

July 16, 2018

## MEMORANDUM

**To:** Planning, Land Use and Zoning Committee  
**From:** Eric McConaghy, Legislative Analyst  
**Subject:** Clerk File 314311: Application to rezone 5201 Rainier Avenue S  
(SDCI Project No. 3018378)

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This memorandum: (1) provides an overview of the rezone application contained in Clerk File [\(CF 314311\)](#)<sup>1</sup>; (2) describes an amendment to the title of CF 314311; (3) describes the contents of Council decision documents; and (3) summarizes a bill, which would amend the Official Land Use Map, also known as the zoning map, to effectuate the rezone, and accept a Property Use and Development Agreement (PUDA) limiting future development.

### Overview

CF 314311 contains the application of 5201 Rainier, LLC for approval of a contract rezone of a site measuring approximately 24,000 square feet located at 5201 Rainier Avenue South from Neighborhood Commercial 2 with 40-foot height limit (NC2-40) to Neighborhood Commercial 3 with a 65-foot height limit and a pedestrian overlay (NC3P 65). Please note the administrative correction below regarding the correction of the proposed rezone designation to NC3-65 (M1).

The site is currently occupied by a vehicle repair garage, used car sales area, and accessory detached structures. The site is in the Columbia City Residential Urban Village and the Southeast Seattle Reinvestment Area. The Columbia City Historic Landmark District is about one-half block to the north of the site.

Residential uses in the form of single-family residences, townhouses, and apartments are located the east and north of the subject property. Commercial uses including retail, restaurants, and offices lies to the east and north. Frequent transit service is available via an onsite bus stop on Rainier Avenue South and light rail services are available within walking distance to the northwest along Martin Luther King Jr Way South.

The City is currently considering zoning map changes that could affect the proposed rezone site and nearby areas as part of the citywide mandatory housing affordability (MHA) legislation (Council Bill (CB) 119184). The MHA legislation proposal includes a change to the zoning of the site to NC2-55(M). The NC2-55(M) zone would allow mixed use buildings with a height limit of 55 feet, or about five stories.

The applicant proposes a development project including a three-story, four-unit townhouse and a six-story structure with 104 apartment units, three live-work units, and 1,607 square feet of restaurant space. Under the proposal, the existing structures would be demolished.

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<sup>1</sup> <https://seattle.legistar.com/LegislationDetail.aspx?ID=2367661&GUID=1797A0CF-9AE9-4B0E-9521-8BF24831739E&Options=Advanced&Search=>

The PUDA will ensure that the affordable housing provisions of Seattle Municipal Code (SMC) Chapters 23.58B and 23.58C will apply to the project proposal. As provided in SMC 23.58C, the residential payment and performance calculation amounts for the site are \$20 per square foot or a set-aside of affordable housing units of 9 percent per total housing units. The commercial MHA requirements of SMC 23.58B are not applicable to the project proposed for the site, as the plans do not specify more than 4,000 square feet of gross floor area in commercial use (SMC 23.58B.020.B). The proposal includes 10 affordable housing units

### **Administrative correction**

The original CF title does not accurately reflect the proposal in the rezone application, therefore, the Committee should amend the title of CF 314311 as follows:

Application of 5201 Rainier LLC for approval of a contract rezone of an approximately 24,000 sf site located at 5201 Rainier Avenue South from Neighborhood Commercial 2 with 40 foot height limit (NC2-40) to Neighborhood Commercial 3 with a 65 foot height limit and ~~((a pedestrian overlay (NC3P-65)))~~ a MHA suffix (NC3-65 (M1))(Project No. 3018378; Type IV).

With these revisions, the CF title will accurately reflect:

- the requested zoning designation to NC3-65 (not NC3P-65) and
- the addition of the MHA suffix to reflect the inclusionary zoning requirement (M1).

### **Type of Action and Materials**

This rezone petition is a quasi-judicial action. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting *ex-parte* communication. Council decisions must be made on the record established by the Hearing Examiner.<sup>2</sup>

The Hearing Examiner establishes the record at an open-record hearing. The record contains the substance of the testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. The entire record, including audio recordings of the hearing, are available for review in my office.

### **Committee Decision Documents**

To approve a contract rezone, the Committee must make recommendations to the Full Council on two pieces of legislation: (1) a Council Findings, Conclusions and Decision that grants the rezone application and (2) a bill amending the zoning map and approving a PUDA. To deny a contract rezone the Council must make a recommendation to the Full Council on a Council Findings, Conclusions and Decision that concludes that the Hearing Examiner erred in his recommendation and deny the rezone application.

### **Findings, Conclusions and Decision**

Council staff has drafted a proposed Council Findings, Conclusions and Decision, which would:

1. Adopt the Hearing Examiner's findings and conclusions;
2. Approve the proposed rezone subject to conditions that the Applicant execute a PUDA that:
  - a. Limits development to the project shown on final approved plans; and
  - b. Implements the provisions of Seattle Municipal Code Chapter 23.58B and 23.58C.

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<sup>2</sup> Seattle Municipal Code (S.M.C.) § 23.76.054.E.

**Council Bill and the PUDA**

If the Committee is supportive of the proposed rezone with the conditions laid out in the draft Findings, Conclusions and Decision, then the Committee could recommend City Council adoption of CB 119303, amending the zoning map and approving a PUDA with conditions. CB 119303 was introduced on July 16.

If the Committee supports the proposed rezone, then I will also provide the final PUDA to the applicant for execution so that it can be attached to CB 119303 for consideration by the Full Council. The PUDA would incorporate the following conditions recommended by the Hearing Examiner:

- Development of the property must substantially conform with the approved Master Use Permit plans and
- Development of the site would be subject to requirements of SMC Chapters 23.58B and 23.58C.

Depending upon when the applicant may return the final PUDA, City Council could consider and take action on the proposed rezone at City Council meeting on either July 23 or July 30.

**Attachments**

1. SDCI Director's recommendation
2. Hearing Examiner's recommendation
3. Proposed Council Findings, Conclusions and Decision

cc: Kirstan Arestad, Central Staff Director  
Ketil Freeman, Supervising Analyst



**Seattle Department of  
Construction & Inspections**

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

**Application Number:** 3018378  
**Clerks File Number:** 314311  
**Applicant Name:** Hugh Schaeffer, S+H Works, LLC  
**Address of Proposal:** 5201 Rainier Ave S

**SUMMARY OF PROPOSAL**

Council Land Use Action to rezone a parcel from Neighborhood Commercial 2 with a 40' height limit (NC2 40') to Neighborhood Commercial 3 with a 65' height limit (NC3 65') and the M1 suffix (NC3-65(M1)). Proposal includes a 3-story, 4-unit townhouse structure and a 6-story structure with 104 apartment units, 3 live-work units, and 1,607 sq. ft. of restaurant space. Parking for 52 vehicles proposed below grade. Existing structures to be demolished.

The following approvals are required:

**Design Review with Departures (Seattle Municipal Code (SMC) 23.41)\***

**Contract Rezone – from NC2/40' to NC3/65'(M1) (SMC 23.34)**

**SEPA - Environmental Determination (SMC 25.05)**

\* Departures are listed near the end of the Design Review Analysis in this document

**SEPA DETERMINATION:**

Determination of Non-Significance

- No mitigating conditions of approval are imposed.
- Pursuant to SEPA substantive authority provided in SMC 25.06.660, conditions are recommended to mitigate environmental impacts

## BACKGROUND

### Mandatory Housing Affordability for Residential Development

In November of 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 of 2016, with



## PUBLIC COMMENT

The public comment period ended October 23, 2016 after a request for an extension. 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 parking, traffic, and density. Comments were also received that are beyond the scope of this review and analysis.

### **I. ANALYSIS – DESIGN REVIEW**

#### CURRENT AND SURROUNDING DEVELOPMENT; NEIGHBORHOOD CHARACTER

A vehicle repair garage, used car sales area, and accessory detached structures exist on the project site.

Surrounding development includes residential uses (single-family residences, townhouses and apartments) to the west and south; and commercial uses (retail, restaurants, offices, etc.) east and north of the subject property.

This urban triangular-shaped corner site is located within the Columbia City Residential Urban Village and the Southeast Seattle Reinvestment Area (SESRA), situated on the west side of Rainier Avenue South. There are a variety of institutional and commercial uses in immediate vicinity of the project along the Rainier Avenue South corridor, north and south of the project. The Columbia City Historic Landmark District is approximately a half block north of the proposal site. The neighborhood is evolving with blocks of significant development of residential and commercial development in the past several years. The site is situated in an area that is moderately pedestrian- and transit-oriented due to the proximity of bus transit along Rainier Avenue South.

#### PROJECT DESCRIPTION

The proposal includes a three-story, four-unit townhouse structure and a six-story structure with 104 apartment units, three live-work units, and 1,607-square feet of commercial space. Parking for 52 vehicles is proposed below grade. Existing structures are to be demolished.

This project includes a request to rezone the project site from NC2-40 to Neighborhood Commercial 3 with a 65-foot height limit and M1 suffix (NC3-65(M1)).

<b>FIRST EARLY DESIGN GUIDANCE August 11, 2015</b>
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The packet includes materials presented at the meeting, and is available online by entering the project numbers (3018378) at this website:  
[http://www.seattle.gov/dpd/Planning/Design\\_Review\\_Program/Project\\_Reviews/Reports/default.asp](http://www.seattle.gov/dpd/Planning/Design_Review_Program/Project_Reviews/Reports/default.asp).

The packet is also available to view in the file, by contacting the Public Resource Center at SDCI:

**Mailing Address:** Public Resource Center  
700 Fifth Ave., Suite 2000  
P.O. Box 34019  
Seattle, WA 98124-4019

**Email:** PRC@seattle.gov

## **DESIGN DEVELOPMENT**

Three alternative design concepts were presented to the Board. The presentation began by showing three large and distinct massing moves. Additionally, the architect's presentation included supplementary information (massing articulation sketches of the preferred scheme) that was not included in the EDG design packets initially provided to the Board. The project team's goals were to design a project that represents the residential and commercial nature of the area; responds appropriately to adjacent residential uses; and, creates a strong, attractive and pedestrian-friendly design. All three options included a six-story structure with partially below grade parking, commercial space, live-work space, and approximately 120 +/- residential units. Outdoor amenity areas were also proposed in all of the schemes presented to the Board. The first scheme (Concept A) identified as the code-compliant option, illustrated an L-shaped massing facing Rainier Ave South. This scheme included a triangular-shaped elevated courtyard amenity space overlooking Rainier Ave South; and reduced upper-level massing facing Rainier Avenue South with the bulk of the structure pushed towards the south and west boundary lines. This option included 115 residential units, seven live-work units, 2,057 sq. ft. of commercial area and 25 parking stalls.

The second scheme (Concept B) was identified as an interior courtyard ("doughnut") option. This scheme showed a simplified massing with an interior courtyard that would be flanked by single loaded corridors around its perimeter. The majority of the massing bulk of this scheme was pushed to the perimeter of the site, creating impacts to both the Rainier frontage and the adjacent Lowrise-zoned properties to the south and to the west. This scheme was comprised of 120 residential units, 4 live-work units, 2,057 sq. ft. of commercial area and 48 parking stalls. This design would require several design departures from residential setback requirements, non-residential street-level transparency requirements, parking location standards, and parking sight triangle requirements.

The third, and applicant preferred, scheme (Concept C) was described as the "bar and townhome" option. This scheme showed the majority of the project massing along and following Rainier Avenue South, with a plaza separating smaller scale townhomes toward the south and west ends of the site. The intent of this scheme was to reduce the project scale from the NC zoning along Rainier Avenue South to the LR2 zoning on 39th Avenue South. This option included 121 residential units, three live-work units, 1,888 sq. ft. of commercial area and 55 parking stalls. This design would also require several design departures from residential setback requirements, non-residential street-level transparency requirements, street-level non-residential use depth provisions, parking sight triangle requirements, and parking location standards.

## PUBLIC COMMENT

Many members of the public attended this Early Design Review meeting. The following comments, issues and concerns were raised (with applicant/planner response in italics):

- Concerned about the safety and the site lines of the parking entrance relative to its proposed proximity to the intersection of Rainier Avenue South and 39th Avenue South.
- Voiced support of a design that is compatible with the architectural character of Columbia City.
- Encouraged the Board to not support code departures requests for sight triangles and residential setback requirements. Discouraged a design that would create a large wall abutting the project site's south boundary line.
- Stated that the proposal would not meet the frequent transit requirements and would be required to provide more parking onsite.
- The planner explained that Frequent Transit requirements are reviewed during the Master Use Permit (MUP) phase and was not part of the Board's purview.
- Stated that the proposed parking layout was "unrealistic" and would not adequately accommodate vehicular maneuvering on the site.
- Requested the future design incorporate elements that enhance the pedestrian connection between Columbia City and Hillman City. Asked that the Rainier Avenue South façade be softened with green space, nice seating areas and not allow the project to create a "canyon-like" setting at the street.
- Encouraged the applicant to incorporate green solutions such as a green roof and pervious paving in the design.
- Voiced support of the onsite parking quantity and encouraged a design that would support the usage of alternative modes of transportation (walking, light rail, bus transit, bicycling).
- Asked about the building's setbacks abutting the east and west property lines.
- The applicant clarified the setback for the garage wall along 39th Avenue South is four-feet from the property line, and seven-feet from the sidewalk edge. Along Rainier there will be *approximately one-foot setback from the property line, with planting and entry areas along that façade.*
- Glad to see the site developed and appreciated the pedestrian and transportation considerations.
- Asked that the applicant incorporate amenities for a range of incomes and lifestyles.
- Requested that the following design changes in order to emphasize the attributes of the buildings in the Columbia City District:
  - The Rainier Avenue South façade height should be kept low.
  - Incorporate more modulation along the east façade in order to break down the façade massing.
  - Incorporate timeless, high quality exterior materials throughout the project.
  - Enhance the corner by providing gathering space and good landscaping.
- Expressed concern that the blank façade along 39th Avenue South would be problematic and pose a crime/safety issue.
- Inquired if street improvements (sidewalks, curbs, landscaping, etc.) are proposed along 39th Avenue South.

*The applicant clarified that new curbs and sidewalks will be provided along 39th Avenue South.*



- Would like affordable housing to be considered. Did not agree that bicycles were a viable mode of transportation in this neighborhood which is currently very auto-oriented.
- Felt that that parking should be located below grade as stated in the design guidelines.
- Observed that a large expanse of blank wall would face the property south of the project site and at grade along 39th Avenue South. Felt that design that negatively impacts the qualities and characteristics of the streetscape should be discouraged.
- Concerned that the proposed massing’s height, bulk, and scale does not meet Columbia City neighborhood plan design goals.

**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.

**FIRST EARLY DESIGN GUIDANCE August 11, 2015**

1. **Design Concept, Architectural Composition and Massing:**
  - a. The Board discussed each design scheme (Concept A, B and C) and offered feedback. In reviewing the three concepts, the Board felt that Concept A was successful in modulation along Rainier Avenue South but commented the elevated exterior amenity space abutting Rainier was not appropriate. The Board was also concerned with the transition of the massing to the Lowrise-zoned property south west of the project site along 39th Avenue South.

The Board voiced that Concept B was the least preferred because the elevated courtyard would not be beneficial to the units and would create long continuous facades abutting all of the subject site’s boundary lines.

The Board appreciated that the preferred Concept C illustrated a better courtyard orientation and the potential for a strong urban frontage along Rainier Avenue South. However, members of the Board noted that the arrangement of the massing blocks appeared to be disjointed and not unified.

Overall, the Board concluded that the proposed schemes did not adequately address the site context; lacked sufficient façade articulation and did not effectively transition to the surrounding lower-scaled residential properties to the south and to the west. Therefore, the Board directed the applicant to return for a Second Early Design Guidance meeting to further explore all three schemes presented relative to the following guidance:

- i. The Board noted that the massing options should better transition to the adjacent LR2 property. (CS2.D)
- ii. Analysis of the second level exterior plaza, including its relationship to adjacent residential uses and the street was requested by the Board. (CS2.D.5, PL3.B, DC3.A)
- iii. The Board appreciated the supplementary information (massing articulation sketches of the preferred scheme) distributed to the Board at the meeting but voiced a preference that this information be illustrated for

each option. Therefore, the Board requested that further development of the massing and articulation perspectives for all of the schemes be provided at the next EDG meeting. The Board also requested the applicant show further context and adjacent buildings to better illustrate the existing scale and adjacency relationships. (CS2.A.2, CS2.C.1, CS2.D, DC2.A, DC2.B)

**2. Rainier Avenue South Frontage:**

- a. The Board expressed support for a design that provided a strong urban frontage along Rainier Avenue South. (CS2.B, CS2.C.1, CS2.D)
- b. The Board recognized that the configuration and size of the live-work units will add to the viability of the development and noted that the currently proposed configuration of the live-work units would be problematic. Thus Board requested diagrammatic floor layout plans of the live-work units at the next meeting. (PL3.B)

**3. 39th Avenue South Frontage and Vehicular Access:**

- a. The Board stated that the 39th Avenue South street-level façade needs further study with regards to transparency, blank walls, pedestrian/resident safety and vehicular access and expects these concerns to be resolved in the next design iteration. (PL2.B.1, PL2.B.3, PL3.B, DC1.B, DC2.B)
- b. The Board felt that the elevated access to the townhouse units sited above the podium base was awkward, and requested the applicant explore a design that enhances the relationship of the townhomes to the grade. (PL3.A, PL3.B)
- c. The Board observed that the location of the parking entrance abutting 39th Avenue South could be a safety issue due to its proximity to the intersection and stated detailed analysis is necessary. The Board suggested the applicant explore relocating the parking entrance farther south along this street as a method to address this concern. (DC1.B.1)

<b>SECOND EARLY DESIGN GUIDANCE February 9, 2016</b>
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**DESIGN DEVELOPMENT**

The applicant presented three alternative design concepts (Concepts A, B and C) to the Board for consideration. These design concepts had been revised in response to the Board's feedback from the first EDG meeting. Concept B and Concept C necessitate multiple code departures specified later in this document.

**PUBLIC COMMENT**

Many members of the public attended this Second Early Design Review meeting. The following comments, issues and concerns were raised:

- Requested that the garage entry and exit location be moved further south on 39th Avenue South to provide a safer and better flow of traffic for drivers using the garage as well as cyclists, drivers and pedestrians using South Dawson Street and 39th Avenue South.
- Concerned that the parking layouts presented are not compliant with the Land Use Code requirements.

- Stated that the minor modulation applied to the long façade abutting Rainier Avenue South for Scheme C was not sufficient to reduce the perceived height and scale of the proposed structure. Options such as omitting residential units above the podium base to create dramatic modulation moves and upper-level height reductions at the structure's corner were suggested to the Board as possible methods to have this proposal complement the existing scale of the neighborhood.
- Reiterated concern that the proposed massing's height, bulk, and scale does not meet Columbia City neighborhood plan design goals. Consequently, voiced opposition to the applicant's requested code departures.
- Commented that Scheme A is more sensitive to Rainier with its modulation and that the proposed six-story structure would impact views to the horizon line from the residential properties west of the subject site.
- Voiced concern with the proposed setback requests and materials for the retaining wall and elevator/stair tower along the project site's south property line. Requested that setback requirements be maintained and that exterior cladding materials/fenestration for south-facing walls be durable, easily maintained and considerate of future development planned for the neighboring property just south of the project site.
- Questioned the validity of the traffic study information presented to the Board.
- Encouraged the Board to be attentive to the negative impacts (parking, traffic, scale, etc.) of a six-story development in this transitional area along Rainier between Columbia City and Hillman City neighborhoods.
- Expressed concern regarding parking and traffic impacts to 39th Avenue South and South Dawson Street associated with the proposed project.
- Voiced concern about the long frontage and immense building mass proposed along Rainier Avenue South and encouraged the Board to support a design that is compatible with the scale of development south of the project site, as well as, the surrounding neighborhood.
- Encouraged a design with high-quality exterior materials.
- Commented that the proposed project is a "good bookend" to the Columbia City neighborhood.
- Appreciated the overall design and felt it could be an asset to the community.
- Asked that special attention be focused on how the building's northernmost corner meets the property edge.
- Encouraged more ground-level landscape be applied along Rainier Avenue South to soften the existing streetscape.

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

## **SECOND EARLY DESIGN GUIDANCE February 9, 2016**

1. **Design Concept, Architectural Composition and Massing:**
  - a. Board discussion focused on the development of the preferred Concept C design scheme. In reviewing this concept, the Board felt that vast improvements had been made to this design to improve the relationship of the proposed townhomes to the grade along 39th Avenue South and the reduction of massing against the Lowrise-zoned property to the south. However, the Board discussed other specific and significant issues and concluded that these issues should be resolved prior to

the next phase of project development. Therefore, the Board directed the applicant to return for a Third Early Design Guidance (EDG) meeting to present the Concept C massing option that addresses the following guidance with focused attention to specific key design guidelines (CS2.B.2, CS2.C.1, CS2.D, DC3):

- i. The Board acknowledged that the project site is a challenging property to develop due to its triangular shape and the lower-scaled zoning transition occurring south and west of the project site along 39th Avenue South. Also, the Board felt that the transition to townhouses along 39th Avenue South is good in concept. However, the Board reiterated that the arrangement of the massing onsite continued to appear not cohesive. Specifically, the Board requested further exploration of design methods to create an enhanced transition between the townhomes and the larger bar massing oriented along Rainier Avenue South to create a better (more natural) integration of the two masses into one cohesive development instead of the appearance of two separate projects connected by an upper-level terrace. (CS2.D)
  - ii. The Board observed that the project site is located in an unusual transitioning “connector” area between an established neighborhood (Columbia City) and an evolving neighborhood (Hillman City) some blocks south of the site: Thus, the proposed project should be compatible with the development in the Columbia City neighborhood and set a positive precedent for future development south of the subject site leading towards Hillman City. The Board recognized that the two highly visible “ends” of the larger building mass (north corner at the intersection of South Dawson Street and Rainier Avenue South; and the south-facing façade) are critical corner conditions that required further design exploration. The Board also stated that some significant moves are necessary to minimize the perceived height, bulk and scale of the north and south ends of the bar mass. Thus, the Board requested that the applicant explore more design strategies that include stepping back the upper-level massing with the intention of reducing height, bulk and scale. (CS2.C.1, CS2.D, CS3.A, DC2)
  - iii. The Board commented that the north corner is a significant corner condition that should be distinctive; and expressed that further exploration of how this could be achieved was necessary. The Board also stated that more opportunities to create pedestrian-oriented open spaces/public amenities (landscaping, seating, etc.) should be explored on the ground plane and especially at the site’s northern edge. The Board voiced that this open space at the northern edge could potentially assist in softening the visual impacts of the building and provide more relief in terms of visibility to vehicular traffic at that intersection. (CS2.C.1, PL1.B.3, PL2.B.3)
  - iv. The Board requested to review a modified version of the Concept C design scheme that illustrates the vehicular location of the garage entry further south along 39th Avenue South. Additional Board discussion concerning this Board request is noted below for item #3.c. (CS2.D, DC1.B)
- b. The Board acknowledged the modulation applied to the east façade and encouraged the applicant to continue to apply massing articulation techniques to break up the extensive east-facing façade of the bar massing along Rainier Avenue South. (DC2.A, DC2.B)

**2. Rainier Avenue South Frontage:**

- a. The Board acknowledged and voiced appreciation for the proposed pedestrian improvements and amenities (seating, plaza area, etc.) provided for transit riders at the bus stop in front of the proposal at Rainier Avenue South. (PL4.C.1, PL4.C.2)
- b. The Board commented that the main building entry appeared confined and expressed support for a design that includes a more spacious residential lobby area that would accommodate ample space and mobility for all users (residents, visitors and cyclists). (PL3.A, PL3.B, PL4.A)

**3. 39th Avenue South Frontage, Residential Amenity Space and Vehicular Access:**

- a. At the Second EDG meeting, the Board listened to public comment indicating an intent to develop the neighboring property adjacent to the project sites' south boundary line and discussed the ramifications of the terraced landscaped retaining wall design presented to the Board and illustrated in the EDG design packet (pg. 35). The Board commented that the proposed design would be sympathetic to future development but advised the applicant to be mindful that this landscaped buffer will be challenging to landscape and maintain. (CS2.D, DC2.2)
- b. The Board stated that the conceptual design of the residential amenity spaces needs further study. The Board voiced concern with the egress and access to the upper-level courtyard/plaza area and questioned the usability of the amenity space by residents due to its size and placement against the envelope of residential units. The Board also commented on the lack of interior amenity space. (DC3)
- c. During the Second EDG meeting, the Board listened to the applicant's design reasoning and the applicant's transportation expert's technical feedback in support of the proposed garage entrance location abutting 39th Avenue South. The Board also heard significant public feedback about the existing traffic conditions at the Rainier Avenue South/South Dawson Street/39th Avenue South intersection and suggestions that the proposed garage entrance should be relocated further south along 39th Avenue South. Upon review of the applicant's materials, the Board voiced disappointment that the materials did not illustrate an alternative garage entrance location for the preferred design scheme (Concept C). The Board stated that it was important that they understand the effects to the building design, in addition to traffic feedback, associated with an alternative garage entrance location. Thus, the Board requested that the applicant provide a Concept C design scheme that illustrates a vehicular garage entrance sited further south along 39th Avenue South. (CS2.D, DC1.B, DC1.C)

**THIRD EARLY DESIGN GUIDANCE April 26, 2016**

**PUBLIC COMMENT**

Many members of the public attended this Third Early Design Review meeting. The following comments, issues and concerns were raised (with Board response in *italics*):

- Appreciated the additional modulation applied to the building mass to reduce the building's bulk and scale. Felt that the presented design concept addressed the Board's recommendations successfully.

- Encouraged the Board to be mindful of the complexities associated with the project site and requested that the Board move the project to the next phase.
- Commented that the project is a vast improvement to the existing structure/uses on the project site and reiterated that the overall design would be an asset to the community.
- Reiterated concern that the proposed massing's height, bulk and scale is not complementary to the existing height, bulk and scale of the surrounding neighborhood.
- Voiced general disappointment in the progress of the design and how it does not appear to meet the Columbia City neighborhood plan design goals.
- Encouraged the Board to support a design that includes refinements to the north and south facades of the bar massing that is more respectful to the existing neighborhood character at four stories and inclusive of upper-level setbacks above the fourth story level.
- Reiterated request that the garage entry and exit location be moved further south on 39th Avenue South to provide a safer and better flow of traffic for drivers using the garage as well as cyclists, drivers and pedestrians using South Dawson Street and 39th Avenue South.
- Stated that the proposed design is out of scale with the neighborhood. Recapped to the Board the potential negative impacts (parking, traffic, scale, etc.) of a six-story development in this transitional area along Rainier between Columbia City and Hillman City neighborhoods.
- Voiced interest about the transparency at ground level; inquired if the Board had reviewed concepts that promoted more onsite parking; and, asked if other design details would be considered at the EDG meeting.

*The Board Chair provided a brief overview of the Design Review process and explained that the EDG phase is an opportunity for the Board to focus on the bulk, scale and organization of the building. He explained that there would be an additional Recommendation meeting that will cover materiality and other finer details.*

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

### **THIRD EARLY DESIGN GUIDANCE April 26, 2016**

#### **1. Design Concept, Architectural Composition and Massing:**

- a. The Board was appreciative of the additional massing studies and recognized the design team's effort in refining the design concept. The Board reviewed the applicant's response to specific issues identified at the last EDG meeting and had a focused discussion on the merits of the applicant's preferred option (Concept C) in response to said guidance and specific key design guidelines (CS2.B.2, CS2.C.1, CS2.D, DC3). The Board feedback was as follows:
  - i. The Board stated that the development of the architectural expression of the facades (articulation, datum points, etc.) illustrated in the EDG 3 design materials (pgs. 9, 11, 15, 19) assisted in breaking down the scale of the extensive east-facing façade and creating a cohesive development between the two masses. (CS2.D, DC2.A, DC2.B)
  - ii. The Board agreed that the modifications to both the north corner and the south-facing façade of the bar mass as shown in the EDG 3 design packet (pgs. 11, 15) were successful in addressing the Board's prior concerns

- regarding the perceived height, bulk and scale of the north and south ends of the bar mass. (CS2.C.1, CS2.D, CS3.A, DC2)
- iii. The Board commented that the inclusion of balconies at the north edge are an “elegant” design element to this prominent corner. The Board appreciated that the design had been enhanced with an increased setback at the site’s northern edge to allow pedestrian-oriented open spaces/public amenities (landscaping, seating, etc.) at the ground plane and especially at the site’s northern edge (EDG 3 design packet pgs. 9, 11). (CS2.C.1, PL1.B.3, PL2.B.3)
  - iv. The Board encouraged consideration of secondary architectural features and materiality at a human scale into the building facades of the large bar massing that will also be complementary to the townhouse massing. At the next phase of design, the Board anticipates review of secondary architectural features and that materiality will be addressed. (DC2.B, DC2.C, DC2.D, DC4.A)

In addition to the Board’s feedback concerning the applicant’s design response to Board direction noted above, the Board discussed and considered public sentiment concerning the scale of the design. The Board stated that, due to the size and triangulated-shape of the site, the building is sited appropriately. The Board further stated that the stepping down of the larger bar massing to the interstitial spaces with terracing and to the lower height townhome massing is an appropriate gesture to the neighboring south and western lowrise-zoned residential developments. Thus, the Board unanimously supported the applicant preferred design (Concept C) as illustrated in the EDG 3 design packet (pgs. 6, 9, 11, 15, 19) and recommended that Concept C should move forward to the Master Use Permit (MUP) submittal phase of development.

**2. Rainier Avenue South Frontage:**

- a. The Board appreciated that the design had evolved to include a more spacious residential lobby area that would accommodate ample space and mobility for all users (residents, visitors and cyclists). (PL3.A, PL3.B, PL4.A)

**3. 39th Avenue South Frontage, Residential Amenity Space and Vehicular Access:**

- a. The Board’s feedback concerning the conceptual design of the lower level residential amenity space (level 2 plaza) inclusive of landscaping were very positive (pgs. 24-25). The Board stated the placement of the interior amenity space (lounge) was appropriate. (DC3)
- b. At the third EDG meeting, the Board reviewed several studies that illustrated a vehicular garage entrance sited further south along 39th Avenue South and listened to the applicant’s design reasoning in support of the proposed garage entrance location abutting 39th Avenue South. Upon review of the applicant’s materials, the Board concluded that the garage entrance location identified in the applicant’s preferred scheme (pg. 19) is appropriate as it relates to the building’s design. The Board stated that it is imperative that conflicts between vehicles and non-motorists should be minimized whenever possible. At the Recommendation meeting, the Board expects to review design details (mirrors, pavement treatment, etc.) that will address this concern in the next design iteration. (CS2.D, DC1.B, DC1.C)

## RECOMMENDATION May 23, 2017

1. **Townhouse Entries.** The Board acknowledged public comment suggesting the townhouse units be lowered to meet the street, and noted that the parking below creates obstacles to achieving this end. Ultimately, the Board supported the townhouse entries as proposed.
2. **Trash.** The Board acknowledged public concern relative to the trash staging and storage, noting that operationally the trash will be picked up from the garage and returned after pick up.
3. **Façade Composition and Materiality.**
  - a. The Board supported the concept of providing artwork at grade at this corner, agreeing it would enhance the corner more successfully than landscaping. Any artwork at grade should enhance the pedestrian experience and provide wayfinding.
  - b. Furthermore, the Board recommended that any artwork at grade be reflected above in the façade composition.
  - c. In discussion of the north corner (Rainier and 39<sup>th</sup>), the Board noted that the site starts a connection between two neighborhoods, and agreed the corner treatment should be enhanced with the application of balconies, color application, or addition of secondary architectural feature(s) at ground.
  - d. Hardie panels were proposed at the base along Rainier Ave S. The Board agreed this was not an acceptable application and should be revised to a high-quality material such as metal of the same tone.
  - e. The use of brick on the townhouse units at grade enhances the pedestrian experience by providing texture and human scale, and was supported by the Board.
  - f. The Board acknowledged public comment noting that the canopies were too high, and found instead that the overhead weather protection proposed along Rainier was adequate.

### DESIGN REVIEW GUIDELINES

The priority Citywide guidelines identified by the Board as Priority Guidelines are summarized below, while all guidelines remain applicable. For the full text please visit the Design Review website.

## CONTEXT & SITE

**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-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.

## **PUBLIC LIFE**

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

#### **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.

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

**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.

**DESIGN CONCEPT**

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

**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.

**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.

### **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.

### **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.

## DEVELOPMENT STANDARD DEPARTURES

The Board's recommendation on the requested departure(s) will be 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 departure(s). The Board's recommendation will be reserved until the final Board meeting.

At the time of the **FINAL** Recommendation the following departures were requested:

1. **Residential Building Setback (SMC 23.47A.014.B.1):** The Code states that a setback is required where a lot abuts the intersection of a side lot line and front lot line of a lot in a residential zone. The required setback forms a triangular area. The applicant proposes the development encroach 5' into the required setback area.

The Board indicated support for this requested departure. The Board appreciated how the townhouse building mass had evolved and better addressed the public realm and the adjacent neighboring property to the south. (CS2.D, DC2.A)

2. **Residential Building Setback (SMC 23.47A.014.B.3):** The Code requires a structure containing a residential use with a side or rear lot line abutting a lot in a residential zone be setback as follows:
  - a. 15' for portions of structure above 13' in height to a maximum of 40'; and
  - b. for each portion of structure above 40' in height, an additional setback at the rate of 2' of setback for every 10' by which the height of such portion exceeds 40'.

The townhouse structure's south wall façade is parallel with the side lot line-abutting property in a residential (LR2) zone. The applicant proposes a 7' setback for portions of the structure above 13' to a maximum of 30' in height.

The Board indicated support for this requested departure. The Board agreed the landscaping along the south edge of the townhouse units provided interest and balanced transparency with the need for privacy. (CS2.D, DC2.A)

3. **Non-Residential Street-Level Transparency Requirements (SMC 23.47A.008.B.2):** The Code requires 60% of the street-facing façade between 2' and 8' above the sidewalk be transparent. The applicant proposes reduced transparency of the street-facing façade abutting 39<sup>th</sup> Avenue South. The applicant explained that in order to utilize the sloping topography to partially locate parking below the grade.

The Board indicated support for this departure. The Board appreciated the rhythm of the terraced plaza and development of landscaping details, railings, and gates delineating access points. Additionally, the perforated metal garage door allowed for views in and out of the garage. (PL3.B, DC1.B, DC2.B)

- 4. Parking Location (SMC 23.47A.032.B.1.b):** The Code states that street-level parking within a structure shall be separated from street-level, street-facing facades by another permitted use. The applicant proposes parking stalls within the garage area to abut the street-level, street facing façade along 39<sup>th</sup> Avenue South without separating it from the street with another permitted use. The applicant explained that this departure would allow the arrangement of the interior uses to be primarily along Rainier Avenue South rather than 39<sup>th</sup> Avenue South which is more residential in character.

The Board indicated support this departure as presented for the reasons outlined by the applicant's rationale. (PL3.B, DC1.B, DC2.B)

- 5. Street-Level Non-Residential Use Depth Provisions (SMC 23.47A.008.B.3):** The Code states that non-residential uses in new structures shall extend an average depth of at least 30' and a minimum depth of 15' from the street-level street-facing façade. The applicant proposes that each of the structure's ground-level live-work units and a portion of the commercial space all facing Rainier Avenue South have an average depth less than 30'. The applicant also explains that the commercial space would not comply with the minimum 15 depth requirement (13'-4"). The applicant stated that this departure would allow the parking layout to be efficiently configured for this triangular-shaped site.

The Board indicated support for this requested departure as presented for the reasons outlined by the applicant's rationale. (PL3.B.3, DC1.A)

- 6. Street-Level Residential Use Provisions (SMC 23.47A.008.D.2):** The Code states that when residential uses are located along a street-level street-facing façade, the floor of a dwelling unit located along the street-level street-facing facade shall be at least 4' above or 4' below sidewalk grade or be set back at least 10' from the sidewalk. The applicant proposed townhouse units abutting 39<sup>th</sup> Avenue South that would not meet this code requirement because the floor of the proposed townhouse units would be less than 4' above or below sidewalk grade and set back 7' from the sidewalk. The applicant explained that this departure would allow the townhouse mass be set lower in relationship to the LR2 zoning to the south.

The Board indicated support this departure as presented for the reasons outlined by the applicant's rationale. (PL3.B, DC1.B, DC2.B)

## RECOMMENDATIONS

### BOARD DIRECTION

At the conclusion of the RECOMMENDATION meeting, the Board recommended approval of the project with conditions.

The recommendation summarized above was based on the design review packet dated May 23, 2017, and the materials shown and verbally described by the applicant at the May 23, 2017 Design Recommendation meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the materials, the five Design Review Board members recommended APPROVAL of the subject design and departures with the following conditions:

1. Any artwork at grade should enhance the pedestrian experience and provide wayfinding (DC3-C, *Design*).
2. Any artwork at grade should be reflected above in the façade composition (DC2-B, *Architectural and Facade Composition*).
3. Landscaping at the corner (Rainier and 39<sup>th</sup>) should be approved by SDOT and enhance the pedestrian experience (DC3-B, *Open Space Uses and Activities*).
4. Modify the material treatment at grade along Rainier Ave S, Hardie panels at grade is not an acceptable material application, consider the use of metal in the same tone (DC4-A, *Exterior Elements and Finishes*).
4. Further develop the corner expression (Rainier and 39<sup>th</sup>) with the application of balconies, color application, or addition of secondary architectural feature(s) at ground (DC4-A, *Exterior Elements and Finishes*).
5. Provide upward venting, avoid venting onto Rainier (DC2-C, *Secondary Architectural Features*).

## ANALYSIS & DECISION – DESIGN REVIEW

### Director's Analysis

The design review process prescribed in Section 23.41.014.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.*

Subject to the recommended conditions, 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 23, 2017, the Board recommended approval of the project with the conditions described in the summary of the Recommendation meeting above.

Five members of the Southeast 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.F.3).

The Director agrees with the Design Review Board's conclusion that the proposed project and conditions imposed result 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.

Applicant response to Recommended Design Review Conditions:

1. Artwork provided at the corner will be human scaled, visually subtle, and help mark the corner in a way that enhances orientation to the neighborhood. See A1.00 for note.
2. The artwork material will be limited to Corten steel or similar to coordinate with the balcony accent at the northwest corner and the bus stop accent. See sheets A3.00-A3.02 for revised elevation notes and A1.00 for artwork note.
3. Landscape provided at the corner will be coordinated with SDOT, the landscape architect and the civil engineer to ensure public safety and to enhance the pedestrian experience.
4. The material at the base at the northwest corner has been changed to a metal panel painted to match the white cement panel siding above. See sheets A3.00-A3.02 for revised elevation notes.
5. The accent balconies at the northwest corner have been retained, and the material has been changed to Corten (rusted) steel to further contrast/compliment the subdued material palette of the rest of the building. Additionally, the integrated bus stop at the street level utilizes this material as a backdrop in the seating area.
6. See note on sheet A3.00 specifying that venting on the Rainier Ave S elevation will be terminated vertically to avoid visible vent outlets.

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 decision and recommendations of the Design Review Board made by the five members present at the decision meeting and finds that they are consistent with the City of Seattle Design Review Guidelines. The Director is satisfied that all of 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 with the conditions summarized at the end of this Decision.

## **II. ANALYSIS – REZONE**

The applicable requirements for this rezone proposal are stated in SMC 23.34.004 (*Contract 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 Rezones

- 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 this contract rezone. The PUDA shall require that development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3018378.

- 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 23.58.C is amended to provide such payment and performance amounts for the zone designation resulting from a contract rezone.*

The development proposal is to construct two buildings: a 3-story, 4-unit townhouse structure, and a six-story building comprised of 104 apartment units, three live-work units, and 1,607 sq. feet of restaurant space. Thus, the proposed contract rezone from NC2-40 to NC3-65 is subject to a PUDA containing self-imposed restrictions in accordance with the provisions of Chapter 23.58B and 23.58C.

As noted above, in November of 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 of 2016, with Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development (MHA-R)*. The rezoned property is subject to Chapters 23.58B and SMC 23.58C through the terms of a contract rezone in accordance with SMC 23.34.004 and Director's Rule 14-2016.

A PUDA will be executed and recorded as a condition of the contract rezone and shall require that the rezoned property be subject to the requirements of SMC 23.58B and 23.58C. A Director's Rule (*Application of Mandatory Housing Affordability for Residential Development (MHA-R) in contract rezones, DR 14-2016*) has been approved pursuant to SMC 23.34.004.B. The rule specifies how to determine the appropriate MHA suffix.

The Director's Rule provides a phased implementation calculation for proposals with complete Master Use Permit applications submitted before January 1, 2016. The subject application was submitted after this date (complete: September 1, 2016) so the phased



implementation provisions do not apply. Application of the Director's Rule indicates that the proposed rezone from NC2-40 to NC3-65 would fall into tier M1, and therefore receive an (M1) suffix.

- 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 from NC2-40 to NC3-65 (M1) with the condition that the development shall be in substantial conformance with the approved plans for Master Use Permit number 3018378. The recorded condition will facilitate the use of an MHA suffix and any associated development standards identified in the Code for NC 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.

#### SMC 23.34.007 Rezone evaluation

- A. *The provisions of this chapter 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 those 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; 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 zone and height designation best meets the provisions of the chapter.

- 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 the full range of criteria called for and outlined in Chapter 23.34, Amendments to Official Land Use Map (Rezones), as they apply to the subject rezone (listed at the beginning of this "Analysis" section) and subject to the requirements of Chapter 23.58B and 23.58C.

- C. *Compliance with the provisions of this Chapter 23.34 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 subsection 23.60A.042.C.*

The proposed rezone is not a shoreline environment redesignation; therefore, 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 development site, including the parcel proposed for rezone, is located within the Columbia City Residential Urban Village. The provisions of this chapter that pertain to areas inside of urban villages shall apply to the proposal.

- 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 is therefore not subject to Shoreline Area regulations.

- 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.

<p><b>SMC 23.34.007 Conclusion:</b> The proposed rezone meets the requirements of SMC 23.34.007, per the analysis above.</p>
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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 one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.*
  - 2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.*

The proposed rezone parcel is located within the Columbia City Residential Urban Village, as described in the response to SMC 23.34.007.D. The estimated housing unit growth target listed for this urban village is 800 additional dwelling units between the years 2015 and 2035 (*Growth Strategy Appendix Figure A-1* of the Comprehensive Plan, 2035). The 2015 housing density for this urban village is 8.6 housing units per gross acre, and by 2035 the housing

density would be 11.1 housing units per gross acre (*Urban Village Appendix A* of the Comprehensive Plan, 2035).

The proposed rezone will slightly increase the zoned capacity of the Columbia City Residential Urban Village. Per the Housing Appendix, Figure A-1 (Comprehensive Plan), the residential development capacity for all residential urban villages is 39,386 dwelling units (18% of the total residential development capacity of the city).

The proposed rezone is consistent with SMC 23.34.008.A.1 as the increase in zoned capacity does not reduce capacity below 125 percent of the Comprehensive Plan growth target.

This rezone is consistent with SMC 23.34.008A.2 as the site is located within a residential urban village and the proposed rezone to a more intensive zone will not decrease the residential density in urban villages taken as a whole.

- 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.*

This rezone includes a change to the zone designation from NC2 to NC3; therefore, an analysis of the zone type and locational criteria is required, and found below under the heading *SMC 23.34.076 - Neighborhood Commercial 2 (NC2) zones, function and locational criteria* and *SMC 23.34.078 - Neighborhood Commercial 3 (NC3) zones, function and locational criteria*.

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

The site lies within the southeast quadrant of the Columbia City Residential Urban Village on land platted as part of Morningside Acre Tracts. In 1907, the site was annexed into the Columbia City neighborhood of the City of Seattle.

The subject site has always contained some portion of commercial zoning, from Commercial – District D in 1947 to Neighborhood Commercial 2 at present. See below table for zoning designation by year.

Year	Zone	Description
1947 – 1982	R1-A	The west portion of the site was zoned First Residence District A
	C-D	The east portion was zoned Commercial – District D
1982	GC	General Commercial
1986	C2	Commercial 2
1992	C2-65	Commercial 2-65-foot Height Limit
1999	NC2/R-40	Neighborhood Commercial 2/Residential 40
2007 – Present	NC2-40	Neighborhood Commercial 2 with a 40-foot Height Limit

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 would require that commercial and multifamily residential developments either include affordable housing units in the building or pay into a fund to provide housing affordable to income restricted households, in exchange for increases in development capacity.

The City is proposing requirements, area-wide zoning map changes, expansions of some urban village boundaries, modifications to development standards and other actions to implement MHA requirements for multifamily and commercial development in certain areas. The proposal includes a change to the zoning of the subject site to NC2-55(M). The NC2-55(M) zone allows mixed use buildings at a height of five-stories.

The current zoning allows for a maximum height of 40-feet with a floor area ratio of 3.25. The MHA-recommended NC2-55(M) zone would allow a maximum height of 55-feet with a floor area ratio of 3.75. The proposed zone of NC3-65(M1) would allow for a maximum height of 65-feet with a floor area ratio of 4.75; the applicant proposes a ratio of 4.18.

Zoning Designation	Height Limit	Floor Area Ratio
NC2-40	40-feet	3.25
NC2-55(M)	55-feet	3.75
NC3-65(M1)	65-feet	4.18

Although the proposal would limit development when compared with the City's area wide proposal, it does not preclude the City's proposed zoning on other sites within the urban village if it is adopted. For these reasons, the proposed rezone is not expected to be precedential.

*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 applicable Columbia City Neighborhood Plan (adopted February 1999 per ordinance 119698), can be found in the City of Seattle Comprehensive Plan Neighborhood Plans.

Although the plan called generally for rezones to establish commercial zoning compatible with the primary uses, activities, and market demands within the commercial centers (CC-P11), the only policy adopted within the Comprehensive Plan was housing policy CC-P-20 which was an exhortation to "encourage housing as a part of mixed-use development projects, including live/work spaces, within the business districts; consider rezoning appropriate areas within the urban village to NC/R designations." There are no specific recommended rezones in the Council-adopted Neighborhood Plan.

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

The subject property falls within the Columbia City Residential Urban Village, and is covered by the adopted portions of the Columbia City Neighborhood Plan, described above.

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 only policy adopted within the Comprehensive Plan was housing policy CC-P-20 which was an exhortation to “encourage housing as a part of mixed-use development projects, including live/work spaces, within the business districts” and to “consider rezoning appropriate areas within the urban village to NC/R designations.” There are no specific recommended rezones in the Council-adopted Neighborhood Plan.

Other sections of the adopted Columbia City Neighborhood Plan include policies for future development, related to design and zoning regulations:

*Policy CC-P1: Strive to make the Columbia City area safe and efficient for bicycles and pedestrians.*

*Policy CC-P5: Improve pedestrian safety and convenience along Rainier Ave S and Martin Luther King Jr. Way.*

*Policy CC-P6: Strive to make bus stops and transfer points safe, visible, comfortable, and efficient through the use of design techniques and by providing rider information.*

*Policy CC-P9: Encourage mixed-use and pedestrian-scale development within the Columbia City and Hillman City business districts.*

*Policy CC-P10: Strive to retain and build upon the unique pedestrian-friendly qualities of the Columbia City, Hillman City, and Genesee business districts.*

*Policy CC-P11: Support opportunities for business incubators and local business ownership within the community.*

*Policy CC-P13: Encourage the development of businesses that will increase the number of local jobs for professional, technical, and managerial positions, and that provide for the potential for career advancement.*

*Policy CC-P15: Strive to maintain existing neighborhood scale and character and promote transit-oriented development, where appropriate.*

*Policy CC-P16: Support opportunities for homeownership in the vicinity of Columbia City.*

*Policy CC-P17: Strive to provide the required infrastructure to support increases in housing density.*

*Policy CC-P19: Support the increase in housing density through securing the required infrastructure as density increases.*

The proposed development associated with the rezone request has completed the design review process, as described earlier in this document. Consistent with SMC 23.41, that process includes consideration of the pedestrian-oriented streetscape, open space, landscaping, design context and signage. This process is intended to meet similar outcomes as policies CC-P1, P5, P10, and P19.

The proposal includes design strategies to enhance the pedestrian areas at both adjacent street frontages, as described in the design review section of this document. While there are no trails or new pedestrian connections at the site, the proposed streetscape design provides some response to policy CC-P5 and P10.

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 Columbia City Neighborhood Plan do not identify any specific areas for rezone.

**SMC 23.34.008 D Conclusion:** There are no specific Neighborhood Plan policies to guide rezones within the Columbia City neighborhood. The proposed rezone is consistent with the density anticipated in and around the Residential Urban Village as contemplated in the Seattle Comprehensive Plan. The development is consistent with the adopted portions of the Columbia City Neighborhood Plan. The proposal will facilitate future development that will be consistent with the City's planning objectives.

*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 proposed rezone would result in a unique zone and transition to other adjacent zones; properties to the north are zoned C2-65 and NC2-40, properties west are zoned Lowrise 2, properties east are zoned NC2-40, and properties south are zoned NC2-40 and LR2. The recommended MHA zoning changes would change the NC2-40 zoning in the urban village to NC2-55(M). If the MHA rezones are adopted, the proposal site would abut NC2-75(M) properties to the immediate north, LR2(M) properties to the west and across 39<sup>th</sup> Ave S and to the south, and NC2-55(M) properties to the south and east.

Design review also considers height, bulk and scale transitions to lower adjacent zones and response to existing context. 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 approved by SDCI includes design strategies to address the project's height, bulk, and scale.

The proposal site or design is characterized by the following buffers: the Rainier Ave S right-of-way of 80-feet, the 39<sup>th</sup> Ave S right-of-way of 60-feet, and a 20.5-foot setback from the southern property line abutting LR2 zoned property. Additionally, the landscaped plaza at level two establishes a buffer between the massing and the abutting south LR2 property. The south plaza edge is further softened by a six-foot wide planting terrace along the property line. The proposal locates the larger massing toward Rainier Ave S, transitioning to the less intense zones by providing three-story townhouses at the southwest corner of the site. The townhouses are of a comparable scale, setback, and street relationship to the potential LR2 development located across 39<sup>th</sup> Ave S.

The proposal is located across 39<sup>th</sup> Ave S, with a 60-foot right-of-way width, from a C2-65 zoned property (proposed to be NC2-75 under the proposed MHA rezone). The proposal provides a setback at the corner to provide space for public art and amenity.

**SMC 23.32.008.E Summary.:** The proposed rezone includes an increase in height limit to 65-feet, with a proposed structure height of 65-feet. The proposed design of the development, and the resulting transition between zoned heights in the area would be consistent with the criterion for, “A gradual transition between zoning categories, including height limits...” as cited under 23.34.008.E.1.

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.*

To the north of the subject site is property zoned C2-65. This zone is more intense than the requested zone, and is separated from the site by 39<sup>th</sup> Ave S with a 60-foot right-of-way width. East is Rainier Ave S, an 80-foot wide principal arterial. The road provides a physical buffer to the NC2-40 zone across the street. West, 39<sup>th</sup> Ave S provides a 60-foot buffer in addition to the planned open space and greenspace located in the middle of the project site, which includes a vegetated courtyard. To the south, the project provides an open space setback that conforms to the requirements of the adjacent LR2 zone. The topography of the site further provides a physical buffer, as the adjacent LR2 zone is situated above the project site. Terraced planter walls and landscaping soften the south building edge and provide visual interest.

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 minimize 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 subsection E2 above;*
- (2) *Platted lot lines.*

The proposed rezone would establish zoning boundaries with some physical buffers as described in response to subsection E2 above. The proposal would rezone the entire platted lot to NC3-65(M1) zoning.

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 commercial properties on Rainier Ave S and residential zoned properties along 39<sup>th</sup> Ave S. The proposed rezone will not create a new boundary between commercial and residential areas.

4. *In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) 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.*

As described in response to SMC 23.34.007.D. above, the proposed rezone is located within the Columbia City Residential Urban Village. The proposed rezone is for NC3-65(M1). The proposal is consistent with this criterion.

**SMC 23.34.008 E Summary:** There is some effective separation provided by topography changes, setbacks, modulation, and adjacent streets/alley to the north, east, and west. The proposed rezone includes a specific proposed development (with a 65-foot height) 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 modulation.

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 future project will have a positive impact on the supply of housing on the site and its surroundings by providing 108 new residential dwelling units. The PUDA will ensure that the property is subject to the provisions of Chapters 23.58B and 23.58C. Since commercial and residential development is proposed, participation in the program will yield affordable housing within the project or an equivalent in lieu payment.



*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. The increased security provided by a developed site with security lighting and the surveillance of eyes on the street provided by multiple residents is seen as having a positive impact, and may be seen as mitigating the increased demand.

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

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 five-foot height at this site. Future Air Quality measures will comply with applicable Federal, State, and City 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 existing site is entirely paved and developed. 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 proposed development has been designed to maintain an existing mature street tree. The change in zoning would not reduce the vegetation 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 – Potential 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 in a 65-foot zone.

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;*

No noticeable change in impacts will result from a change in zoning. The proposed development includes public right-of-way improvements for pedestrian safety, including the removal of a curb cut on Rainier Ave S, new curb, sidewalk and planting strip along 39<sup>th</sup> Ave S, and setbacks at the intersection of Rainier Ave S and 39<sup>th</sup> Ave S.

*e. Manufacturing activity;*

Not applicable; not permitted by the existing or proposed zoning.

*f. Employment activity;*

The existing and proposed zoning would both allow commercial uses at this site. No change will result from the change in zoning. The proposed design includes 1,607-square feet of commercial space and three live-work units.

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

The Columbia City Landmark District boundary extends to one block north of the proposal. The project integrates character elements of the district through its use of materials and other streetscape elements such as canopies, storefront windows, and signage.

*h. Shoreline view, public access and recreation.*

The proposed development and rezone are located approximately one mile west of the shoreline (Lake Washington), and therefore will not directly impact shoreline public access or recreation. Due to existing development and vegetation, there are no views visible from Rainier Ave S. There are no nearby public parks with shoreline views across the subject property.

The Land Use Code does not include criteria for protection of views from private property. Most private property views of Lake Washington would be blocked by development built to the current maximum zoning at the site. The proposed rezone will have negligible impact beyond what would be allowed under the current zoning designation.

*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;*

The proposed development fronts on Rainier Ave S, 39<sup>th</sup> Ave S, and Dawson St. In response to criteria (a) through (d), the street access, street capacity, and parking are discussed in the SEPA analysis below. The Columbia City Light Rail Station is approximately a half mile west on Martin Luther King Jr Way S. Transit service is noted below in the response to SMC 23.34.008.G. and H.

*e. Utility and sewer capacity;*

Seattle Public Utilities (SPU) has indicated that the existing sewer and water utility systems in this area have capacity for the proposed development at this site. Any future development will go through city review and be required to meet/conform to city of Seattle standards, codes and/or ordinances.

*f. Shoreline navigation.*

The area of the rezone is not located within a shoreline environment; therefore, shoreline navigation is not applicable to this rezone.

*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.*

**A Growing Population and Economy** – In 1990 the Puget Sound Council of Governments projected the need for 34,000 new households over the next 30 years (2020). Since that time the economy in Seattle and the region experienced robust growth as Seattle established itself as one of the most desirable places to live and work. As a result, in 2004 Seattle projected the need for 47,000 additional households by 2024 to accommodate expected growth.

**Growth Management Act (GMA)** – In 1990 the Legislature found that, “uncoordinated and unplanned growth, together with a lack of common goals...pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning” (RCW 36.70A.010). This is the foundation for the GMA.

As a result, the State directed 29 counties and the 218 cities within the state to establish plans for growth based on certain requirements. These jurisdictions included Seattle and some of the other fastest-growing counties and the cities. Several goals of the GMA were to focus urban growth in urban areas, reduce sprawl, provide efficient transportation, encourage affordable housing, and encourage sustainable economic development.

**Seattle Comprehensive Growth Plan** – In 1994, in response to the State Growth Management Act of 1990, the City of Seattle adopted a Comprehensive Growth Plan. The

Comprehensive Plan established 20-year housing unit growth targets for Urban Centers, Center Villages, Hub Urban Villages, and Residential Urban Villages.

Investing in Seattle's Urban Villages – By the year 2000, Seattle's urban village areas housed 32% of the city's population. As part of the Comprehensive Growth Plan they are expected to accommodate most of Seattle's new housing units. As a result, the city continues to make infrastructure investments in and around urban villages to improve transit access, to create more walkable communities and to provide attractive residential and commercial environments.

In the 2004 Comprehensive Plan update the growth estimate for the Uptown Urban Center between the years 2015-2035, is 3,500 housing units. The Comprehensive Plan is subject to updates and is currently in the process of being updated to guide the next 20 years of growth in the City of Seattle.

The adoption of the Comprehensive Plan (1994), the designation of the Uptown Urban Center, and the adoption of the 2035 growth target for Uptown Urban Center are all circumstances that have changed since the most recent zoning change for this area in 1999 (described in response to 23.34.008.C above).

Transportation – Since 1990, the city of Seattle and its transit partners have made significant street and transit investments to keep people, goods and services moving. As part of the Complete Streets initiative investments are being made to provide people with alternatives to single occupancy vehicles.

The area surrounding the subject property rezone proposal is well-served by transit lines. The Route 7 runs along Rainier Ave S, and the light rail is located approximately one-half mile east on Martin Luther King Jr Way S.

Seattle Department of Transportation (SDOT), as part of Bridging the Gap, is making a number of improvements to the city transportation network. Some of these improvements are targeted to increase transit speed & reliability in the City of Seattle. These transportation improvements are additional circumstances that have changed since the most recent zoning change for this area in 2007 (described in response to 23.34.008.C. above).

**SMC 23.34.008 G Summary:** The proposed rezone responds to changed circumstances for this area, including the intent for increased development in areas designated as Urban Villages and the intent to maximize the benefits of transit and pedestrian investments in Urban Villages.

*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 any of the following Overlay Districts defined in the Land Use Code:

- Shoreline SMC (23.60A)
- Station Area Overlay SMC (23.61)
- Special Review Districts SMC (23.66)
- Southeast Seattle Reinvestment Area (SMC 23.67)

- Major Institution Overlay (SMC 23.71)
- Northgate Overlay (SMC 23.71)
- Sand Point Overlay (SMC 23.72)
- Pike/Pine Conservation Overlay District (SMC 23.73)
- Stadium Transition Area Overlay District (SMC 23.74)

The site is located within the Airport Height Overlay District (SMC 23.64)

<b>SMC 23.34.008 H Summary:</b> N/A
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*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; therefore, this criterion does not apply.

*J. Incentive Provisions. If the area is located in a zone with an incentive zoning suffix a rezone shall be approved only if one of the following conditions are met*

- 1. The rezone includes incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone; or*
- 2. If the rezone does not include incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone, an adopted City housing policy or comprehensive plan provision identifies the area as not a priority area for affordable housing, or as having an adequate existing supply of affordable housing in the immediate vicinity of the area being rezoned.*

The proposal is not located in a zone with an incentive zoning suffix; therefore, this criterion does not apply.

<b>SMC 23.34.008 Conclusion:</b> The proposed structure is 65-feet in height, 25-feet more than is permitted in the current zoning. 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 requirements of SMC 23.34.008, per the analysis above.
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SMC 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.*

Urban centers are the densest neighborhoods in the city and are both regional centers and neighborhoods that provide a diverse mix of uses, housing, and employment opportunities. Larger urban centers are divided into urban center villages to recognize the distinct character of different neighborhoods within them (*Urban Village Element, Compressive*

Plan). The proposed rezone lies within the boundaries of the Columbia City Residential Urban Village and would allow increased density in this urban village.

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

The block immediately to the north is zoned with a 65-foot height limit, creating a continuous 65-foot height limit along the western edge of Rainier Ave S. The proposed increase in height provides an additional 41 housing units, which is consistent with the City's Urban Village growth strategy. The additional housing will also increase the demand for goods and services in the area. The existing use being displaced is an auto repair shop, which includes several low-quality structures and an open parking lot on site.

The proposal under the existing zoning or the requested zoning would eliminate some territorial views from private property. To address impacts, the proposal was refined through three EDG meetings to reduce view impacts to adjacent properties, particularly property located across 39<sup>th</sup> Ave. S. looking north. Pursuant to the Code's direction, view impacts have been considered.

- 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.*

Columbia City's urban form is comprised of a varied mix of forms, scales, and uses. The general topography of the area slopes up to the west. The proposed property is at the bottom of the slope, minimizing the appearance of the overall height as it blends into the background. Within the site, the topography along Rainier Ave S slopes up to the south approximately eight-feet over 282-feet of frontage, and 13-feet over 224-feet of frontage along 39th Ave S: relatively gradual slopes over long frontages. By locating the smaller scale townhomes at the southwest corner of the site, the impact of the height is reduced as the overall building height steps down. The proposed structure may impact territorial views from adjacent properties, although view blockage will be minimized by the slope of the topography in the area.

The area to the north of the subject site can generally be characterized as commercial zoning with a height limit ranging from 40 to 65-feet, and residential development to the east and west of Rainier Ave S.

Some private territorial views could change as a result of the increased development and building heights. City view protection policies focus on public views. The City attempts to address public and private views generally through height and bulk controls. The proposed rezone includes a specific proposed development, 70-feet in height, 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.

The existing zoning transition pattern in this area generally reinforces the natural topography of the area. Zoning to allow taller buildings is generally located along Rainier Ave S, with lower height zoning for properties lower in elevation to the east and west of Rainier Ave S. The proposed rezone would not change this pattern.

Due to existing development and vegetation, there are no views of Lake Washington or the Space Needle that are visible to pedestrians standing across the site from Rainier Ave S or 39<sup>th</sup> Ave S. There are no nearby public parks with views to Lake Washington or the Space Needle across the subject property. The site is not on a SEPA Scenic Route.

Design Review considered the arrangement of rooftop features, such as the elevator penthouse. The Design Review Board recommended approval of a design that includes the penthouse at the eastern edge of the rooftop to improve views and reduce height, bulk, and scale impacts, particularly as views from the residential development to the west.

As noted in response to SMC 23.34.008.F.1.h., the Land Use Code does not include criteria for protection of views from private property. The majority of the private property views would be blocked by development built to the current maximum zoning at the site. There is no appreciable difference in the amount of views that will be blocked with the proposed rezoned height of 65-feet.

C. *Height and scale of the area*

1. *The height limits established by current zoning in the area shall be given consideration.*
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 existing zoning at this site is NC2-40. The proposed zoning is NC3-65(M1).

In the NC-40 and NC-65 zones, rooftop features are permitted above the height limit per SMC 23.47A.012, 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 1 review as defined in SMC 23.76.004.

The current height limit at this site is 40-feet. Nearby zones include height limits of 40- and 65-feet. The proposed development, with a 65-foot structure height, would be consistent with the predominant height and scale of nearby newer development (ranging 40-65-feet), which is representative of the area's overall development potential. Early to mid-20th century development in the area tends to be two- to four-stories tall (20-40-feet estimated range). The older one- and two-story development is not representative of the development potential for zoning in this area. The four- to six-story buildings are closer in height to the area's overall development potential. There are several examples of both types of development in the blocks immediately vicinity, for example: located at 4801 Rainier Ave S is a six-story structure containing 193 residential units and 35,613 square feet of retail (MUP 3013008, approved in 2012). At 3717 S. Alaska St is a seven-story structure containing 240 units and 29,700 square feet of retail (MUP 3019517, approved in

2016). The project proposes a six-story structure with 108 residential units and 1,607square feet of retail.

Height limits established by current zoning along Rainier Ave. S. are C2-65 and NC2-40. West and south of the area is zoned LR2, where the height limit is 30 feet, but it effectively authorizes 38 feet (30-foot base, plus an additional four feet for a below grade story and an additional four feet for a parapet).

The subject property is zoned NC2-40, and is located in the Southeast Seattle Reinvestment Area. The Reinvestment Areas specifically encourage “revitalization and investment, and to encourage development which supports business activity ...” (Ordinance 116145, Section 3).

*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.*
- 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.D.2, are present.*

The subject property is not in or near a Major Institution. The pattern of zoning transitions is described in response to SMC 23.34.008.D.2. Zoning allowing 65-foot heights is found abutting the site to the north. The proposed development is 65-foot in height, and includes increased setbacks and modulation at the north, south, and west property lines. The proposed rezone would be consistent with the scale of development in the area.

*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 23.34.009 and Section 23.34.008.*

Portions of the Columbia City Neighborhood Plan were adopted by City Council and are included in the Seattle Comprehensive Plan. In the adopted neighborhood plan policies, there are none that require or explicitly address 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 increase in height proposed (25-feet for a total structure height of 65-feet) would meet the criteria of SMC Section 23.34.009, as described above. No additional views from private property would be blocked by the additional building height resulting from the contract rezone.



A. *Function. To support or encourage a pedestrian-oriented shopping area that provides a full range of household and personal goods and services, including convenience and specialty goods, to the surrounding neighborhoods, and that accommodates other uses that are compatible with the retail character of the area such as housing or offices, where the following characteristics can be achieved:*

1. *A variety of small to medium-sized neighborhood-serving businesses;*

The proposal includes three live-work spaces (each approximately 1,500-square feet) fronting Rainier Ave S and a 1,607-square foot commercial space at the corner of Rainier Ave S and 39<sup>th</sup> Ave S.

2. *Continuous storefronts built to the front lot line;*

The live-work and commercial space create a continuous storefront along the front lot line at Rainier Ave S.

3. *An atmosphere attractive to pedestrians;*

The pedestrian experience along Rainier Ave S is proposed to include landscaping, bicycle storage, overhead weather protection, lighting, signage, and opportunities for outdoor seating to create an attractive atmosphere for pedestrians.

4. *Shoppers can drive to the area, but walk from store to store.*

Shoppers may drive to the site, park in the below grade parking garage or on-street, then walk from store to store at the site.

B. *Locational Criteria. A Neighborhood Commercial 2 zone designation is most appropriate on land that is generally characterized by the following conditions:*

1. *Primary business districts in residential urban villages, secondary business districts in urban centers or hub urban villages, or business districts, outside of urban villages, that extend for more than approximately two blocks;*

This criterion is met by the existing NC2-40 zoning which extends along Rainier Ave S a distance of approximately one-half mile south along the corridor. Zoning transitions to C2-65 and NC3P-40 one block north of the subject site.

2. *Located on streets with good capacity, such as principal and minor arterials, but generally not on major transportation corridors;*

The subject site is located on Rainier Ave S, a principal arterial.

3. *Lack of strong edges to buffer the residential areas;*

The subject site contains a strong edge along the west to buffer the residential uses in the LR2 zone across 39<sup>th</sup> Ave S.

4. *A mix of small and medium sized parcels;*

The subject site is comparable in size to parcels fronting Rainier Ave S in this area.

5. *Limited or moderate transit service.*

Frequent transit services is available on Rainier Ave S, with a bus stop on site, and Light Rail services is available within walking distance to the west.

**SMC 23.34.076 Conclusion:** The subject site appears to meet some of the zone, function, and locational criteria for NC2 zoning.

23.34.078 - Neighborhood Commercial 3 (NC3) zones, function and locational criteria.

A. *Function. To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:*

1. *A variety of sizes and types of retail and other commercial businesses at street level;*

The proposal includes three live-work units (each approximately 1,500-square feet) and one 1,607-square foot commercial space at the corner of Rainier Ave S and 39<sup>th</sup> Ave S.

2. *Continuous storefronts or residences built to the front lot line;*

The live-work and retail spaces along Rainier Ave S create a continuous storefront at the front lot line.

3. *Intense pedestrian activity;*

By virtue of its location near the heart of the Columbia City downtown core within the Columbia City Residential Urban Village the proposed rezone predictably would intensify the uses on site and the pedestrian activity on and along the site. Additional businesses and residences are proposed on site. Increased pedestrian amenities contributing to the intensification of pedestrian activity include widened sidewalks, new pedestrian level street lighting, and pedestrian seating.

4. *Shoppers can drive to the area, but walk around from store to store;*

Shoppers may drive to the site, park in the below grade parking garage or on-street, then walk from store to store at the site. Parking for 52 vehicles is provided, accessed from 39<sup>th</sup> Ave S.

5. *Transit is an important means of access.*

A variety of transit options are available within a half mile of the site including Metro transit (with a bus stop located on site) and the Light Rail within walking distance to the west.

**SMC 23.34.078.A. Conclusion:** The proposal satisfies the NC3 zone functional criteria given the subject site's location within Columbia City's core business district, the presence of frequent transit service from Metro, and proximity to the Light Rail station.

*B. Locational Criteria. A Neighborhood Commercial 3 zone designation is most appropriate on land that is generally characterized by the following conditions:*

- 1. The primary business district in an urban center or hub urban village;*

The subject site is located within the Columbia City business district and Columbia City Residential Urban Village.

- 2. Served by principal arterial*

The subject site is served by a Rainier Ave S, a principal arterial.

- 3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;*

The subject site is separated from low-density residential areas by physical edges including the 39<sup>th</sup> Ave S right-of-way and more-intense residential areas (LR2 zoning).

- 4. Excellent transit service.*

The subject site is served by Metro transit, Route 7 along Rainier Ave S, and the Light Rail, approximately a half mile to the west on Martin Luther King Jr Way S.

**SMC 23.34.078.B. Conclusion:** The proposal for the subject property meets all of the above functional criteria appropriate for zoning it Neighborhood Commercial 3.

## **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 provisions in SMC 23.34, the Director recommends that the proposed rezone from Neighborhood Commercial Two with a 40-foot height limit (NC2-40) to Neighborhood Commercial Three with a 65-foot height limit and the M1 suffix (NC3-65(M1)).

### **III. ANALYSIS – SEPA**

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle 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 dated July 29, 2016. 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 and parking 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 impacts, earth/soils, and environmental health.

#### 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 - Parking and 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.

The area includes limited on-street parking. Additional parking demand from construction vehicles would be expected to further exacerbate the supply of on-street parking. It is the City's policy to minimize temporary adverse impacts associated with construction activities.

Pursuant to SMC 25.05.675.B (Construction Impacts Policy), additional mitigation is warranted, and a Construction Management Plan is required, which will be reviewed by Seattle Department of Transportation (SDOT). The requirements for a Construction Management Plan include a Haul Route and a Construction Parking Plan. The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.

### 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 Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood Commercial zones. If extended construction hours are desired, 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.

A Construction Management Plan will 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: <http://www.seattle.gov/transportation/cmp.htm>. 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.

### Earth/Soils

Excavation to construct the residential structures will be necessary. Excavation will remove an estimated 500 cubic yards of material from the development site. Soil, gravel and similar materials may be imported to or exported from the site. Transported soil is susceptible to being dropped, spilled or leaked onto City streets. The City's Traffic Code (SMC 11.74.150 and 160) provides that material hauled in trucks not be spilled during transport. The City requires that loads be either: 1) secured/covered; or 2) a minimum of six inches of "freeboard" (area from level of material to the top of the truck container). The regulation is intended to minimize the amount of spilled material and dust from the truck bed en route to or from a site. No further conditioning of the impacts associated with the grading/excavation impacts of the project is warranted pursuant to SEPA policies (SMC 25.05.675.D).

### Environmental Health

The applicant submitted a letter from the State of Washington Department of Ecology (Ecology) regarding previous contamination on site (State of Washington Department of Ecology, Dale R. Myers, March 21, 2008). 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.

As indicated in the letter from Ecology, “Ecology has determined that the independent remedial action(s) conducted at the site are sufficient to meet the independent requirements contained in MTCA and its implementing regulations, Chapter 70.150D RCW and Chapter 173-340 WAC, for characterizing and addressing the contamination on site. Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that no further remedial action is necessary at the site under MTCA.”

No further mitigation is warranted for impacts to environmental health per SMC 25.05.675.F.

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: 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, height bulk and scale, parking, and transportation warrant further analysis.

### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project construction and 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.

### Height, Bulk, and Scale

The proposal has gone through 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.

### Parking

The proposed development includes 108 residential units with 52 off-street vehicular parking spaces. The traffic and parking analyses (*5201 Rainier Avenue S (MUP 3018378) – June 2017 Traffic and Parking Impact Analysis with Street Parking Inventory/Utilization Surveys*, TENW, June 1, 2017) indicate a peak demand from the proposed development for approximately 68 peak stalls during weekday retail hours and 78 stalls during peak overnight evening hours. Peak residential demand typically occurs overnight.

The traffic and parking analyses noted that the existing on-street parking utilization rate is approximately 56% within 800-feet of the site. The proposed development peak demand of 78 parking spaces would not be accommodated by the proposed 52 parking off-street spaces in the development, resulting in a spillover demand for 26 on-street parking spaces. The proposal therefore would have a potential additional impact to on-street parking utilization, resulting in an on-street utilization of 60%.

SMC 25.05.675.M notes that there is no SEPA authority provided for mitigation of parking impacts in Urban Villages within 1,320 feet of frequent Transit service. This site is located in the Columbia City Residential Urban Village within 1,320 feet of frequent Transit service. Regardless of the parking demand impacts, no SEPA authority is provided to impacts of parking demand from this proposal.

### Transportation

The traffic and parking analyses indicated that the project is expected to generate a net total of 671 daily vehicle trips, with 36 net new PM Peak Hour trips and 28 AM Peak hour trips.

The additional trips would have minimal impact on levels of service at nearby intersections and on the overall transportation system. Concurrency analysis was conducted for nearby identified areas. That analysis showed that the project is expected to be well within the adopted standards for the identified areas. The SDCI Transportation Planner reviewed the information and determined that while these impacts are adverse, they are not expected to be significant; therefore, no further 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).
- Mitigated 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**

#### **Prior to Certificate of Occupancy**

1. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner (Carly Guillory, carly.guillory@seattle.gov).

#### **For the Life of the Project**

2. 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 (Carly Guillory, [carly.guillory@seattle.gov](mailto:carly.guillory@seattle.gov)).

### **RECOMMENDED CONDITIONS – REZONE**

The Director recommends approval of the contract rezone from NC2-40 to NC3-65(M1) subject to the following conditions, which shall be contained in the PUDA:

#### **Prior to Issuance of a Master Use Permit**

3. The rezoned property shall be subject to the provisions of SMC Chapters 23.58B and 23.58C.

### **RECOMMENDED CONDITIONS – SEPA**

#### **Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit**

4. 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 at: <http://www.seattle.gov/transportation/cmp.htm>.

Carly Guillory, Senior Land Use Planner  
Seattle Department of Construction and Inspections

Date: February 12, 2018

CG:drm

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### **IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

#### **Master Use Permit Expiration and Issuance**

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the three-year life of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by SDCI within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a two-year life. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.

**FINDINGS AND RECOMMENDATION  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

**HUGH SCHAEFFER, S+H WORKS, LLC**

for a contract rezone for property located  
at 5201 Rainier Avenue S

**CF 314311**

Department Reference:  
3018378

**Introduction**

Hugh Schaeffer, S+H Works, LLC, applied for a rezone of property located at 5201 Rainier Avenue S from Neighborhood Commercial 2-40 to Neighborhood Commercial 3-65. The Director of the Department of Construction and Inspections ("Director") submitted a report recommending that the rezone be approved. The Director's report included a SEPA Determination of Non-significance with recommended conditions and design review approval, which were not appealed.

A hearing on the rezone application was held before the Hearing Examiner on April 2, 2018. The Applicant was represented by Jeremy Eckert, attorney-at-law, and the Director was represented by Carly Guillory, Land Use Planner. Following the Hearing Examiner's site visit the record closed on April 24, 2018.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code") unless otherwise indicated. Having considered the evidence in the record and reviewed the site, the Hearing Examiner enters the following findings of fact, conclusions and recommendation on the rezone application.

**Findings of Fact**

Site and Vicinity

1. The subject site is approximately 24,408 square feet, and is located on the west side of Rainier Avenue South. The site is currently occupied by a vehicle repair garage, used car sales area, and accessory detached structures.
2. The subject property is located in the Columbia City Residential Urban Village and the Southeast Seattle Reinvestment Area. The area contains residential uses (single-family residences, townhouses and apartments) to the west and south; and commercial uses (retail, restaurants, offices, etc.) east and north of the subject property. The Columbia City Historic Landmark District is approximately a half block north of the proposed site.
3. The neighborhood is evolving with blocks of significant residential and commercial development in recent years. The site is situated in an area that is pedestrian and transit oriented due to the proximity of bus transit along Rainier Avenue South.

4. The subject site is zoned Neighborhood Commercial Two with a 40 foot height limit (“NC2-40”), as are properties to the north and east. Properties to the west are zoned Commercial Two with a 65 foot height limit (“C2-65”), and Lowrise Two (“LR2”). Properties to the south are zoned LR2 and NC2-40.
5. Frequent transit service is available via an onsite bus stop on Rainier Ave S, and Light Rail services are available within walking distance to the west.
6. The general topography of the area slopes up to the west. The proposed property is at the bottom of the slope. Within the site there are relatively gradual slopes over long frontages where the topography along Rainier Ave S slopes up to the south approximately eight-feet over 282-feet of frontage, and 13-feet over 224-feet of frontage along 39th Ave S.
7. The site is located within the Airport Height Overlay District.

#### Zoning History and Potential Zoning Changes

8. The site was annexed into the Columbia City neighborhood of the City of Seattle in 1907.
9. In 1947 the subject site contained a portion of commercial zoning, Commercial – District D, and a portion of residential zoning, First Residence District A. The entire site was zoned General Commercial in 1982, and this was changed to Commercial Two in 1986. In 1992 the Commercial Two designation was retained, but a 65 foot height limit was added. The site zoning was split again in 1999 between NC-2 and Residential with a 40 foot height limit. The current NC2-40 zoning was adopted in 2007.
10. The City is currently considering requirements, area-wide zoning map changes, expansions of some urban village boundaries, modifications to development standards and other actions to implement mandatory housing affordability (“MHA”) requirements for multifamily and commercial development in certain areas. The proposal includes a change to the zoning of the subject site to NC2-55(M). The NC2-55(M) zone allows mixed use buildings at a height of five-stories.

#### Neighborhood Plan

11. The subject property is covered by the adopted Columbia City Neighborhood Plan, which does not include any specific recommended rezones. Housing policy CC-P-20 calls for planning to “encourage housing as a part of mixed-use development projects, including live/work spaces, within the business districts,” and to “consider rezoning appropriate areas within the urban village to NC/R designations.”
12. The proposed rezone development has completed the design review process. Consistent with SMC 23.41, that process includes consideration of the pedestrian-oriented streetscape, open space, landscaping, design context and signage. This process is intended to meet similar outcomes as the following policies: (1) Policy CC-P1 “Strive to make the Columbia City area safe and efficient

for bicycles and pedestrians;" (2) Policy CC-P5 "Improve pedestrian safety and convenience along Rainier Ave S and Martin Luther King Jr. Way;" Policy CC-P10 "Strive to retain and build upon the unique pedestrian-friendly qualities of the Columbia City, Hillman City, and Genesee business districts;" Policy CC-P19 "Support the increase in housing density through securing the required infrastructure as density increases." The proposal includes design strategies to enhance the pedestrian areas at adjacent street frontages. This proposed streetscape design provides some response to policies CC-P5 and CC-P10.

### Proposal

13. The Applicant seeks to have the property rezoned from NC2-40 to NC3-65 with the M1 suffix ("NC3-65(M1)") with a property use and development agreement ("PUDA"). The proposal includes a three-story, four-unit townhouse structure and a six-story structure with 104 apartment units, three live-work units, and 1,607 square feet of restaurant space. Under the proposal the existing structures will be demolished.
14. The PUDA will ensure that the affordable housing provisions of Chapters 23.58B SMC and 23.58C SMC will apply to the project proposal. Participation by the Applicant in the program under Chapter 23.58C SMC will yield affordable housing within the project or an equivalent in lieu payment. *See* Exhibit 1.
15. Property to the north of the subject site is zoned C2-65. This zone is more intense than the requested zone, and is separated from the site by 39th Ave S with a 60-foot right-of-way width. Rainier Ave S, is located to the east with an 80-foot wide principal arterial, which serves as a physical buffer to the NC2-40 zone across the street. To the west 39th Ave S provides a 60-foot buffer. In addition, the proposed design includes a landscaped plaza at level two, which serves to buffer the project from LR2 property that abuts the site to the south. The south plaza edge is further softened by a six-foot wide planting terrace along the property line. The proposal locates the project's larger massing toward Rainier Ave S, transitioning to the less intense zones by providing three-story townhouses at the southwest corner of the site. The proposal is located across 39<sup>th</sup> Ave S, with a 60-foot right-of-way width, from a C2-65 zoned property (to be designated NC2-75 under the proposed MHA rezone). The proposal provides a setback at the corner to provide space for public art and amenity.
16. Some private territorial views could change as a result of increased development and building heights resulting from the proposal.
17. The proposal was reviewed by the Southeast Design Review Board ("DRB"). The DRB unanimously recommended approval of the proposal, including requested development standard departures, with conditions. Exhibit 1 at 18-19.
18. 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 approved by SDCI includes design strategies to address the project's height, bulk, and scale. Design review also considers height, bulk and scale transitions to lower adjacent zones and response to existing context.

19. The proposal includes parking for 52 vehicles below grade. A traffic and parking study for the proposal showed that it would generate 671 daily vehicle trips, with 36 net new PM Peak Hour trips and 28 AM Peak hour trips. Exhibit 1 at 44.
20. A parking utilization study was also completed for the proposal. The parking analysis estimated that the site could generate a daily parking demand of 68 parking spaces during weekday retail hours, and 78 during peak overnight evening hours. On-street overflow is anticipated to require 26 parking spaces. This would cause use of available on-street parking spaces to rise from the current average weekday utilization of 56 percent to approximately 60 percent.

#### Public Comment

21. Public comments were received during the design review process for the proposal. They are summarized in the Director's Report, Exhibit 1, at 3-11, and can be found in original form in Exhibit 4. In addition to the comments received through the Design Review process, other comments were received and considered by the Department. These additional comments related to parking, traffic, and density. No additional public comment was received by the Hearing Examiner.

#### Director's Review

22. The Director reviewed the Southeast Design Review Board's recommendations and agreed that the proposed project and conditions imposed result in a design that best meets the intent of the Design Review Guidelines, and accepted the recommendations noted by the Board. The Director approved the design subject to two design review conditions. Exhibit 1 at 19-20, and 45-46.
23. The Director also analyzed the proposal's potential long term and short term environmental impacts, and recommended conditions to mitigate construction-related impacts. Exhibit 1 at 46.
24. The Director's report analyzes the proposed contract rezone, and recommends that it be approved with conditions. Exhibit 1.

#### Applicable Law

25. SMC 23.34.008 provides the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers and boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; the presence of overlay districts or critical areas, and whether the area is within an incentive zoning suffix.
26. When, as in this case, a rezone includes consideration of height limits in commercial or industrial zones, SMC 23.34.009 prescribes additional criteria to be considered, including the function of the zone, topography of the area and surroundings, height and scale of the area, compatibility with the surrounding area, and neighborhood plans.

27. SMC 23.34.007.C provides that compliance with the requirements of Chapter 23.34 SMC constitutes consistency with the Comprehensive Plan for purposes of reviewing proposed rezones, but the Comprehensive Plan may be considered where appropriate.

### Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 23.76.052, and makes a recommendation on the proposed rezone to the City Council.
2. SMC 23.34.007 provides that the applicable sections of Chapter 23.34 SMC on rezones are to be weighed and balanced together to determine the most appropriate zone and height designation. In addition, the zone function statements are to be used "to assess the likelihood that the area proposed to be rezoned would function as intended." SMC 23.34.007.A. "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement ...." SMC 23.34.007.B.
3. The most appropriate zone designation is the one "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." SMC 23.34.008.B.

### Effect On Zoned Capacity

4. SMC 23.34.008 requires that, within an urban center or urban village, the zoned capacity, taken as whole, is to be no less than 125 percent of the applicable adopted growth target, and not less than the density established in the Comprehensive Plan. The established density target for the Columbia City Residential Urban Village is 800 additional dwelling units between the year 2015 and the year 2035. The proposed rezone would slightly increase both zoned capacity and zoned density and, thus, meets the requirements of SMC 23.34.008. The proposed rezone to a more intensive zone will not decrease the residential density in urban villages taken as a whole.

### Match Between Zone Criteria and Area Characteristics

5. The most appropriate zone designation is the one "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." SMC 23.34.008.B. In this case, the site is zoned NC2, and the rezone would retain the NC designation, but would change the designation to NC3. The distinction between the NC2 and NC3 is minimal, and both the site and proposal satisfy the criteria for both zone types. The proposal will be consistent with the primary aspects of the NC2 zone, but the NC3 designation is more appropriate because the site has "excellent transit service," called for in SMC 23.34.078 for NC3 zones as opposed to the "limited or moderate transit service" associated with NC2 zoning criteria in SMC 23.34.076.B.5. In addition, whereas NC2 zoning calls for "an atmosphere attractive to pedestrians," (SMC 23.34.076.B.3) NC3 is identified as appropriate for areas with "intense pedestrian activity," which better characterizes the proposed location. The site currently matches the NC3 zone function and locational criteria, found in SMC 23.34.078,<sup>1</sup> and that designation is the most appropriate.

<sup>1</sup> 23.34.078 - Neighborhood Commercial 3 (NC3) zones, function and locational criteria.

Neighborhood Plan/Precedential Effect

6. The development is consistent with the adopted portions of the Columbia City Neighborhood Plan. The proposal is consistent with Policy CC-P-20, because the proposal seeks to encourage housing in a mixed-use development. The proposal is consistent with polices CC-P1, P5, P10 and P19, because through the design review process it has provided consideration of the pedestrian-oriented streetscape, open space, landscaping, design context and signage. The proposal is also consistent with CC-P5 and CC-P10, because it includes design strategies to enhance the pedestrian areas at adjacent street frontages.
7. The current zoning allows for a maximum height of 40-feet with a floor area ratio of 3.25. The MHA recommended NC2-55(M) zone would allow a maximum height of 55-feet with a floor area ratio of 3.75. The proposed zone of NC3-65(M1) would allow for a maximum height of 65-feet with a floor area ratio of 4.75, and the applicant proposes a ratio of 4.18. Although the proposal would slightly exceed development expectations for the area when compared with the City's area wide up-zone proposal, it does not preclude the City's proposed zoning on other sites within the urban village if it is adopted, and the difference between the proposed zoning and MHA zoning is not of such a scale that it is likely to lead to similar proposals. For these reasons, the proposed rezone is not expected to be precedential. However, to the degree that the proposal if approved, might influence Council's consideration of the area wide up-zone, e.g. as an example of a property with a height approval above the existing 40 foot height limit, then the proposal could have a precedential effect of increasing zoned heights.

Zoning Principles

8. The zoning principles listed in SMC 23.34.008.E are generally aimed at minimizing the impact of more intensive zones on less intensive zones, if possible. They express a preference for a gradual transition between zoning designations, including height limits, if possible, and potential physical buffers to provide an effective separation between different uses and intensities of development.

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A. Function. To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:

1. A variety of sizes and types of retail and other commercial businesses at street level;
2. Continuous storefronts or residences built to the front lot line;
3. Intense pedestrian activity;
4. Shoppers can drive to the area, but walk around from store to store;
5. Transit is an important means of access.

B. Locational Criteria. A Neighborhood Commercial 3 zone designation is most appropriate on land that is generally characterized by the following conditions:

1. The primary business district in an urban center or hub urban village;
2. Served by principal arterial;
3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;
4. Excellent transit service.

9. The rezone proposal includes a change to the existing zoning designation from NC2 to NC3-65. With this change the existing pattern of commercial and midrise zoning will continue to exist.
10. There is some effective separation between the proposal and adjacent and nearby properties provided by minor topographic changes, and adjacent streets.
11. The proposed rezone will not create a new boundary between commercial and residential areas.

#### Impact Evaluation

12. The proposed rezone would positively impact the housing supply, as it would add 107 new residential units.
13. Although the proposal would increase the demand for public services, the increase would be minimal. There is no evidence in the record that the demand would exceed service capacities. In particular, street access, street capacity, transit service and parking capacity were shown to be sufficient to serve the additional units that would be allowed by the rezone.
14. The Director has evaluated impacts on public services and service capacities, as well as noise, historic preservation, transportation and other environmental impacts, pursuant to SEPA, and has identified conditions to mitigate impacts that are not otherwise adequately addressed through existing regulations.

#### Changed Circumstances

15. "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." SMC 23.34.008.G. The adoption of the Comprehensive Plan (1994), the designation of the Columbia Center Residential Urban Village, adoption of the Columbia City Neighborhood Plan in, and the adoption of the 2035 growth target for Columbia Center Residential Urban Village are all circumstances that have changed since the site's zoning change to NC2 for this area in 1999.

#### Overlay Districts

16. As indicated above, the site is located within the Airport Height Overlay District. The proposal is consistent with the overlay district as the proposed structure will not interfere with safe and unobstructed airplane travel to and from Boeing Field.
17. The proposal meets the criteria of and satisfies the purpose of the Southeast Seattle Reinvestment Area overlay. The proposal does not propose to extend the boundaries of that overlay, reinforce commercial nodes in the area, encourages the development and retention of businesses, and will provide adequate buffers between residential and commercial uses.

#### Critical Areas

18. The site is not located in or adjacent to a critical area.



### Height Limits

19. The proposed rezone would allow an additional 25 feet in zoned height. SMC 23.34.009 addresses the designation of height limits for proposed rezones. The issues to be considered include the function of the zone; the topography of the area and its surroundings, including public and private view blockage; height and scale of the area; compatibility with the surrounding area; and neighborhood plans.
20. Function of the zone. Height limits are to be consistent with the type and scale of development intended for the zone classification, and the demand for permitted goods and services and potential for displacement of preferred uses are to be considered. The proposed rezone lies within the boundaries of the Columbia City Residential Urban Village and would allow increased density in this urban village. The block immediately to the north is zoned with a 65-foot height limit, creating a continuous 65-foot height limit along the western edge of Rainier Ave S. The proposal's multi-family residential uses with commercial elements would be consistent with the type and scale of development in the vicinity and the proposed NC3-65 zoning, and would not change the variety and size of commercial uses that are allowed. There will be no displacement of preferred uses. There is nothing in the adopted neighborhood plan policies that address heights.
21. Topography of the area. Heights are to "reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage" is to be considered. The proposal would not change the existing zoning transition pattern. There is no likelihood of view blockage of protected public views, because there are no public views in the vicinity of the proposal. The proposed structure may impact territorial views from adjacent properties, although view blockage will be minimized by the slope of the topography in the area.
22. Height and scale of the area. The height limits established by current zoning in the area are to be considered. In general, permitted height limits are to "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." SMC 23.34.009.C.  
  
Zoning allowing 65-foot heights is found abutting the site to the north. The proposed development would be consistent with the predominant height and scale of nearby newer development, which is representative of the area's overall development potential. Older one and two story development in the area is not representative of the development potential for zoning in this area.
23. Compatibility with surrounding area. Height limits are to be compatible with actual and zoned heights in surrounding areas. In addition, a gradual transition in height and scale and level of activity between zones is to be provided unless major physical buffers are present. The requested height limit of 65 feet, would be compatible with most of the actual and potential zoned heights in the surrounding area, and would be consistent with the transition of zoned heights and scale of development in the area.
24. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is NC3-65(M1) with a PUDA.

**Recommendation**

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA that incorporates the final approved Master Use Permit drawings for the proposal and the following conditions:

Prior to Issuance of a Master Use Permit

1. Development of the rezoned property shall be subject to the requirements of SMC Chapters 23.58B and 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58C.

Prior to Issuance of a Building Permit

2. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3018378.

The Director has recommended the following SEPA condition:

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

1. 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 at: <http://www.seattle.gov/transportation/cmp.htm>.

The Director has imposed the following design review conditions on the proposal:

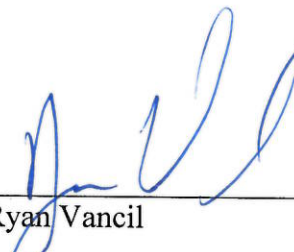
Prior to Issuance of a Master Use PermitPrior to Certificate of Occupancy

1. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner (Carly Guillory, [carly.guillory@seattle.gov](mailto:carly.guillory@seattle.gov)).

For the Life of the Project

2. 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 (Carly Guillory, [carly.guillory@seattle.gov](mailto:carly.guillory@seattle.gov)).

Entered this 11<sup>th</sup> day of May, 2018.

  
\_\_\_\_\_  
Ryan Vancil

Hearing Examiner

**Concerning Further Review**

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner's recommendation to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person who submitted a written comment to the Director, or provided a written or oral comment to the Hearing Examiner, may submit an appeal of the Hearing Examiner's recommendation to the Council. The appeal must be in writing, clearly identify specific objections to the Hearing Examiner's recommendation, and specify the relief sought. The appeal must be filed with the City Clerk by 5 p.m. of the 14th calendar day following the date the Hearing Examiner's recommendation was issued. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period runs until 5 p.m. on the next day that is not a Saturday, Sunday, or federal or City holiday.

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Findings and Recommendation** to each person listed below, or on the attached mailing list, in the matter of the **Hugh Schaeffer Rezone Application**, Council File: **CF-314311** in the manner indicated.

<b>Party</b>	<b>Method of Service</b>
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<p><b>U.S. Mail</b>  SUQUAMISH TRIBE  PO BOX 498  SUQUAMISH, WA 98392</p> <p>DUWAMISH TRIBE  4705 W MARGINAL WAY SW  SEATTLE, WA 98106</p>	<p><input checked="" type="checkbox"/> U.S. First Class Mail, postage prepaid  <input type="checkbox"/> Inter-office Mail  <input type="checkbox"/> E-mail  <input type="checkbox"/> Fax  <input type="checkbox"/> Hand Delivery  <input type="checkbox"/> Legal Messenger</p>



<p>JEAN VELDWYK 5504 RAINIER AV S SEATTLE WA 98118</p> <p>KAREN WALTER WATERSHEDS AND LAND USE TEAM LEADER MUCKLESHOOT INDIAN TRIBE FISHERIES DIVISION HABITAT PROGRAM 39015 172ND AVE SE AUBURN, WA 98092</p>	
<p><b>Inter-office Mail</b> Public Review Documents Quick Information Center Seattle Public Library LB-03-01</p>	<p><input type="checkbox"/> U.S. First Class Mail, postage prepaid <input checked="" type="checkbox"/> Inter-office Mail <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger</p>

Dated: May 11, 2018

  
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Alayna Johnson  
Legal Assistant

**Attachment 3 – Proposed Council Findings, Conclusions, and Decision**

FINDINGS, CONCLUSIONS AND DECISION  
OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of: ) C.F. 314311  
)  
Application of 5201 Rainier LLC for approval ) FINDINGS, CONCLUSIONS  
of a contract rezone of an approximately ) AND DECISION  
24,000 sf site located at 5201 Rainier Avenue )  
South from Neighborhood Commercial 2 with )  
40 foot height limit (NC2-40) to )  
Neighborhood Commercial 3 with a 65 foot )  
height limit and a MHA suffix (NC3-65 )  
(M1))(Project No. 3018378; Type IV).

Introduction

This matter involves the petition of 5201 Rainier LLC for a contract rezone of the property located at 5201 Rainier Avenue South. The site, depicted on Attachment A, is composed of two parcels of land totaling about 24,000 square feet. The proposal is to rezone the site from Neighborhood Commercial 2 with a 40-foot height limit (NC2-40) to Neighborhood Commercial 3 with a 65-foot height limit and a mandatory housing affordability (MHA) suffix of M1(NC3-65(M1)).

The contract rezone will allow the construction of a three-story, four-unit townhouse structure and a six-story structure with 104 apartment units, three live-work units, and 1,607 square feet of restaurant space.

On February 12, 2018, the Director of Seattle’s Department of Construction and Inspection (SDCI) recommended approval of the proposed rezone and proposed development. On, April 2, 2018, the City of Seattle’s Hearing Examiner held an open record hearing on the petition. May 11, 2018, the Hearing Examiner issued Findings and Recommendations

**Attachment 3 – Proposed Council Findings, Conclusions, and Decision**

Findings, Conclusions and Decision  
5201 Rainier Avenue South, C.F. 314311  
Page 2

recommending approval of the rezone, with conditions. On July 18, 2018, the Planning, Land Use and Zoning Committee reviewed the record and the recommendations by SDCI and the Hearing Examiner and recommended approval of the contract rezone to the Full Council.

Findings of Fact and Conclusions

The Council hereby adopts the Hearing Examiner's Findings of Fact, Conclusions and Recommendation for C.F. 314311, dated May 11, 2018. All conditions in the Hearing Examiner's recommendation are adopted.

Decision

The Council hereby GRANTS a rezone of the properties from NC2-40 to NC3-65(M1), as reflected in Attachment A, subject to the conditions set forth in the Property Use and Development Agreement (PUDA) attached to Council Bill 119303.

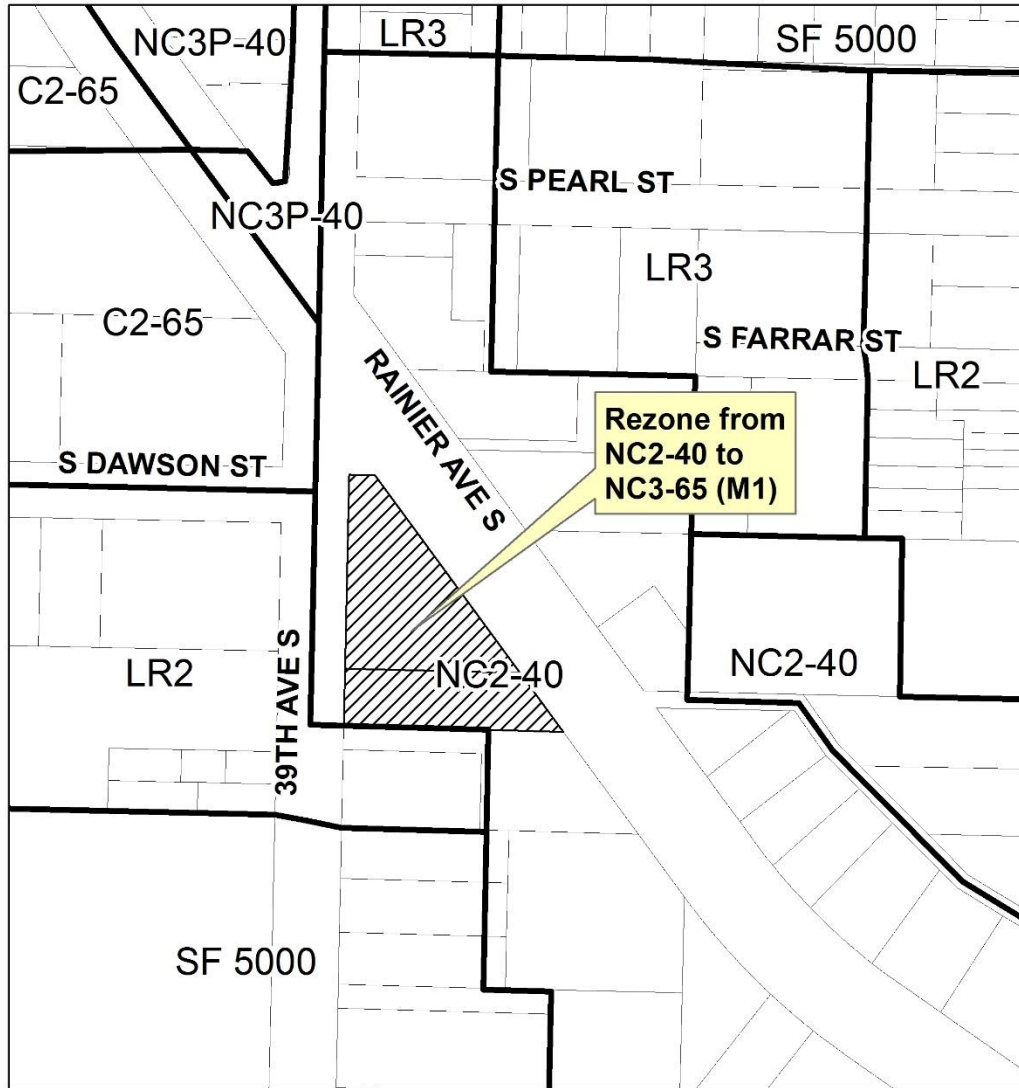
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
City Council President

# Attachment 3 – Proposed Council Findings, Conclusions, and Decision

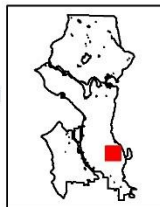
Findings, Conclusions and Decision  
5201 Rainier Avenue South, C.F. 314311  
Page 3

## ATTACHMENT A



Proposed Rezone  
SDCI Project No. 3018378  
5201 Rainier Avenue South

 rezone site



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City of Seattle. Prepared July 6, 2018  
by Council Central Staff.

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