

MOUNT BAKER TOWN CENTER:
THE 2014 REZONE AND TRANSIT ORIENTED DEVELOPMENT

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In 2014, the City of Seattle adopted Ordinance 124513, and created a transit oriented rezone over the area known as the Mount Baker Town Center. Exhibit 2 (Ordinance); Ex. 27, p. 4. The Ordinance expands the City's Station Area Overlay District (SAOD), imposing a series of supplemental development regulations designed for transit stations. Ex. 3, p. 5; Ex. 27, p. 6. The Ordinance rezoned 109 parcels on approximately 26 acres of land, with the aim of increasing growth and density in and around the Mount Baker transit center, within the North Rainier Hub Urban Village, with dense mixed use development reaching up to 125 feet high. Ex. 1; Ex. 27, p. 14.

Mount Baker Town Center. On its face, the rezone aims to create a vibrant walkable transit oriented development in an area that has long been recognized as suffering from major deficits in pedestrian oriented infrastructure. This blighted area is unwelcoming and unsafe to both pedestrians and residents. Even before the rezone, the area was in need of substantial investment to overcome serious deficits in infrastructure and public amenities. See Ex. 27, App. C at pp. 14 and 16-17 (North Rainier Neighborhood Plan Update); Ex. 27, pp. 15 and 20.

For example, for more than a decade, the City has documented the North Rainier Neighborhood as suffering from serious gaps in open space, worse than other areas of the Southeast Sector. See Ex. 59 (Mount Baker Station Area Open Space Nexus Analysis); Ex. 58, pp. 27-30 and App. B (Gap Report 2001); Ex. 58 (2011 Gap Report Update).

One major challenge to Town Center livability is the dominance of the automobile. The Town Center is divided by the intersection of two major traffic corridors: Rainier Avenue South and MLK Jr. Way. Each corridor carries over 30,000 vehicle trips per day. These traffic volumes presented challenges for the areas considerable pedestrian traffic, which included students from nearby Franklin High School, the transit center and light link station, and a surrounding residential population in which 30% of the residents do not have a car. Ex. 56a, p. 4. Suffice it to say that even before the rezone, the environment was “very uninviting” to pedestrians and residents, “as there are very few areas to rest or relax.” Ex. 59, p. 3.

Neighborhood Planning. In the early 1990’s, Seattle began a neighborhood planning effort that spanned 38 Seattle neighborhoods. Ex. 56g (North Rainier Neighborhood Plan, 1999). The plans provided the City with direction on a broad range of subjects important to the neighborhoods, which would be incorporated into the City’s Comprehensive Plan. The North Rainier Neighborhood Plan was completed in 1999. Ex. 3, p. 10. The City recognized the North Rainier Neighborhood as one of the most diverse neighborhoods in the City. See Ex. 27, Appendix B (Resolution 31204); Ex. 56f, p. 2 (Demographic Summary).

In 2009, the North Rainier Neighborhood Plan was updated to take into account changed circumstances, including the new light link rail service. The update process engaged a broad cross section of the community. This update resulted in revisions to the Neighborhood Plan, which were reflected in Comprehensive Plan amendments adopted by the City Council. See Ex. 53, Neighborhood Planning Element, Section B-21; Ex. 27, App. C (North Rainier Neighborhood Plan Update); Ex. 56f (North Rainier Baseline Report); Ex. 3, p. 10; Ex. 27, p. 5. The City prepared a document explaining, in detail, how the North Rainier planning process was relied upon to update the Comprehensive Plan. Ex. 73.

A central theme of the Neighborhood Plan was the creation of a vital, pedestrian friendly, “transit oriented development” within the Town Center. Ex. 53, Sec. B-21 (including NR-P1). The Mount Baker Town Center was envisioned as a vibrant neighborhood core, with open space and parks, and development standards to accommodate a vibrant pedestrian environment for people of all ages and abilities. Ex. 53, NR-G1 and NR-P1, NR-G8, NR-G13 and G14, NR-P32 to P35, NR-P12, NR-P37 to NR-P40; Ex. 27, App. C at Goals 6 and 8 (Plan pp. 11 and 14-15); and Ex. 27, p. 5. These goals and policies were needed to help make the Town Center the “heart of the neighborhood” -- an inviting and livable place, where people could gather and engage in physical activity. Ex. 27, App. C Strategy 8.2; Ex. 56g, p. 57. The Town Center was to help the blighted area achieve qualities enjoyed by other more affluent Seattle neighborhoods, “where public places and open spaces help create a sense of identity and welcome.” See Ex. 27, p. 5.

Planning Commission Guidance On “Transit Oriented Development”. The Seattle Planning Commission, appointed by the Mayor and City Council, serves as “the steward of the Seattle Comprehensive Plan”. In that capacity the Commission advises the Mayor, Council and City Departments in their efforts to plan for and manage growth in Seattle. Ex. 64, preface.

In 2010, the Seattle Planning Commission issued a report to guide the City in transit oriented development: “Seattle Transit Communities: Integrating Neighborhoods With Transit”. Ex. 64. The Report was designed to guide the City in its mission to fulfill Comprehensive Plan goals related to the creation of livable and sustainable transit oriented communities. Ex. 64, Introduction. The Report emphasized the need for the City to support “essential transit infrastructure like parks”, and prioritized transit communities “where timely investment is urgent and will create the most impact.” Id. The Commission provided guidance on land use strategies needed to achieve the essential components for livability, “such as adequate open

space”. Ex. 64, p. 13. These essential components were necessary to prevent urban life from becoming “unattractive and inhospitable”. Ex. 64, p. 32.

The Mount Baker rezone area was identified as a “Mixed Use Center”, with urgent near-term planning needs. Ex. 64, pp. 42, 45, 48. According to the Commission, the success of a Mixed Use Center depends upon a number of factors, including:

Generous high quality shared public spaces which are critically important to livability and soften the effects of greater density and make urban living more attractive.

Public open space typically includes large public plazas, semi-public plazas at the base of tall buildings, and smaller pocket parks. ...

Ex. 64, pp. 14, 16-18. As a strategy to create public open space for livability, the Commission recommended “zoning incentives and density bonuses to allow taller buildings and higher densities”. Ex. 64, p. 19. The Commission’s report reinforced the City’s commitments to transit oriented development within the Town Center, as set forth in the City’s Comprehensive Plan. See Ex. 53, Sec. B-21. See also Josh Brower, Planning Commissioner, interview with KUOW: <http://kuow.org/post/building-seattles-future-around-transit> (April, 2014).

DPD’s Urban Design Framework. In 2010, the City Council directed DPD to develop an urban design framework based on the North Rainier Neighborhood Plan, “to inform Council decisions related to land use and the built environment.” The Framework was, at minimum, to include preferred use locations, proposed incentive structures for public benefits, open space concepts, and an analysis of transferable development rights. See Ex. 65. The Council planned to implement the framework plans through legislation. Ex. 27, App. B (Res. 31204).

In 2011, DPD issued the Mount Baker Town Center Urban Design Framework, intended to carry out key actions identified by the community during the recent update of the North Rainier Neighborhood Plan. Ex. 27; Ex. 3, p. 3 and 12. The Urban Design Framework was to

provide a blueprint for how the physical elements of the neighborhood plan update can be realized. “The Urban Design Framework’s analysis and recommendations provide the basis for the proposed rezones and text amendments” proposed by DPD. Ex. 3, p. 12.

The Urban Design Framework included a section on “Open Space and Gateways”. The Framework recognized the area suffers from one of the “largest gaps in Usable Open Space”, and discussed the importance of “open spaces that invite people to gather and encourage physical activity”. Ex. 27, pp. 20 and 23; accord Ex. 53, Sec. B-21 (Open Space Goals and Policies). To achieve this vision, the Framework called for creation of new open space in the Town Center core through future development and public infrastructure improvements. Ex. 27, pp. 20 and 22. To address the open space goals and policies, the Framework proposed designating the 13-acre Lowe’s site for “an open space and pathways system”. Ex. 27, p. 22. In Figure 5, “Proposed Open Space and Gateways”, the Urban Design Framework marks the Lowe’s building with a green tree to designate “Open Space within New Development”. Ex. 27, p. 21 (Fig. 5). The Framework also calls for animation of an underutilized station plaza southeast of the light link station as additional open space, helpful for residents and for business development. Ex. 27, pp. 21-22. Open space was identified as important to the Neighborhood Plan commitment to an environmentally sustainable community. Ex. 27, p. 23. For implementation, the Framework called for a rezone to encourage redevelopment of parcels surrounding the light rail station in a manner that would incorporate the needed open space amenities, with “incentive structures for public benefits” where building heights approach 125 feet. Ex. 27, pp. 24 and 27. The Framework’s matrix of action items and responsible parties for open space reiterated the need to “Establish new open space in the core of the Town Center”, and “Animate and enhance the station plaza”. Ex. 27, p. 30.

The City's consultants likewise assumed that the City's proposed changes would help bring urban vitality to the challenged Town Center through the creation of public open space. Ex. 56a, p. 4; Ex. 56b, p. 1.

DPD's Open Space Nexus Analysis. On December 5, 2012, DPD prepared an internal document entitled, "Mount Baker Station Area Open Space Nexus Analysis". Ex. 59. In the analysis, DPD recognized open space as a "priority amenity" for the Town Center's rezone. Ex. 59, p. 1. The Nexus Analysis notes that the City's "Comprehensive Plan affirms the importance of a variety of open space opportunities", and reviews the "overall need of the neighborhood" in light of standards established by Parks and Recreation. Ex. 59, p. 1.

The Nexus Analysis estimated "the level of existing open space needs in the Station Area and the likely open space need generated by new projects in order to evaluate the appropriateness of proposed open space incentives allowed through the incentive zoning program." Ex. 59, p. 1. The Nexus Analysis confirmed the high need for open space in and around the Town Center:

[T]he North Rainier Hub Urban Village is very auto-oriented neighborhood with a substantial amount of parking lots and driveways. The environment is very uninviting to pedestrians as there are very few areas to rest or relax. In order to maximize the investment of the light rail station in this area, it will very important to develop more open space opportunities that can help to make this area a more pleasant place for pedestrians. Small, local open space opportunities will be especially important since the large roads and auto-oriented environment discourage walking.

Ex. 59, p. 3. The analysis notes "a substantial existing open space need within the Mount Baker Station Area" which justified the use of incentive zoning for public open space amenities. Ex. 59, p. 4. After confirming existing open space needs, the Nexus Analysis analyzed the additional open space demands created by the rezone itself, and the extent to which the currently proposed incentive zoning would address the open space gap. The analysis assumed the "maximum" open space provided by the proposed incentive zoning, assuming buildings achieved

125 feet or higher. Ex. 59, p. 4-5. The report determined that under each proposed zone, “the maximum open space provided through incentive zoning would be less than total estimated need generated by each project.” Ex. 59, p. 5. In other words, DPD’s proposed formulas for transit oriented incentive zoning would not bridge the open space gap at all – instead, DPD’s rezone formula only served to worsen the Town Center’s already blighted open space situation.

Another internal open space analysis by DPD proposed an incentive formula that sought to achieve comparable open space amenities found in the Pearl District, a successful transit oriented development. See Ex. 62 (DPD SM Additional Height Language). The author of this analysis proposed a formula that would address the open space needs in the Town Center, with creation of a civic square for Town Center residents. These analyses do not appear to have been shared with the community, or with the Council.

DPD’s Director’s Analysis. On June 14, 2013, DPD issued its Director’s Analysis and Recommendation on the Rezone Proposal for an Ordinance with incentive formulas that actually worsened the open space blight. Ex. 3. DPD summarized the intent of the proposed Ordinance as “to provide for a pedestrian-oriented town center by concentrating commercial and residential growth in the Mount Baker Town Center.” Ex. 3, p. 14. The proposed development standards were ostensibly intended to “create an environment that supports the vision of the neighborhood plan and update to create a town center that is pedestrian-oriented, vibrant and livable.” Ex. 3, pp. 51 and 56; Ex. 63. In doing so, DPD noted that its ordinance sought to apply existing South Lake Union standards to North Rainier. Ex. 3, p. 51; Ex. 33, Attachment C.

The City’s Analyses of Open Space and Incentive Zoning. On the subject of “Bonus floor are for open space amenities”, the Director’s Analysis noted that while the City’s current code did not contain standards for areas outside of Downtown, the Downtown standards “are a

good fit for the proposed site.” Ex. 3, p. 52. The Director’s Analysis reported on the “Large Lot Opportunity” presented by the Lowe’s parcels, and indicated that increasing the allowed development height to 125 feet would encourage “open space at the ground floor. ... The higher heights would provide more flexibility for creating open spaces surrounding the buildings.” Ex. 3, p. 14. DPD indicated it was implementing special standards that would “include a requirement for open space corridors interior” to two large parcels (the “Lowe’s Parcels”) which would be rezoned to allow development to reach 125 feet in height. The Director’s Analysis further indicated that public benefits in the form of open space would be available through incentive zoning on these two parcels. See Ex. 3, p. 6. The Director’s Analysis of “Incentive Zoning” posited that the proposed regulations would incentivize developers to provide public open space benefits for the residents and pedestrians of the dense high rise Town Center. Ex. 3, Part VII, pp. 54-55.

However, the DPD’s Director’s Analysis did not reveal that the proposed Ordinance actively defeats the open space policies which the neighborhood and City experts had deemed essential for the Comprehensive Plan’s vision of transit oriented development in the Town Center. Ex. 3; see also Ex. 10. In fact, the Ordinance provides “zero” publicly usable open space unless development on the Lowe’s parcels were to exceed the economically impractical height of 85 feet. To the extent that development exceeds 85 feet, the proposed DPD formula focused almost predominantly on the public benefit of “affordable housing”. Rather than achieve the essential components of livability, DPD’s formula for incentive zoning effectively marginalized Town Center residents to an unfriendly living environment of unmanaged density where the City’s open space gaps are worsened.

Capital Planning. The Seattle Planning Commission stressed the City’s obligation to coordinate the Comprehensive Plan Urban Village strategy with the Capital Improvement Plan and other City capital investments. Ex. 64, p. 38; Ex. 53, Capital Facilities Element. However, the City completely failed to plan for capital facility investment needed to overcome the worsening open space gaps created by its self-defeating and ineffective open space incentive formulas. On April 22, 2013, the City’s Department of Planning issued a Fiscal Note for the rezone which concluded: “This legislation does not have any financial implications.” Ex. 1 (Fiscal Note). In order to properly complete the Fiscal Note, DPD was required to specify whether the legislation affected any other departments besides DPD. DPD’s answer was “No.” Ex. 1, p. 2. Apparently Parks and Recreation would have no role to play in the Town Center.

The lack of capital facility planning is also reflected in the Department of Parks and Recreation’s Adopted Capital Improvement Program (2014-2019), which sets forth a plan for expenditures on parks and open space throughout the City of Seattle between now and 2019. Ex. 74. The Parks CIP identifies budget sheets for each project. The voluminous Parks CIP includes only one project connected with the North Rainier Valley Neighborhood Plan / Urban Village. See Ex. 74 – Jimi Hendrix Park Improvements. The project lies distant from the rezone area, and adds no open space to offset the density targeted for the blighted Town Center, or to bridge any of the open space gaps recognized in the North Rainier Urban Village.

Adoption. On June 23, 2014, the Council approved the Ordinance by majority vote, and issued a Divided Report in favor of Council Bill 118111. Ex. 50. With respect to the controversy over 125 foot high development, the majority explained that the high rise development was important to advance the incentive zoning provisions, which were “important to help provide open space and resources for affordable housing”. Ex. 50, p. 3.