

June 16, 2016

VIA E-MAIL (LINDSAY.KING@SEATTLE.GOV;
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RE: Additional Comments on Burrard Development Project at 1200 Howell Street,
DPD Project # 3021813
Our File No.: 129900-214956

Dear Ms. King:

We hope this finds you well! We write to follow up on our March 16, 2016 comment letter and subsequent communications with you to provide further comments on behalf of Redwood-Kairos Real Estate Partners, LLC and its affiliated entities Balfour Place Investors, LLC and Balfour Place Partners, LLC, owners of the real property located at 1820 Minor Avenue, Seattle, WA, the Balfour Place Apartments.

You will recall from our prior comment letter that Balfour Place is a six-story, 200-unit mixed-used rent-restricted affordable housing complex in the same block as the project site, separated by a small parcel / building owned by the Low Income Housing Institute (LIHI). Balfour Place's garage entries are in the same alleyway as the project's proposed access points, and Balfour Place's residents enjoy the recently renovated rooftop amenity space.

As before, our clients welcome reinvestment in the neighborhood; however, our clients remain concerned about the project's impacts, particularly massing and traffic impacts. We understand that the applicant will go before Downtown Seattle Design Review Board on July 12, 2016 for its recommendation hearing. We hope that the City and the applicant will consider our prior comments and these comments in shaping the project and imposing appropriate conditions.

Based on recent submittals by the applicant, our clients raise the following additional concerns about the project's massing and traffic impacts:

Massing Impacts

Our clients remain very concerned about the impacts that the proponent's requested Design Departure #3 (EDG submittal page 62) will have on any future development of their property. As you know, the issue of tower spacing and such departures is coming to a head, as evidenced by the May 20, 2016 *Puget Sound Business Journal* article on the subject, which I sent to you on the

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26th (and enclose here for reference). We reiterate that we do not believe the requested departure is necessary, much less warranted under the code. The applicant should design a code-compliant massing option to present to the Design Review Board and explain why (if at all) the departure be granted. To date, the applicant has not done so. We ask that Design Departure #3 be denied, and we are prepared to appeal any Master Use Permit decision that grants the departure.

Traffic Impacts

We have reviewed the applicant's undated, unsigned 'Draft for Client Review Only' Transportation Impact Study dated May 5, 2016 prepared by TENW. We find it remarkable that the City is proceeding to assess the project's traffic impacts based on a 'client-only' draft that lacks the basic data (Appendices A through C are missing) necessary to evaluate the project's impacts or the study's conclusions and recommendations. Even with the limited information in the draft, it is clear that the project's traffic will contribute to and significantly exacerbate existing deficiencies, including glaring concurrency deficiencies at several key intersections.

Of greatest concern is the project's anticipated impact to the alleyway intersections with Stewart Street and Howell Street, including the failing level of service (LOS F) that will result at Stewart Street with the project. The draft study contains no queuing analysis of estimated traffic within the alleyway, including queues that we anticipate will obstruct the Balfour Place garage entries for significant periods of time each day. As the alley is very narrow with no pedestrian amenities, our clients remain concerned about site distance, queuing and pedestrian safety in the alley and along both Stewart Street and Howell Street. Our clients ask again that the City direct the applicant to examine alternative access points and / or demonstrate how the alley access will be designed to avoid such issues. This may require the applicant to provide additional setbacks or dedications to ensure sidewalk and alley widths are met, per SMC 23.49.022 and SMC 23.53.030.

Finally, the proposed monetary mitigation payments mentioned in the draft study will not address the queuing, pedestrian safety and concurrency issues. New capacity and facilities are needed to mitigate the project's impacts, including concurrency issues. *See* SMC 23.49.021 and SMC Chapter 23.52. Because the project's commercial traffic impacts are not well-defined, the applicant's traffic study should highlight such impacts and appropriate mitigation separate from the residential impacts. Again, our clients ask that the City require the applicant to study such impacts and incorporate physical mitigation into the project's design.

As before, we acknowledge that the project is still in early stages. However, our clients prefer to be proactive in identifying potential issues and addressing them before significant investments are made. We hope to see such changes in the materials presented to the Design Review Board, and we remain hopeful that it will not be necessary to appeal the Master Use Permit decision.

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Thank you for your thoughtful consideration of our comments. Please let us know if you have any questions.

Very truly yours,

SCHWABE, WILLIAMSON & WYATT, P.C.



Aaron M. Laing

AAL:jan
Enclosure (PSBJ article)

cc: Clients

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From the Puget Sound Business Journal:

<http://www.bizjournals.com/seattle/print-edition/2016/05/20/towers-too-close-for-comfort-nathan-torgelson-has.html>

Towers too close for comfort: Nathan Torgelson has a \$200 million decision to make. It won't be his last.

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May 20, 2016, 3:00am PDT Updated: May 20, 2016, 12:29pm PDT

Nathan Torgelson has a \$200 million choice to make.

One of Torgelson's jobs as head of the newly created Seattle Department of Construction & Inspections is to measure the distance between skyscrapers and say when they're too close.

The soft-spoken bureaucrat, who was appointed director five months ago, is facing his first big decision. It won't be his last.

A battle has begun between two developers with plans for apartment towers not far from the Space Needle. At issue is how far apart the towers will be. If the developers can't figure out on their own how to meet the city's tower-spacing requirement, it will be up to Torgelson. His decision could nix development of one tower worth more than \$200 million.

This is Seattle's first tower-spacing fight even though the rules are 10 years old. The outcome has the potential to impact dozens of proposed projects around the city for years to come.



BUSINESS JOURNAL PHOTO | DAN DELONG

Nathan Torgelson, director of city of Seattle's Department of Construction & Inspections, reviews tower spacing conflicts: "We didn't really have this issue two years ago."

The issue isn't just about whether building residents can see into each others' homes, though that is a concern. It also impacts livability in Seattle's downtown core – the closer skyscrapers are to each other the tighter and darker the streetscape. As the city pushes for more residential development downtown, these decisions have the potential to determine what the future downtown skyline looks like from a distance, from the apartments and condos that fill the buildings, and from the streets below.

"We didn't really have this issue two years ago," said Torgelson.

Previously, when he was the deputy planning director for the city, he didn't hear much from constituents about tower spacing. Now developers call him a couple of times a month.

It's the result of a white-hot development market, Torgelson said, and increasing demand for housing in the city's densest neighborhoods.

How we got here

Some five dozen construction cranes slice the sky between Northgate and Boeing Field, with most in downtown and South Lake Union. When new zoning rules went into effect in 2006, the city identified 29 potential spacing conflicts.

Ten years later, Amazon is fueling a historic building boom around its sprawling South Lake Union campus and new downtown skyscrapers. In the nearby Denny Triangle alone, more than two dozen high-rises are in the pipeline.

This could result in monolithic facades that would make Seattle look less like the lush Emerald City and more like parts of Manhattan, skyscrapers blotting out the sun and making streets dark and less pleasant.

Seattle officials saw this coming and put in place the tower-separation rules. A panacea, however, they are not.

Rules vary from zone to zone, and in one case developers have won an exception. In several hot development areas there are no rules at all, and residents are demanding the city do something.

"It's a big, gnarly issue," said architect and land-use expert Peter Steinbrueck, a former Seattle City Council member who drafted the first tower-spacing rules. "What we are seeing now are some of the flaws in the code that were predictable and were called out. It's frustrating and disappointing."

Now there is the added pressure of a new city policy that aims to promote development of more market-rate and affordable housing. To spur that, the city will allow developers to build even bigger buildings.

Funneling so much growth into the finite land mass of downtown and South Lake Union is like trying to squeeze 10 pounds of potatoes into a 5-pound bag, activists say.

The race is on

The problem with Seattle's tower spacing regulations is that they're a mishmash of rules that vary wildly depending on location and dozens of other variables.

"It's super confusing for the public," said Matthew Roewe, a director at Via Architecture's Seattle office.

The rules apply to only residential projects, and, in most places the distance limits range from 60 feet – about the distance between a pitcher's mound and home plate – to 80 feet. In a small area around Pike Place Market, the limit is 200 feet – about the length of four tractor-trailer trucks.

Then there are the waivers that are available to developers. In an odd twist, who decides whether to grant an exception varies. Downtown, it's Torgelson. In South Lake Union, it's a city design review board made up of volunteers.

For some developers, the worst part is that under the rules, tower spacing is a race. The first group to secure a master-use permit wins, freezing out competitors.

"It's terrible," said Roewe. "When it's first-come, first-served, someone gets screwed."

Roewe's firm is designing two projects where tower spacing is an issue – one contentious, one not.

On a block at Sixth Avenue and Battery Street, Clise Properties got to City Hall first with plans for two 40-story apartment towers.

Just to the west, where Antioch University operates, is where another Seattle company, HB Management, is proposing a similar development. In this part of town, the minimum tower spacing is 60 feet but one of the HB high-rises would be only 42.5 feet from one of the Clise towers.

With Clise leading the race, HB will need to get an exception from Torgelson if the two developers can't reach an agreement.

A design review board last month recommended that Torgelson not grant the exception, and "advocated" for the two sides to pull back their buildings to achieve the required separation.

"The board said, 'Wouldn't it be nice if they agreed?'" Clise President Richard Stevenson said. "We are not going to start (our design) all over again because they think it would be nice."

Company Chairman and CEO Al Clise said granting the exemption would set a bad precedent and be bad for the neighborhood.

"The only people it's not bad for is the HB guys," he said, "because they make more money."

Ed Hewson of HB said the situation shows why the city needs to "hurry up and amend the code" to make it clearer and fairer. This would take away the incentive for "one developer to race off to get permits for a development that reserves as much space as possible from neighbors."

Via Architecture, is designing the HB project, which is just south of Denny Way. About four blocks to the east in South Lake Union is another proposed apartment tower that Via is designing. That it's located just north of Denny Way means the design review board, not Torgelson, makes the call on the tower separation.

In this case, though, the competing developers have come to terms

A Beverly Hills, California company, H5 Capital, is proposing a 41-story tower at 121 Boren Ave. N., that will be only 42 feet from a similar-sized tower by development company Mack Urban of Los Angeles and Seattle. Mack Urban is seeking a waiver, and H5 backed the request. With little discussion at a meeting earlier this month, the design review board signed off on the deal.

H5 did make a major concession. City rules allow only two towers per block in South Lake Union. H5 initially planned a two-tower development, but eliminated the second one.

This will greatly reduce the value of the project, but it avoids a nasty fight.

Developers must "play along or go to war, and if you're going to war, it's risky," said Roewe, H5's architect.

Fixing it

Updating the rules won't be easy, but the city may try.

Torgelson said his department is looking at tower-spacing requirements throughout downtown and South Lake Union, but there are no recommendations on the table.

The bugaboo is the race-to-the-permit issue the current rules created.

"One of the things we are discussing now is how that timing works," said Torgelson.

"First one in" is not the path to good urban design, and good urban design is not solely about tower spacing.

"It's never just about the tower. It's what we do with the ground plain," said Roewe, who thinks the city ought to have a 3-D model that shows what's built and what's planned. That would help developers and the community better see potential conflicts.

Already, the city encourages developers to work together, but getting them to

do so is easier said than done.

Roewe said the city should up its game when it comes to engaging the public in design discussions. More flexibility and incentives by the city would help, too. This would reduce risk for everyone and result in better outcomes.

Seattle could, for instance, reward developers who pull back their towers by letting them build taller projects and siting them so the resulting shadows are cast on, say, a busy street rather than a park.

Builders could also be incentivized to sell their development rights from the added height to a developer in another part of town.

The idea, Roewe said, would be to get the three legs of the stool – the city, property owners and the neighbors – to come together in a mutually beneficial way.

“Let creativity flourish,” Roewe said, “where it otherwise can’t.”

Marc Stiles

Staff Writer

Puget Sound Business Journal

