

**Master Use Permit Numbers 3020114**

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HEARING EXAMINER

**APPELLANT INFORMATION**

**1. Appellant:**

Name: Livable Phinney, a Washington non-profit corporation  
c/o Michael Richards, registered agent  
6537 Greenwood Avenue North,  
Seattle, WA 98103

**2. Authorized Representative:**

Name: Jeffrey Eustis, Aramburu & Eustis, LLP  
Address: 720 Third Ave., Ste 2000  
City, State & Zip: Seattle, WA 98104  
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**DECISIONS BEING APPEALED**

1. **Decisions appealed:** Analysis & Decision in MUP File Nos. 3020114, dated January 23, 2017 (copy attached) and SDCI's response to request for interpretation.
2. **Property Address:** 6726 Greenwood Ave N, Seattle, WA
3. **Elements of decision being appealed.**

- Adequacy of conditions
- Variance
- Design Review and Departure
- Adequacy of EIS
- Conditional Use
- Interpretation (See SMC 23.88.020)
- EIS not required
- Short Plat
- Major Institution Master Plan
- Rezone
- Other (Specify:)

**APPEAL INFORMATION**

**1. What is your interest in this decision? How are you affected by it?**

- a. Livable Phinney is a Washington non-profit corporation organized to protect the interests of residents in the Phinney Ridge neighborhood. Members and

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supporters of Livable Phinney live in and use the vicinity of the proposed Phinney Flats development for walking, parking, aesthetic appreciation, and the enjoyment of their neighborhood. Livable Phinney and its members and supporters would be adversely affected by SDCI's approvals because the proposed development would have adverse environmental impacts, including adverse impacts upon views, neighborhood aesthetics and character, the transition from commercial to residential land use, the availability of parking, increased traffic flow resulting in increased noise and congestion in the vicinity of the project, which would impair their ability to use and enjoy their community.

### **2. What are your objections to the decision being appealed?**

- a. The Analysis and Decision was based upon an erroneous application of SEPA, Chapter 43.21C RCW, and the state and city SEPA regulations in that the approval was based upon a Determination of Non-Significance that was rendered without sufficient information and without actual consideration of environmental factors, including, but not limited to, the proposal's height, bulk, and scale, its impacts upon adjacent land uses and views, neighborhood aesthetics and character, the potential release of hazardous substances, environmental health, transit, and on-street parking.
- b. The Analysis and Decision was issued in violation of SEPA, for failure to be based upon an Environmental Impact Statement. The proposed development would create the likelihood of more than moderate adverse impacts upon the environment, including, but not limited to, the environmental elements of scenic resources, environmental health, aesthetics, land use, neighborhood character, transit, parking and the relationship to land use plans and design guidance. The Determination of Non-Significance (DNS) was issued in error.
- c. The Design Review process has failed to mitigate the proposal's impacts on neighborhood character and adjacent and nearby land uses because the Design Review Board recommendations failed to fully comply with required procedures and the applicable Citywide and Greenwood/Phinney Design Guidelines. The SDCI's determinations that the proposed development is compatible with surrounding land uses, that it conforms to height, bulk and scale policies, and that it conforms to the applicable design guidelines are in error. The proposal lies at a zone edge, would produce substantial problems of transition in scale, and warrants additional mitigation for incompatible height, bulk and scale.
- d. The Analysis and Decision was based upon an erroneous application of SEPA in that it relied upon traffic and parking studies which fail to fully and accurately assess the proposal's parking impacts with respect to existing and proposed on-street parking capacity, motor vehicle trips and parking demand generated by the proposal, and the availability and frequency of transit service. As a result, the Analysis and Decision was based upon a misapplication of SEPA in that it failed to recognize the existence and extent of unmitigated impacts to parking and access to transit and the availability of SEPA substantive authority to mitigate those impacts.

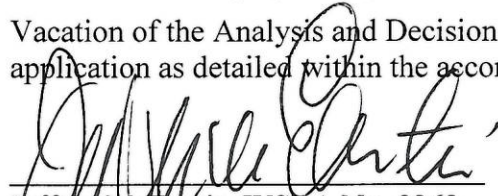
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- e. The Analysis and Decision was based upon the erroneous interpretation and application of the city Land Use Code, as outlined in the accompanying request for interpretation, incorporated herein by this reference. To the extent that SDCI determines that any issues presented in the interpretation request are not amenable to interpretation, Livable Phinney incorporates those issues into this appeal as if separately set forth herein. This appeal includes the appeal of the code interpretations rendered in response to its request and any interpretations related to its request, as necessary.

### 3. What relief do you want?

- a. Vacation of the Analysis and Decision based upon findings that the Determination of Non-Significance and Design Review recommendations were erroneously issued;
- b. Remand for preparation of an Environmental Impact Statement, or in the alternative for the imposition of additional conditions to mitigate adverse impacts as alleged in this appeal;
- c. Direction that SDCI present its response to the interpretation request at least 14 calendar days in advance of the hearing date in order to allow Livable Phinney sufficient time to prepare argument on SDCI's response; and
- d. Vacation of the Analysis and Decision based upon its erroneous interpretation and application as detailed within the accompanying code interpretation request.

Signature:

  
Jeffrey M. Eustis, WSBA No. 9262  
Attorney for Livable Phinney

Date: February 6, 2017

### Appeal and appeal fee delivered to:

Mailing Address: City of Seattle  
Office of Hearing Examiner  
P. O. Box 94729  
Seattle, WA 98124-4729

Physical Address: Seattle Municipal Tower  
700 5<sup>th</sup> Avenue, Suite 4000  
Seattle, WA 98104  
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Andrew McKim,  
Director, Code Interpretation and Implementation Section  
Seattle Department of Construction and Inspections  
P.O. Box 34019  
700 5<sup>th</sup> Avenue, Ste 2000  
Seattle, WA 98124-4019

Re: Request for Land Use Code Interpretation  
Phinney Flat, Application No. #3020114  
6726 Greenwood Ave N, Seattle, WA

Dear Mr. McKim:

Livable Phinney requests that SDCI issue a written interpretation pursuant to SMC 23.88.020(C)(3)(c) on several issues regarding SDCI's Decision to approve a 48 foot-tall mixed use building with 57 units and no on-site parking. The Decision involves a parcel zoned NC2-40 that abuts two single-family homes in the SF 5000 residential zone.

This interpretation request arises from the Analysis and Decision of the Director ("the Decision") originally issued on December 29, 2016, re-issued on January 9, 2017 and issued again on January 23, 2017. The Decision approved this exceptionally controversial project with minimal conditions and made no changes to the Design Review Board's Final Recommendation. The Decision failed to properly apply numerous applicable code provisions, including clearly defined Code terms, relating to: 1) building setbacks; 2) building height; and (3) the application of frequent transit requirements to justify no on-site parking. Livable Phinney's analysis in support of its interpretation of the applicable code sections is set forth within the attached memorandum of even date.

Livable Phinney has also filed a timely appeal of this Decision with the Hearing Examiner that will incorporate, as necessary, any remaining issues after SDCI issues its Interpretation. To allow sufficient time for review of and the preparation of briefing on SDCI's interpretation, Livable Phinney requests that the interpretation be presented at least 14 days prior to the date of the appeal hearing.

Payment of the \$2,800 fee stated in the January 23, 2017 Notice of Decision is enclosed. Livable Phinney pays this exorbitant fee under protest so as not to waive these issues in the

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Code Interpretation and Implementation Section  
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Hearing Examiner appeal. Appellant asks that this fee be waived and the check be returned on grounds that the request seeks interpretation of legal positions that the department has already decided to take and the fee (apparently with no upper limit) creates a significant barrier to the ability of citizens to review the lawfulness of the Department's actions in exercise of their First Amendment rights to seek redress of grievances. Instead, the issues presented through the request for interpretation should be reviewable by the Hearing Examiner (at a cost of \$85) along with other non-interpretation errors that arise from the Decision.

In the event that SDCI is unwilling to waive this fee, Livable Phinney asks that it be notified in advance if SDCI intends to charge more than the \$2,800 to issue the requested interpretation.

Thank you for your attention to this.

Sincerely yours,

ARAMBURU & EUSTIS, LLP

Jeffrey M. Eustis

Cc : Livable Phinney

Attachment

## INTERPRETATION REQUEST BY LIVABLE PHINNEY

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Livable Phinney, a Washington non-profit corporation, requests interpretation of the meaning and application of the code sections addressed below.

### **I. The Director should have required the upper level setbacks required in SMC 23.47A.014.B.3.**

The Decision approved this project with 10-foot upper level setbacks in the northeast portion of the building instead of the 15-foot upper level setbacks required in SMC 23.47A.014.B.3 (Setbacks).

SDCI applied the version of SMC 23.47A.014.B.3 in effect on September 3, 2015, the date the Application was deemed complete, to this project.<sup>1</sup>

On that date, SMC 23.SMC.014.B.3.a required:

“For a structure containing a residential use, a setback is required along any side or rear lot line that abuts a lot in a residential zone . . . , as follows” [specifying 15-foot upper level setback](emphasis added).

The 6726 Greenwood Avenue property is located on an NC2-40 parcel and shares a rear boundary with two single family homes. This is typical of virtually all commercial parcels in the Phinney Ridge neighborhood where the NC zone extends a half-block deep on the east and west sides of the Greenwood Avenue arterial, and the single family zone extends east and west from the shared rear property lines of the commercial parcels.

The zoning line separating the NC2-40 zone from the SF5000 zone is, in almost all locations, a straight N/S line drawn at 100 feet deep that corresponds to the shared rear property lines on almost every parcel in Phinney Ridge.

On a handful of commercial parcels, however, which are less than 100 feet deep, the rear lines do not match the zoning line because the zoning line remained at 100 feet even where an isolated commercial lot is not that deep. In those locations, the zoning line runs through a portion of the rear yards of the single family homes, resulting in a split-zoned lot.

The 6726 parcel, at 80 feet deep, is one of the few commercial parcels in Phinney Ridge that shares a rear boundary with split zoned lots. These lots have single family homes,

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<sup>1</sup> This code language was modified effective September 21, 2015, after the Application date, to make it abundantly clear, without need to reference numerous code definitions, that this section required upper level setbacks when a commercial parcel abutted a split-zoned lot. Although, as explained in Section II below, Appellants believe that SDCI mistakenly applied the old version of SMC 23.47A.014 to this project, that position does not affect this analysis that SDCI applied the old code language incorrectly.

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are occupied by single families, and are otherwise indistinguishable from any other home in the surrounding single family zone.

SDCI refused to require upper level setbacks because it determined, mistakenly, that SMC 23.47A.014.B.3 did not apply when a commercial parcel shared a rear boundary with a split-zoned lot. As a result of SDCI's error, the family living behind the northern portion of the 6726 project would have the upper three floors of the 6726 building looming over 45 feet high, just 10 feet from their property line.

- A. SDCI ignored the plain and unambiguous code language that requires a 15-foot upper level setback regardless of whether the zoning line separating commercial and single family zones follows precisely along the shared rear property line.**

The defined terms used in SMC 23.47A.014.B.3 demonstrate that the 15-foot upper level setback should have been applied here.

This section requires a setback "along any side or rear lot line that abuts a lot in a residential zone." (emphasis added).

The applicable defined terms are:

"**Abut**" means to border upon. SMC 23.84A.002

"**Lot**" means ...a parcel of land that qualifies for separate development or has been separately developed. A lot is the unit that the development standards of each zone are typically applied to. A lot shall abut upon and be accessible from a private or public street sufficiently improved for vehicle travel... SMC 23.84A.024

"**Lot lines**" means the property lines bounding a lot. SMC 23.84A.024

"**Lot line, rear**" means a lot line that is opposite and most distant from the front lot line. SMC 23.84A.024

A "**residential zone**" defined in the code under "**Zone, residential**" means a zone with a classification that includes any of the following: SF9600, SF7200, SF5000, RSL, LR1, LR2, LR3, MR, HR, RC, DMR, IDR and SM/R, . . ."SMC 23.84A.048

*See also* "**Zone, single family**" or "**SF zone**" means a zone with a classification that includes any of the following: SF5000, SF7200 and SF9600; and "**Zone, neighborhood commercial**" or "**Zone, NC**" means a zone with a classification that includes any of the following: Neighborhood Commercial 1 (NC1), Neighborhood Commercial 2 (NC2), . . . SMC 23A.84A.048.

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Substituting the plain and unambiguous definitions for the defined terms in SMC 23.47A.014.B.3, this section requires a setback “along any rear property line that borders upon a parcel of land that qualifies for separate development in a SF 5000 (single family) zone.”

It is undisputed that the two single family homes that share a rear boundary with the 6726 parcel are “lots” as defined in SMC 23.84A.024, and that they could only be developed pursuant to the development standards for single family zones, notwithstanding the few feet of NC2-40 in their backyards. Therefore, they are “lots in a residential zone.” The 6726 Greenwood parcel “abuts” these lots. The 15-foot upper level setback in SMC 23.47A.014.B.3, accordingly, is required, and the Director erred in refusing to impose the required 15-foot upper level setback.

SDCI’s refusal to apply this setback provision when a commercial parcel abuts a split-zoned lot misreads the plain and unambiguous code language. It eliminates the word “lot” from the text of SMC 23.47A.014.B.3. Instead of requiring setbacks along a rear property line that “abuts a lot in a residential zone,” SDCI’s approach requires a setback only where the rear property line abuts the residential zone itself. According to SDCI’s rationale, when a commercial parcel abuts a split-zoned lot, it “abuts” the NC portion of that lot, which is not a residential zone, and therefore no setbacks are required in this situation because SMC 23.47A.014.B.3 would not apply. SDCI’s approach, however, cannot be squared with the plain and unambiguous code language. The Director’s decision to ignore this code provision must be reversed.

**B. Even if the language of SMC 23.47A.014.B.3.a were considered ambiguous, SDCI’s reading of the statute would contravene legislative intent because adjacent parcels would be treated differently.**

The commercial parcel immediately south of the 6726 parcel is a deeper lot and the zoning line there aligns with the rear property line. SDCI’s application of SMC 23.47A.014.B.3 would lead to the absurd result that no upper level setbacks would be required on the 6726 parcel, but upper level setbacks would be required on the commercial parcel immediately south. And the single family homes behind the 6726 parcel could be stuck with a 40+ foot wall rising from their rear property line with no additional upper level setback, while their southern neighbor, whose backyard border corresponds to the zoning line, would benefit from 15-foot upper level setbacks required on the adjacent parcel.

It is unlikely that the Council intended such disparate impacts on neighboring single family homes simply because the zoning line was not modified around the handful of parcels in Phinney Ridge that do not conform to the otherwise uniform 100-foot deep commercial lots.

SDCI, therefore, should have applied the 15-foot upper level setbacks to the 6726 parcel, and the MUP application should be revised with appropriate setbacks.



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- C. If this Interpretation results in a determination that the 15-foot upper level setbacks in SMC 23.47A.014.B.3.a apply to this project, the additional setbacks in SMC 23.47A.014.B.3.b for portions of the structure above 40 feet also apply.**

An additional setback would be required pursuant to SMC 23.47A.014.B.3.b, which requires “[f]or each portion of a structure above 40 feet in height, additional setback at a rate of 2 feet of setback for every 10 feet by which the height of such portion exceeds 40 feet.”

The proposed project is more than 40 feet high, and therefore the eastern portion of the building that requires a 15-foot setback would also require an additional setback above the 40-foot height.

Because the grade of the 6726 parcel is several feet lower in the northeast portion of the 6726 parcel, the building heights in that area, as measured from the grade in that area, are higher than the stated heights in the MUP drawings.

If SDCI determines in its Interpretation that these above-40-foot setbacks are required, Livable Phinney requests that SDCI specify from what point the 40 foot height limit of SMC 23.47A.014.B.3.b is measured: (1) the actual elevation at the shared boundary, or (2) the average grade used in the height calculations.

- II. Even if SDCI determines the old version of SMC 23.47A.014.B.3 does not require upper level setbacks (Item #I, above), it still must apply the 15-foot upper level setbacks pursuant to the revised setback code language in effect at the first EDG meeting, based on the applicable provisions of SMC 23.76.026.C.2 and the facts of this case.**

If SDCI agrees with Livable Phinney on Question I above that the old version of SMC 23.47A.014.B.3 required 15-foot upper level setbacks, this question about which law applies may be unnecessary because it would result in the same requirement for 15-foot setbacks regardless of whether the new or old setback law was applied to this project.

If however, SDCI continues to insist that the old setback language does not compel upper level setbacks, the issue of whether SDCI should have applied the new setback code – which took effect shortly after the application date and was in effect at the first EDG meeting – must be addressed. It is undisputed that the new setback language, if applied to this project, would require 15-foot upper setbacks.

As a threshold matter, Livable Phinney does not believe that that determination is subject to interpretation. But in the event SDCI disagrees, Livable Phinney addresses the issue here.

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If SDCI agrees that this issue is not subject to the interpretation requirements of SMC 23.88.020 and should instead be argued directly to the Examiner, Appellants request that SDCI confirm that position in its Interpretation and not address the substance of this issue at this time.

**A. The issue of which law applies in this case requires a threshold determination of whether SMC 23.76.026.C.2 is subject to the code interpretation process.**

SMC 23.76.026.C specifies which law applies to a project, based on the events specified in each subsection. But SMC Chapter 23.76, contained in Title IV of the Administration section of Title 23, regulates procedures for MUPs.

SMC 23.88.020.A identifies an “interpretation” as “a decision by the Director as to the meaning, application or intent of any development regulation in Title 23...as it relates to a specific property... .” It specifically states that “[p]rocedural provisions and statements of policy are not subject to the interpretation process.” *Id.*

Appellants are aware of at least one Interpretation where SDCI has determined that SMC Chapter 23.76 is not a development regulation subject to the interpretation requirement.

If SDCI takes the position that SMC 23.76.026.C.2 is not a development regulation, it then would not be subject to the interpretation requirement of SMC 23.88.020.A, and the issue of which setback law applies to this project should be resolved directly, as necessary, by the Hearing Examiner, as raised in Livable Phinney’s concurrent appeal.

**B. If SDCI determines that this issue is subject to interpretation, the interpretation should conclude that SDCI should have applied the version of SMC 23.76.026.C.2 that was in effect on the application date, a determination that would have required this project to be reviewed under the revised setback language of SMC 23.47A.014.B.3.**

In abundance of caution, and to prevent any future argument that Livable Phinney failed to exhaust its administrative remedies on this issue, it includes within this interpretation request the issue of which version of SMC 23.76.026.C.2 applies to this project.

The issue of which law applies to this case arose because the Applicant rushed in a bare bones application on September 3, 2015, shortly before the effective date of legislation that changed several provisions of the Land Use Code including the applicable code language regarding upper level setbacks (SMC 23.47A.014.B.3) and which law applies if more than one EDG meeting was required during the design review process (SMC 23.76.026.C.2).

On September 3, 2015 (the application date), SMC 23.76.026.C.2 stated that if more than one EDG meeting was required, the complete MUP “shall be considered under the Land

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Use Code and other land use control ordinances in effect at the time of the first meeting. . .” (Emphasis added.)

On September 21, 2015, after the application date, Ordinance 124843 (the Land Use omnibus legislation) took effect. That ordinance changed not only the code language for upper level setbacks, but also the applicable language of SMC 23.76.026.C.2 regarding which law applies if more than one EDG meeting was required.

The new version of SMC 23.76.026.C.2 stated that if more than one EDG meeting was required, the complete MUP “shall be considered under the Land Use Code and other land use control ordinances in effect on the date a complete application for the early design guidance process is submitted to the Director. . . .” (Emphasis supplied.)

In this case, it matters which version of SMC 23.76.026.C.2 applies. The first EDG meeting occurred on October 19, 2015. The Design Review Board required a second EDG meeting. The new setback language of SMC 23.47A.014.B.3 was in effect on that date.

Therefore, according to the version of SMC 23.76.026.C.2 in effect on the application date, the 6726 project would be subject to the Land Use Code, including new setback language, in effect at the first EDG meeting. It is undisputed that the new code language required 15-foot upper level setbacks.<sup>2</sup>

SDCI, however, applied the new version of SMC 23.76.026.C.2 retroactively. This allowed the 6726 project to proceed under the old setback language in effect on the application date. As noted in Question #1 above, SDCI then misapplied that code language and allowed this project to proceed with inadequate setbacks.

SDCI should not have applied the new SMC 23.76.026.C.2 retroactively to this case. This project should have been governed by all of the land use code provisions in effect on the application date.

The tables on the next page show the applicable code provisions at the key dates:

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<sup>2</sup> The new SMC 23.47A.014.B.3 stated: “For a structure containing a residential use, a setback is required along any side or rear lot line that abuts a lot in a residential zone . . . , **or that abuts a lot that is zoned both commercial and residential if the commercial zoned portion of the abutting lot is less than 50 percent of the width or depth of the lot** as follows... [specifying upper level setback distances].” (New language emphasized in bold.)

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**Setback language of SMC 23.47A.014.B.3**

<p><b>Setback language of SMC 23.47A.014.B.3 on application date (September 3, 2015):</b></p> <p>“For a structure containing a residential use, a setback is required along any side or rear <u>lot line</u> that <u>abuts</u> a <u>lot</u> in a <u>residential zone</u> . . . , as follows” . . . [specifying upper level setback distances]</p>	<p><b>Setback language of SMC 23.47A.014.B.3 effective September 21, 2015, and in effect at first EDG meeting on October 19, 2015:</b></p> <p>“For a structure containing a residential use, a setback is required along any side or rear <u>lot line</u> that <u>abuts</u> a <u>lot</u> in a <u>residential zone</u> . . . , <b>or that abuts a lot that is zoned both commercial and residential if the commercial zoned portion of the abutting lot is less than 50 percent of the width or depth of the lot</b> as follows” . . . [specifying upper level setback distances]</p> <p>(new language in bold)</p>
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**SMC 23.76.026.C.2 (which law applies), before and after Application Date of project**

<p><b>Which law applies (SMC 23.76.026.C.2), in effect on application date, 9-3-2015:</b></p> <p>"If <u>more than one early design guidance public meeting</u> is held, then a complete application for a Master Use Permit that includes a design review component <b><u>shall be considered under the Land Use Code and other land use control ordinances in effect at the time of the first meeting</u></b>, “ [provided the MUP is filed in the specified time].</p>	<p><b>Which law applies (SMC 23.76.026.C.2) effective September 21, 2015 (after application date):</b></p> <p>"If <u>more than one early design guidance public meeting</u> is held, then a complete application for a Master Use Permit that includes a design review component <b><u>shall be considered under the Land Use Code and other land use control ordinances in effect on the date a complete application for the early design guidance process is submitted to the Director</u></b>, “ [provided the MUP is filed in the specified time]</p>
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**III. The alleged “clerestories,” that extend four feet above the building height for almost the entire west side of the building on Greenwood Avenue do not meet the definition of “clerestory” in SMC 23.84A.006, and the Director should not have allowed extra height for these structures pursuant to SMC 23.47A.012.C.2.**

The alleged clerestories on this project are two, flat-topped, four-foot high rectangular structures that collectively span approximately 75 feet of the 100-foot west façade along Greenwood Avenue, and extend more than 20 feet of the depth of the building. *See e.g.*, MUP plan set drawing A3.01, west elevation (October 5, 2016, most recent plan set available on SDCI website). The northern structure is approximately 25 feet long, and the southern structure is approximately 50 feet long.

These alleged clerestories create a 48-foot tall building in a NC2-40 zone. They add additional height to the tiny, west-facing, fourth floor dwelling units and enable the addition of “mezzanines” in those units. The Director granted this additional height for these alleged clerestories pursuant to SMC 23.47A.012.C.2 (additional height for specified rooftop features).

**A. The alleged clerestories on the 6726 building do not meet the definition of clerestory.**

SMC 23.84A.006 defines “Clerestory” as “an outside wall of a building that rises above an adjacent roof of that building and contains vertical windows. Clerestories function so that light is able to penetrate below the roof of the structure.” (emphasis added)

The eastern walls of the purported clerestories in the 6726 building do not contain any windows, and they are not part of an outside wall of a building. *See e.g.*, Sheet A3.02 of MUP set dated October 5<sup>th</sup>, 2016 (east elevation). Instead, they are four-foot high, solid walls that protrude upward from the interior section of the roof extending along almost the entire roofline, adding four more feet to a building already granted four extra feet of height under SMC 23.012.A.1.a.1.a (additional four feet of height for a 13 foot first floor commercial use).

These substantial roof structures create a 48-foot tall building that looks like a five-story building in a NC2-40 zone as viewed from Greenwood Avenue. These massive flat-topped structures with a windowless wall that span almost the entire length of the building should not have been allowed because they do not meet the definition of “clerestory.”

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**B. The alleged clerestory structures on the 6726 building are not the type of “clerestory” envisioned in SMC 23.47A.012.C.2 that allows extra height for specified rooftop features.**

The Director granted an additional four feet of height for these alleged “clerestory” structures pursuant to SMC 23.47A.012.C.2, which allows additional height for specified rooftop features including “[o]pen railings, planters, skylights, clerestories, greenhouses, solariums, parapets, and firewalls” (emphasis added).

Even if a clerestory could technically contain a windowless wall, the massive, flat-topped structures on the 6726 building are not the clerestories that fit within this section.

With the exception of firewalls, none of the listed items in SMC 23.47A.012.C.2 describe a feature that would erect a four foot, virtually solid wall across almost the entire length of the building as do the “clerestory” structures that SDCI allowed on the 6726 building. Instead, SMC 23.47A.012.C.2 identifies rooftop features that are either clear (e.g., open railings, greenhouses), or intermittent design features (e.g., planters, skylights, parapets). Accordingly, the Director erred in granting four additional feet of height under this section, particularly after already allowing four feet of additional height under SMC 23.47A.1.a.1.a. The clerestories, as depicted in the Decision and accompanying MUP drawings, should be removed.

**C. The Director lacked sufficient evidence to demonstrate that the clerestory structures, even if allowed under other provisions of the code, could be located within 10 feet of the north edge of the building.**

SMC 23.47A.012.C.7 requires that specified rooftop features, including clerestories “shall be located at least 10 feet from the north edge of the roof unless a shadow diagram is provided that demonstrates that locating such features within 10 feet of the north edge of the roof would not shade property to the north on January 21<sup>st</sup> at noon more than would a structure built to maximum permitted height and FAR.”

The required shadow studies were not provided until November 1, 2016, long after the design review process was completed, despite repeated public comments (including at design review meetings) about this omission. The shadow studies finally provided are too inconclusive and potentially inaccurate to support the Director’s Decision to allow the massive clerestory structures within 10 feet of the north edge of the building.

**IV. The extra height from the clerestories was combined unlawfully with the extra height provided in SMC 23.47.012.A.1.a.1.a to allow for an extra mezzanine level in the fourth floor units beneath the clerestories in violation of SMC 23.47A.012A.1.a.2.**

The Director allowed the 6726 building an extra four feet of height above the applicable 40-foot height limit because the building purports to provide a floor-to-floor height of at

## INTERPRETATION REQUEST BY LIVABLE PHINNEY

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least 13 feet for non-residential uses at the street level. *See* SMC 23.47A.012.A.1.a.1.a.. Such extra height, however, is only allowed if it “will not allow an additional story beyond the number that could be built under the otherwise applicable height limit.” SMC 23.47A.012.A.1.a.2 (emphasis added).

The 6726 building has unusually low floor-to-floor heights on the second and third floors (9'-1 ¼”), and a substantially higher floor-to-floor height on the fourth floor (11’5”). The clerestories then add four additional feet of height to the fourth floor for a 15’5” floor-to-floor height on the west side. *See e.g.*, MUP elevation drawings A3.01 – 3.04. That extra height was used to incorporate “mezzanine” levels into the west-facing fourth floor units. *See e.g.* MUP set drawing A2.15.

SMC 23.84A.036 defines "Story" as “that portion of a structure included between the surface of any floor and the surface of the floor next above, except that the highest story is that portion of the structure included between the highest floor surface and the ceiling or roof above.” (Emphasis added.)

The extra height of the clerestories combined with the extra height allowed for a 13-ft first floor enabled the Applicant to create an additional story beyond the number of stories that could otherwise be built in a NC2-40 zone. The Decision to allow the extra height under SMC 23.47A.012.A.1.a.1.a violated the conditions for such extra height in SMC 23.47A.012.A.1.a.2.

### **V. SDCI lacked sufficient information to determine whether the additional height allowed for the building would unlawfully block protected views.**

The Decision approved a 48-foot tall building in a NC2-40 zone without adequate or accurate information to determine whether the additional height would block protected views.

SMC 23.47A.012.A.1.c requires that “[t]he Director shall reduce or deny the additional structure height allowed by this subsection 23.47A.012.A.1 if the additional height would significantly block views from neighboring residential structures of any of the following: Mount Rainier, the Olympic and Cascade Mountains, ... [and] Green Lake... .” (Emphasis added.)

The 6726 parcel is located at the top of Phinney Ridge. Buildings in the immediate vicinity enjoy views of Mt. Rainier, the Olympic and Cascade Mountains, and Green Lake, all of which are protected views under SMC 23.47A.012.A.1.c.

The Decision granted four feet of additional height pursuant to SMC 23.47A.012.A.1.a.1.a, and an additional four feet of height for the massive clerestory structures pursuant to SMC 23.47A.012.C.2, creating a 48 foot tall building in the protected view-sheds of the neighboring residential structures. The Decision contains no specific finding that the additional height would not block protected views of Green

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Lake, the Cascade Mountains, or Mt. Rainier, all of which can be seen from adjacent mixed use buildings, including the Fini Condos at 6801 Greenwood Avenue N and the Isola condos, currently under construction at 6800 Greenwood Avenue N. The Decision at 28 simply asserts, without substantiation, that height, bulk and scale of the project and its relationship to nearby structures and uses were addressed in Design Review and no further SEPA mitigation is required.

The alleged view studies included in the October 5, 2016 MUP set are incomplete, misleading, and inaccurate, and otherwise insufficient to determine that the 6726 building would not block protected views.

These view studies contain a number of obvious errors, including: (1) the viewing angles used to determine potential view blockage from the Fini Condos to the west are not identified as is typically done in view studies, so their accuracy and assumptions are unknown; (2) the applicant failed to provide any view angle studies from the Isola building to the north, but only offered the conclusory statement that “with or without the additional height, any views will be impacted;” (3) the drawing of the Isola building mislabels the roof elevation at 373’, an elevation three feet higher than indicated on the Isola plans; (4) the drawing used to support the conclusory statement about the Isola building shows a height change from 44 to 48 feet, not 40 to 44 feet as required in the code; (5) the computer-generated images against a cloudy background with the Cascade Mountains drawn in and Green Lake barely visible are misleading and do not match the actual views from the Fini; and (6) the computer-generated images do not depict the impact of increasing the height from 40 to 44 feet.

These substantial errors and omissions prevented SDCI from making an informed decision about whether to allow any additional height to this building for either the height bonus for a 13-foot first floor or the massive clerestory structures or both. The Decision to allow additional height must be reversed until comprehensive and accurate information about view impacts is provided.

### **VI. SDCI erred in allowing the elevator shaft to reach 60 feet above grade level because it calculated the starting height from the wrong elevation in violation of 23.47A.012.A.**

The Decision approved an elevator shaft that is 60 feet above grade (elevator penthouse elevation of 386.11 feet; AGP of 326.11. The maximum height of the elevator shaft should have been 56 feet above AGP (382.11 feet elevation, based on the AGP in the drawings). The approved elevation of the elevator shaft is four feet too high.

SDCI erred because it calculated the 16-foot extra height allowed for an elevator shaft from the wrong starting point, and as a result approved a building with an elevator shaft that is 4-feet too high.



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SMC 23.47A.012.C.4 allows stair and elevator penthouses to “extend above the applicable height limit up to 16 feet.” SMC 23.47A.012.C.4.f (emphasis supplied).

“Applicable height limit,” the starting point referenced in this elevator height extension provision, refers to the 40-foot height of the NC zone. See SMC 23.47A.012.A (“The height limit for structures in NC zones . . . is 30 feet, 40 feet, 65 feet [etc]. . . . Structures may not exceed the applicable height limit, except as otherwise provided in this Section 23.47A.012”). (Emphasis supplied.)

Because the elevator height extension provision (SMC 23.47A.012.C.4.f) authorizes an extension above the “applicable height limit,” the extension must be measured from a height of 40 feet. The elevator extension, accordingly, would reach a maximum height of 56 feet above grade (not 60 feet as allowed in the Decision).

Because SDCI had already granted a four-foot height extension (to 44 feet, shown in drawings at AGP 370.11 “ht max”) pursuant to SMC 23.47A.012.A.1.a.1.a (for 13-foot first floor), it could not add the full 16 foot elevator extension on top of the height extension it already awarded. But that is what it did. It added a 16-foot elevator on top of a 44-foot roof, and as a result, SDCI approved an elevator shaft that extends 20 feet above the applicable height of 40 feet, when the applicable code allows only a 16-foot extension. See e.g., MUP plan set at A3.01-04 (elevations). SDCI should have allowed the elevator shaft only 12 feet additional height above the 44-foot rooftop. The elevator shaft, therefore, should have reached only 382.11 feet elevation instead of 386.11 feet as approved in the Decision.

### **VII. SDCI lacked adequate information to conclude that the “frequent transit service” exclusion authorized no on-site parking for this 57 unit building.**

SDCI refused to require onsite parking for this 57-unit building because “[t]his site is located in an Urban Village within 1,320 feet of frequent transit service” and therefore, “regardless of the parking demand impacts, no SEPA authority is provided to mitigate impacts of parking demand from this proposal.” Decision at 29 (emphasis supplied). The SEPA errors raised by this conclusion are part of Livable Phinney’s appeal to the Hearing Examiner. The errors under Title 23 are part of this interpretation request.

SMC 23.54.015.A imposes minimum parking requirements. Table B, Item M of this section authorizes a “no minimum parking requirement” for “[a]ll residential uses in commercial and multifamily zones within urban villages . . . if the residential use is located within 1,320 feet of a street with frequent transit service, measured as the walking distance from the nearest transit stop to the lot line of the lot containing the residential use.” (Emphasis supplied.)

“Frequent transit service,” defined in 23.84A.038 (“Transit service, frequent”), means “transit service headways in at least one direction of 15 minutes or less for at least 12

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hours per day, 6 days per week, and transit service headways of 30 minutes or less for at least 18 hours every day.”

SDCI lacked adequate information to conclude that the frequent transit service exception applies to the 6726 site. It relied exclusively on a 2015 Metro bus schedule provided by the Applicant in October 2015 to satisfy the frequent transit service exception. It did not investigate or require additional information to determine if the headways indicated in the schedule were actually achieved at that time, or were achieved more than a year later when it issued the Decision.

SDCI’s previous Director’s Rule on this topic was rescinded after it was declared unlawful in 2014, and Appellants are not aware of any revised Director’s Rule on this topic since that time. SDCI’s reliance on a bus schedule alone, without further evidence of reliability, is not sufficient to demonstrate that nearby transit service actually meets the specific criteria for consistent regularity that the Council required. Accordingly, the frequent transit exclusion should not have been applied to this project.



**City of Seattle**  
Edward B. Murray, Mayor

**Department of Construction and Inspections**  
Nathan Torgelson, Director

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

**Application Number:** 3020114  
**Applicant Name:** Jay Janette, Skidmore Janette Architects, for Johnson Carr LLC  
**Address of Proposal:** 6726 Greenwood Avenue N

**SUMMARY OF PROPOSAL**

Land Use Application to allow a 4-story structure containing a total of 55 apartment units, 2 live-work units, and retail space totaling 2,900 sq. ft. on the first level. No parking is proposed. Existing structure is to be demolished.

The following approvals are required:

- Design Review - Seattle Municipal Code (SMC Section 23.41)**
- SEPA - Environmental Determination (SMC 25.05)**

**SEPA DETERMINATION:**

Determination of Non-Significance

[X] Pursuant to SEPA substantive authority provided in SMC 25.05.660, the proposal has been conditioned to mitigate environmental impacts

**PROJECT DESCRIPTION**

The applicant proposes to demolish a single-story commercial building at the corner of N 68<sup>th</sup> Street and Greenwood Avenue N. on a lot totaling 8,036 square feet and currently zoned NC2-40, and to erect on the site a mixed-use structure with 55 apartment units, ground-floor retail and two live-work units.



### Site & Vicinity

Current adjacent zoning to the north, south, east and west is likewise zoned Neighborhood Commercial 2 with a 40-foot height limit. The two adjacent lots located to the east of the subject property are split-zoned, NC2-40, with a zone boundary approximately 20-feet, 7-inches from the subject site, and Single Family 5000 as the lots extend to the east, with their boundaries along Phinney Avenue N. Each of the two lots is developed with a single family residence and a garage that abuts the subject site.

The neighborhood is generally a mix of older commercial and residential buildings, several of distinguished character. New development, actual and proposed, generally has taken advantage of increases in allowable heights. West of the proposal site, across Greenwood Avenue N., is a more recently constructed mixed-use building with commercial uses on the ground floor and three stories of residential uses above. Directly across N.68<sup>th</sup> Street to the north, the *Isola* mixed-use structure, comparable in height to the proposed building, is currently under construction.

The proposed site is a regularly shaped rectangle located adjacent to Greenwood Avenue N. and to N. 68<sup>th</sup> Street. The site lies one half a block north of where the arterial of Phinney Avenue N. jogs west a short block to join Greenwood Avenue N. as a continuation of the arterial. There are three street trees adjacent the site within the planting strip along the arterial, Greenwood Avenue N. The intention is to retain these trees and to add two street trees within the planting strip on N. 68<sup>th</sup> Street, designated a residential street.

Vehicular access to the site is currently by means of a curb cut off N. 68<sup>th</sup> Street which allows access to a driveway and loading and parking spaces behind (to the east of) the commercial building that faces onto Greenwood Avenue N. In the applicants' preferred scheme there would be no parking or loading spaces located on site. The residential lobby would be located off N. 68<sup>th</sup> Street; pedestrian entries to ground-floor commercial spaces would be located off Greenwood Avenue N. The site is relatively flat, with a slight rise from south to north. There is a pronounced declination, west to east, as one ventures east along N. 68<sup>th</sup> Street towards Green Lake, but the site drops only slightly less than three feet from the west to the east property line. There are no environmentally critical areas on the site.

The mixed use structure that is being proposed will accommodate 55 efficiency residential units, with 2,900 square feet of ground floor retail space and two live-work units. No parking of motorized vehicles is proposed, but 23 onsite bicycle stalls will be provided.

### Public Comment

The public comment period ended on March 30, 2016. 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. On July 25, 2016, at the request of neighbors to the proposal, a special public meeting was held to provide an opportunity for expanded expression of concerns regarded by the Department outside the purview and jurisdiction of the Design Review Board. The subjects of public comment related to incompatibility to existing neighborhood character, relationship to adjacent buildings, insufficient size of the residential units, the possibility of contaminants on site, and to increased traffic and parking impacts. Some of the various comments received were beyond the scope of this review and analysis, per SMC 25.05.

## I. ANALYSIS --DESIGN REVIEW

### **FIRST EARLY DESIGN GUIDANCE October 19, 2016**

The packet includes materials presented at the meeting, and is available online by entering the project number (3020114) 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 Seattle DCI:

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

**Email:** [PRC@seattle.gov](mailto:PRC@seattle.gov)

## **DESIGN DEVELOPMENT**

The project proposes a 4-story structure, with the majority of residential units located above a ground floor of commercial space, two live-work units and some residential units. Four options were presented at the meeting with minor massing differentiation. The first floor space running the full extent of the building parallel to Greenwood Avenue N. in each of the schemes occupied approximately one half the depth of the lot. Common to each was a residential lobby off N. 68<sup>th</sup> Street, bordered by a brace of live-work unit spaces, one directly against the east property line. Small ground floor residential units and mechanical and garbage rooms filled out the rest of the ground floor and east half of the lot without variation in individual locations. The differentiation in schemes occurred above the ground level, with Option A providing a second level court partially along the eastern property line (and a confusing first level court that did not appear to be aligned with the proposed first floor residential units). Option B had a second level central court open to the south. Option C was characterized by a ground floor chamfered northwest corner and an amenity area in the southeast corner. Option D was "T"-shaped, with both the east and west facades tucked in at their southern halves. A rooftop amenity area was spoken of but not delineated; it would be set back from Greenwood Avenue N. and oriented to eastern views, at least in Option A. No departures would be needed for any of the proposed schemes, according to the presentation.

## **PUBLIC COMMENT**

More than fifty individuals attended the EDG meeting, with 47 signing in to become parties of record. About 14 of those individuals signed in to speak at the EDG public meeting. Additionally, the Department had received approximately 25 letters regarding the proposal prior to the public meeting. Among the primary concerns expressed, in both written and oral comments, was the lack of parking proposed for the development, a matter over which the Board has no jurisdiction. Among other concerns and issues the following were expressed:

- While providing parking was a Code requirement for neither the commercial or residential components of the proposed building, there was still a legitimate need to provide for loading and unloading on site and not to rely on the public right-of-way for these essential building functions;

- No separate service entries were shown for the commercial parts of the building;
- Asserted that the design “options” were essentially the same box;
- It was thought that none of the options particularly embraced gestures that were apropos of the actual site, its adjacencies, or the neighborhood context;
- The planned retail spaces would be better in keeping with the neighborhood patterns and norms if conceived as marketable to smaller businesses;
- Wants it to fit into the neighborhood, be compatible with the “porch time” customs of neighbors to the east;
- All the proposed alternatives are out of proportion to their contexts since none show adequate deference to the single family residences to the east of the site;
- Requested that the Board bring the project back for a second EDG meeting since none of the proposed designs showed any acknowledgement of the single-family residences just east of the site;
- The proposed location of garbage storage on site for each of the four options did not appear to be kind to either the single family residence to the east nor to the multifamily structure due south of the site;
- Concerns were raised regarding: shadows to be cast, safety, noise;
- Although four schemes had been presented, none seemed to have been true alternative designs;
- Comment: “Don’t just consider what is allowable but what is right.”

## BOARD DELIBERATIONS

The Board thanked members of the public for their comments and noted that several of the concerns expressed were ones shared by members of the Board. The Board’s comments and discussion were focused on these major points:

- The relationship of the project to the single-family residences to the east: massing and setback issues;
- The differences between Greenwood Avenue N., a commercial street, and N. 68<sup>th</sup> Street, a residential street, and how the building should respond to each street-front in different ways;
- Requested a clarification of what real, discrete choices were contained in the so-called options;
- The treatment of the northwest corner, both on the ground floor and along the entire height of the structure;
- The question of how the building might be serviced by trucks;
- The privacy of the neighbors, south and east of the project;
- Considerations for neighbors to the south and east in dealing with garbage storage and pickup.

Despite some thinking that the proposed schemes lacked much difference, a couple of the Board members suggested that the scheme of two discrete bars shown in Option A pointed to a useful and promising *parti* for a successful building on this site. Co-extensive with the ground floor retail space, and extending upward through three floors of residential units along the width of the lot on Greenwood, the front “mixed” bar suggested a differentiation and independence from the second bar to the east which could then be conceived as a residential block, including ground floor residential entry and street-facing residential units, perhaps, rather than live-work units.

The Board also agreed it more appropriate that any rooftop amenity space be pushed forward to Greenwood Avenue N. and away from the single family homes to the east.

It was suggested by some members that the Board would be agreeable to entertain departure requests if such could facilitate the supplanting of the proposed live-work units with residential units on N. 68<sup>th</sup> Street; it was thought that this could be a part of a solution to providing a better transition to the single family residential lots to the east of the subject site.

Difficult issues remained, however, regarding the proposed massing in relationship to the structures east of the site. Likewise, proper servicing of the site (loading and unloading space on site), locations of garbage storage, and appropriate division and appointments of the proposed retail commercial spaces were in need of further exploration and clarification.

Although not shown in the packet, the design team had noted that they had contemplated the possibility of providing basement space, which might accommodate bicycle storage, among other functions. Bike storage and access was an important issue for a successful building in the Board's view. If basement storage were to be seriously proposed, the Board would expect to see any basement area more fully developed and incorporated into the floor plans.

The Board thought it important for the applicants to study existing and proposed commercial and mixed-use building frontages in the area and to search out established or compatible patterns regarding size and treatment of building bays, fenestration and variations in the use of materials among other factors.

The applicants were encouraged by the Board to meet with neighbors who were concerned about the impacts and design of the proposal

<b>BOARD PRIORITIES</b>
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At the conclusion of the First Early Design Guidance meeting, the Board recommended, by a vote of 4-0, that the project return for another meeting in response to the guidance provided, including the specific studies, revisions and drawings discussed above.

Specific, but not all-inclusive, items needed for the next EDG meeting were the following:

- a) Include a site survey which includes elevational notations in the packet
- b) Show three alternative designs, Code compliant (or with departures clearly identified) and responsive to the Board's guidance from the first EDG meeting
- c) Include east/west sections of each alternative which include the entirety of the lots immediately to the east
- d) Light/shadow comparisons should be prepared for the alternatives
- e) Include a fuller streetscape analysis of existing commercial and mixed-use buildings in the area, an analysis that entails more than points of entry and deals with entry treatment, materials, windows, window treatments, lighting, signage, landscaping, etc. The analysis should go beyond a mere showing of pictures
- f) Include at least a preliminary, but detailed, landscape plan for the preferred option.

The priority Citywide and Neighborhood 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

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

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

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

### **CS1-C Topography**

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

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

### **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-C Relationship to the Block**

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

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

#### **CS2-D Height, Bulk, and Scale**

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

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

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



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

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

***Greenwood/Phinney Supplemental Guidance:***

**CS2-I Streetscape Compatibility**

**CS2-I-i. Reinforcement of Commercial and Residential Development Patterns:**

a. Build commercial development up to the sidewalk where possible. Along North/Northwest 85th Street, new commercial buildings should be set back sufficiently to provide 12-foot minimum sidewalks (including street trees and other plantings). Commercial buildings may be setback off the street if pedestrian-oriented space is provided that is enhanced with humanizing components such as trees and other plants, site furnishings and high-quality, well detailed pavements between the sidewalk and the building.

b. Residential buildings (on Greenwood Avenue North and North/Northwest 85<sup>th</sup> Street) should be setback where possible five to 15 feet from the sidewalk to provide extensive landscaping in the front yard. When possible, first floor residential units facing Greenwood Avenue North or North/Northwest 85<sup>th</sup> Street should be located at least three feet above the sidewalk level to provide a sense of privacy and surveillance over the street.

**CS2-I-ii. Treatment of Side Streets:** Some treatment of side-streets off of Greenwood Avenue North and 85th Street is important to create an effective transition to residential neighborhoods. Some options to consider include:

- a. setbacks with view-framing landscaping (see CS1)
- b. arbors with hanging plants
- c. small outdoor spaces with trees and landscaping.

**CS2-II Height, Bulk and Scale Compatibility**

**CS2-II-i. Impact of New Buildings on the Street:** Consider the setback of upper stories of new mixed-use development on Greenwood Avenue North and North/Northwest 85<sup>th</sup> Street to reduce the dominance of new buildings on the street. Also, new commercial development should respect the small-scale historical pattern of storefronts on Greenwood Avenue North. Typically, the older storefronts are about 50 feet in width and feature brick, stone or other masonry units. Some also feature architectural details that provide interest and a human scale to the buildings.

**CS2-II-ii. Zone Edges:** Careful siting, building design and massing are important to achieve a sensitive transition between more intensive and less intensive zones. Consider design techniques including:

- a. increasing the building setback from the zone edge at the ground level;
- b. reducing the bulk of the building's upper floors nearest to the less intensive zone;
- c. reducing the overall height of the structure; and
- d. using extensive landscaping or decorative screening.

**CS2-II-iii. Design departures:** If alternative techniques are used to successfully achieve a sensitive transition between these zones, the following departures, as set forth at SMC 23.41.012, are suggested for consideration in the Design Review process, to offset the loss of any development opportunity within the Greenwood/Phinney neighborhood:

- a. relax the minimum size limit for nonresidential uses—allow up to a 15 percent reduction in the required commercial area
- b. relax the residential amenity or setback requirements.

c. allow for a building's ground floor to be built to the property line of the less intensive zone as long as the building wall is less than a single story, contains no windows and upper floors are stepped back appropriately.

**CS2-III Architectural Context/Building Entrances**

**CS2-III-i. Entrances:** Even when the principal off-street parking areas are located on the side of the building, a primary building entrance should be located at the corner. This concept is consistent with traditional neighborhood commercial designs and important in facilitating pedestrian activity at the street corners.

**CS2-V Street Pattern**

**CS2-V-i. Continuity:** New development should respond to the existing street pattern to create pedestrian and visual continuity.

**CS2-VI Structure Orientation**

**CS2-VI-i. Orientation:** Buildings should generally be built to the edge of sidewalks without setbacks so that ground floor uses are visible and accessible from the pedestrian circulation system. The impacts of new structures on solar exposure should be considered. Buildings located on corners should be oriented to the corner and include entries, windows, canopies or other special architectural treatment. Automobile access, circulation or parking should not be located at the intersections of public streets. Blank walls should be avoided where possible and mitigated with architectural treatment where they are unavoidable.

**CS2-VII Mass and Scale**

**CS2-VII-i. Reducing Visual Mass:** Consider reducing the impact or perceived mass and scale of large structures by modulating upper floors; varying roof forms and cornice lines; varying materials, colors and textures; and providing vertical articulation of building facades in proportions that are similar to surrounding plat patterns.

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

**CS3-A Emphasizing Positive Neighborhood Attributes**

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

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

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

**Greenwood/Phinney Supplemental Guidance:**

**CS3-I Architectural Concept and Consistency**

**CS3-I-i. Architectural Styles:** The Greenwood Avenue North/Phinney Avenue North and North/ Northwest 85th Street corridors are characterized by their utilitarian, non-flamboyant, traditional architectural styles (except for churches). Some important points to consider in making new development consistent and compatible with existing development include:

a. small-scale architectural details at the ground level, including color, texture/patterns, materials, window treatment, sculptural elements, etc

- b. landscaping is an important component of the overall character, particularly for residential development
- c. personalization of individual businesses is a key feature of both corridors.

### **CS3-II Compatibility**

**CS3-II-i. Existing Pattern:** Consider using the human-scale historical pattern of storefronts on Greenwood Avenue North as a guide in developing new structures abutting Town Center streets. New development should respond to Greenwood's existing context by matching window and opening proportions, entryway patterns, scale and location of building cornices, proportion and degree of trim work and other decorative details, and employing a variety of appropriate finish materials.

## **PUBLIC LIFE**

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

### **PL2-A Accessibility**

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

### **PL2-B Safety and Security**

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

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

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

### **PL2-C Weather Protection**

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

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

### ***Greenwood/Phinney Supplemental Guidance:***

#### **PL2-I Pedestrian Open Spaces and Entrances**

**PL2-I-i. North/Northwest 85th Street Corridor and Greenwood Avenue North Corridor, North of North 87th Street:** New development should enhance the pedestrian environment and encourage pedestrian activity along the North/Northwest 85th Street corridor and the Greenwood Avenue North corridor, north of North 87th Street. The following measures should be encouraged:

- a. Building entries facing the street
- b. Pedestrian-oriented facades
- c. Weather protection
- d. Below-grade parking, when possible

**PL2-I-ii. Pedestrian Amenities:** When possible, new development should integrate pedestrian amenities including but not limited to street trees, pedestrian lighting, benches, newspaper racks, public art and bike racks to maintain and strengthen pedestrian activity.

## **PL2-II Pedestrian Lighting**

**PL2-II-i. Safety and Comfort:** Pedestrian street lights should conform to the existing Greenwood lighting design plan (Lumec Z-14 Green finish GN8TX). New buildings are encouraged to incorporate custom lighting fixtures along sidewalks and public pathways. Special care should be made to not over-illuminate.

## **PL2-III Street Elements**

**PL2-III-i. Public Art:** Small signs— especially blade signs that hang over sidewalks— should be incorporated. Signage for way-finding, especially parking, is encouraged. Coordinate signage plans with the Greenwood/Phinney Neighborhood Plan.

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

### **PL3-A Entries**

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

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

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

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

### **PL3-B Residential Edges**

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

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

**PL3-B-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-A Entry Locations and Relationships**

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

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

**PL4-B Planning Ahead for Bicyclists**

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

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

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

<b>DESIGN CONCEPT</b>
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**DC1 Project Uses and Activities: Optimize the arrangement of uses and activities on site.**

**DC1-A Arrangement of Interior Uses**

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

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

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

**DC1-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-C Parking and Service Uses**

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

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

**DC2-A Massing**

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

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

**DC2-B Architectural and Facade Composition**

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

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

**DC2-D Scale and Texture**

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

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

**DC2-E Form and Function**

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

***Greenwood/Phinney Supplemental Guidance:***

**DC2-I Architectural Context**

**DC2-I-ii. Commercial and Mixed-Use:** Façade modulation and articulation are less critical in commercial or mixed-use structures as long as appropriate levels of detail are present to break up the façade. Many of these structures are simple boxes that are well fenestrated and contain a number of details that add interest at the ground level and lend buildings a human scale. Modulation of commercial and mixed-use structures at the street level is discouraged unless the space or spaces created by the modulation are large enough to be usable by pedestrians.

**DC2-II Human Scale**

**DC2-II-i. Building Composition:** New multi-story developments should consider methods to coordinate a building’s upper and lower stories. The parts should function as a composition—not necessarily requiring the top and bottom to be the same or similar.

**DC2-III Mass and Scale**

**DC2-III-i. Perceived Mass:** Consider reducing the impact or perceived mass and scale of large structures by modulating upper floors; varying roof forms and cornice lines; varying materials, colors and textures; and providing vertical articulation of building facades in proportions that are similar to surrounding plat patterns.

**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.

#### **DC4-B Signage**

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

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

#### **DC4-C Lighting**

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

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

#### **DC4-D Trees, Landscape, and Hardscape Materials**

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

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

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

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

***Greenwood/Phinney Supplemental Guidance:***

**DC4-I Architectural Context**

**DC4-I-i. Signage:** The design and placement of signs plays an important role in the visual character and identity of the community. Key aspects of this effort are to ensure that the signs are at an appropriate scale and fit in with the building's architecture and the local district. Small signs are encouraged in the building's architecture, along a sign band, on awnings or marquees, located in windows or hung perpendicular to the building façade. The following signs are generally discouraged:

1. Large illuminated box (back-lit "can") signs, unless they are treated or designed to be compatible with the character of surrounding development. Back-lit awnings should be limited to one horizontal-mounted lighting tube. Small neon signs are an alternative as long as they are unintrusive to adjacent residences.
2. Pole-mounted signs. Small monument signs are encouraged as part of low walls screening parking and abutting pedestrian-oriented space. Design should not present a visibility problem to a driver, pedestrian or bicyclist.

**DEVELOPMENT STANDARD DEPARTURES**

It was noted that the Board's recommendation on any requested departure(s) would 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 on any departure would be reserved until the final Board meeting.

At the time of the **First** Early Design Guidance, no departures were requested.

**BOARD DIRECTION**

At the time of the Early Design Guidance meeting the Board recommended that the project be returned for an additional EDG meeting.

**SECOND EARLY DESIGN GUIDANCE MEETING: January 11, 2016**

The Early Design Guidance packet for the Second EDG Meeting includes materials presented at the meeting, and is available online by entering the project number 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)

**Responses by the Design Team to the Board's Guidance from the First EDG Meeting:**

- The preferred design had been further developed to provide a more sensitive transition to the single-family residential structures to the east;
- The rooftop amenity area, while still located on the eastern portion of the building, were said to respect the privacy of the adjacent properties to the east;
- An analysis of neighborhood patterns of setbacks had been included;
- An analysis of other mixed-use and commercial structures in the area had been undertaken and cues taken for determining types and sizes of modulation, fenestration patterns and use of various materials;



- An analysis of entries and service locations had been undertaken; the floor plans included location and amount of storage provided for bicycles;
- All options documented setbacks being proposed in relationship to setbacks recommended by the Board and comparisons to the setbacks proposed in the new structure underway on the north side of N. 68<sup>th</sup> Street.
- A shadow analysis showed that rights-of-way to the north and west mitigated much of the impact in those two directions; reduction of impacts of the proposed building on adjacent yards and houses to the east had been a major consideration in deriving the overall massing of the proposed structure.

## PUBLIC COMMENTS

The public comments at the 2<sup>nd</sup> EDG meeting held on Monday, January 11, 2016, included the following opinions and observations:

- The applicants had not been forthcoming in responding to the requests set out by the Board at the earlier EDG meeting, and the Board should require still another EDG meeting to resolve issues so far unresolved: these included, respect for the single-family residences to the east of the site; incongruity of the proposal with neighborhood context and vision—it is not fitted to the Phinney neighborhood. The 4-foot so-called “clerestory” adds to the already unwarranted inflated mass of the proposed structure.
- (Owner of building due south of proposed structure) Her building is mislabeled in the presentation materials as a 3-story structure; “it is a 2 ½ story structure”. The applicant has made no attempt to make a meaningful setback to allow for light and air between the buildings.
- (Owner of single-family residence due east on N. 68<sup>th</sup> Street) His garage abuts the east property line of the proposal site and his garage sits next to the property line; he would need a five foot setback west of the property line in order to repair or paint his garage. He had fire safety concerns as well.
- Thought that the general response to the site had been appropriate, but the chamfering of the northwest corner, advocated as a neighborhood-appropriate response in the Phinney guidelines, would detract from the desired presence on the street in this instance. The N. 68<sup>th</sup> Street façade, with residential entry and individual live-work units, was successful in concept if not in execution. The south façade too was in need of further work.
- The loading/unloading and garbage/recycle storage and pickup should take place internally, within the site.
- Brick (preferably red brick) should extend to the back side (east) of the building.
- Happy to see that the proposal envisions keeping existing commercial tenants; the lower portion of the west façade, the commercial spaces, seem too squat in overall proportions; in general, calm down the modulation and overall façade; a chamfered northwest corner would be out of place.
- The proposal needs a better mix of unit sizes; a building of only “apodments” does not belong in this neighborhood.

Several members of the public made comments decrying the total lack of parking proposed to serve the proposed mixed-use structure, even though the Planner and Board chair had cautioned that parking-related issues were not within the Board’s authority or purview.

## **BOARD'S DELIBERATIONS**

### TRANSITIONS

The Board members were agreed that the applicants' preferred Option C provided for the best arrangement of uses on the site and allowed for desirable transitions: 1) to the new mixed-use structure across N. 68<sup>th</sup> Street, 2) to the multi-family structure to the south, and 3) to the single-family structures to the east. While allowing for suitable transitions, those transitions had not yet been adequately conveyed nor provided for in the design team's packet, however.

While it could be argued that the proposed clerestory level at the northwest corner of the structure lent a certain gesture of deference to the tower element of the *Isola* tower on the corner across N. 68<sup>th</sup> Street, the clerestory cap with its added height along the south portion of the proposed structure contravened the clear need for some transition to the two-and-a-half story residential building due south on Greenwood Avenue N. Politeness and other massing considerations would seem to call for a doffing of the clerestory cap along the south portion of the top of the compositional bar facing onto Greenwood Avenue N. More generally, the south façade, facing the neighboring structure was in need of significant design attention and acknowledgement of a transition that was not in keeping with a clerestory addition there.

Likewise, the transition between the proposed mixed-use structure and the single-family yards and structures to the east needed further attention. One desirable move would be to set the easternmost live-work unit further back from the property line, or both set it back from the property line and recess it further from the N. 68<sup>th</sup> Street sidewalk. At the very least, the bays above the two live-work units needed to be truncated well short of the prevailing cornice line atop the side wall. Elongation was not in order. No bay roofs; doff the building's "caps" altogether.

### THE COMMERCIAL STOREFRONT

The Board agreed with the comment made by a member of the public that the commercial front on Greenwood Avenue N. seemed "too squat." Although there had been some earlier talk of learning from the anatomy of existing Phinney/Greenwood storefront design, the proposed storefront design made no real analytic reference to extant examples and failed in themselves to convey any particular sense of place. At the kickplate level, the window base seemed disproportionately tall, the fenestration proportionately short and without any relief from vertical mullions. Likewise, the heavy continuous marquee received no relief from transom-level lites and resulted in a street-level frontage neither friendly nor welcoming and without the vigor to instill that sense of place or identity valued by businesses and their users.

### THE RESIDENTIAL ENTRY

The residential entry appeared too compressed, almost hidden, and in need of de-compression, expansion and greater architectural definition. "Slide it over" was one Board member's comment.

## OTHER BOARD DIRECTIVES

“Make the northwest corner pop.” Explore the use of other materials at the ground level and a broader range of materials generally. Use “residential materials” on the east-facing façade. “Don’t be afraid to allow a couple of units to go away,” if needed to make a better project.

At the conclusion of their deliberations, the Board voted (4-0) to recommend that the proposal be advanced to MUP application and returned to the Board with a proposal that would clearly respond to the above directives and concerns.

## **FIRST RECOMMENDATION MEETING: August 1, 2016**

The general description of the scope of the proposal remained largely unchanged from the Early Design Guidance phase: a four-story building with 55 residential units, 2 live-work units, and 3,200 square feet of ground floor retail uses. No vehicle parking was proposed for the project, but a Code-required 23 bicycle spaces were to be provided. Included in the Landscape plan were two new street trees to be planted along 68<sup>th</sup> Street. The proposed materials and colors were described as “earthy and restrained”; in particular, the proposed materials were characterized as “unified and durable.” The design team was still looking at options on the canopies and asking for Board’s guidance. Blade signage, beneath the canopies was proposed for the retail space(s). An “art panel” was proposed at the residential entry, to be designed by a local artist (none had been selected or contacted to date).

## **PUBLIC COMMENT**

Thirty people signed in at the meeting, although actual attendance was significantly greater than that number. The public comment period ran from approximately 7:00 pm until 8:03 pm. Among the public comments were the following:

- Design has not responded completely to the Board’s earlier guidance; moving the stair at south end of the building was ok, but the clerestory at the south end of the roof should be removed as well; the “blank” south façade remained troublesome;
- The overall design was not in keeping with the character of the neighborhood; loading will be unsafe and will block the sidewalk;
- The lack of air conditioning is a mistake; the design does not fit the neighborhood; the canopies need further work;
- Regarding the “character of the building,” it “looks like it belongs in Ballard”--“Phinney is turning into Ballard”;
- (Neighbor to south): get rid of the CMU, extending the cement board panels would be preferred; concerned about contaminants leeching from the construction site onto her property;
- (Neighbor to east): design still ignores the Phinney/Greenwood guidelines regarding zone edges—“the Board is not doing its job”;
- Regarding the “Laundromat issue”—with clarification from the architect, J. Janette: there are 2 sets of stacked washers/dryers on each floor near the elevator; these are shown in the packets as well as in the MUP plan sheets;
- Size of units? (Response: vary from 250 to 450 SF);

- Entries should not be bare and hostile;
- Resident on N.68<sup>th</sup> St, abutting the property on the east side: 3-foot setback not enough;
- Water runoff concerns: swales, retention? Is Green infrastructure proposed?
- The building “has no ambience,” too much for too small a site;
- Acknowledged “some improvements,” but the south façade highly visible and still an “enormous blank space”;
- Appreciates the full wrap of brick; the mezzanines are good, since they allow for additional unit space; higher canopy height at corner a good idea; the “gaskets” between the brick fields should allow for more contrast and differentiation from the brick, and should come down to the sidewalk; suggests site needs more bike parking; the gap between the proposed structure and building to south, should allow for reflected light;
- The back (east-facing) windows are too large and peer into the adjacent back yards; make adjustments in location and size;
- Elevator penthouse—does it need to be so high?
- Neighbors care deeply about their neighborhood and have asked for fewer units and some vehicle parking, but developer has not budged or given them what they want;
- Garbage staging on the sidewalk would be a serious problem; commercial venting at transom level from retail space a problem (clarification from applicant team: louvers for intake only—exhaust is at the roof level);
- Does the project qualify for additional height? since the additional height blocks views of the Cascade mountains from condos across Greenwood Avenue N.
- Concerned about the impact of shadows and the quality of daylight for homes to east of the project—would like to see a stair-step setback and general erosion of the eastside massing;
- “Inappropriate architecture” for the neighborhood; out-of-scale with existing development;
- There is an “unrealistic reliance on operational discipline” to make the garbage and loading actually work;
- Why not a “greener” building at this site? –seems to be a missed opportunity.

All public comments submitted in writing for this project can be viewed using the following link and entering the project number (3020114): <http://web6.seattle.gov/dpd/edms/>

## **DEPARTURE REQUESTS**

The applicant noted that no departures from development standards were being requested.

## **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.

### **Hot Button Issues:**

1. Setbacks (from Single family rear yards to the east): Board agreed that the east setback should be a minimum of 5 feet as had been shown at the second EDG meeting, rather than the three feet currently shown on plans and in the packets;

2. South Wall, color and materiality: Keep it light to allow for better interior illumination of the neighboring building to south
3. Landscape Plan: Provide a complete and accurate landscape plan, one that calls out all plantings, location and sections to reveal actual depths of plantings;
4. Colors and Contrasts: Select colors of lighter values to provide more contrast between the brick sections and cement panel sections between them;
5. Canopies: From the north edge of the building, the rhythm should be “up, down and back up,” responding to “options” presented to the Board by the architect;
6. Store front composition: Adjust horizontal mullion heights along the storefronts as determined by a closer look at sitting heights from within the structure;
7. Windows: On the eastside, select window size and composition that maintain the basic styles of windows elsewhere on the building but better mitigate for any perceived loss of privacy in nearby rear yards; likewise, look to enlarging the windows shown on the south-facing façade, again, in keeping with the essential forms of other fenestration on the building;
8. Garbage/recycling storage and staging location: Don’t rely on on-site management to keep them from being an annoyance on the Greenwood Avenue N. sidewalk, but search for methods of direct pickup and return of trash/compost/recycle receptacles;
9. Clerestories: Make the windows have a closer relationship to windows elsewhere on the front façade;
10. Bike Parking: coordinating with SDOT, add retail-related bike parking in the right-of-way of Greenwood Avenue N.;
11. Artist’s piece at residential entry: provide more information regarding both the scope of artwork and the commitment of the developer to provide the artwork.

## **BOARD DIRECTION**

The above enumeration of unresolved issues was regarded by the Board members to be “too long a list” to finish up on, resolve, or condition at the current meeting, and, by a vote of 4-0, it was determined that the proposal should be brought back to the Board for a Second Recommendation meeting.

## **FINAL RECOMMENDATION MEETING: September 26, 2016**

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

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

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

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

**Email:** [PRC@seattle.gov](mailto:PRC@seattle.gov)

After brief remarks by the Chair and staff, a presentation of the current design was made by the project architect, lasting approximately 20 minutes. The general description of the scope of the proposal remained largely unchanged: a four-story building with 55 residential units, 2 live-work units, and 2,900 square feet of ground floor retail uses. No vehicle parking is proposed for the project, but a Code-required 23 bicycle spaces will be provided. Included in the Landscape plan are two new street trees to be planted along 68<sup>th</sup> Street. A planting plan had been provided within the current meeting packet (see pp.16-18). The proposed materials and colors, described as “restrained and sophisticated,” were shown in the packet (see p. 19), as well on a separate materials board prepared for the meeting.

Specifically, the following gestures had been made by the design team in response to the Board’s guidance provided at the earlier Recommendation Meeting on August 1, 2016:

- The portions of the building along the east property line had been pulled back to maintain a 5-foot buffer between the proposed structure and the adjacent properties to the east;
- The CMU wall adjacent the south property line will be painted a lighter color than previously shown in order to match the fiber-cement panel on the wall above, maximizing the potential for reflected light to illumine the area between the existing and proposed structure;
- A planting plan had been provided within the current meeting packet;
- The gray color of the cement panels had been modified and lighter values chosen to provide greater contrast between the panels and the brick sections of cladding;
- The canopies had been reconfigured to provide the “up-down-up” sequencing along the Greenwood Avenue N. façade preferred by the Board;
- The horizontal mullions of the storefront window system had been removed, reducing visual barriers between the outside pedestrian realm and the interior commercial space;
- The proportions and composition of the windows on the south-facing brick mass had been modified to reflect that of other windows and the framing composition found elsewhere;
- Adjustments had been made to the design and size of windows on the east façade;
- The design of the solid waste storage area and its access have been modified and the design coordinated with the Seattle Public Utility Department so that the solid waste contractors will retrieve and return containers without need for staging them in the public right-of-way;
- The clerestory fenestration has been enlarged to relate better to the size and proportion of windows elsewhere on the building, reducing the perceived mass of the clerestories and allowing more light into the related units;
- With SDOT coordination, retail-related bike parking will be provided within the right-of-way adjacent to the building;
- Artwork, consisting of a custom-designed metal panel, will be installed next to the residential entry.

## **PUBLIC COMMENT**

Among the public comments generally related to the design of the building proposed were the following:

- The 5-foot setback along the east property line is appreciated, but more should be done to mitigate against shadow and privacy impacts;

- Concern regarding possible glare from lighting fixtures along east side of the proposed building;
- The south façade of the proposed structure is unseemly;
- The lighter color and visible frame design help to mitigate the blank-wall impact on the south façade;
- Still concerned regarding view blockage of the Cascades from condos across the street;
- Make sure all types of solid waste do not block the sidewalk on Greenwood Avenue N;
- The “campus dormitory-looking” residential entry, with hundreds of people coming and going, should not be located on N. 68<sup>th</sup> Street, a residential street;
- Loading will be unsafe and will block the sidewalk;
- The lack of air conditioning is a mistake;
- Still concerned about contaminants leeching from the construction site;
- Appreciates the full wrap of brick at the northeast corner;
- The dark brick color is inappropriate and out of keeping with the Greenwood character which has an affinity for red brick;

## **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.

The Board members present indicated that there were no real “hot-button” issues regarding the design or presentation. There was a discussion regarding the question of the color of the brick that had been chosen, and opinion expressed that perhaps it was too dark. But this topic was dismissed after the Board determined in brief scope that this was not a real issue for them. The Board agreed that color adjustments to the cement board siding which they had requested at the last meeting had provided a satisfying contrast with the brick as proposed. Further, the Board was particularly grateful for the detailing of the brick at street level which had been portrayed in the packets and presentation materials.

In addition, the Board expressed satisfaction and agreed that changes to the window composition within the clerestories and on the east façade had addressed their concerns expressed at the earlier Recommendation Meeting.

The Board liked the direction the design team had embarked on for the art treatment of the residential entry and urged them to pursue it further.

The Board expressed satisfaction with the 5-foot setback along the east property line and the modifications to the fenestration on the east façade. They were also satisfied with the proposed landscape plan, pointing out that establishing the plantings would require an irrigation plan, especially at the second level amenity area where it would be critical to establish the landscape to ensure privacy to the units and to their neighbors.

In reference to the public comments expressed, the Board members were agreed that the residential entry located off 68<sup>th</sup> Street was at the appropriate location, and this was re-enforced by the location of the entry to a similar residential/ mixed use building directly across the street.

The Board was satisfied with the lighting plan and fixture selection they had been shown.

The Board liked the additional bicycle parking to serve the retail uses, located within the right-of-way, acknowledging that the final determination of location and quantity was under SDOT's jurisdiction.

## **BOARD DECISION AND DIRECTION**

The Board voted 4-0 to approve the project moving forward, with the following *conditions* of their approval:

1. Provide a landscape irrigation plan to ensure that the chosen plantings would survive and thrive, especially at the second level amenity area along the east side of the building.
2. Provide for a solid waste removal arrangement that ensures that service is internal to the building, with no staging in the right-of-way.
3. Provide artwork, similar or exceeding the quality of what was shown at the meeting, executed by a *bonafide* artist to be installed at the residential entry to the building.
4. Provide shielded, down-lighting fixtures at the exterior of the building, except for those under the canopies which can provide both down- and up-lighting, creating a glow but not any glare.

In addition, the Board agreed upon two *recommendations* for the design team's consideration and exploration: 1.) allow the "ganged" doors on the lower units on the east side to be separated, if found practicable, in order to provide more privacy to the units, and 2.) expand, if practicable, interior access and storage space for bicycle parking.

## **ANALYSIS & DECISION – DESIGN REVIEW**

The design review process, prescribed in Section 23.41.014.F of the Seattle Municipal Code and describing the content of the Seattle DCI 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 and at the recommendation meeting held on August 16, 2016, the Board recommended approval of the project with the conditions described in the summary of the Final Recommendation meeting above. **The Director** agrees with the Design Review Board's conclusion that the proposed project and conditions imposed, which have been incorporated into the MUP plans, result in a design that best meets the intent of the Design Review Guidelines and **confirms the recommendations of the Board.**



## II. ANALYSIS - SEPA

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated February 17, 2016. The information in the checklist, project plans, and the experience of the lead agency with 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, 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 certain limitations and/or circumstances (SMC 25.05.665 D 1-7) 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, and a small increase in traffic and parking impacts due to construction related vehicles. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Noise Ordinance (SMC 25.08), the Stormwater Code (SMC 22.800-808), Grading and Drainage Control Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), and the Seattle Building Code. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following is an analysis of construction-related air quality, noise, earth, grading, construction impacts, traffic and parking impacts as well as mitigation.

### Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse and no further mitigation is warranted pursuant to SMC 25.05.675.A.

### Construction Impacts - Noise

Noise associated with construction of the mixed-use building could adversely affect surrounding uses in the area, which include both residences and commercial uses. These surrounding uses are likely to be adversely impacted by noise throughout the duration of demolition and construction activities. 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.

Due to the proximity of nearby residential uses, the limitations stipulated in the Noise Ordinance are not considered sufficient to mitigate noise impacts at this particular site; therefore, pursuant to SMC 25.05.675.B, the applicant shall be required to limit periods of noise generating construction activities to non-holiday weekdays from 7:00 AM to 6:00 PM, unless modified through a Construction Noise Management Plan, to be required by Seattle DCI prior to issuance of a demolition, grading, or building permit, whichever is issued first.

The required Construction Management Plan shall include contact information in the event of complaints about construction noise and contain 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>. A Construction Noise Management Plan with specific mitigation for any work beyond non-holiday weekdays from 7:00 AM to 6:00 PM is required to be incorporated into the Construction Management Plan.

### Environmental Health

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.

The applicant submitted studies regarding explorations for possible contamination on site, due to certain historical uses at 6720 Greenwood Avenue North, (*"Phase I Environmental Site Assessment,"* dated March 26, 2015 by The Riley Group; *"Phase II Subservice Investigation,"* dated April 17, 2016, and amended May 23, 2016) by The Riley Group; and a Memorandum from The Riley Group, dated October 26, 2014, in response to certain citizens directly contacting the Washington State Department of Ecology ("Ecology") to express concern regarding development on the site. The Memorandum is intended to provide clarification regarding findings of the Riley Group's Phase I Environmental Site Assessment and Phase II subsurface Investigation.

The Memorandum addresses both the *potential vapor intrusion risk for the property* and the *potential threat to groundwater quality on the property*. The vapor samplings were collected according to "Ecology" guidelines and vapor intrusion is not considered a concern for the property. Likewise, according to "Ecology" default cleanup levels, the site does not pose a risk to

groundwater quality. The Riley *Memorandum* (October 26, 2016) notes that their client is prepared to have a contingency plan prepared to address the handling and disposal of any contaminated soil and/or groundwater encountered during the planned redevelopment of the property.

Mitigation of contamination and remediation lies within the jurisdiction of Washington State Department of Ecology ("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.

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

### Air Quality

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction activities, equipment and worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC). To mitigate impacts of exhaust fumes on the nearby residential uses, trucks hauling materials to and from the project site will not, by conditions of the Construction Management Plan, be allowed to queue on streets under windows of residential buildings.

### Earth and Grading

The Stormwater and Grading Codes require preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. Excavation of some 450 cubic yards is expected in order to construct the proposed mixed use structure. The soils report, construction plans, and shoring of excavations will be reviewed by the Seattle DCI Geo-technical Engineer, as needed, and Building Plans Examiner who will require any additional soils-related information, recommendations, declarations, covenants and bonds as necessary to assure safe grading and excavation.

This project constitutes a "large project" under the terms of the Stormwater Code (SMC 22.801.130 "L"). As such, there may be additional requirements for erosion control including a provision for implementation of best management practices and any requirement for incorporation of an engineered erosion control plan will be reviewed prior to issuance of any permit to construct. The Stormwater Code and Grading Code provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. No additional conditioning is warranted pursuant to SEPA policies.

Excavation of some 450 cubic yards is expected in order to construct the proposed mixed use structure and soil removal from the site will be necessary. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one

foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed en-route to or from a site. Future phases of construction will be subject to the same regulations. No further conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

### Construction Impacts

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, they are not expected to be significant.

### Traffic and Parking

Construction of the mixed use structure is proposed to last several months. During construction, parking demand will increase due to additional demand created by construction personnel and equipment. It is the City's policy to minimize temporary adverse impacts associated with construction activities and parking (SMC 25.05.675 B and M). Parking utilization along streets in the vicinity is near capacity and the demand for parking by construction workers during construction could reduce the supply of parking in the vicinity. Due to the scale of the project, this temporary demand on the on-street parking in the vicinity for construction workers' vehicles may be adverse. The construction of the project also will have adverse impacts on both vehicular and pedestrian traffic in the vicinity of the project site. During construction a temporary increase in traffic volumes to the site will occur, due to travel to the site by construction workers and the transport of construction materials. The soil removed will not be reused on the site and will need to be disposed off-site. It is reasonable that truck traffic avoid the afternoon peak hours. A construction/ excavation plan will need to be submitted to SDOT for approval prior to commencement of excavation on site. No further mitigation is warranted. Compliance with Seattle's Street Use Ordinance is expected to mitigate any additional adverse impacts to traffic which would be generated during construction of this proposal.

### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces; increased bulk and scale on the site; increased traffic in the area; increased demand for parking; and increased light and glare. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: The Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding; the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development.

Compliance with these 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, due to the size and location of this proposal, Greenhouse gas emissions, traffic, and parking impacts warrant further analysis.

### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project 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. It has been estimated that the lifespan emissions (MTCO<sub>2</sub>e) for the building will be 68,711. While these impacts are adverse, they are not expected to be significant.

### 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 and additional mitigation is not warranted under SMC 25.05.675.G.

### Traffic and Transportation

A Traffic Impact Analysis, dated November 18, 2015, has been prepared for the proposal at 6726 Greenwood Avenue N. by Gibson Traffic Consultants, Inc.(GTC), with supplemental materials submitted in a "Correction Notice Response" dated October 28, 2016. The supplemental materials, among other updates, included trip-generation and parking utilization data from two pipeline projects, one at 6528 Phinney Ave N. (MUP#3020424) and another at 7009 Greenwood Avenue N. (MUP#3023260).

According to the GTC analysis, the proposed project would increase motor vehicle person trips by about 18 vehicle trips during the AM peak hour and 23 trips during the PM peak hour per standard ITE data. The project associated trips are expected to add little or no delay to the study area intersections during the PM peak hour, with each study intersection to operate at Level of Service (LOS) C or better in the future with the proposed project. The analysis concludes that no off-site transportation mitigation is required to accommodate the proposed development. A concurrency analysis, based upon forecasted project trips, demonstrated that the project meets the v/c ratios at the pertinent screen-lines as defined by the City of Seattle.

The GTC report states that the regional transit system will not be significantly impacted, with 23 residents of the new apartment who would predominantly use the #5 bus for commuting during peak hours. According to King County Department of Transportation passenger boarding data for the Fall of 2015, the most recent data available, the seats available at the nearest northbound and southbound stops would be more than adequate for passengers generated from the project. The

GTC study concludes that the transit system will not be negatively impacted by the project located at 6726 Greenwood Ave N. (see pages 3-4, *Correction Notice Response*, October 28, 2016).

### Parking

There is no vehicle parking proposed as part of the proposed project. Parking is not required by the Seattle Municipal Code because the project is located within the Greenwood-Phinney Ridge Urban Village.

The parking analysis completed for the project showed that the estimated peak demand for the project cannot be accommodated within the on-street supply based on a combination of existing demand and future pipeline projects. With the 6726 Greenwood Avenue N. project, street demand would be parking space for 292 vehicles, with street supply being 278, for a parking utilization figure of 105%. Using a cumulative analysis method, street parking utilization would reach 91% even without the 6726 Greenwood Avenue N. development. It is assumed that the difficulty finding parking would likely drive down the vehicle ownership as well as result in residents and visitors parking further from the site, beyond the 1,200 feet on-street parking survey limits.

The most practicable mitigation for possible off-site spillover parking demand during peak hours, if needed, would be the fact of limited parking contributing to the self-selection of potential residents for this site. Consistent with other recent residential projects in Seattle, the applicant of this project may choose to mitigate the project's parking impact through Transportation Demand Management (TDM) strategies, such as bicycle amenities (e.g. secured on-site bicycle storage, and providing commuter information, including transit availability, in order to reduce the reliance on personal vehicles.

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

### Summary

In conclusion, several adverse effects on the environment are anticipated resulting from the proposal, which are anticipated to be non-significant. The conditions imposed below are intended to mitigate construction impacts identified in the foregoing analysis, or to control impacts not regulated by codes or ordinances, per adopted City policies.

### **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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

[X] 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 43.21C.030 2C.

- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

### **CONDITIONS – DESIGN REVIEW**

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

1. The building and landscape design shall be substantially consistent with the materials represented at the Final Recommendation meeting and in the materials submitted after the Final 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 (Michael Dorcy, (206) 615-1393, [michael.dorcy@seattle.gov](mailto:michael.dorcy@seattle.gov)).

### **CONDITIONS – SEPA**

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

2. Pursuant to SMC 25.05.675.B, the applicant shall be required to limit periods of noise generating construction activities to non-holiday weekdays from 7:00 AM to 6:00 PM, unless modified through a Construction Noise Management Plan, to be determined by Seattle DCI prior to issuance of a demolition, grading, or building permit, whichever is issued first.
3. A Construction Management Plan will be required, including contact information in the event of complaints about construction noise and, 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>. A Construction Noise Management Plan with specific mitigation for work beyond non-holiday weekdays from 7:00 AM to 6:00 PM is required to be incorporated into the Construction Management Plan.

Michael Dorcy, Senior Land Use Planner  
Seattle Department of Construction & Inspections

Date: January 23, 2017

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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 Seattle DCI 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.