



**CITY OF SEATTLE
ANALYSIS, DECISION AND RECOMMENDATION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Record Number: 3037185-LU
Applicant: Benjamin Maritz
Address of Proposal: 2210 E Cherry St
Clerk File Number: 314474

SUMMARY OF PROPOSAL

Council Land Use Action to rezone 7 parcels of land:

- 3 parcels from NC1-40 (M2) (Neighborhood Commercial 1 with a 40' height limit and a MHA suffix of (M2)) to NC1-65 (M2) (Neighborhood Commercial 1 with a 65' height limit and a MHA suffix of (M2)); and
- 4 parcels from NC1-40 (M) (Neighborhood Commercial 1 with a 40' height limit and a MHA suffix of (M)) to NC1-65 (M1) (Neighborhood Commercial 1 with a 65' height limit and a MHA suffix of (M1)).

Project includes a 6-story, 114-unit apartment building with retail and restaurant. No Parking proposed. Existing buildings to be demolished. Design Review conducted under 3037717-EG.

* Note – The project description has been revised from the original notice of application: Council Land Use Action to rezone 7 parcels of land from NC1-40 (Neighborhood Commercial 1 with a 40' height limit) to NC1-55 (Neighborhood Commercial 1 with a 55' height limit). Project include a 6-story, 107-unit apartment building with retail, restaurant & childcare center. No Parking proposed. Existing buildings to be demolished. Design Review conducted under 3037717-EG.

The following approvals are required:

- I. Design Review with Departures (Seattle Municipal Code 23.41)***
**Departures are listed near the end of the Design Review Analysis in this document*
- II. Contract Rezone (Seattle Municipal Code 23.34):** Recommendation to Hearing Examiner
- III. SEPA - Environmental Determination (Seattle Municipal Code Chapter 25.05):** Substantive SEPA Review/Conditioning: Recommendation to City Council

SEPA DETERMINATION

Determination of Non-Significance (DNS)

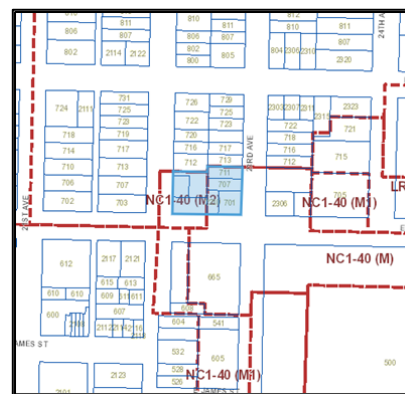
- Pursuant to SEPA substantive authority provided in SMC 25.05.660, the Director recommends to City Council that the proposal be conditioned to mitigate environmental impacts.

SITE AND VICINITY

Site Zone: The approximate eastern half of the site is zoned **Neighborhood Commercial 1-40 with an “M” suffix [NC1-40 (M)]** and the approximate western half of the site is zoned **NC 1-40 with an “M2” suffix [NC1-40 (M2)]**.

Zoning Pattern:

- (North) Residential Small Lot (M) [RSL (M)]
- (South) NC1-40 (M) & NC1-40 (M1)
- (East) NC1-40 (M)
- (West) RSL (M)



The top of this image is North. This map is for illustrative purposes only. In the event of omissions, errors or differences, the documents in SDCI's files will control.

Environmentally Critical Areas: There are no mapped environmentally critical areas on the subject site.

Current and Surrounding Development; Neighborhood Character; Access:

The subject site is comprised of seven existing tax parcels which form a nearly rectangular shape. Two commercial structures built in 1907 and 1914 and two single-family residences built in 1900 are located on the eastern portion of the site; the western portion is vacant. The site slopes downward northwest to southeast approximately 16 feet.

The subject site is located on the northwest corner of 23rd Ave and E Cherry St in the 23rd and Union-Jackson Residential Urban Village. The site has additional street frontage on 22nd Ave to the west. Single-family residences are adjacent to the north and west; commercial structures are adjacent to the east and south. The immediate vicinity is largely comprised of single-family residences. Small-scale commercial uses and lowrise multifamily developments front 23rd Ave and E Cherry St in the proximate blocks. Community facilities, including Garfield Community Center, Medgar Evers Pool, Garfield High School, and the Quincy Jones Performing Arts Center, occupy the block to the southeast. 23rd Ave is a principal arterial providing north-south circulation through the Central Area. E Cherry St is a minor arterial providing east-west circulation. The site is situated on a zone boundary: the western half of the site was rezoned from Single-family 5,000 to Neighborhood Commercial 1-40 (M2) on 8/25/17 and the eastern half was rezoned from Neighborhood Commercial 1-30 to Neighborhood Commercial 1-40 (M) on 8/25/17.

The neighborhood is characterized by a variety of building scales and uses, with many of the older commercial and residential structures dating from the early 1900s. Smaller scale structures front E Cherry St, comprising a mix of older multistory apartment buildings and small, single-story businesses. In the blocks to the northwest, existing small-scale residential structures exhibit similar massing and siting patterns, and generally traditional architectural styles with a smattering of recent contemporary developments throughout. Large, mature street trees enhance the pedestrian environment.

Vehicular access is proposed from 22nd Ave. Pedestrian access is proposed from 23rd Ave and E Cherry St.

PUBLIC COMMENT

The original notice of application public comment period ended on August 23, 2021; the project was subsequently renoticed with a public comment period that ended on March 29, 2023. In addition to the comments received through the Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to the proposed rezone, density, cultural resources, transportation/traffic, noise, and construction impacts. Comments were also received that are beyond the scope of this review and analysis per SMC 23.34, 23.41 and 25.05.

I. ANALYSIS – DESIGN REVIEW

The design packet includes information presented at the meeting, and is available online by entering the record number at this website:

<http://www.seattle.gov/DPD/aboutus/news/events/DesignReview/SearchPastReviews/default.aspx>

Any recording of the Board meeting is available in the project file. This meeting report summarizes the meeting and is not a meeting transcript.

EARLY DESIGN GUIDANCE June 10, 2021

PUBLIC COMMENT

The following public comments were offered at this meeting:

- Supportive of the investment in affordable housing and amenities at this critical corner of the neighborhood.
- Encouraged the design team to consider heightened capacity of the serpentine screen and visual connectivity between the plaza and the sidewalk to support ample visibility to the retail.
- Supportive of the departure for units at grade along 22nd Ave with special attention paid to the landscape buffer with CS2 guidelines in mind.

- Expressed concerns with the lack of parking being provided and the impact to available on-street parking in the neighborhood.
- Curiosity about the average rent and whether the project is viable with so few units.
- Supportive of the project as a whole but expressed concern with the blocking of sun and the increased amount of shadow resulting from the increased height, bulk, and scale as it relates to the north side of the building. The added height puts more of the backyards to the north in shade for more of the year.
- Concerned with locating the childcare play area on the north side of the building where it will never get direct sunlight and questioned needing the play space with a massive public park nearby.
- Concerned over having the load and unload area for the childcare center on 22nd Ave. This location is the farthest point away from the childcare entry and would mean that the street would be blocked while children are being walked around the block to be dropped off at the main entrance on 23rd Ave.
- Concerned that there is no weather protected path for childcare drop off and suggested alternate paths more direct through the site for access.

Public comment submitted in writing prior to the meeting include:

- Supportive of the overall project goals and objectives.
- Supported the south facing courtyard as it could create more linear feet of retail than would be provided without the courtyard.
- Supportive of the retail floor to floor height departure requested instead of forcing retail to deal with the sloping topography.
- Encouraged ample accessibility to the courtyard during many hours of the day and asked for clarification on the hours and circumstances in which public access would be allowed.
- Supportive of no retail on 22nd if the proposed community benefits proposed are included.
- Concerned with residential privacy on 22nd and would like the proposal to pay special attention to the Design Guideline related to rhythm, setbacks, and modulation.
- Concerned with the upper-level setback departures being requested and requests the Board require additional study of the shadows created on the properties to the north.
- Concerned with the potential impact of the overall height, bulk, and scale with the potential additional height granted as part of the rezone request.
- Expressed the importance of the developer working to retaining the existing small businesses or bring in new similar small businesses.

The Seattle Department of Transportation offered the following comments:

- Stated the project is required to meet the minimum standards of street trees in a 5.5' planting strip between a 6" curb and 6' sidewalk.
- Stated the planting strips along 22nd Ave S, 23rd Ave S, and E Cherry St do not meet the minimum width requirements.
- Unsupportive of the waving sidewalk design along E Cherry St.
- Stated the door swings along 23rd Ave S cannot be located within the required setback.
- Stated the door swings along E Cherry St cannot swing into the public ROW.
- Supported on-site staging and collection of solid waste.

- Requested clarification of where solid waste is proposed to be staged and collected along 22nd Ave S.

One purpose of the design review process is for the Board and City to receive comments from the public that help to identify feedback and concerns about the site and design concept, identify applicable Seattle Design Guidelines and Neighborhood Design Guidelines of highest priority to the site and explore conceptual design, siting alternatives and eventual architectural design.

All public comments submitted in writing for this project can be viewed using the following link and entering the record number (3037717-EG): <http://web6.seattle.gov/dpd/edms/>

PRIORITIES & BOARD RECOMMENDATIONS

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following siting and design guidance.

- 1. Massing Options, Response to Context, & Zone Transition:** There was Board agreement that the applicant's preferred massing Concept 3, as presented in the meeting, started to address the neighborhood context, zone transition to the north and site, better than the other options proposed. The Board appreciated the stepping of the mass in response to the Cherry St topography and the inclusion of the south-facing retail courtyard. The Board recommended moving forward with the development of Massing Concept 3 with the following guidance:
 - a. Echoing public comment, the Board supported the C-shaped massing, street-facing courtyard, and the stepping of the overall mass proposed in massing Concept 3. There was, however, concern that with the added height of the proposed rezone on a zone edge exacerbated the height drop of the adjacent zone, and that the height, bulk, and scale of the building did not adequately address the zone transition to the north and west of the site. The Board strongly recommended that the applicant further develop the massing to include appropriate top-level setbacks to help alleviate the perceived height of the building and allow more opportunity for daylight into neighboring properties. (CS2-D Height, Bulk and Scale: CS2-D-1. Existing Development and Zoning, CS2-D-3. Zone Transitions, CS2-D-4. Massing Choices, CS2-D-5. Respect for Adjacent Sites, and Central Area CS2-1 Transition and Delineation of Zones: CS2-1-b. Transition using Massing and Articulation, CS2-1-c. Relate to Human Scale)
 - b. At the next stage, the Board requested site sections that clearly illustrate the heights of the adjacent properties and the proposed massing in both the east/west and north/south directions and enlarged sections along the north property line showing the shade and shadow effects of the design on the backyards of the adjacent homes. (CS1-B-2. Daylight and Shading, Central Area CS1-2-a. Impact on Solar Access, CS2-D-5. Respect for Adjacent Sites)

- c. There was concern by the Board with the lack of modulation and upper-level setback in the mass at the corner of E Cherry St and 23rd Ave. Specifically referencing the Central Area Design Guideline A.1.3.a, the Board gave guidance to study ways in which the design could respond to the lower scaled, existing fabric to the east. Moving forward, the Board recommended more thorough study of this corner as it is viewed from all directions, with more attention given to the approach coming from the east. (CS2-D Height, Bulk and Scale: CS2-D-1. Existing Development and Zoning, CS2-D-3. Zone Transitions, CS2-D-4. Massing Choices, CS2-D-5. Respect for Adjacent Sites, and Central Area CS2-1 Transition and Delineation of Zones: CS2-1-b. Transition using Massing and Articulation, CS2-1-c. Relate to Human Scale, CA A.1.3.a For 23rd and Cherry Character Areas: Community Characteristics)

2. Street Level Connection & Uses: The Board agreed overall with the applicant's implied approach in massing Concept 3 to activate the street frontage along E Cherry St and 23rd Ave, locating more passive residential uses on 22nd Ave, and providing a courtyard that increased the amount of retail frontage. There was consensus that the corner lobby entrance at E Cherry St and 22nd Ave and the retail space at the corner of 23rd Ave and E Cherry were appropriate locations for these ground level uses. The Board reiterated specific concerns raised by the public related to the location of the proposed childcare center and the overall visibility and accessibility of the south-facing courtyard. The Board recommended moving forward with the street level concept with the following guidance:

- a. In agreement with public comment, the Board agreed that the location of the residential units on 22nd Ave in-lieu of retail space as the more appropriate use in response to the zone change to the west. (CS2-D-3 Zone Transitions, CS2-D-4 Respect for Adjacent Site, CA CS3-I-a Retain Neighborhood Character)
- b. The Board reiterated concerns raised during public comment regarding the location of the childcare center and the lack of a designated pick-up/drop-off zone on 22nd Ave. It was also observed that there was no direct route from 22nd Ave to the main entrance on 23rd Ave, which would require parents to walk their children along three street frontages, without proper overhead protection. It was noted that this would also likely conflict with solid waste storage and staging. The Board strongly encouraged the applicant to continue to explore the ground floor uses and study alternative locations for the childcare center, alternate pedestrian routes or vehicle parking within the site for pick-up/drop-off, and coordination with SPU and SDOT to determine the appropriate means for dealing with the various needs associated with a mixed-use development. (PL1-B-1 Pedestrian Infrastructure, CA PL1-1-a Safety & Connectivity, PL2-A-2 Access Challenges, PL2-C Weather Protection, PL2-D-1 Design of Wayfinding, PL4-A Entry Locations and Relationships, DC1-B-1 Access Location and Design)
- c. The Board appreciated the applicant's proposed south-facing courtyard with accessible retail but expressed concern with the limited connection to the sidewalk, the depth of the

courtyard relative to grade at the west end, and the overall visibility of the retail within the sunken courtyard. The Board requested that the applicant show studies for raising the courtyard level to allow for more direct access from the sidewalk, increasing the connectivity to the courtyard with added stairs, or by other means to encourage a more porous edge along E Cherry St. (PL1-A Network of Open Spaces, PL1 Connectivity, CA PL1-1-a Safety and Connection, PL2-A-1 Access for All, CA PL3-2-f Limit Solid Barriers and Blank Walls)

- d. The Board was excited by the potential interaction of the residential lobby, the commercial space to the east, and the proposed community porch along E Cherry Street. Moving forward, the Board requested more information on how these spaces are envisioned to be programmed and how that will promote community involvement. Also show how this space may or may not interact with the courtyard below. (PL1-C-2 Informal Community Uses, PL3-C-3 Ancillary Activities, CA PL3-2-I Porches and Stoops)

3. Landscape Design & Outdoor Childcare Play Area:

- a. The Board recommended that the depth of the landscape in front of the ground level residential units on 22nd Ave be wide enough for the planting to be varied, layered, and serve as a natural separation from the public realm. This planting area should be larger than required based on the potential departure request associated with allowing residential units in this location. (CA CS2-1-a Provide Privacy Layering and Scale, PL3-B-1 Security and Privacy, PL3-B-2 Ground Level Residential)
- b. The Board appreciated the wavy planting concept proposed along E Cherry St in front of the community porch and the courtyard for its artistic and whimsical intervention. There was concern, however, that the design severely limited access to the courtyard and significantly changes the right-of-way orientation, which was not supported by Seattle Department of Transportation (SDOT). It was also noted that there were several locations where the width of the planter at the property line appeared to too small for supporting adequate planting. Moving forward, the Board recommended working with SDOT to retain as much of the wave concept as possible in conjunction with increasing courtyard access discussed in item 2.c above and further develop the landscape design. (PL1-A Network of Open Spaces, PL1 Connectivity, CA PL1-1-a Safety and Connection, PL2-A-1 Access for All, CA PL3-2-f Limit Solid Barriers and Blank Walls, DC4-D-4 Place Making)
- c. The applicant proposed a serpentine wall in the wavy planting strip along E Cherry St, which was appreciated by the Board to bring in a sculptural element to the landscape design. There was concern, however, that the height of the wall would exacerbate the perceived grade difference between the sidewalk and the courtyard. It was also noted that this wall could appear to be enclosing private space rather than the intended welcoming, community courtyard. The Board recommended studying alternatives, and more transparent materials in conjunction with providing a more porous condition as discussed

in item 2.c above. (PL1-A Network of Open Spaces, PL1 Connectivity, CA PL1-1-a Safety and Connection, PL2-A-1 Access for All, CA PL3-2-f Limit Solid Barriers and Blank Walls, DC4-D-4 Place Making)

- d. The Board heard public comment and agreed with concerns that the childhood outdoor play space located on the north side of the building where it will always be in shadow. The Board recommended studying additional locations for the outdoor play area in conjunction with item 2.b above. (CS1-B-2 Daylight and Shading, PL1-C-1 Selecting Activity Areas, CA PL1-C-3-a Safe Play Areas)

RECOMMENDATION May 12, 2022

PUBLIC COMMENT

The following public comments were offered at this meeting:

- The Central Area Land Use Review Committee offered support for the project and referenced a letter submitted the day of the meeting.
- Appreciated the setback on the north side of the site and the courtyard along Cherry St.
- Stated that the project will support the legacy and heritage of the neighborhood for kids.
- Excited to see the project move forward and add value to the community and the future of the neighborhood.
- Supported the solid inclusive design with fine grain texture.
- Supported all the departures proposed.
- Supported the smaller retail footprints and the thoughtful approach to minimizing displacement.

SDCI staff also summarized design related comments received in writing prior to the meeting:

- Many comments supported the proposed development.
- Encouraged approval of the upper-level setback departure.
- Felt the six-story building height is out of scale and not in character with this neighborhood of mostly two-story buildings.
- Opined the building size is out of proportion with the short block length.
- Appreciated involving local artists and businesses to assist with the design.
- Concerned about shade impacts caused by the building height.
- Supported the child care facility use, however discouraged the Cherry St drop off location due to safety concerns.
- Celebrated the proposed height.
- Valued the AfroFuturist design inspiration.
- The Central Area Land Use Review Committee offered the following design-related comments:
 - Supported the commitments made by the developer that will contribute to the livability of the neighborhood.

- Supported the building materials, colors, and the ‘front porch’ on E. Cherry St, as measures to meet cultural relevancy goals.
- Appreciated the 15 feet setback on the north side of the site.
- Supported all departures.
- Supported the reduced setback on the west side of the site.

SDCI received non-design related comments concerning the proposed rezone, housing demand, housing affordability, density, unit size, parking, environmental regulations, community outreach, funding, archaeological review, and SEPA/environmental regulations.

The Central Area Land Use Review Committee letter included non-design related comments:

- Appreciated the inclusion of affordable housing on site to satisfy the Mandatory Housing Affordability obligation.
- Supported the inclusion of small affordable retail spaces and the promise to work to retain existing retail tenants on site.
- Supported the anticipated rezone based on increased housing capacity and the substantial commitments made to the community.
- Supported no parking.

The Seattle Department of Transportation offered the following comments:

- Urban Village standards require minimum 5.5’ planting strips to provide adequate soil volume for street trees. On page 52, it appears the proposed planting strip on 23rd Ave is only 5’.

One purpose of the design review process is for the Board and City to receive comments from the public that help to identify feedback and concerns about the site and design concept, identify applicable Seattle Design Guidelines and Neighborhood Design Guidelines of highest priority to the site and explore conceptual design, siting alternatives and eventual architectural design.

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PRIORITIES & BOARD RECOMMENDATIONS

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following recommendations.

1. Massing Options, Response to Context, & Zone Transition:

- a. The Board recommended approval of the applicant’s development of the overall design as presented in the Recommendation packet and at the Recommendation meeting with its bay modulation, and appropriate top-level setbacks along each of the street frontages. The Board also recommended approval of the significant setback of the top two floors and greater than required ground-level setbacks on the north side of the building, in response to the transition down to the lower-scaled Residential Small Lot (RSL) zone immediately

to the north of the site. (CS2-D Height, Bulk and Scale: CS2-D-1. Existing Development and Zoning, CS2-D-3. Zone Transitions, CS2-D-4. Massing Choices, CS2-D-5. Respect for Adjacent Sites, and Central Area CS2-1 Transition and Delineation of Zones: CS2-1-b. Transition using Massing and Articulation, CS2-1-c. Relate to Human Scale)

2. Façade Articulation and Material Application:

- a. The Board applauded the applicant's strong Afrofuturism design statement, clarity of design progression through the implementation of a strong parti, a clear modulation approach, and the accessorizing of the building with accent colors, patterns, and textures in the materials. (A.1-1-a. Express African and Black American Presence, A.1-1-b. Include Visual Arts in the Design Concept, DC2-B-1. Façade Composition, DC2-D Scale and Texture, DC2-1-a. Clarify Concepts, DC4-D-4 Place Making, DC4-3 Building Details and Elements)
- b. The Board recommended approval of the façade articulation including balconies with perforated metal railing, purposefully placed panel reveals, zig-zag steel column. The Board recommended approval of the materials shown on the Materials and Color Palette on page 36, the building elevations, and the renderings shown throughout the Recommendation packet and the Recommendation presentation. The Board discussed the importance of the stenciled pattern on the central building massing and whether it should be protected in some way, as well as the importance of a well-designed and integrated sculptural art element on the roof at the corner of E Cherry St and 23rd Ave. After deliberation, the Board decided not to recommend a condition of approval. (DC2-B-1. Façade Composition, DC2-D Scale and Texture, DC2-1-a. Clarify Concepts, DC4-D-4 Place Making, DC4-3 Building Details and Elements)

3. Street Level Connection & Uses:

- a. The Board recommended approval of the location of the residential units on 22nd Ave in lieu of retail space as the more appropriate use in response to the zone change to the west. (CS2-D-3 Zone Transitions, CS2-1 Transition and Delineation of Zones, CS2-D-4 Respect for Adjacent Site, CA CS3-I-a Retain Neighborhood Character)
- b. The Board recommended approval of the open, inviting, and engaging south-facing courtyard. The Board appreciated the integration of terraced landscaping, ample built-in seating, and accessible retail that encourages public engagement through an at-grade connection and convex-shaped grand stair. The Board noted that a concave-shaped stair could allow for an amphitheater-like experience in the courtyard and encouraged the applicant to continue to explore the shape of the stair but did not recommend a condition of approval after deliberation. (A.1-3-a. Community Characteristics, A.2-1-a. Emphasize Cultural Placemakers, PL1-A-2. Adding to Public Life, PL1-B-1. Pedestrian Infrastructure, PL2-A-1. Access for All)
- c. The Board discussed the relationship of the main residential entry and the covered 'porch' area on E Cherry St and whether the presence of the main entry was visible and discernable. After deliberation, the Board recommended approval of the street level uses and design of the entry as proposed in the Recommendation packet and presentation. (PL3-A-1. Design Objectives, PL2-D-1. Design as Wayfinding)

- d. Although the Board supported the overall approach to the design of the ground level and the retail spaces, some members of the Board were concerned that the 23rd Ave retail space, with its continuous transparent storefront, felt squat and out of scale with the mass above. The Board discussed whether recessed entries and more solid elements should be introduced to help ground the floating mass above and suggested the applicant continue to study the design of the 23rd Ave retail frontage. After deliberation, the Board did not recommend a condition of approval. (PL3-C Retail Edges, PL3-1-a. Design Elements, PL3-1-e. Frequent Entrances and Expressed Breaks)

4. Landscape Design:

- a. The Board recommended approval of the varied and layered landscape design in front of the ground level residential units on 22nd Ave that successfully serves as a natural separation from the public realm as illustrated on page 23 and the landscape plan shown on page 22 of the Recommendation Packet. (CA CS2-1-a Provide Privacy Layering and Scale, PL3-B-1 Security and Privacy, PL3-B-2 Ground Level Residential)

DEVELOPMENT STANDARD DEPARTURES

The Board's recommendation on the requested departures were based on the departure's potential to help the project better meet these design guidelines priorities and achieve a better overall project design than could be achieved without the departures.

At the time of the Recommendation meeting the following departures were requested:

- 1. Basic Street-level Development Standards (SMC 23.47A.008.A.3):** The Code requires that street-facing facades shall be located within 10 feet of the street lot line, unless wider sidewalks, plazas, or other approved landscaped or open spaces are provided. The applicant proposes a courtyard that is located 31 feet from the E Cherry St lot line and a covered porch area that is located 12 feet 6 inches from the E Cherry St lot line.

The Board recommended approval of the departure as the south-facing courtyard on E Cherry St provides additional linear feet of retail and serves as a social focal point and active public amenity, better meeting the intent of Design Guidelines PL3 Street Level Interaction and DC3 Open Space Concept.

- 2. Non-residential Street-level Development Standards (SMC 23.47A.008.B.4):** The Code requires that non-residential uses at street level shall have a floor-to-floor height of at least 13 feet. The applicant proposes non-residential uses surrounding the courtyard with 11 feet 9 inches floor-to-floor heights and retail along 22nd Ave with floor-to-floor heights of 11 feet 9 inches.

The Board recommended approval of the departure finding that to meet the sloping grade of E Cherry St, lower than required floor-to-floor heights were required at the entrances to the various non-residential and residential uses proposed. Situating these entrances in these

locations allows for better connections to the public right-of-way, better meeting the intent of Design Guidelines PL2-A Accessibility and PL3-C Retail Edges.

3. **Street Level Development Standards (SMC 23.47A.008.D.2):** The Code requires the floor of a dwelling unit located along the street-level, street-facing facade to be at least 4 feet above or 4 feet below sidewalk grade or be set back at least 10 feet from the sidewalk. The applicant dwelling units that are 5 feet from the sidewalk on 22nd Ave.

The Board recommended approval of the departure finding that the proposed design better responds to the lower density residential nature of the RSL zone on the west side of 22nd Ave. The proposed design also better addresses the topographic challenges of the site and maintains floor level continuity and access with the courtyard, better meeting the intent of Design Guidelines CS1-C Topography and PL3-B Residential Edges.

4. **Setback Requirements (SMC 23.47A.014.B.3.b):** The Code requires that an upper-level setback is required along any rear or side lot line that abuts a lot in a single-family zone as follows: for each portion of a structure above 40 feet in height, additional setback at the rate of 3 feet of setback for every 10 feet by which the height of such portion exceeds 40 feet. This applies to the north side of the proposed building. The applicant proposed no setback above 40 feet, for a height of 3 feet at level 4 for the eastern portion of the north facade, and 3 feet at level 5 for the western portion of the north facade.

The Board recommended approval of the departure finding that the perceived height, bulk, and scale is responsive to nearby scale and designed to minimize shadows to the RSL zoned properties to the north and west of the site. The granting of the departure also maintains the clarity of the overall architectural massing approach, better meeting the intent of Design Guidelines CS2-D-3 Zone Transitions, CS2-1-b Transition using Massing and Articulation, and DC2-1-a. Clarify Concepts.

5. **Residential Uses at Street Level (SMC 23.47A.005.C.1):** The Code requires in all Neighborhood Commercial and Commercial zones, residential uses may occupy, in the aggregate, no more than 20 percent of the street-level street-facing façade. The applicant proposes residential uses that occupy 100 percent of the 22nd Ave street-level street-facing façade.

The Board recommended approval of the departure finding that 22nd Ave is a residentially scaled street and the zoning to the west and north is Residential Small Lot and will not develop into a commercial corridor. Functionally, such residential uses are more in keeping with the direct surroundings to provide residential rather than commercial uses at the 22nd Ave street level, better meeting the intent of Design Guidelines CS2-D-3 Zone Transitions and CS2-1-b Transition using Massing and Articulation and PL3-B Residential Edges.

DESIGN REVIEW GUIDELINES

The Seattle Design Guidelines and Neighborhood Design Guidelines recognized by the Board as Priority Guidelines are identified above. All guidelines remain applicable and are summarized below. For the full text please visit the [Design Review website](#).

CONTEXT & SITE

CS1 Natural Systems and Site Features: Use natural systems/features of the site and its surroundings as a starting point for project design.

CS1-A Energy Use

CS1-A-1. Energy Choices: At the earliest phase of project development, examine how energy choices may influence building form, siting, and orientation, and factor in the findings when making siting and design decisions.

CS1-B Sunlight and Natural Ventilation

CS1-B-1. Sun and Wind: Take advantage of solar exposure and natural ventilation. Use local wind patterns and solar gain to reduce the need for mechanical ventilation and heating where possible.

CS1-B-2. Daylight and Shading: Maximize daylight for interior and exterior spaces and minimize shading on adjacent sites through the placement and/or design of structures on site.

CS1-B-3. Managing Solar Gain: Manage direct sunlight falling on south and west facing facades through shading devices and existing or newly planted trees.

CS1-C Topography

CS1-C-1. Land Form: Use natural topography and desirable landforms to inform project design.

CS1-C-2. Elevation Changes: Use the existing site topography when locating structures and open spaces on the site.

CS1-D Plants and Habitat

CS1-D-1. On-Site Features: Incorporate on-site natural habitats and landscape elements into project design and connect those features to existing networks of open spaces and natural habitats wherever possible. Consider relocating significant trees and vegetation if retention is not feasible.

CS1-D-2. Off-Site Features: Provide opportunities through design to connect to off-site habitats such as riparian corridors or existing urban forest corridors. Promote continuous habitat, where possible, and increase interconnected corridors of urban forest and habitat where possible.

CS1-E Water

CS1-E-1. Natural Water Features: If the site includes any natural water features, consider ways to incorporate them into project design, where feasible.

CS1-E-2. Adding Interest with Project Drainage: Use project drainage systems as opportunities to add interest to the site through water-related design elements.

Central Area Supplemental Guidance:

CS1-1 Local Topography

CS1-1-a. Respond to Local Topography: Respond to local topography with terraces, stoops, stepping facades, or similar approaches. Use appropriately scaled rockeries, stairs, and landscaping to transition between the sidewalk, building façade, and entrances in keeping with local topographic conditions, and existing neighboring approaches.

CS1-1-b. Step Fencing and Screening: If fencing or screening is included in the design, it should step along with the topography.

CS1-2 Connection to Nature

CS1-2-a. Impact on Solar Access: Be sensitive to the project's impact on solar access to adjacent streets, sidewalks, and buildings. Where possible, consider setting taller buildings back at their upper floors, or pushing buildings back from the street and providing wider sidewalks so sunlight can reach pedestrian level spaces and neighboring properties. Ensure sunlight reaches building entrances whenever possible.

CS1-2-b. Provide Vegetation: Provide vegetated spaces throughout the project. Vertical green walls are encouraged in addition to landscape beds.

CS1-2-c. Gardens and Farming Opportunities: Incorporate edible gardens and urban farming opportunities within the design, both at grade, and on the roof for larger buildings.

CS1-2-d. Unify with Landscaping: Unify streets through street trees and landscaping.

- a. Consider tree species as a unifying feature to provide identifiable character to a street or project.
- b. Incorporate an irrigation plan for the trees and other landscaping proposed to ensure maintainability of the plants, or include low-maintenance, drought-resistant species.

CS1-2-e. Protect Sidewalks: Create protected sidewalks by utilizing planter strips with lush landscaping, to help create a "room" between the street and the building.

CS2 Urban Pattern and Form: Strengthen the most desirable forms, characteristics, and patterns of the streets, block faces, and open spaces in the surrounding area.

CS2-A Location in the City and Neighborhood

CS2-A-1. Sense of Place: Emphasize attributes that give a distinctive sense of place. Design the building and open spaces to enhance areas where a strong identity already exists, and create a sense of place where the physical context is less established.

CS2-A-2. Architectural Presence: Evaluate the degree of visibility or architectural presence that is appropriate or desired given the context, and design accordingly.

CS2-B Adjacent Sites, Streets, and Open Spaces

CS2-B-1. Site Characteristics: Allow characteristics of sites to inform the design, especially where the street grid and topography create unusually shaped lots that can add distinction to the building massing.

CS2-B-2. Connection to the Street: Identify opportunities for the project to make a strong connection to the street and public realm.

CS2-B-3. Character of Open Space: Contribute to the character and proportion of surrounding open spaces.

CS2-C Relationship to the Block

CS2-C-1. Corner Sites: Corner sites can serve as gateways or focal points; both require careful detailing at the first three floors due to their high visibility from two or more streets and long distances.

CS2-C-2. Mid-Block Sites: Look to the uses and scales of adjacent buildings for clues about how to design a mid-block building. Continue a strong street-edge and respond to datum lines of adjacent buildings at the first three floors.

CS2-C-3. Full Block Sites: Break up long facades of full-block buildings to avoid a monolithic presence. Provide detail and human scale at street-level, and include repeating elements to add variety and rhythm to the façade and overall building design.

CS2-D Height, Bulk, and Scale

CS2-D-1. Existing Development and Zoning: Review the height, bulk, and scale of neighboring buildings as well as the scale of development anticipated by zoning for the area to determine an appropriate complement and/or transition.

CS2-D-2. Existing Site Features: Use changes in topography, site shape, and vegetation or structures to help make a successful fit with adjacent properties.

CS2-D-3. Zone Transitions: For projects located at the edge of different zones, provide an appropriate transition or complement to the adjacent zone(s). Projects should create a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zone and the proposed development.

CS2-D-4. Massing Choices: Strive for a successful transition between zones where a project abuts a less intense zone.

CS2-D-5. Respect for Adjacent Sites: Respect adjacent properties with design and site planning to minimize disrupting the privacy of residents in adjacent buildings.

Central Area Supplemental Guidance:

CS2-1 Transition and Delineation of Zones

CS2-1-a. Provide Privacy Layering and Scale: Where denser zones transition to lower density residential zones, provide privacy layering and scale for ground related entrances, porches, and stoops on façades facing the less dense residential zone.

CS2-1-b. Transition using Massing and Articulation: In addition to building height, use building massing and articulation to transition to single-family scaled fabric. Other acceptable methods include setbacks, building footprint size and placement on the site, building width, façade modulation, and roof line articulation.

CS2-1-c. Relate to Human Scale: The use of appropriately scaled residential elements, such as bay windows and balconies, on larger buildings next to single-family zones are encouraged to better relate to the human scale. This is especially important for buildings four stories and lower.

CS2-1-d. Reduce Building Mass Using Passageways: Along with smaller building massing, the use of breezeways, portals, and through-block connections help to lessen the mass of the overall building, and add to the existing network of pedestrian pathways.

CS3 Architectural Context and Character: Contribute to the architectural character of the neighborhood.

CS3-A Emphasizing Positive Neighborhood Attributes

CS3-A-1. Fitting Old and New Together: Create compatibility between new projects, and existing architectural context, including historic and modern designs, through building articulation, scale and proportion, roof forms, detailing, fenestration, and/or the use of complementary materials.

CS3-A-2. Contemporary Design: Explore how contemporary designs can contribute to the development of attractive new forms and architectural styles; as expressed through use of new materials or other means.

CS3-A-3. Established Neighborhoods: In existing neighborhoods with a well-defined architectural character, site and design new structures to complement or be compatible with the architectural style and siting patterns of neighborhood buildings.

CS3-A-4. Evolving Neighborhoods: In neighborhoods where architectural character is evolving or otherwise in transition, explore ways for new development to establish a positive and desirable context for others to build upon in the future.

CS3-B Local History and Culture

CS3-B-1. Placemaking: Explore the history of the site and neighborhood as a potential placemaking opportunity. Look for historical and cultural significance, using neighborhood groups and archives as resources.

CS3-B-2. Historical/Cultural References: Reuse existing structures on the site where feasible as a means of incorporating historical or cultural elements into the new project.

Central Area Supplemental Guidance:

CS3-1 Neighborhood Context

CS3-1-a. Retain Neighborhood Character: Retain and encourage the extension of existing positive attributes of the surrounding neighborhood character.

CS3-1-b. Continue Existing Neighborhood Fabric: Where appropriate, encourage the preservation, rehabilitation, adaptive reuse, and/or addition to existing structures as a way to continue the existing neighborhood fabric.

CS3-1-c. Include High Ceilings at Ground Level: Include high ceilings in ground floor spaces of new structures consistent with older character structures in the vicinity. Floor to ceiling heights of at least 15 feet with clerestory windows are encouraged for commercial ground floors.

PUBLIC LIFE

PL1 Connectivity: Complement and contribute to the network of open spaces around the site and the connections among them.

PL1-A Network of Open Spaces

PL1-A-1. Enhancing Open Space: Design the building and open spaces to positively contribute to a broader network of open spaces throughout the neighborhood.

PL1-A-2. Adding to Public Life: Seek opportunities to foster human interaction through an increase in the size and quality of project-related open space available for public life.

PL1-B Walkways and Connections

PL1-B-1. Pedestrian Infrastructure: Connect on-site pedestrian walkways with existing public and private pedestrian infrastructure, thereby supporting pedestrian connections within and outside the project.

PL1-B-2. Pedestrian Volumes: Provide ample space for pedestrian flow and circulation, particularly in areas where there is already heavy pedestrian traffic or where the project is expected to add or attract pedestrians to the area.

PL1-B-3. Pedestrian Amenities: Opportunities for creating lively, pedestrian oriented open spaces to enliven the area and attract interest and interaction with the site and building should be considered.

PL1-C Outdoor Uses and Activities

PL1-C-1. Selecting Activity Areas: Concentrate activity areas in places with sunny exposure, views across spaces, and in direct line with pedestrian routes.

PL1-C-2. Informal Community Uses: In addition to places for walking and sitting, consider including space for informal community use such as performances, farmer's markets, kiosks and community bulletin boards, cafes, or street vending.

PL1-C-3. Year-Round Activity: Where possible, include features in open spaces for activities beyond daylight hours and throughout the seasons of the year, especially in neighborhood centers where active open space will contribute vibrancy, economic health, and public safety.

Central Area Supplemental Guidance:

PL1-1 Accessible Open Space

PL1-1-a. Safety & Connectivity: Provide safe and well connected open spaces. Utilize walkways and linkages to visually and physically connect pedestrian paths with neighboring projects, shared space and public spaces such as streets. Use linkages to create and contribute to an active and well-connected open space network.

PL1-1-b. Neighborhood Nodes & Business Corridors: Larger projects around important neighborhood nodes should create generous recessed entries, corner plazas, and more usable open space adjoining the streets. Projects along dense business corridors should maintain a continuous street wall definition contributing to the area's urban feel.

PL1-1-c. Transparent Indoor Community Spaces: Incorporate transparent and open indoor community meeting spaces at the ground level of larger projects. Avoid having any window coverings or window film that permanently obscure views into or out of the space.

PL1-2 Connection Back to the Community

PL1-2-a. Multi-Purpose Gathering Spaces: Provide cultural and place-specific open spaces that can be used for a variety of uses including social gathering, festivals, and other larger celebrations.

PL1-2-b. Weather Protection: When providing open gathering spaces for the community, include weather protection to ensure the space can remain active all year long.

PL1-2-c. Lighting, Art and Special Features: Enhance gathering places with lighting, art and features, so that the scale of the art and special features are commensurate with the scale of the new development.

PL1-2-d. Common & Accessible Open Spaces: Ensure exclusive rooftop, private, or gated open spaces are not the only form of open space provided for the project. Prioritize common, accessible, ground level open space at the building street fronts and/or with courtyards that are not restricted or hidden from street views.

PL1-2-e. Hardscapes: Not all open spaces need to be landscaped; hardscapes are encouraged when sized and designed to encourage active usage. At these locations, building edges should be inviting while creating well defined open spaces for common use. These spaces are especially important close to prominent intersections, streets, and Cultural Placemaker locations. In areas where it is not feasible to be open to physical pedestrian access, visual openness should be provided.

PL1-2-f. Rooftop Vegetation: When providing vegetation at the roof level, consider urban agriculture instead of a passive green roof to provide residents access to fresh produce.

PL1-3 Livability for Families and Elderly

PL1-3-a. Safe Play Areas: Provide safe areas for children to play where they can be seen. Incorporate seating areas nearby for parents, guardians, and other community members to congregate.

PL1-3-b. Rooftop Gathering Spaces: Consider utilizing building rooftops as an opportunity for family gathering and gardening.

PL1-3-c. Preserve Alleys for Access and Use: Where applicable, preserve alleys for pedestrian access and service use. Provide adequate lighting, transparency and entrances to ensure active usage.

PL1-3-d. Multi-Generational Gathering Spaces: Provide multi-generational community gathering spaces for young and old to recreate and converse together.

PL2 Walkability: Create a safe and comfortable walking environment that is easy to navigate and well-connected to existing pedestrian walkways and features.

PL2-A Accessibility

PL2-A-1. Access for All: Provide access for people of all abilities in a manner that is fully integrated into the project design. Design entries and other primary access points such that all visitors can be greeted and welcomed through the front door.

PL2-A-2. Access Challenges: Add features to assist pedestrians in navigating sloped sites, long blocks, or other challenges.

PL2-B Safety and Security

PL2-B-1. Eyes on the Street: Create a safe environment by providing lines of sight and encouraging natural surveillance.

PL2-B-2. Lighting for Safety: Provide lighting at sufficient lumen intensities and scales, including pathway illumination, pedestrian and entry lighting, and/or security lights.

PL2-B-3. Street-Level Transparency: Ensure transparency of street-level uses (for uses such as nonresidential uses or residential lobbies), where appropriate, by keeping views open into spaces behind walls or plantings, at corners, or along narrow passageways.

PL2-C Weather Protection

PL2-C-1. Locations and Coverage: Overhead weather protection is encouraged and should be located at or near uses that generate pedestrian activity such as entries, retail uses, and transit stops.

PL2-C-2. Design Integration: Integrate weather protection, gutters and downspouts into the design of the structure as a whole, and ensure that it also relates well to neighboring buildings in design, coverage, or other features.

PL2-C-3. People-Friendly Spaces: Create an artful and people-friendly space beneath building.

PL2-D Wayfinding

PL2-D-1. Design as Wayfinding: Use design features as a means of wayfinding wherever possible.

PL3 Street-Level Interaction: Encourage human interaction and activity at the street-level with clear connections to building entries and edges.

PL3-A Entries

PL3-A-1. Design Objectives: Design primary entries to be obvious, identifiable, and distinctive with clear lines of sight and lobbies visually connected to the street.

PL3-A-2. Common Entries: Multi-story residential buildings need to provide privacy and security for residents but also be welcoming and identifiable to visitors.

PL3-A-3. Individual Entries: Ground-related housing should be scaled and detailed appropriately to provide for a more intimate type of entry.

PL3-A-4. Ensemble of Elements: Design the entry as a collection of coordinated elements including the door(s), overhead features, ground surface, landscaping, lighting, and other features.

PL3-B Residential Edges

PL3-B-1. Security and Privacy: Provide security and privacy for residential buildings through the use of a buffer or semi-private space between the development and the street or neighboring buildings.

PL3-B-2. Ground-Level Residential: Privacy and security issues are particularly important in buildings with ground-level housing, both at entries and where windows are located overlooking the street.

PL3-B-3. Buildings with Live/Work Uses: Maintain active and transparent facades in the design of live/work residences. Design the first floor so it can be adapted to other commercial use as needed in the future.

PL3-B-4. Interaction: Provide opportunities for interaction among residents and neighbors.

PL3-C Retail Edges

PL3-C-1. Porous Edge: Engage passersby with opportunities to interact visually with the building interior using glazing and transparency. Create multiple entries where possible and make a physical and visual connection between people on the sidewalk and retail activities in the building.

PL3-C-2. Visibility: Maximize visibility into the building interior and merchandise displays. Consider fully operational glazed wall-sized doors that can be completely opened to the street, increased height in lobbies, and/or special lighting for displays.

PL3-C-3. Ancillary Activities: Allow space for activities such as sidewalk vending, seating, and restaurant dining to occur. Consider setting structures back from the street or incorporating space in the project design into which retail uses can extend.

Central Area Supplemental Guidance:

PL3-1 Frontages

PL3-1-a. Design Elements: Encourage color, material, and signage variation in storefront design.

PL3-1-b. Emulate Pedestrian-Oriented Context: Design ground floor frontages in commercial and mixed-use areas that emulate or improve upon the surrounding pedestrian-oriented context, while acknowledging the pedestrian patterns that exist.

PL3-1-c. Promote Transparency: Promote transparency and “eyes on the street.” No reflective or obscure glass should be used. Discourage retailers from putting display cases or window film up against windows to maintain transparency into commercial spaces.

PL3-1-d. Step Storefronts Along the Grade: Avoid grade separations at retail. Storefronts should step along with the grade (ex: 30’ max length of any floor level on a sloping frontage) with a focus on accessibility.

PL3-1-e. Frequent Entrances and Expressed Breaks: In pedestrian-oriented commercial areas, provide frequent entrances and expressed breaks along storefronts through columns or pilasters at regular intervals of 25 to 30 feet, to accommodate and encourage smaller retailers and community-oriented businesses.

PL3-1-f. Live/Work Spaces: Live/work spaces should be designed to activate street frontage, maintain transparent windows, and arrange the interior to place work space at the street windows.

PL3-1-g. Couple Entries: At residential projects, provide coupled entries where possible to foster a sense of community and visual interest in building entryways. Provide generous porches at these entries to encourage sitting and watching the street.

PL3-1-h. Exterior Access at Ground Level: Provide exterior access to ground floor residential units. This interior/exterior connection should occur frequently with entrances placed at a regular interval.

PL3-2 Streetscape Treatment

PL3-2-a. Emphasize Building Relationship to the Street: Emphasize the relationship between buildings and their entrances to the street, pedestrians, and neighboring buildings both adjacent and across the street. Provide special treatment through paving or building materials to highlight each business’s presence along the street.

PL3-2-b. Recessed Business Entries: Provide recessed business entries to encourage a slower pedestrian pace where people have sheltered space to stop and gather.

PL3-2-c. Overhead Weather Protection: To protect pedestrians along the sidewalk, provide awnings or overhead weather protection at all non-residential frontages, neighborhood nodes, and on west-facing facades with a minimum depth of 6’. Larger commercial projects should have deeper coverage, with a minimum depth of 8’ at all street frontages, especially street corners.

PL3-2-d. Pedestrian Environment: Encourage a quality pedestrian environment that provides safe, comfortable routes for pedestrians that reflect the existing character of the building fabric.

PL3-2-e. Activate the Planter Zone: Encourage activation of the planter zone to include community gardens, as well as street trees and pedestrian furniture (with SDOT concurrence).

PL3-2-f. Limit Solid Barriers and Blank Walls: Limit the placement of solid barriers or blank walls next to the sidewalk. Consider using landscape buffers instead.

PL3-2-g. Voluntary Spaces: Provide voluntary space abutting the sidewalk right-of-way for businesses to utilize (ex: cafes, produce markets, street markets, fish vendors, buskers, pop-up shops, etc.).

PL3-2-h. Complete Streets: Encourage a safe, comfortable environment for pedestrians with components of complete streets (ex: wide planter zones, wide sidewalks, and/or building setbacks to allow for usable porches, stoops, and outdoor seating).

PL3-2-i. Porches and Stoops: Porches and stoops are the life of the street. Encourage human activity by providing opportunities for neighbors to connect, walk, and talk together on the sidewalk.

PL3-2-j. Buffer Private Outdoor Spaces: To facilitate usable stoops and patios, and to encourage pedestrian-to-resident interaction, buffer private outdoor spaces from the public sidewalk with low walls, planters and landscape layering that defines the private space yet allows for face to face conversations. Tall 'privacy walls' or fences are not acceptable.

PL3-2-k. Raise Private Stoops Above Sidewalk Grade: If floor levels and site grading allows, the private stoop at residential units should be raised above sidewalk grade, using 30" as an average height, with universal access to the unit included elsewhere.

PL3-2-l. Discourage Recessed Residential Patios: Residential patio levels recessed more than 18" below the adjacent sidewalk grades are discouraged and should be used discerningly, as they can hinder interaction, and may create safety and maintenance issues.

PL4 Active Transportation: Incorporate design features that facilitate active forms of transportation such as walking, bicycling, and use of transit.

PL4-A Entry Locations and Relationships

PL4-A-1. Serving all Modes of Travel: Provide safe and convenient access points for all modes of travel.

PL4-A-2. Connections to All Modes: Site the primary entry in a location that logically relates to building uses and clearly connects all major points of access.

PL4-B Planning Ahead for Bicyclists

PL4-B-1. Early Planning: Consider existing and future bicycle traffic to and through the site early in the process so that access and connections are integrated into the project along with other modes of travel.

PL4-B-2. Bike Facilities: Facilities such as bike racks and storage, bike share stations, shower facilities and lockers for bicyclists should be located to maximize convenience, security, and safety.

PL4-B-3. Bike Connections: Facilitate connections to bicycle trails and infrastructure around and beyond the project.

PL4-C Planning Ahead for Transit

PL4-C-1. Influence on Project Design: Identify how a transit stop (planned or built) adjacent to or near the site may influence project design, provide opportunities for placemaking.

PL4-C-2. On-site Transit Stops: If a transit stop is located onsite, design project-related pedestrian improvements and amenities so that they complement any amenities provided for transit riders.

PL4-C-3. Transit Connections: Where no transit stops are on or adjacent to the site, identify where the nearest transit stops and pedestrian routes are and include design features and connections within the project design as appropriate.

DESIGN CONCEPT

DC1 Project Uses and Activities: Optimize the arrangement of uses and activities on site.

DC1-A Arrangement of Interior Uses

DC1-A-1. Visibility: Locate uses and services frequently used by the public in visible or prominent areas, such as at entries or along the street front.

DC1-A-2. Gathering Places: Maximize the use of any interior or exterior gathering spaces.

DC1-A-3. Flexibility: Build in flexibility so the building can adapt over time to evolving needs, such as the ability to change residential space to commercial space as needed.

DC1-A-4. Views and Connections: Locate interior uses and activities to take advantage of views and physical connections to exterior spaces and uses.

DC1-B Vehicular Access and Circulation

DC1-B-1. Access Location and Design: Choose locations for vehicular access, service uses, and delivery areas that minimize conflict between vehicles and non-motorists wherever possible. Emphasize use of the sidewalk for pedestrians, and create safe and attractive conditions for pedestrians, bicyclists, and drivers.

DC1-B-2. Facilities for Alternative Transportation: Locate facilities for alternative transportation in prominent locations that are convenient and readily accessible to expected users.

DC1-C Parking and Service Uses

DC1-C-1. Below-Grade Parking: Locate parking below grade wherever possible. Where a surface parking lot is the only alternative, locate the parking in rear or side yards, or on lower or less visible portions of the site.

DC1-C-2. Visual Impacts: Reduce the visual impacts of parking lots, parking structures, entrances, and related signs and equipment as much as possible.

DC1-C-3. Multiple Uses: Design parking areas to serve multiple uses such as children's play space, outdoor gathering areas, sports courts, woonerf, or common space in multifamily projects.

DC1-C-4. Service Uses: Locate and design service entries, loading docks, and trash receptacles away from pedestrian areas or to a less visible portion of the site to reduce possible impacts of these facilities on building aesthetics and pedestrian circulation.

DC2 Architectural Concept: Develop an architectural concept that will result in a unified and functional design that fits well on the site and within its surroundings.

DC2-A Massing

DC2-A-1. Site Characteristics and Uses: Arrange the mass of the building taking into consideration the characteristics of the site and the proposed uses of the building and its open space.

DC2-A-2. Reducing Perceived Mass: Use secondary architectural elements to reduce the perceived mass of larger projects.

DC2-B Architectural and Facade Composition

DC2-B-1. Façade Composition: Design all building facades—including alleys and visible roofs—considering the composition and architectural expression of the building as a whole. Ensure that all facades are attractive and well-proportioned.

DC2-B-2. Blank Walls: Avoid large blank walls along visible façades wherever possible. Where expanses of blank walls, retaining walls, or garage facades are unavoidable, include uses or design treatments at the street level that have human scale and are designed for pedestrians.

DC2-C Secondary Architectural Features

DC2-C-1. Visual Depth and Interest: Add depth to facades where appropriate by incorporating balconies, canopies, awnings, decks, or other secondary elements into the façade design. Add detailing at the street level in order to create interest for the pedestrian and encourage active street life and window shopping (in retail areas).

DC2-C-2. Dual Purpose Elements: Consider architectural features that can be dual purpose—adding depth, texture, and scale as well as serving other project functions.

DC2-C-3. Fit With Neighboring Buildings: Use design elements to achieve a successful fit between a building and its neighbors.

DC2-D Scale and Texture

DC2-D-1. Human Scale: Incorporate architectural features, elements, and details that are of human scale into the building facades, entries, retaining walls, courtyards, and exterior spaces in a manner that is consistent with the overall architectural concept

DC2-D-2. Texture: Design the character of the building, as expressed in the form, scale, and materials, to strive for a fine-grained scale, or “texture,” particularly at the street level and other areas where pedestrians predominate.

DC2-E Form and Function

DC2-E-1. Legibility and Flexibility: Strive for a balance between building use legibility and flexibility. Design buildings such that their primary functions and uses can be readily determined from the exterior, making the building easy to access and understand. At the same time, design flexibility into the building so that it may remain useful over time even as specific programmatic needs evolve.

Central Area Supplemental Guidance:

DC2-1 Building Layout and Massing

DC2-1-a. Clarify Concepts: Project concepts should be intelligible and clear. Clarity makes knowledge of the design accessible, thus a larger portion of the community will be able to participate in the planning and design process.

DC2-1-b. Engage the Ground Plane: Building design should relate to the earth, using building forms and massing that engage the ground plane, rather than 'float above'. Ground level transparency should still occur on major pedestrian and commercial streets.

DC2-1-c. Encourage Smaller and Varied Building Forms: Smaller and varied building forms are encouraged. Larger building forms should divide their mass up so that it does not appear as one, monolithic building. These breaks in massing and differentiation should take cues from the surrounding fabric. Vertical and horizontal datums and patterns

can help provide a guide for how to articulate and break down the overall massing. Modulated façades for large buildings keep the building inviting and consistent with the finer-grain fabric found in the Central Area neighborhood. As such, projects should use 50' – 75' massing widths as a guide for modulation.

DC2-1-d. Relate Scale and Form to the Adjacent Public Realm: Appropriately scale buildings so that they relate to the scale and form of the adjacent public realm (i.e. the width of the streets and/or affronting open spaces and adjacent smaller scale zones).

DC2-1-e. Façade Impacts: Consider all sides of the building and the impacts each façade has on its immediate neighboring context. If building on a slope, consider the project's roofscape as well.

DC2-1-f. Consider Climate: Consider how each façade may respond to climate conditions such as solar shading and prevailing winds.

DC2-1-g. Upper Floor Setbacks: Consider upper floor setbacks along secondary retail zones. In these less dense areas, tall does not always mean urban. Walkable urban places can be achieved at a smaller scale with buildings that have visual texture through their retail frontage, pedestrian scaled signage, tile details, and accented knee walls, as demonstrated by the businesses along Union St, west of 23rd Avenue.

DC2-1-h. Encourage Family-Sized, Ground-Level units: Where compatible with the surrounding streetscape, family sized, ground related apartment units (2 and 3 bedrooms) with usable adjacent open spaces are encouraged.

DC2-1-i. Cluster Small Businesses: Encourage clusters of small and local businesses together.

1. Reduce the scale of commercial façades so that they are conducive to small business tenants.
2. Include commercial spaces with smaller footprints to promote and accommodate local establishments at street level.
3. Set the maximum length of street frontage for individual businesses to be consistent with the existing business character of the area.
4. Where there is not a strong existing character for the area, follow guidance provided in frontage section (PL3-I).

DC3 Open Space Concept: Integrate open space design with the building design so that they complement each other.

DC3-A Building-Open Space Relationship

DC3-A-1. Interior/Exterior Fit: Develop an open space concept in conjunction with the architectural concept to ensure that interior and exterior spaces relate well to each other and support the functions of the development.

DC3-B Open Space Uses and Activities

DC3-B-1. Meeting User Needs: Plan the size, uses, activities, and features of each open space to meet the needs of expected users, ensuring each space has a purpose and function.

DC3-B-2. Matching Uses to Conditions: Respond to changing environmental conditions such as seasonal and daily light and weather shifts through open space design and/or programming of open space activities.

DC3-B-3. Connections to Other Open Space: Site and design project-related open spaces to connect with, or enhance, the uses and activities of other nearby public open space where appropriate.

DC3-B-4. Multifamily Open Space: Design common and private open spaces in multifamily projects for use by all residents to encourage physical activity and social interaction.

DC3-C Design

DC3-C-1. Reinforce Existing Open Space: Where a strong open space concept exists in the neighborhood, reinforce existing character and patterns of street tree planting, buffers or treatment of topographic changes. Where no strong patterns exist, initiate a strong open space concept that other projects can build upon in the future.

DC3-C-2. Amenities/Features: Create attractive outdoor spaces suited to the uses envisioned for the project.

DC3-C-3. Support Natural Areas: Create an open space design that retains and enhances onsite natural areas and connects to natural areas that may exist off-site and may provide habitat for wildlife.

Central Area Supplemental Guidance:

DC3-1 Common Open Spaces

DC3-1-a. Visible and Accessible Common Courtyards: Where possible, provide common courtyards and yards that are publicly visible and accessible. These spaces should be activated and layered, so that there is a graduation from private outdoor space, to the fully shared realm.

DC3-1-b. Delineate Between Shared and Private Spaces: Encourage courtyard housing and bungalow courts which use landscaping as the delineation between shared and private spaces, instead of fencing.

DC3-1-c. Extend the Public Realm: Provide generous common, open space, including shared courtyards and plazas that serve as extensions of the adjacent public realm.

DC4 Exterior Elements and Finishes: Use appropriate and high quality elements and finishes for the building and its open spaces.

DC4-A Exterior Elements and Finishes

DC4-A-1. Exterior Finish Materials: Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

DC4-A-2. Climate Appropriateness: Select durable and attractive materials that will age well in Seattle's climate, taking special care to detail corners, edges, and transitions.

DC4-B Signage

DC4-B-1. Scale and Character: Add interest to the streetscape with exterior signs and attachments that are appropriate in scale and character to the project and its environs.

DC4-B-2. Coordination with Project Design: Develop a signage plan within the context of architectural and open space concepts, and coordinate the details with façade design, lighting, and other project features to complement the project as a whole, in addition to the surrounding context.

DC4-CLighting

DC4-C-1. Functions: Use lighting both to increase site safety in all locations used by pedestrians and to highlight architectural or landscape details and features such as entries, signs, canopies, plantings, and art.

DC4-C-2. Avoiding Glare: Design project lighting based upon the uses on and off site, taking care to provide illumination to serve building needs while avoiding off-site night glare and light pollution.

DC4-DTrees, Landscape, and Hardscape Materials

DC4-D-1. Choice of Plant Materials: Reinforce the overall architectural and open space design concepts through the selection of landscape materials.

DC4-D-2. Hardscape Materials: Use exterior courtyards, plazas, and other hard surfaced areas as an opportunity to add color, texture, and/or pattern and enliven public areas through the use of distinctive and durable paving materials. Use permeable materials wherever possible.

DC4-D-3. Long Range Planning: Select plants that upon maturity will be of appropriate size, scale, and shape to contribute to the site as intended.

DC4-D-4. Place Making: Create a landscape design that helps define spaces with significant elements such as trees.

DC4-EProject Assembly and Lifespan

DC4-E-1. Deconstruction: When possible, design the project so that it may be deconstructed at the end of its useful lifetime, with connections and assembly techniques that will allow reuse of materials.

Central Area Supplemental Guidance:

DC4-1 Screening

DC4-1-a. Artistic Opportunity: When screening or fencing is used, it should be designed as an artistic opportunity.

DC4-1-b. Allow for Views: Design screening height, porosity, and materials to allow for views in and out of the site, and visual interaction with the public realm.

DC4-2 Building Materials

DC4-2-a. Reinforce Local Cultural References: Consider vibrant and bold uses of color, materials, texture, and light to reinforce local cultural references.

DC4-2-b. Variation and High-Quality Materials: Encourage variation in building materials and employ high quality materials.

DC4-2-c. Reuse Building Materials: Salvage building materials from the site when possible. If reusable materials, such as brick, are removed from demolished buildings, use them in the new development as visible building components.

DC4-3 Building Details and Elements

DC4-3-a. Natural Ventilation: Provide operable windows in a way that promotes natural ventilation.

DC4-3-b. Reflect Human Scale and Craftmanship: Incorporate building materials and details that reflect human scale and the craftsmanship of the building process (ex: use of brick or wood for exterior cladding).

DC4-3-c. Add Human Scale and Façade Texture: Incorporate elements such as bay windows, columns, and deep awnings which add human scale and façade texture.

DC4-3-d. Exhibit Rhythm and Transparency: Façades should exhibit a rhythm of fenestration, and transparency of the inside program out to the public realm.

Central Area Supplemental Guidance:

A.1-1 History and Heritage

A.1-1-a. Express African and Black American Presence: Provide design features to express the African and Black American presence within the neighborhood. Create 'pockets of culture' to represent both the Black American identity within the Central Area, as well as other heritages that have had a large impact on the Central Area's past.

A.1-1-b. Include Visual Arts in the Design Concept: Consider including visual arts as an integral part of the design concept along main street building façades, within highly trafficked pedestrian areas, and within open spaces.

A.1-1-c. Cover Blank Walls with Art: Use any resulting blank walls and surfaces for the visible expression of art that references the history, heritage, and culture of the community.

A.1-1-d. Interpretive Storytelling: Include interpretive opportunities (through visual art, signage, markers, etc.) that tell the story of the neighborhood's history in engaging ways.

A.1-1-e. Reflect Racial, Economical and Multi-Generational Character: Encourage the building design to reflect the racial, economical, and multi-generational character of the community.

A.1-1-f. Support the Black Veteran Community: Developments are encouraged to provide housing and/or amenities for the Black Veteran community.

A.1-1-g. Local Activities and Interests: Provide amenities appropriate to the activities and interests of the local community, such as basketball hoops, chess boards, tot lots and other family-oriented activities.

A.1-1-h. Encourage Bicycle Use and Parking: Bicycle use and parking should be encouraged to promote a healthy and active neighborhood and to support local businesses. Bicycle racks should be plentiful, and either be from the Seattle Department of Transportation's bike parking program or be an approved rack of similar "inverted U" or "staple" style. The bicycle racks may also be an opportunity for placemaking, such as having a uniform color for bike racks within the Central District or having distinctive place-names designed into the racks.

A.1-2 For 23rd and Union Character Area

A.1-2-a. Community Characteristics: Community characteristics that are unique to this area include:

1. A cohesive neighborhood grain with historic character that establishes the area as a destination for the surrounding community.
2. An established, pedestrian-scaled neighborhood-commercial area, with a mix of both commercial and residential uses, grounded by locally-owned businesses and institutions.
3. Hub of the African and Black American community.
4. Diverse range of shops, restaurants, entertainment, and places of worship. Specific buildings to note are the Central Cinema (1411 21st Ave) and Katy's Cafe (2000 E Union St).

A.1-2-b. Provide Accessible Open Space and Community Gathering Opportunities: In this area it is especially important to provide additional accessible open space and community gathering opportunities, for example plazas adjacent to the public sidewalks.

A.1-3 For 23rd and Cherry Character Area

A.1-3-a. Community Characteristics: Community characteristics that are unique to this area include:

1. Smaller-scaled fabric with many culturally specific restaurants, as well as community and youth-centered resources.
2. Specific places to note are Garfield High School (400 23rd Ave), Garfield Community Center (2323 E Cherry St), Quincy Jones Performing Arts Center (400 23rd Ave), Medgar Evers Pool (500 23rd Ave), and Eritrean Community Center (2402 E Spruce St).

A.1-4 For 23rd and Jackson Character Area

A.1-4-a. Community Characteristics: Community characteristics that are unique to this area include:

1. Larger-scale, mixed-use commercial district with opportunities for startups, and both large and small scaled businesses.
2. Both a local and regional destination due to its commercial developments, social services, community assets, and shops for daily household needs.
3. Specific places to note are the Pratt Fine Arts Center (1902 S Main St), Wood Technology Center (2310 S Lane St), Seattle Vocational Institute (2120 S Jackson St), Langston Hughes Performing Arts Institute (104 17th Ave S), and Douglass Truth Library (2300 E Yesler Way).

Central Area Supplemental Guidance:

A.2-1 Cultural Placemakers

A.2-1-a. Emphasize Cultural Placemakers: Emphasize Cultural Placemakers within the community. The Cultural Placemaker map identifies several key intersections in the Central Area that serve as cultural anchors for their surrounding areas. Projects at these corner locations should stimulate activities and create visual interest to enhance the Central Area's identity and a sense of arrival, such as:

1. Providing street furniture, public art, landscape elements, pedestrian lighting, mosaics, varied paving patterns, etc.
2. Creating façade enhancements at prominent building corners.
3. Creating a building layout and setbacks that provide opportunities for open space that expand the usable space beyond the width of the sidewalks.
4. Providing larger landscape buffers at placemakers along heavier trafficked streets.

RECOMMENDATIONS

The recommendation summarized above was based on the design review packet dated Thursday, May 12, 2022, and the materials shown and verbally described by the applicant at the Thursday, May 12, 2022 Design Recommendation meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the

materials, the four Design Review Board members recommended APPROVAL of the subject design and departures with no conditions.

ANALYSIS & DECISION – DESIGN REVIEW

DIRECTOR’S ANALYSIS

The design review process prescribed in Section 23.41.008.F of the Seattle Municipal Code describing the content of the SDCI Director’s decision reads in part as follows:

The Director’s decision shall consider the recommendation of the Design Review Board, provided that, if four (4) members of the Design Review Board are in agreement in their recommendation to the Director, the Director shall issue a decision which incorporates the full substance of the recommendation of the Design Review Board, unless the Director concludes the Design Review Board:

- a. Reflects inconsistent application of the design review guidelines; or
- b. Exceeds the authority of the Design Review Board; or
- c. Conflicts with SEPA conditions or other regulatory requirements applicable to the site; or
- d. Conflicts with the requirements of state or federal law.

The design of the proposed project was found by the Design Review Board to adequately conform to the applicable Design Guidelines.

At the conclusion of the Recommendation meeting held on May 12, 2022, the Board recommended approval of the project as described in the summary of the Recommendation meeting above.

Five members of the Northwest Design Review Board were in attendance and provided recommendations (listed above) to the Director and identified elements of the Design Guidelines which are critical to the project’s overall success. The Director must provide additional analysis of the Board’s recommendations and then accept, deny or revise the Board’s recommendations (SMC 23.41.014.F3).

The Director agrees with the Design Review Board’s conclusion that the proposed project results in a design that best meets the intent of the Design Review Guidelines and accepts the recommendations noted by the Board.

Following the Recommendation meeting, SDCI staff worked with the applicant to update the submitted plans to include the recommendations of the Design Review Board.

The applicant shall be responsible for ensuring that all construction documents, details, and specifications are shown and constructed consistent with the approved MUP drawings.

The Director of SDCI has reviewed the recommendations of the Design Review Board made by the 4 members present at the recommendation meeting and finds that they are consistent with the City of Seattle Design Review Guidelines. The Director is satisfied that all the recommendations imposed by the Design Review Board have been met.

DIRECTOR’S DECISION

The Director accepts the Design Review Board’s recommendations and **CONDITIONALLY APPROVES** the proposed design and the requested departures.

II. ANALYSIS – REZONE

Seattle Municipal Code (SMC) Chapter 23.34, “Amendments to Official Land Use Map (Rezoning),” allows the City Council to approve a map amendment (rezone) according to procedures as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The owner/applicant has made application, with supporting documentation, per SMC 23.76.040.D, for an amendment to the Official Land Use Map. Contract rezones and Property Use and Development Agreements (PUDAs) are provided for in the Code at SMC 23.34.004.

The applicable requirements for this rezone proposal are stated in SMC 23.34.004 (*Contract rezones*), 23.34.006 (*Application of MHA suffixes in Type IV rezones*), 23.34.007 (*Rezone evaluation*), 23.34.008 (*General rezone criteria*) and 23.34.009 (*Height limits*).

Applicable portions of the rezone criteria are shown in *italics*, followed by analysis in regular typeface.

SMC 23.34.004 Contract Rezoning.

- A. *Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing 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 imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone.*

A Property Use and Development Agreement (PUDA) will be executed and recorded as a condition of the contract rezone. The Director recommends that the PUDA include a condition requiring development of the rezoned property to be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit number 3037185-LU.

- B. Notwithstanding any contrary provision of subsection 23.34.004.A, the Council may approve a map amendment subject to execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions applying the provisions of Chapter 23.58B or Chapter 23.58C to the property. The Director shall by rule establish payment and performance amounts for purposes of subsections 23.58C.040.A and 23.58C.050.A that shall apply to a contract rezone until Chapter 23.58C is amended to provide such payment and performance amounts for the zone designation resulting from a contract rezone.*

In November 2015, the City Council passed Ordinance 124895 creating a new Land Use Code Chapter 23.58B, *Affordable Housing Impact Mitigation Program Development Program for Commercial Development* (MHA-C). The Council followed this, in August 2016, with Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development* (MHA-R). In March 2019, Ordinance 125791 established Land Use Code Section 23.34.006 for the application of MHA suffixes in Type IV rezones.

The associated development under the proposed rezone is subject to the MHA provisions of SMC 23.58B and 23.58C through the terms of a contract rezone in accordance with SMC 23.34.004, as analyzed in response to SMC 23.34.006 below. Chapter 23.58C has been amended to provide payment and performance amounts. The applicant has elected the MHA-R performance option for the residential portion of the development and MHA-C payment option for the commercial portion of the development, as indicated on sheet G115 of the plan set for this Master User Permit number 3037185-LU.

- C. A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA 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.*

A PUDA will be executed and recorded as a condition of the contract rezone with the recommended condition that the development shall be in substantial conformance, as determined by the director, with the approved plans for Master Use Permit number 3037185-LU. The recorded condition will facilitate the use of an MHA suffix and any associated development standards identified in the Code for Neighborhood Commercial 1 zones with a 65-foot height limit.

- D. Waiver of Certain Requirements. The ordinance accepting the PUDA 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 that would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

At the time of SDCI recommendation, no waivers to requirements were requested.

23.34.006 - Application of MHA suffixes in Type IV rezones

A. *When the Council approves a Type IV amendment to the Official Land Use Map that increases development capacity in an area to which Chapters 23.58B and 23.58C have not previously been applied, the [provisions of Subsections 23.34.006.A.1-3] govern application of Chapters 23.58B and 23.58C...*

This criterion is not applicable since Chapters 23.58B and 23.58C have been previously applied to the project site. The approximate eastern half of the site is zoned NC1-40 with an “M” suffix and the approximate western half of the site is zoned NC1-40 with an “M2” suffix.

Table A for 23.34.006 MHA Zone Categories	
Category Number	Zones
Category 1	Neighborhood residential zones
Category 2	LR1, LR2
Category 3	LR3, C or NC zones with a height limit of 30, 40, or 55 feet
Category 4	Zones with height limits greater than 55 feet and equal to or less than 95 feet
Category 5	Zones with heights greater than 95 feet ¹
¹ An increase in development capacity of more than 25 percent, but no more than 50 percent, within Category 5 should be treated as a change of a single category. An increase in development capacity of more than 50 percent within Category 5 should be treated as a change of two categories.	

B. *When the Council approves a Type IV amendment to the Official Land Use Map in an area to which Chapters 23.58B and 23.58C have previously been applied through the use of a mandatory housing affordability suffix, the suffix for the new zone shall be determined as follows:*

1. *If the rezone would not increase development capacity or is to another zone in the same MHA zone category according to Table A for 23.34.006, the MHA suffix should not change.*
2. *If the rezone is to another zone that is one category higher than the existing zone according to Table A for 23.34.006, the new zone should:*
 - a. *Have a (M1) suffix if it currently has an (M) suffix; or*
 - b. *Have a (M2) suffix if it currently has an (M1) or (M2) suffix.*
3. *If the rezone is to another zone that is two or more categories higher than the existing zone according to Table A for 23.34.006, the new zone should have a (M2) suffix.*

Since Chapters 23.58B and 23.58C have previously been applied through the use of a MHA suffix, this subsection applies. The approximate eastern half of the site is zoned NC1-40 with an “M” suffix and the approximate western half of the site is zoned NC1-40 with an “M2” suffix. The proposed rezone from NC1-40 to NC1-65 would be an increase from Category 3 to Category 4 in accordance with Table A for SMC 23.34.006. The MHA suffix of the

eastern half of the site changes from “M” to “M1”. The MHA suffix for the western half of the site remains “M2”. This is consistent with the proposal.

SMC 23.34.007 Rezone Evaluation.

- A. *The provisions of this chapter shall apply to all rezones, except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets these provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*

This rezone is not proposed to correct a mapping error, and therefore the provisions of this chapter apply. In evaluating the proposed rezone, the provisions of this chapter have been weighed and balanced together to determine which height designation best meets the provisions of the chapter. The proposed contract rezone is limited to an increase in height and resulting change in MHA suffix for a portion of the site. The NC1 zone designation is not proposed to change; therefore, the zone function statements are not analyzed in this report.

- B. *No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.*

This analysis evaluates a range of criteria as they apply to the subject rezone and as identified in Chapter 23.34 Amendments to Official Land Use Map (Rezones) and Seattle Municipal Code (listed at the beginning of this “Analysis” section) and subject to the requirements of SMC 23.58.B and 23.58.C. No provision of the rezone criteria establishes a particular requirement or sole criterion that must be met for rezone approval.

- C. *Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Environment Policies shall be used in shoreline environment redesignations as provided in SMC subsection 23.60A.042.C.*

The proposed rezone is not a shoreline environment redesignation. The Comprehensive Plan Shoreline Policies were not used in this analysis.

- D. *Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary.*

The entire subject site is located within the 23rd and Union-Jackson Residential Urban Village with boundaries as established in the Comprehensive Plan. The proposed rezone has been evaluated according to the provisions of this chapter that apply to areas that are inside of urban villages.

- E. The procedures and criteria for shoreline environment redesignations are located in Sections 23.60A.042, 23.60A.060 and 23.60A.220.*

The subject rezone is not a redesignation of a shoreline environment and therefore Sections 23.60A.042, 23.60A.060 and 23.60A.220 do not apply.

- F. Mapping errors due to cartographic or clerical mistakes may be corrected through process required for Type V Council land use decisions in SMC Chapter 23.76 and do not require the evaluation contemplated by the provisions of this chapter.*

The subject rezone is not a correction of a mapping error and so should not be evaluated as a Type V Council land use decision.

SMC 23.34.008 General rezone criteria.

- 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 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 not be less than the densities established in the Growth Strategy Element of the Comprehensive Plan.*

The site is located within the 23rd and Union-Jackson Residential Urban Village. The Growth Strategy Appendix of the 2035 Comprehensive Plan estimated 2015-2035 housing unit growth of 1,600 units in addition to the 5,451 existing units (2015 year-end total housing units); 7,051 total units. In 2022, there was an estimated 8,334 existing units with an additional capacity of 3,928-4,765 units under existing zoning. The proposed rezone would further increase existing zoned capacity, which is not less than 125 percent of the growth estimates.

The densities established for a Residential Urban Village in the Growth Strategy Element of the 2035 Comprehensive Plan is 12 dwelling units per gross acre. The boundary of the 23rd and Union-Jackson Residential Urban Village was expanded in 2019 to encompass 625 gross acres (Ord. 125790) and has an existing zoned capacity of 12,262-13,099 housing units as of 2022 (8,334 existing units with an additional capacity of 3,928-4,765 units), or 19.6-21.0 housing units per acre. The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height of 25-feet and

approximately 41 additional units. Therefore, the zoned capacity for the Residential Urban Village is not less than this density established in the 2035 Comprehensive Plan.

The Growth Strategy Element does not establish an employment density for Residential Urban Villages; however, since the NC1 zone designation is not proposed to change, zoned employment capacity is not anticipated to change.

- 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 locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.*

No change to the existing NC1 zone designation is proposed, and the criteria for designation of commercial zones in SMC 23.34.072 are not part of this proposal. The NC1 zone criteria in SMC 23.34.074 continue to match the characteristics of the area. NC1 is the predominant commercial zone designation at the intersection of E Cherry St and 23rd Ave.

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

The zoning history for the western half of the property seeking a rezone (PIN 912610-1685, -1681, and -1695) is as follows:

- 1947 Zoning Map: The zoning classification is identified as B.
- 1973 Zoning Map (Ordinance 102076): The zoning classification is identified as RD5000.
- 1995 Zoning Map (Ordinance 117434): The zoning classification is identified as Single Family 5000 (SF 5000).
- 2017 Rezone Map (Ordinance 125359): The zoning classification is identified as Neighborhood Residential 1 with height limit 40' and MHA suffix M2 (NC1-40 (M2)).

The zoning history for the eastern half of the property seeking a rezone (PIN 912610-1730, -1725, and -1706) is as follows:

- 1947 Zoning Map: The zoning classification is identified as B.
- 1973 Zoning Map (Ordinance 102076): The zoning classification is identified as BN.
- 1995 Zoning Map (Ordinance 117434): The zoning classification is identified as Neighborhood Commercial 1 with height limit 30' (NC1-30'v).
- 2017 Rezone Map (Ordinance 125359): The zoning classification is Neighborhood Residential 1 with height limit 40' and MHA suffix M1 (NC1-40 (M1)).

The 23rd and Union-Jackson Residential Urban Village was established through ordinance 117221 in 1994 and was zoned to its current zoning (NC1-40 (M2) and NC1-40 (M)) in 2017.

The Housing Affordability and Livability Agenda (HALA) Advisory Committee delivered a set of recommendations to the Mayor and City Council in 2015 that included mandatory housing affordability for residential (MHA-R) and commercial (MHA-C) development. MHA requires that commercial and multifamily residential developments either include affordable housing units in the building or pay into a fund to provide housing affordable to low-income households, in exchange for increases in development capacity.

On November 9, 2017, the City issued the MHA SEPA Final Environmental Impact Statement (FEIS). The citywide rezone was adopted, effective April 19, 2019, changing the zoning designation of the eastern portions of the parcel subject to the proposed rezone from NC1-30 to its current designation of NC1-40 (M). The western portions of the parcel were rezoned from SF 5000 to NC1-40 (M2). The MHA zoning changes generally rezoned large areas and did not examine the site-specific issue of this split-zoned parcel.

The proposal includes a change to the zoning of 3 parcels on the eastern side of the development site to NC1-65 (M2) and 4 parcels on the western side to NC1-65 (M1).

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.*

The subject site is located within the area of the Central Area Neighborhood Plan. The original Central Area Neighborhood Plan was adopted on July 25, 1994 through ordinance 117221 with additional portions adopted by City Council in 1998 (Ordinance #119216). Since that initial plan adoption, goals and policies applicable to the Central Area neighborhood have been updated through comprehensive plan processes. The current form of these goals and policies can be found in the Seattle 2035 Comprehensive Plan, beginning on page 226.

- 2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.*

The subject site is within the 23rd and Union/Jackson Residential Urban Village within the Central Area. The adopted Seattle 2035 Comprehensive Plan contains goals and policies specific to the Central Area Neighborhood. The following policies may apply to the proposed rezone:

***Policy CA-PI** Strengthen a unique identity for the Central Area that celebrates its culture, heritage, and diversity; enhance the sense of community; and increase the feeling of pride among Central Area residents, business owners, employees, and visitors through excellent physical and social environments.*

***Policy CA-P31** Encourage affordable housing in close proximity or with easy access to community assets and amenities.*

***Policy CA-P39** Support vibrant, diverse, and distinct commercial districts that provide a range of goods and services for the entire community.*

***Policy CA-P59** Seek opportunities within the commercial districts to create open spaces for community gathering.*

***Policy CA-P66** Preserve small-scale neighborhood character, immigrant- and refugee-owned businesses while providing a greater variety of shops and services at 23rd and Cherry and an activated street frontage.*

The adopted portions of the Central Area Neighborhood Plan located within the Seattle 2035 Comprehensive Plan include the following policy (CA-P7) that specifically refers to rezones.

***Policy CA-P7** Create a vibrant commercial district, encouraging dense urban development in the commercial areas and encouraging housing supportive of the community through land use tools, such as rezones, design guidelines, and incentives.*

The proposed rezone is in conformance with the applicable policies of the Central Area Neighborhood Plan in the following ways:

The site is located in the 23rd Ave and Union-Jackson Residential Urban Village. The development proposal associated with this rezone includes 9 non-residential spaces and 112 multi-family residential units, which is consistent with this policy to encourage vibrant commercial that activates the street frontage and affordable housing supportive of the community. The outdoor public amenity space flanked by small-scale community based retail will promote social gathering and express the Central Area's unique and diverse heritage and identity.

Finally, the proposed rezone would provide more housing and retail at the 23rd Avenue and East Cherry Street intersection, increasing the number of people who will benefit from the abundance of community assets including parks/open space, Garfield High School and Community Center, teen center, arts programs, and small businesses, in particular ethnic restaurants, that create a unique identity for this community-serving node.

- 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.*

The adopted portions of the Central Area Neighborhood Plan do not include any policies expressly adopted for the purpose of guiding future rezones.

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 Council-adopted portions of the Central Area Neighborhood Plan do not identify any specific policies to guide rezones.

Summary: The proposed mixed-use development associated with this rezone includes retail units and commercial spaces facing East Cherry Street and 23rd Avenue, and residential units that could support vibrant commercial and residential in the neighborhood intended by the Central Area policies of the Seattle Comprehensive Plan 2035. While there are no specific policies in the Central Area Neighborhood plan which address the proposed rezone directly, the Seattle 2035 Comprehensive Plan does encourage creating vibrant commercial areas with housing supportive of the community through land use tools, such as rezones. Considering the denser development patterns and taller height limits found at the intersection of 23rd and Jackson (75' height) and 23rd and Union (75' height), along the 23rd Avenue corridor, the proposed rezone (65' height) allows for needed affordable housing, additional community-based retail, and community gathering spaces while maintaining the smaller-scaled node intent laid out in the 2035 Comprehensive plan.

E. Zoning Principles. The following zoning principles shall be considered:

1. *The impact of more intensive zones on less intensive zones, or industrial and commercial zones on other 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 rezone proposal does not include any changes to the existing zoning designation. The existing pattern of Residential Small Lot (RSL) and Neighborhood Commercial (NC) zoning will continue to exist in the immediate vicinity. The proposed rezone does propose a change from the existing 40' height limit to 65' in height. Therefore, an analysis of the transition between heights is warranted.

The predominant zoning pattern within the immediate context is 30' height residential small lot to the north and west, 40' height lowrise residential and neighborhood commercial to the south, southwest and east, and 55' height neighborhood commercial further down East Cherry Street to the east. Although there are no examples of 65' height zones in the immediate context, there are locations within the 23rd and Union-Jackson Residential Urban Village, such as the context around the intersection of South Jackson Street and 23rd Avenue South a half mile to the south, and East Union Street and 23rd Ave a third of a mile to the north, where higher zoning (75' in height) exists with similar adjacent transitions to 30' height neighborhood

residential and residential small lot zones. In some instances, the transition includes buffers, such as a right-of-way street/alley, but in other instances the transition occurs along shared property lines.

The development proposal utilizes top level setbacks along each of the 23rd Avenue and East Cherry Street frontages, larger than required setbacks on the top two floors along the north property line, and the large carve out that is the central public courtyard along East Cherry Street to help minimize the overall impact of the height, bulk, and scale on the adjacent properties and gradually transition onsite to the lower zoning heights surrounding the development site and the 23rd and Union-Jackson Residential Urban Village.

Within the immediate vicinity, there is evidence of more intense commercial zones located adjacent to less intense neighborhood residential zones and many examples of transitions in zoning intensity at similar key intersections in the 23rd and Union-Jackson Residential Urban Village.

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 space and greenspaces;*

The proposed rezone is limited to an increase in the height limit from 40' to 65' and change in MHA suffix for a portion of the site. Since the existing NC1 zoning designation is not proposed to change, the uses associated with the proposed development would be allowed under existing zoning and do not represent a change in the intensity of use than could otherwise occur. The proposed rezone would result in a zone edge condition of NC1-65 (M1/M2) adjacent to NC1-40 (M) to the south and east; and NC1-65 (M1/M2) in proximity to RSL properties to the north and west.

Some buffers are present. The NC1-65 (M1/M2) would be separated from the NC1-40 (M) zoning designation to the south by East Cherry Street, a 71' wide right-of-way, which includes a minor arterial. The NC1-65 (M1/M2) would be separated from the NC1-40 (M) zoning designation to the east by 23rd Avenue, a 60' wide right-of-way, which includes a principal arterial. The NC1-65 (M1/M2) would be separated from the RSL zoning designation to the west by 22nd Avenue, a 66' wide right-of-way.

The proposed rezone would also result in a zone edge condition of NC1-65 (M1/M2) adjacent to RSL zoning designation with no street or topographic separation.

This condition is characterized by a 15' landscaped open space setback on the development site at the project site's north edge which abuts a two-story single family residence.

The proposed rezone includes a specific proposed development that has gone through the Design Review process consistent with SMC 23.41. The design that has been recommended for approval by the Design Review Board includes design strategies to address the appearance of height, bulk, and scale. The design review process also considered the transition to adjacent properties, to mitigate the impacts of the zone edge facing the neighboring properties. The details of that process and analysis are described in the Design Review section of this document.

3. *Zone Boundaries*

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

- (1) *Physical buffers as described in 23.34.008.E.2; and*
- (2) *Platted lot lines.*

The proposed rezone would establish zoning boundaries with some physical buffers as described in response to subsection E2 above, and would follow platted lot lines.

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 proposed rezone would maintain the existing pattern of commercially-zoned properties facing commercially-zoned properties across the street on both 23rd Avenue and East Cherry Street and commercially-zoned properties facing residential small lot properties across the street on 22nd Avenue. The proposed rezone will not create a new boundary between commercial and residential areas.

4. *In general, height limits greater than 55 feet should be limited to urban villages. Height limits greater than 55 feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.*

The proposed NC1-65 (M1/M2) zone would permit building heights greater than 55 feet. The site is located within the 23rd and Union-Jackson Residential Urban Village which is consistent with this criterion.

Summary: The rezone proposal does not include any changes to the existing designation and the pattern of Single Family and Commercial zoning will continue to exist.

An analysis of the height transitions in the immediate vicinity of the rezone proposal indicates that there are no examples of a 30-40' height zone located adjacent to a 65' height zone. However, within the 23rd and Union-Jackson Residential Urban Village, there is evidence of many transitions in zoning intensity and heights at key intersections along 23rd Avenue. In the immediate proximity, commercial zones are located adjacent to residential zones.

There is some effective separation provided by adjacent streets to the south, east, and west, and an onsite landscaped open space to the north.

The proposed rezone includes a specific proposed development that has gone through Design Review per SMC 23.41. The Design Review process recommended a design with specific strategies to reduce the impacts of additional height, bulk and scale to the adjacent sites including setbacks and height limitations.

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 proposed project will not result in any reduction in existing housing stock. Furthermore, it will have a positive effect on the supply of housing on the site and its surroundings by providing 114 new residential dwelling units. The PUDA will ensure that the provisions of Chapters 23.58B and 23.58C will apply to the project proposal. Participation in the program will yield affordable housing within the project since the applicant has elected the MHA performance option.

b. Public services;

Though demand for public services may increase with an increased population of residents, the added population will strengthen the community by contributing to the critical mass necessary to support neighborhood services anticipated in the neighborhood plan.

Public services will be available to the project due to its location in a highly developed urban area.

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

The proposed rezone will allow 25' of additional height without changing the type of uses allowed on the property. There will likely be no appreciable negative environmental impacts associated with allowing additional housing or commercial use at this urban site. The potential impacts of the proposed rezone and development project are identified in greater detail in the SEPA analysis in this report, however, a summary of the analysis is provided below.

Noise – No significant impacts are anticipated from the change in zone. With development in the future, noise will be limited to that typically generated by neighborhood commercial and residential activities.

Air quality – No noticeable change in impacts will result from a change in zoning to allow additional building mass and an additional 25' height at this site. Future air quality measures will comply with applicable Federal, State, and regional emission control requirements.

Water quality – No noticeable change in impacts will result from change in zoning. Stormwater runoff from future development will be conveyed to a city drainage system. The Stormwater Code includes requirements for Green Storm Water Infrastructure (GSI), which includes pervious concrete paving, rain gardens, and green roofs. Stormwater collection and management would be in conformance with City of Seattle standards. The proposed rezone would not create the potential for more impervious surface than would be possible under existing zoning.

Flora and fauna – No noticeable change in impacts will result from a change in zoning, with or without the rezone. Existing landscaping and trees will potentially be removed for future construction, but additional vegetation is proposed to comply with Land Use Code requirements. The change in zoning would not reduce the landscape requirements for future development.

Glare – No noticeable change in impacts will result from a change in zoning.

Odor – No noticeable change in impacts will result from a change in zoning.

Shadows – Proposed development will create additional shadows. Design Review included consideration of shadow impacts from the proposal, and examined massing options to minimize shadow impacts. The increased shadows that would result from the proposed design are relatively small compared to that massing permitted under the existing 40' height limit.

Energy – No noticeable change in impacts will result from a change in zoning. Development will be required to comply with the City of Seattle energy codes.

d. Pedestrian safety

The area is currently developed with sidewalks, street lights and crosswalks. The proposed development includes public right-of-way improvements along 22nd Avenue, 23rd Avenue, and East Cherry Street. Pedestrian safety will be further enhanced by reducing the number of curb cuts.

e. Manufacturing activity;

Manufacturing uses are not permitted in the NC1 zone. No manufacturing uses are proposed on site.

f. Employment activity;

The proposed rezone is unlikely to negatively impact employment activity. The proposed rezone includes a development proposal for a mixed-use development. The ground-floor commercial spaces are expected to generate additional employment within the project site.

g. Character of areas recognized for architectural or historic value;

There are no designated Landmark structures or Historic Districts in the immediate vicinity.

h. Shoreline view, public access and recreation.

The site is located at a considerable distance from any shorelines and therefore not subject to public access or recreation considerations. The topography of the area and level of existing development is not conducive of shoreline views. There are no nearby public parks with shoreline views across the subject property.

2. *Service Capacities. Development which can reasonably 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*

As described above, the proposed development site abuts three streets; 22nd Avenue, 23rd Avenue, and East Cherry Street. Overall, the project is not expected to generate a significant amount of net new traffic and peak hour trips would quickly disperse onto the City's grid and overflow parking demand would be accommodated via street parking adjacent to and near the site.

The site is located within a Residential Urban Village and a frequent transit service area with a high-level of transit capacity. The King County Metro Trip Planner tool shows existing transit routes with stops in the vicinity are King County Metro Routes: 3, 48 and 984. Transit stops are located on 23rd Avenue and East Cherry St.

With respect to utility and sewer capacity, an approved Water Availability Certificate will be required.

The project site is not located within any shoreline area and therefore no impacts to shoreline navigation are anticipated. Any future development will go through city review and be required to meet/conform to city of Seattle standards, codes and/or ordinances.

For further response to criteria (a), (b) and (d), street access, street capacity, and parking capacity are discussed in the SEPA analysis below.

Summary: The rezone proposal will allow development of a mixed-use commercial/residential building that will positively contribute to the City's housing inventory and pedestrian safety. This building that will result in minor shadow impacts for the surrounding properties. All other impacts are anticipated to be relatively minor or not applicable.

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 circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this Chapter 23.34.

SDCI is not aware of changed circumstances related to elements or conditions included in the applicable rezone criteria that will need to be taken into consideration to evaluate the appropriateness of the proposed rezone. The proposed rezone can be considered using the rezone criteria currently in-place.

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

The site is not located in an Overlay District. This criterion is not applicable.

- 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.*

The site is not located in or adjacent to a critical area. This criterion is not applicable.

SMC 23.34.008 Conclusion: The proposed rezone will allow for a development to be permitted to be constructed 25' taller than the maximum height limit permitted under current zoning (40'). The proposed development has been reviewed through Design Review, including strategies to ease the transition to less intensive adjacent zones. The proposed rezone meets all other criteria of SMC 23.34.008, per the analysis above.

23.34.009 Height limits of the proposed rezone.

If a decision to designate height limits in residential, commercial, or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

- A. *Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.*

The Seattle 2035 Comprehensive Plan states, "Residential urban villages are areas of residential development, generally at lower densities than urban centers and hub urban villages. While they are also sources of goods and services for residents and surrounding communities, for the most part they do not offer many employment opportunities." The proposed rezone lies within the boundaries of the 23rd and Union-Jackson Residential Urban Village and would allow increased density in this urban village.

The existing NC1-40 zoning allows a combination of multifamily and commercial uses. The proposed rezone would allow an additional 25' in height and would increase the capacity for multifamily residential uses. The variety and size of commercial uses that are allowed would not change. There is no potential to displace preferred uses.

- B. *Topography of the Area and its Surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.*

The height increase associated with the rezone proposal combined with the nature of existing zoning heights and topography surrounding the site makes significant impacts to views surrounding the site unlikely. The site sits at the northwest corner of the intersection of E Cherry St and 23rd Ave at a low point with topography generally increasing to the north and south along 23rd Avenue, and to the west along E Cherry Street. Topography remains relatively flat along E Cherry Street and then increases 6 blocks to the east.

The proposed rezone would result in a 25-foot increase in permitted height from the 40-foot limit in the current NC1-40 (M/M2) zone to a 65-foot limit in the proposed NC1-65 (M1/M2) zone. The additional 25-feet of permitted height is unlikely to impact views from adjacent sites as the site is surrounded by streets on three sides, is downslope from shorter permitted heights within the neighborhood to the west, and abuts existing two-story residences along the north property line.

Although the placement of the proposed development may inhibit existing views from the two-story residences along the north property line, these views would also be inhibited by development reaching the currently permitted 40-foot height limit. Due to the relatively tall height allowed under current zoning and topography of the surrounding area, the additional 25 feet of height is unlikely to block views from surrounding or uphill vantage points.

C. Height and Scale of the Area.

- 1. The height limits established by current zoning in the area shall be given consideration.*

The existing zoning of this site is NC1-40 (M/M2). The proposed zoning is NC1-65(M1/M2). In the NC1-40 zone, an additional 4' of building height may be obtained through the requirements in SMC 23.47A.012.A. A 65' NC zone does not allow additional height per SMC 23.47A.012.A. Other rooftop features are permitted above the 40' and 65' height limit per SMC 23.47A.012.C, including mechanical equipment and stair/elevator penthouses such as the ones proposed with this development. Zoning review for compliance with all building height provisions in SMC 23.47A.012 is a Type I review as defined in SMC 23.76.004.

- 2. In general, permitted height limits shall be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area's overall development potential.*

The current height limit at this site is 40'. Nearby zones include height limits of 30', 40', 55' and 75'. The proposed development would be compatible with the predominant height and scale of nearby newer development elsewhere in the 23rd and Union-Jackson Residential Urban Village, which is representative of the area's anticipated overall development potential.

The predominant existing development in this area is older, and generally not built to the 40' height limit, and there is additional capacity for more retail and residential development. It appears, therefore, that existing development is not a good measure of the area's existing development potential.

D. Compatibility with Surrounding Area.

- 1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.*

The subject property is not in or near a Major Institution. The proposed 65' height limit would not match the existing height of the adjacent/immediate existing properties.

The proposed development is 65' in height (not inclusive of allowable rooftop features per SMC 23.47A.012.C), and includes setbacks and modulation at the west, east, north and south property lines. The proposed rezone would be consistent with the scale of newer development within the 23rd and Union-Jackson Residential Urban Village, such as the context around the intersection of South Jackson Street and 23rd Avenue South a half mile to the south, and East Union Street and 23rd Ave a third of a mile to the north, where higher zoning (75' in height) exists with similar adjacent transitions to lower height neighborhood residential (30' in height) and residential small lot zones.

- 2. A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.E.2, are present.*

The proposed development associated with the rezone has gone through the design review process per SMC 23.41. The design review process recommended a design with specific strategies to reduce the impacts of additional height, bulk, and scale to the adjacent sites, including upper-level massing setbacks along each frontage of the site. These upper-level massing setbacks were proposed through the design review process to allow the proposed mixed-use development to appropriately address the shorter building heights surrounding the development site and help mitigate the impact of the proposed 65-foot height limit. The physical buffers are further discussed in response to SMC 23.34.008.E.2 in this report.

E. Neighborhood Plans

- 1. Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.*
- 2. Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would otherwise be established pursuant to the provisions of this section and Section 23.34.008.*

The Central Area Neighborhood Plan policies included in the Seattle 2035 Comprehensive Plan do not explicitly address building heights. The proposed development has gone through the Design Review process, which considered aspects of scale and context in the design recommendation.

SMC 23.34.009 Conclusion: The additional height increase that would result in a change of zoning from NC1-40 (M/M2) to NC1-65 (M1/M2) would meet the criteria of SMC Section 23.34.009, as described above.

RECOMMENDATION – REZONE

Based on the analysis undertaken in this report, the SEPA analysis of the rezone and project proposal, and the weighing and balancing of all the applicable provisions in SMC 23.34, the Director recommends that the proposed contract rezone from NC1-40 (M2) to NC1-65 (M2) and NC1-40 (M) to NC1-65 (M1) be **Conditionally Approved**.

The Director recommends a condition to be included in the PUDA; this is listed at the end of this report.

III. ANALYSIS – SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant, signed November 17, 2021. The Seattle Department of Construction and Inspections (SDCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted by the applicant or agents; and any pertinent comments which may have been received regarding this proposed action have been considered. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) 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/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

SHORT TERM IMPACTS

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, a small increase in traffic impacts due to construction related vehicles, and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following analyzes greenhouse gas emissions, construction traffic impacts, construction-related noise, and environmental health, as well as mitigation.

Greenhouse Gas Emissions

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, no further mitigation is warranted pursuant to SMC 25.05.675.A.

Construction Impacts - Traffic

Increased trip generation is expected during the proposed demolition, grading, and construction activity. The area is subject to significant traffic congestion during peak travel times on nearby arterials. Large trucks turning onto arterial streets would be expected to further exacerbate the flow of traffic.

Pursuant to SMC 25.05.675.B (Construction Impacts Policy), additional mitigation is warranted, and a condition for a Construction Management Plan is recommended, which will be reviewed by Seattle Department of Transportation (SDOT). The requirements for a Construction Management Plan include a Haul Route Plan. The submittal information and review process for Construction Management Plans are described on the SDOT website at: [Construction Use in the Right of Way](#).

Construction Impacts - Noise

The project is expected to generate loud noise during demolition, grading and construction. The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM

and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends and legal holidays in Neighborhood Commercial zones.

If extended construction hours are necessary due to emergency reasons or construction in the right of way, the applicant may seek approval from SDCI through a Noise Variance request. The applicant's environmental checklist does not indicate that extended hours are anticipated.

The Director recommends a condition that a Construction Management Plan be required prior to issuance of the first building permit, including contact information in the event of complaints about construction noise, and measures to reduce or prevent noise impacts. The submittal information and review process for Construction Management Plans are described on the SDOT website at: [Construction Use in the Right of Way](#). The limitations stipulated in the Noise Ordinance and the CMP are sufficient to mitigate noise impacts; therefore, no additional SEPA conditioning is necessary to mitigation noise impacts per SMC 25.05.675.B.

Environmental Health – Contamination

The applicant submitted studies regarding the potential for existing contamination on site ("Phase I Environmental Site Assessment Report", by Sound Earth Strategies, Prepared For: Acer House, LLC, dated September 10, 2020; "Soil Gas Investigation Report", Prepared For: Acer House, LLC, dated November 11, 2020; "Environmental Media Management Plan", by SoundEarth Strategies, dated May 8, 2023). If not properly handled, existing contamination could have an adverse impact on environmental health.

As indicated in the SEPA checklist and environmental documents on file, the applicant will comply with all provisions of MTCA in addressing these issues in the development of the project.

If the recommendations described in the Environmental Media Management Plan are followed, then it is not anticipated that the characterization, removal, treatment, transportation, or disposal of any such materials will result in a significant adverse impact to the environment. This conclusion is supported by the expert environmental consultants for the project, whose conclusions are also set forth in the materials in the MUP file for this project.

Adherence to MTCA provisions and federal and state laws are anticipated to adequately mitigate significant adverse impacts from existing contamination on site. Environmental Media Management Plan describes strategies to ensure adherence with MTCA provisions and indicates compliance with Washington State Department of Ecology (Ecology) regulatory authority.

Mitigation of contamination and remediation is in the jurisdiction of Ecology, consistent with the City's SEPA relationship to Federal, State and Regional regulations described in SMC 25.05.665.E. This State agency program functions to mitigate risks associated with removal and transport of hazardous and toxic materials, and the agency's regulations provide sufficient impact mitigation for these materials. The City acknowledges that Ecology's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination.

The proposed strategies and compliance with Ecology's requirements are expected to adequately mitigate the adverse environmental impacts from the proposed development and no further mitigation is warranted for impacts to environmental health per SMC 25.05.675.F.

Environmental Health – Toxic Materials

Development activity has the potential to result in exposure to asbestos and lead. Should asbestos be identified on the site, it must be removed in accordance with the Puget Sound Clean Air Agency (PSCAA) and City requirements. PSCAA regulations require control of fugitive dust to protect air quality and require permits for removal of asbestos during demolition. The City acknowledges PSCAA's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination. No further mitigation under SEPA Policies 25.05.675.F is warranted for asbestos impacts.

Should lead be identified on the site, there is a potential for impacts to environmental health. Lead is a pollutant regulated by laws administered by the U. S. Environmental Protection Agency (EPA), including the [Toxic Substances Control Act \(TSCA\)](#), [Residential Lead-Based Paint Hazard Reduction Act of 1992 \(Title X\)](#), [Clean Air Act \(CAA\)](#), [Clean Water Act \(CWA\)](#), [Safe Drinking Water Act \(SDWA\)](#), [Resource Conservation and Recovery Act \(RCRA\)](#), and [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\)](#) among others. The EPA further authorized the Washington State Department of Commerce to administer two regulatory programs in Washington State: the Renovation, Repair and Painting Program (RRP), and the Lead-Based Paint Activities Program (Abatement). These regulations protect the public from hazards of improperly conducted lead-based paint activities and renovations. No further mitigation under SEPA Policies 25.05.675.F is warranted for lead impacts.

LONG TERM IMPACTS

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including the following: greenhouse gas emissions; parking; potential blockage of designated sites from the Scenic Routes nearby; possible increased traffic in the area. Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, greenhouse gas emissions, historic resources, height bulk and scale, and transportation warrant further analysis.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project's 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, no further mitigation is warranted pursuant to SMC 25.05.675.A.

Historic Preservation – Architectural Resources

The existing structures on site are more than 50 years old. The Department of Neighborhoods reviewed the proposal for compliance with the Landmarks Preservation requirements of SMC 25.12 and indicated the structures on site are unlikely to qualify for historic landmark status (Landmarks Preservation Board letters, reference number LPB 22/23). Per the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to historic resources are presumed to be sufficient, and no further conditioning is warranted per SMC 25.05.675.H.

Historic Preservation – Cultural Resources

SDCI received letters (August 19, 2021; November 16, 2022) from the Duwamish Tribe indicating the project is near a known culturally significant site with a moderate probability of having unknown archaeological deposits, and requested notification should any archaeological work be performed.

Since the information showed there is probable presence of archaeologically significant resources on site, Section B of Director’s Rule 2-98 applies, and submittal of an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional is recommended as a condition. The archaeological monitoring and discovery plan shall include a statement that the Duwamish Tribe shall be notified in the event of archaeological work.

Per SMC 25.05.675.H and consistent with Section B of Director’s Rule 2-98, the owner provided SDCI with a letter (Acer House, May 26, 2023) stating that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 27.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations.

In addition to the conditions for submittal of a monitoring and inadvertent discovery plan and monitoring during construction, the following condition is also recommended to mitigate impacts to potential historic resources, per SMC 25.05.675.H and consistent with Section B of Director’s Rule 2-98:

During Construction:

1. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - Stop work immediately and notify the SDCI Land Use Planner and the Washington State Archaeologist at the State Department of Archaeology and Historic Preservation (DAHP). The procedures outlined in Appendix A of Director’s Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed.

- Abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

Height, Bulk, and Scale

The proposal completed the design review process described in SMC 23.41. Design review considers mitigation for height, bulk and scale through modulation, articulation, landscaping, and façade treatment.

Section 25.05.675.G.2.c of the Seattle SEPA Ordinance provides the following: “The Citywide Design Guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk, and scale impacts addressed in these policies. A project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk, and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decision maker pursuant to these height, bulk, and scale policies on projects that have undergone Design Review shall comply with design guidelines applicable to the project.”

The height, bulk and scale of the proposed development and relationship to nearby context have been addressed during the Design Review process. Pursuant to the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate height, bulk and scale impacts are adequate and additional mitigation is not warranted under SMC 25.05.675.G.

Transportation

After taking into account traffic that will be removed due to demolition of existing structures, the Traffic Impact Analysis (“Acer House Transportation and Parking Letter”, by Jake Traffic Engineers, dated October 5, 2021) indicated that the project is forecast to generate a net total of 433 daily vehicle trips, with 32 net new PM peak hour trips and 39 AM peak hour trips.

This forecast assumes that a 60-student day care facility will be included as part of the project. If the space identified as daycare were instead used for a commercial use, the trip forecast likely would be less, as daycare facilities are more intense traffic generators than most commercial uses. As such, this forecast is a conservative estimate of the traffic expected to be added to the surrounding area by the project.

The additional trips are expected to distribute on various roadways near the project site, including 22nd Avenue, 23rd Avenue, and East Cherry Street and would have minimal impact on levels of service at nearby intersections and on the overall transportation system. The SDCI Transportation Planner reviewed the information and determined that no mitigation is warranted per SMC 25.05.675.R.

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.

- 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 43.21.030(2) (c).

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355 and Early review DNS process in SMC 25.05.355. There is no further comment period on the DNS.

CONDITIONS – DESIGN REVIEW

For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner.

RECOMMENDED CONDITIONS – REZONE

The Director recommends approval of the contract rezone from NC1-40 (M2) to NC1-65 (M2) and NC1-40 (M) to NC1-65 (M1) subject to the following condition, which shall be contained in the PUDA:

Prior to Issuance of a Building Permit

2. Plans for development of the rezoned property shall be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit number 3037185-LU.

RECOMMENDED CONDITIONS – SEPA

Prior to Issuance of Demolition, Grading, or Construction Permit

3. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website.
4. Provide an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional and include statement that the Duwamish Tribe shall be notified in the event of archaeological work.

During Construction

5. Archaeological monitoring shall occur consistent with the archaeological monitoring and inadvertent discovery plan submitted in response to condition 4.
6. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - Stop work immediately and notify the SDCI Land Use Planner and the Washington State Archaeologist at the State Department of Archaeology and Historic Preservation (DAHP). The procedures outlined in Appendix A of Director’s Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed.
 - Abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

David Sachs, Senior Land Use Planner
Seattle Department of Construction and Inspections

Date: June 8, 2023

DS:bg

Sachs/3037185-LU/Decision