

#4  
C.F. 313339



**Legislative Department  
Seattle City Council  
Memorandum**

**Date:** April 14, 2014

**To:** Mike O'Brien, Chair  
Tim Burgess, Vice Chair  
Nick Licata, Member  
Planning Land Use and Sustainability Committee

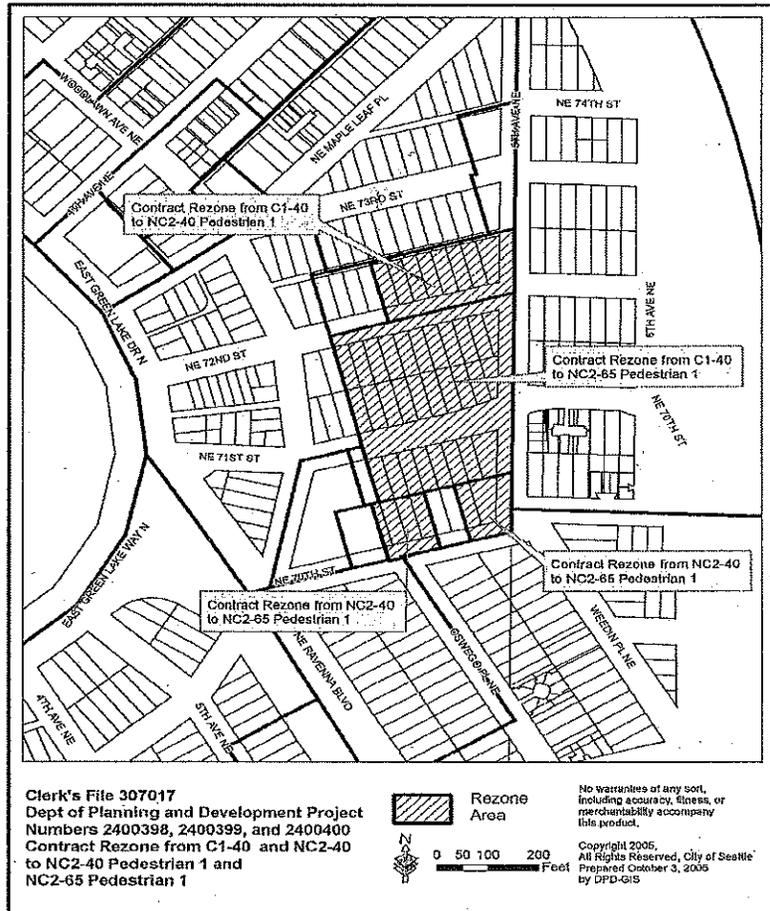
**From:** Ketil Freeman, Central Staff

**Subject:** Clerks File 313339 - Application of Vitamilk South, LLC to amend the Property Use and Development Agreement accepted by Ordinance 121961 for portions of property bounded by N.E. 73rd Street to the north, 5th Avenue N.E. to the east, N.E. 70th Street to the south and Woodlawn Avenue N.E. to the west to allow accessory use surface parking at 419 N.E. 71st Street (Project No. 3015511, Type IV).

**Background**

In 2005 the Council passed Ordinance 121961, which 1) rezoned all of one block and portions of two others in the Greenlake Residential Urban Village, including the block formerly occupied by a Vitamilk facility, and 2) accepted a Property Use and Development Agreement (PUDA) in connection with the rezone. The quasi-judicial rezone was requested to facilitate future mixed use development. The rezone map from Ordinance 121961 is shown in figure 1.

The PUDA accepted through Ordinance 121961 establishes a variety of conditions including a prohibition on principal use parking in the rezone area. For the purposes of the Land Use Code, if off-site parking



comprises the sole use of a lot, then that parking is considered principal use parking.<sup>1</sup>

Since passage of Ordinance 121961, the owner of the property has begun to redevelop the block in the rezone area bounded by NE 72<sup>nd</sup> Street, 5<sup>th</sup> Avenue NE, NE 71<sup>st</sup> Street, and Woodlawn Avenue NE with a mixed use project that will contain a grocery store. Construction of that project is nearly complete. The owner has petitioned the Council to amend the PUDA to allow off-site parking for the proposed grocery store on an interim basis while customers become familiar with the grocery store location. The proposed parking would contain 38 spaces and would be located on a site immediately across NE 71<sup>st</sup> Street from the mixed use project under construction. The proposed off-site parking will be redeveloped in the future.

### **Type of Action and Materials**

This rezone petition is a quasi-judicial action under the Seattle Municipal Code. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine and the Council's Quasi-judicial Rules prohibiting ex-parte communication. The Council may amend a PUDA by ordinance. Amendments are either considered to be major or minor.

A minor amendment to a PUDA is one that is within the spirit and general purpose of the prior decision of the Council, is generally consistent with the uses and development standards approved in the prior decision of the Council, would not result in significant adverse impacts that were not anticipated in the prior decision of the Council, and does not request any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council...An application to amend that is minor and that complies with the rezone criteria of Chapter 23.34 may be approved by the Council by ordinance after receiving any additional advice that it deems necessary.<sup>2</sup>

DPD has determined that the proposed amendment is minor.

Attachments to this memo include:

- DPD's determination that the PUDA amendment is minor and recommendation that the Council approve the PUDA amendment;
- A letter from counsel for the owner describing the purpose of the PUDA amendment and encouraging approval; and
- A comment letter from Richard Letts stating his opposition to the PUDA amendment.

***Staff recommends that the Committee recommend approval of the minor amendment to the PUDA.*** Changes to the PUDA conditions would allow principal use parking for one site in the rezone area for a period not to exceed three years. Proposed changes are shown on the attached draft amended PUDA.

### **Next Steps**

If the Committee recommends approval of the PUDA amendment application in C.F. 313339, staff will introduce a council bill for referral to the Full Council accepting the amended PUDA and work with the proponent to execute the amended PUDA prior to Full Council action.

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<sup>1</sup> Seattle Municipal Code (SMC) § 23.54.025.A.

<sup>2</sup> SMC § 23.76.058.C.4.



**Department of Planning and Development**  
Diane M. Sugimura, Director

**CITY OF SEATTLE  
DETERMINATION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3015511 (related to issued MUP 2400400/3006928)  
**Council File Number:** 313339  
**Applicant Name:** Meredith Messmer, Lorig and Associates  
**Address of Proposal:** 419 NE 71<sup>st</sup> Street

**SUMMARY OF PROPOSED ACTIONS**

Request to amend a Property Use and Development Agreement (PUDA) that was required as a condition to an amendment of the Official Land Use Map and approved under Ordinance 121961.

The following approvals are required:

**Director's Determination of Minor Amendment—SMC 23.76.058.C.4**  
**Council Approval of minor amendment, by ordinance**

**BACKGROUND**

On October 10, 2013, the Department of Planning and Development received from Vitamilk South LLC, a request to amend the Property Use and Development Agreement (PUDA) between Teel Vander Pol and Teel, L.P.; Teel Investment Company; Teel & Madden, G.P.; Darrel Vander Pol; E. Gerald Teel; and Charles B. Teel ("the Owners") and the City of Seattle, passed as part of Ordinance 121961 on October 17, 2005, and recorded with the King County Department of Elections and Records, as provided for in SMC 23.76.058 B2. The approved MUP has three application numbers (#2400398, #2400399, and #2400400), and applies to properties at 427 NE 72<sup>nd</sup> Street, 420 NE 72<sup>nd</sup> Street, and 466 NE 70<sup>th</sup> Street. The parcels were rezoned from C1-40 and NC2-40 to NC2-65-P1 (Neighborhood Commercial with a 65-foot height limit and a P-1 Pedestrian Overlay) and NC2-40-P1 (Neighborhood Commercial with a 40-foot height limit and a P-1 Pedestrian Overlay).

Several conditions were attached to the PUDA approved with the 2005 rezone. Among these conditions, the PUDA prohibits a number of specific uses as part of any redevelopment of the property, including principal-use parking. Other conditions limited development above the commercial base of structures to residential use, placed various size limits on commercial development, prohibited lodging uses other than bed & breakfasts, noted that the final project design would include a mid-block, through-block pedestrian access on the middle parcel and that the applicant shall make a good faith effort to design a mid-block, through-block pedestrian crossing on the south parcel, established a minimum percentage of area to be developed as publicly-accessible open space, and required parking to be provided on-site in an amount adequate to meet all project-generated demand.

### **Notice and Public Comments**

Notice of the revised project and request to amend the PUDA was published on October 31, 2013. The comment period ran through November 14, 2013. One comment letter was received, which expressed concern that the proposal would increase traffic and auto/vehicle conflicts, and also would reduce land available for residential purposes and increase car usage.

### **Proposed Revisions and Rationale**

The site currently is being used as a temporary construction staging area for the Green Lake Village project; it is expected to be vacated by April, 2014. The proposed offsite accessory parking lot would serve Puget Consumers Coop (PCC), currently under construction immediately across NE 71<sup>st</sup> Street from the subject site. The PCC grocery store would also be served by an underground parking lot that provides the minimum parking required by the Land Use Code. The intent is for this accessory lot to be an interim use; the application for the PUDA amendment states that "it is anticipated that the South Parcel, including the Accessory Parking Area, will be redeveloped within the next few years with a mixed-use project consistent with the PUDA. As such, the proposed accessory parking lot would be an interim use until that redevelopment occurs".

The grocery store currently being built is an allowed use under the terms of the PUDA, as would be any parking accessory to the grocery store. However, SMC 23.54.025 A, the Land Use Code subsection regulating off-site parking, states that "if parking and parking access, including the proposed off-site parking, are or will be the sole uses of a lot, or if surface parking outside of structures will comprise more than half of the lot area, or if parking will occupy more than half of the gross floor area of all structures on the lot, then a permit to establish off-site parking may be granted only if principal use parking is a permitted use for such lot". Parking and parking access would be the sole use of the lot, and surface parking would comprise more than half of the lot area; therefore accessory parking is not allowed on this site, as principal-use parking is not a permitted use under the terms of the PUDA.

The proposed amendment to the PUDA is limited in scope to allow only the development of a proposed accessory parking lot on the subject site. The amendment would strike "principle use parking" from Section 2.b, the list of uses prohibited as part of redevelopment of the property, and would add a new section k to read as follows: "*Principle use parking is a prohibited use*

except on Parcel 9528101790 and the north sixty-eight feet of the west twenty feet of Parcel 9528101810 where principle use parking is a permitted use but only to allow offsite parking accessory to an established grocery store use constructed on the Middle Parcel in order to satisfy SMC 23.54.025-A." No other changes to the PUDA are being proposed.

### **Amendment of Property Use and Development Agreements**

SMC 23.76.058.C.4.a (Rules for specific Council Land Use Decisions, Amendment of PUDAs for Title 23 zones) sets forth the procedures and general criteria for the Director to make a determination that a requested amendment is a minor rather than a major amendment:

1. *The request is within the spirit and general purpose of the prior decision of the Council:*

The general purpose of the prior decision was to allow redevelopment of a multi-block area within the Green Lake Urban Village, while providing public amenities and mitigating potential impacts of the redevelopment project. Allowing accessory parking on the subject site supports a portion of the redevelopment effort, while the interim nature of this use will ensure that the accessory parking does not ultimately displace other uses that were contemplated for the site. Given the limited area within which principle-use parking technically would be allowed, the actual use of such parking as accessory to a use permitted under the PUDA, and the temporary nature of such parking, this request is within the spirit and general purpose of the prior decision of the Council.

2. *The request is generally consistent with the uses and development standards approved in the prior decision of the Council:*

The prior decision established a variety of uses as being permissible throughout the area covered by the contract rezone, and did not prohibit uses that typically would be accessory to such permitted uses (such as accessory parking). Although accessory parking was not contemplated on this site in the original PUDA, modifying the PUDA to allow this accessory use on this site is generally consistent with the uses approved in the prior decision. The proposed PUDA amendment does not modify any development standards applicable to the site; relevant development standards, such as landscaping and open space, will need to be met by the proposal prior to final permit issuance.

3. *The request would not result in significant adverse impacts that were not anticipated in the prior decision of the Council:*

The request would result in potential new adverse impacts; however, these would not be significant. An accessory parking lot will add traffic at the location of the driveways at NE 71<sup>st</sup> Street that was not anticipated in the previous transportation analysis or in the prior decision of the Council. However, the volumes of traffic utilizing the parking lot will be relatively small, as the lot will contain only about 38 spaces. It is not expected that the additional turning movements onto and off of NE 71<sup>st</sup> Street at the accessory lot driveway will result in more than a modest impact, and no mitigation for these additional traffic volumes is necessary. Impacts away from the driveway intersections with NE 71<sup>st</sup> Street would be similar to those analyzed in the SEPA decision at the time of the contract rezone and PUDA.

The proposed accessory lot may lead to additional pedestrian traffic crossing NE 71<sup>st</sup> Street midblock, as shoppers at the grocery store might take the most direct path from their parking space to the store entrance, which would be located directly across the street from the accessory lot. Such midblock crossings could lead to both congestion and safety impacts that were not anticipated in the prior transportation analysis for the contract rezone and PUDA. Although not significant, these impacts would be adverse, and warrant mitigation. Prior to final approval of any permit to allow use of the accessory parking lot, one of the following mitigation measures must be installed:

- a. A midblock crossing of NE 71<sup>st</sup> Street, approved by the Seattle Department of Transportation and paid for by the applicant;
- b. A fence, landscaping, or other barrier, approximately 4' in height, to discourage midblock crossings. Signage shall direct pedestrians leaving the parking lot to the crossing at NE 71<sup>st</sup> Street and 5<sup>th</sup> Avenue NE.

4. *The request does not seek any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council:*

There were no requests for additional waivers or changes in the waivers of bulk or off-street parking and loading requirements as part of the prior decision of the Council. There are no requests for waivers as part of this request for an amendment to the PUDA.

### **SEPA Threshold Determination**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated November 18, 2004. The information in the checklist, supplemental information provided by the applicant, comments from members of the community, and the experience of DPD as lead agency with review of similar projects formed the basis of the analysis and decision. A DNS (Determination of Non-significance) was issued by the Department of Planning and Development as lead agency on August 11, 2005.

There are no changes to the threshold determination of DNS (an EIS is not required) issued by the Department on August 11, 2005. Further, SMC 25.05.390.C provides that, *regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decision making unless subsequently changed, reversed or withdrawn.* The DNS for this proposal, issued on August 11, 2005, has not been changed, reversed or withdrawn.

### **Recommendation**

Modifications to the issued PUDA are within the original scope of the approved project. After reviewing the request and the general criteria set forth in SMC 23.76.058.C.4, *the Director has determined that the amendment sought is a minor amendment.* The determination that this amendment is a minor one and within the spirit and general purpose of the prior decision of the Council is a Type I, non-appealable decision.

The Director's recommendation to Council is that the existing PUDA be amended to allow the proposed accessory parking lot, subject to the following conditions:

1. Prior to final approval of any permit to allow use of the accessory parking lot, one of the following mitigation measures must be installed:
  - a. A midblock crossing of NE 71<sup>st</sup> Street, approved by the Seattle Department of Transportation and paid for by the applicant;
  - b. A fence, landscaping, or other barrier, approximately 4' in height, to discourage midblock crossings. Signage shall direct pedestrians leaving the parking lot to the crossing at NE 71<sup>st</sup> Street and 5<sup>th</sup> Avenue NE.
2. The removal of the prohibition on principal-use parking shall be limited to allowing only accessory parking, and only on the subject property; the prohibition on principal use parking in the PUDA shall continue to apply to the rest of the area covered by the PUDA.
3. As the proposed accessory parking lot is intended to be an interim use, this removal of the prohibition on principal-use parking on this site shall be effective for a maximum of three years from the date on which use of the site as an accessory parking lot commences. Following this three-year period, the prohibition on principle-use parking shall again apply to this site, and no further surface parking is to occur.

*Having made the determination that the proposed amendment is a minor amendment, the Director recommends that the Council amend the Property Use and Development Agreement (PUDA) and hereby transmits to Council the request to amend, with the recommended conditions listed above.*

John Shaw, Senior Transportation Planner,  
for the Director

\_\_\_\_\_  
Date



719 Second Avenue, Suite 1150  
Seattle, WA 98104-1728  
206-623-9372  
vnf.com

April 7, 2014

Ketil Freeman  
Legislative Analyst  
City of Seattle  
PO Box 34025  
Seattle, WA 98124-4025

Re: Clerk's File 313339  
Minor Amendment to Property Use and Development Agreement (PUDA)  
Approved under Ordinance 121961.

Dear Mr. Freeman:

I am writing in support of Vitamilk South LLC's Minor PUDA Amendment application.

The City Council passed Ordinance 121961 in 2005 authorizing this PUDA (the "2005 PUDA") to facilitate redevelopment of the Green Lake Urban Village. My client, Green Lake Joint Venture LLC, is nearing completion of construction of its Green Lake Village project, the first development built under the 2005 PUDA. Green Lake Village is an exciting mixed-use project with 297 apartments and 50,000 square feet of commercial space, including a new Puget Consumers Coop (PCC) grocery store on the south side of the development along NE 71<sup>st</sup> Street. An underground parking garage provides 430 parking stalls, meeting code required parking for all uses in the building. A recent aerial of Green Lake Village is attached.

The Minor PUD Amendment is necessary in order to help ensure the success of the new PCC.

PCC has asked Green Lake Joint Venture to establish an accessory surface parking lot in the immediate vicinity of its new grocery store in order to provide customers driving to this new PCC with convenient easy to find surface parking on an interim basis. While underground parking to serve grocery store customers has proven to be successful in urban settings, providing a visible surface parking lot on an interim basis can help PCC customers driving to the store become familiar with the new store and the available parking in the underground parking lot. After a few years, the accessory parking lot can be eliminated and customers driving to the store will know how to access parking in the underground garage.

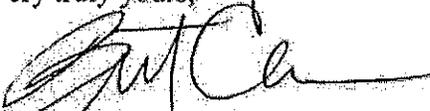
Green Lake Joint Venture has proposed establishing this interim accessory parking lot on the south side of NE 71<sup>st</sup> Street, across from Green Lake Village and the PCC entrance, on property that is part of the 2005 PUDA. This property is expected to be redeveloped prior to the PUDA's expiration in 2020.

Due to unique land use code provisions and the terms of the 2005 PUDA, the requested Minor PUDA Amendment is needed to establish this interim accessory parking lot. While the 2005 PUDA allows accessory parking, because the proposed parking lot would be the sole use of the lot, SMC 23.54.025 A prohibits accessory parking unless principal use parking is a permitted use. Under the terms of the 2005 PUDA, principal use parking is prohibited.

The Minor PUDA Amendment has been narrowly crafted to allow an interim accessory parking lot for the PCC but retain the overall prohibition of principle use parking.

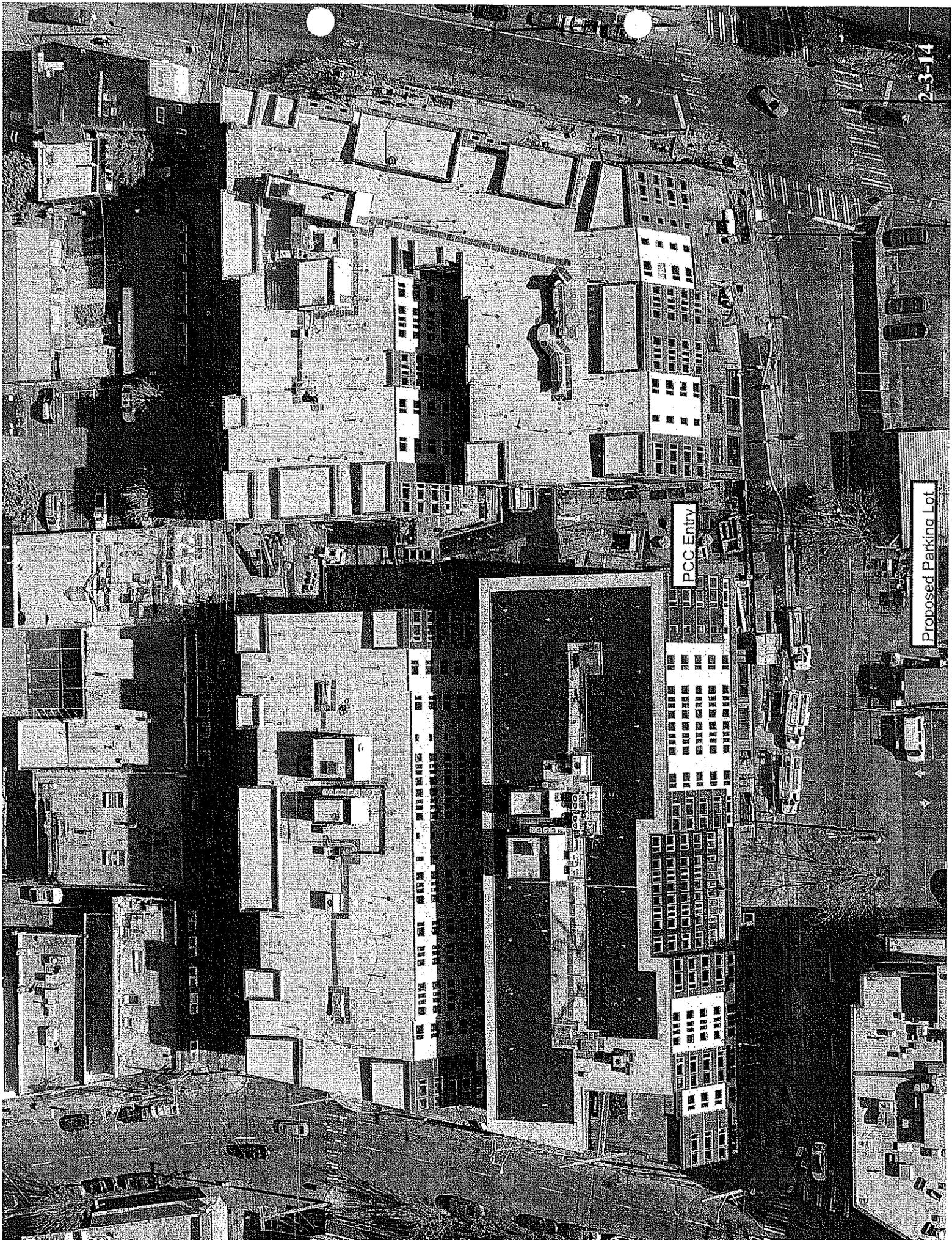
We urge the City Council to approve this minor amendment. Representatives from Van Ness Feldman LLC and Green Lake Joint Venture will be at the April 18<sup>th</sup> hearing to answer any questions.

Very truly yours,



Brent Carson

BC:brc  
Enclosure



2-3-14

PCC Entry

Proposed Parking Lot

**Clowe, Michael**

---

**From:** Richard Letts <richard@illuin.org>  
**Sent:** Sunday, November 03, 2013 5:41 PM  
**To:** PRC  
**Subject:** Project 3015511 -- John Shaw 22nd Floor

Seattle Department of Planning and Development  
Re: Project 3015511 -- John Shaw 22nd Floor

Richard Letts  
509 B Ne 71st St.  
Seattle WA 98115  
[richard@illuin.org](mailto:richard@illuin.org)

Comments:

I am strongly **opposed** to the proposed removal of the prohibited use for the following reasons:

- a) Increased traffic on 71st Street as people attempt to exit that car park as well as the underground facility.
- b) Increased pedestrian / traffic conflict as people attempt to cross the street to the store.

The plan as described does not detail how these concerns will be addressed.

In addition this proposal would also reduce land available for residential purposes and increases car usage. A surface lot does not add additional living space and reduces the competition for occupants (keeping rents artificially high). The land could be used for residential purposes, increasing urban density.

Please keep me informed of the status of this application, my details are above

Thank you

Richard Letts





Vitamilk South LLC  
420 NE 72<sup>nd</sup> St  
Seattle, WA 98115

RECEIVED

OCT 09 2013

DEPT OF PLANNING AND  
DEVELOPMENT

September 12, 2013

Diane Sugimura  
City of Seattle Department of Planning & Development  
PO Box 34019  
Seattle, WA 98124-4019

Re: Proposed Minor Amendment to PUDA for Green Lake Village

Dear Ms. Sugimura:

Please accept this letter and the enclosed documents as our application for an Amendment to the Property Use and Development Agreement between the City of Seattle and Teel, Vander Pol and Teel et al dated October 13, 2005 and recorded under King County Auditors File No. 20051025001251 (the "PUDA"). An Amendment to the PUDA is requested in order to establish an accessory parking lot at 419 NE 71<sup>st</sup> Street on Parcel 9528101790 and the north sixty-eight feet of the west twenty feet of Parcel 9528101810 legally described in Exhibit A (the "Accessory Parking Area").

#### BACKGROUND

The PUDA applies to all or portions of three city blocks in the Green Lake neighborhood (the "Property"). The Property is comprised of a South Parcel, a Middle Parcel and a North Parcel. These are illustrated in Exhibit B.

The PUDA was entered into to redevelop the Property with a mixed-use project including multi-family housing above commercial/retail uses and underground parking, pedestrian amenities, and public open space (the "Project"). Since the PUDA was approved, Green Lake Joint Venture LLC is nearing completion of Green Lake Village, a three-building mixed use development complex with approximately 50,000 square feet of first floor retail, 297 apartments, and underground parking (See MUP #3003634, Phase I Building Permit #6128825; Phase II Building Permit #6120866; and Phase III Building Permit #6120864), in full compliance with the terms of the PUDA.

Future development is still planned on the North and South Parcels, as contemplated by the PUD.

LAND USE	FULL C	CMRCL	\$0	419 NE 71ST ST
Appl:10/10/2013	Ppty:	Filed at:419 NE 71ST ST		Use:N
Amendment to Green Lake Village PUDA to allow off-site parking accessory to PCC (PCC located at 450 NE 71st ST).				
Parent:	Related AP:	Build ID:NONE		3015511

## NEED FOR PUDA AMENDMENT

Green Lake Joint Venture LLC desires to improve and expand an existing asphalt parking lot on the south side of NE 71<sup>st</sup> Street west of 5<sup>th</sup> Ave. NE.

The Accessory Parking Area is currently developed with an asphalt paving surface, a vacant shed, and a carport, all of which are in a state of disrepair. The only landscaping on the lot is a hedge at the rear of the property, which would remain under this proposal. The site is currently in use as a temporary construction staging area for the Green Lake Village project, but will be vacated by April 2014.

For the proposed parking lot, the existing structure and carport would be demolished and landscaping would be added to greatly improve the pedestrian experience on NE 71<sup>st</sup> St. The proposed accessory parking lot would serve the Puget Consumers Coop (PCC) grocery store currently under construction on the Middle Parcel, immediately across NE 71<sup>st</sup> Street from the Accessory Parking Area. The PCC grocery store will also be served by an underground parking lot at Green Lake Village that provides the minimum code required parking. The proposed improvements to and redevelopment of the accessory parking lot will enhance the street front experience and safety along NE 71<sup>st</sup> St.

It is anticipated that the South Parcel, including the Accessory Parking Area, will be redeveloped within the next few years with a mixed-use project consistent with the PUDA. As such, the proposed accessory parking lot would be an interim use until that redevelopment occurs. During this interim period the site of the proposed accessory parking lot would provide improvement to the aesthetics of the street, activate this side of the block, and support customers of the grocery store now under construction.

The proposed offsite accessory parking lot to serve the PCC grocery store would be regulated by SMC 23.54.025.A. This code section allows offsite parking as proposed by Green Lake Joint Venture only if principal use parking is a permitted use for the lot. The PUDA prohibits Principal Use Parking anywhere on the Property. While Green Lake Joint Venture is only asking DPD to approve an accessory parking lot, not a facility for principle use parking, the proposed accessory parking lot can only be approved by DPD if the PUDA is amended so that Principle Use parking is no longer listed as a prohibited use.

## LIMITED SCOPE OF PUDA AMENDMENT

The proposed amendment to the PUDA is limited in scope to allow only the development of a proposed accessory parking lot on the Accessory Parking Area. The amendment would strike "Principle use parking" from Section 2.b., the list of uses prohibited as part of redevelopment of the Property, and would add a new Section k. to read as follows:

*Principle use parking is a prohibited use except on Parcel 9528101790 and the north sixty-eight feet of the west twenty feet of Parcel 9528101810 where*

*principle use parking is a permitted use but only to allow offsite parking accessory to an established grocery store use constructed on the Middle Parcel in order to satisfy SMC 23.54.025.A.*

#### REQUEST SHOULD BE CONSIDERED A MINOR PUDA AMENDMENT

Under SMC 23.76.058.C.4 the Director must determine whether a requested PUDA amendment is major or minor. This proposed limited scope amendment to the PUDA satisfies the criteria for a Minor Amendment as set forth in SMC 23.76.058.C.4.a as follows:

- *The PUDA Amendment is within the spirit and general purpose of the original PUDA*

The requested amendment would allow accessory parking and improvements to the South Parcel that would support and be compatible with the mixed-use development objectives of the original PUDA. The proposed limitations would continue to prohibit establishment of principal use parking facilities. The accessory parking lot would improve and activate, on an interim basis, the street scape along the south side of 71<sup>st</sup> street until these parcels are fully redeveloped as contemplated in the PUDA.

- *The PUDA Amendment is generally consistent with the uses and development standards approved in the prior decision of the Council*

The original PUDA prohibited "Principal use parking" but did not prohibit "offsite accessory parking", which is the actual use proposed to be established if this amendment is approved. Although the amendment would technically list "principal use parking" as an allowed use on the Accessory Parking Area, the amendment is drafted so that only offsite accessory parking could actually be established and only within the limited Accessory Parking Area. The amendment is clear that principle use parking on these parcels is only listed as an allowed use to meet the technical requirements of SMC 23.54.025A. Although the Original PUDA refers to underground parking as part of the project, accessory surface parking was not expressly prohibited. Because the proposed accessory parking would be an interim use, the amendment is consistent with the uses approved in the prior decision of the Council. The amendment does not propose changes to any development standards approved in the original PUDA.

- *The PUDA Amendment will not result in significant adverse impacts not anticipated in the prior decision*

The proposed Amendment would only authorize accessory parking for uses already contemplated in the prior contract rezone and PUDA decision. As such, no significant adverse impacts are anticipated from allowing the establishment of accessory parking on this portion of the Property.

- *The PUDA Amendment does not request any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements.*

Neither the Original PUD nor the proposed amendment requests any waivers of bulk or off street parking and loading requirements.

CONCLUSION

The proposed amendment to the PUDA is limited in scope, consistent with the original PUDA, and supports the mixed-use redevelopment objectives of the PUDA.

Very truly yours,

Vitamilk South LLC

A handwritten signature in black ink, appearing to read 'Daryl Vander Pol', is written over the typed name.

Daryl Vander Pol  
Manager

Enclosures

cc: Meredith Messmer  
Brent Carson

**Exhibit A – Accessory Parking Area Legal Description**

The East 10 feet of Lot 2, all of Lots 3, 4, 5, and the North 68 feet of the west 20 feet of Lot 6, all in Block 39, of Woodlawn Addition to Green Lake, according to the plat recorded in Volume 6 of Plats, Page 20, records of King County, Washington, Situate in the City of Seattle, County of King, State of Washington.

Exhibit B - Proposed Accessory Parking Area Map



**GREEN LAKE VILLAGE**  
 7104 WOODLAW AVE NE  
 SEATTLE, WA 98115

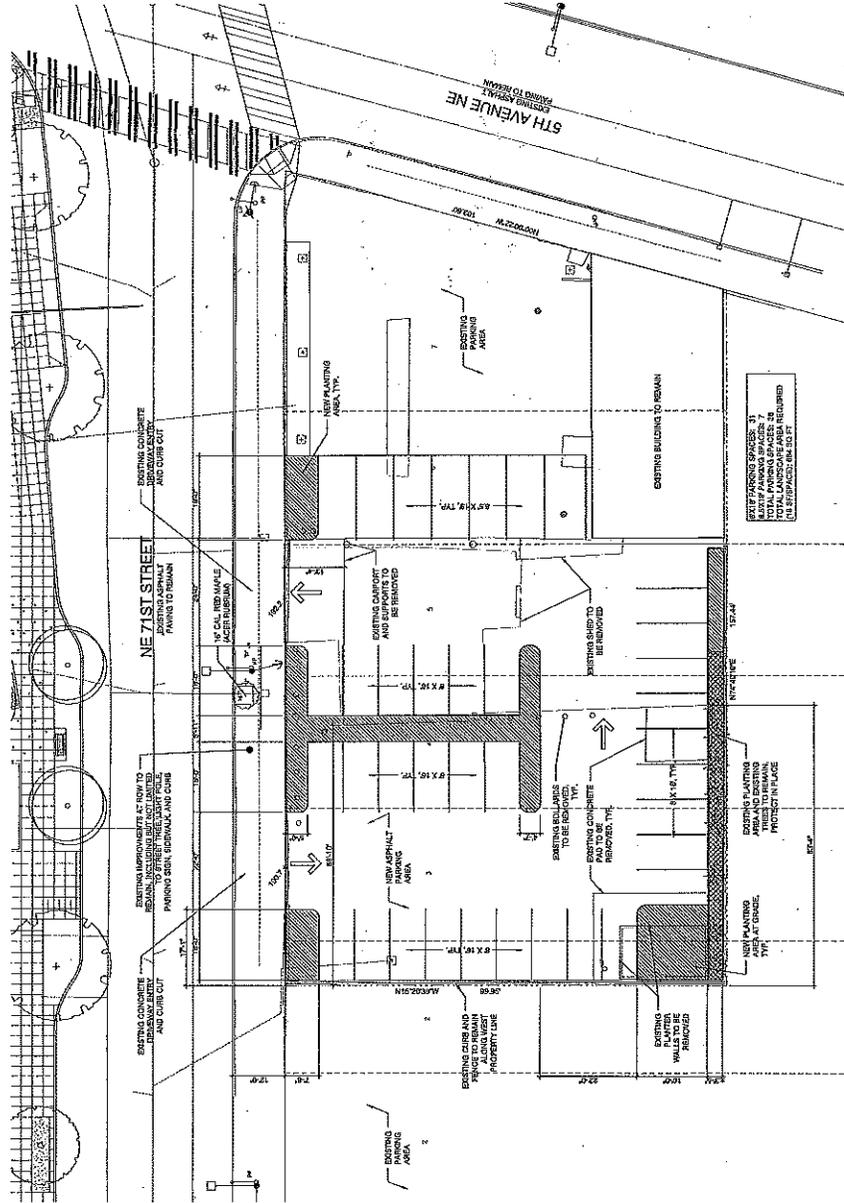
DATE: 08/20/2008  
 BY: JAC  
 CHECKED BY: JAC

**PRE-APPLICATION SITE PLAN**

DATE: 08/20/2008  
 BY: JAC  
 CHECKED BY: JAC

**SITE PLAN**

PROJECT NO: 11008  
 AS NOTED  
 SCALE: 1" = 10'-0"  
 SHEET: 1 OF 1  
 DATE: 08/20/08  
 L1.00



ADDRESS: 418 NE 72ND ST, BATTLE WA, 98115  
 OWNER: WYAMK SOUTH, LLC  
 LEGAL: LOTS 3, 4, 5 AND 6, TOGETHER WITH THE EAST 10 FEET OF LOT 2, BLOCK 9, WOODLAW PLAT RECORDED IN VOLUME 8 OF PLATS, PAGE 147, RECORDS OF KING COUNTY, WASHINGTON  
 DESCRIPTION: 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 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2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041. 2042. 2043. 2044. 2045. 2046. 2047. 2048. 2049. 2050. 2051. 2052. 2053. 2054. 2055. 2056. 2057. 2058. 2059. 2060. 2061. 2062. 2063. 2064. 2065. 2066. 2067. 2068. 2069. 2070. 2071. 2072. 2073. 2074. 2075. 2076. 2077. 2078. 2079. 2080. 2081. 2082. 2083. 2084. 2085. 2086. 2087. 2088. 2089. 2090. 2091. 2092. 2093. 2094. 2095. 2096. 2097. 2098. 2099. 2100. 2101. 2102. 2103. 2104. 2105. 21



When Recorded, Return to:

Office of the City Clerk  
606 4th Avenue, Floor 3  
PO Box 94728  
Seattle, Washington 98124-4728



20051025001251

SEATTLE CITY CLERK  
PAGE 01 OF 014  
10/25/2005 13:41  
KING COUNTY, WA

45.00

### PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantors:</b>	1) Teel, Vander Pol and Teel, a Washington limited partnership as to Parcels A, C, D, F, G, I, K, L, O, P, R and S	2) Teel Investment Company as to Parcel M.
	3) Teel & Madden, a Washington general partnership as to Parcels J and Q	4) Daryl Vander Pol, E. Gerald Teel and Charles B. Teel, all as their separate property, a partnership as to Parcel H
	5) Teel, Vander Pol and Teel, a Washington limited partnership, as to an undivided 1/2 interest and E. Gerald Teel and Daryl Lee VanderPol, the co-personal representatives of the Estate of Edwin A. Teel as to an undivided 1/2 interest as to Parcel E.	
<input type="checkbox"/> Additional on page		
<b>Grantee:</b>	1) City of Seattle	
<input type="checkbox"/> Additional on page		



<b>Legal Description (abbreviated):</b>	Lots 7-11, Block 34; Lots 7-9, Block 33; Lots 1-7, Block 35; Lots 1-12, Block 36; Lots 3-4, Block 37; Lot 5 Block 38; Lots 1-9 and 12-13, Block 39 of Woodlawn Add. to Green Lake, according to the plat thereof recorded in Vol. 6, Page 20, in King County, Washington
<input type="checkbox"/> <b>Additional on page</b>	PAGES A-1 through A-3
<b>Assessor's Tax Parcel ID #:</b>	952810-1510-03; 952810-1511-02; 952810-1515-08; 952810-1571-09; 952810-1580-08; 952810-1595-01; 952810-1615-07; 952810-1625-05; 952810-1635-03; 952810-1670-09; 952810-1675-04; 952810-1630-08; 952810-1685-02; 952810-1745-00; 952810-1785-01; 952810-1790-04; 952810-1810-00; 952810-1820-08; 952810-1840-04
<b>Reference Nos. of Documents Released or Assigned:</b>	N/A

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_ day of \_\_\_\_\_, 2005, in favor of the City of Seattle, a Washington municipal corporation (herein referred to as the "City"); by the Grantors listed above, collectively, the owners (herein referred to as the "Owners") of property legally described herein (herein referred to as the "Property").

#### RECITALS

A. The Owners own that certain real Property in the City of Seattle, the abbreviated legal description of which is Lots 7-11, Block 34; Lots 7-9, Block 33; Lots 1-7, Block 35; Lots 1-12, Block 36; Lots 3-4, Block 37; Lot 5 Block 38; Lots 1-9 and 12-13, Block 39 of Woodlawn Addition to Green Lake, according to the plat thereof recorded in Vol. 6, Page 20, in King County, Washington. Complete legal descriptions for the parcels comprising the Property are included on Pages A-1 through A-3 attached hereto and incorporated herein by this reference.

B. The Property is located in the Green Lake neighborhood. The Property includes all or portions of three City blocks, bounded on Woodlawn Avenue NE on the west, NE 70<sup>th</sup> Street on the south, Fifth Avenue NE on the east, and the alley between NE 72<sup>nd</sup> Street and NE 73<sup>rd</sup> Street on the north. A map depicting the Property is attached hereto as Exhibit A and incorporated herein by this reference.



C. The Property includes three parcels, which are depicted on Exhibit A, and are described as follows:

South Parcel: Includes a portion of the block bounded by NE 71st to the north, 5th Avenue NE to the east, and NE 70th Street to the south. The north half of the South Parcel is currently zoned Commercial One with a 40' height limit (C1-40) and the south half is currently zoned Neighborhood Commercial Two with a 40' height limit (NC2-40).

Middle Parcel: Includes a portion of the block bounded by NE 72nd Street to the north, 5th Avenue NE to the east, and NE 71st Street to the south. The Middle Parcel is currently zoned C1-40.

North Parcel: Includes a portion of the block bounded by an alley to the north, 5th Avenue NE to the east, and NE 72nd Street to the south. The North Parcel is currently zoned C1-40.

D. In November 2004, the Owners submitted to the City of Seattle an application for a contract rezone for the Property from the current zoning to Neighborhood Commercial Two with a 65' height limit and a Pedestrian-One overlay (NC2-65-P1) and Neighborhood Commercial Two with a 40' height limit and a Pedestrian-One overlay (NC2-40-P1) (herein referred to as the "Application").

E. The purpose of the Application is to allow the Property to be redeveloped with a mixed-use project including underground parking, commercial/retail at sidewalk levels, a high level of pedestrian amenities, public and private open-space and multi-family housing above the commercial/retail uses (hereinafter the "Project").

F. Seattle Municipal Code (SMC) Section 23.34.004 allows the City to approve a contract rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

G. The Owners have a fee simple or other beneficial interest in the Property and want the City Council to rezone the property pursuant to SMC 23.34.004.



## AGREEMENT

**Section 1. Zone Change Limited to the Property.** Pursuant to SMC 23.34.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that, in consideration of the rezone of the Property from C1-40 and NC2-40 to NC2-65-P1 and NC2-40-P1, the Property shall be redeveloped only with a Project that is substantially consistent with the terms and conditions established in this Agreement.

**Section 2. Approval Conditions.** The following terms and conditions shall apply to redevelopment of the Property:

- a. Development above the commercial base shall be residential and limited to 64% lot coverage. This requirement may be modified or waived by means of a Design Review Board departure and approval of DPD.
- b. The following specific uses are prohibited as part of any redevelopment of the Property:

Automotive retail sales and services, including:

- Gas stations;
- Sales and rental of motorized vehicles;
- Vehicle repair;
- Car washes; and
- Automotive parts or accessory sales.

Marine retail sales and services, including:

- Sales and rental of large boats;
- Vessel repair;
- Marine service stations;
- Dry storage of boats; and
- Sale of boat parts or accessories.

Mortuary services

Principal use parking

Non-household sales and service, including:

- Sales, service, and/or rental of commercial equipment.

Spectator sports facilities

Transportation Facilities, including:

- Recycling collection stations.



Light manufacturing  
Park and Pool lots

c. Lodging uses shall be prohibited with the exception of bed and breakfasts.

d. Within the Project, there shall be no more than one non-residential use larger than 15,000 square feet in area, and it shall not exceed 35,000 square feet, not including a mezzanine level containing accessory uses.

e. Within the Project, there shall be no more than three non-residential uses allowed between 10,000 and 15,000 square feet in area.

f. Within the Project, there shall be no more than two non-residential uses allowed between 4,000 to 10,000 square feet in area.

g. Remaining non-residential uses shall be 4,000 square feet in area or less.

h. The final design for the Project will include a mid-block, through-block pedestrian access on the Middle Parcel that will be subject to the use and transparency requirements applicable to street frontages in an NC2 zone. On the South Parcel, the Applicant agrees to make a good faith effort to design a mid-block, through-block pedestrian crossing, recognizing that the existing ownership pattern on the South Parcel may make this infeasible. The open space created by the through-block connections may be credited toward the required open space for residential development.

i. A minimum of 11% of the rezone area on the Middle and South Parcels shall be publicly accessible open space, with an understanding that at Design Review, more space may need to be required in the context of the adjoining scale of the residential towers.

j. Parking shall be provided on-site in an amount determined by the Director to be adequate to meet all Project-generated demand.

**Section 3. Fifteen-Year Term.** In order to encourage the construction of the redevelopment Project offered in return for this contract rezone, with its significant contributions to the Green Lake Residential Urban Village, this rezone shall expire and be of no force and effect, and the zoning shall revert to the



former C1-40 and NC2-40 designations fifteen (15) years from the effective date of the rezone except as provided in SMC 23.76.060(B)(2).

**Section 4. Agreement Runs With the Land.** This Agreement shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the title to the Property and shall be binding upon the Owners, their heirs, successors and assigns, and shall apply to the after-acquired title of the owner of the Property.

**Section 5. Amendment, Exercise of Police Power, No Precedent.** This Agreement may be amended or modified by agreement between Owners and the City provided such amendment shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall prevent the City Council from making such further amendments to the Land Use Code or exercising the City's police power, as it may deem necessary in the public interest. Owners agree that nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in the NC2-65-P1 and NC2-40-P1 zones. The conditions contained in this Agreement are based on the unique circumstances applicable to this Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 6. Benefited.** This Agreement is made for the benefit of the City and for the benefit of the owners of the property within 300 feet of the Property and either the City or any such property owners may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

**Section 7. Repeal as Additional Remedy.** Owners acknowledge that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previously existing zone.



SIGNED this 13 day of October, 2005.

Owners:

**Teel, Vander Pol and Teel, a Washington limited partnership as to Parcels A, C, D, E, G, I, K, L, O, P, R and S**

By: <u>[Signature]</u>	By: <u>[Signature]</u>	By: <u>[Signature]</u>
Daryl Vander Pol	E. Gerald Teel	Charles B. Teel
Its: General Partner	Its: General Partner	Its: General Partner

**Teel Investment Company, a dissolved Washington company, by its successor in interest, Teel, Vander Pol and Teel, a Washington limited partnership as to Parcel M**

By: Teel, Vander Pol and Teel, a Washington limited partnership  
Its: Successor in interest to Teel Investment Company, a dissolved Washington Company

By: <u>[Signature]</u>	By: <u>[Signature]</u>	By: <u>[Signature]</u>
Daryl Vander Pol	E. Gerald Teel	Charles B. Teel
Its: General Partner	Its: General Partner	Its: General Partner

**Teel & Madden, a Washington general partnership as to Parcels J and Q**

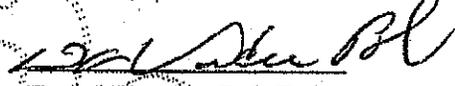
By: [Signature]  
Rodney S. Madden  
Its: General Partner

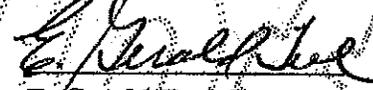
By: Teel, Vander Pol and Teel, a Washington limited partnership  
Its: General Partner

By: <u>[Signature]</u>	By: <u>[Signature]</u>	By: <u>[Signature]</u>
Daryl Vander Pol	E. Gerald Teel	Charles B. Teel
Its: General Partner	Its: General Partner	Its: General Partner



Daryl Vander Pol, E. Gerald Teel and Charles B. Teel, all as their separate property, a partnership as to Parcel H

By:   
Daryl Vander Pol, Partner

By:   
E. Gerald Teel, Partner

By:   
Charles B. Teel, Partner

UNOFFICIAL  
DOCUMENT



Teel, Vander Pol and Teel, a Washington limited partnership, as to an undivided 1/2 interest and E. Gerald Teel and Daryl Lee Vander Pol, the co-personal representatives of the Estate of Edwin A. Teel as to an undivided 1/2 interest as to Parcel E

By: Teel, Vander Pol and Teel, a Washington limited partnership

By: [Signature] By: [Signature] By: [Signature]  
Daryl Vander Pol E. Gerald Teel Charles B. Teel  
Its: General Partner Its: General Partner Its: General Partner

By: [Signature]  
E. Gerald Teel, co-personal representative of the Estate of Edwin A. Teel

By: [Signature]  
Daryl Lee Vander Pol, co-personal representative of the Estate of Edwin A. Teel

Approved as to Form:

City of Seattle

By: \_\_\_\_\_  
Its: City Attorney



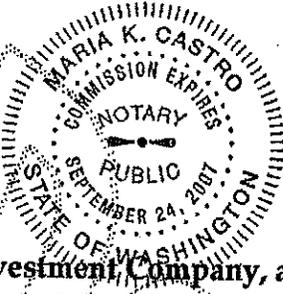
**Teel, Vander Pol and Teel, Washington limited partnership**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF King )

On this 13<sup>th</sup> day of Oct., 2005, before me personally appeared Daryl Vander Pol, E. Gerald Teel, and Charles B. Teel, to me known to be the General Partners of Teel, Vander Pol and Teel, the Washington limited partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said partnership.

GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct., 2005.

Signature: Maria K. Castro  
Name (Print): MARIA K. CASTRO  
NOTARY PUBLIC in and for the State  
of Washington, residing at Seattle  
My appointment expires: 9/24/07



**Teel Investment Company, a dissolved Washington Company, by its successor in interest, Teel, Vander Pol and Teel, a Washington limited partnership**

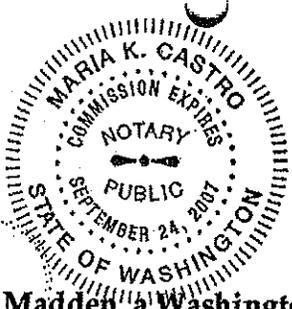
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF King )

On this 13<sup>th</sup> day of Oct., 2005, before me personally appeared Daryl Vander Pol, E. Gerald Teel, and Charles B. Teel, to me known to be the General Partners of Teel, Vander Pol and Teel, the successor in interest to Teel Investment Company, a dissolved Washington company, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said company.

GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct., 2005.

Signature: Maria K. Castro  
Name (Print): MARIA K. CASTRO





NOTARY PUBLIC in and for the State of Washington, residing at Seattle  
My appointment expires: 9/24/07

**Teel & Madden, a Washington general partnership**

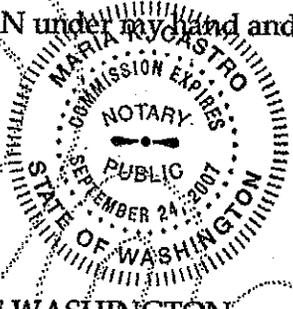
STATE OF WASHINGTON )

) ss.

COUNTY OF King )

On this 13<sup>th</sup> day of Oct., 2005, before me personally appeared Rodney S. Madden, to me known to be the General Partner of Teel & Madden, the Washington general partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said partnership.

GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct., 2005.



Signature: Maria K. Castro  
Name (Print): MARIA K. CASTRO  
NOTARY PUBLIC in and for the State of Washington, residing at SEATTLE  
My appointment expires: 9/24/07

STATE OF WASHINGTON )

) ss.

COUNTY OF King )

On this 13<sup>th</sup> day of Oct., 2005, before me personally appeared Daryl Vander Pol, E. Gerald Teel, and Charles B. Teel, to me known to be the General Partners of Teel, Vander Pol and Teel, the Washington limited partnership that is the General Partner of Teel & Madden, the Washington general partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said partnership.



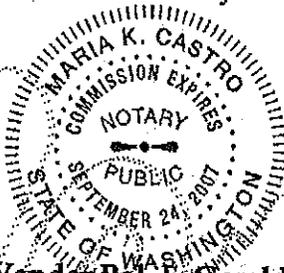
GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct., 2005.

Signature: Maria K. Castro

Name (Print): Maria K. Castro

NOTARY PUBLIC in and for the State of Washington, residing at Seattle

My appointment expires: 9/24/07



**Daryl Vander Pol, E. Gerald Teel and Charles B. Teel, a partnership**

STATE OF WASHINGTON )

COUNTY OF King )

ss.

On this 13<sup>th</sup> day of Oct., 2005, before me personally appeared Daryl Vander Pol, E. Gerald Teel and Charles B. Teel, to me known to be the partners of the Daryl Vander Pol, E. Gerald Teel and Charles B. Teel partnership, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said partnership.

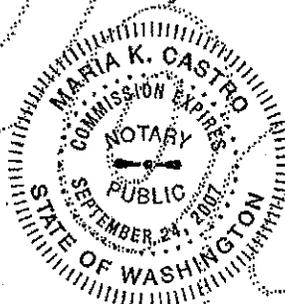
GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct., 2005.

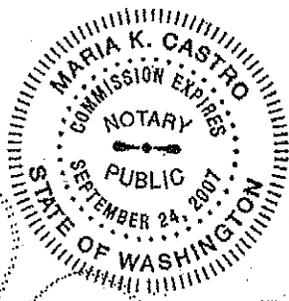
Signature: Maria K. Castro

Name (Print): Maria K. Castro

NOTARY PUBLIC in and for the State of Washington, residing at Seattle

My appointment expires: 9/24/07





Name (Print): Maria K. Castro  
NOTARY PUBLIC in and for the State  
of Washington, residing at Seattle  
My appointment expires: 9/24/07

Unofficial  
Document

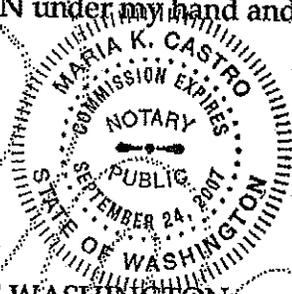


Teel, Vander Pol and Teel, a Washington limited partnership, as to an undivided 1/2 interest and E. Gerald Teel and Daryl Lee Vander Pol, the co-personal representatives of the Estate of Edwin A. Teel as to an undivided 1/2 interest

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF King )

On this 13<sup>th</sup> day of Oct, 2005, before me personally appeared Daryl Vander Pol, E. Gerald Teel, and Charles B. Teel, to me known to be the General Partners of Teel, Vander Pol and Teel, the Washington limited partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said partnership.

GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct, 2005.



Signature: Maria K Castro  
Name (Print): MARIA K. CASTRO  
NOTARY PUBLIC in and for the State  
of Washington, residing at Seattle  
My appointment expires: 9/24/07

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF King )

On this 13<sup>th</sup> day of Oct, 2005, before me personally appeared E. Gerald Teel and Daryl Lee Vander Pol, to me known to be the co-personal representatives of the Estate of Edwin A. Teel, the Estate that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Estate, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said Estate.

GIVEN under my hand and official seal this 13<sup>th</sup> day of Oct, 2005.

Signature: Maria K Castro

