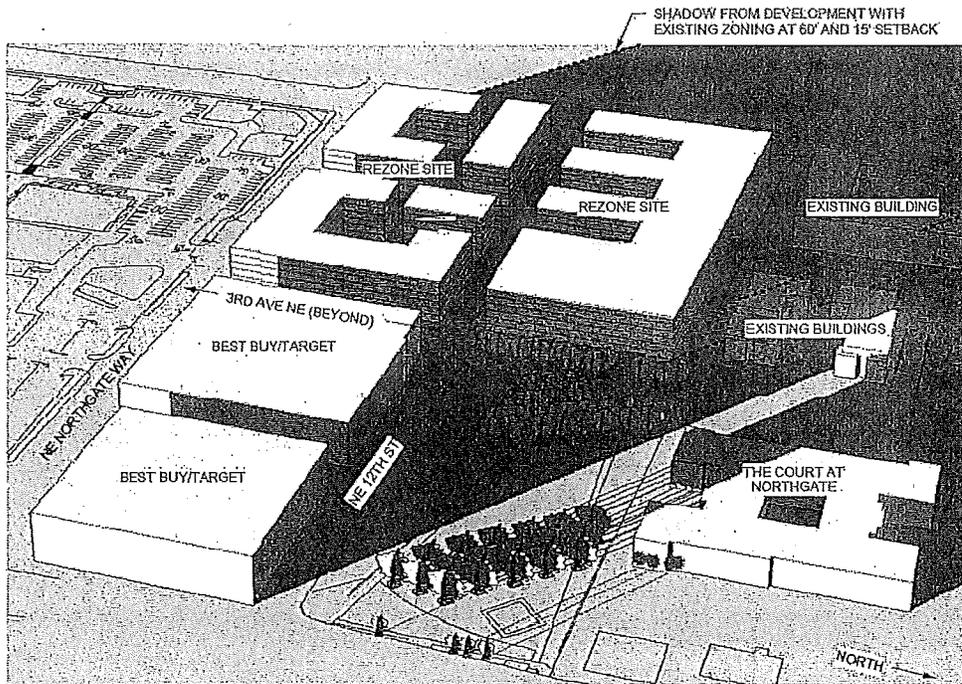


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

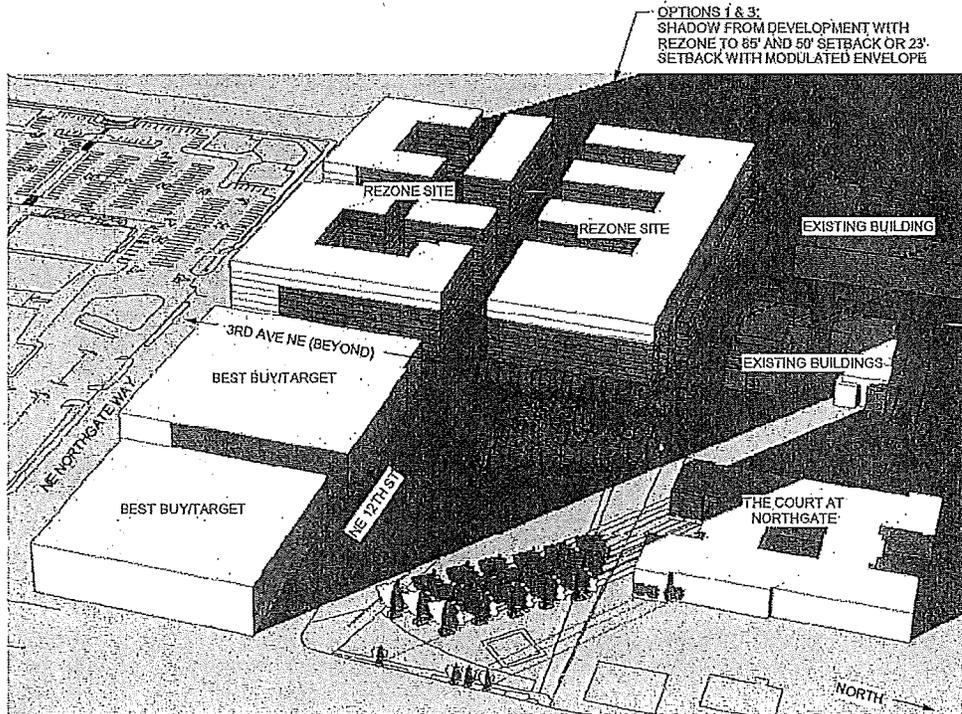
Figure 25  
Shadow Study - Option 3  
September 21 - 6:00 PM



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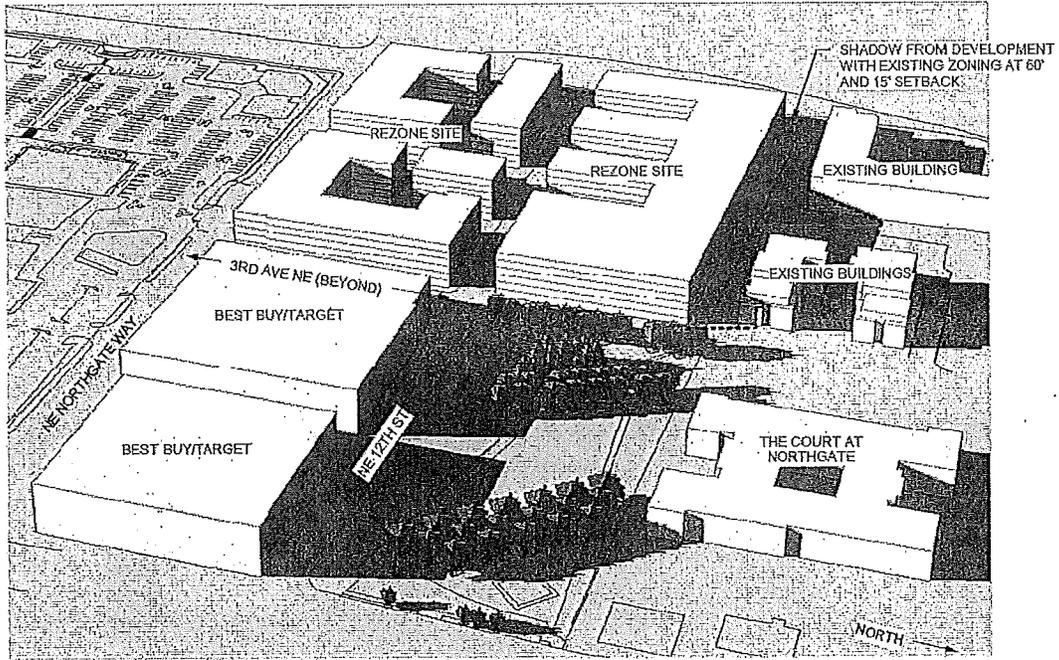


Existing Zoning - 60'  
15' Setback

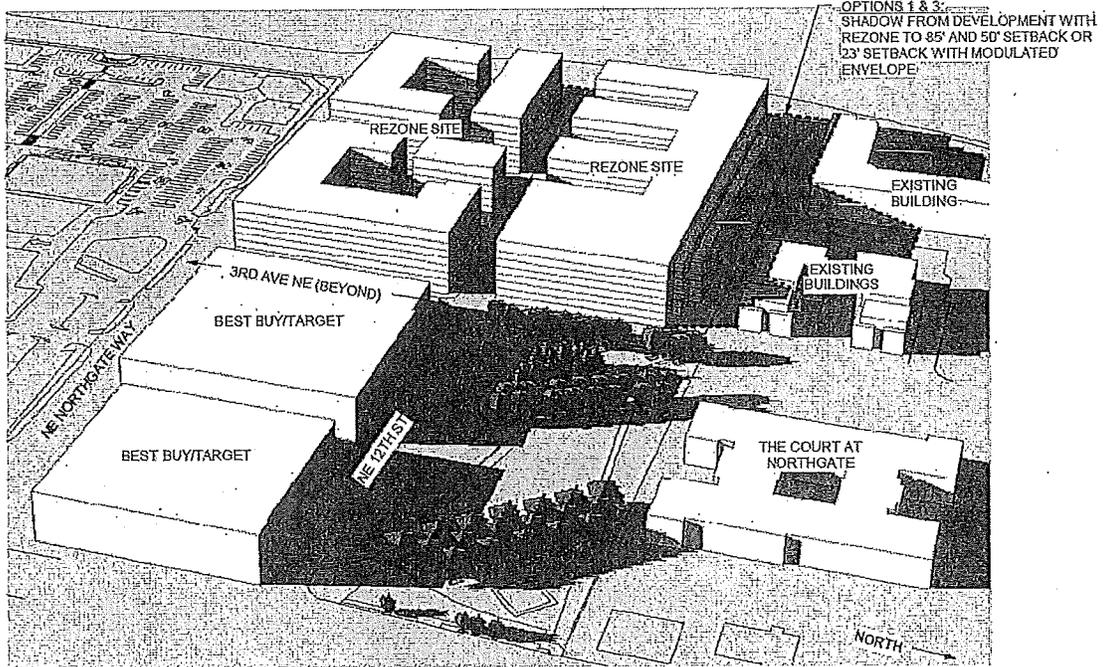


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

Figure 26  
Shadow Study - Option 3  
December 21 - 9:00 AM



Existing Zoning - 60'  
15' Setback

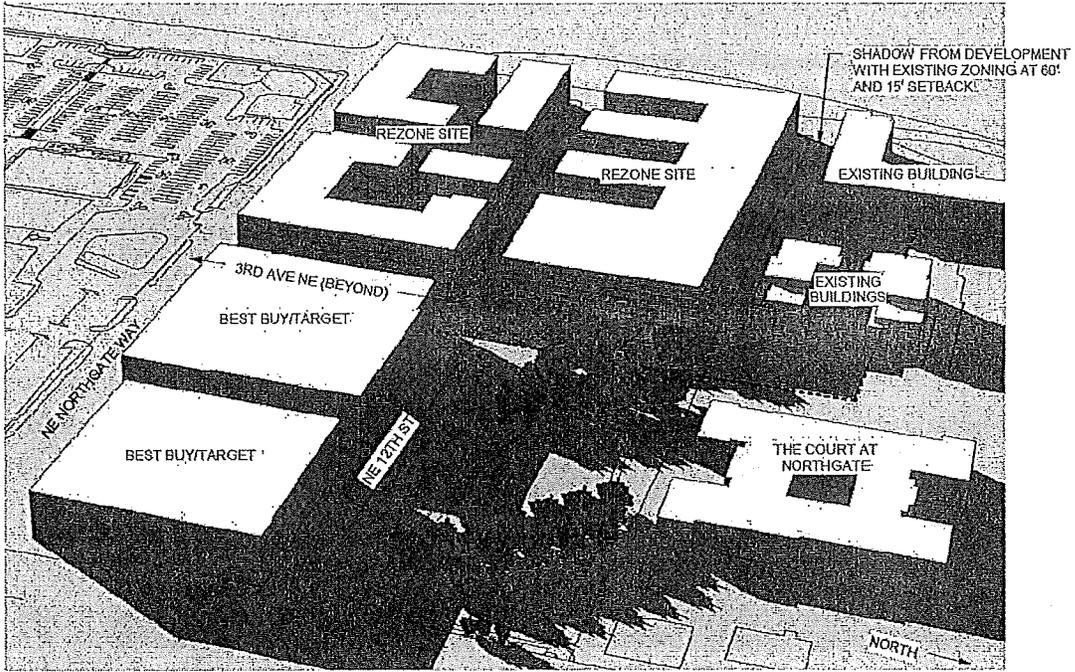


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

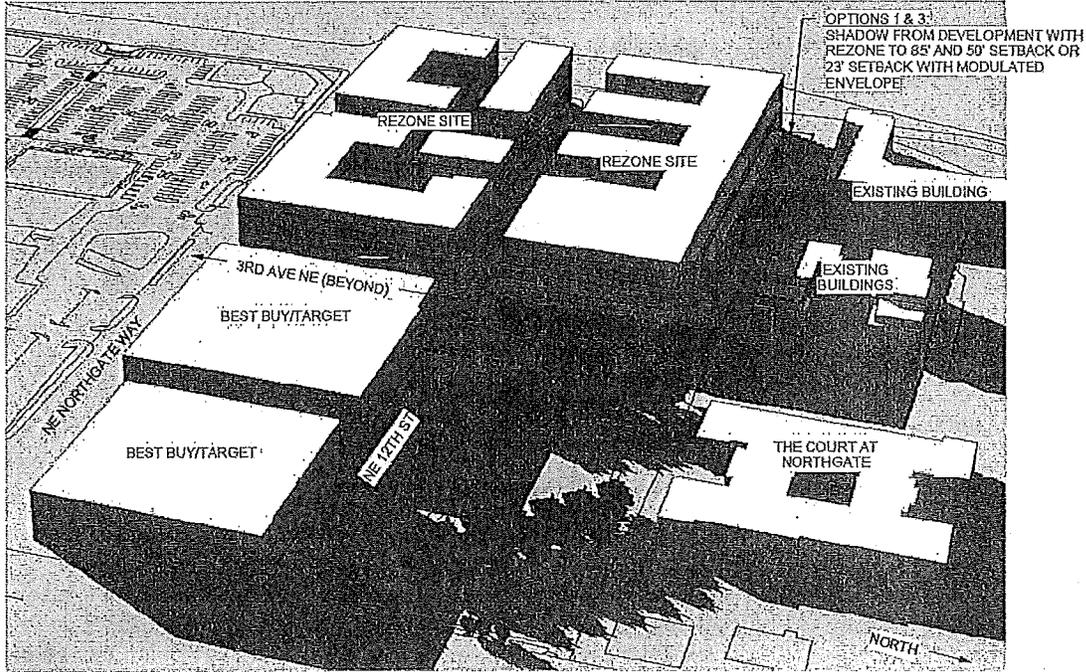
**Figure 27**  
Shadow Study - Option 3  
December 21 - 12:00 PM



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Existing Zoning - 60'  
15' Setback

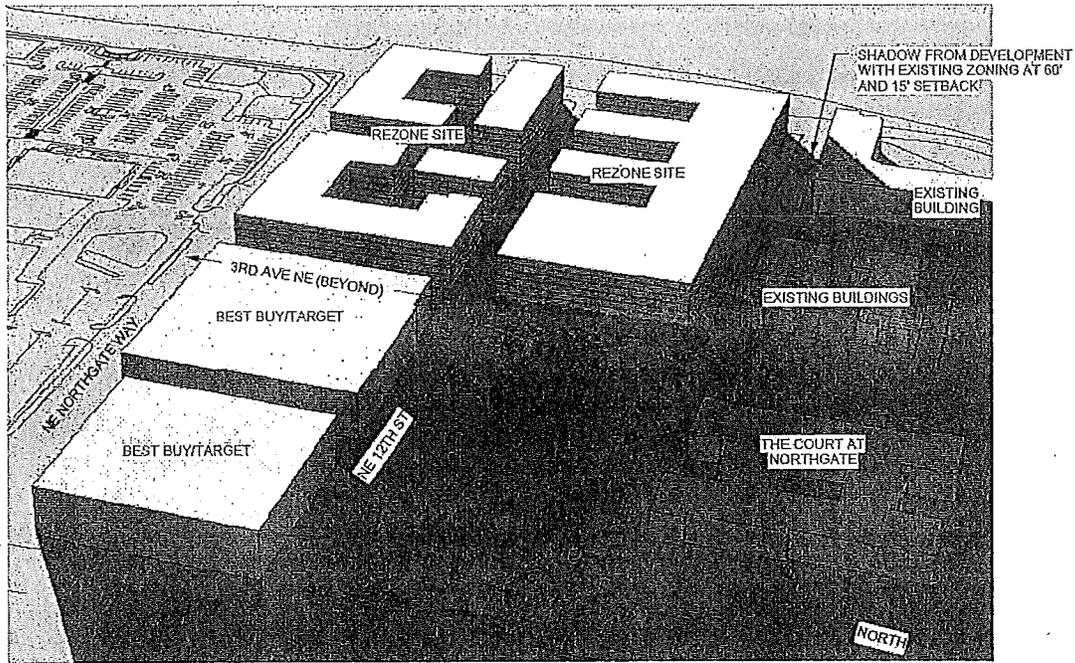


Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

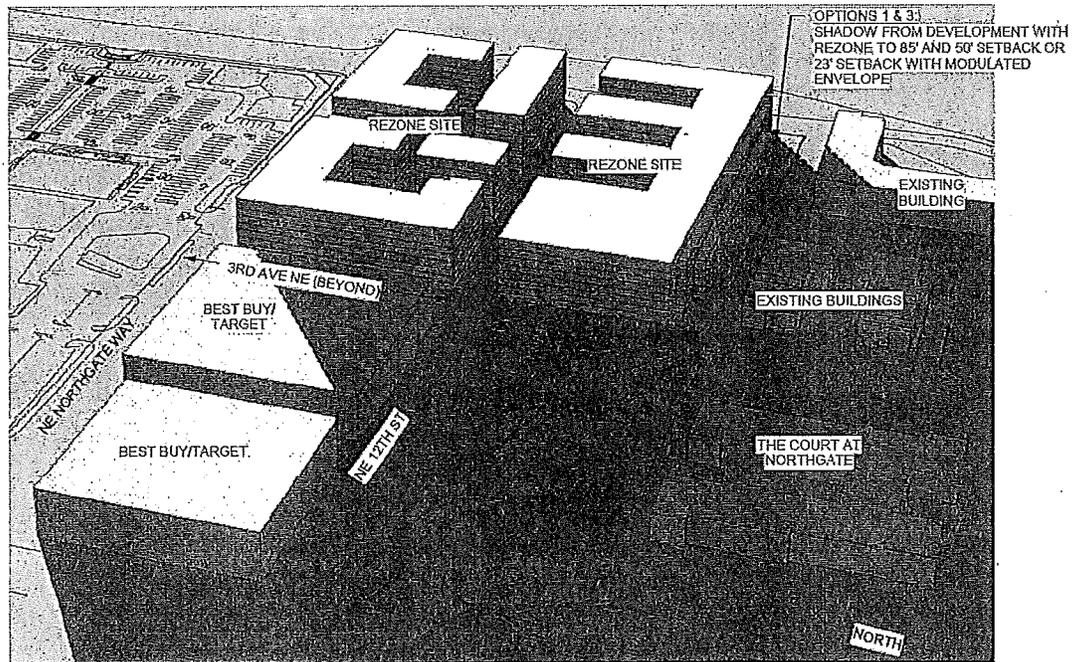
Figure 28  
Shadow Study - Option 3  
December 21 - 3:00 PM



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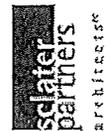


Existing Zoning - 60'  
15' Setback



Proposed Zoning - 85'  
Option 3 - 23' to 50' Stepped Setback

Figure 29  
Shadow Study - Option 3  
December 21 - 6:00 PM



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