

**INTERPRETATION OF THE DIRECTOR  
PURSUANT TO TITLE 23 OF SEATTLE MUNICIPAL CODE**

In the Matter of	)	
the Use of the	)	Interpretation No. 10-001
Property at	)	DPD Project No. 3011557
1753 – NW 56 <sup>th</sup> Street	)	

**Background**

This interpretation was requested by attorney James J. Klauser on behalf of his client Ballard Preservation Association, a group of neighbors and businesses in Ballard. It relates to a development (DPD Project No. 3010420) proposed at 1753 NW 56<sup>th</sup> Street by property owner Compass Center Ballard, LLC and architects Weinstein A/U. The proposed seven-story building would contain 80 studio units of low-income elderly/low-income disabled housing, office space, medical service office space, a roof deck, and parking for 12 vehicles on the ground floor. The request for interpretation raises four issues: (1) Whether the proposed development is a mixed use project (structure containing residential and nonresidential uses) or a single purpose residential development; (2) Whether the proposed residential parking is for “low income elderly” occupants of the structure; (3) Whether a loading berth and van accessible parking must be located within the facility; and (4) Whether the design departures requested under the Design Review process of the Land Use Code are properly the subject of “administrative waivers” or should be analyzed as requests for variances.

**Findings of Fact**

1. The 1753 Northwest 56<sup>th</sup> Street property is located in the business district of Ballard, a block north of Northwest Market Street between 17<sup>th</sup> Avenue Northwest and 20<sup>th</sup> Avenue Northwest. The property is described as Lots 4 and 5, Block 56, Gilman Park Addition. This interpretation will hereafter refer to the subject property as the “Compass Center Ballard project” site.
2. The zoning is NC3/85': Neighborhood Commercial 3, with a structure height limit of 85 feet. The property is not within the Station Area Overlay District. The adjacent zoning and zoning to the south is also NC3/85'. The zoning to the north, across Northwest 56<sup>th</sup> Street is also NC3, but with a 65-foot height limit (NC3/65').
3. The Compass Center Ballard project has been assigned DPD Project No. 3010420. According to the Arcview land use map maintained by DPD, King County Assessor’s records, and the project plans sheet G200, the site has an area of about 9,500 square feet (9,491 per applicant’s survey). According to the cover sheet of the plans submitted for Project 3010423, the proposed development is a seven-story mixed use building with 13

parking spaces in garage areas on the first or ground floor. The total building area will be approximately 50,506 square feet, including 80 dwelling units on the second through seventh floors, administrative offices and medical service offices on the first and second floors, and parking and storage space on the first floor.

4. Plan sheet G400 provides diagrams of each floor and floor area ratio (FAR) calculations for each use. The diagram for the first floor shows administrative office space in two areas totaling 3,418 square feet. An additional 3,049 square feet is designated as “shared use” between the nonresidential and residential space. The shared use area includes stairwells, elevators and access hallways within the proposed building. The remainder of the space on the first floor is 1,162 square feet of residential space. The diagram of the second floor shows 2,268 square feet of additional administrative office space, 1,345 square feet of medical service use space, and 1,359 square feet of shared use area. The second floor is also shown as having 2,008 square feet of residential space. The remaining floors three through seven are all shown as residential space. The roof deck is shown as having 338 additional square feet of shared use, apparently on the assumption that staff in the offices and medical service spaces may use the roof deck.
5. The FAR calculations diagram on plan sheet G400 shows a total of 6,276 square feet of administrative office space by adding together the offices themselves and a prorated portion of the shared use area assigned to the offices. Similarly, medical services space of 1,484 square feet includes the medical office space and prorated shared use areas. A total of 84.6 percent of the building is shown in residential use, 12.4 percent in administrative office use, and 2.94 percent in medical service use.
6. On pages 3 and 4 of the July 29 response to Mr. Flamme’s correction notice, the applicant addresses the question of whether the proposed medical services use and office use are associated with the proposed residential use of the structure or “will be leased to outside businesses not related to the residential use.” The applicant’s response is as follows:

“The building will be owned by a for profit limited liability company that will lease residential units in the building to tenants like any other apartment building. Compass Housing Alliance will manage the building for the owner and also lease commercial space in the building. Compass intends to provide case managers to work with residential tenants. The case workers will be located within the residential floors in space marked for residential use. There will also be staff dedicated to administering the leasing of the residential units. Staff working with the residential tenants will be located in residential areas of the building noted on our plans. Likewise, the uses accessory to and for the exclusive use of the residential space – the commercial kitchen, the shared dining area (which will also function as informal gathering space for residential tenants), and the laundry area, have been designated on our plans as residential use and counted toward the residential FAR.

The for profit building owner will lease the commercial spaces in the building to commercial tenants identified on our plans for medical service and office uses. These medical services and office spaces are not accessory to the residential use. Some of these commercial tenants may have clientele in the residential portion of the building but will also have clientele from the community who come to commercial tenants in the building to be served. Medical service and office uses in the commercially designated spaces will not exclusively serve residents in the building.

The building is therefore a mixed-use building. The FAR calculation using the mixed-use standard is correct.”

7. The diagrams of the first floor on plan sheets G300, G400, and A101 show nine parking spaces assigned to the residential use in the proposed structure and four spaces assigned to the administrative office use. Parking calculations and proposed dimensions of parking spaces and access aisles are shown on plan sheets G300 and A101. One of the four spaces assigned to the office use, parking space No. 10, is a barrier-free stall for handicapped access. The parking calculations on sheet G300 indicate that nine spaces would be required for the proposed 80 units of residential use and four spaces required for the non-residential uses.
8. The parking calculations for the proposed 80 residential units are based on classification of the housing as low-income disabled/low-income elderly, according to plan sheet G 300. The calculations for the nonresidential uses are based on classifications as office use and medical service use. In a response dated July 29, 2010 to a plan review correction request from DPD Land Use Planner Craig Flamme dated May 26, 2010, the applicant’s architect has indicated, on page 2 of the response, that the “residential portion of the building will meet the standards for multifamily residential use, low-income elderly/low-income disabled.” The response notes that at least 90 percent of the dwelling units will be occupied by “a low income individual who has a handicap as defined in the Federal Fair Housing Amendment Act or is sixty-two years of age or older.” This information is also indicated on plan sheet G300. The applicant further acknowledges, on page 7 of the response, that they are aware of the requirement for recording a Notice of Income Restrictions with the King County Office of Records and Elections, to provide notice to prospective purchasers that specific income limits are a condition for maintaining the reduced parking requirement for low- income disabled/low-income elderly housing.
9. The applicant is proposing several design departures under the “Design Review” process of the Seattle Land Use Code, as indicated on plan sheets G200 and G300. The proposed design departures include a departure request from parking stall dimension standards, parking aisle width standards, and the standards for garbage service access width. On sheet G200, the applicant also notes as follows:

“Request permission to provide van accessible parking space in the front of the building on NW 56<sup>th</sup> Street for equitable access. ADA accessible space with 5'-0" side aisle provided within the building.”

Plan sheet G200 also notes that no loading berth is required.

10. SMC Section 23.41.004 provides in part as follows:

“A. Design review required.

1. Design review is required for any new multifamily, commercial, or industrial development proposal that exceeds one of the following thresholds in Table A for 23.41.004:

<b>Table A for 23.41.004</b>		
<b>Thresholds for Design Review</b>		
	<b>Zone</b>	<b>Threshold</b>
<b>a.</b>	<b>Lowrise (L3, L4)</b>	<b>8 dwelling units</b>
<b>b.</b>	<b>Midrise (MR)</b>	<b>20 dwelling units</b>
<b>c.</b>	<b>Highrise (HR)</b>	<b>20 dwelling units</b>
<b>d.</b>	<b>Neighborhood Commercial (NC1, 2, 3)</b>	<b>4 dwelling units or 4,000 square feet of nonresidential gross floor area</b>
<b>e.</b>	<b>Commercial (C1, C2)</b>	<b>Four dwelling units or 12,000 square feet of nonresidential gross floor area, when located in an urban center or urban village<sup>1</sup>, or on a lot that abuts or is across a street or alley from a lot zoned single family, or located in the area bounded by: NE 95<sup>th</sup> St., NE 145<sup>th</sup> St., 15<sup>th</sup> Ave. NE, and Lake Washington</b>
<b>f.</b>	<b>Seattle Mixed (SM)</b>	<b>20 units or 12,000 square feet of nonresidential gross floor area</b>
<b>g.</b>	<b>Industrial Commercial (IC) zone within all designated urban villages and centers</b>	<b>12,000 square feet of nonresidential gross floor area</b>

<sup>1</sup>Urban centers and urban villages are identified in the Seattle Comprehensive Plan.”

SMC Section 23.41.012 provides as follows:

- “A. Departure from Land Use Code requirements may be permitted for new multifamily, commercial, and Major Institution development as part of the 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.
- B. Departures may be granted from any Land Use Code standard or requirement, except for the following:
1. Procedures;
  2. Permitted, prohibited or conditional use provisions, except that departures may be granted from development standards for required street-level uses;
  3. Residential density limits;
  4. In Downtown zones, provisions for exceeding the base FAR or achieving bonus development as provided in Chapter 23.49, Downtown Zoning;
  5. In Downtown zones, the minimum size for Planned Community Developments as provided in Section 23.49.036;
  6. In Downtown zones, the average floor area limit for stories in residential use in Table 23.49.058.D.1;
  7. In Downtown zones, the provisions for combined lot developments as provided in Section 23.49.041;
  8. In Downtown Mixed Commercial zones, tower spacing requirements as provided in subsection 23.49.058.E;
  9. Downtown view corridor requirements, provided that departures may be granted to allow open railings on upper level roof decks or rooftop open space to project into the required view corridor, provided such railings are determined to have a minimal impact on views and meet the requirements of the Building Code;
  10. Floor Area Ratios;
  11. Maximum size of use;

12. Structure height, except that:
    - a. Within the Roosevelt Commercial Core building height departures up to an additional 3 feet may be granted for properties zoned NC3-65, (Map A for 23.41.012, Roosevelt Commercial Core;
    - b. Within the Ballard Municipal Center Master Plan area building height departures may be granted for properties zoned NC3-65, (Map B for 23.41.012, Ballard Municipal Center Master Plan Area. The additional height may not exceed 9 feet, and may be granted only for townhouses that front a mid-block pedestrian connection or a park identified in the Ballard Municipal Center Master Plan;
    - c. In Downtown zones building height departures may be granted for minor communication utilities as set forth in Section 23.57.013.B;
    - d. Within the Uptown Urban Center building height departures up to 3 feet of additional height may be granted if the top floor of the structure is set back at least 6 feet in addition to all required building setbacks.
    - e. Within the Upper Queen Anne Hill Residential Urban Village and Neighborhood Commercial zones within the Upper Queen Anne neighborhood, Map C for 23.41.012 Upper Queen Anne Commercial Areas, building height departures up to 3 feet of additional height may be granted if the top floor of the structure is set back at least 6 feet in addition to all required building setbacks;
    - f. Within the PSM 85-120 zone in the area shown on Map A for 23.49.180, departures may be granted from development standards that apply as conditions to additional height, except for floor area ratios and provisions for adding bonus floor area above the base FAR.
  13. Quantity of parking required, minimum and maximum parking limits, and minimum and maximum number of drive-in lanes, except that within the Ballard Municipal Center Master Plan area required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000" may be reduced, but shall not be less than the required parking for Pedestrian-designated areas shown in Table D for Section 23.54.015;
  14. Provisions of the Shoreline District, Chapter 23.60;
  15. Standards for storage of solid-waste containers;
  16. The quantity of open space required for major office projects in Downtown zones as provided in subsection 23.49.016.B;
  17. Noise and odor standards;
  18. Standards for the location of access to parking in Downtown zones;
  19. Provisions of Chapter 23.52, Transportation Concurrency Project Review System;
  20. Provisions of Chapter 23.53, Requirements for Streets, Alleys and Easements, except that departures may be granted from the access easement standards in Section 23.53.025 and the provisions for structural building overhangs in Section 23.53.035;
  21. Definitions; and
  22. Measurements.
- C. Limitations upon departures through the design review process established in subsections 23.41.012.B and 23.41.012.D do not limit departures expressly permitted by other provisions of this title or other titles of the Seattle Municipal Code.”

\* \* \*

11. SMC Section 23.47A.004 provides in part as follows:

“A. All uses are permitted outright, prohibited, or permitted as a conditional use according to Table A and this section, except as may be otherwise provided pursuant to Division 3 of this subtitle.

\* \* \*

<b>Table A</b>						
<b>for 23.47A.004</b>						
<b>Uses in Commercial Zones</b>						
		<b>PERMITTED AND PROHIBITED USES BY ZONE(1)</b>				
<b>USES</b>		<b>NC1</b>	<b>NC2</b>	<b>NC3</b>	<b>C1</b>	<b>C2</b>
<b>A. AGRICULTURAL USES</b>						
	<b>A.1. Animal Husbandry</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>P</b>
	<b>A.2. Aquaculture</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>A.3. Horticulture</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>B. CEMETERIES</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>C. COMMERCIAL USES</b>						
	<b>C.1. Animal Shelters and Kennels</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>P</b>
	<b>C.2. Eating and drinking establishments</b>					
	<b>C.2.a. Drinking establishments</b>	<b>CU-10</b>	<b>CU-25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.2.b. Restaurants</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.3. Entertainment Uses</b>					
	<b>C.3.a. Cabarets, adult (15)</b>	<b>X</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.3.b. Motion picture theaters, adult</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.3.c. Panorams, adult</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
	<b>C.3.d. Sports and recreation, indoor</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.3.e. Sports and recreation, outdoor</b>	<b>X</b>	<b>X</b>	<b>X(2)</b>	<b>P</b>	<b>P</b>
	<b>C.3.f. Theaters and spectator sports facilities</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.4. Food processing and craft work</b>	<b>10</b>	<b>25</b>	<b>25</b>	<b>P</b>	<b>P</b>
	<b>C.5. Laboratories, Research and development</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.6. Lodging uses</b>	<b>X(3)</b>	<b>CU-25(3)</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.7. Medical services (4)</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.8. Offices</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>35(5)</b>	<b>35(5)</b>
	<b>C.9. Sales and services, automotive</b>					
	<b>C.9.a. Retail sales and services, automotive</b>	<b>10(6)</b>	<b>25(6)</b>	<b>P(6)</b>	<b>P</b>	<b>P</b>
	<b>C.9.b. Sales and rental of motorized vehicles</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.9.c. Vehicle repair, major automotive</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.10. Sales and services, general</b>					
	<b>C.10.a. Retail sales and services, general</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.10.b. Retail sales, multipurpose</b>	<b>10(7)</b>	<b>50</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.11. Sales and Services, heavy</b>					
	<b>C.11.a. Commercial sales, heavy</b>	<b>X</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>
	<b>C.11.b. Commercial services, heavy</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>P</b>	<b>P</b>
	<b>C.11.c. Retail sales, major durables</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>

	<b>C.11.d. Retail sales and services, non-household</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.11.e. Wholesale showrooms</b>	<b>X</b>	<b>X</b>	<b>25</b>	<b>25</b>	<b>P</b>
<b>C.12. Sales and services, marine</b>						
	<b>C.12.a. Marine service stations</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.12.b. Sales and rental of large boats</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.12.c. Sales and rental of small boats, boat parts and accessories</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>C.12.d. Vessel repair, major</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>S</b>	<b>S</b>
	<b>C.12.3. Vessel repair, minor</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>D. HIGH-IMPACT USES</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>E. INSTITUTIONS</b>						
	<b>E.1. Institutions not listed below</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>E.2. Major institutions subject to the provisions of Chapter 23.69</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>E.3. Religious Facilities</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>E.4. Schools, Elementary or Secondary</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>F. LIVE-WORK UNITS(8)</b>		<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>G. MANUFACTURING USES</b>						
	<b>G.1. Manufacturing, light</b>	<b>X</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>
	<b>G.2. Manufacturing, general</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>P</b>	<b>P</b>
	<b>G.3. Manufacturing, heavy</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>H. PARKS AND OPEN SPACE</b>		<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>I. PUBLIC FACILITIES</b>						
	<b>I.1. Jails</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
	<b>I.2. Work-release centers</b>	<b>CCU-10</b>	<b>CCU-25</b>	<b>CCU</b>	<b>CCU</b>	<b>CCU</b>
<b>J. RESIDENTIAL USES(9)</b>						
	<b>J.1. Residential uses not listed below</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>CU(10)</b>
	<b>J.2. Caretaker's quarters</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>K. STORAGE USES</b>						
	<b>K.1. Mini-warehouses</b>	<b>X</b>	<b>X</b>	<b>25</b>	<b>40</b>	<b>P</b>
	<b>K.2. Storage, outdoor</b>	<b>X</b>	<b>X</b>	<b>X(11)</b>	<b>P</b>	<b>P</b>
	<b>K.3. Warehouses</b>	<b>X</b>	<b>X</b>	<b>25</b>	<b>25</b>	<b>P</b>
<b>L. TRANSPORTATION FACILITIES</b>						
	<b>L.1. Cargo terminals</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>S</b>	<b>P</b>
<b>L.2. Parking and moorage</b>						
	<b>L.2.a. Boat moorage</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>
	<b>L.2.b. Dry boat storage</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>L.2.c. Parking, principal use, except as listed below(12)</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>L.2.c.i. Park and Pool Lots(12)</b>	<b>P(13)</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
	<b>L.2.c.ii. Park and Ride Lots(12)</b>	<b>X</b>	<b>X</b>	<b>CU</b>	<b>CU</b>	<b>CU</b>

<b>L.2.d. Towing services</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>P</b>	<b>P</b>
<b>L.3. Passenger terminals</b>	<b>X</b>	<b>X</b>	<b>25</b>	<b>P</b>	<b>P</b>
<b>L.4. Rail Transit Facilities</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>L.5. Transportation facilities, air</b>					
<b>L.5.a. Airports (land-based)</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>L.5.b. Airports (water-based)</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>S</b>
<b>L.5.c. Heliports</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>L.5.d. Helistops</b>	<b>X</b>	<b>X</b>	<b>CCU</b>	<b>CCU</b>	<b>CU</b>
<b>L.6. Vehicle storage and maintenance</b>					
<b>L.6.a. Bus bases</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>CCU</b>	<b>CCU</b>
<b>L.6.b. Railroad switchyards</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>L.6.c. Railroad switchyards with a mechanized hump</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>L.6.d. Transportation services, personal</b>	<b>X</b>	<b>X</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>M. UTILITY USES</b>					
<b>M.1. Communication Utilities, major (14)</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>CCU</b>	<b>CCU</b>
<b>M.2. Communication Utilities, minor (14)</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>M.3. Power Plants</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>M.4. Recycling</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>P</b>	<b>P</b>
<b>M.5. Sewage Treatment Plants</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>M.6. Solid waste management</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>M.7. Utility Services Uses</b>	<b>10</b>	<b>25</b>	<b>P</b>	<b>P</b>	<b>P</b>

#### KEY

A = Permitted as an accessory use only

CU = Administrative Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, pursuant to Section 23.47A.010)

CCU = Council Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, pursuant to Section 23.47A.010)

P = Permitted

S = Permitted in shoreline areas only

X = Prohibited

10 = Permitted, business establishments limited to 10,000 sq. ft., pursuant to Section 23.47A.010

20 = Permitted, business establishments limited to 20,000 sq. ft., pursuant to Section 23.47A.010

25 = Permitted, business establishments limited to 25,000 sq. ft., pursuant to Section 23.47A.010

35 = Permitted, business establishments limited to 35,000 sq. ft., pursuant to Section 23.47A.010

40 = Permitted, business establishments limited to 40,000 sq. ft., pursuant to Section 23.47A.010

50 = Permitted, business establishments limited to 50,000 sq. ft., pursuant to Section 23.47A.010

#### NOTES

(1) In pedestrian-designated zones, a portion of the street-level street-facing facade of a structure along a designated principal pedestrian street may be limited to certain uses as provided in section 23.47A.005.D. In pedestrian-designated zones, drive-in lanes are prohibited (Section 23.47A.028).

(2) Permitted at Seattle Center.

(3) Bed and Breakfasts in existing structures are permitted outright with no maximum size limit.

- (4) Medical services over 10,000 sq. ft. within 2,500 feet of a medical Major Institution Overlay boundary require conditional use approval, unless they are included in a Major Institution Master Plan or dedicated to veterinary services.
- (5) Office uses in C1 and C2 zones are permitted up to the greater of 1 FAR or 35,000 square feet as provided in subsection 23.47A.010 D. Office uses in C1 and C2 zones are permitted outright with no maximum size limit if they meet the standards identified in subsection 23.47A.010 D.
- (6) Gas stations and other businesses with drive-in lanes are not permitted in pedestrian-designated zones (Section 23.47A.028). Elsewhere in NC zones, establishing a gas station may require a demonstration regarding impacts under Section 23.47A.028.
- (7) Grocery stores meeting the conditions of subsection 23.47A.010 E are permitted up to 23,000 sq. ft. in size.
- (8) Subject to subsection 23.47A.004 G.
- (9) Residential uses may be limited to 20 percent of a street-level street-facing facade pursuant to subsection 23.47A.005.C.
- (10) Residential uses are conditional uses in C2 zones under Section 23.47A.006 B3, except as otherwise provided above in Table A or in that section.
- (11) Permitted at Seattle Center, see Section 23.47A.011.
- (12) In pedestrian-designated zones, surface parking is prohibited adjacent to principal pedestrian streets pursuant to Section 23.47A.032.B.2.
- (13) Permitted only on parking lots existing at least 5 years prior to the establishment of the park and pool lot.
- (14) See Chapter 23.57, Communications Regulations, for regulation of communication utilities.
- (15) Subject to subsection 23.47A.004.H.”

12. SMC Section 23.47A.013 provides floor area ratio (“FAR”) limits for commercial zones. Table A in that section provides limits that apply in lots outside of the Station Area Overlay District, based on the zoning height limits and the nature of the uses. In a zone subject to an 85-foot height limit, an FAR of 4.5 applies for “a single-purpose structure containing only residential or non-residential use.” An FAR of 4.5 applies for “any single use within a mixed-use structure.” An FAR of 6 is listed as the “total permitted for all uses within a mixed-use structure containing residential and non-residential uses.” The Land Use Code does not include definitions for “single-purpose structure” or “mixed-use structure.”

13. SMC Section 23.54.015 provides in part as follows:

“A. Minimum parking requirements. The minimum number of off-street motor vehicle parking spaces required for specific uses is set forth in Table A for nonresidential uses other than institutional uses, Table B for residential uses, and Table C for institutional uses, except as otherwise provided in this Section and Section 23.54.020. The minimum parking requirements are based upon gross floor area of a use within a structure and the square footage of a use when located outside of an enclosed structure, or as otherwise specified. Exceptions to the parking requirements set forth in this section are provided in subsection B and in Section 23.54.020, Parking quantity exceptions, unless otherwise specified. This chapter does not apply to parking for construction activity, which is regulated by SMC 23.42.044.

\* \* \*

D. Parking waivers for nonresidential uses.

1. In pedestrian-designated zones, parking is waived for uses listed on Table D. The parking waivers permitted in Table D apply to each business establishment on a lot.

a. Additional parking waivers beyond those in Table D may be permitted as a special exception for the following uses:

- (1) Eating and drinking establishments, up to a maximum waiver of five thousand (5,000) square feet; and
- (2) Motion picture theaters, up to a maximum waiver of three hundred (300) seats.

b. The following factors will be considered by the Director in determining whether to permit additional parking waivers:

- (1) Anticipated parking demand for the proposed use;
- (2) The extent to which an additional parking waiver is likely to create or add significantly to spillover parking in adjacent residential areas;
- (3) The availability of shared parking within eight hundred (800) feet of the business; and
- (4) Whether land is available for parking without demolishing an existing commercial structure, displacing a commercial use, or rezoning property to commercial.

2. In all other commercial zones and in pedestrian designated zones for uses not listed in Table D, no parking is required for the first one thousand five hundred (1,500) square feet of each business establishment.

Table A for Section 23.54.015			
PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS			
Use			Minimum parking required
A.	AGRICULTURAL USES		
			1 space for each 2,000 square feet
B.	COMMERCIAL USES		
	B.1.	Animal shelters and kennels	1 space for each 2,000 square feet
	B.2.	Eating and drinking establishments	1 space for each 250 square feet
	B.3.	Entertainment Uses, general, except as noted below (1)	For public assembly areas: 1 space for each 8 fixed seats, or 1 space for each 100 square feet of public assembly area not containing fixed seats
	B.3.a	Adult cabarets	1 space for each 250 square feet
	B.3.b	Sports and recreation uses	1 space for each 500 square feet
	B.4.	Food processing and craft work	1 space for each 2,000 square feet
	B.5.	Laboratories, research and development	1 space for each 1,500 square feet
	B.6.	Lodging uses	1 space for each 4 rooms; For bed and breakfast facilities in single family and multifamily zones, 1 space for each dwelling unit, plus 1 space for each 2 guest rooms
	B.7.	Medical services	1 space for each 500 square feet
	B.8.	Offices	1 space for each 1,000 square feet
	B.9.	Sales and services, automotive	1 space for each 2,000 square feet
	B.10.	Sales and services, general, except as noted below	1 space for each 500 square feet

	B.10.a.	Pet Daycare Centers (2)	1 space for each 10 animals or 1 space for each staff member, whichever is greater; plus 1 loading and unloading space for each 20 animals.
	B.11.	Sales and services, heavy	1 space for each 2,000 square feet
	B.12.	Sales and services, marine	1 space for each 2,000 square feet

\* \* \*

Table B for Section 23.54.015		
PARKING FOR RESIDENTIAL USES		
Use	Minimum parking required	
A. General Residential Uses		
A.	Adult family homes	1 space for each dwelling unit
B.	Artist's studio/dwellings	1 space for each dwelling unit
C.	Assisted living facilities	1 space for each 4 assisted living units; plus 1 space for each 2 staff members on-site at peak staffing time; plus 1 barrier-free passenger loading and unloading space
D.	Caretaker's Quarters	1 space for each dwelling unit
E.	Congregate residences	1 space for each 4 residents
F.	Floating homes	1 space for each dwelling unit
G.	Mobile home parks	1 space for each mobile home lot as defined in Chapter 22.904
H.	Multifamily residential uses, except as provided in Sections B or C of this Table B for Section 23.54.015.(1)	1 space per dwelling unit.
I.	Nursing homes(2)	1 space for each 2 staff doctors; plus 1 additional space for each 3 employees; plus 1 space for each 6 beds
J.	Single-family residences	1 space for each dwelling unit
B. Residential Use Requirements with Location Criteria		
K.	Residential uses in commercial and multifamily zones within urban centers or within the Station Area Overlay District(1)	No minimum requirement
L.	Multifamily residential uses within the University of Washington parking impact area shown on Map A for 23.54.015(1)	1 space per dwelling unit for dwelling units with fewer than two bedrooms; plus 1.5 spaces per dwelling units with 2 or more bedrooms; plus .25 spaces per bedroom for dwelling units with 3 or more bedrooms
M.	Multifamily dwelling units, within the Alki area shown on Map B for Section 23.54.015(1)	1.5 spaces for each dwelling unit
C. Multifamily Requirements with Income Criteria or Location Criteria and Income Criteria		
N.	Low-income elderly multifamily residential uses(1)(3) not located in urban centers or within the Station Area Overlay District	1 space for each 6 dwelling units

O.	Low-income disabled multifamily residential uses(1)(3) not located in urban centers or within the Station Area Overlay District	1 space for each 4 dwelling units
P.	Low-income elderly/low-income disabled multifamily residential uses(1)(3) not located in urban centers or within the Station Area Overlay District	1 space for each 5 dwelling units

(1) The general requirement of line H of Table B for multifamily residential uses is superseded to the extent that a use, structure or development qualifies for either a greater or a lesser parking requirement (which may include no requirement) under any other provision. To the extent that a multifamily residential use fits within more than one line in Table B, the least of the applicable parking requirements applies, except that if an applicable parking requirement in section B of Table B requires more parking than line H, the parking requirement in line H does not apply. The different parking requirements listed for certain categories of multifamily residential uses shall not be construed to create separate uses for purposes of any requirements related to establishing or changing a use under this Title 23.

(2) For development within single-family zones the Director may waive some or all of the parking requirements according to Section 23.44.015 as a special or reasonable accommodation. In other zones, if the applicant can demonstrate that less parking is needed to provide a special or reasonable accommodation, the Director may, as a Type I decision, reduce the requirement. The Director shall specify the parking required and link the parking reduction to the features of the program that allow such reduction. The parking reductions shall be valid only under the conditions specified, and if the conditions change, the standard requirements shall be met.

(3) Notice of Income Restrictions. Prior to issuance of any permit to establish, construct or modify any use or structure, or to reduce any parking accessory to a multifamily residential use, if the applicant relies upon these reduced parking requirements, the applicant shall record in the King County Office of Records and Elections a declaration signed and acknowledged by the owner(s), in a form prescribed by the Director, which shall identify the subject property by legal description, and shall acknowledge and provide notice to any prospective purchasers that specific income limits are a condition for maintaining the reduced parking requirement.”

\* \* \*

14. SMC Section 23.54.020 provides in part as follows:

“F. Reductions to Minimum Parking Requirements.

1. Reductions to minimum parking requirements permitted by this subsection will be calculated from the minimum parking requirements in Section 23.54.015. Total reductions to required parking as provided in this subsection may not exceed 40 percent.

2. Transit Reduction.

a. In multifamily and commercial zones, the minimum parking requirement for all uses may be reduced by 20 percent when the use is located within 800 feet of a street with midday transit service headways of 15 minutes or less in each direction. This distance will be the walking distance measured from the nearest bus stop to the lot line of the lot containing the use.

b. In industrial zones, the minimum parking requirement for a nonresidential use may be reduced by 15 percent when the use is located within 800 feet of a street with peak transit service headways of 15 minutes or less in each direction. This distance will be the walking distance measured from the nearest bus stop to the lot line of the lot containing the use.

3. For new or expanding offices or manufacturing uses that require 40 or more parking spaces, the minimum parking requirement may be reduced by up to a maximum of 40 percent by the substitution of alternative transportation programs, according to the following provisions:

a. For every certified carpool space accompanied by a cash fee, performance bond or alternative guarantee acceptable to the Director, the total parking requirement will be

reduced by 1.9 spaces, up to a maximum of 40 percent of the parking requirement. The Director will consult with the Director of the Seattle Department of Transportation in certifying carpool spaces and the location of carpool parking.

b. For every certified vanpool purchased or leased by the applicant for employee use, or equivalent cash fee for purchase of a van by the public ridesharing agency, the total parking requirement will be reduced by six spaces, up to a maximum of 20 percent of the parking requirement. Before a certificate of occupancy may be issued, details of the vanpool program shall be specified in a Memorandum of Agreement executed between the proponent, the Director, and the Director of the Seattle Department of Transportation.

c. If transit or transportation passes are provided with a 50 percent or greater cost reduction to all employees in a proposed structure for the duration of the business establishment(s) within it, or five years, whichever is less, and if transit service is located within 800 feet, the parking requirement shall be reduced by 10 percent. With a 25 percent to 49 percent cost reduction, and if transit service is located within 800 feet, the parking requirement shall be reduced by 5 percent.

d. For every four covered bicycle parking spaces provided, the total parking requirement shall be reduced by one space, up to a maximum of 5 percent of the parking requirement, provided that there is access to an arterial over improved streets.

#### G. Shared Parking.

##### 1. Shared Parking, General Provisions.

a. Shared parking is allowed between two (2) or more uses to satisfy all or a portion of the minimum off-street parking requirement of those uses as provided in subsections G2 and G3.

b. Shared parking is allowed between different categories of uses or between uses with different hours of operation, but not both.

c. A use for which an application is being made for shared parking must be located within eight hundred (800) feet of the parking.

d. No reduction to the parking requirement may be made if the proposed uses have already received a reduction through the provisions for cooperative parking, subsection H.

e. Reductions to parking permitted through shared use of parking will be determined as a percentage of the minimum parking requirement as modified by the reductions permitted in subsections A through F.

f. An agreement providing for the shared use of parking, executed by the parties involved, must be filed with the Director. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this chapter.

##### 2. Shared Parking for Different Categories of Uses.

a. A business establishment may share parking according to only one of the subsections G2b, G2c or G2d.

b. If an office use shares parking with one of the following uses:

- (1) general sales and services.
- (2) heavy sales and services uses.
- (3) eating and drinking establishments.
- (4) lodging uses.
- (5) entertainment.
- (6) medical services.
- (7) animal shelters and kennels.
- (8) automotive sales and services, or
- (9) maritime sales and services;

the parking requirement for the non-office use may be reduced by twenty (20) percent, provided that the reduction will not exceed the minimum parking requirement for the office use.

c. If a residential use shares parking with one of the following uses:

- (1) general sales and services,
- (2) heavy sales and services uses,
- (3) medical services,
- (4) animal shelters and kennels,
- (5) automotive sales and services, or
- (6) maritime sales and services;

the parking requirement for the residential use may be reduced by thirty (30) percent, provided that the reduction does not exceed the minimum parking requirement for the nonresidential use.

d. If an office and a residential use share off-street parking, the parking requirement for the residential use may be reduced by fifty (50) percent, provided that the reduction does not exceed the minimum parking requirement for the office use.”

\* \* \*

15. SMC Section 23.54.030 provides in part as follows:

“Parking spaces required by Section 23.54.015, and required barrier-free parking, shall meet the standards of this Section 23.54.030. Parking for residential uses provided in excess of the quantity required by Section 23.54.015 is exempt from the requirements of subsections A and B of this Section 23.54.030.

A. Parking Space Dimensions.

1. "Large vehicle" means the minimum size of a large vehicle parking space shall be 8.5 feet in width and 19 feet in length.
2. "Medium vehicle" means the minimum size of a medium vehicle parking space shall be 8 feet in width and 16 feet in length.
3. "Small vehicle" means the minimum size of a small vehicle parking space shall be 7.5 feet in width and 15 feet in length.
4. "Barrier-free parking" means a parking space meeting the following standards:
  - a. Parking spaces shall not be less than 8 feet in width and shall have an adjacent access aisle not less than 5 feet in width. Van-accessible parking spaces shall have an adjacent access aisle not less than 8 feet in width. Where 2 adjacent spaces are provided, the access aisle may be shared between the 2 spaces. Boundaries of access aisles shall be marked so that aisles will not be used as parking space.
  - b. A minimum length of 19 feet or when more than one barrier-free parking space is provided, at least one shall have a minimum length of 19 feet, and other spaces may be the lengths of small, medium or large spaces in approximate proportion to the number of each size space provided on the lot.

\*\*\*

B. Parking Space Requirements. The required size of parking spaces shall be determined by whether the parking is for a residential, nonresidential or live-work use. In structures containing both residential and either nonresidential uses or live-work units, parking that is clearly set aside and reserved for residential use shall meet the standards of subsection 23.54.030.B.1; otherwise, all parking for the structure shall meet the standards of subsection 23.54.030.B.2.

1. Residential Uses.

- a. When five or fewer parking spaces are provided, the minimum required size of a parking space shall be for a medium car, as described in subsection A2 of this Section 23.54.030, except as provided in subsection 23.54.030.B.1.d.

b. When more than five parking spaces are provided, a minimum of 60 percent of the parking spaces shall be striped for medium vehicles. The minimum size for a medium parking space shall also be the maximum size. Forty percent of the parking spaces may be striped for any size, provided that when parking spaces are striped for large vehicles, the minimum required aisle width shall be as shown for medium vehicles.

c. Assisted Living Facilities. Parking spaces shall be provided as in subsections 23.54.030.B.1.a and B1b above, except that a minimum of two spaces shall be striped for a large vehicle.

d. Townhouses. For an individual garage serving a townhouse unit, the minimum required size of a parking space shall be for a large car, as described in subsection 23.54.030.A.

2. Nonresidential Uses and Live-work Units.

a. When ten or fewer parking spaces are provided, a maximum of 25 percent of the parking spaces may be striped for small vehicles. A minimum of 75 percent of the spaces shall be striped for large vehicles.

\*\*\*

E. Parking Aisles.

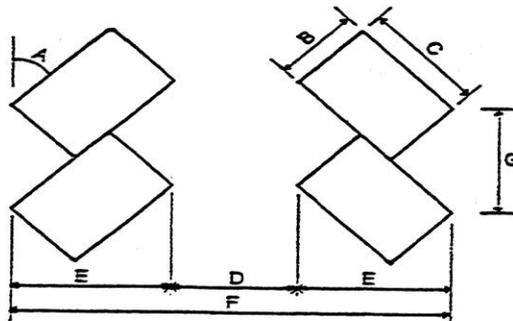
1. Parking aisles shall be provided according to the requirements of Exhibit C for 23.54.030.”

A Parking Angle	B Stall Width	C Stall Length	D Aisle Width <sup>1</sup>	E Curb Depth Per Car	F Unit Width <sup>3</sup>	G Curb Length Per Car
0°	7.5	18.0	10.0	7.5	25.0	18.0
	8.0	20.0	10.0	8.0	26.0	20.0
	8.5	24.0	12.0	8.5	29.0	24.0
45°	7.5	15.0	11.0	15.91	42.82	10.61
	8.0	16.0	13.0	16.97	46.90	11.3
	8.5	19.0	13.0	19.44	51.88	12.02
60°	7.5	15.0	13.0	16.74	46.48	8.66
	8.0	16.0	15.0	17.86	50.72	9.24
	8.5	19.0	17.5	20.70	58.90	9.82
75°	7.5	15.0	16.5	16.43	49.36	7.76
	8.0	16.0	18.5	17.52	53.54	8.25
	8.5	19.0	20.0	20.55	61.10 <sup>3</sup>	8.80
90°	7.5	15.0	20.0	15.0	50.0	7.5
	8.0	16.0	22.0	16.0	54.0	8.0
	8.5	19.0 <sup>2</sup>	24.0 <sup>2</sup>	19.0	62.0 <sup>3</sup>	8.5

<sup>1</sup> Required aisle width is for one-way traffic only. If two-way traffic is proposed, then the minimum aisle width shall be 20 feet or greater.

<sup>2</sup> When lot width is less than 43 feet, 40 feet may be substituted for a two-way aisle and a single row of cars at 90° to the aisle, provided that the minimum width of the parking stalls shall be 9½ feet.

<sup>3</sup> 60 feet may be substituted for required unit width on lots where the available width is in 60-foot whole multiples, provided that the minimum width of the parking stalls shall be 9½ feet.



The following equations may be used to compute dimensions for parking angles other than those provided in the chart above:

$$E = C \sin A + B \cos A$$

$$G = B / \sin A$$

NOTE: Aisle widths shall be provided as required for the next greater parking angle shown in the chart above.

\*\*\*

16. SMC Section 23.54.035 provides in part as follows:

“A. Quantity of Loading Spaces.

1. The minimum number of off-street loading berths required for specific uses shall be set forth in Table A. (See Table A for Section 23.54.035.)

2. For uses not listed on Table A the Director shall determine the loading berth requirements. Loading demand and loading requirements for similar uses shall be considered in determining such requirements.

3. Existing deficits in the number of required loading berths shall be allowed to continue if a change of use occurs.

4. Uses shall be considered low-demand uses, medium-demand uses and high-demand uses, as follows. (See Table for 23.54.035 A.)

5. When a lot contains more than one (1) business establishment within the same category of low-, medium- or high-demand use, the square footage of the business establishments within the same category shall be added together in order to determine the number of required loading berths.”

\* \* \*”

Table A for Section 23.54.035

<b>Type of Use</b>	<b>Square Feet of Aggregate Gross Floor Area</b>	<b>Required Number of Loading Berths</b>
<b>Low Demand</b>	40,000 to 60,000	1
	60,001 to 160,000	2
	160,001 to 264,000	3
	264,001 to 388,000	4
	388,001 to 520,000	5
	520,001 to 652,000	6
	652,001 to 784,000	7
	784,001 to 920,000	8
	For each additional 140,000	1 additional berth
<b>Medium Demand</b>	10,000 to 60,000	1
	60,001 to 160,000	2
	160,001 to 264,000	3
	264,001 to 388,000	4
	388,001 to 520,000	5
	520,001 to 652,000	6
	652,001 to 784,000	7
	784,001 to 920,000	8
	For each additional 140,000	1 additional berth
<b>High Demand</b>	5,000 to 16,000	1
	16,001 to 40,000	2
	40,001 to 64,000	3
	64,001 to 96,000	4
	96,001 to 128,000	5
	128,001 to 160,000	6
	160,001 to 196,000	7
		For each additional 36,000

<b>Table for Section 23.54.035 A</b>		
<b>Low Demand</b>	<b>Medium Demand</b>	<b>High Demand</b>
Animal services	Agricultural uses	Airport, land-based
Business incubator	Airport, water-based	
	Assisted living facilities	
Business support services	Automotive parts or accessory sales	Cargo terminals
Car wash	Eating and drinking establishments	Commercial laundries
Custom and craft work	Heavy commercial services except commercial laundries and construction services	Construction services
Entertainment uses	Institute for advanced study	Food processing for human consumption
Gas station	Mini-warehouse	High-impact uses
Helistop and heliport	Mortuary services	Hospitals
Institutions, except hospitals and institutes for advanced study	Passenger terminal	Manufacturing
Lodging	Personal and household retail sales and services	Outdoor storage
Marine retail sales, services	Recycling collection stations	Recycling center (separate facilities)
Medical services	Research and development laboratory	Sale of heating fuel
Offices	Sales, service and rental of equipment	Sales, service and rental of commercial equipment and construction materials
Personal transportation services	Transit vehicle base	Salvage yard
Sales and rental of motorized vehicles	Utilities	Warehouse
Towing services	Vehicular repair, major and minor	Wholesale showroom

## Conclusions

- Structures containing both residential and nonresidential or commercial development are permitted in the NC3/85' zone, pursuant to SMC Section 23.47A.004.A and Table A for 23.47A.004 (Finding of Fact No. 11). The Compass Center Ballard Project, regardless of whether it is a single purpose residential development or development including both residential and nonresidential uses, is therefore permitted in the NC3/85' zone, subject to review under the State Environmental Policy Act (SEPA), the City's Design Review process, and compliance with applicable City codes.

2. The first issue raised by the request for interpretation is whether the Compass Center Ballard project is a mixed use or single purpose residential project. According to the applicant's plans and written representations, as described in Findings of Fact Nos. 3-6, the project will include medical service spaces and administrative offices that are intended to be leased to commercial tenants separate from the proposed residential use in the building. While residents of the Compass Center Ballard may be able to avail themselves of the medical service and office uses, there is no evidence that the proposed uses will be directly tied to the residential use. DPD has no authority under the Land Use Code to require applicants to commit to specific leasing arrangements in advance of construction of a building that would guarantee that future commercial uses will be independent of the residential use. Any future violation of Land Use Code regulations could be investigated by DPD inspection staff on a complaint basis.
3. According to the submitted plans, the Compass Center Ballard project contains separate residential and nonresidential spaces. The applicants represent that the businesses occupying the nonresidential spaces will not be limited to residents of the building, and the layout of the building does not lead us to a contrary conclusion. Lobbies and entrances shared by multiple uses are not uncommon in buildings containing multiple uses. The proposed building, as designed and described by the applicant, qualifies as a "mixed-use structure containing residential and non-residential uses," within the context of Table A for Section 23.47A.013, and is eligible for an FAR of 6.
4. The second issue is whether the proposed parking use qualifies as "low income elderly" parking. Similar to the question of whether the medical service and office uses are separate uses independent of the residential use, the applicant has represented on its plans and in signed written statements that at least 90 percent of the dwelling units in the proposed building will be occupied by either low income disabled persons or low income elderly as required by the Code. (See Findings of Fact Nos. 7 and 8.) The applicant's plans and representations indicate compliance with the low income disabled/low income elderly parking requirements of SMC Section 23.54.015 and Table B for Section 23.54.015. In particular, footnote 3 of Table B for Section 23.54.015 requires filing of a notice of income restrictions with King County to qualify for the parking requirements applicable to low income disabled and low income elderly housing. (See Finding of Fact No. 13.) Filing of the notice of income restrictions is imposed as a condition of approval of the Compass Center Ballard project prior to issuance of the Master Use Permit.
5. The third issue is whether a loading berth and van accessible parking must be located inside the proposed building. According to plan sheet G300 (Finding of Fact No. 7), a barrier free parking space is designated within the building. Whether a van accessible space must be included within the building is a matter regulated by the Seattle Building Code and is beyond the purview of this Code interpretation, which is limited to the Land Use Code. The applicant has proposed to provide a van accessible space in front of the building according to plan sheet G200. (Finding of Fact No. 9.) Under SMC Section 23.54.035 (Finding of Fact No. 16), it is clear that a loading berth is not required for the proposed development. As described on the applicant's plan sheet G200 (Finding of Fact No. 9), medical services and office uses are "low demand" uses for purposes of the loading berth requirements in Section 23.54.035, Table A for 23.54.035, and Table for

23.54.035A, and the requirement for one loading berth begins at 40,000 square feet for all listed low demand uses. The total square footage of office and medical service space in the Compass Center Ballard would be well under the 40,000 square foot minimum for a loading berth.

6. The fourth issue raised is whether the “deviations” from City Code requirements requested by the applicant are properly the subject of “administrative waivers.” The manner in which this issue is framed suggests a challenge to whether the design departures requested by the applicant under the Design Review process should be analyzed as requests for variances from Land Use Code development standards, instead. The Design Review process is set forth in SMC Chapter 23.41. The process is not simply a mechanism for obtaining relief from Code requirements. It is a mandatory process for a project proposed in an NC3 zone that will contain more than four dwelling units or 4000 square feet of commercial space, as set forth in SMC Section 23.41.004.A and Table A for 23.41.004. (Finding of Fact No. 10.) The Compass Center Ballard clearly exceeds the threshold and must undergo design review. Under this process, the applicant is entitled to request departures from Land Use Code requirements, as described in SMC Section 23.41.012 (See also Finding of Fact No. 10.), and has specifically asked for departures from parking space dimension standards, parking aisle widths, and garbage service access width on plan sheet G300 (Finding of Fact No. 9). Under Section 23.41.012, the applicant may request departures from any standard that is not listed in 23.41.012.B. Section 23.41.012.B does not list parking space dimension standards, parking aisle widths, or garbage service access width among the non-departable standards. Design review is required by the Code, and therefore the applicant is free to request these design departures. There is no Code requirement that a variance application also be submitted to support these requests for design departures.

## DECISION

The Compass Center Ballard meets Code standards for a development containing both residential uses and separate nonresidential office and medical service space. Parking standards are met for low income elderly and low income disabled housing. Loading berths are not required by the Code, and van accessible parking spaces are subject to Building Code standards, beyond the scope of this interpretation. Departures from Code standards under the Design Review process are properly included in the application without the need to include an application for variances from the Code standards.

Entered this 4<sup>th</sup> day of October, 2010.

\_\_\_\_\_  
(signature on file)

William K. Mills, Senior Land Use Planner  
Department of Planning and Development

WKM/10-001