

City of Seattle Hearing Examiner

LAND USE/SEPA DECISION APPEAL FORM

It is not required that this form be used to file an appeal. However, whether you use the form or not, please make sure that your appeal includes all the information/responses requested in this form. An appeal, along with any required filing fee, must be received by the Office of Hearing Examiner, not later than 5:00 p.m. on the last day of the appeal period or it cannot be considered. Delivery of appeals filed by any form of USPS mail service may be delayed by several days. Allow extra time if mailing an appeal

This appeal is filed on a form similar to the Hearing Examiner's with Attachments

APPELLANT INFORMATION (Person or group making appeal)

1. Appellant: If several individuals are appealing together, list the additional names and addresses on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate group's name and mailing address here and identify a representative in #2 below.

7300 Woodlawn Avenue NE Condominium Homeowners Association and the members individually

Alyson Stage, 7200 Woodlawn Ave NE, Seattle, WA 98115

James Cameron 934 N. 78th St. Seattle, WA 98103

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ **U.S. Mail** ☐ **Fax** ☒ **Email Attachment**

2. Authorized Representative: Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Name Donna Handly, Vice President, 7300 Woodlawn Ave NE Homeowners Assoc.

Address 7300 Woodlawn Ave NE, Apt 307, Seattle, WA 98115

Phone: Home: 206-818-5190 Fax: none

Email Address: dhandly@comcast.net

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ **U.S. Mail** ☐ **Fax** ☒ **Email Attachment**

DECISION BEING APPEALED

1. Decision appealed (Indicate MUP #, Interpretation #, etc.): MUP Design Review Appl. 3019917

2. Property address of decision being appealed: 417 Northeast 73rd Street

3. Elements of decision being appealed. Check one or more as appropriate:

☒ 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: _____)

1. What is your interest in this decision? (State how you are affected by it)

All appellants live or own property in the vicinity of the project and would be affected daily by the design and visual prominence of the project, adverse impacts on neighborhood character from lack of meaningful transition to the residential area to the east and north, on-street parking supply over-utilization would affect the daily lives of residents and their guests, commercial uses would be adversely affected by the lack of adequate convenient parking which would affect the business and neighborhood viability and character which residents rely upon as an essential amenity, parking over-utilization would reduce parking available for recreational use of Green Lake which would result in recreation parking further encroaching on neighborhoods with adverse impacts on residents, businesses and the general public

2. What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with this decision.)

Addressed in Attachment A.

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

Addressed in Attachment A.

Signature _____ Date _____

Deliver or mail appeal and appeal fee to:

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

PHYSICAL ADDRESS: SEATTLE MUNICIPAL TOWER
 700 5th Avenue, Suite 4000
 40th Floor
 Seattle, WA 98104

Note: Appeal fees may also be paid by credit or debit card over the phone (Visa or MasterCard only).

Phone: (206) 684-0521

Fax: (206) 684-0536

www.seattle.gov/examiner

BEFORE THE CITY OF SEATTLE HEARING EXAMINER

Appeal MUP Design Review Appl. 3019917

ATTACHMENT A – Basis of Appeal

I ACTIONS FOR WHICH REVIEW IS SOUGHT

- A. The Department of Construction and Inspection (DCI) did not comply with applicable public notice requirements and required submittals to the Design Review Board and thereby deprived the public of the opportunity to fully participate in the process, as required by law, which mandates remand to the City for full compliance.
- B. The City Department of Construction and Inspection and Design Review Board did not comply with review standards for Departures from Land Use Code provisions for Setback requirements for structures containing residential uses (SMC 23.47A.014B.3) as well as other design guidelines and standards enumerated below and did not adopt findings that address the intent of adopted design guidelines, and entered a recommendation and decision not supported by facts or reasoning.
- C. The Department of Construction and Inspection did not comply with applicable standards for review and documentation of Environmental Impacts under the State Environmental Policy Act. The analysis and decision is clearly erroneous.
- D. The Department of Construction and Inspection did not comply with applicable policies for implementation of conditions under the State Environmental Policy Act and misquoted and misrepresented specific policies.
- E. Relief requested is one of the following:
 - a. Deny the application, without prejudice, because it does not meet transition area requirements of SMC 23.47A.014B.3 and results in unacceptable environmental impacts based on the entire record.
 - b. Remand to the Department of Construction and Inspection for
 - i. Public notice in accordance with law
 - ii. Staff reports to the Design Review Board addressing
 - 1. Compliance with codes and design guidelines.
 - 2. A complete and accurate compilation of public comments
 - iii. A new SEPA review
 - 1. Clearly identifying information DCI is using to establish the record
 - 2. Responding to public comments received
 - 3. Clearly addressing the extent of adverse impacts on each element of the environment
 - 4. Clearly addressing the city's SEPA policies for mitigation for each element of the environment.

- iv. A new Analysis/Decision clearly identifying the specific codes, policies and specific design regulations the project is subject to and providing an analysis of the compliance of the project with each, and specifically addressing how the proposed departure from transition requirements better meets the intent of each design guidelines.
- c. Approve the application with the following conditions
 - i. The proposal shall meet the Setback requirements for structures containing residential uses (SMC 23.47A.014B.3) on the east façade incorporating the Option 1 concept on pages 18 to 22 in the Early Design Guidelines Package dated May 28, 2015 submitted by Caron Architecture with the following modifications
 - 1. The design of Option 1 shall be modified to incorporate a light well to accommodate the main window on the Great Hall with dimensions of approximately 12 feet by 33 feet to the west and the façade to the east may project further to the east a distance of 12 in alignment with the light well to the west, or alternatively the second floor setback to the east may be reduced to 0.
 - 2. The proposed building shall be separated from the Great Hall to the west by a wall setback or “hyphen” of 10 feet by 10 feet.
 - 3. The project shall be reduced by one floor to a total of 5 stories.
 - 4. The total floor area may not exceed the total allowed with full compliance with setbacks and other features of SMC 23.47A.014B.3 and xx
 - d. Remand to the City because the SEPA Analysis and Determination of Non-Significance is based on incomplete and erroneous information and analysis and require the DCD to prepare a new Draft EIS addressing aesthetics and cumulative parking impacts using appropriate methodology and reaching supportable conclusions and remand to the Department of Construction and Inspection for review.

II. ISSUES PRESENTED FOR REVIEW

A. Summary

- 1. The Department of Construction and Inspection (DCI) did not comply with applicable public notice requirements and required submittals to the Design Review Board and thereby deprived the public of the opportunity to fully participate in the process and have their concerns addressed as required by law, which mandates remand to the City for full compliance.
- 2. The City Department of Construction and Inspection and Design Review Board did not comply with review standards for Departures from Land Use Code provisions for Setback requirements for structures containing residential uses (SMC 23.47A.014B.3) and did not adopt specific findings that address compliance the intent of specific adopted design guidelines, therefore their decision has no standing and cannot be given substantial weight.
- 3. The Department of Construction and Inspection did not comply with applicable standards for review and documentation of Environmental Impacts under the State Environmental Policy Act which renders the analysis and decision clearly erroneous.

4. The Department of Construction and Inspection did not comply with applicable policies for implementation of conditions under the State Environmental Policy Act and misquoted and misrepresented specific policies which renders the analysis and decision clearly erroneous..

B. Public Notice and Submittal of Comments to Design Review Board

The Department of Construction and Inspection did not comply with applicable public notice requirements and required submittals to the Design Review Board.

1. The public notice provided by DCI exhibits a pattern of insufficient notices that can only be interpreted as an intent to deprive the public of the full opportunity to make comments and have those comments considered by decision makers. The most recent example of this is entering the Analysis and Decision on December 22, 2016 and therefore placing the appeal period within the normal holiday season when members of the public are most likely to be on vacation or have a variety of activities that interfere with their ability to make a timely response within the appeal period.
2. The notice, including the revised notice of January 7, 2016, does not meet the requirements of RCW 36.70B.110 Notice of application—Required elements because it does not include the following required elements:
 - a.(2) (b) ... a list of any studies requested;
 - b.2(c) The identification of other permits not included in the application to the extent known by the local government. The January 7, 2016 public notice includes the statement “To the extent known by the Department, other necessary government approvals or permits not included in the application are listed.” In fact, there is no listing in <http://web6.seattle.gov/dpd/edms/> for permit No 3019917 that reasonably can be construed to be such a list.
 - c. 2(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;
 - d.2(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.040. This is particularly important in this case since substantial deviations from code requirements are requested, yet there is no discernible notice that such deviations have been requested, or of the applicant’s rationale for such requests.
 - e. The statement in the January 7, 2016 Revised Notice “Any comments filed after the end of the official comment period may be considered if pertinent to the review being conducted.” unlawfully limits the substantive comment period. Since the application is incomplete and erroneous, and since revisions are required, opportunity for public comments must be accepted on all subsequent revisions and submittals. The department may evaluate comments by the

criteria of whether they are pertinent, but the department may not exclude comments from consideration by that criteria.

- f. The “SEPA Environmental Determination” providing notice that the project is subject to the Optional DNS Process (WAC 197-11-355) and Early DNS Process (SMC 25.05.355) is insufficient because it does not contain the following requirements of SMC 25.05.355 - Early review DNS (optional DNS) process
- i. The notice does not state that: “The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared [Emphasis added].” The Notice States: “Mitigation measures may be imposed on projects subject to the Early Review DNS process. This wording is not that required in the code. The wording provided, in conjunction with the subsequent sentence
 - ii. The notice does not state that: “A copy of the subsequent threshold determination for the specific proposal may be obtained upon written request and provision of an address for notice.” The notice instead says: Copies of the subsequent threshold determination for the proposal may be obtained upon request or from our electronic library at web6.seattle.gov/dpd/edms/. This leaves out the important element of notice that mailed notice is available by providing an address and thereby deprives members of the public of their right to a mailed copy.
 - iii. The notice does not include: “In the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;”
 - iv. Does not include provision of the environmental checklist to: “Anyone who requests a copy of the environmental checklist for the specific proposal in writing and provides an address for notice.” Failure to include this notice not only is not in compliance with the city code but deprives a member of the public with his or her right to obtain a mailed copy, which is both a statutory and substantive violation of due process and may deprive some members of the public to fully participate in the process due to lack of access. The notice that project information, including environmental documentation, is available in the electronic library does not substitute for the legislative intent of providing mailed copies.

All of the above substantially limited the public’s ability to be informed of the information considered by the city in making a decision on the project.

In addition, the Decision in Section II Analysis SEPA does not reference the information relied upon by the city to assess environmental impacts. These deficiencies were pointed out to the city in Exhibit xx and were not corrected.

3. Public notice was provided and a public meeting was provided on January 20, 2016 to invite public comment on environmental impacts related to the State Environmental

Policy Act (SEPA) The notice of application was premature and the public was deprived of substantive rights to information pursuant to SMC 20.05.050, 20.05.060, 23.41.014 and RCW 36.70B.110.

- a. The notice stated that the application was deemed complete on 12-07-2015. The City online Permit and Complaint Status for Project No. 3019917 under the review tab lists the application as incomplete as of the date of this comment transmittal. RCW 36.70B.110(2) requires that a permit application be complete prior to public notice. The provision of notice and a deadline for comments on an incomplete application does not meet statutory and due process requirements. In addition, it does not provide substantive due process because the public does not have an opportunity to review all relevant information and is therefore not able to consider and weigh the accuracy and relevance of information relied upon by the city to make a decision.
 - b. The SEPA Checklist, the Traffic Study and other submittals was incomplete and inaccurate as outlined in subsection xx below. As such, the public is not provided a meaningful opportunity to comment on the proposal. This is particularly relevant since the public notice of January 7, 2016 provided the statement: "The comment period for a project subject to an Early Review DNS may be the only opportunity to submit comment on the environmental impacts of the proposal." It is a procedural and substantive denial of due process to limit the public to a specific time period for review and comment on an application in a case such as this where the substantive information needed for a substantive review has not been submitted, or in the case of the transportation study of this project, does not contain the information previously identified by city staff as needed. In addition, as noted above, there are two SEPA checklists included in the record, one of which dated 11/12/16 cannot be downloaded and therefore provides no opportunity for review.
4. The proceedings of the Design Review Board in making a recommendation to the Director at this time was deficient because the information required to be provided the Board by the Director pursuant to SMC 23.41.014.C.2. was not been provided to the board or the public.

The Director shall distribute a copy of the guideline priorities applicable to the development to all those who attended the early design guidance public meeting, to those who sent in comments or otherwise requested notification, and to the project proponent.

No such transmittal is provided in the electronic library at web6.seattle.gov/dpd/edms/ and no such document was distributed to any persons who sent in comments or otherwise requested notification for any of the meetings.

Such information is necessary to meet due process requirements of informing the public and substantive due process requirements of providing information necessary for the public to have meaningful input into the process.

5. The proceedings of the Design Review Board in making a recommendation to the Director was deficient because an accurate record of public comments required to be provided by Director pursuant to SMC 23.41.014.C.1. was not been provided to the board or the public.

The Board shall incorporate any community consensus regarding design, expressed at the meeting into its guideline priorities, to the extent the consensus is consistent with the design guidelines and reasonable in light of the facts of the proposed development.

The Board has been unable to do this because the city staff did not distribute copies of comments received to the Board and the comment summary provided was not accurate or complete. The Board, therefore, did not have the information necessary to know or understand the community comments or consensus that would allow a determination by the Board as to the extent to which the consensus is consistent with design guidelines and reasonable.

6. The proceedings of the Design Review Board in making a recommendation to the Director was deficient because a complete and accurate record of public comments were not provided pursuant to SMC 23.41.014.E.1.

During a regularly scheduled evening meeting of the Design Review Board, other than the early design guidance public meetings, the Board shall review the record of public comments on the project's design, the project's conformance to the guideline priorities applicable to the proposed project, and the staff's review of the project's design and its application of the design guidelines.

The Board has been unable to do this mandated requirement because

- a. City staff did not distribute complete and accurate copies of comments received to the Board and the comment summary provided was not accurate or complete, and
- b. Staff's did not provide a review of the project's design and its application of the design guidelines.

7. The Department of Construction and Inspection (DCI) did not comply with applicable public notice requirements and required submittals to the Design Review Board and thereby deprived the public of the opportunity to fully participate in the process and deprived the Board of the opportunity to fulfill the mandated consideration of public comments. This which mandates either remand to the City for full compliance or a *de novo* decision by the Hearing Examiner that considers the entire public record

C. Design Review

1. The entire record of the Design Review Board meetings indicates that the board has not considered or made findings that the project meets the criteria of SMC 23.41.012 - Development standard departures:

Departure from Land Use Code requirements may be permitted for new multifamily, commercial, and Major Institution development as part of a design review process.

Departures may be allowed if an applicant demonstrates that departures from Land Use Code requirements would result in a development that better meets the intent of adopted design guidelines. [Emphasis Added]

Further, the Design Board has not been consistent in ensuring that its recommendations from one version of the proposal to another were carried through.

2. The applicant and architect have clearly “run the process” to maximize the floor area and economic return to the applicant/owner. This has been done by disregarding or partially complying with requests of the Design Review Board and presenting information in a manner that compliance with requests is not readily trackable. The DCI staff and Design Review Board were negligent during the process in tracking their comments and compliance.

- a. As shown in the Table below – the result of the “Departure” from standards has led to a consistent increase in the total size of the project. It is not the intent of the departure to process to result in a larger building and greater return to the applicant.

Floor Areas Proposed development 417 NE 73 rd Street				
	8/10/2015		5/9/2016	8/8/2016
Floor	Option 1	Option 2		
Ground	5,034	5,202	4,587	4,569
2nd	4,334	4,192	4,734	4,711
3rd	4,334	4,192	4,734	4,711
4th	4,267	4,192	4,613	4,493
5th	3,400	4,192	4,613	4,493
6th	900	4,192	4,613	4,493
TOTAL	22,269	26,162	27,894	27,470
Comparison to Option 1		117%	125%	123%

- b. The setback from the residentially zoned property to the east has been reduced in stages:
 1. Option 1 presented at the Early Design Meeting on August 10 included the code required upper floor 15 foot setback along the entire east side.
 2. Option 2 presented at the Early Design Meeting on August 10 included the code an alternative upper floor 10 floor setback to the east.
 3. The proposal presented at the May 9, 2016 Design Review Board meeting provided no upper floor setbacks.
 4. The revised proposal presented at the August 8, 2016 Design Review Board meeting provided a setback of about a 5 foot setback along about half of the east side.

- c. The upper level setbacks required by the code and recommended by design guidelines have been completely eliminated.
- 3. The Design Review Board report in the Analysis and Decision on page 17 of the Development Standard Departures makes no reference whatsoever to any of the relevant guidelines.

The four Board members in attendance unanimously supported the departure, noting that the resulting design better related to both the Great Hall to the west and LR3 zone to the east. By shifting the mass to the center of the site, units on both side of the structure would have increased access to light and air. Additionally, the design would overall decrease the number of blank walls, creating more attractive facades and reducing the perceived scale of the structure.

- a. . The Board, in their decision did not enter the findings required by SMC 23.41.014.E.2.

At the meeting of the Design Review Board, a determination shall be made by the Design Review Board that the proposed design submitted by the project proponent does or does not comply with applicable design guidelines.

There is no reference in the Board's recommendation to any specific guidelines and no reference to the intent of the transition requirements or the extent to which the design better meets the intent of the transition. In the absence of findings, reliance may not be given to their recommendation.

- b. The departure from the transition requirements relates solely to the transition to the east. The improved relation to the Great Hall to the west with the same zoning to the west is not relevant to the departure from the transition requirements that are the subject of the departure (although it may be covered by other design guidelines).
 - c. There are no findings by the Board that documents how a 5 foot setback on the east side of the site meets the intent of specific adopted design guidelines which call for a 15 foot setback and additional upper floor setbacks. It defies simple logic to conclude that a 5 foot setback that represents 8 percent of the lot width of 60 feet is equivalent to a 15 foot setback that represents 25 percent of the lot width. It is further defies simple logic to conclude that the complete absence of upper floor setbacks provides a better transition than the setbacks specified by code.
 - d. The Board simply relied throughout the process on its own idiosyncratic design judgement rather than the city plans and codes. In fact, at no time does the Board reference specific codes and guidelines, what their intent is and how the proposal meets that intent.
- 4. In the process of reviewing the project over three meetings, the Board neglected to keep track of its previous guidance and approved features in the final design which if found unacceptable in previous iterations, as outlined below.

- a. Early Design Guidance Meeting. The Board considered three options. Option 1 (pages 18 to 22 in Exhibit 142, Design Proposal: EDG Proposal dated May 28, 2015) incorporated setbacks as follows:
- Fifteen feet for portions of structures above 13 feet in height to a maximum of 40 feet; and
 - b. For each portion of a structure above 40 feet in height, additional setback at the rate of 2 feet of setback for every 10 feet by which the height exceeds 40 feet.

Option 1 is consistent with the following Design Guidelines:

CS2-D-3. 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-II-i. Zone Edges:

- a. Building setbacks
- b. Techniques specified in the Seattle Design Guidelines regarding height, bulk, and scale; and relationship to adjacent sites.
- c. Along a zone edge without an alley, reduce the potential 'looming' effect of a much larger structure in proximity to smaller, existing buildings.
- d. One possibility is allowing the proposed structure's ground floor to be built to the property line and significantly stepping back the upper levels from the adjacent building (see sketch in the left column).

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

DC2-B-2. Blank Walls: Avoid large blank

1. Option 1 provided the required 15 foot setback constituting 25% of the lot width for the 2nd and 3rd floor and addition stepbacks on floors 4, 5 and 6 which provides a meaningful break between the zones and the upper floor stepbacks provide a more gradual transition and reduce the potential 'looming' effect of a much larger structure in proximity to smaller, existing buildings.
2. Fenestration on the 73rd Street frontage, the alley and the lower intensity residential district to the east.(although the bulk drawing provided doesn't fully show fenestration – refer to the floor plans)

3. The 15 foot setback allowed the inclusion of balconies which are secondary architectural elements that reduce the perceived mass of larger projects.
 4. Option 1 Blank walls were featured only to the west – adjacent to the identical zoning – where no transition is called for in code of guidelines. The total area of the blank wall was 3,950.79 square feet.
- b. The Design Board guidance to the May 28, 2015 proposal, as a result of their August 12, 2015 meeting outlined on pages 5- 7 of the Decision supported a modification of Option 1 – strict application of the code –but did not fully support Option 2 – with a vertical wall set back a uniform 10 feet from the property line. Concepts supported were:
- Provide light and air to the Great Hall to the west
 - Provide a more sensitive transition to the L3 zone to the east
 - Relate features and materials to the Great Hall to the west
 - Move the entry of the apartments to the east to provide continuity with commercial uses to the west (Comment – the Great Hall to the west was originally a church. It does not have a commercial character. It has pierced windows with shades and a door and is used as offices.)
- c. The applicant submitted a second proposal Exhibit 34 for the May 9 Design Board Meeting. The design featured
1. Elimination of the setbacks to the east shown on the previous Option 2
 2. Elimination of most of the fenestration to the east
 3. Blank walls on the east of 3,872 SF and on the west of 2,056 SF, a total of 5,929 SF, or 50% more blank wall than Option 1 (compliance with transition requirements.)
- d. The reaction of the Design Board to the guidance as outlined on pages 8 and 9 of the Decision was not favorable. They, however, evidently forgot to look at the plans previously presented for Option 2 and forgot their comments about transition on the east side. Their comments on this proposal related primarily to:
- The light well for the Great Hall
 - Additional setbacks to the LR Zone to the east – but no statement as to the dimension
 - Incorporate glazing on the east side
 - Move the stairs and elevator to the center of the site

- e. The applicant submitted a third proposal Exhibit 20 for the 8/8/2016 Design Board Meeting. The design featured and the subsequent revision included in Exhibit 3, the Master Use Permit Set posted 10/31/16.
 1. A setbacks of about 5 feet on about half of the east frontage.
 2. Two windows of about 2 feet and 4 feet width on the north most portion of the frontage,
 3. Tiny windows on the stair tower and
 4. A blank wall on the southerly third of the frontage.
 5. Addition of xx windows on the northwest previous blank wall and retention of the blank wall totaling xx SF
 6. This resulted in
 - a.
 - b. No meaningful break provided by the five foot setback constituting 8% of the lot width and no reduction of the 'looming' effect of a much larger structure in proximity to smaller, existing buildings.
 - c. No gradual transition provided by setbacks.
 - d. Fenestration to the east consists of about 10% of the building wall mass of about 5,600 square feet, providing no meaningful relief to what is essentially a blank wall.\
 - e. The 5 foot setback does not allow secondary architectural elements such as balconies that reduce the perceived mass of the larger projects and essentially blank wall.
5. Any reasonable interpretation of the applicable design guidelines should have led the to the conclusion by the Director under SMC 23.41.014.F that the recommendation of the Design Review Board is inconsistent with
 - a. The criteria that the development that better meets the intent of adopted design guidelines. [Emphasis Added]
 - b. Application of the design review guidelines; in reference to other elements of the design

The Analysis/Decision contains no findings as to why the Director

“agrees with the Design Review Board’s conclusion that the proposed project and condition imposed result in a design that best meets the intent of the Design Review Guidelines and accepts the recommendations noted by the Board.

Given both the lack of documentation of any analysis and findings by the Board and the similar complete lack of analysis and findings by the Director, there is no basis to give either recognition or weight.

6. Other aspects of the project do not meet applicable design guidelines. As stated on page 11 of the Analysis/Decision

The Board recognized the written comments received including a potential notch at the northwest corner, but did not agree that it was an appropriate given the desire for a more continuous commercial edge next to the Great Hall. The zero lot-line condition at the first three stories helped to blend the facades of the proposal and the Great hall together, reinforcing the edge and keeping the commercial use closer to the commercial zone and away from the residential. (CS2-C-2)

This recommendation of the board does not meet design guidelines in respect to the adjacent Great Hall, and reflects the idiosyncratic design approach of the Board, which does not relate to specific codes and guidelines, particularly

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

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.

The Great Hall has a particular design features that reflects its context as a distinctive feature in the neighborhood. The proposal to have the facade of new building about the northwest corner of the Great Hall. It is not appropriate to attempt to blend the facade of the new building with the Great Hall. Although there is some proposed congruence in the appearance of materials, the contrast between the old and new structures will provide a heightened contrast rather than compatibility.

In addition, extending the structure to the north facade of the Great Hall will require removal of a portion of the existing cornice where it currently wraps around the building. This will eliminate a design feature that is an integral part of the building. The placement of the new wall adjacent to the Great Hall will also require extensive revisions to the existing roof drainage system.

A more appropriate solution, widely used when buildings of different styles are placed adjacent to one another is to incorporate a stepped back area between the two buildings. Such a notch or "hyphen" is widely supported in design guidelines for placement of newer buildings adjacent to existing buildings with distinctive design features related to the period of construction.

Guidance provided in recognized historic preservation resources provides the following:

"A variety of design techniques can be effective ways to differentiate the new construction from the old, while respecting the architectural qualities and vocabulary of the existing building, including the following:

Incorporate a simple, recessed, small-scale hyphen to physically separate the old and the new volumes or set the addition back from the wall plane(s) of the historic building."

"An often successful way to accomplish this is to link the addition by means of a hyphen or connector. A connector provides a physical link while visually separating the old and new, ...A new addition that will abut the historic building along an entire elevation or wrap around a side and rear elevation, will likely ... result in a high degree of loss of form ..."

National Park Service, Historic Preservation, Technical Briefs
<https://www.nps.gov/tps/how-to-preserve/briefs/14-exterior-additions.htm#compatible>

"Usually an addition should be separated from the historic building by a hyphen or walkway rather than being directly attached to a large section of the historic fabric. The use of a hyphen helps to divide new from old and communicates that "this is an addition to a building that existed independently for decades or even centuries." The hyphen also ensures that less historic fabric will be removed from the existing building during construction, preserving more of the historic exterior."

Dedic, Peder D, Historic Preservation for Designers
https://books.google.com/books?id=fPsqAwAAQBAJ&pg=PA276&lpg=PA276&dq=hyphen+separated+historic+building&source=bl&ots=_udR52AAxy&sig=t8K86hhiX9thaLk92_xMUDyfQeo&hl=en&sa=X&ved=0ahUKEwi575qGje3OAuUJ4GMKHTnhBhQQ6AEIMTAD#v=onepage&q=hyphen%20separated%20historic%20building

Given the following:

- The lack of expertise of the Board on the treatment of historic buildings,
 - The lack of any design guideline that supports a "continuous" commercial edge. Guidelines instead emphasize an appropriate "fit"
 - The lack of a "commercial" character to the Great Hall frontage, which was originally developed as a church. The south wall consists of pierced windows leading to former Sunday School classrooms and current offices.
 - The consequent destruction of a portion of the wrap-around cornice of the Great Hall, which would be lost with an abutting facade
- a. The building design should be revised to provide a 10 foot by 10 foot notch at the northwest corner adjacent to the Great Hall.
 - b. If the city continues to support the current design that abuts the Great Hall, it should clearly specify that the new building is responsible for any retrofitting of the Great Hall cornice and roof drainage system.

D. SEPA Environmental Impacts and Mitigation

The Environmental Checklist stamped as received November 5, 2015. is incomplete and inaccurate for the following reasons:

A. The Analysis/Decision on pages 18 and 19 states:

The Seattle Department of Construction and Inspections (SDCI) has annotated the environmental checklist submitted by the applicant.

There is no annotated SEPA checklist in the Permit Record for the project. The only copy available to the public is Exhibit 85, the checklist submitted by the applicant in November 2015.

- B. Checklist Item B.9.a Housing units and income range asserts that moderate and low income units would be provided, this, however, is not supported by a commitment to the rental rates to be required. Given the amenities of the site due to its proximity to Green Lake, the assumption that low income housing would be provides cannot be sustained without a commitment regarding rental rates.
- C. Checklist item B.12.a Nearby Recreation: The response refers to the neighborhood. In fact, the site is near Green Lake Park which is one of the most heavily used parks in the city, which produces a high volume of on-street parking demand, particularly in the summer.
- D. B.13.b Historic resources: The response incorrectly responds to the question. The Great Hall adjacent to the site is more than 50 years old and is eligible for the City, State and National Historic Registers, although currently not listed
- E. Height, Bulk, and Scale: The Analysis Decision provides an analysis on page 21 that states, in part:

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 for any new project proposed on the site. Per the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to historic resources are presumed to be sufficient, and additional mitigation is not warranted under SMC 25.05.675.G.

1. This set of statements presents a “Catch 22.” The reference to policy is not analysis. The referenced policy specifically presumes that there will be analysis.

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. [Emphasis Added]

However, there has been no analysis in the environmental review of whether this articulation, landscaping, and façade treatment has indeed adequately mitigated impacts. It is incorrect to presume that a separate design review constitutes and aesthetic analysis. The analytic process must be:

- Analyze impacts
 - Compare to the results presented by the Design Review
 - Make a conclusion as to whether the impacts have been “adequately mitigated” based on a factual record
2. The analysis above in Subsection C of compliance with codes and design guidelines leads to a reasonable conclusion that potential impacts have not been mitigated.
 3. The record as a whole, including Exhibit 49, the record of the Public Comment Meeting addressing environmental issues, as well as correspondence, documents a community concern about the height and bulk of the building. Reduction in the height, as well as design features were identified as potential mitigation.

The only valid measure of an aesthetic impact is the perception of the community that interacts with the environment; there is no objective or scientific means to define aesthetics. As has been observed in one resource:

A community aesthetic and visual resource can be broadly defined as a natural or cultural feature of the environment that elicits positive sensory reactions and evaluations by the observer.” [L. Canter, Environmental Impact Assessment, 2nd Edition, New York: McGraw Hill, 1996]

This is also consistent with guidelines almost universally used for Visual Resource Analysis:

The public workshops should be focused on how the general parameters of natural, cultural, and project resources contribute to the visual quality preferred by the affected population of neighbors and travelers. How and why do viewers believe they contribute to visual quality? Identify iconic visual resources and typical or representative ones. Ask questions like, “What visual resources contribute to a community’s identity?” and “What visual resources guide a traveler?” You should conduct a virtual or actual tour of the project area, asking people what they like and dislike about the existing scene and convert their comments into statements about visual preferences and verify these visual preferences at future workshops.

Given that a broad consensus of the community is that the proposed building is out of scale and too high, and confirmation by the observable facts that it extends three stories above the Great Hall to the west and 4 stories above residential buildings in the east, one can only conclude that the contrast of the building height and scale to its surroundings is an adverse impacts.

4. The Analysis/Decision, fails to include other relevant policies, including

SMC 25.05.665.D.Relationship to City Codes. ... Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC Section 25.05.675), denial or mitigation of a project based on adverse environmental impacts shall be permitted only under the following circumstances:

- 3.The project site presents unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure which would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or
- 5. The project is located near the edge of a zone, and results in substantial problems of transition in scale or use which were not specifically addressed by the applicable City code or zoning;

25.05.675.G.1.b. However, the City's land use regulations cannot anticipate or address all substantial adverse impacts resulting from incongruous height, bulk and scale. For example, unanticipated adverse impacts may occur when a project is located on a site with unusual topographic features or on a site which is substantially larger than the prevalent platting pattern in an area. Similarly, the mapping of the City's zoning designations cannot always provide a reasonable transition in height, bulk and scale between development in adjacent zones.

SMC 25.05.675.G.2.b. Subject to the overview policy set forth in SMC Section 25.05.665, the decision-maker may condition or deny a project to mitigate the adverse impacts of substantially incompatible height, bulk and scale. Mitigating measures may include but are not limited to:

- i. Limiting the height of the development;
- ii. Modifying the bulk of the development;
- iii. Modifying the development's facade including but not limited to color and finish material;
- iv. Reducing the number or size of accessory structures or relocating accessory structures including but not limited to towers, railings, and antennae;
- v. Repositioning the development on the site; and
- vi. Modifying or requiring setbacks, screening, landscaping or other techniques to offset the appearance of incompatible height, bulk and scale.

The record clearly shows that:

- a. The aesthetic consensus of the community is that the proposed building is too high and out of scale.
 - b. Future development on either side of the building is not likely to result in future buildings of similar height. The proposed building will permanently “give the finger” (as stated by one commenter) to the community as a whole.
 - c. The building and setting clearly meet the “exception” standards for imposing SEPA based conditions in SMC 25.05.665.D. 3 & 5, 25.05.675.G.1.b. SMC 25.05.675.G.2.b.
 - d. An additional condition (in addition to meeting the transition requirements of the code) to mitigate aesthetic impacts should be imposed to eliminate one story of the building.
5. Given the complete lack of analysis, the Hearing Examiner can only conclude that the conclusions of the Director are unsupported and therefore clearly erroneous.

F. Parking

1. The Analysis/Decision contains the following analysis on page 22:

The proposed development includes 45 residential units, 1,600 sq. ft. of commercial space with 12 off-street vehicular parking spaces. The traffic and parking analysis noted that the existing on-street parking utilization rate is approximately 75.5 percent within 800’ of the site. The proposed development peak in demand during the evening would not be accommodated by the proposed 12 off-street parking spaces in the development, resulting in a spillover demand for on-street parking spaces. However, approximately 93 on-street parking spaces would be available to the residential tenants.

This analysis is deficient in the following:

- It doesn’t identify the source of information relied upon.
- It doesn’t address the likely parking demand of the project
- It doesn’t identify cumulative impacts

For purpose of analysis, we must presume that the conclusions rely on the following studies provided by the applicant:

Exhibit 4 Traffic Study: Parking correction response, posted 10/26/2016

Exhibit 33 Traffic Study: 417 73rd Apts Parking Study posted 4/27/2016

Exhibit 82 v Traffic Study posted 11/12/2015

If this is incorrect, we request notice by DCI so that we can amend our filing.

2. Exhibit 82, the November 2015 Traffic Study by Heath and Associates states that
The project will most likely attract tenants with lower parking needs.

This statement is entirely speculative with no evidence whatsoever presented to substantiate the claim and cannot be given weight.

3. Exhibit 82, the November 2015 Traffic Study by Heath and Associates further states that

In addition, lower parking requirements can be supported through the application process to better regulate the lower demand for parking by notifying prospective tenants of the need for alternative transportation.

This statement cannot be given credit because:

- a. There is no such thing as a “need” for alternative transportation. The choice of transportation mode is an individual decision based on the transportation needs of individuals. . The lack of on-site parking to meet demand does not result in a need for a tenant to use alternatives. There is nothing in the land use or private application process that will regulate or affect parking demand of prospective tenants. The main determinant of parking demand is automobile ownership.
- b. If a tenant owns an automobile, they will need a place to park it. If there is not adequate on-site parking, they will park on the street or “poach” on other private parking.
- c. Travel mode choice for work or shopping trips has little effect on the individual choice of automobile ownership. A tenant may take transit to work and may walk for shopping trips, but may still choose to own an automobile for a variety of other trips. One of the attractions of the Pacific Northwest is a variety of year-round recreational opportunities. Most of those opportunities for hiking, skiing and other activities are only accessible by private automobile.
- d. The future owners and managers of the building will have no ability to affect the choice of individual tenants of whether to own an automobile. A tenant can choose to obtain an automobile after moving in, with no knowledge of the owner. Limiting rental to tenants that do not own automobiles is prohibited by Seattle Fair Housing laws in SMC 14.04, 14.06 and 14.10,

4. Exhibit 82, the November 2015 Traffic Study by Heath and Associates r states that

The proximity to multiple transit routes including high frequency routes with bus service every 15 minutes supports the need to provide less parking.

This statement cannot be given credit for the following reasons:

- a. In order to substantiate whether transit availability may have any effect on automobile ownership, one must examine where these routes connect to and how does that compare with the demand for trips and the potential destinations for the following types of trips
 - Work. Commutes performed towards the workplace, which represents approximately 34% of daily commutes.
 - Business (work). Trips from the workplace to a business destination.

- Business (personal). Trips related to personal activities such as restaurants.
 - Shopping. Commutes towards any store regardless of its size, merchandise, or whether or not any purchases are made. These commutes represent approximately 13% of all daily travel.
 - Recreational. Commutes performed with the intention of recreation such as a cultural or sport event. Similar to shopping, these represent about 12% of daily commutes.
 - Education. Commutes towards a learning establishment by those seeking any type of training, regardless of the level of learning. These commutes represent 3.5% of the daily travel total.
 - Social. Trips related to social activities such as visiting family or friends.
[Source: National Household Travel Survey, FHWA, 2001]
- b. It is particularly relevant in this case that the bus route that qualifies under the land use code for eliminating of parking requirements is Route 45, which provides a particular circuitous routing, long travel times and provides connection to only one major activity center – the University District. In this case, being in proximity to this particular frequent transit service provides limited incentive to use alternative modes of travel. Route 16 and 316 which connect to the downtown do not qualify as frequent transit service due to schedule.
- c. The individual choice of a tenant of whether to own an automobile is determined by their individual choice on the type of destinations they choose for various types of trips and whether other modes of transportation will serve those choices. In general, the transit system in Seattle serves trips to downtown and a few activity centers. Most residents of Seattle choose to own automobiles to serve the wide range of trips an average individual makes.
- d. There is no information provided in this study, or generally in a range of studies, that documents a relationship between project or neighborhood density or transit availability and parking demand. A range of studies of automobile ownership shows very weak correlation between any predictive variables and automobile ownership.
- i. As one study summarizes “ considering a building or development outside of the context in which it is built, one cannot accurately estimate parking ratios. And conversely, the built environment alone cannot fully account for variation in parking ratios. To accurately estimate parking ratios or utilization, both the building itself and the location in which it is constructed must be taken into consideration.
- [CRT (Center for Neighborhood Technology) 2013. Right Size Parking Project, King County Metro Transit, Literature Review, Statistical Methods ,Technical Memo. February 7, 2013. Available on

the Internet at: http://metro.kingcounty.gov/programs-projects/right-size-parking/pdf/rsp-litreview_11-2011.pdf

- ii. In the Seattle area, automobile ownership is growing in the areas in which density and transit availability would predict lower rates of automobile ownership.

[Balk, Gene. 2014. The surprising places where car ownership is up in Seattle. Seattle Times. July 11, 2014 Available on the Internet at <http://blogs.seattletimes.com/fyi-guy/2014/07/11/surprising-places-car-ownership-is-up/>]

- iii. A low correlation has been found between parking demand and measures of transit service, indicating a complex of factors affecting such demand.

[Rose, Joseph. 2014. Study: Seattle still beats Portland when it comes to households giving up cars (poll The Oregonian. January 27, 2014. Available on the Internet at http://www.oregonlive.com/commuting/index.ssf/2014/01/seattle_still_beating_portland.html]

- iv. Income appears to have a substantial influence on car ownership. As income increases car ownership incidence increases. (Plath quoted in Healy 2014, Sivek 2013, 2014)

[Sivak, M. (2013). Has motorization in the U.S. peaked? Part 2: Use of light duty vehicles (Report No. UMTRI-2013-20). Ann Arbor: The University of Michigan Transportation Research Institute. Available on the Internet at: <http://deepblue.lib.umich.edu/bitstream/handle/2027.42/98982/1/02950.pdf>]

- v. Other reasons for regarding car ownership as necessary or desirable may be as significant as those that can be measured. (Plath quoted in Healey 2014)

[Healey, James R. 2014 Analyst: Auto boom foundering. USA Today. January 23, 2014. Available on the Internet at: <http://www.usatoday.com/story/money/cars/2014/01/22/auto-boom-over-fewer-households-with-cars/4734157/>]

- vi. In communities in the vicinity of rail rapid transit where transit share increased to 30 percent and 24 percent, respectively (versus a 2000 census transit commute share of 6.4 percent) car ownership may remain high. A recent study of five TOD housing projects in the East Bay and five in Metro Portland found that although residents do not use their car as much to get to work, they still need a car to get to most non-work destinations. Many TOD residents still will own cars and use them for shopping, going out to eat, and the like.

[Cervero, Robert 2010 Are Suburban TODs Over-Parked? University of California, Berkeley Journal of Public Transportation, Vol. 13, No. 2, 2010 Available on the Internet at:
<http://www.nctr.usf.edu/jpt/pdf/JPT13-2Cervero.pdf>]

- vii. One of the attractions of the Pacific Northwest is a variety of year-round recreational opportunities. Most of those opportunities for hiking, skiing and other activities are only accessible by private automobile.

5. Exhibit 33 the April 2016 Traffic Study addresses parking demand by the following:

Given the nature and style of the incoming project, there is no standardized methodologies in quantifying this type of project's parking demand. However, in a parking study conducted in April of 2014, by William Popp Associates titled, "1731 NW 57th St Small Efficiency Apartments" a sample set of five small apartments congregates were surveyed to capture an estimated parking demand based on number of units. All locations were in the Seattle city limits and are of similar nature to the proposed 417 73rd Apartments project. Based on their study, the parking demand rate calculated to be 0.35 vehicles per unit.

(Table included in the study is not reproduced in this document.)

The results reported in the table referenced are inapplicable and inaccurate and therefore cannot be used to determine probable parking demand for this project.

- a. Exhibit 33 Traffic Study: 417 73rd Apts Parking Study posted 4/27/2016 The William Popp Associates report on page 7 of the study for 1731 NW 57th St Apartments notes that the buildings reported in the table are not, in fact, comparable. The buildings surveyed were not true apartments but generally were smaller units with shared kitchen areas. These smaller units, particularly in an area like the University District, where they are all located, would tend to lead to a greater share of students as tenants which would tend to have lower vehicle ownership levels.
- b. The report states that the sites were surveyed in the early 2000's. Market conditions have changed considerably since that time.
- c. No information is given on the methodology of the study. Determining automobile ownership is difficult and unreliable. Obtaining a complete or representative sample is difficult to achieve, tenants may resist providing information or provide unreliable information, particularly to management, and patterns may change over time. (Lucas 2011)
- d. The sites reported in the table are all in the University District with significantly different tenant characteristics:
 - 1. The University District provides a potential pool of student tenants from the 30,000 students at the Seattle Campus (UW 2015a). These students are more likely to walk to classes and activities (UW 2015b) and to have much lower auto ownership patterns. THE PROPOSED SITE IS LIKELY TO

ATTRACT FEW IF ANY TENANTS WHO CAN WALK TO SCHOOL. Although transit route 45 provides service to the University of Washington, any student tenants at this location are much more likely to need a car for normal activities.

2. For non-students, the University of Washington provides employment for about 25,000, providing a substantial pool of potential tenants who could walk to work. Employment opportunities available within walking distance in this area are extremely limited. According to City transportation models,
3. Potential tenants of this proposal do not enjoy conditions similar to the University District that might lead to lower vehicle ownership rates:
4. The parking demand rate for the projects included in the Heath & Associates March 28, 2016 parking study (William Popp Assoc. data) are more similar to census data for the tracts in which they are located. Tracts 43.02 and Tracts 53.01 are likely most typical of the University District. Tracts 43.01, 44 and 52 include considerable areas of predominantly single family development.

Censu2 Tract 43.01

No Vehicle Available - 1 person households = 41%

Average vehicles per 1 person households = 0.68

1100 NE 47th St - WPA imputed vehicle ownership 39%

Census Tract 43.02

No Vehicle Available - 1 person households = 65%

Average vehicles per 1 person households = 0.36

4629 21st Ave NE - WPA imputed vehicle ownership 39%

Census Tract 44

No Vehicle Available - 1 person households = 50%

Average vehicles per 1 person households = 0.87

5608 15th Ave NE- WPA imputed vehicle ownership 22%

Census Tract 52

No Vehicle Available - 1 person households = 31%

Average vehicles per 1 person households = 0.69

800 NE 42nd St - WPA imputed vehicle ownership 38%%

Census Tract 53.01

No Vehicle Available - 1 person households = 72%

Average vehicles per 1 person households = 0.43

4750 16th Ave NE - WPA imputed vehicle ownership 35%

6. Data from **Census Tract 36** which includes the site of the proposal should form the basis for projected residential parking demand for this project based on the following:
 - a. About 10 percent of all households had no vehicles available.
 - b. Average vehicles owned (including no vehicle households) was 1.64 per household.
 - c. For one person households, 30% had no vehicle available, and
 - d. The average was 0.78 vehicles per household.

This is the minimum parking demand that should be used for this project. The parking demand for the project is 35 spaces and the on-street parking spillover with 14 proposed spaces is 21. It compares with ITE estimated parking demand for residential apartments in an urban setting of 1.2 stalls per unit (average) for Low and Mid Rise Apartments.

7. Exhibit 33 the April 2016 Traffic Study addresses the existing parking supply and utilization in the area through counts taken on January 20, 2016 at 7 PM and January 21, 2016 at 8 PM.

The analysis is inaccurate and may not be relied upon as a true indication of impacts based on the following:

- a. This analysis contained errors that inflated local legal street parking capacity and so reduced the impact of spillover parking for the project from what it should have been. A street segment on the southwest corner of NE 73rd St at 5th Ave NE, for example, was identified in the study as being legal parking for two cars. The actual amount of legal parking: zero. The segment at the other end of 73rd at Woodlawn Ave NE was identified as legal parking for four cars. In fact, the claimed length of this segment was significantly inflated from its actual length. Moreover, the portion of it is reserved for two ZIP cars -- which is clearly visible -- was simply ignored in the calculations (car share street designations aren't included in legal street parking capacity).
- b. These glaring errors occurred on just one side of one street, and it is impossible to have confidence in the accuracy of the measurements for the rest of the study area. The city, unfortunately, does not take the time to spot check the measurements for these types of studies, which only encourages shoddy work or abuse.
- c. The city specified survey of on-street spaces within 800' of the project site. This is contrary to the normal 400 foot walking distance specified in TIP 117. If this distance is to be used, the city and applicant must provide a justification that a greater walking distance in fact will be used in this case by both residents of the project and by local businesses.

8. Exhibit 33 the April 2016 Traffic Study addresses the cumulative parking demand in the area in relation to pending projects.

The analysis is inaccurate and may not be relied upon as a true indication of impacts based on the following:

- a. The study indicates that Rosita's Restaurant parking on the proposed site is at full occupancy. It does not indicate that this constitutes 19 spaces, which must be included in future, on-street parking demand.

The proposed parking demand of 0.35 vehicles per unit used is unsupportable and does not provide an accurate assessment of impacts.

- b. NE 73rd Street (Permit #6386713) 6 unit townhouse with 3 parking stalls with a projected demand of 0.35 vehicles per unit is unsupported, inapplicable and inaccurate. These are three bedroom units. They are likely to be owned by high-income families with the resources to own multiple vehicles. The likely vehicle ownership and parking demand is likely to be 1.87 vehicles/parking spaces per unit consistent with area census data. (Census 2014). Demand would be 11 parking spaces with parking spillover of 8. At the least, the parking demand of the ITE for Townhome Units of 1.62 spaces per unit would result in a demand of 10 spaces and parking spillover of 7.
 - c. Project: 419 NE 71st Street (Permit #3017353) 6-story building with 130 residential units, 14,609 square feet of retail and 106 parking stalls. These are smaller units and likely are consistent with the ITE rates for residential in an urban setting of 1.2 stalls per unit (average) for Low and Mid Rise Apartments or 153 spaces. Parking demand for the retail from ITE rates would vary from 2.5/1,000 for general retail to 10.6 for restaurant. Using 5 spaces per 1,000 square feet, the demand would be 36 spaces. Total demand would be 189 spaces and parking spillover of 86.
 - d. The analysis does not include the demand of existing uses in the vicinity that were not utilized during the time period of the survey. This includes 7220 Woodlawn, The Great Hall 8,000 square feet public assembly (Great Hall 2016) This facility has a Fire Code Capacity of 386. (Great Hall 2016) At reasonable auto occupancy of 3 persons per car, the maximum parking demand would be 128. According to the building manager, events average 150 attendees resulting in a parking demand of 50 plus a catering truck and 3 spaces for catering staff, for a total equivalent of 55.
 - e. The demand for on-street parking relating to Greenlake Park has not been included as previously requested.
9. Potential Cumulative Impacts of the Proposal and other development in the vicinity is parking demand 518 spaces or 156 percent of supply.

Proposed project 45 units, 14 parking spaces, spillover	= 21
Displaced 19 parking spaces used by Rositas of site	= 19
420 NE 73rd Street 6 units, 3 parking spaces, spillover	= 7 to 8
419 NE 71st Street 130 units, 14,609 sq ft retail, spillover	= 86

Great Hall, average occupancy 150 parking spillover	= 55
Total Parking Spillover	= 188
Existing Spaces = 332	
Existing Demand = 330	
Cumulative Demand = 518	
Available Spaces – Shortage of spaces = minus 188	
Parking Utilization = 156%	

The Analysis/Decision conclusion that approximately 93 on-street parking spaces would be available to the residential tenants is unsupported and inaccurate.

10. Impacts of exceeding on-street parking supply include:

- a. The practical capacity for on-street parking is typically defined at 85% utilization, which is greatly exceeded in the vicinity of this project. At this level of utilization, the next arriving customer or visitor is able to quickly find a reasonably convenient parking space. When occupancy exceeds the practical capacity, drivers will experience delays and frustration while searching for a parking space, as well as contribute to area traffic congestion while circling the block looking for parking. (Seattle 2008) In addition, drivers are more likely to park illegally at hydrants and loading zones, block driveways and poach private parking spaces.
- b. Projected parking demand of 156% of supply is far beyond the SDOT occupancy target range of 70 to 85 percent for on-street parking. (Seattle 2014) This indicates that there will be a severe shortage of parking for both residential and commercial uses in the vicinity.
- c. The overutilization of on-street parking at 156% of supply will have a disastrous effect on local businesses in the area. The city has not required parking for small businesses in its zoning code for many years. These streets are the only source of parking for many of the small businesses in the area. These businesses are largely dependent on customers who access them by automobile. The Greenlake Urban Village and surrounding areas do not have a population within walking distance that would support these businesses without automobile access. The proposal will produce parking spillover such that it will deprive businesses of their existing on-street parking supply. Without adequate parking these businesses would not be successful.

11. Due to adverse impact, the purpose of the NC2 zoning would not be achieved, pursuant to SMC 23.34.076 –

Neighborhood Commercial 2 (NC2) zones, function and locational criteria. Function. To support or encourage a pedestrian-oriented shopping area that provides a full range of household and personal goods and services, including convenience and specialty goods, to the surrounding neighborhoods, and that accommodates other uses that are compatible with the retail character of the area such as housing or offices...

12. The following goals of Greenlake as a Residential urban villages would not be provided

- a. Provide a focus of goods and services for residents and surrounding communities but may not provide a concentration of employment”
- b. Erosion of the vitality of neighborhood businesses also would not meet the goals of the Greenlake Neighborhood Plan to
- c. Maintain and enhance the neighbor-friendly character and vitality of neighborhood commercial areas.

13. The applicant has identified two (2) strategies to mitigate parking demand:, providing parking racks and providing an information board. Neither of these is likely to have any meaningful effect on parking:

- a. Bicycle parking may further bicycle use, but will have little impact on parking demand. Bicycles are used for about 2% of commute trips in Seattle (McKenzie 20140). Use or ownership of bicycles, however, is not an indicator that a person will not also own a car. What little information is available indicates that most bicycle commuters own cars as well as bicycles with 90% of even the most avid bicyclists owning cars (Rose 2009). This survey information probably underestimates vehicle ownership because it was a self-selected survey of members of a bicycle club. Bicycle racks may help encourage bicycle ownership and commuting by cannot be ascribed to have any effect on vehicle ownership or parking demand.
- b. Commuter information may be useful in encouraging persons to use transit and other modes, but there is no evidence that transit use has a direct effect on vehicle ownership and parking demand.

14. The Analysis/Decision contains the following analysis on page 22:

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

This statement inaccurately quotes the provisions of SMC 25.05.675.M which reads

No SEPA authority is provided for the decision maker to mitigate the impact of development on parking availability for residential uses located within:

portions of urban villages 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;

The difference of including the term “for residential uses” clearly limits the assessment of impacts to parking available to the impacts on only residential units. The text does not say not “by” residential units.

“For” is a function word to indicate the object or recipient of an activity or action. (Merriam Webster Dictionary.)

The impacts “for” commercial uses and recreation uses are not limited by this provision.

15. Given the complete lack of analysis, the Hearing Examiner can only conclude that the conclusions of the Director are unsupported and therefore clearly erroneous.
16. REQUESTED RELIEF: Alternatively, the hearing examiner may consider the record as a whole and conclude that “adverse impacts” result from parking and that it is reasonable to must use the authority in SMC 25.05.675.M.1 and 2 to require 0.7 parking spaces per residential unit. This may involve providing additional parking or limiting the number of units, or both.

- a. The obligation to mitigate adverse impacts is clearly contained in SMC 25.05.660 - Substantive authority and mitigation. The proposal meets the following criteria included in that section:

Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

- b. Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated in Sections 25.05.665, 25.05.670 and 25.05.675 as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued. (Compare Section 25.05.350 C).

- c. The proposal is clearly covered by the policy in SMC 25.05.675.M.1 and 2:

1. Policy background.

- a. Increased parking demand associated with development projects may adversely affect the availability of parking in an area.
- b. Parking regulations to mitigate most parking impacts and to accommodate most of the cumulative effects of future projects on parking are implemented through the City's Land Use Code. However, in some neighborhoods, due to inadequate off-street parking, streets are unable to absorb parking spillover. The City recognizes that the cost of providing additional parking may have an adverse effect on the affordability of housing.

This is clearly a case where local streets are unable to absorb additional on-street parking spillover from the project resulting in adverse impacts to all existing and contemplated uses in the area.

- 2 Policies

- a. It is the City's policy to minimize or prevent adverse parking impacts associated with development projects.

Subject to the overview and cumulative effects policies set forth in Sections 25.05.665 and 25.05.670, the decision maker may condition a

project to mitigate the effects of development in an area on parking;
provided that:

2) No SEPA authority is provided for the decision maker to mitigate the impact of development on parking availability for residential uses located within: [Emphasis Added]

c). portions of urban villages 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;

The proposal may be in such an area. However adverse impacts on non-residential uses including businesses in the area are not restricted by these provisions as indicated above

BEFORE THE CITY OF SEATTLE HEARING EXAMINER

Appeal MUP Design Review Appl. 3019917

ATTACHMENT B -PROCEDURAL ISSUES

In accordance with the Hearing Examiner Rules of Practice and Procedure

A. 2.05 FILING AND SERVICE OF DOCUMENTS

1. The appeal and associated documents have been timely filed with the Hearing Examiner in hard copy, and in electronic format through the e-File page of the Hearing Examiner's website
2. Documents have been served by first class mail on the applicant Chris Gurdjian as designated in the Statement of Financial Responsibility/Agent Authorization dated 4/3/15 and with a DCI Receive date stamp of 11/5/2015(Appellant Exhibit 94)
3. Documents have been served by first class mail on Brian J. Kim, Caron Architecture designated as the applicant on the Analysis and Decision ((Appellant Exhibit 1)
4. Documents have been served on the Department of Construction and Land Use (DCI) by delivery to Bruce P. Rips. Assoc. AIA, AICP, Land Use Supervisor, the signatory to the approval ((Appellant Exhibit 1) at the Seattle Municipal Tower 700 5th Avenue, Suite 1800.
5. We have also provided a pdf via email to all parties, to save scanning or other such effort.

B. 2.09 PREHEARING CONFERENCE

1. The Appellants do not request a prehearing conference, however, the Appellants desire to have a representative present at any prehearing conference that is held.
2. The Appellants preference, if a prehearing conference is held, is by telephone conference call
3. The Appellants would participate in mediation if funded by the applicant. We also are willing to participate in informal discussions, which likely would be warranted to establish whether there is a basis for negotiation. **We are more than happy to do this prior to the Applicant or the City expending time and money on attorneys and other effort.** If the Hearing Examiner needs to extend the normal schedule to accommodate this, we are amenable
4. Exhibits, Discovery and Witness lists presented with the appeal are preliminary.

C. Motions: If the Applicant or DCI wishes to file substantive motions with legal arguments, the Appellants request 21 days to respond in recognition that the appellants are citizens, are employed full time, are not experts in the subject matter and may require additional time to fully understand issues raise and research any issues raised.

D. Evidence: The Appellants presume that evidence is primarily related to the existing submittals in the City of Seattle Permit and Property Records <http://web6.seattle.gov/dpd/edms/> for the Project Number 3019917. This is the information relied upon by the DCI in the Analysis and Decision. Information not of record at the time of the decision was made should not be

considered because that information was not relied upon in the decision. This may include other information referenced in these exhibits. This request is in recognition that the appellants are citizens, are employed full time, are not experts in the subject matter and do not have time and expertise to become familiar with additional information.

- E. Witnesses: The Appellants presume that witnesses be limited to City Staff responsible for review and approval of the project. Since this is a city decision, the understanding of city staff as to the issues raised would appear to be the only relevant issues, other witnesses should be excluded, except if they authored specific exhibits submitted as part of the proposal.

2.14 TESTIMONY AND ARGUMENT

- A. We are not familiar with the process for presenting exhibits during testimony. To avoid the expense and effort of making copies of all exhibits, we would prefer to provide a Power Point presentation which we would provide to all parties. This presumes that there is a computer, projector or TV screen.
- B. We don't understand the significance of this phrase "The rules of privilege apply to the extent recognized by law." From Wikipedia it appears unlikely to be relevant. If we need not be concerned, explanation is not required.

BEFORE THE CITY OF SEATTLE HEARING EXAMINER
Appeal MUP Design Review Appl. 3019917

ATTACHMENT C -Preliminary List of Appellant Exhibits

Exhibits below are in the City of Seattle Permit and Property Records <http://web6.seattle.gov/dpd/edms/> for the Project Number 3019917.

Additional Exhibits may be proposed

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
1	3019917	417 NE 73rd St	Decision/Recommendation: Decision/RecommendationV2	pdf	500 KB		12/22/2016
2	3019917	417 NE 73rd St	Notice: Notice of Decision & Parties	pdf	284 KB		12/22/2016
3	3019917	417 NE 73rd St	Plan Set: Plan Set V2	pdf	88 MB		10/31/2016
4	3019917	417 NE 73rd St	Traffic Study: Parking correction response	pdf	10 MB		10/26/2016
5	3019917	417 NE 73rd St	Other Correction Letter: Cycle 5 corrections for LAND USE	pdf	40 KB		10/14/2016
6	3019917	417 NE 73rd St	Land Use: Application Plan	pdf	29 MB	10/6/2016	10/11/2016
7	3019917	417 NE 73rd St	Other Correction Letter: Cycle 4 corrections for ZONING	pdf	40 KB		9/16/2016
8	3019917	417 NE 73rd St	Land Use: Application Plan	pdf	29 MB	9/6/2016	9/14/2016
9	3019917	417 NE 73rd St	Other: REC2 Report	pdf	573 KB		9/9/2016
10	3019917	417 NE 73rd St	Other Correction Letter: Cycle 1 corrections for LAND USE v2	pdf	40 KB		9/2/2016

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
11	3019917	417 NE 73rd St	Public Comment Letter: Kristin 8/27/16	pdf	28 KB		8/29/2016
12	3019917	417 NE 73rd St	Design Proposal Cover Page: Design Proposal Cover PageV5	pdf	116 MB		8/12/2016
13	3019917	417 NE 73rd St	Other Correction Letter: Cycle 3 corrections for Land Use Review	pdf	40 KB		8/10/2016
14	3019917	417 NE 73rd St	Public Comment Letter: Jones 8/7/16	pdf	67 KB		8/8/2016
15	3019917	417 NE 73rd St	Public Comment Letter: Viniko 8/7/16	pdf	193 KB		8/8/2016
16	3019917	417 NE 73rd St	Other Correction Letter: Cycle 3 corrections for CITY LIGHT	pdf	42 KB		7/28/2016
17	3019917	417 NE 73rd St	Other Correction Letter: Cycle 3 corrections for ZONING	pdf	54 KB		7/27/2016
18	3019917	417 NE 73rd St	Land Use: Correction Response	pdf	806 KB	7/13/2016	7/27/2016
19	3019917	417 NE 73rd St	Other: Staff memo to DR Board re REC #2	pdf	88 KB		7/26/2016
20	3019917	417 NE 73rd St	Design Proposal: 2nd REC Proposal	pdf	116 MB		7/25/2016
21	3019917	417 NE 73rd St	Notice: Notice of Design Review Board 2nd Recommendation Meeting & Parties	pdf	483 KB		7/21/2016
22	3019917	417 NE 73rd St	Land Use: Application Plan	pdf	65 MB	7/13/2016	7/20/2016
23	3019917	417 NE 73rd St	Public Comment Letter: Viniko 7/11/16	pdf	749 KB		7/13/2016
24	3019917	417 NE 73rd St	Public Comment Letter: Donnelly 7/11/16	pdf	23 KB		7/13/2016
25	3019917	417 NE 73rd St	Public Comment Letter: Wizer 5/24/2016	pdf	41 KB		5/25/2016

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
26	3019917	417 NE 73rd St	Decision/Recommendation: REC Report	pdf	276 KB		5/24/2016
27	3019917	417 NE 73rd St	Public Comment Letter: Viniko 5/11/2016	pdf	40 KB		5/11/2016
28	3019917	417 NE 73rd St	Public Comment Letter: Jones 5/3/2016	pdf	29 KB		5/4/2016
29	3019917	417 NE 73rd St	Public Comment Letter: Viniko 5/3/16	pdf	153 KB		5/4/2016
30	3019917	417 NE 73rd St	Public Comment Letter: Viniko 5/2/16	pdf	90 KB		5/3/2016
31	3019917	417 NE 73rd St	Public Comment Letter: Unknown 4/28/16	pdf	34 KB		5/1/2016
32	3019917	417 NE 73rd St	Design Proposal Cover Page: Design Proposal Cover PageV4	jpg	250 KB		4/27/2016
33	3019917	417 NE 73rd St	Traffic Study: 417 73rd Apts Parking Study	pdf	9 MB		4/27/2016
34	3019917	417 NE 73rd St	Design Proposal: REC Proposal	pdf	10 MB		4/25/2016
35	3019917	417 NE 73rd St	Notice: Notice of Design Review Board Recommendation Meeting & Parties	pdf	567 KB		4/22/2016
36	3019917	417 NE 73rd St	Other: EDG Report	pdf	406 KB		4/21/2016
37	3019917	417 NE 73rd St	Other Correction Letter: Cycle 2 corrections for ZONING v2	pdf	53 KB		3/14/2016
38	3019917	417 NE 73rd St	Other Correction Letter: Cycle 2 corrections for ZONING	pdf	53 KB		3/14/2016
39	3019917	417 NE 73rd St	Other Correction Letter: Cycle 2 corrections for Land Use Review	pdf	53 KB		3/10/2016
40	3019917	417 NE 73rd St	Other Correction Letter: Cycle 2 corrections for CITY LIGHT	pdf	42 KB		3/4/2016

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
41	3019917	417 NE 73rd St	Land Use: Application Plan	pdf	24 MB	2/22/2016	3/4/2016
42	3019917	417 NE 73rd St	Construction: Correction Response	pdf	27 KB	2/19/2016	2/23/2016
43	3019917	417 NE 73rd St	Land Use: Correction Response	pdf	594 KB	2/19/2016	2/23/2016
44	3019917	417 NE 73rd St	Land Use: Correction Response	pdf	392 KB	2/9/2016	2/23/2016
45	3019917	417 NE 73rd St	Other: Design Review Board Recommendation Undated Caron Draft	pdf	11 MB		2/22/2016
46	3019917	417 NE 73rd St	Public Comment Letter: Alvarez 2/1/16	pdf	49 KB		2/1/2016
47	3019917	417 NE 73rd St	Public Comment Letter: Sanderson 1/26/2016	pdf	428 KB		1/28/2016
48	3019917	417 NE 73rd St	Public Comment Letter: Livable Greenlake 1/27/2016	pdf	2015 KB		1/28/2016
49	3019917	417 NE 73rd St	Public Comment Letter: Public Comment Summary Jan. 20 Meeting	pdf	244 KB		1/26/2016
50	3019917	417 NE 73rd St	Public Comment Letter: Williams 1/20/16	pdf	40 KB		1/21/2016
51	3019917	417 NE 73rd St	Public Comment Letter: Michaelini 1/17/16	pdf	42 KB		1/19/2016
52	3019917	417 NE 73rd St	Public Comment Letter: Ladniak 1/19/16	pdf	31 KB		1/19/2016
53	3019917	417 NE 73rd St	Other Correction Letter: Cycle 1 corrections for Land Use Review	pdf	54 KB		1/19/2016
54	3019917	417 NE 73rd St	Notice: Notice of Revised Application & Parties	pdf	305 KB		1/8/2016
55	3019917	417 NE 73rd St	Other: Response to Viniko	pdf	96 KB		1/6/2016
56	3019917	417 NE 73rd	Public Comment Letter: Fogarty 1/4/16	pdf	31 KB		1/4/2016

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
		St					
57	3019917	417 NE 73rd St	Other Correction Letter: Cycle 1 corrections for LAND USE	pdf	42 KB		1/4/2016
58	3019917	417 NE 73rd St	Public Comment Letter: Ray 12/28/2015	pdf	40 KB		12/29/2015
59	3019917	417 NE 73rd St	Land Use: Public Comment	pdf	342 KB	11/11/2015	12/28/2015
60	3019917	417 NE 73rd St	Notice: Notice of Public Meeting & Parties	pdf	296 KB		12/24/2015
61	3019917	417 NE 73rd St	Public Comment Letter: Cameron 12/18/15	pdf	58 KB		12/22/2015
62	3019917	417 NE 73rd St	Public Comment Letter: Kitsis 12/18/15	pdf	39 KB		12/22/2015
63	3019917	417 NE 73rd St	Public Comment Letter: Viniko 12/18/15	pdf	132 KB		12/21/2015
64	3019917	417 NE 73rd St	Other Correction Letter: Cycle 1 corrections for ZONING	pdf	55 KB		12/21/2015
65	3019917	417 NE 73rd St	Public Comment Letter: Wright 12/16/15	pdf	49 KB		12/17/2015
66	3019917	417 NE 73rd St	Public Comment Letter: Wright 12/14/15	pdf	38 KB		12/14/2015
67	3019917	417 NE 73rd St	Public Comment Letter: Cameron 12/14/15	pdf	52 KB		12/14/2015
68	3019917	417 NE 73rd St	Notice: ReNotice of Application & Parties	pdf	193 KB		12/10/2015
69	3019917	417 NE 73rd St	Public Comment Letter: Austin 12/5/15	pdf	53 KB		12/7/2015
70	3019917	417 NE 73rd St	Public Comment Letter: Jones 12/2/15	pdf	65 KB		12/2/2015
71	3019917	417 NE 73rd St	Public Comment Letter: Schubert 11/30/15	pdf	30 KB		12/1/2015

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
72	3019917	417 NE 73rd St	Public Comment Letter: Lin 11/30/15	pdf	64 KB		12/1/2015
73	3019917	417 NE 73rd St	Public Comment Letter: Grant 11/25/15	pdf	37 KB		12/1/2015
74	3019917	417 NE 73rd St	Public Comment Letter: Viniko 11/25/15	pdf	44 KB		12/1/2015
75	3019917	417 NE 73rd St	Public Comment Letter: Thomas 11/24/15	pdf	40 KB		11/25/2015
76	3019917	417 NE 73rd St	Correspondence: Failed Sign E-mail	pdf	43 KB		11/23/2015
77	3019917	417 NE 73rd St	Notice: Notice of Application & Parties	pdf	225 KB		11/23/2015
78	3019917	417 NE 73rd St	Other Correction Letter: Cycle 1 corrections for CITY LIGHT	pdf	43 KB		11/20/2015
79	3019917	417 NE 73rd St	Land Use: Plan	pdf	17 MB	11/5/2015	11/17/2015
80	3019917	417 NE 73rd St	Drainage Correction Response: Attachment A	pdf	163 KB		11/12/2015
81	3019917	417 NE 73rd St	Financial Responsibility Form	pdf	232 KB		11/12/2015
82	3019917	417 NE 73rd St	Traffic Study	pdf	4 MB		11/12/2015
83	3019917	417 NE 73rd St	Geotechnical Report: Soils Report	pdf	356 KB		11/12/2015
84	3019917	417 NE 73rd St	Geotechnical Report: Soils Report 2	pdf	4 MB		11/12/2015
85	3019917	417 NE 73rd St	SEPA Checklist	pdf	2 MB		11/12/2015
86	3019917	417 NE 73rd St	SEPA Checklist: Green House Gas Worksheet	pdf	10 KB		11/12/2015
87	3019917	417 NE 73rd St	Cover Sheet	pdf	1370 KB		11/12/2015

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
88	3019917	417 NE 73rd St	Plan Set	pdf	17 MB		11/12/2015
89	3019917	417 NE 73rd St	Other: SPU Approval Letter	pdf	92 KB		11/12/2015
90	3019917	417 NE 73rd St	Other: WAC	pdf	69 KB		11/12/2015
91	3019917	417 NE 73rd St	Land Use: SEPA Checklist	pdf	457 KB	11/5/2015	11/6/2015
92	3019917	417 NE 73rd St	Land Use: Soils	pdf	951 KB	11/5/2015	11/6/2015
93	3019917	417 NE 73rd St	Land Use: Application Materials	pdf	385 KB	11/5/2015	11/6/2015
94	3019917	417 NE 73rd St	Land Use: Financial Responsibility / Agent Authorization	pdf	97 KB	11/5/2015	11/6/2015
95	3019917	417 NE 73rd St	Land Use: Preliminary Application	pdf	229 KB	11/5/2015	11/6/2015
96	3019917	417 NE 73rd St	Land Use: Design Review	pdf	456 KB	11/5/2015	11/6/2015
97	3019917	417 NE 73rd St	Land Use: Plan	pdf	45 KB	11/5/2015	11/6/2015
98	3019917	417 NE 73rd St	Land Use: Design Review	pdf	38 MB	11/5/2015	11/6/2015
99	3019917	417 NE 73rd St	Land Use: Design Review	pdf	30 MB	11/5/2015	11/6/2015
100	3019917	417 NE 73rd St	Public Comment Letter: Billings 9/15/15	pdf	384 KB		9/21/2015
101	3019917	417 NE 73rd St	Public Comment Letter: Billings 9/4/15	pdf	78 KB		9/11/2015
102	3019917	417 NE 73rd St	Public Comment Letter: Davis 8/25/15	pdf	29 KB		8/26/2015
103	3019917	417 NE 73rd St	Public Comment Letter: Mattausch 8/20/15	pdf	28 KB		8/25/2015

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
104	3019917	417 NE 73rd St	Public Comment Letter: Carlson 8/17/15	pdf	32 KB		8/19/2015
105	3019917	417 NE 73rd St	Public Comment Letter: Davis 8/17/15	pdf	29 KB		8/19/2015
106	3019917	417 NE 73rd St	Public Comment Letter: Nichols 8/14/15	pdf	118 KB		8/17/2015
107	3019917	417 NE 73rd St	Public Comment Letter: Weatbrook 8/12/15	pdf	41 KB		8/14/2015
108	3019917	417 NE 73rd St	Public Comment Letter: Osborne 8/11/15	pdf	167 KB		8/13/2015
109	3019917	417 NE 73rd St	Public Comment Letter: Dobson 8/7/15	pdf	52 KB		8/13/2015
110	3019917	417 NE 73rd St	Public Comment Letter: Hoover 8/7/15	pdf	45 KB		8/13/2015
111	3019917	417 NE 73rd St	Design Proposal Cover Page: Design Proposal Cover PageV3	jpg	137 KB		8/12/2015
112	3019917	417 NE 73rd St	Public Comment Letter: Bogren 8/12/15	pdf	49 KB		8/12/2015
113	3019917	417 NE 73rd St	Design Proposal: Revised Design Proposal	pdf	8 MB		8/12/2015
114	3019917	417 NE 73rd St	Public Comment Letter: Leigh 8/7/15	pdf	32 KB		8/10/2015
115	3019917	417 NE 73rd St	Public Comment Letter: Briller 8/7/15	pdf	38 KB		8/10/2015
116	3019917	417 NE 73rd St	Public Comment Letter: Jones 8/9/15	pdf	50 KB		8/10/2015
117	3019917	417 NE 73rd St	Public Comment Letter: Boos 8/10/15	pdf	29 KB		8/10/2015
118	3019917	417 NE 73rd St	Public Comment Letter: Li 8/10/15	pdf	47 KB		8/10/2015
119	3019917	417 NE 73rd St	Public Comment Letter: Ward 8/10/15	pdf	28 KB		8/10/2015

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
		St					
120	3019917	417 NE 73rd St	Public Comment Letter: Carlson 8/5/15	pdf	46 KB		8/7/2015
121	3019917	417 NE 73rd St	Public Comment Letter: Viniko 8/6/15	pdf	96 KB		8/6/2015
122	3019917	417 NE 73rd St	Public Comment Letter: Henry 7/31/15	pdf	30 KB		8/3/2015
123	3019917	417 NE 73rd St	Public Comment Letter: Austin 8/3/15	pdf	66 KB		8/3/2015
124	3019917	417 NE 73rd St	Design Proposal Cover Page: Design Proposal Cover PageV2	jpg	25 KB		7/30/2015
125	3019917	417 NE 73rd St	Public Comment Letter: Kohl 7/30/15	pdf	150 KB		7/30/2015
126	3019917	417 NE 73rd St	Public Comment Letter: Li 7/29/15	pdf	43 KB		7/29/2015
127	3019917	417 NE 73rd St	Public Comment Letter: Schubert 7/27/15	pdf	30 KB		7/28/2015
128	3019917	417 NE 73rd St	Public Comment Letter: Newman 7/25/15	pdf	27 KB		7/27/2015
129	3019917	417 NE 73rd St	Public Comment Letter: Saliermo 7/27/15	pdf	28 KB		7/27/2015
130	3019917	417 NE 73rd St	Notice: Notice of Design Review Early Design Guidance Meeting	pdf	139 KB		7/24/2015
131	3019917	417 NE 73rd St	Design Proposal Cover Page	jpg	27 KB		7/16/2015
132	3019917	417 NE 73rd St	Design Proposal: EDG Proposal dated May 28, 2015	pdf	36 MB		6/17/2015
133	3019917	417 NE 73rd St	Financial Responsibility Form	pdf	529 KB		6/12/2015
134	3019917	417 NE 73rd St	Other: EDG Application	pdf	621 KB		6/12/2015

Exhibit No	Project #	Address	Document	Format	Size	Document Date	Capture Date
135	3019917	417 NE 73rd St	Other: Notice Team GIS map	pdf	3 MB		6/10/2015
136	3019917	417 NE 73rd St	Pre-Submittal Notes: Approved Pre Sub Notes	pdf	126 KB		6/3/2015
137	3019917	417 NE 73rd St	Decision / Recommendation: App for LU or Bldg Conf	pdf	322 KB	4/23/2015	4/30/2015
138	3019917	417 NE 73rd St	Site Photo: Photo Doc 3/3/2015 1:29 PM	pdf	22 MB		3/3/2015
139	3019917	417 NE 73rd St	Site Plan	pdf	281 KB		2/24/2015

BEFORE THE CITY OF SEATTLE HEARING EXAMINER
Appeal MUP Design Review Appl. 3019917

ATTACHMENT D - Preliminary Discovery Request (This is a preliminary request. We understand that the final request deadline will be established by the Hearing Examiner)

Public Notice for the project indicated:

The project file, including application plans, environmental documentation and other additional information related to the project, is available in our electronic library at web6.seattle.gov/dpd/edms/.

We have not, however, been able to readily identify the following – which we request to be provided in pdf format:

1. The complete submittal to the Design Review Board by DCI staff and the complete record of Design Review Board recommendations transmitted to the applicant for all Design Review Board Meetings.
2. Any notes taken by DCI staff at the Design Review Board meetings and at the SEPA Meeting on January 10, 2016.
3. Any correspondence or meeting notes with the applicant or architect not contained in the electronic library.

BEFORE THE CITY OF SEATTLE HEARING EXAMINER
Appeal MUP Design Review Appl. 3019917

ATTACHMENT E - Preliminary List of Witnesses (This is a preliminary request. We understand that the final request deadline will be established by the Hearing Examiner)

We desire to call as witnesses only the DCI staff involved in preparing the Analysis/Decision on the proposal.

Staff we know of from the Analysis/Decision, Public Notice, meeting summaries and revision requests are:

Shelley Bolser

Christina B Capestany

Katy Haima, Planner

Brian Kim

BreAnne McConkie, Land Use Planner

Bruce P. Rips. Assoc. AIA, AICP, Land Use Supervisor

John Shaw

We do not desire to call unnecessary witnesses, and therefore request DCI staff to identify the staff that participated in analysis and decision making for various issues addressed in the Analysis/Decision. This may include other persons not listed above.

We are more than happy to submit subpoenas for these witnesses. This, however, appears to us to be an unnecessary formality. We request that DCI simply volunteer the participation on their staff in the hearing.

CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on this date, I sent true and correct copies of the attached to each person listed below, in the manner indicated.

Name Chris Gurdjian

Address Used For Service

U.S. First Class Mail, postage prepaid

E-mail

Fax

Hand Delivery

Legal Messenger

Name

Address Used For Service

PO Box 22812

Seattle, WA 98122

SERVED BY U.S. First Class Mail, postage prepaid

Name Brian J. Kim, Caron Architecture

Address Used For Service

2505 3RD Avenue, Suite 300C

Seattle, WA 98121

SERVED BY U.S. First Class Mail, postage prepaid

Name Brian J. Bruce P. Rips. Assoc. AIA, AICP, Land Use Supervisor

SERVED BY U.S. Hand Delivery to Seattle Municipal Tower 700 5th Avenue, Suite 1800, Seattle WA

DATED January 5, 2017

SIGNATURE _____

NAME: Donna Hadly

Also emailed

chris@fiddleandplow.com

briankim@caronarchitecture.com

Bruce.Rips@seattle.gov