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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of
**NEIGHBORS ENCOURAGING
RESPONSIBLE DEVELOPMENT**
From a decision by the Director, Department of
Planning and Development, regarding a Master
Use Permit

**Hearing Examiner file:
MUP-14-006**

**Department Reference:
3013303**

APPLICANT'S CLOSING ARGUMENT

INTRODUCTION

The Applicant, Northlake Group LLC ("Northlake"), has proposed a 7-story structure containing 102 residential units ("Project"). It is located in West Seattle at 3078 SW Avalon Way. Parking for 59 vehicles will be provided.

The City's Department of Planning and Development ("Department") issued a decision approving the Project ("Decision") on May 15, 2014. The Decision had two components. The first component was design review, pursuant to SMC 23.41. The second was a SEPA determination, pursuant to SMC 25.05.

A neighborhood group, Neighbors Encouraging Responsible Development ("Neighbors"), appealed the Decision to the City's Hearing Examiner ("Appeal").

The Neighbors have two major complaints about the Project.

1 The first has to do with the Project's height, bulk and scale. They argue that because the
2 Project is zoned Midrise, and is across the alley from a single family zone, that the height of the
3 Project must be reduced by an entire floor.

4 The Neighbor's complaint is unfounded, for two key reasons. First, the Seattle City
5 Council, in adopting Ordinance 124307 while the project was being reviewed, already reduced
6 the height of the Project by one story, from 75 ft. to 60 ft., in order to address the very concerns
7 raised by the Neighbors in this appeal. Second, height, bulk and scale issues associated with
8 zone transitions are governed by the Seattle Design Guidelines, in particular Guideline B-1. The
9 Design Review Board ("Board") conscientiously applied that Guideline, giving it careful
10 consideration, during three Board meetings, and finally in its decision reviewing and
11 recommending conditioning of the Project to fully address zone transition issues.
12
13

14 The Neighbors accordingly have no right to demand a reduction in height by yet a second
15 full story. Their complaint on this score must be dismissed.

16 Second, the Neighbors complain about parking impacts associated with the Project.
17 Evidence at the hearing indicated that, with or without the Project, parking utilization in the
18 vicinity is high. The Neighbors' unhappiness about this situation is understandable. However,
19 the Seattle City Council has made a clear policy decision, in an effort to reduce reliance on the
20 automobile and to increase use of transit. In Urban Villages, no parking is required for projects
21 within walking distance of frequent transit service. Because the Project is in an Urban Village
22 and within walking distance of frequent transit service, no parking is required, and DPD has no
23 authority to impose SEPA parking mitigation. See SMC 23.54.015, Table B; SMC25.05.675.M.
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26 The Neighbors' complaint on this score also must be dismissed.

27 The Neighbors finally also raise three collateral issues: Whether DPD should have
28

1 remanded the application to the Design Review Board; whether the Director's Rule on Frequent
2 Transit Service is consistent with the Land Use Code; and whether the MUP application was
3 signed by an authorized agent. As indicated below, none of these collateral issues has merit, and
4 all should be dismissed.

5 FACTS

6
7 **Proposal.** The Project is a 7-story structure with 102 residential units, and 59 parking
8 spaces to be provided below grade. It is zoned Midrise, and is in the West Seattle Hub Urban
9 Village. It is surrounded on three sides by Midrise zoned properties (north, east and south), and
10 on the west it abuts single family 5000 zoning. Because of the sloped site, the Project is 5
11 stories, not 7 stories, on the west elevation across the alley from SF zoning. Exhibit 1, p. 1.

12
13 The site is located mid-block facing Avalon Way, and is three lots north of SW Genesee
14 Street. It slopes approximately 33 ft. from southwest corner to northeast corner. A six-story
15 apartment building is adjacent to the south, and a two-story apartment building is adjacent to the
16 north. One- and two-story houses with backyards are across the alley to the west. Ex.1, p. 2.

17
18 **75 ft. Height Limit Reduced to 60 ft. at Request of Public.** As of the date of the
19 Design Review Early Design Guidance Meeting, September 13, 2012, the Land Use Code
20 allowed a 15 ft. height increase in Midrise zones, in exchange for the provision of affordable
21 housing. A total height, then, of 75 ft. was allowed in Midrise zones on sites such as the Project
22 site. See former SMC 23.45.516. Indeed, at Early Design Guidance, Northlake presented a
23 proposal 75 ft. in height. See Ex. 13.

24
25 After the Project's Early Design Guidance meeting was held, members of the public
26 successfully lobbied the City Council to amend the Code to eliminate this 15 ft. height bonus for
27 Midrise projects when they were located on a zone edge across an alley from a single family
28

1 zone (such as the Project site). Ordinance 124307 (see Attachment A to this memorandum).¹

2 The transmittal letter from Mayor McGinn emphasized that this reduction in height by an entire
3 floor would “help ensure increased appropriate transitions in height and floor area between
4 Midrise and single family zones.” (see Attachment B to this memorandum).² There was no
5 suggestion in the legislative history, however, that any **additional** height reductions (beyond the
6 15 ft. approved by the Council) were needed “to ensure appropriate transitions between Midrise
7 and single family zones.”
8

9 As a result, before even reaching its first Design Review Recommendation meeting,
10 Northlake had already been obliged to reduce the height of its proposal by one complete floor, in
11 order “to help ensure appropriate height, bulk and scale transitions.” Ex. 1, p. 2.
12

13 **Design Review Meetings.** At all three Design Review meetings (Early Design
14 Guidance, First Recommendation Meeting, and Second Recommendation Meeting), the Design
15 Review Board (“Board”) paid close and careful attention to height, bulk and scale impacts, and
16 to its discretion to consider mitigation under Guideline B-1 (Guideline B-1 is attached as
17 Attachment C to this memorandum). See Ex. 13 at 4-7 (the Board discussed the issue of height,
18 bulk and scale “at length,” specifically in the context of Guideline B-1) (the Board required
19 stepping back of upper stories on all sides, especially the side facing the SF zone); see Ex. 14
20 (architect packet for first recommendation meeting) at 7-8 (due to zoning change, project
21 reduced by 15 ft., with 5 rather than 6 stories facing the alley) (the majority of the mass is pulled
22 away from the SF zone toward the street; the façade is broken into base, body and top, further
23
24

25 ¹ The Hearing Examiner is asked to take judicial notice of Ordinance 124307, pursuant to HER 2.18 and ER 201,
26 because it is “capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably
questioned... Judicial notice may be taken at any stage of the proceeding.”

27 ² The Hearing Examiner is asked to take judicial notice of Mayor McGinn’s transmittal letter, pursuant to HER 2.18
and ER 201, because it is “capable of accurate and ready determination by resort to sources whose accuracy cannot
28 be reasonably questioned... Judicial notice may be taken at any stage of the proceeding.”

1 decreasing the perception of the height of the building; the uppermost stories are stepped back
2 from the façade; and the overall height of the northeast corner has been reduced by
3 approximately one floor); see Ex. 14 at 17 (the Board asked the applicant to explore options to
4 reduce building height impacts, “but did not request elimination of an entire floor of units”; see
5 Ex. 6 (Applicant succeeded in reducing building height by an additional 3’ 2”, resulting in a
6 height that averages 48 ft. above the alley, considerably below the 60 ft. height limit).
7

8 Throughout the Board’s deliberations, the record shows that the Board consistently,
9 carefully, and conscientiously carried out its responsibilities with respect to Guideline B-1.

10 There is no indication whatsoever that the Board failed to understand the scope of its authority or
11 the breadth of its discretion.
12

13 **SEPA Review.** Meanwhile, the Project underwent environmental review. The two
14 SEPA issues that have been raised by NERD have to do with height, bulk and scale, and parking.

15 The Decision discusses height, bulk and scale at Ex. 1, pp. 16-17. It notes that the Project
16 has undergone Design Review and numerous design adjustments. Under 25.05.675.G.2.c, the
17 Decision concludes that the Director is without authority to further mitigate those impacts.
18

19 The Decision addresses parking at Ex. 1, p. 17. John Shaw, DPD’s transportation
20 planner, testified at hearing and affirmed the analysis contained in the Decision. This project, by
21 itself, will add approximately 33 spillover vehicles, resulting in an occupancy rate on street of
22 87%. With the nearby project at SW Avalon Way, which at the time of the Decision was under
23 permit review, neighborhood parking utilization will be close to 100%. However, the Decision
24 notes that the Project is within 1320 feet of a street with frequent transit service. Accordingly,
25 under SEPA Policy 25.05.675.M.2.b, the Decision concluded there is no SEPA authority to
26 mitigate the impact of the Project on parking availability for residential uses.
27
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1 The issue asserted by the Neighbors at the hearing, that the Board was prevented from
2 considering all the issues within its authority, is nothing but a red herring, and has no support in
3 the record. As noted above, the Board carefully considered at each of its meetings the provisions
4 of the Design Guidelines, particularly Guideline B-1. As depicted at page 21 of the Design
5 Review Packet for the second recommendation meeting, Ex. 15, the Board review process
6 resulted in the following mitigation measures to address the provisions of Guideline B-1:
7

- 8 • lowered building height 3'2" (in addition to Council mandated 15' height
9 reduction);
- 10 • introduced a residentially scaled material with new color field, which replaces a
11 large field of metal siding to soften the transition to the SF zone;
- 12 • introduced new tree species which hold foliage longer in the year with larger
13 caliper size at installation for more immediate screening;
- 14 • introduced brick masonry along façade closest to the alley;
- 15 • introduced opaque glazing areas to increase privacy toward neighbors;
- 16 • redesigned the courtyard to increase interest;
- 17 • relocated garage exhaust to eliminate a large concrete box along the alley;
- 18 • stepping back of upper stories on all sides, especially the side facing the SF zone;
- 19 • the majority of the mass is pulled away from the SF zone toward the street;
- 20 • the façade is broken into base, body and top, further decreasing the perception of
21 the height of the building;
- 22 • the uppermost stories are stepped back from the façade; and
- 23 • the overall height of the northeast corner has been reduced by approximately one
24 floor.

25 Furthermore, as noted above, this mitigation is in addition to the mitigation already required by
26 the Council to reduce the Project by one full story. See Attachment A.
27
28

1 The menu of mitigation measures imposed by the Board mirrors almost to the letter the
2 guidance provided in Guideline B-1.

- 3 • The Board used architectural style, detail, color and materials to achieve
4 compatibility (p. 23);
- 5 • it used creative use of landscaping and other screening (p. 24);
- 6 • it placed open space on the zone edge so the building is farther from the lower
7 intensity zone (p. 24);
- 8 • it used the topography of the site to minimize the impact on the single family zone
9 (resulting in a 48 ft. structure rather than the otherwise permitted 60 ft. structure
10 (p. 24);
- 11 • it reduced the actual height, bulk and scale of the building by requiring the
12 stepping back of upper stories on all sides, the overall height of the northeast
13 corner by one floor, and the reduction of floor to floor heights reducing the height
14 of the building by over 3 ft. (p. 25); and
- 15 • it required modulation of building facades (p. 25).

16 Moreover, there is absolutely nothing in the record that supports the Neighbors' claims that the
17 Board was precluded from considering all issues within its purview. To the contrary, the
18 Board's consideration of those issues was robust and its mitigation of the transition impacts was
19 sound.

20 The Neighbor's appeal, accordingly, of the Director's Design Review decision should be
21 dismissed.

22 The Neighbors have also appealed the Director's SEPA decision on the grounds of
23 height, bulk and scale. Their argument, however, is identical to the argument they maintain as to
24 design review, namely that the Board has an obligation to "lop off" yet a second floor from the
25 Project. Of course, as demonstrated above, the Board has no such obligation under Guideline B-
26 1. Similarly, there is no such obligation under SEPA. Indeed, the City's SEPA policy, at SMC
27 25.05.675.G, specifically provides that a project that is approved pursuant to the design review
28

1 process is presumed to comply with the SEPA height, bulk and scale policies. This presumption
2 can only be rebutted by “clear and convincing evidence” documented in the City’s
3 environmental review that impacts have not been mitigated.

4 One has only to review the thorough mitigation identified above to realize that the
5 Neighbors cannot provide that “clear and convincing evidence.” The Neighbors’ SEPA appeal
6 as to height, bulk and scale must be dismissed.
7

8 PARKING

9 The Neighbors have appealed the Director’s SEPA decision as to parking. The
10 Neighbors demonstrated at hearing that parking availability in their neighborhood is congested,
11 and growing more so. Evidence at hearing also demonstrated that the Project will make at most
12 a modest contribution to the Neighbors’ dilemma. Other projects already developed, permitted,
13 and proposed, as well as those in the planning stages, will result in much greater impacts than the
14 33 vehicle spillover that the Project will cause. Congestion will occur with or without the
15 Project. Testimony of John Shaw, Charles Burkhalter.
16

17 Understandably inconvenient though this situation is for the Neighbors, it is a direct
18 result of policy consciously articulated and adopted by the City Council. In order to decrease
19 reliance on automobiles and to encourage the use of transit, the City Council has adopted
20 provisions in both the City Land Use Code and SEPA Ordinance that mandate that DPD is
21 without authority to require parking in urban villages within 1,320 feet of a street with frequent
22 transit service. See SMC 23.54.015, Table B, and SMC 25.05.675.M.2.b. It is uncontested in
23 this appeal that the Project is located in an urban village within 1,320 feet of a street with
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1 frequent transit service, as defined by Director's Rule 11-2012.³ See Ex. 76. Accordingly, the
2 Director is without authority to impose SEPA parking mitigation, and the Neighbors' SEPA
3 appeal as to parking must be dismissed.

4 FLOOR AREA RATIO

5 One of the collateral issues raised by the Neighbors relates to the issue of Floor Area
6 Ratio.

7
8 In response to the Neighbors' code interpretation request, the Department issued a
9 determination dated July 11, 2014 concluding that the Project met the City's Floor Area Ratio
10 requirements. Ex. 17. On July 17, 2014, following additional review, the Department issued a
11 Supplemental Interpretation which determined that the Project exceeded Floor Area limits by the
12 amount of 2,247 sq. ft. on an overall project size of approximately 61,000 sq. ft. Ex. 18. In
13 response, Northlake made minor modifications to the project that were found by the Director, in
14 the Supplemental Addendum dated August 1, 2014., to result in the Project complying with FAR
15 requirements. Ex. 19. The Neighbors no longer object to the Project's compliance with FAR
16 requirements.
17
18

19 There were two exterior changes caused by the Floor Area Ratio revisions: (1) On the
20 south elevation a small high-sill window was removed and the finished grade was slightly
21 modified to match the existing grade; and (2) On the north façade, the clerestory windows above
22 the kitchen cabinets for the northernmost ground level unit were raised 2'-0", which requires less
23 excavation along the northern property line and allows the finished grade to remain closer to
24 existing. Testimony of Radim Blazej; Ex. 74.
25
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27

28 ³ Northlake understands that the Neighbors may seek to challenge the validity of Director's Rule 11-2012. That issue will be discussed below.

1 The Department reviewed those changes, and determined that they were not sufficiently
2 significant to merit additional review by the Board. Testimony of Garry Papers. Mr. Papers
3 testified that the changes were minor, and unrelated to the Board's identified design review
4 concerns, as set forth in the minutes of the Board meetings.

5
6 The Neighbors, on the other hand, maintain that these changes are significant and must as
7 a result be remanded for additional review by the Board.

8 It is respectfully suggested that the Hearing Examiner does not have jurisdiction over this
9 issue. While, under SMC 23.76.022, the Examiner certainly has jurisdiction over issues that
10 relate to compliance with Type II decision procedures required by SMC 23.76, there is no
11 corresponding grant of authority over either Type I or Type II decision procedures required by
12 SMC 23.41. The issue whether a matter should be remanded to the Board is a procedural issue
13 under SMC 23.41, outside of the Examiner's jurisdiction.
14

15 Even if the Hearing Examiner did have jurisdiction, the Neighbors' appeal on this issue
16 must be dismissed. Mr. Papers' decision can only be overturned if it is clearly erroneous. Here,
17 the changes caused by the FAR revisions amount to removal of a small window, and the raising
18 of clerestory windows by 2 ft. There is no evidence that these changes are significant. There is
19 no evidence that the issues associated with these minor changes were of even minor, much less
20 significant, concern to the Board. See Ex. 1, pp. 3-12. Accordingly, it cannot be reasonably
21 maintained that the judgment of Mr. Papers was clearly erroneous.
22

23 Accordingly, the Neighbors' FAR issue must be dismissed.
24

25 DIRECTOR'S RULE

26 At the conclusion of the hearing, the Examiner asked the parties to address the
27 relationship between the code language defining frequent transit service, SMC 23.84A.038, and
28

1 the Director's Rule implementing that definition, DR 11-2012.

2 As the Examiner knows, the Director's authority to adopt rules is set forth in SMC
3 3.06.040. That authority specifically includes rules "interpreting Municipal Code provisions."
4 These rules are enforceable and carry the weight of law. The Code specifically authorizes the
5 Director to "enforce... appropriate regulations," such as Director's Rules. SMC 3.06.030.A.
6

7 The Director's interpretation of an ambiguous statute that it is charged with enforcing or
8 that is within its special expertise is afforded great weight. *Life Care Centers of America, Inc. v.*
9 *State Dep't of Social and Health Services*, 162 Wn.App. 370, 374-75 (2011).

10 Here, Director's Rule 11-2012 provides a reasonable interpretation of an ordinance, SMC
11 23.84A.038, that is subject to more than one interpretation. The Neighbors have argued that the
12 definition of frequent transit service in the Code would mean that during one twelve hour period,
13 if there were consistent headways of 15 minutes or less, but one headway of 16 minutes, the
14 definition would not be fulfilled, and there would not be frequent transit service. While this is
15 one reading of the definition, it leads to absurd results which would frustrate legislative intent to
16 reduce reliance on the automobile and increase the use of transit. For example, in the case of the
17 C Line in this case, there are 64 stops each day. 60 of those 64 stops have headways of 15
18 minutes or less. Ex. 83. The remaining 4 have headways of 16 minutes. On average, the 64
19 headways are less than 15 minutes. Ex. 76. In this context, the Director's Rule is fully
20 consistent with both the spirit and the letter of SMC 23.84A. The definition of frequent transit
21 service does not prohibit averaging, and nowhere requires that each individual headway be less
22 than 15 minutes so long as there are headways on average less than 15 minutes. Particularly in
23 light of the fact that the issue of transit frequency is certainly one within the special expertise of
24 the Director, the Director's interpretation as set forth in the Director's Rule is fully consonant
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1 with the Code language, and successfully carries out its intent.

2 In any event, in this case the issue of the relationship between the Code and the
3 Director's Rule need not be adjudicated. The Examiner can take judicial notice that there is
4 another Route that stops at SW Avalon Way and SW Yancy Street: Route 21. See Attachment
5 D to this memorandum.⁴
6

7 As stated above and shown in Ex. 83, The C Line has four stops with headways of 16
8 minutes during the course of a twelve hour period: (1) 9:53 am to 10:09 am; (2) 10:24 am to
9 10:40 am; (3) 12:25 pm to 12:41 pm; and (4) 1:56 pm to 2:12 pm. See also Attachment D-1
10 which highlights these four headways.

11 As shown on Attachment D-2, the stops of Route 24 bisect each of these 16 minute
12 periods: (1) the 10:04 am stop bisects the 16 minute C Line headway between 9:53 and 10:09
13 am; (2) the 10:34 am stop bisects the 16 minute C Line headway between 10:24 am and 10:40
14 am; (3) the 12:32 pm stop bisects the 16 minute C Line headway between 12:25 pm and 12:41
15 pm; and (4) the 2:03 pm stop bisects the 16 minute C Line headway between 1:56 pm and 2:12
16 pm. What this demonstrates is that for these four C Line headway periods that exceed 15
17 minutes, the Route 21 bus provides transit service during that period which reduces overall
18 headway at the stop to considerably less than 15 minutes.
19

20 Consultation with the readily available King County Metro Bus Schedule for the C Line
21 will also quickly confirm that even without Route 21, the C Line meets the definition of frequent
22 transit service, even without averaging, on Saturdays and Sundays.
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26 _____
27 ⁴ The Hearing Examiner is asked to take judicial notice of the King County Metro Bus Schedule for Route 21,
28 pursuant to HER 2.18 and ER 201, because it is "capable of accurate and ready determination by resort to sources
whose accuracy cannot be reasonably questioned... Judicial notice may be taken at any stage of the proceeding."

1 Guidelines. Indeed, no evidence was offered of any Guideline that was improperly interpreted or
2 applied.

3 With respect to the parking issue, this is a matter of City Council policy. The Council
4 has determined that in Urban Villages, parking should not be required when there is convenient
5 access to frequent transit. Here, it is undisputed that the Northlake site is in an Urban Village,
6 and that it is within walking distance of frequent transit. In this light, the Neighbors' appeal on
7 this issue should be dismissed.

8
9 With respect to the three ancillary issues, they also should be dismissed. The issue of
10 remanding the project to the Board to deal with the minor FAR changes does not appear to be
11 within the Examiner's jurisdiction. Even if it were, the evidence showed that the proposed
12 revisions were in fact so minor that they did not merit additional Board review. The decision of
13 the Department on that score should be affirmed.

14
15 As to the Director's Rule, as demonstrated above, it was well within the Department's
16 discretion to adopt. It is a reasonable application of an ordinance that is subject to more than one
17 interpretation. It should be affirmed.

18
19 Finally, as to ownership, there is now no dispute but that Northlake is authorized to
20 pursue this application.

21 In sum, Northlake asks the Examiner to affirm the Decision and to dismiss the appeal.

22 Dated this 5th day of November, 2014.

23
24 Respectfully submitted,
McCULLOUGH HILL LEARY, P.S.

25
26 
27 _____
G. Richard Hill, WSBA 8806
Attorneys for Applicant

28 MCCULLOUGH HILL LEARY, P.S.

701 Fifth Avenue, Suite 6600
Seattle, WA 98104
206.812.3388
206.812.3389 fax

ATTACHMENT A

CITY OF SEATTLE
ORDINANCE 124307
COUNCIL BILL 117877

AN ORDINANCE relating to land use and zoning, amending Section 23.45.516 of the Seattle Municipal Code to modify the criteria for lots eligible for additional height in Midrise zones.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.45.516 of the Seattle Municipal Code, last amended by Ordinance 124172, is amended as follows:

23.45.516 Additional height and extra residential floor area in Midrise and Highrise zones

A. General. Definitions in Section 23.58A.004 apply in this Section 23.45.516 unless otherwise specified. According to the provisions of this Section 23.45.516, Section 23.45.526, and Chapter 23.58A:

1. In MR, MR/85, and HR zones, extra residential floor area may be permitted up to the maximum limits allowed by Section 23.45.510; and

2. In MR and HR zones, additional height, above the base height limit, is permitted for structures that qualify for extra residential floor area, up to the maximum limits allowed by Sections 23.45.514 and 23.45.516.

B. Eligible lots. The following lots are eligible for extra residential floor area and, except in MR/85 zones, additional height:

1. Lots in MR or MR/85 zones in urban villages, urban centers and the Station Area Overlay District, except when the lot abuts a lot zoned single-family or is directly across an alley from a lot zoned single-family; and

2. Lots in HR zones((-))



1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 30th day of September, 2013, and
5 signed by me in open session in authentication of its passage this
6 30th day of September, 2013.

7
8 
9 President _____ of the City Council

10 Approved by me this 8th day of October, 2013.

11
12 
13 Michael McGinn, Mayor

14
15 Filed by me this 8th day of October, 2013.

16
17 
18 Monica Martinez Simmons, City Clerk

19
20 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning & Development	Brennon Staley 684-4625	Melissa Lawrie 684-5805

Legislation Title:

AN ORDINANCE relating to land use and zoning, amending Section 23.45.516 of the Seattle Municipal Code to modify the criteria for lots eligible for additional height in Midrise zones.

Summary of the Legislation:

This legislation would modify the criteria that lots must meet to be eligible for additional height in Midrise Zones. Currently, all Midrise-zoned lots in urban villages, urban centers and Station Area Overlay Districts are eligible for the bonus. This amendment would exclude lots that abut a single-family zoned lot or are directly across an alley from a single-family zoned lot.

Background:

This amendment is in response to comments received from the public that the additional height and floor area obtained through these incentives could be resulting in development that is incompatible with existing single-family zones that are immediately adjacent to the property.

DPD determined that parcels abutting or directly across an alley from single-family zoned lots represent about 11% of all Midrise incentive-eligible lots and about 21% of the incentive-eligible lots that are potentially redevelopable. Specific numbers are shown below.

	Incentive-Eligible Parcels Abutting or Directly Across an Alley from a SF zoned lot	Total Incentive- Eligible Parcels	Percentage
All lots	20.6 acres	189.1 acres	11%
Redevelopable lots only	12.5 acres	58.5 acres	21%

Given that the incentive can increase the floor area of a development by about 25% (from an FAR of 3.2 to 4.25), this amendment would reduce the total development capacity of Midrise zones by about 5%.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.



Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
Yes. This legislation may reduce the amount of floor area in Midrise developments that abut a single-family zoned lot or are directly across an alley from a single-family zoned lot. These developments may pay slightly lower permit fees.
- b) **What is the financial cost of not implementing the legislation?**
None.
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
No.
- e) **Is a public hearing required for this legislation?**
Yes. The City Council will hold a hearing as part of their consideration of the legislation.
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
The notice for the Council public hearing will be published in the DJC.
- g) **Does this legislation affect a piece of property?**
This legislation would affect the development regulations for various properties in the city zoned Midrise.
- h) **Other Issues:** None.

List attachments to the fiscal note below: None.

ATTACHMENT B



City of Seattle
Office of the Mayor

July 30, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that excludes certain Midrise-zoned lots from using height and floor area bonuses if they are adjacent to single-family zoned lots. This legislation is intended to help ensure increased appropriate transitions in height and floor area between Midrise and single-family zones.

In 2009, the City Council adopted Ordinance 123209, which updated the City's multifamily zoning regulations and implemented a zoning incentive for multifamily properties that provide affordable housing. This incentive allows additional development potential in Midrise-zoned lots in urban villages, urban centers, and the Station Area Overlay Districts. While this incentive is appropriate in many areas, recent development proposals suggest that the incentive can result in buildings that do not provide a good transition well with adjacent single-family zones.

This proposal will help to ensure that new midrise buildings better fit the character of our existing neighborhoods. Thank you for your consideration of this legislation. Should you have questions, please contact Brennon Staley at 206-684-4625.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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STATE OF WASHINGTON -- KING COUNTY

--SS.

303586

No.

CITY OF SEATTLE, CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

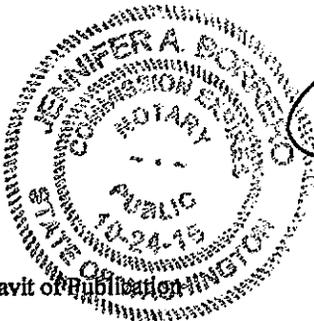
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:124304-320 TITLE ONLY

was published on

10/17/13

The amount of the fee charged for the foregoing publication is the sum of \$272.25 which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

10/17/2013

Notary public for the State of Washington,
residing in Seattle

City of Seattle

The full text of the following legislation, passed by the City Council on September 30, 2018, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact Office of the City Clerk at (206) 664-8344.

ORDINANCE NO. 124304

AN ORDINANCE repealing Chapter 6.256, relating to the distribution of yellow pages phone books, and amending Section 3.202.280 of the Seattle Municipal Code.

ORDINANCE NO. 124305

AN ORDINANCE relating to land use and zoning; amending Sections 23.40.178 and 23.66.140 of the Seattle Municipal Code to allow development in Pioneer Square meeting certain requirements to attain a maximum height of 180 feet at a freestanding manufactured public restroom structure acquired and installed and amending provisions for green building performance and roofing features.

ORDINANCE NO. 124306

AN ORDINANCE establishing a five-year SoDo (South of Downtown) Parking and Business Improvement Area; levying special assessments upon owners of property within the area; providing for the deposit of revenues in a special account and expenditures therefrom; providing for collection of and penalties for delinquencies; providing for the establishment of a Ratepayers Advisory Board; providing for an implementation agreement with a Program Manager; and ratifying and confirming certain acts related thereto.

ORDINANCE NO. 124307

AN ORDINANCE relating to land use and zoning; amending Section 23.45.011 of the Seattle Municipal Code to modify the criteria for lots eligible for additional height in M-1 use zones.

ORDINANCE NO. 124308

AN ORDINANCE relating to City real property; authorizing the transfer of jurisdiction of certain property in Block 1, Wenzel Addition to the City of Seattle, commonly referred to as 1125 North 98th Street, from the Department of Information Technology to the City Light Department for electric system purposes; and authorizing the payment of true and full value by the City Light Department to the Department of Information Technology for this transfer.

ORDINANCE NO. 124309

AN ORDINANCE related to the 2018 Budget; amending Ordinances 124068, which adopted the 2013 Budget, including the 2015-2018 Capital Improvement Program (CIP), changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new projects; revising project allocations for certain projects in the 2013-2018 CIP; creating positions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

State of Washington, King County

ORDINANCE NO. 124310

AN ORDINANCE authorizing, in 2018, acceptance of funding from non-City sources; authorizing the heads of the Executive Department, Seattle Police Department, Human Services Department, Department of Planning and Development, Department of Parks and Recreation, Department of Finance and Administrative Services, Department of Transportation, Seattle City Light, and Seattle Public Utilities to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124311

AN ORDINANCE authorizing acceptance of donations from public and private sources in support of University District planning efforts, and increasing appropriation authority in the 2018 Adopted Budget contingent upon receipt of said donations; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124312

AN ORDINANCE relating to rental registration and inspection; amending the title of Chapter 22.214 and Sections 22.214.010, 22.214.020, 22.214.030, 22.214.040, 22.214.045, 22.214.050, 22.214.060, 22.214.065, and 22.214.085, amending previously non-codified section 16 of Ordinance 124012, and adding new sections 22.214.088 and 22.214.087.

ORDINANCE NO. 124313

AN ORDINANCE relating to Seattle Public Utilities; prohibiting certain recyclable materials from disposal in commercial garbage; and amending subsections A and B of Section 21.89.042 of the Seattle Municipal Code.

ORDINANCE NO. 124314

AN ORDINANCE authorizing the Director of Finance and Administrative Services to enter into a lease agreement with the Port of Seattle, a Washington municipal corporation, for yard space to store jet grout spoils from the Elliott Bay Seawall Project; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124315

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing the Director of the Department of Finance and Administrative Services to execute an amendment to a lease last authorized by Ordinance 122862, extending the City's lease of office space at 220 Third Avenue South in Seattle from PTL Property LP; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124316

AN ORDINANCE authorizing the Director of Finance and Administrative Services to enter into a lease agreement with Block 24 Seattle, LTD, L.P. for office space

in the Bank of America Fifth Avenue Plaza; for office use by various City Departments.

ORDINANCE NO. 124317

AN ORDINANCE relating to City employment; authorizing the execution of a memorandum of understanding between the City of Seattle, City Light Department and the International Brotherhood of Electrical Workers, Local 77; and ratifying and confirming prior acts.

ORDINANCE NO. 124318

AN ORDINANCE relating to City employment; authorizing execution of a collective bargaining agreement between the City of Seattle and the Seattle Police Dispatchers Guild to be effective January 1, 2019, through December 31, 2019; providing payment therefor; and ratifying and confirming prior acts.

ORDINANCE NO. 124319

AN ORDINANCE relating to City employment; commonly referred to as the Second Quarter 2018 Employment Ordinance; designating positions as exempt from Civil Service status; amending Seattle Municipal Code Section 4.13.010, renaming a discretionary pay program; and ratifying and confirming prior acts; all by a 2/3 vote of the City Council.

ORDINANCE NO. 124320

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Date of publication in the Seattle Daily Journal of Commerce, October 10, 2018.
1017 (338886)

ATTACHMENT C

B. Height, Bulk and Scale

B-1 Height, Bulk and Scale Compatibility

Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to near-by, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.

• *Explanation and Examples*

This guideline restates the City's SEPA (State Environmental Policy Act) Policy on Height, Bulk and Scale. Development projects in multifamily and commercial zones may create substantial adverse impacts resulting from incongruous height, bulk and scale. For projects undergoing design review, the analysis and mitigation of height, bulk and scale impacts will be accomplished through the design review process. Careful siting and design treatment based on the techniques described in this and other design guidelines will help to mitigate some height, bulk and scale impacts; in other cases, actual reduction in the height, bulk and scale of a project may be necessary to adequately mitigate impacts. Design review should not result in significant reductions in a project's actual height, bulk and scale unless necessary to comply with this guideline.

Height, bulk and scale mitigation may be required in two general circumstances:

1. Projects on or near the edge of a less intensive zone. A substantial incompatibility in scale may result from different development standards in the two zones and may be compounded by physical factors such as large development sites, slopes or lot orientation.
2. Projects proposed on sites with unusual physical characteristics such as large lot size, or unusual shape, or topography where buildings may appear substantially greater in height, bulk and scale than that generally anticipated for the area.

Factors to consider in analyzing potential height, bulk and scale impacts include:

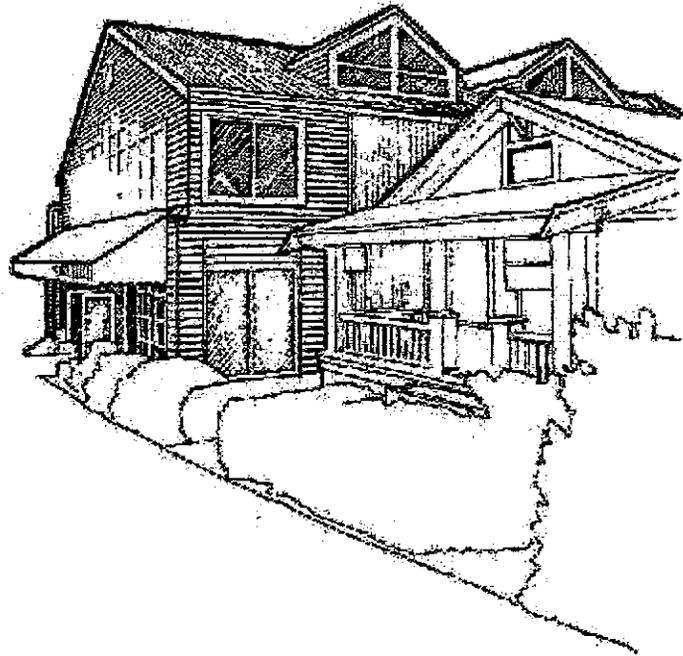
- distance from the edge of a less intensive zone.
- differences in development standards between abutting zones (allowable building height, width, lot coverage, etc.).
- effect of site size and shape.

- height, bulk and scale relationships resulting from lot orientation (e.g., back lot line to back lot line vs back lot line to side lot line).
- type and amount of separation between lots in the different zones (e.g., separation by only a property line, by an alley or street, or by other physical features such as grade changes).

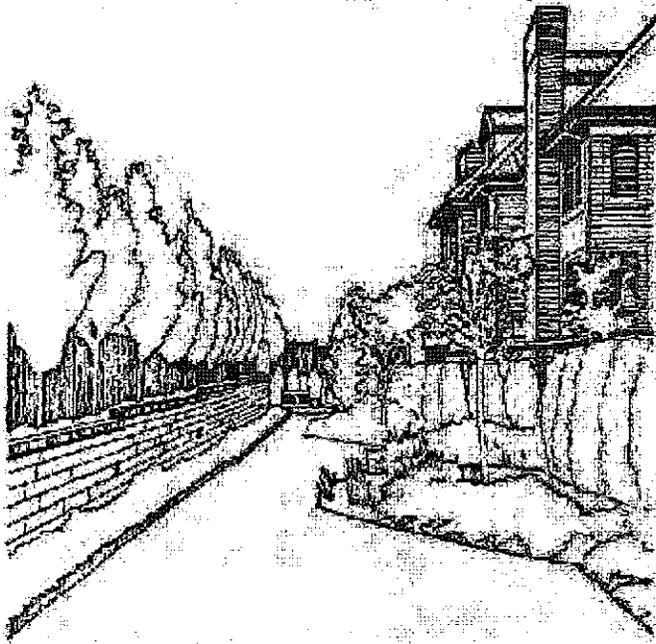
In some cases, careful siting and design treatment may be sufficient to achieve reasonable transition and mitigation of height, bulk and scale impacts. Some techniques for achieving compatibility are as follows:

- use of architectural style, details (such as roof lines or fenestration), color or materials that derive from the less intensive zone. (See also Guideline C-1 Architectural Context)

Use of similar roof forms helps this mixed-use building fit in better with the small single-family house in the single family zone next door.

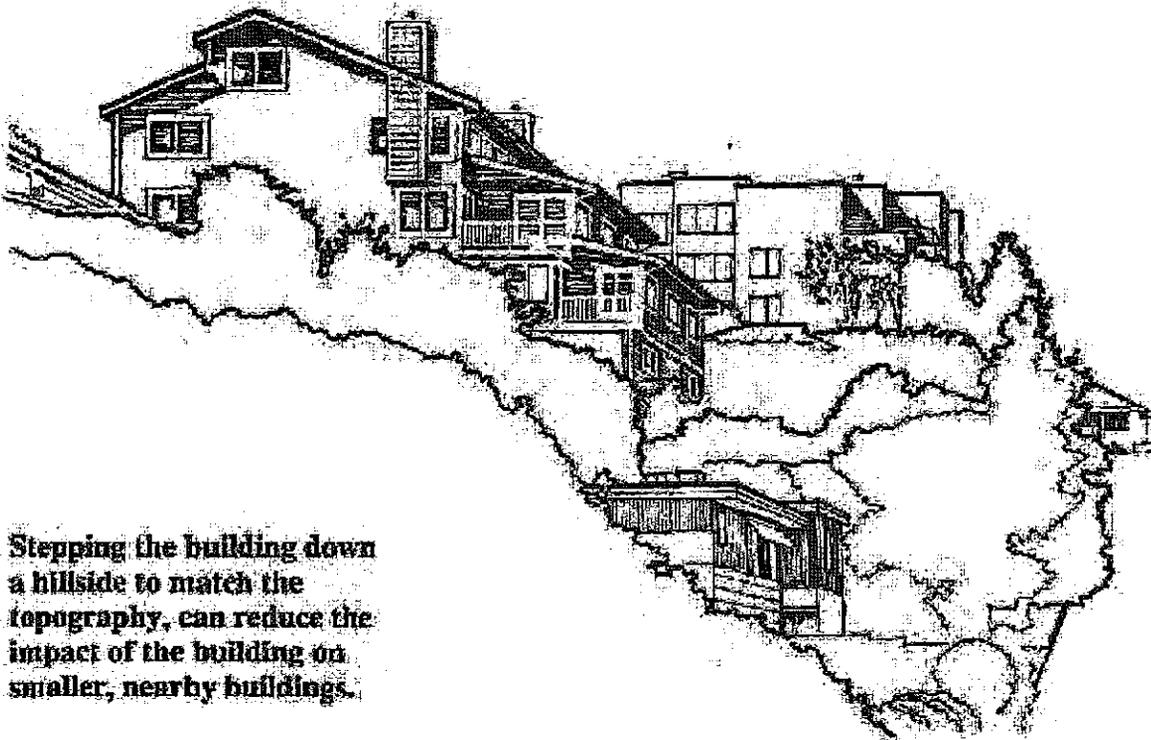


- creative use of landscaping or other screening.
- location of features on-site to facilitate transition, such as locating required open space on the zone edge so the building is farther from the lower intensity zone.



The varied landscape treatment helps soften the transition to existing development.

- treating topographic conditions in ways that minimize impacts on neighboring development, such as by using a rockery rather than a retaining wall to give a more human scale to a project, or stepping a project down the hillside.

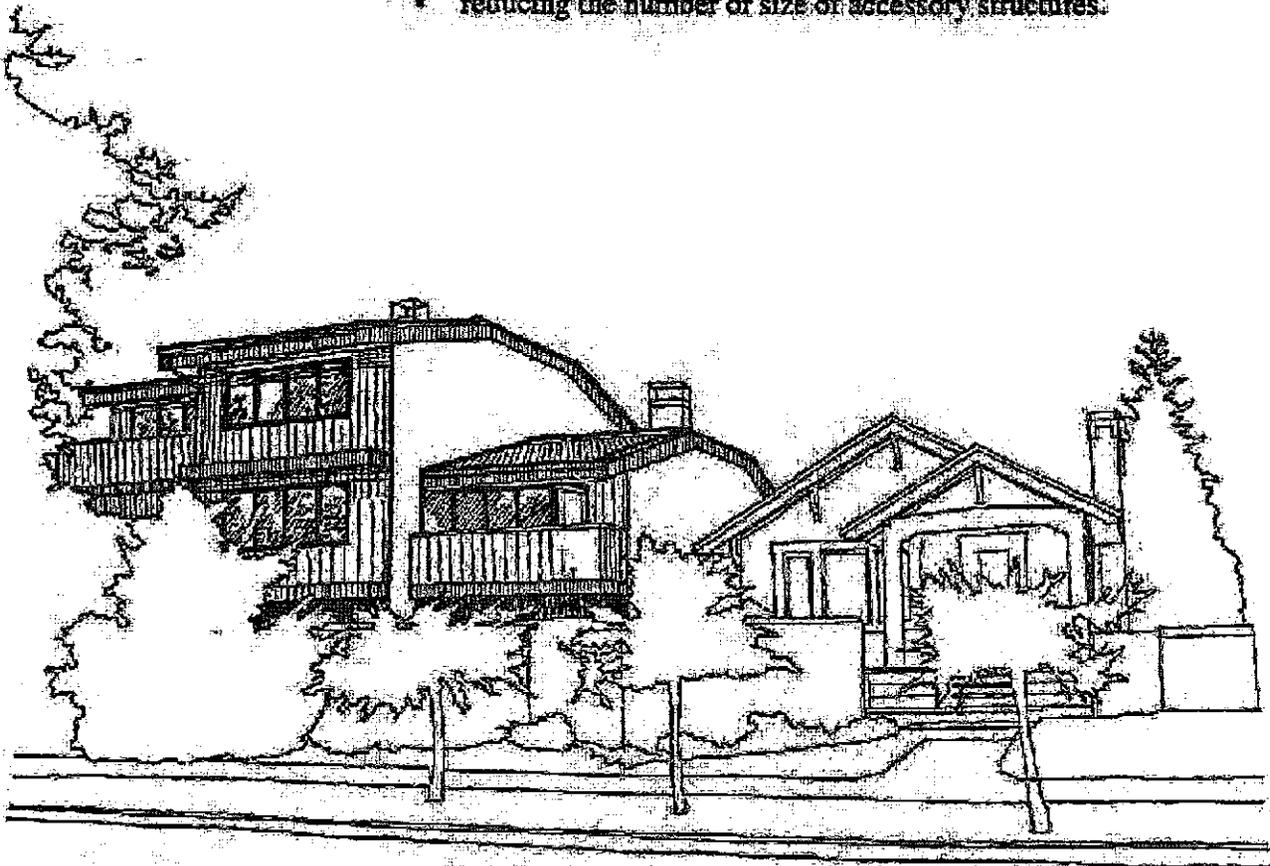


Stepping the building down a hillside to match the topography, can reduce the impact of the building on smaller, nearby buildings.

- in a mixed-use project, siting the more compatible use near the zone edge.

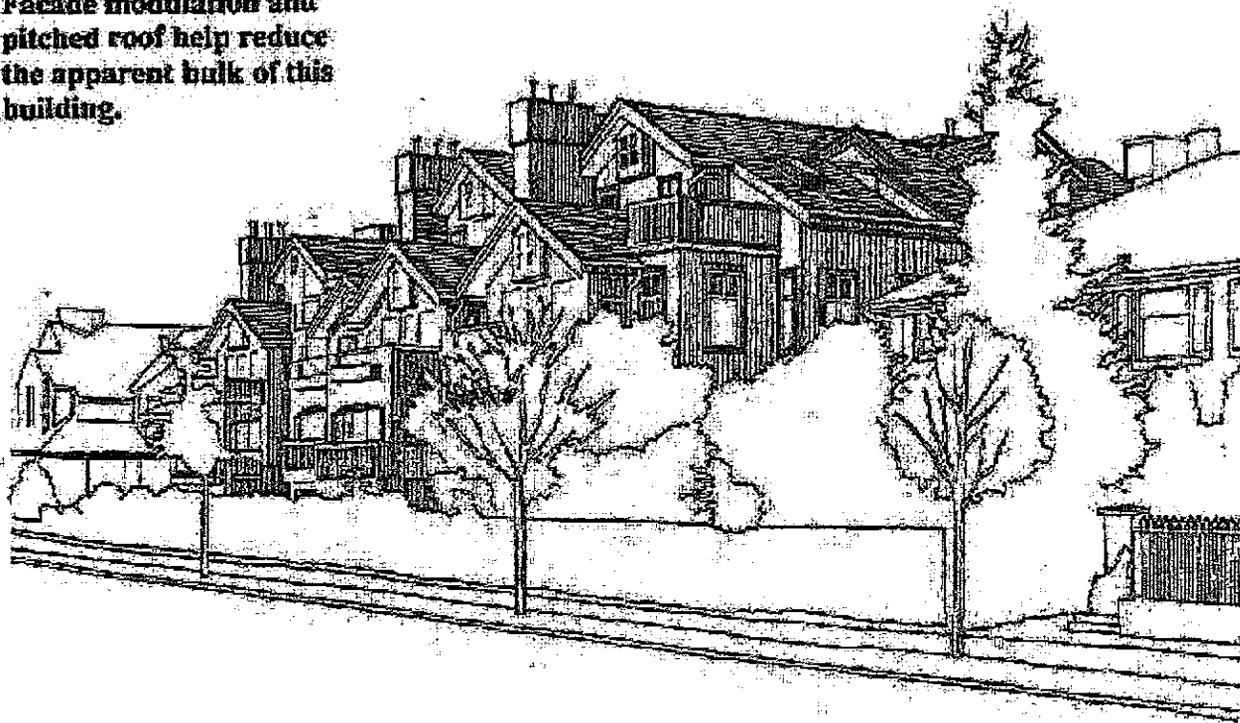
In some cases, reductions in the actual height, bulk and scale of the proposed structure may be necessary in order to mitigate adverse impacts and achieve an acceptable level of compatibility. Some techniques which can be used in these cases include:

- articulating the building's facades vertically or horizontally in intervals that conform to existing structures or plating pattern.
- increasing building setbacks from the zone edge at ground level.
- reducing the bulk of the building's upper floors.
- limiting the length of, or otherwise modifying, facades.
- reducing the height of the structure.
- reducing the number or size of accessory structures.



The bulk of this project's upper story was reduced and significant landscaping was retained to better fit with the neighboring single family zone.

Facade modulation and pitched roof help reduce the apparent bulk of this building.



ATTACHMENT D-1

Route 21

Weekday: To Downtown Seattle

Effective Sept. 27, 2014 thru Feb. 13, 2016

Westwood Village 29th Ave SW & SW Barton St	West Seattle 35th Ave SW & SW Morgan St	35th Ave SW & SW Avalon Way	1st Ave S & S Spokane St	Downtown Seattle 4th Ave S & S Jackson St	3rd Ave & Pine St	To Route
4:46am	4:57am	5:01am	5:08am	5:18am	5:25am	5
5:16am	5:28am	5:32am	5:40am	5:50am	5:57am	5
5:45am EGH	6:04am EH	6:09am * EH	---	---	6:25am * EHK	
5:47am	5:59am	6:03am	6:11am	6:21am	6:28am	5
6:01am	6:13am	6:18am	6:26am	6:36am	6:43am	5
6:12am EGH	6:33am EH	6:38am * EH	---	---	6:54am * EHK	
6:16am	6:28am	6:33am	6:41am	6:51am	6:58am	5
6:28am EGH	6:49am EH	6:54am * EH	---	---	7:10am * EHK	
6:32am	6:44am	6:49am	6:57am	7:07am	7:14am	5
6:41am EGH	7:02am EH	7:07am * EH	---	---	7:23am * EHK	
6:46am	6:58am	7:03am	7:11am	7:23am	7:30am	5
6:57am EGH	7:18am EH	7:23am * EH	---	---	7:40am * EHK	
7:00am	7:12am	7:17am	7:26am	7:38am	7:45am	5
7:11am EGH	7:32am EH	7:37am * EH	---	---	7:55am * EHK	
7:15am	7:27am	7:32am	7:41am	7:53am	8:00am	5
7:26am EGH	7:47am EH	7:52am * EH	---	---	8:10am * EHK	CB
7:30am	7:42am	7:47am	7:56am	8:08am	8:15am	5
7:42am EGH	8:02am EH	8:07am * EH	---	---	8:25am * EHK	CB
7:45am	7:57am	8:02am	8:11am	8:23am	8:30am	5
7:57am EGH	8:17am EH	8:22am * EH	---	---	8:40am * EHK	CB
8:00am	8:12am	8:17am	8:26am	8:38am	8:45am	5
8:15am	8:27am	8:32am	8:41am	8:53am	9:00am	5
8:30am EGH	8:50am EH	8:55am * EH	---	---	9:11am * EHK	CB
8:31am	8:43am	8:48am	8:56am	9:08am	9:15am	5
8:47am	8:59am	9:04am	9:11am	9:23am	9:30am	5
9:02am	9:14am	9:19am	9:26am	9:38am	9:45am	5
9:17am	9:29am	9:34am	9:41am	9:53am	10:00am	5
9:32am	9:44am	9:49am	9:56am	10:08am	10:15am	5
9:47am	9:59am	10:04am	10:11am	10:23am	10:30am	5
10:02am	10:14am	10:19am	10:26am	10:38am	10:45am	5
10:17am	10:29am	10:34am	10:41am	10:53am	11:00am	5
10:32am	10:44am	10:49am	10:56am	11:08am	11:15am	5
10:47am	10:59am	11:04am	11:11am	11:23am	11:30am	5
11:02am	11:14am	11:19am	11:26am	11:38am	11:45am	5
11:17am	11:29am	11:34am	11:41am	11:53am	12:00pm	5
11:32am	11:44am	11:49am	11:56am	12:08pm	12:15pm	5

Westwood Village 29th Ave SW & SW Barton St	West Seattle 35th Ave SW & SW Morgan St	35th Ave SW & SW Avalon Way	1st Ave S & S Spokane St	Downtown Seattle 4th Ave S & S Jackson St	3rd Ave & Pine St	To Route
11:46am	11:58am	12:03pm	12:10pm	12:22pm	12:29pm	B
12:00pm	12:12pm	12:17pm	12:24pm	12:36pm	12:44pm	B
12:15pm	12:27pm	12:32pm	12:39pm	12:51pm	12:59pm	B
12:31pm	12:43pm	12:48pm	12:55pm	1:07pm	1:15pm	B
12:46pm	12:58pm	1:03pm	1:10pm	1:22pm	1:30pm	B
1:01pm	1:13pm	1:18pm	1:25pm	1:37pm	1:45pm	B
1:16pm	1:28pm	1:33pm	1:40pm	1:52pm	2:00pm	B
1:31pm	1:43pm	1:48pm	1:55pm	2:07pm	2:15pm	B
1:46pm	1:58pm	2:03pm	2:10pm	2:22pm	2:30pm	B
2:01pm	2:13pm	2:18pm	2:25pm	2:37pm	2:45pm	B
2:16pm	2:28pm	2:33pm	2:40pm	2:52pm	3:00pm	B
2:31pm	2:43pm	2:48pm	2:55pm	3:07pm	3:15pm	B
2:45pm	2:57pm	3:02pm	3:09pm	3:22pm	3:30pm	B
3:00pm	3:12pm	3:17pm	3:24pm	3:37pm	3:45pm	B
3:14pm	3:26pm	3:31pm	3:38pm	3:52pm	4:00pm	B
3:33pm	3:41pm	3:46pm	3:53pm	4:07pm	4:15pm	B
3:44pm	3:56pm	4:01pm	4:08pm	4:22pm	4:30pm	B
4:02pm	4:10pm	4:15pm	4:22pm	4:36pm	4:45pm	B
4:13pm	4:25pm	4:30pm	4:37pm	4:51pm	5:00pm	B
4:33pm	4:40pm	4:45pm	4:52pm	5:06pm	5:15pm	B
4:44pm	4:55pm	5:00pm	5:07pm	5:21pm	5:30pm	B
5:05pm	5:12pm	5:17pm	5:24pm	5:37pm	5:45pm	B
5:16pm	5:27pm	5:32pm	5:39pm	5:52pm	6:00pm	B
5:37pm	5:44pm	5:49pm	5:56pm	6:08pm	6:15pm	B
5:49pm	6:00pm	6:05pm	6:12pm	6:23pm	6:30pm	B
6:04pm	6:15pm	6:20pm	6:27pm	6:38pm	6:45pm	B
6:21pm	6:32pm	6:36pm	6:42pm	6:53pm	7:00pm	B
6:36pm	6:47pm	6:51pm	6:57pm	7:08pm	7:15pm	B
6:52pm	7:03pm	7:07pm	7:13pm	7:23pm	7:30pm	B
7:07pm	7:18pm	7:22pm	7:28pm	7:38pm	7:45pm	B
7:22pm	7:33pm	7:37pm	7:43pm	7:53pm	8:00pm	B
7:37pm	7:48pm	7:52pm	7:58pm	8:08pm	8:15pm	B
7:52pm	8:03pm	8:07pm	8:13pm	8:23pm	8:30pm	B
8:23pm	8:33pm	8:37pm	8:43pm	8:53pm	9:00pm	B
8:53pm	9:03pm	9:07pm	9:13pm	9:23pm	9:30pm	B
9:23pm	9:33pm	9:37pm	9:43pm	9:53pm	10:00pm	B
9:53pm	10:03pm	10:07pm	10:13pm	10:23pm	10:30pm	B
10:23pm	10:33pm	10:37pm	10:43pm	10:53pm	11:00pm	B
10:53pm	11:03pm	11:07pm	11:13pm	11:23pm	11:30pm	B
11:23pm	11:33pm	11:37pm	11:43pm	11:53pm	12:00am	B
11:53pm	12:03am	12:07am	12:13am	12:23am	12:30am	B
12:28am	12:38am	12:42am	12:48am	12:58am	1:05am	B

N0021021

Schedule Notes

The following notes apply only if the codes are found in the schedule:

- * - This is an estimated time.
- B - Bus leaves 1st Ave & Blanchard St at this time. First stop on 3rd Ave is Virginia St.

C - Continues in a loop via 26th Ave SW, SW Roxbury St and 35th Ave SW before returning to 29th Ave SW & SW Barton St.

D - Leaves 35th Ave SW & SW Roxbury St at this time. Does not serve Westwood Village loop.

E - EXPRESS

To Westwood Village: EXPRESS buses will make no stops between 35th Ave SW & SW Morgan St and Seneca St & 2nd Ave EXCEPT at 35th Ave SW & SW Avalon Wy.

To Arbor Heights: EXPRESS buses will make NO stops between 2nd Ave & Columbia St and 35th Ave SW & SW Morgan St EXCEPT at 35th Ave SW & SW Avalon Wy.

G - Express leaves 35th Ave SW & SW Roxbury St at this time. Continues southbound through the Arbor Heights loop.

H - This trip does NOT operate on Nov. 11 & 28, Dec. 24, 28, 29, 30 & 31 and Jan. 2 & 19, 2015

J - Express arrives 35th Ave SW & SW Roxbury St northbound at this time after completing Arbor Heights loop.

K - Express travels via 3rd Ave, Lenora St, 2nd Ave to Marion St.

CB - To Metro Base, Airport Way S & S Atlantic St.

ATTACHMENT D-2

RapidRide C Line

(more info)

Weekday To Downtown Seattle

Effective Sept. 27, 2014 thru Feb. 13, 2015

Westwood Village 29th Ave SW & SW Barton St	Fauntleroy Ferry Terminal On Fauntleroy Way SW opposite Ferry Terminal	Alaska Junction SW Alaska St & California Ave SW	Downtown Seattle 3rd Ave & Pike St
4:39am	4:47am	4:55am	5:10am
4:58am	5:06am	5:14am	5:30am
5:18am	5:26am	5:34am	5:50am
5:33am	5:41am	5:49am	6:05am
5:44am	5:52am	6:00am	6:16am
5:56am	6:04am	6:12am	6:28am
6:07am	6:15am	6:23am	6:39am
6:14am	6:22am	6:31am	6:50am
6:24am	6:32am	6:41am	7:00am
6:34am	6:42am	6:51am	7:10am
6:41am	6:49am	6:58am	7:20am
6:51am	6:59am	7:08am	7:30am
6:59am	7:07am	7:16am	7:38am
7:07am	7:15am	7:24am	7:46am
7:13am	7:21am	7:30am	7:54am
7:20am	7:28am	7:38am	8:02am
7:28am	7:36am	7:46am	8:10am
7:36am	7:44am	7:54am	8:18am
7:44am	7:52am	8:02am	8:26am
7:52am	8:00am	8:10am	8:34am
8:00am	8:08am	8:18am	8:42am
8:10am	8:18am	8:28am	8:52am
8:19am	8:27am	8:37am	9:01am
8:29am	8:37am	8:47am	9:11am
8:39am	8:47am	8:57am	9:21am
8:52am	9:00am	9:10am	9:31am
9:02am	9:10am	9:20am	9:41am
9:12am	9:20am	9:30am	9:51am
9:23am	9:31am	9:41am	10:01am
9:35am	9:43am	9:53am	10:13am
9:51am	9:59am	10:09am	10:28am
10:06am	10:14am	10:24am	10:43am
10:22am	10:30am	10:40am	10:59am
10:37am	10:45am	10:55am	11:14am
10:52am	11:00am	11:10am	11:29am
11:07am	11:15am	11:25am	11:44am
11:22am	11:30am	11:40am	11:59am

Westwood Village 29th Ave SW & SW Barton St	Fauntleroy Ferry Terminal On Fauntleroy Way SW opposite Ferry Terminal	Alaska Junction SW Alaska St & California Ave SW	Downtown Seattle 3rd Ave & Pike St
11:37am	11:45am	11:55am	12:14pm
11:52am	12:00pm	12:10pm	12:29pm
12:07pm	12:15pm	12:25pm	12:44pm
12:23pm	12:31pm	12:41pm	12:59pm
12:38pm	12:46pm	12:56pm	1:14pm
12:53pm	1:01pm	1:11pm	1:29pm
1:08pm	1:16pm	1:26pm	1:44pm
1:23pm	1:31pm	1:41pm	1:59pm
1:38pm	1:46pm	1:56pm	2:14pm
1:54pm	2:02pm	2:12pm	2:29pm
2:09pm	2:17pm	2:27pm	2:44pm
2:23pm	2:31pm	2:42pm	2:59pm
2:38pm	2:46pm	2:57pm	3:14pm
2:51pm	2:59pm	3:10pm	3:28pm
3:03pm	3:11pm	3:22pm	3:40pm
3:13pm	3:21pm	3:32pm	3:50pm
3:22pm	3:30pm	3:41pm	4:00pm
3:32pm	3:40pm	3:51pm	4:10pm
3:42pm	3:50pm	4:01pm	4:20pm
3:52pm	4:00pm	4:11pm	4:30pm
4:02pm	4:10pm	4:21pm	4:40pm
4:12pm	4:20pm	4:31pm	4:50pm
4:23pm	4:31pm	4:41pm	5:00pm
4:31pm	4:39pm	4:49pm	5:08pm
4:39pm	4:47pm	4:57pm	5:16pm
5:14pm	5:22pm	5:32pm	5:51pm
4:47pm	4:55pm	5:05pm	5:24pm
4:56pm	5:04pm	5:14pm	5:33pm
5:05pm	5:13pm	5:23pm	5:42pm
5:23pm	5:31pm	5:41pm	6:00pm
5:33pm	5:41pm	5:51pm	6:10pm
5:44pm	5:52pm	6:02pm	6:20pm
5:54pm	6:02pm	6:12pm	6:30pm
6:06pm	6:14pm	6:24pm	6:42pm
6:21pm	6:29pm	6:39pm	6:57pm
6:36pm	6:44pm	6:54pm	7:12pm
6:51pm	6:59pm	7:09pm	7:27pm
7:06pm	7:14pm	7:24pm	7:42pm
7:25pm	7:33pm	7:41pm	7:58pm
7:39pm	7:47pm	7:55pm	8:12pm
7:54pm	8:02pm	8:10pm	8:27pm
8:09pm	8:17pm	8:25pm	8:42pm
8:24pm	8:32pm	8:40pm	8:57pm
8:39pm	8:47pm	8:55pm	9:12pm
8:54pm	9:02pm	9:10pm	9:27pm
9:09pm	9:17pm	9:25pm	9:42pm
9:24pm	9:32pm	9:40pm	9:57pm
9:39pm	9:47pm	9:55pm	10:12pm
9:54pm	10:02pm	10:10pm	10:27pm
10:09pm	10:17pm	10:25pm	10:42pm

Westwood Village 29th Ave SW & SW Barton St	Fauntleroy Ferry Terminal On Fauntleroy Way SW opposite Ferry Terminal	Alaska Junction SW Alaska St & California Ave SW	Downtown Seattle 3rd Ave & Pike St
10:26pm	10:34pm	10:40pm	10:57pm
10:57pm	11:05pm	11:11pm	11:27pm
11:31pm	11:39pm	11:45pm	12:01am
12:05am	12:13am	12:19am	12:35am
12:40am	12:48am	12:54am	1:10am
1:42am	1:50am	1:56am	2:12am
2:58am	3:06am	3:12am	3:28am
4:01am	4:09am	4:15am	4:31am
			N0673873

ATTACHMENT E

JOSEPH C. FINLEY

Attorney at Law

*Please reply to:
227 Bellevue Way NE, No. 212
Bellevue, WA 98004 USA*

*Direct Dial: (206) 778 5327
E-mail: [jos.finley@yahoo.com](mailto:jcs.finley@yahoo.com)*

August 6, 2014

Diane Sugimura, Director
City of Seattle
Department of Planning and Development
700 Fifth Avenue, Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

Via email (Diane.Sugimura@seattle.gov)

Re: DPD Application Nos. 3013303 and 3107787 (3078 SW Avalon Way); Request for Immediate Stay of Application Processing

Dear Director Sugimura:

The purpose of this letter is to comment on a letter that was sent to you by Mr. Peter Eglick as legal counsel for NERD, as defined in his letter to you dated July 30, 2014.

First of all, even though Mr. Eglick knew that I represent the owners of the affected properties at 3078 and 3084 SW Avalon Way he did not see fit to send a copy of his letter of July 30 to me or to the property owners.

Second, Mr. Eglick misstated the substance of my letter to Diane C. Davis at DPD.

He asserts in the next to last paragraph on page one of his letter that "The actual owners have confirmed through counsel that Northlake and Mr. Thorpe at best "had" a purchase and sale agreement on which they did not perform and which never closed."

That was an outright misrepresentation by Mr. Eglick. What I in fact communicated in

my letter to Diane Davis was that Northlake Group, LLC "had a contract to purchase the property from them but that has not occurred."

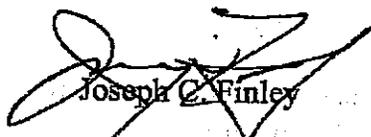
There is a very large difference between "never closed" and "has not occurred". And it is solely a matter between the parties to the contract (the owners and the buyer) as to whether a contract will be extended, reinstated or declared to be binding. At this point the owners reserve the right to pursue settlement discussions with the buyer without conceding whether the agreement between the parties is legally in force and binding. And it is none of the business of NERD or Mr. Eglick how that may be resolved.

With all due respect to Ms. Davis, she seems to have overlooked that there is another category that entitles someone other than the owner or the purchaser under a real estate contract to pursue a Master Use Permit. That category is "authorized agent" of the owner. You should understand that under Paragraph 7 of the first Addendum to the Real Estate Purchase and Sale Agreement that was entered into on October 18, 2011, Northlake Group, LLC was designated as an "authorized agent" of the owners for purposes of pursuing a Master Use Permit. Further, during this period of time when the owners and the buyer are having discussions about the effect and enforceability of the agreement, the owners can and do hereby confirm, for purposes of considering the Master Use Application, that Northlake Group, LLC continues to have the status of "authorized agent" whatever resolution the parties ultimately may reach with respect to the purchase contract.

It is manifestly contrary to public policy for the City to take action that possibly would preclude settlement of pending litigation, especially when no legitimate rights of third parties would be affected. The attempt by counsel for NERD is transparently an attempt to postpone and delay the Master Use Application from being heard on the merits when they do not properly have standing to raise the issue after the owners and the buyer consider and confirm (for purposes of the application) that buyer is a duly authorized agent of the owners.

The request of legal counsel for NERD for a stay of processing the application should be denied.

Very truly yours,



Joseph C. Finley

cc: Peter Eglick

Counsel for Northlake Group, LLC

RECEIVED BY
2014 NOV -5 PM 4:41
OFFICE OF
HEARING EXAMINER

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

**NEIGHBORS ENCOURAGING
RESPONSIBLE DEVELOPMENT**

From a decision by the Director, Department of
Planning and Development, regarding a Master
Use Permit

**Hearing Examiner file:
MUP-14-006**

**Department Reference:
3013303**

CERTIFICATE OF SERVICE

I, Laura D. Counley, declare as follows:

I am employed with McCullough Hill Leary, P.S., which represents Northlake Group
LLC and Radim Blazej. I caused a copy of the **APPLICANT'S CLOSING ARGUMENT** and
this **CERTIFICATE OF SERVICE** to be served on the following parties via electronic mail:

Peter J. Eglick
Fred Schmidt
Eglick Kiker Whited PLLC
1000 Second Avenue, Suite 3130
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Email: Schmidt@ekwlaw.com

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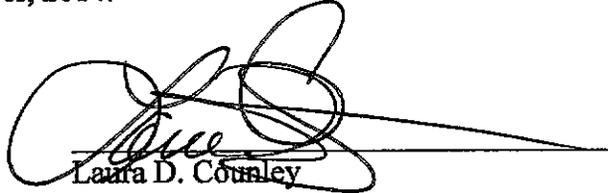
Bill Mills
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MCCULLOUGH HILL LEARY, P.S.

701 Fifth Avenue, Suite 6600
Seattle, WA 98104
206.812.3388
206.812.3389 fax

1 I declare under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct to the best of my knowledge and belief.

3 DATED this 5th day of November, 2014.

4
5
6 

7 Laura D. Conley
8 McCullough Hill Leary, PS
9 701 Fifth Avenue, Suite 6600
10 Seattle, WA 98104
11 Email: laura@mhseattle.com