City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3006284

Applicant Name: Shanna Kovalchick

Address: 422 & 428 Malden Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow two, 3-story, 5-unit townhouse structures (10 units total) with parking for 18 vehicles located in a below grade garage. Existing structure to be demolished.

The following approvals are required:

Design Review - Chapter 23.41 Seattle Municipal Code (SMC). Design Departures are requested from the following Code sections: SMC 23.45.010 (Lot Coverage), SMC 23.45.011 (Façade Modulation), SMC 23.45.014 (Set-Backs), SMC 23.45.011 (Structure Depth), SMC 23.45.016 (Open Space), and SMC 23.54.030 (Parking Standards).

SEPA - Environmental Determination - Chapter 25.05 SMC.

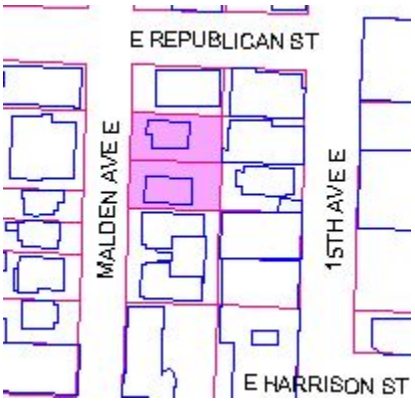
SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[**X**] DNS with conditions

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

PROJECT AND SITE DESCRIPTION

The project proposes a 10 unit townhouse development with 5 units in each of two structures. Eighteen parking spaces would be provided in an underground parking structure accessed from Malden Avenue East. Design Review is required because the development proposes more than 8 units in this Lowrise 3 (L3) zone.



The site is comprised of two parcels. The parcel addressed as 422 Malden Avenue East is vacant; the parcel addressed as 428 contains an older single-family structure but now has multiple residential units. This structure will be demolished under this proposal. The overall site size is approximately 102 feet by 99 feet, totaling approximately 10,147 square feet in area. The 422 site contains four large trees.

The surrounding zoning and land uses are as follows: The site's east (rear) property boundary coincides with the north to south zone boundary between the Lowrise 3 Zone of the site and block and the Neighborhood Commercial 2 - 40 foot height limit (NC 2-40) zone to the east. The L-3 zone extends to the north, south, and across Malden Avenue East from the subject site. The NC 2-40 zone extends to the north and south along both sides of the 15th Avenue East commercial area.

Public Comment

One comment letter was received during the extended (four week) comment period, which ended August 22, 2007. Comments concerned compensation for the proposed removal of three large trees on site, the inappropriateness of the requested front set-back *Design Departure* considering the neighboring context, and disagreement with the proposed size and some design elements of the proposed buildings. Public comments were received at both Design Review meetings and are in the previous *Early Design Guidance* and *Recommendation* reports available in the project file.

ANALYSIS - DESIGN REVIEW

At the September 12, 2007 *Recommendation* meeting the Design Review Board reviewed the design submitted in response to the EDG and further developed in conjunction with the project planner and discussed the six requested *Design Departures*. The Board's additional guidance and recommendations follow the EDG Guidance that is in *Italics*.

A. Site Planning

A-1 Responding to Site Characteristics. The siting of buildings should respond to specific site conditions and opportunities such as non-rectangular lots, location on prominent intersections, unusual topography, significant vegetation and views or other natural features.

The site contains a number of trees, none of which were shown on the presented site plan. A public comment at the meeting brought these to the Board's attention. The tree at the site's southwest corner was thought to be a Ponderosa Pine and possibly a tree that could be considered Exceptional under City SEPA (State Environmental Policy Act) policies. Two other large trees at the center of the site were described as a Western Red Cedar and Horse Chestnut.

Pending a definitive identification of the three (or more) trees, the Board assumed the trees at the center of the site would not be retained due to their critical location to almost any development scenario. The Board did discuss project siting options to preserve the southwest tree, if this ultimately was required following SEPA environmental review during Master Use Permit (MUP) application.

Because the proposed driveway and garage entry for Option 3 are in the southwest tree's location, the project would require substantial re-configuration. The Board directed the applicant to consider alternatives to tree removal (if feasible or not required by Exceptional

status). The Board would consider design departure requests related to this end at the next meeting.

(Staff Note: A preliminary tree identification site visit was made within a few days of the EDG meeting. A Western Red Cedar, if over 4 feet in diameter and in good health, must be considered for designation as Exceptional. However, this tree appears to be less than 4 feet in diameter and is also in a weakened condition due to having multiple leaders, probably from previously topping. The adjacent deciduous tree was not positively identified as a Horse Chestnut, but is in very poor condition. In either situation, it would not be considered for Exceptional status. The southwest tree was identified as a Western White Pine (Pinus monticola) and per SEPA policies should be considered for designation as Exceptional. Consequently the applicant is directed to have a certified arborist assess the tree per DPD Director's Rule 6-2001. This assessment will assist DPD in determining if the tree should be retained, or if it is optional per the Board's comments.)

Recommendation Meeting

(Planner's Note: The submitted arborist report determined that the Western White Pine is both diseased and fire damaged and not likely to survive in the near term, consequently DPD will allow removal of this tree.)

At EDG the applicant requested a *Design Departure* to reduce the side set-backs in order to preserve the Western White Pine. That tree will be removed but the *Design Departure* request remains for the stated purpose of having a consistent architectural concept. See *C-2* below for discussion of this updated request. Otherwise, the Board feels the design meets the guidance given.

A-2 Streetscape Compatibility. The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.
A-6 Transition between Residence and Street. For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors.

The Board was generally supportive of locating the street facing structure no less than 10 feet from the property line, in order to create a streetscape that is in keeping with the neighborhood's multi-family character. A structure location closer to the sidewalk requires a design that will ensure resident privacy but also create the public / private interaction desired. This desired interaction is difficult to achieve with traditional larger and fenced open space areas in the front. The design should include stoop-like front entry stairs and first floor units that are approximately 3 to 5-feet above grade; the project design should not continue with the presented 18-inch elevation difference. The ground related set-back area should serve as an open space transition area between the sidewalk and the residences.

Recommendation Meeting

The project now proposes a front set-back of 6-feet 10-inches with a 3-foot distance from the sidewalk to the property line which results in an approximately 9-feet 10 inch set-back to the face of the structure, with the entry stairs leading to the 56-inch high stoop beginning almost at the property line. The front set-back areas between the building and the sidewalk will be extensively landscaped. Street trees will be added along the property line in lieu of the planting strip, which is too narrow for trees.

The Board feels that the reduced set-back in combination with the raised first floors, stoops, partial below grade units with visibility to the street, and extensively landscaped area between the sidewalk and structure meets the guidance given and **Recommends** approval of the requested *Design Departures* for a reduced front setback and driveway sight triangle.

A-7 Residential Open Space. Residential projects should be sited to maximize opportunities for creating usable, attractive, well-integrated open space.

The design proposes to provide each unit's open space in separate locations to the front and rear of each unit. The goal is to create better open space for the rear units by having some open space away from the adjacent commercial zone and at the same time, create better street interaction for the front units by a reduced front set-back. The interior "courtyard" open space is expected to serve as a semi-public access way and open space for tenants. The Board is generally supportive of these goals. Detailed plans, including landscaping and elevation views, should be included with the MUP submittal and presented for discussion at the Recommendation meeting.

Recommendation Meeting

The Board feels the open space plan as presented (and described in *Architect's Presentation*) meets the guidance given and **Recommends** approval of the *Design Departure* requested.

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.

The below grade parking entry should be designed for visibility between entering and exiting vehicles, pedestrians, and vehicles in the street. Detailed drawings of how this is achieved should be included with the MUP submittal and presented for review at the Recommendation meeting.

Recommendation Meeting

The design proposes a 6.5 foot by 6.5 foot sight triangle on the north side and the full 10 foot by 10 foot area on the south side of the driveway. The *Design Departure* request to allow the reduced sight triangle dimension is driven by the project response to other design goals and associated guidance given (the addition of raised stoops and provision of an ample interior courtyard). The Board feels that the proposed reduction helps the overall project design better meet the *Design Guidelines* and guidance given and therefore **Recommends** approval.

B. 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 near-by, 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 of the adjacent zones.

The reduced front set-back will require sensitivity to height, bulk and scale impacts of the structure as viewed from the street. The design should consider an upper level set-back, differentiation of levels by change in materials, and the use of varied modulation. The Design Departure request to vary from the prescriptive modulation requirements should be pursued if the resulting modulation proposed achieves a better street and building interface.

Recommendation Meeting

The Board feels the proposed design responds to the intent of this guidance by reducing the apparent building height and bulk through the raised entry, modulated entry areas with a contrasting exterior material and color, and different sized window areas at each unit's base, middle, and upper levels. The Board **Recommends** the approval of the *Design Departure* for reduced modulation of all facades.

C. 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. In general, the roofline or top of the structure should be clearly distinguished from its façade walls.

The architects discussed exploring an architectural concept that would not mimic the variety and ages of local architectural styles. The Board expressed comfort with the architectural language of other Nicholson / Kovalchick projects presented. The architectural concept should, however, fit the surrounding residential context and achieve the streetscape and pedestrian supportive design direction given in this report.

Recommendation Meeting

The Board feels the proposed design largely meets this guideline with the exception of the proposed south-side setback reduction.

The project proposes a *Design Departure* to reduce the north and south-side setbacks from the required average of 6-feet and 5-foot minimum to 5.25-feet and 4-feet respectively. The design rationale is that the "brownstone / row house" typology does not include side set-backs of the required amount, but less. However, the Board felt that because of the proximity and character of the Malden Court building to the south, 4-feet is not adequate for minimizing potential disruptions to this adjacent site. Following discussion of alternatives, the Board **Recommended** approval of a *Design Departures* request to reduce the north-side setback to 4 feet and thereby increase the south-side setback to 5 feet (The north-side setback could be reduced by removing the propose property line landscaping and moving the proposed stairwell to that line; the removed landscaping could be placed along the south-side or the proposed south-side walkway could be widened.).

The Board **Recommended** approval of a *Design Departures* request for increased lot coverage caused by the additional building area from the use of brick on all facades and for increased structure width with the reduced modulation provided.

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.

The choice and quality of the finish materials and colors are an important part of achieving architectural concept and a good neighborhood fit. Proposed material and color boards should be provided to the planner after MUP submittal and will be required at the next design meeting.

Recommendation Meeting

The Board feels the proposed project largely meets the guidance given. However, the Board noted that the proposed dark brown brick façade material is too dark and does not contain enough detail and differentiation for a good fit with the surrounding historical use of brick, the scale of the building, and the ability of the façade material to be easily "read". Consequently, the Board Recommends one or a combination of the following: the use of a lighter shade of brown and /or a variety of shades of the same color, or a variegated brick. A brick soldier course of a different shade between the second and third levels and /or at the roof line is a suggestion to explore.

The proposed design response to this *Recommendation* should be presented to the project planner for review and approval before the approval of this Master Use Permit.

The Board **Recommends** the approval of the *Design Departure* for increased structure depth to accommodate the increased area required for a brick façade.

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 ramp and garage opening to the proposed below grade parking should be designed to not create a void in the street wall. The driveway well should include articulation to any retaining walls, possibly a variety of driveway pavement materials, and the inclusion of landscaping to soften this area.

Recommendation Meeting

The Board feels the proposed garage entry design, which includes a unit covering the driveway and a decorative garage door, responds to the guidance given. Based on this the Board **Recommends** approval of the *Design Departure* for increased lot coverage.

D. Pedestrian Environment

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 front 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.

Utility meters and risers should not be located in the proposed reduced front setback. Their location should be screened from the right of way. Adequate area on site should be provided for

the expected 20-30 recycling and garbage containers for the 10 units (10 units x [1 garbage can + paper recycling + glass recycling]). This calculation does not include possible yard waste containers. A possible location to explore for the containers is a communal shed or screened area above the east side of the driveway ramp. This would allow during-the-week storage, so none are kept in the front set-backs of the street facing units, and one collection point for the pick-up day.

Recommendation Meeting

Because of the reduced front set-back the Board emphasized the importance of minimizing the visibility of utility service connections and garbage containers and the likelihood of garbage containers cluttering the sidewalk and planting strip area.

The project proposes a brick walled garbage and recycling area in the courtyard behind the southwest unit. Water and gas meters are expected to be within the garage or, if located in the front set-back, screened by landscaping.

The Board feels the proposed design could respond to the guidance given if the following information is provided to the project planner for review and approval:

- Dimensioned detail of the proposed courtyard garbage area showing how it will accommodate the required number of garbage and recycling containers and likely yard waste containers needed for each unit.
- Information on the location of the gas and water meters. If either will be located in the front set-back, provide detailed drawing of how these will be screened from the right of way.
- A planting strip "hard-scape" plan showing a SDOT approvable (preliminary approval is fine) area for placing garbage and / or recycling containers on the day of pick-up.

E. Landscaping

E-1 Landscaping to Reinforce Design Continuity with Adjacent Sites. Where possible, and where there is not another overriding concern, landscaping should reinforce the character of neighboring properties and the abutting streetscape.

The surrounding neighborhood is enhanced by extensive and quality private landscaping. This should be continued on this site. Landscaping should be designed to allow use of some of the front set-backs to allow resident to public interaction.

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

Landscape screening should be utilized to create a privacy screen between the rear units and the adjacent commercial zone and uses to the east.

E-3 Landscape Design to Address Special Site Conditions The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas, and boulevards.

The landscape design and building siting should respond to the presence and possibly required retention of the existing Western White Pine along the ROW.

Recommendation Meeting

The Board feels the proposed landscape plan responds to the guidance given provided the landscape requirement in *D-6* above is followed.

BOARD RECOMMENDATION

The Board finds that the project design successfully responds to the design guidance given, with the recommendations outlined in this document. The applicant and architect shall make the recommended design changes in response to the recommendations noted in this document and submit the required drawings to the project planner for review and approval.

The Board recommends the approval of the **six** *Design Departure* requests.

SUMMARY OF DEPARTURE REQUESTS

Land Use Code Standard	**Proposed Amount of Departure**	**Rationale for Request**	**Board Recommendation and Director's Determination**
Lot Coverage Limited to 50 percent of lot. (SMC 23.45.010) Allowed coverage is 5,092 sq. ft.	Propose 5,958 sf, or 58.5 %, an increase of 8.5%.	1) The use of brick on all facades increases the building footprints by 684 square feet. 2) A unit has been placed over the previously uncovered driveway to its visual impacts on the streetscape. 3) The provision of an elevator for the accessible unit increases the area of this particular unit. (The elevator would not be required if the two lots were not voluntarily developed as one site for the purpose of going through design review). The additional lot coverage (866 sq.ft.) is negligible on the visual impact of the project but significant in creating a better design. *C-2, C-5*	The Board recommends approval of this request based on the submitted MUP design. The Director concurs.
Modulation of All Facades Required Minimum 4-foot depth and 5-foot width (SMC 23.45.011)	Front (west building street face): Depth: 8" Width: 4" Interior (west building courtyard façade): Depth: 4' Width 5' Interior (east building courtyard	The proposed modulation is consistent with the "brownstone" design concept. The front facade modulation (west sides of both buildings) is substantially in accordance with the Code requirements. The desired effect of interior modulation is provided by window patterning, deck-lets,	The Board recommends approval of this request based on the submitted MUP design. The Director concurs.

Land Use Code Standard	**Proposed Amount of Departure**	**Rationale for Request**	**Board Recommendation and Director's Determination**
	facade): Depth: 8" Width: 4"	unit doors awnings and an articulated accent reveal which corresponds with downspouts. *B-1, C-2*	
Setbacks Required Front: 15-foot Rear: 15-foot Sides: 5-foot minimum, 6-foot average Interior: 10-foot minimum, 25-foot average. (SMC 23.45.014)	Front: provide 6'-10" Rear: 8'-2" (provide 6'-10") North Side: 9" average (provide 5'-3" minimum and average) South Side: 1'-0" min 2-0" average (provide 4'-0" minimum and average) Interior: 21 average	1) Front At the previous design review meeting we discussed a 7'-0" setback from the property line resulting in +/- 10'-0" distance from the sidewalk to the front wall. We pursued this direction. Our intent was to create a "brownstone/row house style" relationship between the units and the streets. By utilizing a split level plan we are able to place the living room 4' to 5' above sidewalk grade. Also included are concrete stairs with metal handrails which reach out towards the side walk. 2) Side yard North and South Once again, with the "brownstone/ row house" concept, side yards are typically non existent. In townhouse developments there small areas are typically unusable slots between buildings. Here we minimized these spaces in exchange for creating more usable or visible space in the front yards and courtyards. North meets minimum setback. *A-2,5,6, C-2*	The Board recommends approval of the revised request for front, rear, interior, and north-side set-backs and recommends a larger south-side set-back. The Director concurs.
Structure Depth Max. Depth: 65% of lot depth = 64.37' (SMC 23.45.011)	One-foot increase to 65.33-feet.	The extra depth is the result of the brick façade thickness on one building. *C-2, C-4*	The Board recommends approval of this request based on the submitted MUP design. The Director concurs.

Land Use Code Standard	**Proposed Amount of Departure**	**Rationale for Request**	**Board Recommendation and Director's Determination**
Open Space Average 300 sq. ft. per unit at ground level with no less than 200 sq. ft. per unit. (3,000 sq. ft. average for 10 units.) No dimension may be less than 10 linear feet or 120 sq. ft. (SMC 23.45.016)	No minimum dimension, Less than the minimum amount per unit, Not all at ground level. The project will provide 2,340 sq. ft. at ground level, none of which is dimensionally compliant and 3,572 sq. ft. of roof-top open space, 2153 sq. ft. which is dimensionally conforming. Total ground and roof-top area provided = 5,918 sq. ft.	The brownstone and communal courtyard concepts, and the abutting commercial zone require less and dimensionally nonconforming open space at the front at rear of the site, but communal and not entirely private open space in the courtyard. To provide private open space for each unit (technically and practically) and to take advantage of territorial views roof top open space is instead the majority of each unit's requirement. Because of roof top constraints, some will not be dimensionally conforming, but be practically usable. *A-7*	The Board recommends approval of this request based on the submitted MUP design. The Director concurs.
Parking Standards Un-obstructed 10-foot sight triangle. (SMC 23.54.030)	A open picket safety railing along each side of the driveway within almost the entire 10-foot triangle length. A portion of Unit 1's entry stairs within the north side sight triangle.	The open railing provides safety between the descending driveway and the adjacent walkways. Because of the slope of the driveway and openness of the railings visibility for vehicles and pedestrians is maintained. *A-8*	The Board recommends approval of this request based on the submitted MUP design. The Director concurs.

DIRECTOR'S ANALYSIS AND DECISION – DESIGN REVIEW

The Director of DPD has reviewed the ***Unanimous Recommendations*** of the three Design Board members present at the Design Review Recommendation meeting and finds that the Board acted within its authority and the Board's recommendations are consistent with the *City of Seattle Design Review: Guidelines for Multi-Family and Commercial Buildings.*

The project planner received and reviewed the applicant's design responses to the Board's Recommendation Meeting Conditions and contained on the documents dated January 7, 2008 and in the MUP project file. In response to the Recommendation under Guideline C-2 the proposed buildings have been shifted to the north to provide a south side setback of 5-foot 8-inch for the western structure and 4-feet 10-inches for the eastern structure. This results in a 4-foot 4-inch north side setback. In response to the Recommendation under Guideline C-4 the brick color

and type has been clarified. The brick proposed ("Vintage Mission" by Mutual Materials) is a lighter shade and responds to the Board guidance. In response to the Recommendations under Guideline D-6 the proposed courtyard garbage and recycling enclosure will provide adequate area for the development. Instead of individual unit garbage and recycling containers two, 2-cubic yard containers will be used, stored and accessed from this area by the waste hauler(s). This will be assured through inclusion in the CC&R's (Covenants, Conditions, and Restrictions) that will accompany the future unit lot subdivision of the project. The pick-up of these containers directly from the proposed enclosure obviates the need to provide a solid surface holding area in the Malden Avenue planting strip. Also in response to the Recommendations under Guideline D-6 gas meters will be located on the south side of the proposed eastern structure and not in direct view from the street. Water meters, because they will be located below ground will not require screening.

After review and analysis of the above submitted design changes the project planner finds that they respond to the Board's Recommendation meeting conditions.

Based on the project's final design presented at the September 12, 2007 Recommendation Meeting and the approval of the subsequent submittals to the project planner as described above and shown in the documents dated January 7, 2008 and in the MUP project file, the Director ***APPROVES*** the proposed design and related departures (subject to the ***Conditions*** found at the end of this decision).

ANALYSIS - SEPA

The initial disclosure of the potential impacts of this project was made in the environmental checklist submitted by the applicant dated May 9, 2007 and annotated by the Department. The information in the checklist, supporting documents, project plans, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665D) 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 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 or circumstances mitigation can be considered (SMC 25.05.665 D 1-7). Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Construction Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts: erosion from excavation and storm water impacts from ground clearing, increased noise levels, traffic blockages and parking shortages resulting from construction deliveries and parking of vehicles, and decreased air quality due to suspended particulates (construction dust) from excavation and construction and hydrocarbon emissions from construction vehicles and equipment.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: The Stormwater Grading and Drainage Control Code, the Noise Ordinance, the Street Use Ordinance, and the air pollution standards of the Puget Sound Clean Air Agency (PSCAA). The Stormwater, Grading and Drainage Control Code regulates site excavation, requires that soil erosion control techniques be initiated for the duration of construction, and regulates the capture and treatment of on-site ground and storm water. The Noise Ordinance regulates the time and amount of construction noise that is permitted in the City. The Street Use Ordinance regulates use of the right of way for temporary construction purposes and regulates obstruction of the pedestrian right-of-way. Non-resident parking is time limited by the restrictions of the existing Residential Parking Zone (Zone 4) that include this section of Malden Avenue East. The Puget Sound Clean Air Agency regulations require control of fugitive dust and construction machinery emissions in order to protect air quality. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, some impacts may not be entirely mitigated by existing codes and ordinances, such as construction noise, and therefore warrant further analysis.

Noise

Surrounding the project site, with the exception of the properties directly to the east, are numerous single and multi-family structures. Their proximity to the project site requires further ***Conditioning*** to address noise impacts during construction as follows:

> 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 6 PM. 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. Low noise generating 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.

As ***Conditioned***, noise impacts to nearby residential uses are considered adequately mitigated.

Parking

Construction of the project is proposed to last for several months. Due to the surrounding residential densities, and the limitations of on-street parking in the area (no parking on the east side of Malden Avenue East and RPZ for this street and surrounding streets, and general parking time limits along the 15th Avenue East commercial corridor) construction related impacts for

parking are likely. Demand for parking by construction workers during construction could exacerbate the demand for the limited and restricted on-street parking and result in an adverse impact on surrounding properties. Once the parking garage phase is completed it is anticipated that some construction related vehicles will be able to park on-site and for the remainder of construction activity.

To mitigate the anticipated parking impact the project is ***Conditioned*** as follows:

- The owner and/or responsible party along with the general contractor shall notify construction personnel (employees and subcontractors and their employees) of the RPZ restricted parking on adjacent streets and general time limited parking on 15th Avenue East. This requirement shall be posted on the site perimeter for employee and public view.

The authority to impose this condition is found in Section 25.05.675.B.2.g of the Seattle SEPA ordinance.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased demand for public services and utilities; increased height, bulk, and scale on the site; loss of possible *exceptional* trees, loss of possible historic buildings, and increased area traffic and demand for parking. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for energy efficiency; the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development; the Tree Protection ordinance; and the Historic Preservation ordinance. However, some impacts may be considered significant and therefore warrant further analysis.

Height, Bulk, and Scale

The City's SEPA Height, Bulk and Scale Policy states that *"(a) project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated."* The discussion above in the Design Review portion of this decision regarding the Director's Design Review decision indicates that there are no significant height, bulk and scale impacts as contemplated within this SEPA policy. Since the Design Review Board recommended approval of this project with conditions, and the Director agrees, no mitigation of height, bulk and scale impacts is warranted pursuant to this SEPA policy.

Plants

The Tree Protection Ordinance (SMC 25.08) requires the protection of *exceptional* trees and allows modification of development standards to protect trees over 2-feet in diameter on sites undergoing development in low-rise zones As described under *Design Guideline A-2* above, the site contains three large trees: a Western White Pine, a Western Red Cedar, and what appears to

be a Horse Chestnut. All three trees are in a weakened condition. An arborist report was submitted for the Western White Pine since this species is categorized as a species to "sometimes be designated *exceptional*" depending on its size and condition (report by Arborea Consultants, LLC, dated July 9, 2007 and available in the project file). The cedar and chestnut were not considered for retention due to their poor condition as described in *A-2* above.

The arborist report indicated that the tree is in poor condition and in a state of decline due to previous fire damage, which has produced significant crown and *cambium* damage, and resulted in the presence of the root disease *Armillaria*. Because the threshold for tree failure (from wind) has been increased and the long term prospect for survival is minimal the report therefore recommends removal.

Historic Preservation

As required under SMC 25.05.675, a project that proposes the demolition of a structure in excess of 50 years old and subject to SEPA may be referred to the City of Seattle Landmark Board. A Letter of Review (dated November 5, 2007) along with accompanying photographs of the older multi-family structure addressed as 422 Malden Avenue East and surrounding structures was sent to the City's Landmarks Coordinator. On January 2, 2008 the Landmarks Coordinator responded that due to the loss of integrity of the subject structure it is unlikely that this building would meet the standards for designation as an individual landmark. Pursuant to City procedures no conditioning under SMC 25.05.675.H is warranted.

DECISION - STATE ENVIRONMENTAL POLICY ACT

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

[**X**] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030.2C.

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21.030 2C.

DESIGN REVIEW CONDITIONS

Non-Appealable Design Review Conditions

1. Any proposed changes to the exterior of the building or the site must be submitted to DPD for review and approval by the project Land Use Planner (Art Pederson, 733-9074).

2. The building constructed shall comply with all images and text on the final MUP drawings, as *Conditioned*, design review meeting guidelines and approved design features and elements (including exterior materials and landscaping). This shall be verified by the project planner, or by the Design Review Manager, before the issuance of the Certificate of Occupancy. An appointment with the assigned Land Use Planner must be made at least three 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.

3. Embed all conditions in the cover sheet for the MUP permit and for all subsequent permits including updated MUP plans, and all building permit drawings.

4. Call out all departures on relevant updated MUP plan sheets and building permit plan sheets.

Prior to Issuance of the Master Use Permit

5. Revise all plan sheets (site plan, landscape plan, elevations) to reflect the approved set-back, material, utility and garbage conditions as submitted January 7, 2008.

Prior to Issuance of the Building Permit

6. The design shown in the building permit plans shall conform to all images and text on the MUP drawings, design review meeting guidelines and approved design features and elements (including exterior materials and landscaping).

Prior to Issuance of the Certificate of Occupancy

7. On-site verification of conformance with the approved building and site design as shown in the building permit plans and conforming to the approved MUP design, or subsequently revised and approved by the DPD planner assigned to this project (Art Pederson, 733-9074), or by the Design Review Manager, shall occur before issuance of the *Certificate of Occupancy*. **An appointment with the assigned Land Use Planner must be made at least three 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.

Appealable Design Review Conditions

None.

CONDITIONS – SEPA

During Construction

8. 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 6 PM. 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. Low noise generating 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.

9. The owner and / or responsible party along with the general contractor shall notify construction personnel (employees and subcontractors and their employees) of the RPZ restricted parking on adjacent streets and general time limited parking on 15th Avenue East. This requirement shall be posted on the site perimeter for employee and public view.

Signature: (signature on file) Date: February 14, 2008
Art Pederson, Land Use Planner
Department of Planning and Development

AP:lc

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