

BACKGROUND INFORMATION

Site and Vicinity Description

The project site is at the northeast corner of 42nd Avenue south and South Trenton Street. It is located within the Rainier Beach Residential Urban Village of Seattle. The site is bounded by the extension of 42nd Avenue South on the west, Martin Luther King Jr. Way South, South Trenton Street and the City of Seattle Transmission Lines on the east. The north boundary is private property. Martin Luther King Junior Way South provides access between the site and regional principal arterials and highways. The surrounding land use is primarily developed with single family housing. There is a retail development one block southwest of the site, and other retail development located along Martin Luther King Jr. Way South. The site is located one block north of the Rainier Beach (Henderson) Link Light Rail Station. The site has an existing single family residential unit.



Proposal Description

The proposal is a Council Land Use Action to contract rezone approximately 110,000 square feet of land, bounded by M. L. King Jr. Way South to the East, S. Trenton St. to the South, 42nd Avenue South to the West, from a Single Family (SF 5000) zone to a Lowrise 2 (L2) zone. The proposal is to allow 67 residential units within 31 structures. The Environmental review includes a full unit lot subdivision (one development site consisting of 10 parcels to be developed into 67 unit lots) and 16,280 cubic yards of grading. Parking for 95 vehicles is proposed to be provided at surface, within structures and in garages. (33 surface, 37 in below grade garages, and 25 within 9 structures). The existing house is proposed to be removed.

The proposal is to build a townhouse community with a variety of townhouse configurations which include parking, open space, light and air. The townhouses would be two stories high, and constructed in blocks of two to four. Those that are situated along South Trenton Street are setback from the street and each has a front door facing South Trenton. The scale is compatible with single family structures.

The proposal includes an internal path, set aside by easements, to get to the east edge of the subject property where the Chief Sealth Trail /Seattle Transmission Lines pass. The proposal also includes right of way dedications along south Trenton Street and 42nd Avenue South.

Public Comments

The City received no comments during the first official comment period which ended on September 19, 2007. A full unit lot subdivision was added as a component to this project so the project application was re-noticed. No comments were received during the second official comment period which ended March 11, 2009.

ANALYSIS - REZONE

A contract rezone from SF 5000 to L2 requires several stages of analysis. Contract rezones are subject to the procedures outlined in (SMC section 23.34.004). Analysis of the rezone criteria includes code sections of General rezone criteria (SMC section 23.34.008), Designation of single-family zones where the code states that “single-family zoned areas may be rezoned to zones more intense than single-family 5000 only if the City council determines that the area does not meet the criteria for single-family designation.” (SMC section 23.34.010). Analysis must also consider single-family zones, function and locational criteria (SMC section 23.34.011). The last section for analysis is Lowrise 2 (L2) zone, function and locational criteria (SMC section 23.34.018). The following analysis will discuss the code criteria and the merits of the proposal. Code language is in italics followed by criteria discussion. This analysis follows the code citations in their numerical order as mentioned above.

Contract rezones are described in the following Land Use section (SMC 23.34.004).

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions shall be directly related to the impacts that may be expected to result from the amendment. A rezone shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.

Key provisions of the applicant’s proposal include a unit lot full subdivision to allow fee-simple sale of each dwelling unit and phased development to facilitate financing of the proposal. Specifically, the applicant has divided the proposed development into three construction phases. Phase 1-A includes 20 units to be constructed in the southeasterly portion of the site in conjunction with required street improvements along S. Trenton St. Phase 1-B includes 24 units in the northeasterly portion of the site and Phase 2 includes 23 units on the westerly portion of the site, including required street improvements to 42nd Ave S. and the intersection of 42nd Ave S and S Trenton St. The applicant proposes to complete Phase 1-A construction of both 20 units and the required S. Trenton St. street improvements with the intent to sell the units prior to any requirement to complete other street improvements.

While a rezone is necessary for both the proposed development and unit lot subdivision to be conforming to Land Use Code, the proposed contract rezone and subsequent development can proceed without the unit lot subdivision as long as street right-of-way dedications and improvements are made. RCW 58.17.140, as amended by the Legislature in 2010, now allows applicants 7 years to file a final plat after receiving preliminary plat approval. The state statute allows local government to extend beyond 7 years. Furthermore, RCW 58.17.170 allows that a subdivision shall be governed by the terms of approval and regulations in effect at the time of

approval under RCW 58.17.150 for a period of 7 years after final plat approval. While the development contemplated may or may not be subject to this provision due to the rezone, in order to meet the intent and requirement for state statutes governing plats, the Director recommends that the contract rezone be valid until at least 7 years after final plat recording provided that street improvements are completed or bonded for completion within required timeframes.

In order to satisfy the street right of way and dedication requirements of the proposal, the applicant is requesting to complete the unit lot full subdivision process by dedicating required right of way on the plat and bonding for future street improvements to be completed after recording of the plat. The Director supports the concept of phased development which can minimize some development impacts to the surrounding community by completing street improvements at the same time as adjacent structures are constructed rather than subject the neighborhood to infrastructure construction in advance of future construction. Given the nature of unit lot subdivisions which limit future development on any and all unit lots to that which is conforming to the entire parent lot, it is important to protect unit lot owners from parent lot non-conformities such as if the rezone were to revert due to failure to complete the project. Therefore, the Director recommends that the Property Use and Development Agreement include provisions to ensure appropriate completion of the project and projection for the first set of unit lots that are sold:

- 1) The Director recommends that no residential units or unit lots should be separately sold from any other residential unit or unit lot prior to the rezone considered to be permanent.
- 2) The Director recommends that the rezone be considered permanent once Phase 1a residential construction is completed, all street dedications have been accepted by the City Council, 42nd Ave S street improvements are completed or fully bonded for completion, and S. Trenton St street improvements have been completed.

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

Rezone evaluation is outlined in Land Use section SMC 23.34.007.

The proposed rezone must meet the General rezone criteria. (SMC section 23.34.008).

A. *To be approved a rezone shall meet the following standards:*

1. *In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.*

2. *For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.*

As stated in Seattle's Comprehensive Plan Urban Village Policy UV 42, growth targets are based on zoned capacity for development within urban centers, and are not to exceed 80 percent of that capacity (since development at 100 percent of capacity is not likely to be achieved.). This same concept, expressed in the code, states that zoned capacity must be at least 125 percent of the adopted growth target (i.e., $1.25 \times 80 = 100$). The adopted growth targets for the Rainier Beach Residential Urban Village are found in Urban Village Appendix A of the Comprehensive Plan. These targets call for an increase of 600 additional households by the year 2024, and an increase in household per acre density from the current 5 to 8. Because these growth targets are not yet met and the proposed rezone from SF 5000 to L2 helps to meet these targets, Criterion A is met.

B. Match Between Zone Criteria and Area Characteristics. The most appropriate zone designation shall be that for which the provisions for designation of the zone type and the location criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.

Analysis of the match between zone criteria and area characteristic follows in the summary at end of the rezone analysis section. The analysis more logically follows an evaluation of the site and the proposed project's fit with single family zoning (23.34.010 and .011) and L2 zoning (23.34.018 and .020).

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

In 1907 the site was part of the Rainier Beach annexation into the City of Seattle. In 1923 it was zoned First Residence District. In 1947 the site was zone R1-A (First Residence District, Area District A). The subject rezone area was designated RS 5000, Single Family 5000, in 1957. The single family zoning designation was labeled SF 5000, single family 5000, in 1982. The City of Seattle Transmission Lines easement appears on the historical zoning maps in 1981.

Rezoning from Single Family in this case would not be precedential because this particular are is specified by 23.34.010B2c as a Single Family zone eligible for LDT, L1 or L2 designation.

D. Neighborhood Plans.

1. *For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.*
2. *Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.*
3. *Where a neighborhood plan, adopted or amended by the City Council after January 1, 1995, establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.*

4. *If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.*

The current Neighborhood Planning Element of Seattle Comprehensive Plan for the Rainier Beach Residential Urban Village neighborhood was adopted in 1999 by Ordinance 119614. Seattle Municipal Code Ordinance number 123046 and Council Bill number 116551 was signed by the Mayor of Seattle on July 28, 2009. In that ordinance Section 23.34.010 was amended to include the following language which specifically includes this site.

The subject rezone area is identified as being located within the Rainier Beach Residential Urban Village in the Comprehensive Plan and RB-P4 specifically addresses this proposal site. Thus, this parcel meets the criteria specifically identified as an appropriate candidate for a rezone.

The Rainier Beach Residential Urban Village neighborhood plan is found in *Seattle's Comprehensive Plan*. The land use policies anticipate future rezones to higher densities.

RB-P1 Encourage the revitalization of the Henderson Street corridor as a conduit between the future light rail station at Martin Luther King, Jr. Way and the commercial center along Rainier Avenue South.

RB-P2 Seek to promote transit-oriented development around Rainier Beach's proposed light rail station at Martin Luther King, Jr. Way and South Henderson Street.

RB-P4 Seek to preserve all single family zoned areas' character. Encourage residential small lot opportunities within single-family areas within the designated residential urban village, and in the area within the residential urban village west of Martin Luther King Boulevard S., permit consideration of rezones of single-family zoned land to the Lowrise Duplex Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2) designations.

RB-P5 Encourage the City to support rezones within the Rainier Beach Residential Urban Village for projects that:

- A. meet the overall community vision,
 - B. promote redevelopment of underutilized and derelict sites, and
 - C. result in pedestrian-friendly, well-designed new buildings.
- E. *Zoning Principles. The following zoning principles shall be considered:*
1. *The impact of more intensive zones on less intensive zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.*

The proposal is for a rezone from single-family 5000 to Lowrise 2 (L2). The proposal would create a zone boundary at the single-family zone to the north. Currently a private access easement is located at that boundary edge between this proposed L2 zone and the single-family zone. The area to the east will remain The City of Seattle Transmission Lines, the south and west boundaries would have street rights of way, S. Trenton Street and 42nd Avenue S. as a buffer. The building height limit of the single family zone is 30 feet with a 5 foot pitched roof

allowance. The height limit of structures in the L2 zone is 25 feet with a 10 foot sloped roof bonus. The rezone proposal will have the most height, bulk, and density impact along the north property line where the zoning changes to single-family zoning. The proposal does, however provide a transition with code required setbacks of between 5 and 8 feet along that property line. The proposal is compatible with bulk and scale transitions, height limitations and transmission line easement open space.

2. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:

- a. Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;*
- b. Freeways, expressways, other major traffic arterials, and railroad tracks;*
- c. Distinct change in street layout and block orientation;*
- d. Open spaces and greenspaces.*

There are no natural features to consider as topographic breaks along the property lines of this proposal. The City of Seattle Transmission Lines border the site on the east and M.L. King Jr. Way, a major traffic arterial, shares the 200 foot wide Transmission swath. This large easement area gives a sense of open green space even though the transmission wires are overhead. Across 42nd Avenue South there is the East Duwamish Greenbelt, a large greenbelt park. The greenbelt block at this location is mostly a mix of trees and shrubs. The single-family zone to the south is somewhat buffered by the 35 foot wide right of way of South Trenton Street. There is no physical buffer that provides separation between the subject parcel and the less intensive single-family zone to the north.

3. Zone Boundaries.

a. In establishing boundaries the following elements shall be considered:

- (1) Physical buffers as described in subsection E2 above;*
- (2) Platted lot lines.*

The proposed L2 zoning boundary would follow platted lot line lines on the north and east and run through 42nd Avenue South and South Trenton Street on the west and south boundaries.

b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.

The contract rezone proposal does not add commercial uses or affect the boundaries of commercial areas.

F. Impact Evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.

1. *Factors to be examined include, but are not limited to, the following:*

a. Housing, particularly low-income housing;

The proposal would provide additional housing in the area, although the proposal is not expressly low-income housing.

b. Public services;

Public services will be available for the development proposal impacts: the proposal has received a Water Availability Certificate ID No. 20090199, sewer extensions are under review and will be designed to City and County standards. The proposed parcels will have vehicular access to South Trenton Street. The Seattle Fire Department has no objection to the proposal. Seattle City Light reviewed the proposal and has provided an easement to provide for electrical facilities and service to the proposed lots. The accompanying full unit lot subdivision will be conditioned to provide for adequate access for vehicles, utilities, and fire protection. The applicant has coordinated street improvement plans with SDOT. A public storm drain runs beneath S. Trenton St. This public storm drain will receive the site's stormwater discharge.

c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;

Environmental factors are expected to be commensurate with any development of this scale and pose no or non-significant negative impacts. This conclusion is based on the environmental analysis conducted in compliance with SEPA and is associated with this rezone evaluation.

d. Pedestrian safety;

Pedestrian safety is addressed in design solutions that provide sidewalks, crosswalks, site lines and signage.

e. Manufacturing activity;

Manufacturing activity is not anticipated in this proposal.

f. Employment activity;

Employment activity is not anticipated in this proposal. The proposal will increase workforce housing to support employment centers in nearby areas.

Character of areas recognized for architectural or historic value;

No areas recognized for architectural or historic value are impacted by this proposal.

g. Shoreline view, public access and recreation;

The proposal is not located in a shoreline area.

There will be impacts to the surrounding area with this proposed rezone although any adverse impacts are expected to be minor. The PUDA will limit the proposed development to below code-allowed density for an L2 zone. Some parkland and a transmission line right of way buffer the surrounding area. The rezone proposal will provide additional housing near the link light rail station and the commercial area in the Rainier Beach Residential Urban Village. Housing is a good addition at this location to help support the light rail and the nearby commercial area, and only minor environmental impacts are expected. Locating higher density in and near commercial neighborhood nodes is a goal of the Comprehensive Plan. The proposal is expected to primarily have a positive impact on the immediate area.

2. Service Capacities. Development which can reasonable be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

- a. Street access to the area;*
- b. Street capacity in the area;*
- c. Transit service;*
- d. parking capacity;*
- e. Utility and sewer capacity;*
- f. shoreline navigation.*

Service Capacities are not anticipated to be exceeded by the additional demand this proposal will create. Streets that border the proposal will be widened and built to standards, there is enough traffic volume capacity on the streets in the area and there will be an increase in capacity with the new improvements adjacent to the project. There will be increased street access, roadway capacity and light rail links in the area. There is parking proposed onsite and offsite parking will be available. The utility and sewer/drainage services are available and designed to meet the housing density of the proposal and area being reviewed by SPU and approved as part of the simultaneous Street Improvement Process (SIP). There are no navigable waters near the proposal. This contract rezone should have no impact to shoreline navigation.

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstance shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

There are evolving circumstances in the area which when considered with the elements of the Lowrise 2 (L2) zoning criteria appear to be favorable for the contract rezone proposal. For instance, the Urban Village designation means that this area is envisioned to receive more density. The link light rail station is nearby and denser nodes of housing and activity are in step with directing growth to Urban Villages.

Seattle Municipal Code Ordinance number 123046 and Council Bill number 116551 was signed by the Mayor of Seattle on July 28, 2009. In that ordinance Section 23.34.010 was amended to include the following language which specifically includes this site:

c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1) or Lowrise 2 (L2) zone (SMC 23.34.010B2c).

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

The parcel is not located within an overlay district.

I. Critical Areas. If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.

Steep slope environmental critical areas are located off site to the west and should not be adversely affected by the rezone or future development of the site.

Designation of single-family zones (23.34.010)

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

Subsection B is partially met by this contract rezone proposal.

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

1. A neighborhood plan has designated the area as appropriate for the zone designation;

The Rainier Beach Residential Urban Village neighborhood plan is found in *Seattle's Comprehensive Plan*. The land use policies noted here anticipate future rezones to higher densities. RB-P4 (see below) specifically addresses this proposal site and designates it as an appropriate area for the L3 zone designation.

RB-P1 Encourage the revitalization of the Henderson Street corridor as a conduit between the future light rail station at Martin Luther King, Jr. Way and the commercial center along Rainier Avenue South.

RB-P2 Seek to promote transit-oriented development around Rainier Beach's proposed light rail station at Martin Luther King, Jr. Way and South Henderson Street.

RB-P4 Seek to preserve all single family zoned areas' character. Encourage residential small lot opportunities within single-family areas within the designated residential urban village, and in the area within the residential urban village west of Martin Luther King Boulevard S., permit consideration of rezones of single-family zoned land to the Lowrise Duplex Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2) designations. (Underline added for emphasis)

RB-P5 Encourage the City to support rezones within the Rainier Beach Residential Urban Village for projects that: A. meet the overall community vision, B. promote redevelopment of underutilized and derelict sites, and C. result in pedestrian-friendly, well-designed new buildings.

2. *The rezone is:*

a. *To a Residential Small Lot (RSL), Residential Small Lot-Tandem (RSL/T), Residential Small Lot-Cottage (RSL/C), Residential Small Lot-Tandem/Cottage (RSL/TC), Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1), or Lowrise 1/Residential-Commercial (L1/RC), or*

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

This section is not applicable.

c. *Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1) or Lowrise 2 (L2) zone.*

Section c (above) applies as this project location is within the described area of Rainier Beach Neighborhood and the rezone is to a Lowrise 2 zone. And it appears that the proposal meets the overall community vision, promotes redevelopment of underutilized and derelict sites, and results in pedestrian-friendly, well-designed new buildings.

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

The proposal is not within the Northgate Overlay district.

Single-family zones, function and locational criteria (23.34.011)

Single-family zones function as areas that provide predominantly detached single-family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods. As stated above, a single family zoned parcel may be rezoned to another classification only if the applicant can demonstrate that the area does not meet the criteria for single family designation (SMC 23.34.010). There are two criteria that must be analyzed, and these include function, locational criteria and size criteria (SMC 23.34.011)

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

The subject development parcel is comprised of 10 lots. It is a mix of lot sizes that meet and exceed the single-family 5,000 lot size. There are lots at just over 5,000 square feet, some at just over 7,000 square feet and one large parcel at 54,140 square feet. This development parcel is thus partially suited for the single-family 5,000 lot sizes; the north end of the block does have lots that more closely meet the 5,000 square foot regulation. The lot across South Trenton Street to the south is another large parcel at 55,832 square feet. There is one residential unit on it and it is owned by the Central Puget Sound Regional Transit Authority. Caddy corner to the proposal site is classic single-family 5,000 square foot platting. The subject parcel could be subdivided to meet the single-family platting as could the large parcel across South Trenton Street. The subject parcels do not appear to fully meet the intended function of a single-family zone.

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

- 1. Areas that consist of blocks with at least seventy percent (70%) of the existing structures in single-family residential use; or*
- 2. Areas that are designated by an adopted neighborhood plan as appropriate for single-family residential use; or*
- 3. Areas that consist of blocks with less than seventy percent (70%) of the existing structures in single-family residential use but in which an increasing trend toward single-family residential use can be demonstrated; for example:*
 - a. The construction of single-family structures in the last five (5) years has been increasing proportionately to the total number of construction for new uses in the area, or*
 - b. The area shows an increasing number of improvements and rehabilitation efforts to single-family structures, or*
 - c. The number of existing single-family structures has been very stable or increasing in the last five (5) years, or*
 - d. The area's location is topographically and environmentally suitable for single-family residential developments.*

The Land Use Code defines a block as consisting of two facing block fronts bounded on two sides by alleys or rear property lines and on two sides by the centerline of platted streets, with no other intersecting streets intervening (Section 23.84.004). The subject parcel is located in the south half of two opposite block fronts. There is a green belt across 42nd Avenue South and the remaining 30 lots have 14 structures all in residential use. Thus, more than 70% of the structures that exist are in residential use. The site meets the first criterion B-1.

There is however a lot of undeveloped land on this large development parcels including the large parcel across South Trenton Street. The trend in the immediate vicinity appears to be toward uses that support the Residential Urban Village, the light rail, the light rail station and the nearby Neighborhood Commercial zone. However, the neighborhood plan suggests this area as appropriate for rezone to Lowrise use. The site does not meet criterion B-2.

The area consists of more than 70% structures in residential use. Criterion B-3 is not met.

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

1. *The area proposed for rezone should comprise fifteen (15) contiguous acres or more, or should abut an existing single-family zone.*
2. *If the area proposed for rezone contains less than fifteen (15) contiguous acres, and does not abut an existing single-family zone, then it should demonstrate strong or stable single-family residential use trends or potentials such as:*
 - a. *That the construction of single-family structures in the last five (5) years has been increasing proportionately to the total number of construction for new uses in the area, or*
 - b. *That the number of existing single-family structures has been very stable or increasing in the last five (5) years, or*
 - c. *That the area's location is topographically and environmentally suitable for single family structures, or*
 - d. *That the area shows an increasing number of improvements or rehabilitation efforts to single-family structures.*

The subject parcel meets one of the locational criteria in Subsection A above; therefore an analysis of the size criteria is required. The area does abut an existing single-family zone to the north. The proposed parcels meet this criterion.

D. *Half-blocks at the edges of single-family zones which have more than fifty percent (50%) single-family structures, or portions of blocks on an arterial which have a majority of single-family structures, shall generally be included. This shall be decided on a case-by-case basis, but the policy is to favor including them.*

The subject parcel is not part of a half-block that meets this description; therefore this section is not applicable.

Lowrise 2 zone function and locational criteria. (SMC 23.34.018).

The proposed rezone must meet the criteria for designation of a Lowrise 2 zone (SMC 23.34.018).

A. *Function. The intent of the Lowrise 2 zone is to encourage a variety of multifamily housing types with less emphasis than the Lowrise 1 zone on ground-related units, while remaining at a scale compatible with single-family structures.*

The rezone would encourage a variety of multifamily housing types in an area where less emphasis can be given to ground-related units because of the parcel's orientation to commercial uses and a major arterial with light rail. The intent of the L-2 zone is to allow for additional units, but remain at a scale compatible with single-family structures which would be appropriate in this instance with single-family zoning abutting the north property line. The proposal appears to meet the intended function of the Lowrise 2 zone.

B. Locational Criteria. Lowrise 2 zone designation is most appropriate in areas generally characterized by the following:

1. Development Characteristics of the Area.

- a. Areas that feature a mix of single-family structures and small to medium multifamily structures generally occupying one (1) or two (2) lots, with heights generally less than thirty feet (30);*
- b. Areas suitable for multifamily development where topographic conditions and the presence of views make it desirable to limit height and building bulk to retain views from within the zone;*
- c. Areas occupied by a substantial amount of multifamily development where factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable.*

The larger Rainier Beach Urban Village does have a substantial amount of multifamily development with heights less than 30 feet, single-family and 25 feet for Lowrise 2. The L2 zoning proposed would create an intermediate intensity of development appropriate in the area. The proposal appears to meet locational criterion 1 a.

Criterion 1.b is not applicable in that there are no topographic conditions or views to protect that would make it desirable to limit height and building bulk.

L-2 zoning is appropriate for areas occupied by a substantial amount of multifamily development where factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable. There is a substantial amount of multifamily development in the Urban Village and density is designed to grow, therefore, criterion 1.c is met.

2. Relationship to the Surrounding Area.

- a. Properties that are well-suited to multifamily development, but where adjacent single-family areas make a transitional scale of development desirable. It is desirable that there be a well-defined edge such as an arterial, open space, change in block pattern, topographic change or other significant feature providing physical separation from the single-family area. However, this is not a necessary condition where existing moderate scale multifamily structures have already established the scale relationship with abutting single-family areas.*

The proposed property is well-suited for a rezone in its relationship to the surrounding area. A street separates the property from the single-family zone to the south. There is open space to the east, the transmission line property and to the west, the East Duwamish Greenbelt. The north property line does border on a single-family zone still; Single Family to Lowrise 2 is in itself an appropriate transition. There appears to be three well defined edges to this property. Multifamily development resulting from the proposed rezone would establish a transition between single-family and commercial.

- b. Properties that are definable pockets within a more intensive area, where it is desirable to preserve a smaller scale character and mix of densities;*

The property is somewhat of a “definable pocket” due to its location between the transmission lines and the Greenbelt, and the surrounding area is a mix of more intense and less intense zoning.

- c. Properties otherwise suitable for higher density multifamily development but where it is desirable to limit building height and bulk to protect views from uphill areas or from public open spaces and scenic routes;*

There are no height and bulk issues to protect views at this site.

- d. Properties where vehicular access to the area does not require travel on “residential access streets” in less intensive zones.*

Access to the site is via South Trenton Street which intersections into M. L. King Jr. Way. S., a major arterial. Vehicular access does not need to travel past residentially developed properties on neighboring residential streets in order to reach the site.

Summary

The subject parcel does partially meet the functional and locational criteria of a single-family zone. The subject parcel does fully meet the functional and locational criteria of a Lowrise zone.

Based upon the General rezone criteria, the most appropriate designation for this site is L-2 because it would allow for residential development to better meet the comprehensive Plan growth targets, is a good match between zone criteria and area characteristics, supports designations of the Neighborhood Plan and meets zoning principles. The impacts of this contract rezone to the neighborhood are expected to be minimal. New development in the Urban Village anticipates increased density.

After review it appears that the proposed rezone from single-family zoning to lowrise 2 zoning meets function and locational criteria.

RECOMMENDATION - REZONE

The contract rezone from Single family 5000 (SF5000) to Lowrise 2 (L2) is recommended to be approved. A Property Use and Development Agreement (PUDA) will be prepared at the close of the Council action. The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property.

ANALYSIS – SUBDIVISION

Procedures for Preliminary Plat Approval

Hearing Examiner Findings and Conclusions. The Land Use Code Section [23.76.024](#) requires that the Hearing Examiner conduct a public hearing on the unit subdivision application. At the same hearing, the Hearing Examiner would hear any appeals of the Director's environmental decision (SMC [23.76.052 A](#)). The Hearing Examiner can give preliminary plat approval if it is determined that the proposed plat makes appropriate provision for the public health; safety and general welfare; open spaces; drainage ways; streets, alleys, other public ways; water supplies; sanitary waste disposal; fire protection; parks; playgrounds; sites for schools and school grounds; and that the public use and interest will be served by the platting of the subdivision. If the Hearing Examiner determines that the proposed plat does not provide the appropriate elements or that the public use and interest will not be served, the proposed plat may be denied. After the hearing, the Hearing Examiner will make a decision that is final on the preliminary subdivision.

Council Action. A formal action to approve the final plat is still the responsibility of the City Council as provided by RCW [58.17](#). However, the Council does not hold a public hearing for the purpose of accepting testimony. After the Hearing Examiner approves the preliminary plat, the Council reviews it for final plat approval.

Analysis and Recommendation of the Director. The Land Use Code (Section [23.76.023](#)) requires the Director of DPD to prepare a written report for a proposed preliminary plat. The Code calls for the Director's report to include the following:

- 1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;**
- 2. Responses to written comments submitted by interested citizens;**
- 3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter [23.22](#);**
- 4. All environmental documentation, including any checklist, EIS or DNS; and**
- 5. The Director's recommendation to approve, approve with conditions, or deny the application.**

The Director's report is submitted to the Hearing Examiner and made available for public review at least thirty (30) days prior to the Hearing Examiner's public hearing.

Analysis and Recommendation of the Director

- 1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;**

The following represent a summary of the comments received from each City Agency indicated (SMC 23.22.024). Information and documentation from each review agency is available in the DPD project file.

Seattle Department of Transportation

“Based on the plat drawing received from DPD and the street improvement plan submitted to SDoT Street Use, SDoT recommends approval of the subdivision. The applicant should apply to SDoT for the final plat with \$6,000.00 deposit after the Hearing Examiner’s decision.”

Director of Public Health

The Director of Public Health has reviewed the proposal and submitted the following comments.

“Master Use Permit project number #3006045 at 4204 South Trenton Street has been reviewed against the National Association of County and City Health Officials’ Public Health in Land Use Planning & Community Design” and Washington State Department of Ecology’s “Environmental Justice: Checklist”. Based on that review, the Environmental Health Division of Public Health - Seattle & King County has the following specific comments.

We know that these plans are too early to show trees. However, trees are an important part of the built environment and green infrastructure that positively affect population health in a number of ways. With the growing recognition that global warming leads to “urban heat islands”, trees can help ameliorate high ambient temperatures through the shade they provide. Trees are also a critical element of the pedestrian environment because they make a streetscape interesting and comfortable for pedestrians, which are two factors that make walking a desirable form of transportation and recreation. We recommend that trees be both planted and retained because of their linkages to community and environmental health and Seattle’s Urban Forest Management Plan.

This project is in the Lake Washington basin. Construction can cause debris and soil to enter the storm drainage system. Additionally, this site has a significant elevation change and great care should be taken to prevent any discharges to the stormwater. Currently, there appears to be a pond on the site and its stormwater function is not clear. Further, the area of impervious surface will increase and thus the stormwater volumes will peak more rapidly. For all these reasons, please pay attention to grading and adequately sizing stormwater conveyances.”

Superintendent of City Light

“City Light has reviewed the Unit Lot Subdivision noted above and requires an easement that is necessary for the electric service to the proposed lots. The easement should become part of the Unit Lot Subdivision and easements added to the appropriate legal description(s).

If this Unit Lot Subdivision is revised in any manner, the current easement may not be appropriate. Any revisions should be submitted to Seattle City Light, for additional review.

Prior to recording, a copy of the final plat should be reviewed by City Light, Real Estate Services for compliance. “

Director of Housing

The Director of Housing has given approval of the preliminary subdivision with no suggested conditions.

Superintendent of Parks and Recreation

The Superintendent of Parks and Recreation has reviewed the preliminary plans and has no comments on the proposed project.

Director of Seattle Public Utilities

Seattle Public Utilities issued a Water Availability Certificate (WAC) ID No. 20090199 on 4/21/09 approving this project with requirements.

“This Certificate is:

Approved; Land Use Permit may be approved at this time. Property owner may order water service after meeting all service requirements. No change to the water distribution system is required.

Approval Comments:

This WAC replaces expired WAC 320071427. This WAC is approved for the existing legal parcels and existing services only. Construction of multiple housing units as shown on plan will require design and installation of about 475 feet of 6” DI water main and one hydrant.

Fire Department

DPD Project #3006045 for 4204 South Trenton Street is approved in accordance with the 2006 Seattle Fire Code with no corrections for the review of a full unit lot subdivision and rezone plans.

Seattle Metropolitan Services

Metro reviewed the proposal and has no comments on the project.

Structural / Ordinance Review (DPD)

The subdivision portion of the project has been reviewed for conformance with the following codes: 2006 Seattle building Code (SBC); 2006 Seattle Residential code (SRC); 2006 Washington State Energy Code (WSEC); 2006 Ventilation and Indoor Air Quality (VIAQ); Seattle Stormwater, Grading and Drainage Control Code; Environmentally Critical Areas Regulations (ECA).

This proposed unit lot subdivision was reviewed for potential conflicts with the building code with the understanding that the unit lot subdivision does not create separate developable parcels. The building code review assumes no internal property lines exist. Instead, the project is reviewed as if it is a single development parcel for building code issues. Imaginary property lines per Seattle Building Code (SBC) section 503.1.3 are assumed to be located between structures (both existing, if applicable and proposed) as necessary to insure the required opening protection and fire resistive construction of the exterior walls.

However, where a unit lot property line is created at or near the face of a building, an access and maintenance easement of three (3) feet minimum, five (5) feet preferable, is required. This easement is to allow for emergency egress from rooms adjacent to the unit lot property line across the adjoining unit lot(s) and for maintenance of the exterior of the building, so it is not

required where there are common walls between structures. Also if a yard is created (with unit lot lines) that has no access to a public right-of-way or access easement, an easement must be defined to allow the inhabitant of the unit which abuts this “landlocked” yard access to the public right-of-way. This easement will be either a pedestrian access easement or an emergency egress easement, depending upon the nature of the access to the yard from within the unit. If the yard is greater than 50 feet deep, no easement will be required.

Drainage Review (DPD)

The drainage reviewer has approved the preliminary plat.

2. Responses to written comments submitted by interested citizens.

No comments were received during the official comment period.

3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter [23.22](#) .

Land Use Code

The site is located in a Single Family 5000 zone (SF 5000) and has applied for a contract rezone to rezone the property to Lowrise 2 zoning (L2) in which townhomes and single family structures are both permitted uses outright.

SMC [23.22.062](#) provides requirements for unit lot subdivisions, applicable to townhouse and single family development.

SMC [23.22.062.B](#) states: “The development as a whole shall meet development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lot...” Consequently additional development of individual units may be limited, due to this final nonconformity. The development proposal is only allowable if the proposed rezone is granted by City Council. The applicant has requested that the development proposal, rezone and full unit lot subdivision be considered as one application. This would be consistent with the intent of RCW 58.17.070 “Unless an applicant for preliminary plat approval requests otherwise, a preliminary plat shall be processed simultaneously with applications for rezones ... and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing.” The Director recommends that preliminary plat approval should be conditionally granted by the Hearing Examiner, subject to Council approval of the proposed rezone prior to recording of the final plat.

To notify future unit lot owners of this potential limitation SMC [23.22.062 F](#) therefore requires the following be noted on the recorded plat, “*the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot.*”

[SMC 23.22.062 B](#) also states that required private usable open space for each dwelling unit is provided on the same lot as the dwelling unit it serves. The open space requirements for Lowrise 2 zones requires an average of 300 square feet of private usable open space at ground level and directly accessible to each unit, with no unit having less than 200 square feet of such open space.

SMC [23.22.062 D](#) requires common access easements and joint use and maintenance agreements for the use of common garage or parking areas, common open space and other similar features. Easements for all utilities are required as necessary for utility access. This proposal provides such easements and joint use and maintenance agreements for vehicular and pedestrian access, and utilities across all individual unit lots that will be recorded with the King County Department of Records and Elections. Additionally, easements should be shown by the applicant allowing all lots within the subdivision to have their addresses displayed. These easements shall also make provision for US Post Office mailbox locations.

This Unit Lot Subdivision therefore as conditionally recommended below will meet the requirements of the Seattle Land Use Code.

Public Use and Interest

Pursuant to SMC [23.22.054](#), the decision maker must consider all relevant facts to determine whether the public use and interest will be served by the proposed full unit lot subdivision. Additionally, the proposed plat must make appropriate provision for the public health, safety and general welfare by providing for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary waste disposal, fire protection, parks, playgrounds, and safe access to and sites for schools.

Unit Lot Subdivision allows for the subdivision of common wall (attached) ground related townhouse structures. Ground related multi-family townhouse use is allowed outright in the L2 zone. This process therefore makes possible separate ownership of individual units in one structure that otherwise would be owned by one party and might otherwise be available on a rental only basis or as condominium units.

The applicant will provide CC&Rs (Covenants, Conditions, & Restrictions) for the future owners of each unit lot upon transfer of sale. The CC&Rs will include specific provisions for maintenance and repair of the site including but not limited to structures and utilities. The Department feels that this should be noted as a recommended condition for the project for future notice to affected parties.

The construction of the units was reviewed under the City's applicable codes (SEPA, zoning, ordinance and structural, drainage, fire code, geotechnical, water availability, street improvements). The unit lot subdivision does not alter these requirements or conditions.

The public use and interests are thereby served by permitting the proposed division of land.

4. All environmental documentation, including any checklist, EIS or DNS; and

All relevant environmental documents will be furnished to the Hearing Examiner, prior to the Public Hearing for the subdivision.

5. The Director's recommendation to approve, approve with conditions, or deny the application.

RECOMMENDATION – SUBDIVISION

DPD Recommends approval of the preliminary subdivision application.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist prepared on April 19, 2007 and supplemental information in the project file submitted by the applicant. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects forms the basis for this analysis and decision. Review is limited to issues pertinent to steep slope ECA impacts and mitigation.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *“Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation”* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

Temporary or construction-related impacts are expected. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Building Code (construction measures in general) and 2) Stormwater, Drainage and Grading Code (temporary soil erosion). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts.

Earth / Soils

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted a geotechnical engineering study. The study has been reviewed and approved by DPD’s geotechnical experts, who will require what is needed for the proposed work to proceed without undue risk to the property or to adjacent properties, and ensure that the proposal complies with the Stormwater, Grading and Drainage Control Code. Further review of the proposal will be conducted during the construction permit review. No additional conditioning is warranted pursuant to SEPA policies.

Construction Impacts

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Long-term Impacts

The long-term impacts are expected to be very minimal due to the restoration of native plants. Any long term impacts will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (storm water runoff). The other impacts not noted here as mitigated by codes or conditions are not sufficiently adverse to warrant further mitigation by condition.

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

DECISION – SEPA

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

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

RECOMMENDED CONDITIONS - REZONE

For the Life of the Project

1. The rezone is conditioned on performance or compliance with the terms and conditions of the Property Use and Development Agreement (PUDA).
2. The contract rezone shall be valid until at least 7 years after final plat recording provided that street improvements are completed or bonded for completion within required timeframes.

3. No residential units or unit lots should be separately sold from any other residential unit or unit lot prior to the rezone considered to be permanent.
4. The rezone shall be considered permanent once Phase 1-A residential construction is completed, all street dedications have been accepted by the City Council, 42nd Ave S street improvements are completed or fully bonded for completion, and S. Trenton St street improvements have been completed.

RECOMMENDED CONDITIONS - SEPA

Prior to Issuance of any Demolition Permit

5. The owner or developer of the proposed project shall file a Notice of Intent with the PSCAA prior to beginning any demolition work on the site.

RECOMMENDED CONDITIONS – SUBDIVISION

Conditions of Approval Prior to Recording of the Final Subdivision Plat:

The owner(s) and/or responsible party(s) shall:

6. The final plat shall not be recorded prior to both City Council approval of the proposed rezone and recording of any required Property, Use and Development Agreement.
7. Pursuant to SMC [23.22.062 F](#) the following must be noted on the recorded plat: “*the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot.*” The legal description of the parent lot must be specifically labeled as the Parent Lot on the plat.
8. Include a new or altered sheet in the final plat that shows all unit lots on a single sheet. Identify on the plat those 20 unit lots that are part of Phase 1-A development.
9. The final plat must include the required City Light easement and be reviewed by City Light, Real Estate Services prior to recording in order to ensure the proper easements are either part of the plat or recorded separately.
10. Provide easements on appropriate unit lots abutting the streets to allow for the proper display of address signage along the street margin for all unit lots that do not have street frontage. The easements to allow for posting of address signage should be adjacent to the point of access to each unit lot.

