



City of Seattle

Edward B. Murray, Mayor

Department of Construction and Inspections

Nathan Torgelson, Director

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

Application Number: 3016200
Council File Number: 314343
Applicant Name: David Neiman, Neiman Architects
Address of Proposal: 5911 42nd Avenue Southwest

SUMMARY OF PROPOSED ACTION

Council Land Use Action to rezone 18,681 sq. ft. of land from Single Family 5000 (SF5000) to Lowrise1 (LR1). Project includes three townhouse structures (six units total) and a new park. Parking for 12 vehicles to be provided within attached garages. Existing structure to remain. Environmental Review includes future unit lot subdivision.

The following approvals are required:

Contract Rezone (SMC 23.34) – from Single Family 5000 (SF5000) to Lowrise1 (LR1)

SEPA - Environmental Determination (SMC 25.05)

SEPA DETERMINATION:

Determination of Non-significance

☒ No mitigating conditions of approval are recommended.

BACKGROUND

Mandatory Housing Affordability for Residential Development

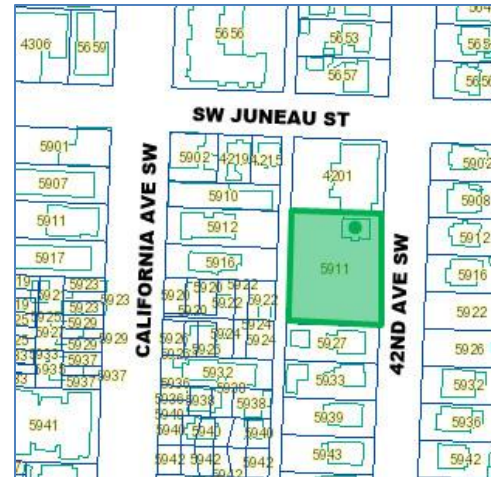
In August of 2016 City Council passed Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development* (MHA-R). The purpose of Chapter 23.58C is to implement an affordable housing incentive program authorized by RCW 36.70A.540. Chapter 23.58C specifies a framework for providing affordable housing in

new development, or an in-lieu payment to support affordable housing, in connection with increases in residential development capacity.

Chapter 23.58C is applicable as follows: where the provisions of a zone specifically refer to Chapter 23.58C; or through the terms of a contract rezone in accordance with Section 23.34.004.

Streamlined Design Review

In March 2016, the proposed design was reviewed via the Streamlined Design Review process (pursuant to SMC 23.41.018). At that time, the following two adjustments were requested and supported by SDCL.



1. **Setback, Rear (SMC 23.45.518.A):** The Code requires a rear setback of 5-foot minimum, 7-foot average. The applicant proposes a reduction in this requirement to 4-foot minimum, 4-foot, 4-inch average. The departure request applies to all six townhouse units. The garage level is setback from the west property line a minimum and average distance of 6-feet, 6-inches, while the upper levels project closer to the west property line and have a minimum setback of 4-feet and an average of 4-feet 4-inches. The width of the alley is 16-feet.

Staff supported the departure request finding that the ground level setback exceeds the minimum required setback, and provides the required vehicular backup distance, a concern expressed within the public comment. The reduction in upper level setback results in a cantilevering of the upper levels and thereby creates façade interest and reduces the perceived height, bulk, and scale of the structure.

2. **Separations (SMC 23.45.518.F.1):** The Code states that the minimum required separation between principal structures at any two points on different interior facades is 10 feet. The applicant proposes a reduction in this requirement to six-feet.

Staff supported the departure. The reduction in building separation provides three clustered structures that accommodate preservation of existing Exceptional trees on site and a larger shared public open space which contributes to the character and proportion of surrounding open spaces and adds to public life.

Future Land Use Map

In 2015, the City Council adopted amendments to the Future Land Use Map (FLUM), including the Morgan Junction Neighborhood Plan to support the goals of more flexibility within Urban Villages as well as providing more open space for this community. The FLUM was amended to re-designate property at the southwest corner of 42nd Ave SW and SW Juneau St (including the subject site) from single-family to multi-family (Council Bill 118469, Ordinance 124887).

Zoning

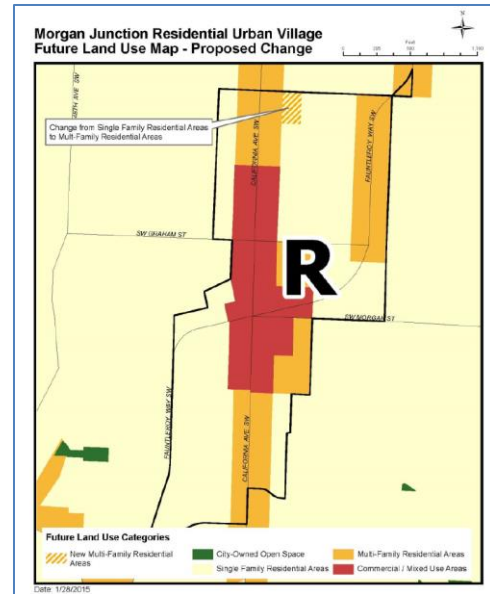
Site Zone: SF5000 with a contract rezone to LR1

Nearby Zones: (North) SF5000
(East) SF5000
(South) SF5000
(West) LR3/Residential Commercial (RC)

Lot Area: 12,500 square feet

Environmentally Critical Areas

There are no mapped Environmentally Critical Areas on the site.



PUBLIC COMMENT

The public comment period ended on September 19, 2016. In addition to the comment received through the Streamlined Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to impacts to the alley, parking, and construction impacts. Comments were also received that are beyond the scope of this review and analysis.

CURRENT AND SURROUNDING DEVELOPMENT; NEIGHBORHOOD CHARACTER

The West Seattle Church of the Nazarene is located on the southwest corner of SW Juneau St and 42nd Ave SW. The proposed six new townhouse units are proposed on the lot abutting the church to the south. This lot currently contains the parish house and three Exceptional trees, to be preserved.

Development along 42nd Ave SW consists primarily of one- and two-story single-family structures with raised front yards, generous front porches, varied siding materials, and traditional roof forms. Development across the alley to the west (fronting on California Ave SW) consists of three- and four-story multiple-family structures and one- and two-story commercial structures.

I. ANALYSIS – REZONE

The applicable requirements for this rezone proposal are stated in SMC 23.34.004 (*Contract rezones*), 23.34.007 (*Rezone evaluation*), 23.34.008 (*General rezone criteria*)

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

SMC 23.34.004 Contract Rezones

- A. *Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone.*

A Property Use and Development Agreement (PUDA) will be executed and recorded as a condition of this contract rezone. The PUDA shall require that development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3016200.

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

As noted above, in August of 2016 the City Council passed Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development* (MHA-R). As described, SMC 23.58C is applicable through the terms of a contract rezone in accordance with SMC 23.34.004. A PUDA will be executed and recorded as a condition of the contract rezone and shall require that development of the rezoned property be subject to the requirements of SMC 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58C in this case. A Director's Rule (*Application of Mandatory Housing Affordability for Residential Development (MHA-R) in contract rezones*, DR 14-2016) has been approved pursuant to SMC 23.34.004.B. The rule specifies how to determine the appropriate MHA-R suffix and the resulting payment and performance calculation amounts for purposes of Chapter 23.58C for a contract rezone.

The Director's Rule provides a phased implementation calculation for proposals with complete Master Use Permit applications submitted before January 1, 2016. The subject application was submitted after this date (Complete: August 31, 2016). The performance/payment calculation for the proposed contract rezone is, therefore, subject to the tiers (M, M1 or M2) and cost areas (Low, Medium, or High). Application of these factors indicates that the proposed rezone from SF5000 to LR1 would fall into tier M1, and the map included in the Rule shows that the site is located within a Medium cost area. Thus, the MHA-R payment and performance amounts are \$20/sf and 9% of units, respectively.

- C. *A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.*

A PUDA will be executed and recorded as a condition of the contract rezone.

- D. *Waiver of Certain Requirements. The ordinance accepting the PUDA may waive specific bulk or off-street parking and loading requirements if the Council determines that the waivers are necessary under the agreement to achieve a better development than would otherwise result from the application of regulations of the zone. No waiver of requirements shall be granted that would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

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

SMC 23.34.007 Rezone evaluation

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

This rezone is not proposed to correct a mapping error; therefore, the provisions of this chapter apply. In evaluating the proposed rezone, the provisions of this chapter have been weighed and balanced together to determine which zone and height designation best meets the provisions of the chapter.

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

This analysis evaluates the full range of criteria called for and outlined in Chapter 23.34, *Amendments to Official Land Use Map (Rezones)*, as they apply to the subject rezone (listed at the beginning of this “Analysis” section).

- C. *Compliance with the provisions of this Chapter 23.34 shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Environment Policies shall be used in shoreline environment redesignations as provided in subsection 23.60A.042.C.*

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

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

The entire development site, including the parcels proposed for rezone, are located within the Morgan Junction Residential Urban Village. The provisions of this chapter that pertain to areas inside urban villages shall apply to the proposal.

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

The subject rezone is not a redesignation of a shoreline environment, and is therefore not subject to Shoreline Area regulations.

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

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

SMC 23.34.007 Conclusion: The proposed rezone meets the requirements of SMC 23.34.007, per the analysis above.

SMC 23.34.008 General Rezone Criteria

- A. *To be approved a rezone shall meet the following standards:*
- 1. In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.*
 - 2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.*

The proposed rezone parcels are located within the Morgan Junction Residential Urban Village, as described in the response to SMC 23.34.007.D. The estimated housing unit growth target listed for this Urban Village is for 400 additional dwelling units between the year 2015 and the year 2035 (*Urban Village Element* of the Comprehensive Plan). The 2015 housing density for this Urban Village is 11.8 housing units/gross acre, and by 2035 the housing density would be 15.2 housing units/gross acre (*Urban Village Appendix A* of the Comprehensive Plan). The Comprehensive Plan does not contain specific growth targets for Residential Urban Villages.

The proposed rezone will slightly increase the zoned capacity of the Morgan Junction Residential Urban Village. Per the *Housing Appendix*, Table A-1, the residential

development capacity for *all* Residential Urban Villages is 39,386 housing units (18% of the total residential development capacity of the city (page 473).

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

- B. Match Between Zone Criteria and Area Characteristics. The most appropriate zone designation shall be that for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.*

This rezone does include a change to the zone designation; therefore, an analysis of the zone type and locational criteria is required.

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

The site has always been zoned Single Family.

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

The City is proposing requirements, area-wide zoning map changes, expansions of some urban village boundaries, modifications to development standards and other actions to implement Mandatory Housing Affordability (MHA) requirements for multifamily and commercial development in certain areas. The proposal includes a change to the zoning of the subject site, and the nearby SF5000-zoned blocks, to Residential Small Lot (RSL). The RSL zone allows small infill homes in the scale and character of a single-family area. The intent is to encourage small-scale, family-friendly housing, such as cottages, duplexes, and rowhouses and townhouses (*Principles for MHA Implementation*, HALA draft zone changes to implement Mandatory Housing Affordability https://hala.consider.it/morgan_junction--the-residential-small-lot-rsl-zone-is-in-appropriate-places-to-implement?results=true).

The current zoning requires a minimum lot size of 5,000 sq. ft. and would allow construction of 3 single family homes if the property were short-platted. The MHA-recommended RSL zone would require a minimum lot size of 2,500 sq. ft. and would allow construction of 7 single family homes, if the property were short-platted. The LR1 zone would allow approximately 11 residential units on the property. The proposal includes 6 new townhomes, retention of the existing single-family residence, and a large amount of open space to be preserved for neighborhood use. Although the proposal would limit development when compared with the City's area wide proposal, it does not preclude the City's proposed zoning if it is adopted. For these reasons, the proposed rezone is not expected to be precedential.

D. Neighborhood Plans.

1. *For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.*

The applicable Morgan Junction Neighborhood Plan (adopted September 7, 1999, ordinance 119634) can be found in the City of Seattle Comprehensive Plan Neighborhood Plans, beginning on page 329. The adopted portions of the Plan include only one policy (MJ-P15) that specifically refers to future rezones, and addresses the rezoning of L3 to L4 inside urban villages. The proposed rezone does not include L3 or L4 zoning; therefore, this policy does not apply to the proposed rezone.

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

The adopted portions of the Morgan Junction Neighborhood Plan include only one policy (MJ-P15) that specifically refers to future rezones, and addresses the rezoning of L3 to L4 inside urban villages. The proposed rezone does not include L3 or L4 zoning; therefore, this policy does not apply to the proposed rezone.

3. *Where a neighborhood plan adopted or amended by the City Council after January 1, 1995 establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.*

The adopted portions of the Morgan Junction Neighborhood Plan include the following goals and policy statements that may be appropriate for consideration of the rezone request:

Parks and Open Space:

Goal MJ-G3: A community with an appealing nature, with attractive landscaping and pleasant parks and gathering places where walking and biking are easy and enjoyable.

Policy MJ-P4: Seek future open space opportunities and acquisitions to provide additional “breathing room” to the Morgan Junction neighborhood.

Policy MJ-P6: See opportunities, particularly within the business district, to provide additional open space and to create open space/plazas that serve as community gathering places.

Policy MJ-P7: Encourage the creation of open spaces in conjunction with pedestrian and bicycle linkages throughout the neighborhood.

Housing and Land Use:

Goal MJ-G5: A community with strong single-family neighborhoods and compatible multi-family buildings offering a wide range of housing types for all people

Policy MJ-P13: Maintain the character and integrity of the existing single-family zoned areas by maintaining current single-family zoning both inside and outside the urban village on properties meeting the locational criteria for single-family zones, except where, as part of a development proposal, a long-standing neighborhood institution is maintained and existing adjacent community gathering places are activated, helping to meet MJ-P6.

Policy MJ-P16: Strive to achieve adequate levels of parking for new commercial, mixed-use and multi-family buildings and use other parking management techniques that minimize spillover parking into residential areas.

Policy MJ-P25: Seek opportunities to develop public gathering spaces.

Policy MJ-P30: Promote the use of Crime Prevention Through Environmental Design (CPTED) techniques in the development of new open space sites, pedestrian trails and traffic improvements.

The proposed development associated with the rezone request has completed the design review process, as described earlier in this document. Consistent with SMC 23.41, that process includes consideration of the pedestrian-oriented streetscape, open space, landscaping, design context and signage. This process is intended to meet similar goals as policies MJ-G3, MJ-P4, MF-P6, MF-P7, MJ-G5, MJ-13, MJ-P16, MJ-P25, AND MJ-P30. The proposal includes design strategies to provide open space opportunities for the neighborhood and a variety of housing types.

4. *If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.*

The Council-adopted portions of the Morgan Junction Neighborhood Plan do not identify any specific areas for rezone.

SMC 23.34.008 D Conclusion: There are no specific Land Use policies to guide rezones within the Morgan Junction neighborhood (except for Lowrise 3 and 4). The proposed rezone is consistent with the density anticipated in and around the Urban Village as contemplated in the Seattle Comprehensive Plan. The development is consistent with the adopted portions of the Morgan Junction Neighborhood Plan. The proposal will facilitate future development that will best accomplish the City's planning objectives.

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

1. *The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.*

The proposed rezone would result in a unique zone and transition to other adjacent zones; properties to the west and northwest are zoned Lowrise 3/RC, and properties north east and south of the site are zoned SF 5000. The recommended MHA zoning changes would change the SF 5000 zoning in the urban village to RSL and LR2. If the MHA rezones are adopted, the proposal site would abut RSL-zoned properties to the immediate north and south, and across 42nd Ave. SW to the east.

Design review also considers height, bulk and scale transitions to lower adjacent zones and response to existing context. The proposed rezone includes a specific proposed development that has gone through the Streamlined Design Review process consistent with SMC 23.41. The design that has been approved by SDCI includes design strategies to minimize the appearance of height, bulk, and scale.

SMC 23.32.008.E Summary: The proposed design of the development, and the resulting transition between existing zoning in the area would be generally consistent with the criterion for, “A gradual transition between zoning categories, including height limits...” as cited under 23.34.008.E.1.

2. *Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:*
 - a. *Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;*
 - b. *Freeways, expressways, other major traffic arterials, and railroad tracks;*
 - c. *Distinct change in street layout and block orientation;*
 - d. *Open space and greenspaces.*

With the exception of the 42nd Ave. SW right-of-way, there are no physical buffers providing a separation between the proposal site and existing less intensive single-family development. The proposed open space, together with the existing three large trees would provide some physical and visual buffering between the proposed townhouse development and adjacent single-family residences.

The proposed rezone includes a specific proposed development that has gone through the Streamlined Design Review process consistent with SMC 23.41. The design that has been recommended for approval by SDCI includes design strategies to minimize the appearance of height, bulk, and scale. The design review process also considered the transition to adjacent properties, to mitigate the impacts of the zone edge facing the neighboring properties.

Zone Boundaries.

- e. *In establishing boundaries the following elements shall be considered:*
 - (1) *Physical buffers as described in subsection E2 above;*
 - (2) *Platted lot lines.*

The proposed rezone would establish zoning boundaries with some physical buffers as described in response to subsection E2 above.

- f. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.*

The proposal would not affect boundaries between commercial and residential areas.

- 3. In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.*

The proposed LR1 zone does not allow a height greater than 40 feet.

SMC 23.34.008 E Summary: There is some effective separation provided by existing Exceptional trees, setbacks, modulation, and adjacent streets/alley to the north, east, and west. The proposed rezone includes a specific proposed development that has gone through Streamlined Design Review per SMC 23.41. The Design Review process recommended a design with specific strategies to reduce the impacts of bulk and scale to the adjacent sites, including setbacks and modulation.

- F. Impact Evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.*

- A. Factors to be examined include, but are not limited to, the following:*

- a. Housing, particularly low-income housing;*

The future project will have a positive impact on the supply of housing on the site and its surroundings by providing six new residential dwelling units. The PUDA will ensure that the provisions of Chapters 23.58C. apply to the project proposal. Participation in the program under Chapter 23.58C will yield affordable housing within the project or an equivalent in lieu payment.

- b. Public services;*

Though demand for public services may be a marginal increase resulting from the potential for an increased density, the change is likely to be indiscernible.

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

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

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

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

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

Glare – No noticeable change in impacts will result from a change in zoning. A lighting plan is contained on page A13 of the plan set and includes wall mounted, stake, and bollard lighting. All exterior lighting will be shielded and directed away from adjacent development.

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

Shadows – The maximum height permitted in the LR1 zone is 30-feet, with allowances for encroachments such as shed roofs. This permitted height is the same as is permitted in the SF5000 zone. Proposed development may create additional shadow impacts due to the allowances for shed roofs above the maximum 30-foot height limit and the increased bulk on the site. The increased shadows that would result from the proposed design are relatively small compared to that massing permitted in a SF5000.

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

d. Pedestrian safety;

No noticeable change in impacts will result from a change in zoning. The proposed development includes public right of way improvements for pedestrian safety.

e. Manufacturing activity;

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

f. Employment activity;

The existing and proposed zoning would both allow residential uses at this site, no commercial activity will be permitted. No change will result from the change in zoning.

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

There are no historic landmarks or landmark districts in the vicinity of the project site.

h. Shoreline view, public access and recreation.

The proposed development and rezone are not located near the shoreline or public viewpoints, or near recreation sites.

The Land Use Code does not include criteria or requirements for protection of views from private property.

B. Service Capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

- a. Street access to the area;*
- b. Street capacity in the area;*
- c. Transit service;*
- d. Parking capacity;*

The proposed development fronts on 42nd Ave SW. In response to criteria (a) through (d), the street access, street capacity, and parking are discussed in the SEPA analysis below. Transit service is noted below in the response to SMC 23.34.008.G. and H.

e. Utility and sewer capacity;

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

f. Shoreline navigation.

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

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be

limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

Ordinance 124887, in part, modified the City's Future Land Use Map in June 2015 to change the designation of the subject site at the southwest corner of 42nd Ave. SW/SW Juneau St. from Single-Family to Multi-Family, and updated policies in the Morgan Junction Neighborhood Plan.

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

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

The site is not located in any of the following Overlay Districts defined in the Land Use Code:

- Shoreline SMC (23.60A)
- Station Area Overlay SMC (23.61)
- Airport Height Overlay District (SMC 23.64)
- Special Review Districts SMC (23.66)
- Southeast Seattle Reinvestment Area (SMC 23.67)
- Major Institution Overlay (SMC 23.71)
- Northgate Overlay (SMC 23.71)
- Sand Point Overlay (SMC 23.72)
- Pike/Pine Conservation Overlay District (SMC 23.73)
- Stadium Transition Area Overlay District (SMC 23.74)

SMC 23.34.008 H Summary: This criterion is not applicable.

I. Critical Areas. If the area is located in or adjacent to a critical area (SMC_Chapter 25.09), the effect of the rezone on the critical area shall be considered.

The site is not located in or adjacent to a critical area; therefore, this criterion does not apply.

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

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

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

SMC 23.34.008 Conclusion: The proposed structure is 30-feet in height, the same as permitted in the current zoning. The proposed development has been reviewed through Design Review, including strategies to ease the transition to less intensive adjacent zones. The proposed rezone meets all other requirements of SMC 23.34.008, per the analysis above.

- **SMC 23.34.010 Designation of Single-Family Zones**

- A. *Except as provided in subsections B or C of Section 23.34.010, single-family zoned areas may be rezoned to zones more intense than Single-family 5000 only if the City Council determines that the area does not meet the criteria for single-family designation.*

The Future Land Use Map includes amendments that designates the area in which the site is located as a Multi-Family Residential. Further, as discussed below in Section B.1, Housing and Land Use policy language for the Morgan Junction Residential Urban Village provides the opportunity for specific consideration of a rezone in single family areas.

- B. *Areas zoned single-family or RSL that meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 and that are located within the adopted boundaries of an urban village may be rezoned to zones more intense than Single-family 5000 if all of the following conditions are met:*

- 1. *A neighborhood plan has designated the area as appropriate for the zone designation, including specification of the RSL/T, RSL/C, or RSL/TC suffix, if applicable;*

The site is located within the Morgan Junction Residential Urban Village. The City's recently adopted Comprehensive Plan includes the following policy that is applicable to the proposal (MJ-P13) which states: "Maintain the character and integrity of the existing single-family designated areas by maintaining current single-family zoning both inside and outside the urban village on properties meeting the locational criteria for single-family zones, except where, as part of a development proposal, a long-standing neighborhood institution is maintained and existing adjacent community gathering places are activated, helping to meet MJ-P6."

The adjacent, existing church is a long-standing neighborhood institution which will remain and is not proposed to be rezoned. The remainder of the church property (the subject site) will be developed with the townhouses if the rezone is approved, with approximately 9,800-square feet of the subject site maintained as common amenity area. Wayfinding signage is proposed at the street, and throughout the community park area. Amenities include a painted chess board, boardwalk play area, wood chip play area, sand box, and movie screen. As designed, the proposal would be consistent with the exception described in MJ-P13, and thus, consistent with criterion B.1.

- 2. *The rezone is:*
 - a. *To a Residential Small Lot (RSL), Residential Small Lot-Tandem (RSL/T), Residential Small Lot-Cottage (RSL/C), Residential Small Lot-*

- Tandem/Cottage (RSL/TC), Lowrise 1 (LR1), Lowrise 1/Residential-Commercial (LR1/RC), or*
- b. Within the areas identified on Map P-1 of the adopted North Beacon Hill Neighborhood Plan, and the rezone is to any Lowrise zone, or to an NC1 zone or NC2 zone with a 30 foot or 40-foot height limit, or*
 - c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise 1 (LR1) or Lowrise 2 (LR2) zone, or*
 - d. Within an urban village and the Comprehensive Plan Future Land Use Map designation is a designation other than Single Family.*

The proposed rezone to Lowrise 1 comports with criterion 2.a. Consideration for a rezone from Single Family must meet at least one of the three criteria in 2.a – c.

- C. Areas zoned single-family within the Northgate Overlay District, established pursuant to Chapter 23.71, that consist of one or more lots and meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 may be rezoned through a contract rezone to a neighborhood commercial zone if the rezone is limited to blocks (defined for the purpose of this subsection C as areas bounded by street lot lines) in which more than 80 percent of that block is already designated as a neighborhood commercial zone.*

This criterion is not applicable as the site is not located within the Northgate Overlay District.

SMC 23.34.010 Conclusion: The proposal is consistent with Subsections B.1 and 2.a and, as a result, Subsection A need not be met. Therefore, the proposal is consistent with 23.34.010.

• **23.34.011 Single-family zones, function and locational criteria**

A. Function. An area that provides predominantly detached single-family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods.

The area along the block face is primarily single-family homes with appropriate lot sizes for single family.

B. Locational Criteria. A single-family zone designation is most appropriate in areas meeting the following criteria:

- 1. Areas that consist of blocks with at least seventy (70) percent of the existing structures, not including detached accessory dwelling units, in single-family residential use; or*

All of the structures on the block, with the exception of the church, are single family homes (95%).

- 2. Areas that are designated by an adopted neighborhood plan as appropriate for single-family residential use; or*

The neighborhood plan and the future land use map do not designate the site as single-family. This is a change adopted by the City Council to facilitate this project.

3. Areas that consist of blocks with less than seventy (70) percent of the existing structures, not including detached accessory dwelling units, in single-family residential use but in which an increasing trend toward single-family residential use can be demonstrated; for example:

a. The construction of single-family structures, not including detached accessory dwelling units, in the last five (5) years has been increasing proportionately to the total number of constructions for new uses in the area, or

There has been little new construction in the single family zoned areas over the past five years. Per seattleinprogress.com, there have been five projects proposed in the Morgan Junction Urban Village over the past five years. All of those projects have been multi-family townhouses or apartments.

b. The area shows an increasing number of improvements and rehabilitation efforts to single-family structures, not including detached accessory dwelling units, or

In areas within the Morgan Junction Residential Urban Village, existing structures on land that is zoned single family gets rehabilitated and improved. Existing structures on land that is zoned to allow multi-family construction generally get torn down for new multi-family development.

c. The number of existing single-family structures, not including detached accessory dwelling units, has been very stable or increasing in the last five (5) years, or

The number of single family structures has been relatively stable of the last 5 years; it has not been increasing.

d. The area's location is topographically and environmentally suitable for single-family residential developments.

The area is flat and highly suitable for single family development.

C. An area that meets at least one (1) of the locational criteria in subsection B above should also satisfy the following size criteria in order to be designated as a single-family zone:

1. The area proposed for rezone should comprise fifteen (15) contiguous acres or more, or should abut an existing single-family zone.

The area proposed for rezone is less than 15 acres.

2. If the area proposed for rezone contains less than fifteen (15) contiguous acres, and does not abut an existing single-family zone, then it should demonstrate strong or stable single-family residential use trends or potentials such as:

- a. That the construction of single-family structures, not including detached accessory dwelling units, in the last five (5) years has been increasing proportionately to the total number of constructions for new uses in the area, or*
- b. That the number of existing single-family structures, not including detached accessory dwelling units, has been very stable or increasing in the last five (5) years, or*
- c. That the area's location is topographically and environmentally suitable for single-family structures, or*
- d. That the area shows an increasing number of improvements or rehabilitation efforts to single-family structures, not including detached accessory dwelling units.*

The area proposed for rezone abuts a single-family home.

D. Half-blocks at the edges of single-family zones which have more than fifty (50) percent single-family structures, not including detached accessory dwelling units, or portions of blocks on an arterial which have a majority of single-family structures, not including detached accessory dwelling units, shall generally be included. This shall be decided on a case-by-case basis, but the policy is to favor including them.

Not applicable.

- **23.34.014 - Lowrise 1 (LR1) zone, function and locational criteria**

A. Function. The function of the LR1 zone is to provide opportunities for low-density multifamily housing, primarily rowhouse and townhouse developments, through infill development that is compatible with single-family dwelling units, or through the conversion of existing single-family dwelling units to duplexes or triplexes.

The rezone would permit the proposed development of an undeveloped site located south of an existing institution, resulting in six townhouse units and a park providing open space for the community. Townhouse development is low-density development and is considered to be compatible with single-family structures and uses.

B. Locational Criteria. The LR1 zone is most appropriate in areas generally characterized by the following conditions:

- 1. The area is similar in character to single-family zones;*

Development in the Single-Family zone is almost exclusively single-family homes.

- 2. The area is either:*

- a. located outside of an urban center, urban village, or Station Area Overlay District;*

- b. a limited area within an urban center, urban village, or Station Area Overlay District that would provide opportunities for a diversity of housing types within these denser environments; or*
- c. located on a collector or minor arterial;*

The site is not located outside of an urban center or Station Area Overlay, nor is it located on a minor arterial; the site is located within an urban village and the proposed townhouse development would provide the opportunity for a diversity of housing types in the area.

- 3. The area is characterized by a mix of single-family dwelling units, multifamily structures that are similar in scale to single-family dwelling units, such as rowhouse and townhouse developments, and single-family dwelling units that have been converted to multifamily residential use or are well-suited to conversion;*

Single family homes are the predominant type of uses within the Single Family zone, while the development in the adjacent Lowrise 3 zone to the east consists of townhouses and similar lower-density multi-family structures.

- 4. The area is characterized by local access and circulation that can accommodate low density multifamily development oriented to the ground level and the street, and/or by narrow roadways, lack of alleys, and/or irregular street patterns that make local access and circulation less suitable for higher density multifamily development;*

The streets in the vicinity generally provide local access and circulation to the low density residential development in the vicinity. The area is developed in a regular grid pattern, and the blocks include improved alley providing access to adjacent parking and public services such as recycle and trash collection.

- 5. The area would provide a gradual transition between single-family zoned areas and multifamily or neighborhood commercial zoned areas; and*

A neighborhood commercial area is located on California Ave. SW, about one block northwest of the site. Directly west of the site, across the alley, is a LR3 zone, and about 3 blocks to the east is a LR2 zoned area, developed with low density multifamily structures like those found in the LR3 zone.

- 6. The area is supported by existing or projected facilities and services used by residents, including retail sales and services, parks, and community centers.*

The Neighborhood Commercial 3 (NC3)-zoned area on California Ave. SW is an active commercial district developed with a variety of uses, including restaurants, wine shops, child care, clothing stores and numerous professional services serving residents in the area.

RECOMMENDATION – REZONE

Based on the analysis undertaken in this report, the SEPA analysis of the rezone and project proposal, and the weighing and balancing of all the provisions in SMC 23.34, the Director recommends that the proposed rezone from Single Family 5000 to Lowrise 1(M1) be approved.

The Director recommend conditions to be included in the PUDA; these are listed following the SEPA Analysis.

II. ANALYSIS – SEPA

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

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

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short Term Impacts

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

Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials

themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A.

Construction Impacts - Noise

The project is expected to generate loud noise during demolition, grading and construction. The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends and legal holidays.

If extended construction hours are desired, the applicant may seek approval from SDCI through a Noise Variance request. The applicant's environmental checklist does not indicate that extended hours are anticipated.

The limitations stipulated in the Noise Ordinance are sufficient to mitigate noise impacts; therefore, no additional SEPA conditioning is necessary to mitigation noise impacts per SMC 25.05.675.B.

Earth / Soils

Excavation to construct the residential structures will be necessary. Excavation will remove an estimated 200 cubic yards of material from the development site and import 650 cubic yards. Soil, gravel and similar materials may be imported to or exported from the site. Transported soil is susceptible to being dropped, spilled or leaked onto City streets. The City's Traffic Code (SMC 11.74.150 and .160) provides that material hauled in trucks not be spilled during transport. The City requires that loads be either: 1) secured/covered; or 2) a minimum of six inches of "freeboard" (area from level of material to the top of the truck container). The regulation is intended to minimize the amount of spilled material and dust from the truck bed en route to or from a site. No further conditioning of the impacts associated with the grading/excavation impacts of the project is warranted pursuant to SEPA policies (SMC 25.05.675.D).

Long Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: greenhouse gas emissions; parking; possible increased traffic in the area. Future activity, in addition to construction permits, will likely include a unit lot short plat to allow sale or lease of the individual residential units.

Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, greenhouse gas, historic resources, and height bulk and scale warrant further analysis.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project construction and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change

and global warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A.

Historic Preservation

The existing structure on site is more than 50 years old. Although this structure will be retained, it was reviewed for potential to meet historic landmark status. The Department of Neighborhoods reviewed the proposal for compliance with the Landmarks Preservation requirements of SMC 25.12 and indicated the structure on site is unlikely to qualify for historic landmark status (*Landmarks Preservation Board letter, LPB 130/16*, Department of Neighborhoods, February 29, 2016). Per the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to historic resources are presumed to be sufficient, and no further conditioning is warranted per SMC 25.05.675.H.

Height, Bulk, and Scale

The proposal has gone through the Streamlined 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 Streamlined Design Review process for any new project proposed on the site. Pursuant to the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to height bulk and scale are presumed to be sufficient, and additional mitigation is not warranted under SMC 25.05.675.G.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- ☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

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

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

RECOMMENDED CONDITIONS – REZONE

The Director recommends approval of the contract rezone from Single Family 5000 to Lowrise 1(M1), subject to the following conditions, which shall be contained in the PUDA:

Prior to Issuance of a Master Use Permit

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

Prior to Issuance of a Building Permit

2. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3016200. (P)

RECOMMENDED CONDITIONS – SEPA

None.

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

Date: July 24, 2017

CAG:rgc
3016200.docx

IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

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

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

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

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