



**Legislative Department
Seattle City Council
Memorandum**

Date: March 15, 2013

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

From: Michael Jenkins, Council Central Staff

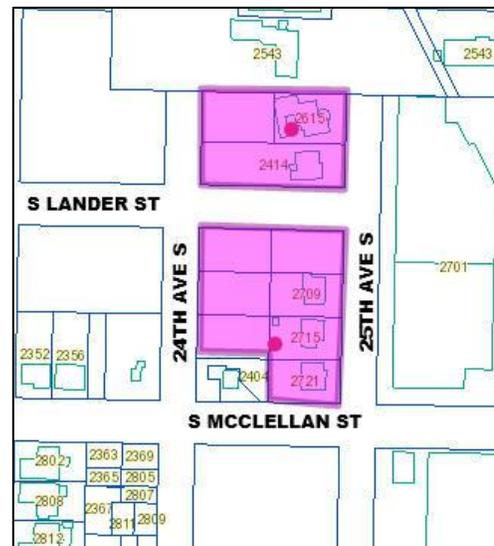
Subject: Clerks File (CF) 311812: Application of Trenton Associates-McClellan LLC for approval of a contract rezone of approximately 67,948 sq. ft. of land at 2615 25th Avenue South from Single Family 5000 (SF 5000) to Seattle Mixed with a 65 foot limit (SM-65'), to allow a seven story structure containing 198 residential units with parking for 148 vehicles, and including 13, 230 cu. yds. of grading in an environmentally critical area. (Related Project No. 3012417; Project No. 3012217, Type IV).

1. Overview

Trenton Associates-McClellan LLC (“Proponent”) proposes a contract rezone on two sites located along 25th Ave S, addressed at 2615 and 2715 – 25th Ave S. The rezone sites, as reflected in the embedded map¹, total approximately 67,948 square feet of land. 2615 – 25th Ave S, which is north of S. Lander Street, is approximately 42,000 square feet while 2715 – 25th Ave S has approximately 25,948 square feet.

Both sites are currently zoned Single Family 5000 (SF 5000). The proponent has requested that a rezone of the sites to Seattle Mixed with a 65 foot height limit (SM-65), to allow the construction of:

- A seven story building at 2615 – 25th Ave S with 111 dwelling units and 123 parking spaces;
- A seven story building at 2715 – 25th Ave S with 196 dwelling units and 99 parking spaces;
- Demolition of one residential structure; and
- Grading of approximately 13,230 square feet to create the development sites and related improvements for landscaping and access.



¹ The map shows several residential structures, all but one of which have been demolished. The remaining structure will be demolished as a result of this project.

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

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

This rezone is a Type IV quasi-judicial rezone under Seattle Municipal Code (SMC) 23.76.036. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication and the Council's rules on quasi-judicial proceedings (Resolution 31375). The Hearing Examiner establishes the record for the decision at an open-record hearing. After the hearing, the record may be supplemented through a timely request to Council only. No appeal of the Hearing Examiner's recommendation was filed, and there was no timely request to supplement the record.

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

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

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

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

3. Materials from the Record Reproduced in PLUS Notebooks

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

1. The Hearing Examiner's Recommendation (including the findings of fact and conclusions supporting the recommendation) (Attachment A);
2. DPD Director's Analysis and Recommendation² (Attachment B);
3. Relevant copies of project plans and elevations³ (Attachment C);
4. September 7, 2012 Parking Analysis memorandum (Attachment D)⁴;

² Hearing Examiner's Exhibit 1

³ Hearing Examiner's Exhibits 2

⁴ Hearing Examiner's Exhibit 12

4. Summary of the record

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

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

A. Zoning history

The rezone site has been zoned for single family residences since at least 1927, when the City's first zoning map was adopted; its current zoning designation was established in 1982.

B. Surrounding area

The rezone sites are at the western edge of the North Rainier Hub Urban Village, approximately 2 blocks west of the intersection of S. McClellan Street and Rainier Avenue S. This intersection and the surrounding properties to the east are zoned either Neighborhood Commercial or Commercial, with 65 foot height limits, and are dominated by large scale auto-oriented commercial uses.

The rezone sites are located along a hillside that rises to the west from Rainer Ave S. A SF 5000 zone is located to the west above the rezone sites, separate from the rezone site by the Cheasty Greenbelt. Cheasty Greenbelt is a natural area owned by Seattle Department of Parks and Recreation. To the south of the rezone sites, across S McClellan, is a Lowrise 2 zone which is used for facilities related to the east portal of Sound Transit's Beacon Hill tunnel.

The site is also located 5 blocks from the Mt. Baker Sound Transit Light Rail station.

C. Project information

Attachment C includes excerpts from Hearing Examiner's Exhibit 2, which includes elevations and site plans of the proposed structures and the surrounding context.

If the rezone is approved, it would authorize the construction of two- seven story buildings on two separate sites. The larger of the two buildings would be located at 2715 – 25th Ave S. This 42,000 square foot site would be developed with a building containing 199 dwelling units, with 99 parking spaces in a two story below grade parking structure. The project also includes a small lobby at the NE corner of the building, adjacent to the intersection of 25th Ave S and S. Lander Street. A 3,100 square foot fitness center accessory to the residential use will be located at the SE corner of this building.

The northern site at 2615 – 25th Ave S is approximately 25,948 square feet and would be developed with a building containing 111 dwelling units and 123 parking spaces in a two-

story below grade garage. A small lobby area would be located at the SE corner of this building, adjacent to the 25th Ave S and S Lander intersection.

Several amenity areas are planned for the buildings at grade, in enclosed spaces within each building, and in rooftop decks on each building. Parking access for both buildings will occur from S. Lander Street, which will be improved up to the Cheasty Greenbelt. Both S. Lander and 25th Ave S will be improved to City right of way standards. The project also includes a series of onsite landscaping improvements, designed in response to its proximity to the Cheasty Greenbelt.

D. Public comment

DPD did not receive public comments on the proposed rezone. The project did receive public comment as part of the Design Review process, which are summarized in DPD's report and in the minutes of those meetings. No testimony or comments were provided to the Hearing Examiner during or after the hearing.

E. Summary of the Hearing Examiner's conclusions

1. Impact on zoned growth capacity:

General rezone criteria require an analysis of the effect of a rezone on zoned capacity. Zoned capacity is the amount of growth assigned to an urban center or village as part of the Comprehensive Plan. The Comprehensive Plan assigned a growth target of 900 additional dwelling units, or 5 households per acre, for North Beacon Hill Residential Urban Village by 2024. The Hearing Examiner found that the 307 additional units authorized under this rezone support both these growth goals. No information was provided as to other housing developments in the area that have contributed to this growth target.

2. Relationship to neighborhood plans:

The Hearing Examiner noted that the adopted North Rainier neighborhood plan does not identify specific policies to guide future rezones. The plan does include several policies that point to the creation of higher density residential areas near the rezone site, to support a plan's goal to create a 'Town Center' in the areas east and south of the rezone site.

3. Rezoning the property from SF 5000 to SM – functional and locational criteria:

Recommendations on rezones include an evaluation of the extent to which 1) the site meets criteria related to its current zone and 2) if the site should be rezoned to a different designation. This occurs through an evaluation of both functional and locational criteria for that zone; both sets of criteria for the proposed zone must be satisfied. I have included a summary of the Hearing Examiner's findings on these criteria, as well as a brief review of impacts of the proposal:

a. SF 5000 zone criteria

The Hearing Examiner concluded the rezone sites do not meet SF zone functional criteria in Seattle Municipal Code (SMC) Section 23.34.011, concluding that the site:

- Is not in an area that is predominately developed with single family homes;
- Is adjacent to single family zones that are substantially separated from the rezone sites by the Cheasty Greenbelt and grade changes;
- Is more closely related to nearby commercial development; or
- Does not consist of blocks with 70 percent of existing structures in single family use.

The Hearing Examiner further concluded that the rezone sites do not meet the SF zones locational or size criteria as:

- The immediate area does not have 15 contiguous acres of single family uses;
- The immediate area does not display strong single family use trends or potential;
- The rezone sites are isolated from the surrounding single family zones, and are more closely related to commercial development and the nearby Mt Baker Light Rail station; and
- The site is designated in the Comprehensive Plan's Future Land Use Map (FLUM) for multifamily development.

b. SM zone criteria

The Hearing Examiner concluded that the site is appropriate for an SM zones as:

- The rezone sites are within an area that provides for a wide range of commercial and multifamily uses;
- The SM zone will provide an appropriate transition between SF zones to the west and south, and the more intensive commercial zones to the north and east; and
- The sites are designated as multifamily in the FLUM.

4. Height

Height limits are determined after the appropriate zone has been determined. The Hearing Examiner found that SM zone criteria in SMC 23.34.128.E provides an appropriate range of height limits of between 40 and 125 feet.

A 65 foot height limit has been proposed for these sites. The 65 foot height limit was determined to be appropriate as:

- The 65 foot height limit is similar to those zoned properties to the east along Rainier Ave S and S McClellan;
- The grade changes and topography to the west of the site would not cause view blockage; and
- The neighborhood plan does not prohibit 65 foot height limits in this location but also appear consistent with height limits established in the plan; and

5. Precedential effect

As the rezoned sites have been zoned for single family residential since 1927, and are adjacent to both residential and commercial zones, the Hearing Examiner included some discussion about the precedential effect of this rezone on nearby properties.

The Hearing Examiner noted that the properties along Rainier have been in commercial use and zoning since the early to mid-1950's. The topography and abutting Cheasty Greenbelt separate the adjacent single family zones to the west from the commercial zones to the east. The Hearing Examiner noted that this rezone may result in additional rezones on properties to higher density residential to the east of this site. Finally, the Hearing Examiner noted that the recent change of the Future Land Use Map and the nearby location of the Mt Baker Light Rail Station also provide the basis for potential future rezones to the east of the rezone sites.

6. Impact evaluation

The rezone was subject to both review under the City's environmental regulations (SEPA) as well as rezone criteria in SMC 23.34.008F. DPD issued a SEPA determination related to the project impacts that included recommended conditions to mitigate parking impacts. The following section includes a discussion on that recommendation.

5. Central staff analysis

The Hearing Examiner's record considered parking impacts of the proposed development. The project was originally designed for 294 parking spots. During project review, the developer proposed to reduce the parking supply to 222 spaces. Hearing Examiner's Exhibit 11 is a February 7, 2012 Traffic Study prepared by Transportation Engineering Northwest. That study forecasts that parking demand for the development will be for 252 parking spaces. Because the developer chose to reduce parking from 294 spaces to 222 spaces, parking supply fell 30 parking spaces below demand.

To address this deficit, the Hearing Examiner's record shows that the applicant's prepared an Addendum to a February 7, 2013 traffic study (Hearing Examiner's Exhibit 11). The September 7, 2012 addendum (Hearing Examiner's Exhibit 12) that is included as Attachment D considered the extent to which on-street parking was available to address the 30 space parking deficit. The study found that there will be adequate on-street parking supply within 800 feet of the project site to address this deficit. This finding is supported by 1) that the project will create 12 additional parking spaces resulting from right of way improvements along 25th Ave S and S Lander Street, and 2) the predicted 64% on-street parking utilization after the dwellings are constructed is less than the maximum 75% parking utilization that the City has used to gauge when on-street parking capacity had been exhausted.

Despite this analysis, DPD recommended the following conditions:

CONDITIONS – DESIGN REVIEW
Prior to Issuance of the Master Use Permit

4. Provide the planner with an addendum to the Traffic Impact Study of February 7, 2012, which addresses the impacts of spill-over parking and mitigation.

CONDITIONS – SEPA

Prior to Building Permit Issuance

9. Provide the planner with an addendum to the Traffic Impact Study of February 7, 2012, which addresses the impacts of spill-over parking and mitigation.

As the September 7, 2012 addendum concluded the parking deficit impacts *were* mitigated, it is not clear why DPD and the Hearing Examiner recommended these conditions. It is also unclear why a condition to mitigate parking impacts would have been included as part of the Design Review component of this project, as the design review process has no authority over mitigation of SEPA related traffic impacts. Finally, the timing of the SEPA related condition is also of some concern. If there was a need to analyze the impacts of spill-over parking to ensure that no additional mitigation was needed, that analysis should have occurred *before* the SEPA determination was issued, to ensure that the City retains mitigation authority.

6. Recommendation

I recommend that PLUS move to **APPROVE** the rezone request and adopt the Hearing Examiner’s findings, conclusions and decision, with the following changes:

1. Do not adopt the condition that uses the design review process to mitigate parking impacts.
2. Include a finding that the impacts of reducing parking from 294 spaces to 222 spaces were adequately analyzed in the Hearing Examiner’s record, find that no conditions are needed, and do not adopt the Hearing Examiner’s proposed conditions on this issue.

I also recommend that the title of the Clerk File be amended to more closely reflect the scope of the project, as follows:

Clerks File (CF) 311812: Application of Trenton Associates-McClellan LLC for approval of a contract rezone of approximately 67,948 sq. ft. of land at both 2615 25th Avenue South and 2715 – 25th Avenue South, from Single Family 5000 (SF 5000) to Seattle Mixed with a 65 foot limit (SM - 65'), to allow ((~~8~~)) two- seven story structures containing a total of ((~~198~~)) 307 residential units with parking for ((~~148~~)) 222 vehicles, and including 13, 230 cu. yds. of grading in an environmentally critical area. (Related Project No. 3012417; Project No. 3012217, Type IV).

7. Next Steps

If the Committee recommends approval of the rezone and my proposed amendments, I will draft Council Findings, Conclusion and Decision (FC and D) and a draft property use and development agreement (PUDA). I will also prepare for introduction and referral a separate Council Bill (CB). Once the CB is introduced the matter will come back to PLUS for a vote prior to full Council review and vote.