

MOTION NO. M2018-80

Amending the Capitol Hill Station Transit Oriented Development Agreement with the City of Seattle

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Board	06/28/2018	Final Action	Brooke Belman, Director of Land Use and Development Sarah Lovell, TOD Manager

PROPOSED ACTION

Authorizing the chief executive officer to execute an amendment to the Capitol Hill Station Transit Oriented Development Agreement with the City of Seattle related to transit-oriented development on surplus property at the Capitol Hill Link Station.

KEY FEATURES SUMMARY

- This action authorizes the chief executive officer to execute an amendment to the 2013 Development Agreement between Sound Transit and the City of Seattle for transit-oriented development at the Capitol Hill Link light rail station. The proposed changes are shown on the attached Exhibit A.
- The changes are requested by Capitol Hill Housing, the developer of Site B-North, in order to satisfy their affordable housing lenders and allow them to secure financing for the project. The changes will not affect Gerding Edlen’s project on the other three sites (A, B-South, and C). Gerding Edlen broke ground on their project last week.
- The attached Exhibit A amends section 2.5 of the Development Agreement and related provisions, correcting a mistaken reference to the definition of affordable housing found in SMC 23.84.016. Section 2.5 as currently written does not meet the lenders’ underwriting standards for tax credit projects. The correction takes the definition of affordable housing from the City’s regulatory agreement and meets current underwriting standards.
- The amendment also states that site B-north will be developed as affordable housing, but may also include a manager’s unit, a community center and below grade parking.
- The proposed changes maintain the intent of the Development Agreement to develop site B-North as affordable housing and are consistent with the project’s Master Use Permit issued by the City.
- An amendment to the Development Agreement for the Capitol Hill Station TOD requires approval by both the Sound Transit Board and the Seattle City Council. Seattle City Council action is anticipated for July 23, 2018.

BACKGROUND

Following Sound Transit’s public engagement around the Capitol Hill Light Rail Station and the development of the Urban Design Framework for the station block in 2011, Sound Transit staff and City of Seattle staff negotiated a development agreement for the five development parcels around the Capitol Hill Light Rail station. The Development Agreement negotiated provides the regulatory

framework to support the community's development vision. Specifically the development agreement:

- Provides additional height to buildings on all sites
- Requires a plaza that is designed to support community gatherings
- Sets a maximum residential parking ratio
- Allows for a pooled green factor across all sites
- Requires long-term affordable housing on site B-north
- Allows for a community center that does not count towards the overall FAR maximum
- Requires bicycle parking

The Urban Design Framework and the Development Agreement were foundational documents that helped to guide the development of the RFQ and RFP for the development of the four sites included in the 2014 procurement. Gerding Edlen, a Portland-based developer was selected as the master developer for the four sites. Gerding Edlen selected Capitol Hill Housing to partner on the delivery of the affordable housing project on site B-north.

The Development team has worked collaboratively with Sound Transit staff through design and permitting. Master Use Permits have been awarded for all sites, and all other required permits are expected by August. Sound Transit is currently under contract to sell Site B-North to Capitol Hill Housing (CHH). CHH's affordable housing funders as part of their due diligence review of the Site B-North project have requested an amendment to the Development Agreement with the changes shown on Exhibit A. Sound Transit staff has reviewed the proposed amendment and recommends the Sound Transit Board approve the motion to allow CHH to secure their affordable housing financing and proceed to construction.

FISCAL INFORMATION

This action has no fiscal impact to the agency, however if Capitol Hill Housing is unable to secure financing for the project, it may jeopardize the sale of the property and the revenue Sound Transit expects to receive from the sale.

PUBLIC INVOLVEMENT

The project has had extensive public involvement beginning in 2008, through the development of the Urban Design Framework process with the City of Seattle and the Capitol Hill Champion beginning in 2010. The Champion was also engaged in throughout the RFP process and has continued their involvement and interest in the project, engaging with the development team on a monthly basis since their selection in 2016. Seattle City Council will hold a public hearing about the proposed amendment on July 23, 2018.

TIME CONSTRAINTS

Delaying this action may delay the City Council Action, and could jeopardize the project. CHH has advised us that a lengthy delay will result in changes to the interest rates and tax credit rates they have secured, which could jeopardize their ability to receive adequate funding for the project.

PRIOR BOARD/COMMITTEE ACTIONS

Motion No. M2016-81: Authorizing the chief executive officer to execute a Disposition and Development Agreement and a Purchase and Sale Agreement with Gerding/Edlen Development Company, LLC, an Oregon limited liability company to sell the parcel referred to as Site B-North, located at 923 East John Street, Seattle, WA for the development of a mixed-use affordable housing project at the Capitol Hill light rail station.

Motion No. M2015-34: Authorized the chief executive officer to enter into negotiations with Gerding Edlen for (1) a purchase and sale agreement for the parcel referred to as Site B-North located at 923 East John Street, Seattle, WA for a mixed-use affordable housing transit-oriented development project and (2) a long-term ground lease on the parcels referred to as Sites A, B-South and C, located at 118 Broadway East, 123 10th Avenue East and 1830 Broadway respectively for a mixed-use market rate housing transit-oriented development project that includes a 20 percent affordable housing requirement, a public plaza and other amenity spaces.

Motion No. M2013-79: Authorizing the chief executive officer to execute a Capitol Hill Station TOD Development Agreement with the City of Seattle, specifying the terms and conditions for implementing transit-oriented development on surplus property at the Capitol Hill Link Station.

ENVIRONMENTAL REVIEW

LS 6/27/18

LEGAL REVIEW

JV 6/28/2018

MOTION NO. M2018-80

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an amendment to the Capitol Hill Station Transit Oriented Development Agreement with the City of Seattle related to transit-oriented development on surplus property at the Capitol Hill Link Station.

BACKGROUND:

Following Sound Transit's public engagement around the Capitol Hill Light Rail Station and the development of the Urban Design Framework for the station block in 2011, Sound Transit staff and City of Seattle staff negotiated a development agreement for the five development parcels around the Capitol Hill Light Rail station. The Development Agreement negotiated provides the regulatory framework to support the community's development vision. Specifically the development agreement:

- Provides additional height to buildings on all sites
- Requires a plaza that is designed to support community gatherings
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- Allows for a pooled green factor across all sites
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An amendment to the Development Agreement for the Capitol Hill Station TOD requires approval by both the Sound Transit Board and the Seattle City Council. Seattle City Council action is anticipated for July 23, 2018.

MOTION:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute an amendment to the Capitol Hill Station Transit Oriented Development Agreement with the City of Seattle related to transit-oriented development on surplus property at the Capitol Hill Link Station.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on June 28, 2018.



Dave Somers
Board Chair

ATTEST:



Kathryn Flores
Board Administrator

Ex A - First Amendment to Development Agreement
V1a

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Central Puget Sound Regional Transit Authority
Attn: Real Property Division
401 S. Jackson Street
Seattle, WA 98104-2826

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN**

**THE CITY OF SEATTLE
AND
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY**

**REGARDING
CAPITOL HILL STATION TRANSIT ORIENTED DEVELOPMENT**

Between: **THE CITY OF SEATTLE, WASHINGTON**

And: **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
(SOUND TRANSIT)**

ABBR. LEGAL DESCRIPTION: PARCELS A THROUGH D, INCLUSIVE, OF LOT BOUNDARY ADJUSTMENT RECORDED UNDER RECORDING NO. 20131113900003; LOTS A AND B OF LOT BOUNDARY ADJUSTMENT RECORDED UNDER RECORDING NO. 20131107900003; AND LOTS A AND B OF LOT BOUNDARY ADJUSTMENT RECORDED UNDER RECORDING NO. 20131113900005.

ASSESSOR'S TAX PARCEL NO.(S): 6003002025, 6003002020, 6003501105, 6003501135, 6003001380, 6003001385, 6003001315, 6003001380

REFERENCE OF AFFECTED DOCUMENTS: 20150504000410

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

Between

THE CITY OF SEATTLE

And

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY

Regarding

CAPITOL HILL STATION TRANSIT ORIENTED DEVELOPMENT

This First Amendment to Development Agreement (“Amendment”) is entered into by and between THE CITY OF SEATTLE (“City”), a Washington municipal corporation, and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (“Sound Transit”), a regional transit authority created pursuant to Chapter. 81.104 RCW and Chapter 81.112 RCW (together the “Parties”).

RECITALS

- A. Sound Transit and the City entered into that certain Development Agreement recorded on May 4, 2015 under King County recording number 20150504000410 (the “Development Agreement”) with respect to the development of the real property legally described on Exhibit A hereto, comprising five sites referred to as Sites A, B-North, B-South, C, and D.
- B. Pursuant to the Development Agreement, Site B-North is to be developed as “Affordable Housing” for households with incomes not exceeding 60% of “median income” as defined in SMC 23.84A.025 (“Median Income”). The Parties did not intend for the below-grade portions of Site B-North to be developed as Affordable Housing.
- C. As anticipated in the Development Agreement, the City approved a lot boundary adjustment (“LBA”) to establish legal lots that correspond to certain Development Agreement Sites. *See* LBA No. 3015588, recorded under King County recording number 20131113900003. “Parcel C” in the LBA corresponds to Site B-North.
- D. Schemata Workshop, Inc., applied for and received a Master Use Permit, permit number 3021177-LU (the “MUP”), approving a development (the “Project”) on Parcel C (corresponding to Site B-North), to consist of a 110-unit affordable housing project, serving households with incomes at or below 60% of Median Income, with a community

center, located above a 30-stall parking garage accessory to development proposed for LBA Parcel D (corresponding to Site B-South).

- E. Site B-North has been subjected to the Washington Condominium Act, RCW 64.34, pursuant to a Condominium Declaration for Station House Condominium (“Declaration”) executed by Sound Transit, as Declarant, dated as of _____, 2018 and recorded under King County Recording No. _____. The Declaration created two condominium units: the “Affordable Housing Unit” and the “Garage Unit.” The Parties do not intend for the Garage Unit to be developed as Affordable Housing.
- F. To facilitate financing for the Project, the Parties desire to amend Section 2.5 and related provisions of the Development Agreement to modify the definition of “Affordable Housing” and to reflect that, pursuant to the MUP and consistent with the Parties’ intent in the Development Agreement, Site B-North may consist of affordable housing dwelling units (which may include affordable live-work units), a manager’s unit, a community center, and below-grade parking.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the City and Sound Transit hereby agree to amend the Development Agreement as follows:

1. Recital K of the Development Agreement is amended as follows [*new text underlined, deleted text struck through*]:

K. Sound Transit will dispose of Sites A, B-South, and C by means of a competitive process that will begin with a Request for Qualifications (“RFQ”), followed by a Request for Proposals (“RFP”). Responses for Sites A, B-South, and C will be evaluated concurrently to allow developers to submit individual proposals for each parcel and allow master developers to complete for two or more parcels with a single development proposal. Sound Transit will dispose of Site D through a similar process if Seattle Central Community College does not acquire Site D pursuant to a prior agreement with Sound Transit. Sound Transit will dispose of Site B-North in cooperation with the City’s Office of Housing by offering that Site for development ~~exclusively~~ as affordable housing. The timing of these processes will depend upon site availability after construction of the Station is complete, as determined by the Sound Transit Board.

2. Section 2.5 of the Development Agreement is amended as follows (with Section 2.6, unchanged, shown for context) [*new text underlined, deleted text struck through*]:

2.5 Site B-North shall be developed ~~exclusively~~ as Affordable Housing, which development may also include; ~~affordable live-work units that do not include~~

~~retail use, a manager's unit; a below-grade parking garage accessory to a site other than Site B-North; and a community center consistent with Section 2.6.~~ For purposes of this Agreement, "Affordable Housing" means affordable housing as defined in SMC 23.84A.016, for households with: (a) that is subject to income and rent restrictions in any regulatory agreement required by The City of Seattle Office of Housing or its successor agency with respect to the development or financing of the housing on Site B-North; or (b) in the absence of any such regulatory agreement, serving residents with household incomes at the time of initial occupancy not exceeding 60% of area "median income" as defined in SMC 23.84A.025, with rents that do not exceed 30% of 60% of median income. "Affordable Housing" may include live-work units that do not include a retail use.

- 2.6** Notwithstanding the limitations imposed by Sections 2.2, 2.4, and 2.5, a community center as defined in SMC 23.84A.018 shall be permitted within the first 40 vertical feet on Sites A, B-North, C, and D. The area of any community center shall be exempt from FAR calculations.
3. Section 5.1 of the Development Agreement is amended as follows [*new text underlined, deleted text struck through*]:
- 5.1** Site B-North shall be developed consistent with Sections 2.5 and 2.6 ~~exclusively as Affordable Housing~~.
4. Section 11.1 of the Development Agreement is amended as follows [*new text underlined, deleted text struck through*]:
- 11.1** During the MUP process, DPD may approve applications that vary in minor ways from the requirements of this Agreement. A minor variation is one that: (a) is consistent with the intent of this Agreement to achieve high-quality transit-oriented development near the Station; (b) will not result in significantly greater impacts than are allowed by this Agreement; and (c) will provide at least as much open space, amenity area, and Affordable Housing and Affordable Units as would a project that does not vary from the requirements of this Agreement. A minor variation may not approve greater height than is authorized by this Agreement. Any variation reflected in plans approved by DPD for permit purposes is considered to comply with this Agreement for all purposes. For purposes of this Agreement, "DPD" shall include the Seattle Department of Construction and Inspections and any successor City department.
5. Section 13.1 of the Development Agreement is amended as follows [*new text underlined, deleted text struck through*]:

- 13.1** Sound Transit will offer Site B-North ~~to not-for-profit developers for~~ development ~~solely as of~~ Affordable Housing consistent with Sections 2.5 and 2.6. Sound Transit will provide for City participation in the RFQ/P process for this Site so that the City may assist in evaluating the proposals and may offer appropriate City financing.

IN WITNESS WHEREOF, each of the parties has executed this Amendment by its authorized representative.

**CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY,**
a Washington municipal corporation

By: _____
Peter Rogoff
Chief Executive Officer

Date: _____

Approved as to form:

By: _____
Sound Transit legal counsel

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

I certify that I know or have satisfactory evidence that Peter Rogoff is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Chief Executive Officer of the Central Puget Sound Regional Transit Authority to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal this ____ day of _____, 2018

NOTARY PUBLIC in and for the State of
Washington residing at _____

My appointment expires _____

Print Name _____

THE CITY OF SEATTLE,
a Washington municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

Authorized by Ordinance No. _____

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that she/he signed this instrument, on oath stated that she/he is authorized to execute the instrument and acknowledged it as the _____ of The City of Seattle to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal this ___ day of _____, 2018

NOTARY PUBLIC in and for the State of
Washington residing at _____

My appointment expires _____

Print Name _____

Exhibit A

Legal Description

Parcels A through D, inclusive, of Lot Boundary Adjustment recorded under Recording No. 20131113900003.

Lots A and B of Lot Boundary Adjustment recorded under Recording No. 20131107900003.

Lots A and B of Lot Boundary Adjustment recorded under Recording No. 20131113900005.

Situate in the City of Seattle, County of King, State of Washington.