



Legislative Department Seattle City Council Memorandum

Date: October 23, 2012

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

From: Sara Belz, Council Central Staff

Subject: **Council Bill (CB) 117639 and Clerk File (CF) 311240:** Application of Northgate Plaza LLC and T&M Jenn LP to rezone 365,040 square feet of land at 11200 1st Avenue Northeast from Midrise (MR) to Neighborhood Commercial 3 with an 85 foot height limit (NC3-85) (DPD Project Number 3006101 / Type IV)

Northgate Plaza LLC and T&M Jenn LP propose the rezone of a site located at 11200 1st Avenue Northeast from MR to NC3-85. The PLUS Committee was previously briefed on this matter at its September 13, 2012, meeting. The subject property is about 18.4 acres in size and located immediately north of Northgate Mall, within the Northgate Urban Center. A 207-unit apartment complex (the Northgate Apartments), two single-family residences, and one duplex currently occupy the site. No development proposal is associated with the rezone application; however, because the execution of a Property Use and Development Agreement (PUDA) will be necessary to condition the rezone as recommended by the Hearing Examiner, this land use action is considered a contract rezone.

For your reference, a copy of the Central Staff memorandum prepared in advance of the PLUS Committee's September 13 discussion of this rezone proposal is included in your notebooks and printed on yellow paper.

CB 117639 and CF 311240

Central Staff, in consultation with the Law Department, has drafted the necessary documents to complete this rezone. These include CB 117639, a Property Use and Development Agreement (PUDA), and a Council Findings, Conclusions and Decision (FC&D) for CF 311240.

Rezone Expiration

It is standard City practice to include termination language in contract rezone ordinances, PUDAs, and Council FC&Ds that causes rezones to expire after three years unless an application for a Master Use Permit is submitted within that three-year time period. In this case, however, Central Staff recommends the proposed rezone not be subject to expiration unless the Council changes the property's zoning designation via a future ordinance. This is due to the long

implementation timelines associated with some of the rezone conditions recommended by the Hearing Examiner, including a land lease requirement that would affect a portion of the rezone site for 75 years (see “c”, below). Consistent with Central Staff’s recommendation, CB 117639, the PUDA, and the Council FC&D for CF 311240 all state that the proposed rezone of 11200 1st Avenue Northeast would not expire unless the Council changes the property’s zoning designation by ordinance.

CB 117639

CB 117639 would amend the Official Land Use Map to reflect the proposed change in zone designation at 11200 1st Avenue Northeast from MR to NC3-85. It would also accept a PUDA that would place several conditions on the rezone. The rezone conditions included in the PUDA are copied below. They were adopted from the Hearing Examiner’s recommendations.

a. No development will be permitted on the Rezone Site prior to Seattle Public Utilities’ approval of a sewer system engineering analysis and any required infrastructure improvements.

b. Future development on the Rezone Site 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 1st Avenue N.E. and 11205 3rd Avenue N.E. from the Midrise to Neighborhood Commercial 3-85’,” dated November, 2011, and included in Clerk File 311240 as Hearing Examiner Exhibit 3.

c. The following conditions relate to affordable housing:

1. The 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 City of Seattle Land Use Code:

a) the units are contiguous within a single building;

b) “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

c) 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 SMC 23.84A.025, as it exists on the date of this Agreement, shall apply.

2. Following the 20-year period of zero lease payments, the 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 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 Owners and Lessee based on commercially reasonable practices, such as a land appraisal or with reference to the Consumer Price Index. The 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.

3. 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.

4. The Owners intend for the Affordable Housing to be constructed on the Rezone Site. However, in the event the 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 Owners shall instead make a payment to a low-income housing developer or developers selected by the 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 1(c)(2), 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:

- a) within the Northgate Urban Center;
- b) within 0.5 miles of light rail or bus rapid transit stations in northeast Seattle;
- c) within 0.25 miles of a bus stop in northeast Seattle; or

d) 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.

5. In addition to the Affordable Housing or Payment, the 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 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.

6. This Section 1(c) 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 this Section 1(c); provided, however, that if the newly enacted or expanded affordable housing incentive program requires fewer affordable units than this Section 1(c) 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 Owners nonetheless agree to implement this Section 1(c), 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.

Staff recommends approval of CB117639.

CF 311240

CF 311240 contains the content of the record established by the Hearing Examiner and a proposed Council FC&D. The proposed Council FC&D adopts the Hearing Examiner’s Findings, Conclusions and grants the proposed rezone as conditioned in the PUDA. A copy of the proposed Council FC&D (labeled “DRAFT”) is included in Committee members’ notebooks and printed on green paper.

Staff recommends approval of the proposed Council FC&D.

Next Steps

A Committee recommendation on October 26 will enable Full Council votes on both CF 311240 and CB 117639 to occur on November 5.