



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS, RECOMMENDATION AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Numbers: 3005925
Council File Numbers: 308565
Applicant Name: Jim Mueller
Address of Proposal: 2203 East Union Street

SUMMARY OF PROPOSED ACTIONS

Land Use Application to allow a six story structure with a total of 92 residential units and 4,232 sq. ft. of commercial space at ground level. Parking for 74 vehicles to be provided below grade. Project includes a contract rezone from Neighborhood Commercial 2 with a 40 ft. height limit and pedestrian designation (NC2P-40) to from Neighborhood Commercial 2 with a 65 ft. height limit and pedestrian designation (NC2-65').*

The following approvals are required:

Contract Rezone – Rezone the site from NC2-40 to NC2-65 to allow the future construction of six story multi family building with ground level commercial uses. (SMC Section 23.34.004).

Design Review - Seattle Municipal Code (SMC) Section 23.41 with Development Standard Departures:

1. Access – To allow access to parking from a Pedestrian designated street (SMC 23.47A.032).
2. Residential Street Level Requirements – To reduce the distance of the ground level units from the sidewalk (SMC 23.47A.008.D).
3. Structural Building Overhang – To Increase bay window projections to 13' with 90-degree angles (SMC 23.54.035).
4. Parking Space Size – To reduce the quantity of medium-sized parking stalls (SMC 23.54.030).
5. Driveway Width – To reduce the driveway width (SMC 23.54.030).
6. Sight Triangle – To eliminate the sight triangle (SMC 23.54.030).
7. Residential Amenity Area – To reduce the required residential amenity area (SMC 23.47A.008).

SEPA - Environmental Determination pursuant to SMC 25.05

SEPA DETERMINATION: [] Exempt [] DNS [] MDNS [] EIS

[X] DNS with conditions**

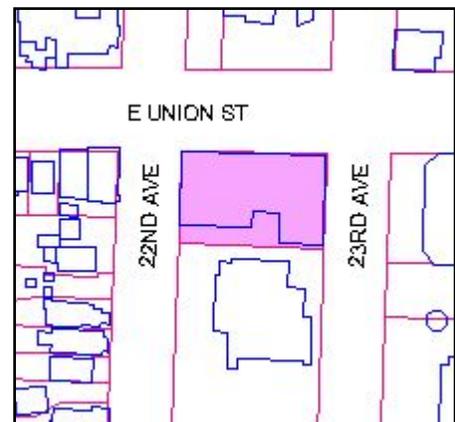
[] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

* The application notice originally stated that proposed rezone was from NC2-40 to NC3-65. The original notice also noted proposed parking for 95 stalls.

** Notice of the Early Determination of Non-significance was published on August 23, 2007.

SITE & VICINITY

The subject site, zoned Neighborhood Commercial 2 with a 40-foot height limit (NC2P-40'), is located between 22nd Avenue and 23rd Avenue at East Union Street. The project site, where the Colman Building once stood, is 1-1/2 lots with no existing structure. There is no alley access to the site. The NC2P-40 zone continues to the north, east and south of the subject site. The zone across the street to the west of the site changes to NC2P-30, with SF 5000 to its south. The site is well served by public transit.



PROJECT DESCRIPTION

The proposal includes the construction of a six story mixed use building with approximately 5,000 square feet of ground level commercial retail uses, below grade parking for approximately 89 vehicles, and five levels of residential use with approximately 92 units above the base. Access to the site would be from 23rd Avenue (seeking departure for garage access off 23rd Avenue).

The applicant is pursuing a Contract Rezone for the site to Neighborhood Commercial 2 with a 65-foot height limit (NC2P-65'). The applicant is also considering requesting a reduction to the required parking per SMC 23.34.004.B.

PUBLIC COMMENT

Approximately 31 members of the public attended the Early Design Guidance meeting held on June 27, 2007. The following comments were offered:

- Clarify the proposed construction type. [Either wood frame over concrete for options 1 and 2 or all concrete for option 3].
- Question where is the closest 65-foot tall structure. [23rd and Madison].
- Excited to see development on this site.
- Regarding the contract re-zone, further exploration of the community benefit is critical. Important to carefully explore what will be offered in exchange for the extra height involved with the re-zone. Examples of this exchange might include guarantees of the type of commercial tenants, affordable units, etc.

- Commends the design team's work; however, feels that the proposed design is more in keeping with streets such as Broadway and Madison than this neighborhood. The proposed design doesn't adequately address the single family neighborhood. This intersection is more of a neighborhood commercial center, not an urban center as described.
- Unclear what the community benefit is for losing its collective air rights.
- The design context of the site is single family homes – this context has been ignored by the proposed design. While an attractive design has been presented, it is out of place with the neighborhood and needs to be challenged.
- The explanation that Option 3 does not work financially should be challenged because this proposal is going too far.
- Concerned with the vehicular access from 23rd creating a large gaping opening and leaving a tall wall on 22nd.
- Prefer garage entry on 23rd.
- A six story building on this site is disproportionate to the neighborhood, especially the single family development. Even a 40 foot tall building would be the tallest building around.
- Condos would be preferred to apartments. Like the ground level townhouse concept. Support ground floor retail uses.
- Strongly support preservation of street trees.
- Very supportive of overhead weather protection.
- Concerned with six foot tall fencing at the property line. This fencing should be carefully designed.
- Keeping the bus stop between the proposed driveway and the driveway to the south on 23rd is preferred.
- Would like to see special paving treatment along the sidewalks.
- If the garage is off of 23rd, left-hand turns should be prohibited.
- Hopes that the renovation of this corner will be the first of many other future redevelopments. The architecture should establish a strong design precedent that is sensitive to single family homes and is well-integrated into the neighborhood.
- The building should also be designed to be viewed from the south.
- A more reasonable design should propose that the building be stepped back so that the portion of the structure along 22nd Avenue is no higher than 40-feet in height.
- Concerned with traffic circulation through the neighborhood if access is located on 23rd Avenue.
- Need some traffic calming devices along 22nd Avenue – perhaps this would be a helpful and reasonable exchange for the increased building height.
- Like design concept, but concerned with affordability of units and would like to see some affordable housing units in the neighborhood.
- Not concerned with extra height.
- Wants to see durable and well-maintained materials used on the building exterior.
- Prefer 23rd Avenue for garage access.

Approximately 25 members of the public attended the Initial Recommendation meeting on March 5, 2008. The following comments were offered:

- Clarification of the proposed sidewalk widths. [ROW widths are 22nd Ave: 22'-6", E Union: 13'- 0 1/2" and 23rd Ave: 16'-1 1/2"].
- Concerned that the proposed materials are cold and too industrial appearing; would prefer a warmer, stone like texture.
- Clarify the proposed building heights. Would like to see the building height along 22nd remain at 40' to avoid greater shadow impacts on the residential uses to the west.
- The nearby restaurant Kurrent is a similar size and shape as the retail space proposed at the northwest corner and it works successfully.
- Commend the introduction of refreshing palette and design into the neighborhood.
- The Union façade has three entrances and the 22nd Avenue has four entrances, while the 23rd Avenue façade is treated more as the service side without pedestrian entry points. The 23rd Avenue side should be given greater consideration and seek to encourage positive pedestrian activity with points of entry that encourage interaction between the public and private realms.
- Important to have secured parking for residents and bicycles. Would like tenants to be people who work in the neighborhood. Supports the transparency of the building and eyes on the street. Pleased with proposed green roof and curb bulbs. Encouraged the building's accent colors to be responsive to the neighborhoods history.
- Excited by the proposed design, but remains uncertain about the additional height requested. Clarify that parking is for residents only.
- Appreciates the "pop out" windows of the architecture, but finds the design to be too boxy and lacking modulation to afford relief from the monolithic massing. Suggest slight curve shape to soften the design.
- Confirm that the existing bus stop to remain. Reiterate that 23rd Avenue not activated enough by the proposed street level design.
- Actual height of the structure reaches 80' to the top of the elevator penthouse – opposed to the requested height increase. The site is in an urban neighborhood that is predominantly single family houses and the proposal to go to a higher height is incongruous and jarring to the existing context.
- Concerned with proposed narrower driveway onto 23rd because turning movements onto the arterial can be challenging; therefore, the driveway should be at least the required dimension.
- This is a thoughtful design contribution to the urban village.
- The retail entry should be shifted to the corner of 23rd to help carry the pedestrian activity around to 23rd. The street level landscaping should be hardy and irrigated to ensure survival.
- Support the building step back on 22nd.
- This project will set a positive precedent for the neighborhood.
- Also concerned with driveway width reduction, in conjunction with the proposed sight triangle elimination and proximity to the bus stop all seem like a dangerous confluence of pedestrians and cars.
- Want to see details of proposed fiber cement panels.
- Clarification of proposed street lighting. [2 poles and exterior sconces].

Approximately 12 members of the public attended the Final Recommendation meeting on April 2, 2008. The following comments were offered:

- Excited to see development occur at this corner. Concerned that the design does not blend into the historic character of the neighborhood. The color palette is too bright and incongruous with the surrounding character. The rezone request is a significant public

resource that demands a better, more responsive design and palette. Also, the design does not respond sufficiently to the residential homes to the west.

- Supports the project as proposed.
- Clarify that the corner tenant is expected to be a restaurant; the tenant of the smaller commercial space is unknown.
- The range of rents for restaurant space.
- The neighborhood is excited to see development occur.
- Many neighbors are opposed to the additional height requested. Many details from the EDG have not been adequately responded to in the design and do not merit justification of a rezone. What is the specific benefit to the neighborhood by the additional two floors? Support mixed use at this location.
- Support density at this location.

The SEPA comment period for this proposal ended on September 5, 2007 and was extended by request to September 19, 2007. The City received approximately 50 letters with the following comments:

- Extremely supportive of redevelopment occurring on the subject site. The empty lot is an eyesore and attracts nuisance activity, such as loitering and garbage.
- Support the proposed increased height as proposed by the re-zone. A six story structure will not be out of scale in the neighborhood.
- Want to see greater density in the neighborhood.
- Support the garage access from 23rd Avenue.
- Concerned that parking access off of 22nd will be disruptive to residential community to the west of the site.
- Support for proposed departures.
- Request to be a Party of Record.
- Would like to see increased ground level retail presence.
- An entrance to the building should also be from 23rd, not just Union.
- Look forward to this development establishing a precedent.
- Concerned with crime in the area and hope that redevelopment of this site will bring more retail to the neighborhood and more constructive pedestrian activity.
- Support added height with an added setback for the portion of the building that faces 22nd Avenue. A stepped approach would provide a less jarring transition between the existing context and the new building.
- Would like to see existing street tree preserved.
- Support the modern design proposed.
- Hope that green building techniques will be employed.
- Want to see a high-quality development in the community.
- Building should be of high quality materials, preferably brick.
- Interested in seeing affordable housing units included in the development.
- Support height if it is the only way to make the project viable. Development of this site will spur desired future development in the area.
- Believes the proposed design fits into the neighborhood well.
- Questions about the contract re-zone process.
- Support preference for local retail businesses.

- Project should include bicycle accommodations, as well as provisions for open space, affordable housing, sustainable building materials and high quality exterior design.
- Does not support affordable or subsidizes housing on the site.
- Supports access on 23rd in order to preserve residential character of 22nd.
- Agree that proposed development is consistent with dense urban villages.
- Oppose added height on 22nd due to the increased shadow and bulk on the residential community to the west.
- Feels that the proposed retail space and subsequent activity will be extremely beneficial to neighborhood.
- Do not want to see additional height; the current zone is adequate and appropriate for the context. Increased density will add traffic and parking problems.
- Would like security, street cleaning and landscaping as conditions of the re-zone. Wants the proposed housing units.
- Concerned with height, bulk and scale impacts (set back on 22nd and preserve trees), traffic circulation (left turn onto 23rd is challenging) and aesthetics (solid brick is the context to emulate and anchor the corner).
- Concerned with proposed building materials as cheap looking with long-term maintenance issues. The material palette of this building will set an important precedent.
- Very supportive of redevelopment on the site, but oppose the increased height. Questions the issues of financial viability raised by developer.
- Approving the re-zone will be out of context in an area clearly mapped with the NC2-40 zone along the arterials.
- Would prefer that the residential units are condos and not rental units.
- Want to see housing, jobs, art and open space in exchange for increased density. Also would like to see traffic calming projects included.

REZONE- ANALYSIS & RECOMMENDATION OF THE DIRECTOR

Seattle Municipal Code section 23.34.007 and the following sections set forth the criteria for rezone application evaluation. SMC 23.34.007 directs that the provisions of the rezone chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions. Zone function statements shall be used to assess the likelihood that the area proposed to be rezoned would function as intended. No single criterion or group of criteria shall be applied as an absolute requirement or test of appropriateness of a zone designation, nor is there a “hierarchy of priorities” for rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.

SMC 23.34.004 Contract rezones.

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to 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 shall be directly related to the impacts that may be expected to result from the amendment. A rezone shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a

contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement 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.

The subject application is for a contract rezone and a PUDA will be developed as part of the Council review.

B. Waiver of Certain Requirements. The ordinance accepting the agreement 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 which would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

The subject application has requested a waiver from the parking requirements of the Land Use Code. The Code requires a total of 95 stalls (92 for the proposed 92 residential units and three stalls for the proposed 5,000 square feet of commercial use). The proposal is to provide 74 parking stalls.

The applicant submitted a Transportation Analysis by The Transpo Group dated November, 2007 and amended on February 7, 2008 evaluating the parking impacts of the proposed development. Using the Third Edition of the Institute of Traffic Engineers *Parking Generation Manual*, parking generation rates associated with Mid Rise Apartment and Restaurant were used. The results of the parking generation are shown below:

Parking Demand Calculations: Proposed Uses

Use	Use Per ITE Land Use	Use Per SMC	Independent Variable	SMC Required	Total SMC Req'd	ITE Peak hour	Proposed
Proposed	Mid Rise Apartment (ITE 221)	Multifamily Residential	92 units	92	95	103	74
Proposed	Restaurant (ITE 932)	Retail	5,000 SF	3			

According to the ITE report, the 5,000 square feet of commercial uses associated with the proposed project and the 92 proposed residential units would require approximately 103 spaces during the peak hours likely in the p.m. peak hour. The proposed development proposes 74 parking spaces. The transportation analysis shows that there is a 65% parking utilization rate in the immediate area of the subject site. The addition of 31 vehicles (the difference between the anticipated parking demand and that being provided) to the surrounding on-street parking supply would increase the parking utilization rate to 78%. Acceptable levels of parking utilization in commercial zones typically range from between 80% and 85%. It is therefore anticipated that the granting of such a waiver would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located. The proposed waiver is therefore granted.

General Rezone Criteria of SMC 23.34.008

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 proposal site and surrounding neighborhood are within the 23rd and Union-Jackson Residential Urban Village (23rd RUV). The Urban Village Appendix to the Seattle Comprehensive Plan set a 650 household increase as the growth target for this Residential Urban Village. This target requires a density increase to nine households per acre (or 4,840 SF per household) from the existing seven households per acre (or 6,223 SF per household). The subject site is 16,200 SF. Development of more than four households on this site would exceed the residential density goals of this RUV; therefore, the proposed 92 residential units far exceed this density.

According to the latest available progress report on growth, under Seattle's comprehensive plan, this residential urban village has achieved 60% of the targeted growth (*Monitoring Our Progress: Seattle's Comprehensive Plan* (2003)). The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and the resultant increase in allowable gross square footage on the same area of land. The proposed rezone is consistent with SMC 23.34.008.A.1 because the increase in zoned capacity does not reduce capacity below 125% of the Comprehensive Plan growth target. This rezone is also consistent with SMC 23.34.008.A.2 because the increased density contributes to the attainment of densities established in the Comprehensive Plan.

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.

The proposal is to rezone an area currently designated Neighborhood Commercial 2-40 (NC2-40) to Neighborhood Commercial2-65 (NC2-65). SMC 23.34.076 provides the Neighborhood Commercial 2 zone, function and locational criteria. The area's characteristics meet the zone criteria for the Neighborhood Commercial zone and will remain unaffected by the proposed rezone; the proposed re-zone is limited only to a height increase and does not include a change to the zone designation. In general, the NC2 zone's function and locational criteria is the best match for land such as the subject property which is in the primary business district for the 23rd RUV, has good transportation capacity (but is not on a major transportation corridor), and has a mix of small and medium parcels near residential areas.

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

The subject property was zoned Community Business (BC) in 1980 and was re-zoned to NC2-40 under the City's prior commercial zoning code (Chapter 23.47) and remained NC2-40 under the most recent commercial zoning code (Chapter 23.47A), enacted in 2006. The history of the surrounding area that includes NC, single-family and lowrise multifamily zones has also remained similarly stable.

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.*
- 2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.*
- 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.*
- 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 Central Area Action Plan II ("CAAP II") is a community-based document, adopted in 1998 as the Central Area's Neighborhood Plan and which encompasses the 23rd RUV. Updated neighborhood policies for the Central Area were also adopted as part of Seattle's Comprehensive Plan update in January 2005. Neither CAAP II, nor the Seattle Comprehensive Plan contain policies expressly adopted for the purposes of guiding future rezones or provide specific policies regarding this rezone proposal. Both documents do contain material that generally pertains to the development concept put forth in the proposal.

CAAP II contains the following goals, policies, and action plan components that are germane to consideration of the proposed development and rezone at this location:

- The 23rd and Union neighborhood is "defined as the crossroads of the Central Area, with more activity and better district layout that makes use of the width and potential of East Union. [Development should] rearrange parking on the street and off to make better use of it, and emphasize the district as a convenience shopping area for local residents and workers." (page 4)
- "23rd and Union has long been considered the hub of the Central Area. Its smaller scale lends itself to less residential and commercial density. The vision for the neighborhood focuses on maintaining the cultural and ethnic diversity of the community. In the future, changes will be made thoughtfully, with respect for the past, pride in the present and careful regard for sustainable development in the future. East Union Street will be the focus, both in terms of transportation systems and in becoming the gathering place for the community. To support this vision, an integration of streetscape, street improvement, land use and zoning changes and open space elements will need to come together." (page 9-10)

- “Establish a Pedestrian 2 Overlay at the business core of 23rd and Union.” (page 23 and 28)
- “Create a sense of entry for the Central Area and individual neighborhoods by developing “community gateways” that go beyond placing a sign *on* a utility pole. Develop landscaped areas, public art pieces, banners, and/or signage at locations that include but may not be limited to...23rd & Union-as determined through Union Street project sponsored by the local Central Neighborhood Association urban design study.” (page 44)
- “23rd and Union Node – The Community’s Business Center. Continue adding commercial office space and professional services. Encourage housing density in and around the commercial area....” (page 50)
- “Moderate Income Housing. Encourage development of market-rate housing affordable to families of modest or moderate incomes. (80 - 120% of median).” (page 66)
- “Through implementation of the comprehensive plan and/or neighborhood planning, designate Key Pedestrian Streets within the highest-density portions of urban villages and along logical connections between villages. Design and operate these streets to be safe and attractive for pedestrians, improve access to transit, encourage street-level activity, and facilitate social interaction. Integrate pedestrian facilities into street improvements *on these streets*. Consider strategies such as curb bulbs, mid-block crosswalks, benches, street trees, wider sidewalks, lighting, special paving, overhead weather protection, and grade-separated pedestrian walkways over or under major obstacles to pedestrian movement.” (page 72)
- “Union Street Improvements. Improve street landscaping and street furniture and provide lane modification on Union at 23rd Avenue to reduce pedestrian accidents, improve parking, improve safety for bicycles, and enhance the business node.” (page 82)
- “Union Streetscape and Urban Design. Promote a pedestrian environment along Union between 19th and Math Luther King, Jr. Way. Request Seattle Transportation, the Department of Neighborhoods, and Seattle City Light to work with neighborhood associations to establish streetscape features such as decorative street lighting, seating areas, intersection paving patterns, and community identity markers.” (page 84)
- “Adequate Water Pressure. Monitor City’s steps to provide adequate water pressure to meet public safety needs.” (page 110)
- “Dealing with problem drainage areas. Identify and respond to areas that have persistent flooding problems.” (page 110)

The following 2005 Comprehensive Plan goals and policies are also relevant to analysis of this rezone application:

- Policy CA-P1: Enhance the sense of community and increase the feeling of pride among Central Area residents, business owners, employees, and visitors through excellent physical and social environments on main thoroughfares.
- Policy CA-G2: A community where residents, workers, students and visitors alike can choose from a variety of comfortable and competitively convenient modes of transportation including walking, bicycling, and transit and where our reliance on cars for basic transportation needs is minimized or eliminated.
- Policy CA-G3: A community that is served by a well-maintained infrastructure...
- Goal CA-G4: A stable community with a mix of housing types meeting the needs of a wide variety of households, where home ownership is an affordable option for many households.
- Policy CA-P7: Encourage use of travel modes such as transit, bicycles, walking and shared vehicles...and discourage commuting by single occupant vehicle...
- Policy CA-P24: Create a viable business base that will attract investment, focusing on neighborhood retail, professional and personal services, restaurants, and entertainment. Support the urban design element of the Central Area Neighborhood Plan that strengthens development and enhances the pedestrian nature of each area.
- Goal CA-G6: [Develop] distinct but mutually supportive primary business districts along the 23rd Avenue Corridor... 23rd and Union Node - Business/Restaurant Center: A small scale commercial hub serving the neighborhood, providing a range of residential housing types.
- Strive to correct instances of combined sewer overflows by prioritizing remedial action according to the frequency and volume of the overflows and the sensitivity of the locations where the overflows occur. (U-15)
- The capacity of the wastewater system is limited in confined areas of the city, where there have been historic hydraulic and system backup problems. These problems are being addressed through developer-funded facility upgrades and by Seattle Public Utilities' CIP. (U-A12)

The rezone proposal is consistent with most of these policies. The neighborhood plan (CAAP II) specifically labels the 23rd and Union intersection as the “23rd and Union Node” and encourages housing density in and around this area. The proposed retail space will provide new economic opportunities for local businesses and workers.

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 re-zone is solely for an increased height allowance; the zone designation of NC2 will remain the same under the proposed rezone. The height limit will be increased 25 feet to the next tallest level designated in the Land Use Code. The NC zone continues to the north, south and east of the site with a height allowance of 40 feet. Across the street to the west, the zone changes to an NC zone with a 30 foot height limit and across the street to the southwest, the zone becomes Single Family 5000 that has a height allowance of 35 feet. The proposed building is also designed to appropriately respond to this neighborhood character by “stepping-down” to 22nd Avenue with a set of town home style units. On the west side of the proposed development, the building façade is set back two feet, nine inches from the property line for the first two levels, six foot, nine inches at the third and fourth levels, and 12 feet, nine inches at the fifth and sixth levels. These setbacks help alleviate the transition between taller and shorter heights. Any concern regarding shadows and massing of the 65-foot rezone is alleviated by the property’s location at the northern end of the block where shadows will be cast primarily onto Union and 23rd streets, rather than on SF 5000-zoned properties. The presence of street right-of-way on three sides of the lot also serves to effectively buffer the 30 and 40-foot zoned properties adjacent to the rezone. To the west, the existing mature street trees will further buffer the additional height associated with the rezone.

The proposed rezone generally follows 23rd Avenue, Union Street, 22nd Avenue, and a platted lot line to the south as appropriate zone boundaries. The commercial uses in the project will face other commercial uses across E. Union and 23rd, and will face away from the residential zone southwest of the site across 22nd Avenue. The rezone will locate a height limit greater than 40-foot within an urban village, consistent with code requirements.

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 green spaces.*

The subject property is bordered on three sides by street rights-of-way. No other physical buffers exist between the proposed height increase and the existing, surrounding zones.

3. Zone Boundaries.

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

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

The proposed contract rezone will not change the boundaries between commercially and residentially zoned areas.

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

The proposed contract rezone will increase the height limit to 65 feet. The site is located within an urban village.

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

1. Factors to be examined include, but are not limited to, the following:

a. Housing, particularly low-income housing;

The proposed contract rezone will provide market rate rental housing.

b. Public services;

The proposed contract rezone development will require public services.

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

The proposed rezone adds two stories of additional height without changing the type of uses allowed on the subject property, which is currently a vacant lot. There will likely be no appreciable negative environmental impacts associated with allowing the proposed denser urban infill development compared to existing zoning. Due to the east-to-west articulation of the building and location at the southwest corner of the intersection, the shadows typically associated with a taller building will largely be directed onto the adjacent streets (Union St. and 23rd Ave.) rather than onto the surrounding buildings. The additional height will not result in any shadow impacts on a public park.

d. Pedestrian safety;

The area currently has sidewalks, street lights and crosswalks; therefore the proposed contract rezone will not impact pedestrian safety. The presence of commercial and residential uses on the site will increase “eyes on the street”, which is assumed to enhance overall safety in the neighborhood. The property has, and will retain, the “pedestrian” designation, requiring a number of pedestrian-friendly design elements as part of any site development. A focal point for the project is enhancing the pedestrian experience along 23rd & Union by providing appropriate lighting and installing street canopies to protect against the elements.

e. Manufacturing activity;

There is no manufacturing activity on the property or in the property's vicinity.

f. Employment activity;

The proposed contract rezone includes approximately 5,000 SF of commercial use, which will provide additional employment opportunities in new retail facilities as well as in building and maintaining the development.

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

The proposed contract rezone does not propose a building design that is reminiscent of the architectural or historic character of the area. The subject property is currently a vacant lot and there are no adjacent properties of significant architectural or historic value.

h. Shoreline view, public access and recreation.

The proposed contract rezone will not impact shoreline, public access or recreation uses.

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

a. Street access to the area;

The additional development potential provided by the rezone is minimal in terms relative to street access in the project vicinity.

b. Street capacity in the area;

The proposed contract rezone will generate traffic which will use street capacity in the area. The street capacity of the area, however, can reasonably accommodate the increased traffic associated with the proposed development.

c. Transit service;

The additional development potential provided by the rezone is negligible in terms relative to transit ridership for the project vicinity.

d. Parking capacity;

The proposed contract rezone will impact parking capacity in the area. See discussion of Parking Waiver request above.

e. Utility and sewer capacity;

The proposed contract rezone is in a location that has experienced sewer capacity issues and known flooding downstream. Seattle's Comprehensive (Comp) Plan, Toward a Sustainable Seattle, which lays out a framework for growth over the coming years in ways that sustain its citizens' values, states: "The capacity of the wastewater system is limited in confined areas of the city, where there have been historic hydraulic and system backup problems. These problems are being addressed through developer-funded facility upgrades and by Seattle Public Utilities

CIP." Additional residential density is of concern to the existing sewer capacity; however the proposed height increase is not necessarily related to the density of residential units. Thus, the limited infrastructure will not be overly burdened by the proposed rezone for additional height.

f. Shoreline navigation.

The proposed contract rezone will not impact shoreline navigation.

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.

No changed circumstances have occurred in the area that affect any of the zone or overlay designations of this chapter.

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

The proposed contract rezone is not located in an Overlay district; thus this criterion does not apply.

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 subject site does not contain any environmentally critical areas.

SMC 23.34.009 Height limits of the proposed rezone.

Where a decision to designate height limits in commercial or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

A. Function of the Zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.

This rezone seeks to increase the height limit of a NC2P parcel from 40 to 65 feet. This height increase is consistent with the type and scale of development intended for the NC2 zone in a residential urban village, as discussed above with regard to the comprehensive and neighborhood plans. In particular, the creation of new apartments will add density and vitality to the desired pedestrian character of the residential urban village. The proposed rezone's location at the 23rd and Union intersection is a central node for the neighborhood and will provide density at the center of the urban village as a logical location for encouraging redevelopment, particularly the redevelopment of a vacant/underutilized parcel, such as the subject lot. The proposed building would bring over 100 new residents to the neighborhood, plus the jobs provided by several retail shops and the business of managing and maintaining the building itself. As intended with urban villages, this will draw more pedestrian traffic from the surrounding residential neighborhoods to

the urban village node, increasing use of local merchants while reducing dependence on automobiles. The rezone is likely to meet demands for permitted goods and services by providing housing and commercial opportunities on a currently vacant site; displacement of preferred uses is unlikely under the rezone proposal.

B. Topography of the Area and its Surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.

The immediate vicinity of the project site is relatively flat and the broader area is a valley between First Hill/Capitol Hill to the west and a similarly significant rise to the east. There is limited likelihood for view blockage as there are no significant views from surrounding properties. Because surrounding properties are currently zoned for the same or lower heights (40 feet, 30 feet, or single-family) as the project site, surrounding properties would generally not be subject to worse view blockage from a 65-foot limit than would exist under the current 40-foot limit.

C. Height and Scale of the Area.

1. The height limits established by current zoning in the area shall be given consideration.

2. In general, permitted height limits shall be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area's overall development potential.

D. Compatibility with Surrounding Area.

1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.

2. A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008 D2, are present.

The subject site and lots along 23rd Avenue, under the current zoning, have a maximum height limit of 40 feet. The existing buildings within this zone, however, generally do not extend to this maximum height.

Existing development in the area is not a good general measure of the area's overall development potential as there remains sufficient additional capacity for more retail and residential development. The goals and policies that apply to the 23rd RUV would be met by the development of the vacant lot into a mixed-use, pedestrian friendly element of the village. Changing the height designation from 40-feet to 65-feet creates a central focal point for the 23rd

and Union Node as an anchor to redevelopment of the area, but with sufficient 40-foot zoning surrounding it to create a gradual transition and appropriate buffering from lower heights. Please also see description of the proposed building under *Zoning Principles E.1* above.

The impact of increasing the height limit on this one portion of one block by 25 feet would have little impact upon the large-scale zoning pattern in the area.

E. Neighborhood Plans.

1. Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.

2. Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would otherwise be established pursuant to the provisions of this section and Section 23.34.008.

There are no particular discussions of applicable height limits in CAAP II or the Central Area policies in the Seattle Comprehensive Plan. However, the Seattle Comprehensive Plan goals for the Central Area provide for the development of distinct but mutually supportive primary business districts along the 23rd Avenue Corridor includes the 23rd and Union Node as a small scale commercial hub serving the neighborhood, providing a range of residential housing types.

SMC 23.34.072 Designation of commercial zones.

The proposal does not seek to change the commercial zoning of the property. The property will continue to meet the designation of commercial zones criteria that emphasize sensitive edge transitions and concentrated commercial areas.

SMC 23.34.076 Neighborhood Commercial 2 (NC2) zones, function and locational criteria.

The proposal does not seek to change the NC2 zoning designation of the property. The property continues to meet the locational criteria of the NC2 zone as the primary business district in the 23rd Residential Urban Village. The site is located on a principal arterial (23rd Avenue) and a minor arterial (Union Street), which have good capacity but are not major transportation corridors. The rezone site and its adjacent NC2 parcels are small to medium in size, with the rezone site as one of the larger properties in the area at 16,185 square feet.

The functional criteria of the NC2 zone can be achieved with redevelopment and are heavily influencing design considerations for the site.

SMC 23.34.086 Pedestrian designation (suffix P), function and locational criteria.

The subject property currently has the Pedestrian (“P”) designation as part of its zoning and the proposed rezone does not seek to remove that designation. The property continues to meet the locational criteria of the Pedestrian designation as a commercial node in an urban village, zoned NC on both sides of the arterials with excellent pedestrian, bike, and transit access. The functional criteria of the zone can be achieved with redevelopment and are heavily influencing design considerations for the site. The proposed additional height will not detract from the pedestrian character of the site and, by providing additional density, it is likely to promote additional pedestrian activity.

RECOMMENDATION – REZONE

This site and surrounding neighborhood are within the adopted boundaries of the 23rd and Union-Jackson Residential Urban Village. The proposed rezone also meets the general rezone criteria, where applicable. Regarding the neighborhood plan criteria of 23.34.008.D, the adopted neighborhood plan unfortunately gives little specific direction on this rezone question.

The contract rezone proposal will create the opportunity for a development containing a mix of commercial and residential uses that will be compatible with the existing neighborhood context, and preferable to other approvable configurations under the current zoning. The PUDA that will accompany this approval will insure the development maintains the proposed and favorable character. The Director recommends **APPROVAL** of this rezone request.

Recommended Conditions of Approval Prior to Issuance of a Permit to Establish Use for Future Construction / Property Use and Development Agreement:

None.

ANALYSIS - DESIGN REVIEW

Design Guidance

Three schemes were presented at the Early Design Guidance meeting. All of the options include below grade parking with approximately 85 stalls. The preferred option shows parking access from 23rd Avenue. The other two schemes show access from 22nd Avenue.

The first and preferred scheme (Design Scheme 1) proposed a six story mixed use building with retail along East Union Street and 23rd Avenue, and a residential amenity space at the corner of 22nd Avenue and East Union Street. Residential townhouses were proposed along 22nd Avenue and a south garden terrace as a response to the single-family residences along 22nd Avenue. Parking access is from 23rd Avenue. This scheme incorporates setbacks from the south and west property lines to create a more sensitive scale and allow for open space with a garden terrace. There is a centralized entry to the building that allows natural light into common spaces.

The second alternative (Design Scheme 2) proposed a six story mixed use building with retail along East Union Street and the northeast corner of 23rd Avenue. Residential townhouses were proposed along 22nd Avenue and the south garden terrace. Parking access is from 22nd Avenue, which is not preferred due to pedestrian activity along the street. The south face of the building is set back from the property line (with exception to the garage entry with residential units above) to allow for the garden terrace. In this scheme, the garden terrace is exposed to 23rd Avenue.

The third alternative (Design Scheme 3) proposed a 4 story mixed use building (current code compliant) with retail along East Union Street and the northeast corner of 23rd Avenue. Residential townhouses were proposed along 22nd Avenue and the south garden terrace. The south face of the building is set back from the property line (with exception to the garage entry with residential units above) to allow for the garden terrace. Parking access is from 22nd Avenue, leaving the garden terrace exposed to 23rd Avenue.

The open spaces for all three schemes would be at grade in the areas between building masses and at the garden terrace, as well as on a roof deck.

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, at the EDG meeting on 6/27/07 the Design Review Board members provided the following siting and design guidance and identified by letter and number those siting and design guidelines found in the City of Seattle's *Design Review: Guidelines for Multifamily and Commercial Buildings* of highest priority to this project.

At the Initial Recommendation meeting, a more fully developed design was presented to the Board. The design sought to include an urban expression along 23rd and amore residential expression along 22nd Avenue. The south façade enjoys solar exposure and ground level entry units have been included off this side of the site. The landscape design includes a variety of vegetation that is layered with a mixture of heights, scale, texture and quality. The ground level units on 22nd are challenged with having a sense of entry that is separate from the public sidewalk.

The proposed design is also seeking an administrative waiver from the parking standards per SMC 23.54.015.D to reduce the commercial parking from the three required stalls to zero.

Because the Board did not have a quorum present at this meeting, the project team will return to the Board for a Final Recommendation.

The design presented at the Final Recommendation meeting remained unchanged since the previous meeting. The material palette was modified to include a commercial line of upgraded hardi-panel fiber cement siding, which is considered more durable. The architect also presented a mock up of the corner condition showing the open joint pattern between the façade wall and the projecting panel. An entrance onto 23rd has been included in the corner commercial space as well.

Site Planning

- A-2 **Streetscape Compatibility.** The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.
- A-3 **Entrances Visible from the Street.** Entries should be clearly identifiable and visible from the street.
- A-4 **Human Activity.** New development should be sited and designed to encourage human activity along the street.
- A-5 **Respect for Adjacent Sites.** Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.
- A-7 **Residential Open Space.** Residential projects should be sited to maximize opportunities for creating usable, attractive, well-integrated open space.
- A-8 **Parking and Vehicle Access.** Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties, and pedestrian safety.
- A-10 **Corner Lots.** Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.

The Board agreed that the design and building program should encourage pedestrian activity. The commercial spaces should utilize transparent windows and overhead weather protection and other details that encourage pedestrian traffic to, from and around the site. The Board discussed several pedestrian features that would significantly improve the sidewalk environment and help them agree that the project is significantly better as a whole: overhead canopies, operable storefront windows, transparent fencing in front of the 22nd Avenue townhouse units, retail spaces that coordinate with ground level amenity room, a crosswalk across East Union Street at the intersection of 22nd Avenue, curb bulbs, specialty paving, artwork, public seating, bike racks and a well-designed and integrated planting strip and tree wells.

The Board also agreed that the town home units along the ground level of the west side of the building should endeavor to be quieter responding to the single family development across 22nd Avenue, while the east and north sides of the building should strive for active commercial use and activity. The two building corners located at the intersections should reinforce the transition of ground level uses. The Board liked the projecting window bays shown at the 23rd Avenue intersection.

The Board looks forward to reviewing a high-quality well programmed and well landscaped ground level open space design. The Board recommended that the design include elements that emphasize the quality and experience of the open spaces. These elements should include operable windows, well programmed, well-landscaped spaces and a well-designed hard-scape along the right-of-way.

At the Recommendation meeting, the Board did not discuss the pedestrian amenity features described above.

The Board agreed that the ground level unit design along 22nd Avenue has more residential character. The Board indicated support for the wider sidewalk depth on 22nd, as well as the variety of dense planting proposed on all of the abutting right-of-way, both against the building and in the planting strip.

At the Final Recommendation meeting, the Board agreed that the proposed departures would minimize the presence of the driveway on the sidewalk environment along 23rd; however, they recommended that mirrors and other devices be included to ensure pedestrian visibility to drivers accessing the garage.

Board Recommended Condition:

1. Mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage.

Height, Bulk, and Scale

B-1 Height, Bulk, and Scale Compatibility. Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk, and scale between the anticipated development potential on the adjacent zones.

The Board supported a design that maximizes the potential development allowed by the existing underlying zone. All Board members agreed that the bulk of the building as viewed from 22nd Avenue should read predominantly as a four story building, rather than a six story structure. However, the Board was split between the appropriateness of the proposed rezone to allow 25 additional feet to the building height. Two Board members felt that the proposed setbacks at the upper levels adequately addressed the issue of compatibility between the proposed building and the single family zone and development to the west; the other two Board members were not convinced that the proposed setback (of 12 feet from the west property line above the fourth level) would provide significant enough relief from the perceived building mass to those neighbors to the west.

At the Initial Recommendation meeting, the design showed a setback at the fourth floor that wraps from the west and south facades. The setback of the upper two levels measures 13' from the property line. The ground level residential units on 22nd Avenue are set back from the property line by three feet and have been designed to respond to the single family context across the street.

The Board indicated support for this erosion of the massing in conjunction with the preservation of the large street trees which provide significant buffer to the height, bulk and scale of the proposed building.

Architectural Elements and Materials

C-2 Architectural Concept and Consistency.

- **Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept.**
- **Buildings should exhibit form and features identifying the functions within the building.**

C-3 Human Scale. The design of new buildings should incorporate architectural features, elements, and details to achieve a good human scale.

C-4 Exterior Finish Materials. Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

C-5 Structured Parking Entrances. The presence and appearance of garage entrances should be minimized so that they do not dominate the street frontage of a building.

The Board agreed that Option 1 is preferred in terms of the retail configuration and found the location of ground level townhouse type units along 22nd Avenue to well considered and located to respond to the residential zone across the street.

The Board looks forward to seeing a cohesive architectural design with details that are thoughtfully considered to help enliven the pedestrian environment and unique location of this building at these two corners. The Board felt comfortable with the architectural concept and language proposed for the building. The Board discussed that the activity of this intersection is more likely to be neighborhood commercial focal point and this building should strive to respond to the strong residential character of the community, but also provide opportunity to commercial uses that will be unique to and serve this community.

The Board looks forward to reviewing a more details material and color palette that is reflective of and responsive to the surrounding architectural aesthetic. The Board also noted that the design of this building should create a strong precedent to which future development will respond. The Board mentioned concern with the proposed painted (colored) concrete. All materials should be highly durable and age well.

The Board strongly agreed that the vehicular access, regardless of which street it is from, should be visually minimized and cause as little disruption to pedestrian circulation around the site as possible. The Board expressed a tentative preference for the 23rd Avenue garage entry over the 22nd Avenue entry given the proximity to the residential zone on the 22nd Avenue side. However, the Board voiced concern that having an entrance off of 23rd may create undesirable circulation issues whereby vehicles, unable to take a left onto 23rd Avenue, would take several right turns from the site and end up traveling down 22nd Avenue to reach East Union Street. Such a scenario needs to be examined by the traffic consultant to help inform the most appropriate access location.

Efforts to prevent traffic movement down 22nd Avenue are encouraged. The Board also wants to know whether the METRO bus stop can be relocated as proposed.

At the Initial Recommendation meeting, the proposed material palette includes a fiber-cement system painted a brown color over a concrete base, galvanized metal railings, white vinyl windows and large storefront retail windows at the ground floor. The overhead canopies are a steel frame with a translucent canvas covering.

The Board was very concerned with the proposed material palette and the long term durability and maintenance of the proposed hardi-panel. Furthermore, the Board was concerned with joinery of the proposed materials, how the corners will be treated, as well as the projecting bays. The Board noted that a more durable material, such as wood, metal or masonry should be proposed. The Board would also like to see the details of how the proposed materials will wrap the corners and building projections. The soffit material of these projections should also be shown. The Board noted support for a reduced parking count if the quality of materials was improved.

The Board was pleased with the proposed building composition that includes projecting window box forms that are unevenly spaced giving a playful quality to the building pattern.

At the Final Recommendation meeting, the Board continued to have concerns with the proposed hardi-panel system. This development should set a high precedent for the neighborhood and future development to come. The Board decided that the projecting bays will be the most prominent forms of the building and also pose the greatest challenge to the joinery and long term durability of the materials. As such, three of the four Board members recommended that all projecting forms (shown with the accent color) be a higher quality material, such as panelized metal or a wood resin material to give the design a warmer character. The Board noted that they would support a parking reduction provided that higher quality materials are integrated into the design. The building background can continue to be the proposed hardi-panel system with integral color. The Board also noted concern that the proposed white color will not wear well over time. Also, none of the soffit details were presented to the Board; these details shall be submitted to DPD for review and approval.

Board Recommended Conditions:

- 2. All projecting forms shall be a higher quality material, such as panelized metal or a wood resin material to give the design a warmer character.**
- 3. The soffit details shall be submitted to DPD for review and approval.**

Pedestrian Environment

D-1 Pedestrian Open Spaces and Entrances. Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.

- D-2 Blank Walls.** Building should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they should receive design treatment to increase pedestrian comfort and interest.
- D-6 Screening of Dumpsters, Utilities, and Service Areas.** Building sites should locate service elements like trash dumpsters, loading docks, and mechanical equipment away from the street where possible. When elements such as dumpsters, utility meters, mechanical units, and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located in the pedestrian right-of-way.
- D-7 Personal Safety and Security.** Project design should consider opportunities for enhancing personal safety and security in the environment under review.
- D-9 Commercial Signage.** Signs should add interest to the street front environment and should be appropriate for the scale and character desired in the area.
- D-10 Commercial Lighting.** Appropriate levels of lighting should be provided in order to promote visual interest and a sense of security for people in commercial districts during evening hours. Lighting may be provided by incorporation into the building façade, the underside of overhead weather protection, on and around street furniture, in merchandising display windows, in landscaped areas, and/or on signage.
- D-11 Commercial Transparency.** Commercial storefronts should be transparent, allowing for a direct visual connection between pedestrians on the sidewalk and the activities occurring on the interior of a building. Blank walls should be avoided.

The Board wants to see an exterior lighting plan and fixtures included that highlights building features and illuminates the sidewalk environment.

The Board would like to better understand the sequence of the ground level unit entryways, between the sidewalk, property line, exterior wall and front door entry. The Board encouraged the ground level entries to be higher than the six inches proposed in order to create more of a privacy buffer and transitional space between the public and private realm. Likewise, the Board wants to review a more detailed design of the residential entrance off of East Union Street, as well as those ground level units facing the south property line.

The Board was interested in the amenity room shown on the corner of the ground floor and will be interested to see how it interacts with the retail uses. The Board likes the tall 17' ceilings proposed for this space and the design should continue to include the tall height at this corner.

At the Initial Recommendation meeting, the Board agreed that additional permeability is needed on 23rd Avenue and at least one point of pedestrian access should be provided.

The Board was supportive of the proposed gate design that would be installed at the secured entry off of 22nd Avenue to access the south-facing ground level units.

At the Final Recommendation meeting, the Board was supportive of the entrance to the commercial space included off of 23rd Avenue.

Landscaping

E-2 Landscaping to Enhance the Building and/or Site. Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture, and similar features should be appropriately incorporated into the design to enhance the project.

The Board strongly and unanimously agreed that the mature street trees on 22nd Avenue should be preserved, as they provide a significant buffer between the zones, both in terms of softening the proposed building, but also to reduce the sense of height, bulk and scale. The trees along 22nd Avenue are of particular importance.

At the Initial Recommendation meeting, the Board appreciated the well-considered landscape plan that includes six Trident Maples on Union Street, Multi-stem Vine Maples in the planters against the building along 22nd Avenue and the preservation of the three existing Red Oaks in 22nd Avenue planting strip and the two existing Maples on 23rd. The unusually wide planting strip is densely planted with ground cover and ornamental grasses, while leaving space between the planting strip and the curb. The rooftop is a variety of pavers and a green roof system with contrasting colors and textures.

Design Review Departure Analysis

Seven departures from the Code were requested at this time.

Departure Summary Table

STANDARD	REQUIREMENT	REQUEST	BOARD RECOMMENDATION
RESIDENTIAL STREET LEVEL REQ SMC 23.47A.008.D	The residential entry shall be either 4' above sidewalk or set back 10' from the sidewalk.	On 22 nd Avenue, the ground level residential facades are 6'-9.5" from the sidewalk and the bay projections are 2'-9.5" from the sidewalk.	The Board was supportive of the departure request given the unusually wide right-of-way on 22 nd and the proposed landscape design for the planting strip and the planters between the sidewalk and the building. The Board voted unanimously in favor of the request.
PARKING LOCATION & ACCESS SMC 23.47A.032	Access to parking shall be from a street that is not a designated Pedestrian street	Take access to parking from 23 rd Avenue, a designated pedestrian street.	The Board agreed that the 23 rd entrance prevents intrusion to the residential neighbors. The Board is supportive of proposed departure and voted unanimously in favor of the request. Condition: mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage.
STRUCTURAL BUILDING OVERHANG SMC 23.54.035	Width of bay window over property line allowed to project up to 9' with 45-degree angles.	Increase bay window projections to 13' with 90-degree angles.	The Board prefers the design of the proposed bay projections (and amended by condition) rather than those allowed by Code. The Board is supportive of proposed departure and voted unanimously in favor of the request.

QUANTITY of PARKING SPACE SIZES SMC 23.54.030	60% of stalls must be medium sized.	51.5% medium sized stalls	The Board is supportive of proposed departure and voted unanimously in favor of the request.
DRIVEWAY WIDTH SMC 23.54.030	22'	20'	The Board is supportive of proposed departure and voted unanimously in favor of the request. Condition: mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage.
SIGHT TRIANGLE SMC 23.54.030	10'	0'	The Board is supportive of proposed departure and voted unanimously in favor of the request. Condition: mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage.
RESIDENTIAL AMENITY AREA SMC 23.47A.008	3,489 SF	3,012 SF	The Board agreed that the proposed green roof system is an amenity that is appreciated by both tenants and the broader community. As such, the proposed departure is supported. The Board is supportive of proposed departure and voted unanimously in favor of the request.

Summary of Board’s Recommendations

The recommendations summarized below are based on the plans submitted at the Final Design Review meeting. Design, siting or architectural details specifically identified or altered in these recommendations are expected to remain as presented in the presentation made at the April 2, 2008 public meeting and the subsequent updated plans submitted to DPD. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities, and reviewing the plans and renderings, the Design Review Board members recommended **CONDITIONAL APPROVAL** of the proposed design including the requested departures subject to the following design elements in the final design including:

1. Mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage. (A-8, D-7)
2. All projecting forms shall be a higher quality material, such as panelized metal or a wood resin material to give the design a warmer character. (C-4)
3. The soffit details shall be submitted to DPD for review and approval. (C-4)

The recommendations of the Board reflected concern on how the proposed project would be integrated into both the existing streetscape and the community. Since the project would have a strong presence along Union Street, 23rd Avenue as well as 22nd Avenue, the Board was particularly interested in the establishment of a vital design that would enhance the existing streetscape, interact with the pedestrian activity at this critical intersection and be compatible with the residential neighborhood to the west.

The design review process prescribed in Section 23.41.014.F of the Seattle Municipal Code describing the content of the DPD Director's decision reads in part as follows:

The Director's decision shall consider the recommendation of the Design Review Board, provided that, if four (4) members of the Design Review Board are in agreement in their recommendation to the Director, the Director shall issue a decision which incorporates the full substance of the recommendation of the Design Review Board, unless the Director concludes the Design Review Board:

- a. Reflects inconsistent application of the design review guidelines; or*
- b. Exceeds the authority of the Design Review Board; or*
- c. Conflicts with SEPA conditions or other regulatory requirements applicable to the site; or*
- d. Conflicts with the requirements of state or federal law.*

Subject to the above-proposed conditions, the design of the proposed project was found by the Design Review Board to adequately conform to the applicable Design Guidelines.

ANALYSIS & DECISION – DESIGN REVIEW

Director's Analysis

Four members of the Greater Capitol/First Hill Design Review Board were in attendance and provided recommendations (listed above) to the Director and identified elements of the Design Guidelines which are critical to the project's overall success. The Director must provide additional analysis of the Board's recommendations and then accept, deny or revise the Board's recommendations (SMC 23.41.014.F3). The Director accepts the conditions recommended by the Board that further augment Guidelines A-8, C-4 and D-7 and support the case in favor of granting departures from the access, street level residential standards amenity area, structural building overhang and parking stall sizes.

The Director of DPD has reviewed the decision and recommendations of the Design Review Board made by the four members present at the decision meeting and finds that they are consistent with the City of Seattle Design Review Guidelines for Multifamily and Commercial Buildings. However, the Director notes that the presence of the existing street trees on 22nd and 23rd Avenues serve as a critical buffer to the proposed height, bulk and scale of the proposed structure. Per Guideline B-1, the protection and preservation of these trees, therefore, shall be a condition of the project.

4. A Tree Protection and Preservation Plan for the existing street trees (three Red Oak trees on 22nd Avenue and two Maple trees on 23rd Avenue) shall be developed and submitted to DPD for review and approval prior to building permit issuance.

Along with these conditions, the Director agrees with the Design Review Board's conclusion that the proposed project and conditions imposed result in a design that best meets the intent of the Design Review Guidelines and accepts the recommendations noted by the Board.

Director's Decision

The design review process is prescribed in Section 23.41.014 of the Seattle Municipal Code. Subject to the above-proposed conditions, the design of the proposed project was found by the Design Review Board to adequately conform to the applicable Design Guidelines. The Director of DPD has reviewed the decision and recommendations of the Design Review Board made by the four members present at the decision meeting, provided additional review and finds that they are consistent with the City of Seattle Design Review Guidelines for Multifamily and Commercial Buildings. In order to assure that the design features presented to the Board will be retained throughout the process and until the Certificate of Occupancy is issued, the Director shall reiterate the proposed design features as conditions as follows:

1. The following architectural features and details presented at the Final Design Review meeting and described under Guidelines A-2, A-4, C-4 and D-10:
 - a) Transparent retail storefront aluminum windows systems;
 - b) Overhead metal canopies along Union and 23rd and individual canopies over each ground level residential entry;
 - c) Sealed concrete base; and
 - d) Exterior lighting.

2. The following landscape features and details presented at the Final Design Review meeting and described under guidelines D-1 and E-2:

Roof Levels:

 - a) Plantings; and
 - b) Pavers

Entries and ROW:

 - c) Street trees on Union, along with dense right-of-way landscaping heavily landscaped with plants providing texture, color and seasonal variation; and
 - d) Concrete planters and vegetation shown at the ground level residential units along 22nd Avenue.

The Design Review Board agreed that the proposed design, along with the conditions listed, meets each of the Design Guideline Priorities as previously identified. Therefore, the Director accepts the Design Review Board's recommendations and **CONDITIONALLY APPROVES** the proposed design and the requested departures with the conditions enumerated above and summarized at the end of this Decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated January 17, 2007. The information in the checklist, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations and/or circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from construction activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction materials hauling, equipment and personnel; increased noise; and consumption of renewable and non-renewable resources. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise).

- The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction.
- The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way.
- Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general.
- Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city.

Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, given the amount of building activity to be undertaken in association with the proposed project, additional analysis of air quality, noise, grading and traffic impacts is warranted and summarized below:

- The applicant estimates approximately 14,800 cubic yards of excavation for construction. Excess material to be disposed of must be deposited in an approved site.
- Decreased air quality due to suspended particulates (dust) from excavation and construction, hydrocarbon emissions and greenhouse gas emissions from construction vehicles, equipment, and the manufacture of the construction materials.
- Increased dust caused by demolition and excavation activities and potential soil erosion and disturbance to subsurface soils during grading, excavation, and general site work;

- Increased traffic and demand for parking from demolition and excavation equipment and personnel;
- Conflicts with normal pedestrian and vehicular movement adjacent to the site;
- Increased noise and vibration;
- Consumption of renewable and non-renewable resources.

Air Quality

The indirect impact of construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project. No potential short term adverse impact to air is anticipated and therefore air quality mitigation is not necessary.

Drainage

Soil disturbing activities during site excavation for foundation purposes could result in erosion and transport of sediment. The Stormwater, Grading and Drainage Control Code provides for extensive review and conditioning of the project prior to issuance of building permits. Therefore, no further conditioning is warranted pursuant to SEPA policies.

Earth - Grading

The construction plans will be reviewed by DPD. Any additional information showing conformance with applicable ordinances and codes will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used; therefore, no additional conditioning is warranted pursuant to SEPA policies.

The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The current proposal involves excavation of approximately 14,800 cubic yards of material. The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Construction: Traffic

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities.

Construction activities are expected to affect the surrounding area. Impacts to traffic and roads are expected from truck trips during excavation and construction activities. The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allows the reviewing agency to mitigate impacts associated with transportation during construction. The construction activities will require the removal of material from site and can be expected to generate truck trips to and from the site. In addition, delivery of concrete and other materials to the site will generate truck trips. As a result of these truck trips, an adverse impact to existing traffic will be introduced to the surrounding street system, which is unmitigated by existing codes and regulations.

It is expected that most of the demolished materials will be removed from the site prior to construction. During demolition a single-loaded truck will hold approximately 10 cubic yards of material. This would require approximately 1,480 single-loaded truckloads to remove the estimated 14,800 cubic yards of material.

Existing City code (SMC 11.62) requires truck activities to use arterial streets to the greatest extent possible. This immediate area is subject to traffic congestion during the p.m. peak hour, and large construction trucks would further exacerbate the flow of traffic. Pursuant to SMC 25.05.675(B) (Construction Impacts Policy) and SMC 25.05.675(R) (Traffic and Transportation), additional mitigation is warranted.

2. For the duration of the construction activity, the applicant/responsible party shall cause construction truck trips to cease during the hours between 4:00 p.m. and 6:00 p.m. on weekdays.

This condition will assure that construction truck trips do not interfere with daily p.m. peak traffic in the vicinity. As conditioned, this impact is sufficiently mitigated in conjunction with enforcement of the provisions of existing City Code (SMC 11.62).

For the removal and disposal of the spoil materials, the Code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of “freeboard” (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed en route to or from a site.

The Street Use Ordinance requires sweeping or watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. This ordinance provides adequate mitigation for transportation impacts; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Noise

All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7am to 6pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9am and 6pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short-term transportation impacts that result from the project.

Long-term Impacts

Long-term or use-related impacts associated with approval of this proposal include stormwater and erosion potential on site. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically, the Stormwater, Grading and Drainage Control Code which requires on-site detention of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding; and the City Energy Code which will require insulation for outside walls and energy efficient windows.

Compliance with all other applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies.

Due to the type, size and location of the proposed project, additional analysis of parking, traffic, drainage, public services and air quality impacts is warranted.

Parking

A transportation study was submitted to DPD by The Transpo Group dated November 2007 and amended on February 7, 2008 evaluating the parking impacts of the proposed development. The 74 parking spaces proposed by the proposed development are all located on-site. The parking spaces are below grade parking, all within the proposed structure and accessed from a two-way driveways off of 23rd Avenue.

The reduction in the required parking quantity and analysis of likely parking impacts are addressed in the contract rezone parking waiver discussion earlier in the report.

Traffic

A traffic study was submitted to DPD by The Transpo Group dated November 2007 and amended in February 2008 evaluating the impacts of the proposed development to the surrounding street system.

The vehicular traffic generated by the project will be both residential and business-related and will likely peak during the weekday PM hours. As depicted in the traffic study, trip generation information was calculated using average PM peak hour trip generation rates obtained from the Seventh Edition of the ITE *Trip Generation Manual*. For the proposed development, trip generation rates associated with Multifamily Apartment and Sit Down Restaurant were used for the proposed development. The results of the trip generation are shown below:

Trip Generation Calculations: Proposed Uses

Use	Use Per ITE Land Use	Independent Variable	PM Peak Trips Generated	Less Pass By Trips	Total PM Peak Trips Generated
Proposed	Multifamily Apartment (ITE 220)	(Unit Count) 92	56	22	87
Proposed	Quality Restaurant (ITE 932)	5,000	49		

Using the ITE data, there will be approximately 87 additional trips in the PM peak hour associated with the proposed combination of uses. All of the intersections studied are anticipated to continue to operate at Level of Service D or better with the proposed project. These ITE figures also tend to be higher than what is expected in an urban environment where transit readily services the neighborhood and provides direct connections to downtown Seattle. The number of additional trips is not likely to adversely impact the existing levels of service of surrounding intersections beyond existing conditions. Therefore, the estimated increase in trips during the PM peak hours is not considered a significant impact and no mitigation measures or conditioning pursuant to the SMC Chapter 25.05, the SEPA Ordinance is warranted.

Public Services

Seattle Public Utilities has reviewed the proposed development proposal and noted that the capacity of the existing sewer system may be unable to accommodate the proposed development without adverse impacts to the existing system. Specific concerns include:

- o Contaminated groundwater is expected to be encountered during and following the construction of the proposed mixed use structure planned for this site.
- o The drainage and wastewater systems are combined in this area. This system currently does not meet SPU's service goals.
- o Potential increase of combined sewer overflow in to receiving water bodies and the increase chances of sewer back up in downstream properties must be addressed.
- o SPU staff and emergency services respond to sewer back ups and severe flooding when public health and safety, or property, is threatened.

This area is served by a Combined Sewer System (CSS) with known capacity restrictions which impact at least 13 properties to various degrees, ranging from yard flooding to flooding of basements with approximately 5 feet of stormwater and sanitary sewerage combined. During review of the building permit, development of this site will need to be permitted based on the following requirements/conditions:

- 1) Temporary dewatering is generally permitted in Seattle for duration of construction with restrictions on flow quantities if King County accepts the quality of discharge. Temporary dewatering rate of discharge to the combined system will be limited to flow rates expected to not adversely impact on downstream properties. Based on best available data at time of permitting, the discharge to the CSS may be restricted to periods of no precipitation.

- 2) The existing system was not designed for large scale below ground development and does not have the capacity to drain ground water where dry underground structures are required. Accordingly permanent groundwater dewatering will not be permitted. If constructing into the water table, a waterproof foundation will be required.
- 3) Any construction permits issued for this site will be conditioned on mitigating the affect of development on the downstream system.

The SEPA policies state that adverse impacts to public facilities should be minimized or prevented. An assessment of the existing capacity and proposed impacts may be required and related conditioning may be imposed. It is anticipated that during the review of the building permit, further studies and design steps will be taken for this proposed development to mitigate these adverse impacts identified above. Therefore, the following condition shall apply:

3. The applicant shall work with SPU to determine the impacts to public facilities from the proposed development and follow necessary mitigation to address these impacts. The mitigation may include, but is not limited, to the conditions listed above.

Air Quality

The number of vehicular trips associated with the project construction and eventual occupancy is expected to increase from the amount currently generated by the various sites and the projects' overall electrical energy and natural gas consumption is expected to increase. Together these changes may result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

DECISION - SEPA

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

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2C.
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

REZONE RECOMMENDATION and CONDITIONS

The Director recommends **APPROVAL** of this request for a rezone from NC2-40 to NC2-65, subject to the conditions of the PUDA approved by City Council and the recommendations of approval for the subdivision.

CONDITIONS – SEPA

Prior to Building Permit Issuance

1. The applicant shall work with SPU to determine the impacts to public facilities from the proposed development and follow necessary mitigation to address these impacts. The mitigation may include, but is not limited, to the conditions listed on page 34.

During Construction

The owner applicant/responsible party shall:

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. For the duration of the construction activity, the applicant/responsible party shall cause construction truck trips to cease during the hours between 4:00 p.m. and 6:00 p.m. on weekdays.
3. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7am to 6pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9am and 6pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short -term transportation impacts that result from the project.

4. The existing street trees shall be protected and preserved per the Tree Protection and Preservation Plan.

CONDITIONS – DESIGN REVIEW

Prior to MUP Issuance (Non-Appealable)

5. Update the submitted MUP plans to reflect all of the recommendations made by the Design Review Board and reiterated by the Director's Analysis. The plans shall also reflect those architectural features, details and materials described at the Design Review Recommendation meeting.

Prior to Building Permit Issuance

6. Mirrors and other devices shall be included to ensure pedestrian visibility to drivers accessing the garage.
7. All projecting forms shall be a higher quality material, such as panelized metal or a wood resin material to give the design a warmer character.
8. The soffit details shall be submitted to DPD for review and approval.
9. A Tree Protection and Preservation Plan for the existing street trees (three Red Oak trees on 22nd Avenue and two Maple trees on 23rd Avenue) shall be developed and submitted to DPD for review and approval.

Prior to Issuance of the Certificate of Occupancy

10. Compliance with conditions #5-8 must be verified and approved by the Land Use Planner prior to the final building inspection. The applicant/responsible party is responsible for arranging an appointment with the Land Use Planner at least three (3) working days prior to the required inspection.

NON-APPEALABLE CONDITIONS – DESIGN REVIEW

11. The following architectural features and details presented at the Final Design Review meeting and described under Guidelines A-2, A-4, C-4 and D-10:
 - a. Transparent retail storefront aluminum windows systems;
 - b. Overhead metal canopies along Union and 23rd and individual canopies over each ground level residential entry;
 - c. Sealed concrete base; and
 - d. Exterior lighting.
12. The following landscape features and details presented at the Final Design Review meeting and described under guidelines D-1 and E-2:

Roof Levels:

 - e) Plantings; and
 - f) Pavers

Entries and ROW:

- g) Street trees on Union, along with dense right-of-way landscaping heavily landscaped with plants providing texture, color and seasonal variation; and Concrete planters and vegetation shown at the ground level residential units along 22nd Avenue.
- 13. Any proposed changes to the exterior of the building or the site or must be submitted to DPD for review and approval by the Land Use Planner (Lisa Rutzick, 386-9049), or by the Design Review Manager (Vince Lyons, 233-3823). Any proposed changes to the improvements in the public right-of-way must be submitted to DPD and SDOT for review and for final approval by SDOT.
- 14. Compliance with all images and text on the MUP drawings, design review meeting guidelines and approved design features and elements (including exterior materials, landscaping and ROW improvements) shall be verified by the DPD Land Use Planner assigned to this project or by the Design Review Manager. An appointment with the assigned Land Use Planner must be made at least three (3) working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.
- 15. Include the Departure Matrix in the Zoning Summary section of the MUP Plans and on all subsequent Building Permit Plans. Add call-out notes on appropriate plan and elevation drawings in the updated MUP plans and on all subsequent Building Permit plans.

Compliance with all applicable conditions must be verified and approved by the Land Use Planner, Lisa Rutzick, (206-386-9049) at the specified development stage, as required by the Director's decision. The Land Use Planner shall determine whether the condition requires submission of additional documentation or field verification to assure that compliance has been achieved. **Prior to any alteration of the approved plan set on file at DPD, the specific revisions shall be subject to review and approval by the Land Use Planner.**

Signature: (signature on file)

Lisa Rutzick, Land Use Planner
Department of Planning and Development

Date: May 22, 2008