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:	3012420
Applicant Name:	Gregory Nalbandian for John Lash
Address of Proposal:	10001 Lake City Way NE
Council File:	311694

SUMMARY OF PROPOSED ACTION

Council Land Use Action to rezone 5,581 sq. ft. of land from SF 5000 to C1-40' and to construct an 800 sq. ft. structure accessory to an existing warehouse in an environmentally critical area.

The following approvals are required:

Rezone - to rezone from SF 5000 to C1-40' (Seattle Municipal Code 23.34).

SEPA - Environmental Determination - Seattle Municipal Code Chapter 25.05.

SEPA DETERMINATION: [ ] Exempt [X] DNS [ ] MDNS [ ] EIS

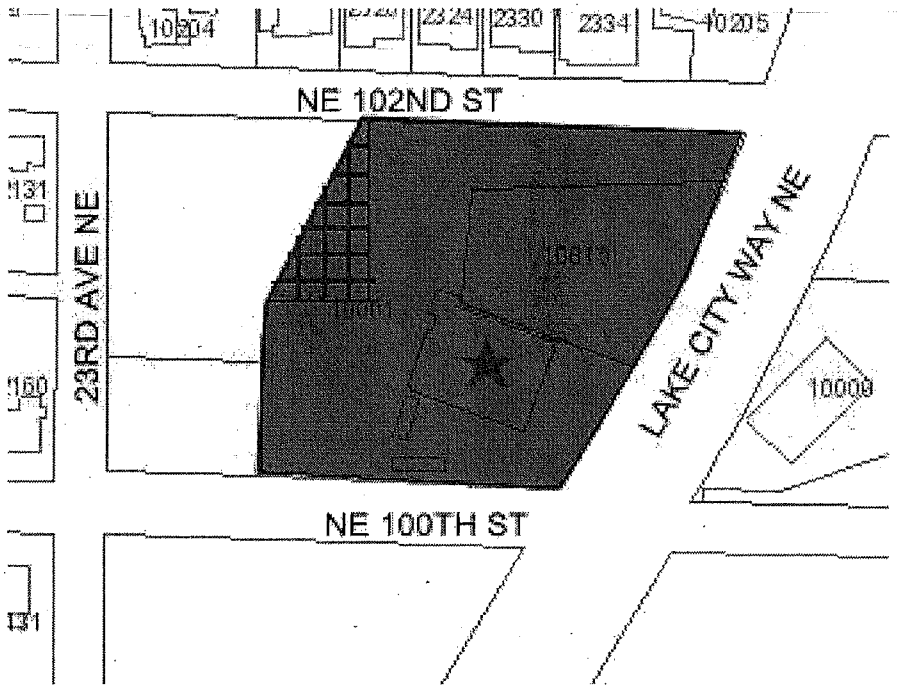
[ ] DNS with conditions

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

City of Seattle Hearing Examiner
EXHIBIT
Appellant ___
Respondent ___ ADMITTED ___
Department ___✓ DENIED ___
FILE CF #311694, 3012420
1

BACKGROUND DATA

Site and Vicinity Description



For illustrative purposes only

The area proposed to be rezoned (the "subject site") is located mid-block along Lake City Way NE, between NE 100th St. and NE 102nd St., and is depicted as the cross-hatched area on the map to the right. It is currently zoned Single Family 5000 (SF 5000), is located within the Northgate Overlay District, and has an area of 5,581 sq. ft. The applicant is requesting a rezone of the subject site from Single Family (SF 5000) to Commercial 1 (C1-40'). The shaded area on the map is currently zoned, C1-40', the cross-hatched area and the un-shaded area on the block are zoned SF 5000. The proposed rezone would modify the existing boundary between the SF 5000 and C1-40' zones.

The current zoning boundary between the SF 5000 zone and the C1- 40' zone coincides with the boundary of the Northgate Overlay District, so that the property within the SF 5000 zone (including the subject site) is located within the Northgate Overlay District, but the property zoned C1-40' is not. The applicant has not requested a change to the boundaries of the Northgate Overlay District.

As shown on the map, the subject site is located on the block bounded by NE 102nd St. on the north, NE 100th St. on the south, 23rd Ave. NE on the west and Lake City Way NE on the east. The block consists of four tax parcels with the following Parcel Identification Numbers (PINs): 5101405879, 5101405880 (which includes the subject site), 5101405881 and 5101405882. PINs 5101405879, 5101405880 and 5101405882 are under common ownership with the subject site. PIN 5101405881 (addressed on the map as 10015) is under separate ownership. More detailed maps with zoning and PINs appear on page 4 of this report.

As noted above, the 5,581 sq. ft. subject site is part of, and under common ownership with, a larger parcel (Parcel Identification Number 51010405880) the remainder of which is zoned Commercial 1 (C1-40'). PIN 51010405880 includes the area addressed as 10001 Lake City Way NE on the map, and has a total area of 61,420 sq. ft., including the subject site.

The subject site is currently developed with a 15.5' by 51.67' storage shed, built without permits, which is the subject of a DPD enforcement action (Case No. 1024761). The storage shed is accessory to the commercial use in the adjacent commercial zone. Commercial structures and uses are generally not permitted in Single Family zones, but the proposed rezone (if approved) would allow the applicant to proceed with applications for the appropriate building permits for this structure.

PIN 510405880 is developed with commercial structures in warehouse and manufacturing use. A survey shows minor encroachments of the existing warehouse structure into the SF 5000 zoned subject site (2.5 feet at one corner and .5 feet at another). These encroachments into the SF 5000 zone would also be resolved by the proposed rezone.

PIN 510405881 (addressed 10015 Lake City Way NE) is developed with a commercial structure used for custom and craft work. The remainder of the block (PINs 5101405882 and 5101405879) is zoned Single Family and is undeveloped.

The SF 5000/C1-40' split zoning of the block on which the subject site is located is a pattern repeated along Lake City Way NE for a few blocks north and south of the subject site. The depth of the C1-40' zone in this area varies from about 120 to over 300 feet deep, before transitioning to SF 5000 to the west.

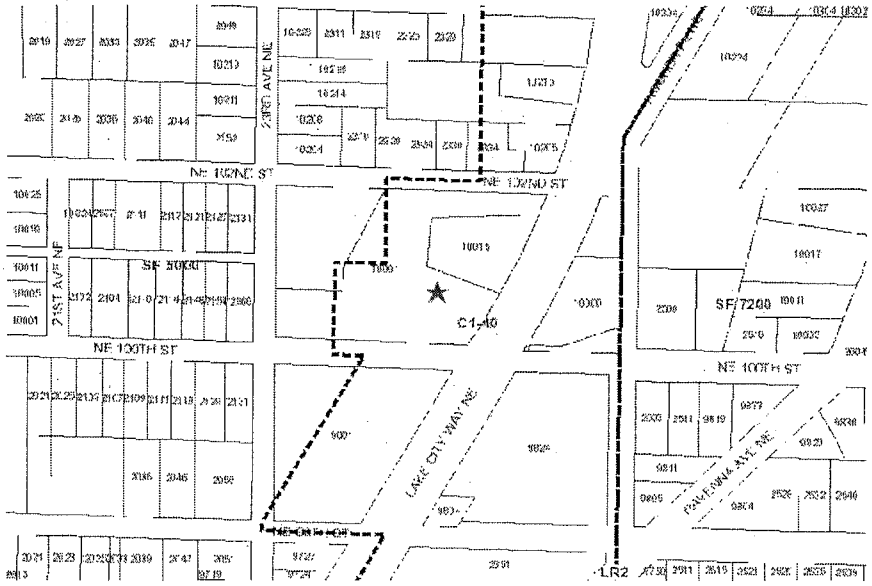
North of NE 102nd St. the zoning is C1-40' adjacent to Lake City Way NE for a depth of about 180 feet before transitioning to SF 5000 to the west. South of NE 100th St. the zoning is C1-40' adjacent to Lake City Way NE for a depth of about 235 feet before transitioning to SF 5000. The zoning west of 23rd Ave NE is SF 5000, and east of Lake City Way the zoning is C1-40'.

Lake City Way NE is a principal arterial and is identified as "Primary State Highway No. 2" on the quarter section map. NE 100th St., NE 102nd St., and 23rd Ave. NE are all non-arterials. NE 100th St. is open but unimproved, with no curbs or sidewalks. NE 102nd St. is only partially improved to a width of about 12 feet. Twenty-third Ave NE is not open.

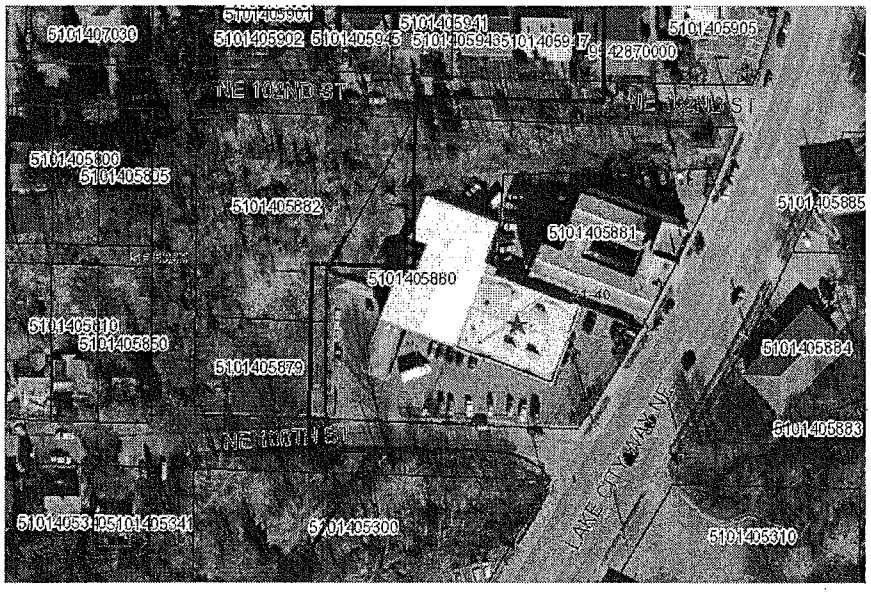
PIN 510405880 includes the following mapped environmentally critical areas (ECAs): steep slope, riparian corridor and wetlands within 100 feet. A small portion of the southern edge of PIN 510405880 falls within the mapped riparian corridor management area (which is the area within 100 feet of the top of the bank). However, the actual riparian corridor is located off-site, more than 230 feet away from the area proposed to be rezoned. The area mapped as wetlands coincides with the riparian corridor. Because of the distance between the subject site and the riparian corridor and wetlands, the ECA regulations for riparian corridors and wetlands do not apply to the subject site.

All of the subject site and much of the remainder of the block is mapped as an environmentally critical due to the presence of steep slopes. A Non-disturbance Covenant was recorded for the Steep Slope ECA as a condition of approval of a short subdivision approved by DPD in 2003 under DPD MUP 2100234. However, based on new geotechnical information submitted by the applicant as part of an ECA exemption request for construction of the shed, an ECA exemption from steep slope code requirements was granted in 2011 (DPD No. 6265722). In light of the new geotechnical information, the Department is in the process of removing the Non-disturbance

Covenant from the site. Although the steep slope standards found at SMC 25.09.180 no longer apply to the subject site, the site is still subject to the ECA regulations for landslide-prone areas.



Existing Zoning Boundary and Addresses



Existing Development (2010) and Parcel Identification Numbers

Proposal Description

The applicant proposes a contract rezone to change the zoning designation of a 5,581 sq. ft. triangular property from SF 5000 to C1-40', for the purpose of locating an 800 sq. ft. storage shed accessory to the abutting warehouse. The shed has already been constructed.

The applicant proposes a Property Use and Development Agreement, "To ameliorate any impact of development or use change." The applicant's proposed PUDA includes the following elements:

1) Limit current and future development within the subject site to 15 percent or less of total area (Subject Site = 5,581 sq. ft., 15% of 5,581 sq. ft. = 837 sq. ft.
2) No removal of any existing foliage for any future development within the rezoned area.
3) No development within 25 feet of the property lines inside the rezoned area.

Seattle Municipal Code (SMC) Chapter 23.34, "Amendments to Official Land Use Map (Rezones)," 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. Contract rezones and PUDAs are provided for in the Code at SMC 23.34.004.A.

Public Comments

Notice of the rezone proposal was issued August 4, 2011 and ended on August 17, 2011. One comment was received via email, but neither a full name nor a mailing address was provided.

ANALYSIS - REZONE

The applicable requirements for this rezone proposal are stated in SMC Sections 23.34.004, (contract rezones) 23.34.007 (rezone evaluation), 23.34.008 (general rezone criteria), 23.34.009 (height limits), 23.34.010 (designation of single family zones), 23.34.011 (single-family zones, function and locational criteria), 23.34.072 (designation of commercial zones), and 23.34.080 (C1 zones, function and locational criteria).

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

SMC 23.34.004 Contract rezones.

A. *Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions shall be directly related to the impacts that may be expected to result from the amendment. A rezone*

shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.

As noted above, the applicant proposes a Property Use and Development Agreement, "To ameliorate any impact of development or use change." The applicant's proposed PUDA includes the following elements:

1) Limit current and future development within the subject site to 15 percent or less of total area (Subject Site = 5,581 sq. ft., 15% of 5,581 sq. ft. = 837 sq. ft.)
2) No removal of any existing foliage for any future development within the rezoned area.
3) No development within 25 feet of the property lines inside the rezoned area.

DPD's analysis and recommendation with regard to these PUDA elements will follow a discussion of anticipated impacts and potential mitigation measures, below.

B. Waiver of Certain Requirements. The ordinance accepting the agreement may waive specific bulk or off-street parking and loading requirements if the Council determines that the waivers are necessary under the agreement to achieve a better development than would otherwise result from the application of regulations of the zone. No waiver of requirements shall be granted which would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

No waivers are being requested as part of the proposed rezone.

<u>SMC 23.34.007 Rezone Evaluation.</u>

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 subject site is not within any urban center or urban village. The proposed rezone has been evaluated according to provisions of this chapter that apply to areas that are outside of urban villages and urban centers.

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 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.

Conclusion:

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

SMC 23.34.008 General rezone criteria.

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 subject site is not located within any urban village or urban center, and therefore these criteria do not apply to that portion of the proposed rezone.

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 both SF 5000 and C1-40' zoning can be found in the responses to SMC 23.34.011 and 23.34.080 below. Because the area proposed to be rezoned is small (5,581 sq. ft.) and located on an existing zoning boundary between SF 5000 and C1-40', only these two zones were considered. Based on the analysis, the site has been determined to better match the location criteria for the C1-40 zone.

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

The property was annexed into the City of Seattle in 1953. According to the 1954 Official Zoning Map, the zoning designation at the time was Single Family (R1 – First Residence District) and Commercial (B – Business District). The boundary line between the two zones was in the same location as it is today.

According to DPD maps dated 1983 and 1993, the zoning was Single Family (SF 5000) and Commercial (C1-40'), with the boundary line unchanged. The Northgate Overlay District was adopted in 1993, by Ordinance No. 116795. As noted above, the Northgate Overlay District boundary line coincides with the existing boundary line between the SF 5000 and C1-40' zones that split PIN 5880.

Use and development standards applicable in the Northgate Overlay District are found in SMC Chapter 23.71. According to SMC 23.71.002, the purpose of the Northgate Overlay District 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."*

Specific adopted goals and policies for Northgate have been adopted into Seattle's Comprehensive Plan. Please see Neighborhood Plans, below.

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 were may be found in the City of Seattle Comprehensive Plan Adopted Neighborhood Plans section. The Neighborhood Plan was adopted in 1993.

The property is also located within the planning area of the North Neighborhoods (Lake City) Neighborhood Plan (adopted in 1999) and is also subject to specific policies within that Plan. Please see discussion of applicable Neighborhood Plan policies, below.

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 Area Overlay District but not within the Northgate Urban Center, Northgate Core or Northgate Core Subarea. Because it is located within the Northgate Overlay District it is covered by the adopted portions of the Northgate Neighborhood Plan.
The property is also located within the planning area of the North Neighborhoods (Lake City) Neighborhood Plan, and is also subject to specific policies within that Plan. The property is not located within the Lake City Hub Urban Village.

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 Neighborhood Plan (adopted in 1993) include the following land use policies to guide future rezones:

> *NG-7 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.*

The proposed Property Use and Development Agreement would limit the intensity and scale of development when compared with the development potential of a C1-40' zone without the PUDA. As limited by the PUDA, the proposed C1-40 zone provides a better transition between the SF 5000 and C1-40 zone than provided by the existing zoning boundary (without the benefit of the PUDA).

> *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.*

As discussed below, the location criteria for single family zones are not met for the subject site.

> *NG-P8.5 Support future potential rezones to higher intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity, among other considerations associated with a rezone review.*

The subject site is not located in the North Core Subarea.

The adopted portions of the North Neighborhoods (Lake City) Neighborhood Plan include the following land use policy to guide future rezones:

> *NN-P39 This policy is to be considered in the review of future rezones in the area defined by 15th Ave NE on the west, NE 95th Street on the south, NE 145th Street on the north, and Lake Washington on the east. Rezones are not favored by this neighborhood plan if they would:*
>
> - *increase the permitted density of residential or commercial use (except for rezones from C to NC zones);*
> - *increase the permitted bulk or height of structures*
> - *change a neighborhood commercial (NC) to a commercial (C) zone; or*
> - *change a commercial to an industrial zone.*
>
> *This policy shall not apply to rezones proposed in close proximity to a high capacity transit station outside of the urban village. Any rezone should be done in cooperation with the community.*

The proposed PUDA would restrict development of the subject site such that bulk and scale would be decreased when compared with the development potential under the existing Single Family zoning. The PUDA would limit development to 15 percent of the subject site (35 percent lot coverage is permitted in single family zones) and setbacks of 25 feet to the property lines (five-foot side yards are required in SF zones). The applicant has not proposed to limit height under the PUDA. The existing shed is about 15 feet tall. In order to meet the intent of Policy NN-P39, DPD recommends amending the proposed PUDA to limit the height to 30 feet, consistent with the existing SF 5000 zoning. The proposed rezone, together with the proposed PUDA and the recommended 30-foot height limit would 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.*

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;*

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.*

   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.*

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.*

The subject site is located on an existing zone boundary between SF 5000 and C1-40' zones, on a site that slopes steeply down from the northwest to the southeast so that the SF 5000 zone is ten to twenty feet higher than the C1-40' zone. The proposed PUDA would limit future development in such a way as to be more restrictive than permitted under either zone, and would therefore provide a better transition that the existing zoning boundary. Under the PUDA, bulk and scale would be reduced, and DPD recommends restricting the height limit to 30 feet for consistency with the abutting SF 5000 zone and adopted policies. The applicant also proposes to restrict vegetation removal on the subject site under the PUDA. Given the proposed restrictions and topographic change, the proposal is consistent with these criteria.

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;*
   b. *Public services;*
   c. *Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;*
   d. *Pedestrian safety*

e. Manufacturing activity;
f. Employment activity;
g. Character of areas recognized for architectural or historic value;
h. Shoreline view, public access and recreation.

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;
e. Utility and sewer capacity;
f. Shoreline navigation

The subject site is small and located on an existing zoning edge. If developed as single family, it is likely that one house could be developed on the 5, 581 sq. ft. site under the existing SF 5000 zoning. The applicant has constructed and 800 sq. ft. storage shed accessory to his adjacent commercial use. The proposed PUDA will reduce any future impacts to flora and fauna by limiting vegetation removal, and other environmental impacts such as glare and noise are expected to be mitigated by the vegetation and topography. Access to and from the subject site is across the adjacent commercial zone so pedestrian and vehicular access will remain unchanged. Given the scale of the development that would be approved under the proposed rezone, no significant impacts are anticipated.

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.

There are no changed circumstances that are relevant to the rezone or overlay designation.

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

The subject site is located within the Northgate Area Overlay District, as discussed above.

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.

As discussed above, the site includes the following mapped environmentally critical areas: Steep slope, riparian corridor and wetlands within 100 feet. However, the riparian corridor and associated wetlands are located more than 230 feet away from the property and the regulations for riparian corridors and wetlands do not apply. Based on new information submitted by the applicant, the steep slope Non-disturbance Covenant is being removed from the property.

However, the site is still subject to ECA regulations for landslide-prone sites but not the more restrictive standards applicable to steep slopes.

Conclusion:

The proposed rezone meets all the requirements of SMC 23.34.008, per the analysis above.

SMC 23.34.009 Height limits of the proposed rezone.

Where a decision to designate height limits in 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:

A. *Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.*

B. *Topography of the Area and its Surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.*

C. *Height and Scale of the Area.*

   1. *The height limits established by current zoning in the area shall be given consideration.*
   2. *In general, permitted height limits shall be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area's overall development potential.*

D. *Compatibility with Surrounding Area.*

   1. *Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.*
   2. *A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.D.2 are present.*

E. *Neighborhood Plans*

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

Conclusion:

As discussed above, the applicant has not proposed to limit height under the PUDA. However, in order to meet the intent of Policy NN-P39, DPD recommends limiting the height of the proposed C1 zone to 30 feet. A 30-foot height limit will provide a better transition between the SF 5000 and C1-40' zones. Maintaining the height at 30 feet would allow the proposal to meet the criteria of SMC Section 23.34.009, as described above.

SMC 23.34.010 Designation of single-family zones

A. Except as provided in subsections B or C of Section 23.34.010, single-family zoned areas may be rezoned to zones more intense than Single-family 5000 only if the City Council determines that the area does not meet the criteria for single-family designation.

The subject site does not meet all of the criteria for single family designation, as discussed below.

B. Areas zoned single-family or RSL that meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 and that are located within the adopted boundaries of an urban village may be rezoned to zones more intense than Single-family 5000 if all of the following conditions are met:

1. A neighborhood plan has designated the area as appropriate for the zone designation, including specification of the RSL/T, RSL/C, or RSL/TC suffix, if applicable;

2. The rezone is:

a. To a Residential Small Lot (RSL), Residential Small Lot-Tandem (RSL/T), Residential Small Lot-Cottage (RSL/C), Residential Small Lot-Tandem/Cottage (RSL/TC), Lowrise 1 (LR1), Lowrise 1/Residential-Commercial (LR1/RC), or

b. Within the areas identified on Map P-1 of the adopted North Beacon Hill Neighborhood Plan, and the rezone is to any Lowrise zone, or to an NC1 zone or NC2 zone with a 30 foot or 40 foot height limit, or

c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise 1 (LR1) or Lowrise 2 (LR2) zone.

The subject site is not located within an Urban Village.

C. Areas zoned single-family within the Northgate Overlay District, established pursuant to Chapter 23.71, that consist of one or more lots and meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 may be rezoned through a contract rezone to a neighborhood commercial zone if the rezone is limited to blocks (defined for the purpose of this subsection C as areas bounded by street lot lines) in which more than 80 percent of that block is already designated as a neighborhood commercial zone.

The proposed rezone is to C1-40' with a PUDA, not Neighborhood Commercial.

SMC 23.34.011 Single-family zones, function and locational criteria.

A. Function. An area that provides predominantly detached single-family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods.

There are no single family residences in the immediate vicinity of the subject site, that is, the area bounded by NE 102nd St. on the north, NE 100th St. on the south, 23rd Ave. NE on the west and Lake City Way NE on the east. As shown on the applicant's survey, parcel sizes on the block include: Parcels A, B and C of Short Plat 2100234 with areas of 61,419 sq. ft., 10,980 sq. ft. and 28,927 sq. ft. respectively; and Parcel C of SP 780-165 with an area of 20,888 sq. ft.

B. Locational Criteria. A single-family zone designation is most appropriate in areas meeting the following criteria:

1. Areas that consist of blocks with at least seventy (70) percent of the existing structures, not including detached accessory dwelling units, in single-family residential use; or

2. Areas that are designated by an adopted neighborhood plan as appropriate for single-family residential use; or

3. Areas that consist of blocks with less than seventy (70) percent of the existing structures, not including detached accessory dwelling units, in single-family residential use but in which an increasing trend toward single-family residential use can be demonstrated; for example:

a. The construction of single-family structures, not including detached accessory dwelling units, in the last five (5) years has been increasing proportionately to the total number of constructions for new uses in the area, or

b. The area shows an increasing number of improvements and rehabilitation efforts to single-family structures, not including detached accessory dwelling units, or

c. The number of existing single-family structures, not including detached accessory dwelling units, has been very stable or increasing in the last five (5) years, or

d. The area's location is topographically and environmentally suitable for single-family residential developments.

C. An area that meets at least one (1) of the locational criteria in subsection B above should also satisfy the following size criteria in order to be designated as a single-family zone:

1. The area proposed for rezone should comprise fifteen (15) contiguous acres or more, or should abut an existing single-family zone.

2. *If the area proposed for rezone contains less than fifteen (15) contiguous acres, and does not abut an existing single-family zone, then it should demonstrate strong or stable single-family residential use trends or potentials such as:*

   a. *That the construction of single-family structures, not including detached accessory dwelling units, in the last five (5) years has been increasing proportionately to the total number of constructions for new uses in the area, or*

   b. *That the number of existing single-family structures, not including detached accessory dwelling units, has been very stable or increasing in the last five (5) years, or*

   c. *That the area's location is topographically and environmentally suitable for single-family structures, or*

   d. *That the area shows an increasing number of improvements or rehabilitation efforts to single-family structures, not including detached accessory dwelling units.*

D. *Half-blocks at the edges of single-family zones which have more than fifty (50) percent single-family structures, not including detached accessory dwelling units, or portions of blocks on an arterial which have a majority of single-family structures, not including detached accessory dwelling units, shall generally be included. This shall be decided on a case-by-case basis, but the policy is to favor including them.*

As noted above, there are no structures in single family residential use in the area bounded by NE 102nd St. on the north, NE 100th St. on the south, 23rd Ave. NE on the west and Lake City Way NE on the east. However, the Land Use Code defines "block" as two facing block fronts per SMC 23.84A.004. "B".

The subject site is part of PIN 5101405880, which has frontage on Lake City Way NE, NE 100th St., and NE 102nd St. So, we will consider the facing block fronts along each of these streets.

There are no structures in single family residential use on the facing block front across Lake City Way NE, nor are there any on PIN 5101405880 or PIN 5101405881 which also has frontage on Lake City Way NE. There are also no structures in single family residential use on the block face south of NE 100th St.

Across NE 102nd St. to the north, there are seven structures five of which are in single family residential use (according to King County records). When we include the block face on which the subject site is located, if we exclude PIN 5101405881 (which has no frontage on NE 102nd St.), and exclude the newly constructed shed, there is only one commercial structure. Even with this restrictive approach to the structure count, there are five of eight structures in single family residential use. So, sixty-two percent of the structures on this block are in single family residential use.

There is no evident trend towards single family development in the immediate area. Consistency with adopted policies and factors related to environmentally critical areas have been addressed, above. The subject site doesn't meet the locational criteria for single family zones.

SMC 23.34.072 Designation of Commercial Zones:

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

B. *Areas meeting locational criteria for single-family designation may be designated NC130'/L1, NC2 30'/L1 or NC3 30'/L1 only as provided in Section 23.34.010.*

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.*

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

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

The subject site is on an existing zoning boundary between residential and commercial areas. The proposed PUDA, together with DPD's recommended C1-30' zoning designation, will mitigate any potential impacts associated with the change of boundary location. As noted above, the area does not meet the locational criteria for a single-family designation. This minor expansion of the existing commercial zone will allow for preservation and improvement of the established commercial/manufacturing use.

Conclusion:

DPD's recommendation for the proposed rezone from SF 5000 to C1-30', as modified by the proposed PUDA, would meet the criteria of SMC Section 23.34.009.

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 subject site be rezoned from SF 5000 to C1-30', as modified by the proposed PUDA.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant, July 27, 2011, and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) 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 certain limitations and/or circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

Approval of the above-recommended rezone to C1-30', with the proposed PUDA, would allow commercial uses which are currently prohibited in the Single Family zone. The shed is already constructed, however, it was constructed without permits and Building Permit review and approval will be required. (Additional SEPA review will not be required.) Because the shed is already constructed, the usual construction-related impacts have already occurred. Typical construction-related impacts include: decreased air quality due to suspended particulates from demolition, grading, clearing, and building activities and hydrocarbon emissions from construction vehicles and equipment, temporary soil erosion, increased dust caused by drying mud tracked onto streets during construction activities, increased traffic and demand for parking from construction equipment and personnel, increased noise, increases in carbon dioxide and other greenhouse gas emissions, and consumption of renewable and non-renewable resources. Several adopted codes and/or ordinances provide mitigation for some of the identified impacts including; the Stormwater Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. The Noise Ordinance regulates the time and amount of construction noise that is permitted in the City.

If any changes to the shed are required through Building Permit review, or if the shed were to be removed, short-term impacts are expected to be minor. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment.

Long-term Impacts

The applicant has proposed several limitations of the rezone that limit potential long-term or use related impacts. The applicant proposes to limit development of the 5,581 sq. ft. subject site to 15 percent, or 837 sq. ft. The shed (already constructed) is 800 sq. ft., so this 15 percent limit would allow only the most minor future expansion of the footprint. The applicant also proposes to retain all remaining vegetation on the subject site. Further, the applicant proposes to disallow any development within 25 feet of the property line of the subject site. For the sake of clarity, DPD recommends that this language be modified to "25 feet of the zoning boundary." The existing shed is located about 27 feet (at the nearest point) to the property line to the west, and about 80 feet to the property line to the north. The western property line coincides with the proposed new zoning boundary between the SF 5000 and the C1-40'zones. The northern boundary line abuts North 102nd St., north of which the zoning changes to SF 5000.

The existing shed is 14.5 feet in height; considerably below the 40-foot height limit allowed in the C1-40' zone. As shown on the survey submitted by the applicant, the site slopes steeply down from the north to the south, and gradually down from the east to the west. So, the shed is

located 20 to 30 feet below N.102nd St., but only slightly below the SF 5000 zone to the east. DPD is recommending a 30'height, the current height of the single family zone, for consistency with adopted policies.

The applicant has indicated that the shed will be used to store "extra metal parts" for the business on PIN 5880. The submitted plans show only two openings in the shed which include a garage door on the south side and a person door on the east. Neither of these opening face Single Family zones, which should minimize any operational noise impacts to the existing or future residents.

Long-term or use-related impacts of the project are expected to be minimal, for the reasons discussed above, but may include: increased bulk and scale on the site, increased activity in the area, increased demand for public services and utilities, increases in carbon dioxide and other greenhouse gas emissions, and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these area: the Stormwater Code which requires onsite detention of stormwater with provisions for controlled tightline release to an approved outlet and may required additional design elements to prevent isolated flooding, the City Energy Code which will require insulation for outside walls and energy efficient windows, and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of long term long-term impacts.

No additional mitigation measures will be required pursuant to SEPA.

DECISION - SEPA

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

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

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

RECOMMENDED CONDITIONS - SEPA

None.

RECOMMENDED CONDITIONS – REZONE

1) DPD recommends the proposed contract rezone from SF 5000 to C1 be approved subject to the conditions of the applicant's proposed PUDA, but recommends a 30' height limit instead of the proposed 40' (C1-30').

2) DPD also recommends the language of the PUDA be modified to limit future development within 25 feet of the single family zone (rather than "property line" as proposed by the applicant).

Signature: Betty Galanter for Date: June 14, 2012

Molly Hurley
Senior Land Use Planner
Department of Planning and Development

MH:bg

Hurley/2012Mups/3012420final.docx