



City of Seattle  
Gregory J. Nickels, Mayor

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

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

**Application Number:** 3006883 (2404841)  
**Applicants' Names:** Michael Frank  
**Addresses of Proposal:** 1966 Thorndyke Avenue West

**SUMMARY OF PROPOSED ACTION**

Future demolition of existing structures and construction of a single purpose residential building of four stories with underground parking. The proposal requires a Council Land Use Action for Contract Rezone from L-3 zone to NC2-40 zone with self-imposed restrictions upon the use and development of the property. The property to be rezoned is located on the southeast corner of Thorndyke Avenue West and West Newton Street.

The following approvals are required:

**Contract Rezone** - To rezone from L-3 to NC2-40 (Seattle Municipal Code 23.34).

**SEPA - Environmental Determination** – (Seattle Municipal Code 25.05).

**Design Review** – in the event this Rezone is approved (Seattle Municipal Code 23.41)

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

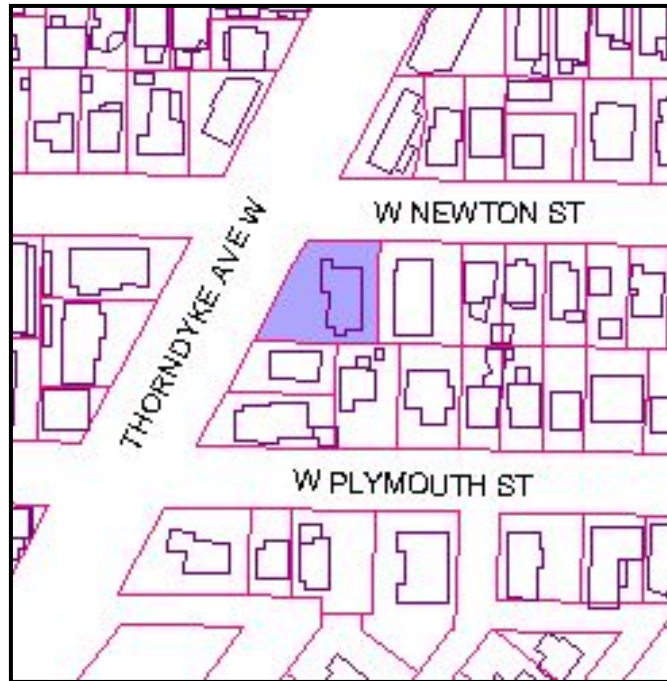
[ ] DNS with conditions

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

## **BACKGROUND DATA**

### **Site and Vicinity Description**

The property is situated at the easterly slope of Magnolia hill on Thorndyke Avenue West, just upland from the Interbay area where the hill begins to steepen. Thorndyke Avenue West is a diagonal arterial, configured as a boulevard with a tree-planted median separating the northeast and southwest bound lanes of traffic. The 9,526 square foot site is located on the southeast corner of Thorndyke Avenue West and West Newton Street. The site slopes away from Thorndyke to the east and north. The site is shorn up by a 10 to 12 foot rockery along the eastern boundary. The zoning



for properties immediately adjacent to the south and east of the subject parcels is Lowrise-2 (L2). On the west side of Thorndyke Avenue West the zoning is also Lowrise-2 (L2) transitioning immediately to Single Family 5000 (SF5000). Zoning transitions to Lowrise-3 (L3) one block north as Thorndyke Avenue West continues to slope downward to the north.

### **Area Development**

Neighboring uses to the east of the proposed development are a mix of multifamily and single family homes. The multifamily are two- and three- story multiplexes and apartment buildings. To the west across Thorndyke Avenue West there are also two-and three-story multifamily buildings with single family homes up the hill to the west. There are views of Queen Anne Hill to the east and panoramic views of the downtown skyline and Mt. Rainier from the site and from properties across Thorndyke Avenue West. One block to the north of the subject property are five parcels on the north and south of West Boston that are zoned Neighborhood Commercial One with a 30 foot height limit (NC1-30) and include a long term single story office use, a Seattle City Light substation, and multi-family buildings. On the northeast corner of Thorndyke Avenue West and West Crockett Street, one block to the north, is a four story multifamily building with ground floor commercial space. This project was reviewed and permitted in 2002 under the erroneous zoning designation of NC2-40 (the actual zoning on the Official Land Use Map was later determined to be Lowrise 3, L3).

Proposal Description

The proposal is a Contract Rezone of the parcel described above to allow a single purpose residential building on the site with parking provided below grade. The applicant is proposing self-imposed limits on use and development which include: 1) limit building height to 37 feet plus rooftop appurtenances; 2) increase density to one unit per 600 square feet; 3) limit lot coverage to 65.5%; 4) increase front setbacks to 1- 12 feet which vary with modulation; 5) provide 10-14 foot side yards abutting Lowrise -2 zone; 6) increase landscaping to 30% of the site; 7) provide 35% of lot area in ground floor open space.

The Land Use Code, section SMC 23.34, “Amendments to Official Land Use Map (Rezoning),” allows the City Council to approve a map amendment (rezone) according to procedures as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The applicant has made application, with supporting documentation, per SMC 23.76.040 D, for an amendment to the Official Land Use Map. The applicant is requesting a rezone of the parcel described above which are currently zoned Lowrise 3 (L-3) to NC2-40 zone with self-imposed limitations on the use and development of the property.

Background

On December 17, 2003, an application was submitted to DPD for a Master Use Permit for Early Design Guidance and SEPA review to construct a four story building with three floors of apartments, ground floor office space and below grade parking at 1966 Thorndyke Avenue West. The application indicated that the zoning was NC2-40. The applicant (Frank) was informed on the same day that the zoning was, in fact, Lowrise-3 (L3) and that a mapping error had occurred that affected not only the applicant’s property but those at 2000 and 2012 Thorndyke Avenue West as well. The L3 zoning had been in effect for many years and research by DPD staff found no ordinance changing the zoning to NC2-40. On June 8, 2005, applicant Frank was then joined by the owners of two other properties where the same mapping errors had occurred in an application for a rezone from L3 to NC2-40. A tabular summary of the applicants and property data follows:

Project #	2404839	2404840	2404841 (3006883)
Applicant Name	Syed Kabir	Art VanderWel	Mike Frank
Project Address	2000 Thorndyke Ave. W	2012 Thorndyke Ave. W	1966 Thorndyke Ave. W
Parcel Size	5,500 square feet	8,150 square feet	9,583 square feet
Current Use	Single family residence	Multifamily – 7 units	Duplex
Tax Parcel No.	2771604150	2771604170	2771604330

On December 28, 2005, applicant Frank revised his application to include several self-imposed restrictions on use and development of his property at 1966 Thorndyke Ave. West. He was subsequently joined by the other co-applicants on January 31, 2006, in the same self-imposed restrictions. As a consequence the application was modified from Rezone to a Contract Rezone.

Analysis of the rezone application was completed October 20, 2006 and DPD prepared to publish the decision. On November 10, 2006, the applicant (Frank) requested that the decision as written at the time (which included all three applications) not be published. The applicant now requests that the decision be published but that this analysis and decision be limited to the one application at 1966 Thorndyke Avenue West.

### Public Comments

Notice of application was published on July 28, 2005, and comment period was extended by request to August 24, 2005. There were 28 written comments received by mail and email and a petition with approximately 130 names opposing the rezone. One comment letter favored the proposal and the rest were opposed. Issues described as negatively impacting the neighborhood were height and bulk of the proposal, commercial uses, increased traffic and view blockage. The applicants held a neighborhood meeting on September 13, 2005 at which the proposal for the contract rezone was presented. DPD held a public meeting on January 12, 2006 at the request of the neighborhood to gather additional public comment on the proposal and was attended by approximately 150 people.

### ANALYSIS - REZONE

The applicable requirements for this rezone proposal are stated at SMC Sections 23.34.007 (rezone evaluation), 23.34.008 (general rezone criteria), 23.34.009 (height limits), 23.34.020 (L3 zone, function and locational criteria), 23.34.072 (designation of commercial zones), and 23.34.076 (NC2 zone, function & locational criteria). The zone function statements are to be used to assess the likelihood that the area proposed to be rezoned would function as intended.

The most logical order for analysis does not follow the section numbering. In the following analysis, SMC Section 23.34.020 will be considered first, because it may be determinative. Then 23.34.072. Then follow 23.34.008 (which activates consideration of the location criteria of 23.34.076 and 23.34.009), and finally 23.34.007, which requires synthesis of all the foregoing analyses. The pattern below is to quote applicable portions of the rezone criteria in italics, followed by analysis in regular typeface.

#### Analysis of consistency with SMC Section 23.34.020 (Lowrise 3 (L3) zone, function and locational criteria):

**Section 23.34.020:** This section consists of subsections A (function) and B (locational criteria).

##### **A. Function.**

*An area that provides moderate scale multifamily housing opportunities in multifamily neighborhoods where it is desirable to limit development to infill projects and conversions compatible with the existing mix of houses and small to moderate scale apartment structures.*

The site is topographically and functionally connected to its surroundings and is currently in single family use. The site fronts on Thorndyke Avenue West which is configured as a boulevard with a single lane in each direction and a center landscape strip. There are multifamily and some single family buildings on both sides. There are L2 zoned lots east of the site as well as across the street. All the lots on the block face are currently functioning with multifamily structures. The parcel proposed for rezone is located on Thorndyke Ave West which could be redeveloped with three-story multifamily housing under the current zoning. The property at 2100 Thorndyke Avenue West that was developed under the erroneous NC2-40 zoning is out of scale with the surrounding neighborhood.

**Conclusion:** Based on these factors, the proposal sites are compatible with the function of the Lowrise 3 zone.

**B. Locational Criteria.**

1. *Threshold Conditions. Subject to subsection B2 of this section, properties that may be considered for an L3 designation are limited to the following:*
  - a. *Properties already zoned L3;*
  - b. *Properties in areas already developed predominantly to the permitted L3 density and where L3 scale is well established;*
  - c. *Properties within an urban center or village, except as provided in this subsection below, where less emphasis shall be placed on density and scale compatibility with existing development, when the designation will be consistent with the densities required for the center or village category as established in Section B of the Land Use Element of the Comprehensive Plan, unless otherwise indicated by a neighborhood plan adopted or amended by the City Council after January 1, 1995.[The rest of this subsection excludes certain neighborhood planning areas, but not Capital Hill from inclusion within this subsection.]*
  - d. *[Applies only to the Delridge Neighborhood planning area.]*
2. *Properties designated as environmentally critical may not be rezoned to an L3 designation, and may remain L3 only in areas predominately developed to the intensity of the L3 zone.*
3. *Other criteria. The Lowrise 3 zone designation is most appropriate in areas generally characterized by the following:*
  - a. *Development Characteristic of the Area.*
    - (1) *Either:*
      - (a) *Areas that are already developed predominantly to the permitted L3 density and where L3 scale is well established,*
      - (b) *Areas that are within an urban center or urban village, except as provided in this subsection below, where less emphasis shall be placed on density and scale compatibility with existing development, when the*

*designation will be consistent with the densities required for the center or village category as established in Section B of the Land Use Element of the Comprehensive Plan, unless otherwise indicated by a neighborhood plan adopted or amended by the City Council after January 1, 1995. [The rest of this subsection excludes certain neighborhood planning areas, but not Capital Hill from inclusion within this subsection.]*

*(c) [Applies only to the Delridge Neighborhood planning area.]*

*(2) Areas where the street pattern provides for adequate vehicular circulation and access to sites. Locations with alleys are preferred. Street widths should be sufficient for two (2) way traffic and parking along at least one (1) curbside.*

*b. Relationship to the Surrounding Areas.*

*(1) Properties in areas that are well served by public transit and have direct access to arterials, so that vehicular traffic is not required to use streets that pass through less intensive residential zones*

*(2) Properties in area with significant topographical breaks, major arterials or open space that provide sufficient transition to LDT or L1 multifamily development;*

*(3) Properties in areas with existing multifamily zoning with close proximity and pedestrian connections to neighborhood services, public open spaces, schools and other residential amenities;*

*(4) Properties that are adjacent to business and commercial areas with comparable height and bulk, or where a transition in scale between areas of larger multifamily and/or commercial structures and smaller multifamily development is desirable.*

The property is currently zoned L3 and meets the first of the locational criteria. The developed capacity of the rest of the area and blocks across the Thorndyke Avenue West are near the zoned capacity of the L2 and L3 zones which is one (1) unit per 1,200 square feet and one (1) unit per 800 square feet of property, respectively. The proposal is not in scale with the adjacent properties similarly zoned L3. The proposal is for a four-story building with a density of one (1) unit per 600 square feet of property; minimal setbacks; a 37-foot height limit which would also allow an additional 10 feet of height for mechanical equipment.

The subject property is located adjacent to an environmentally critical area (potential landslide) and is in an area that is predominantly developed to L2 and L3 density.

The area is already predominantly developed to L2 and L3 density and the L3 scale is well-established. The sites are not within an Urban Village. Access to the proposed rezoned site is from Thorndyke Avenue West or from West Newton Street. There is no alley access to the site.

The site is within access to public transit on Thorndyke Avenue West which connects to Downtown and to transportation serving the rest of the city and the larger region.

There are no lots zoned LDT or L1 in the area, however the L3 property provides a transition to the lower-density L2 multifamily zone and the single family zone immediately to the south.

Public services and schools are available nearby. The site is several blocks south of commercial development. There is reasonable pedestrian connection to neighborhood services to the north. These properties are not adjacent to a commercial area.

Conclusion: The site meets all threshold locational criterion insofar as it is already zoned L3, has adequate access, is in a predominantly L2 and L3 zone, is well-served by public transit, has connections to neighborhood services, however, is not adjacent to a commercial area with comparable height and bulk or where a possible transition in scale is desirable. Overall, the above analysis of the consistency of the site with the existing L3 zoning suggests the site fits within the locational criteria for an L3 zone.

**SMC Section 23.34.072 A-E (Designation of commercial zones):**

**A.** *The encroachment of commercial development into residential areas shall be discouraged.*

The expansion of the Neighborhood Commercial zoning designation into an area currently zoned multifamily (L3) would be an encroachment of commercial development into a residentially zoned and developed area. However, as proposed, the development would allow for only single-purpose residential use.

**B.** *Areas meeting locational criteria for single-family designation may be designated NC1 30'/L1, NC2 30'/L1 or NC3 30'/L1 only as provided in Section 23.34.010.B.*

The area does not meet the locational criteria for a single-family designation.

**C.** *Preferred configuration of commercial zones shall not conflict with the preferred configuration and edge protection of residential zones as established in Sections 23.34.010 and 23.34.011 of the Seattle Municipal Code.*

The area does not have single-family designation.

**D.** *Compact, concentrated commercial areas, or nodes, shall be preferred to diffuse, sprawling commercial areas.*

As there are no commercial uses proposed for this site there would be no diffuse or sprawling commercial areas.

**E.** *The preservation and improvement of existing commercial areas shall be preferred to the creation of new business districts.*

The proposed rezone is for single-purpose residential use and involves no creation of a new business district.

Conclusion: As with the L3 zone analysis, the results of the above analysis of the Commercial zone designation are fairly conclusive. The rezone of L3 to NC2 is inconsistent with the applicants' proposal for single-purpose residential use.

**SMC Section 23.34.008 A-J (General Rezone Criteria):**

**A. To be approved a rezone shall meet the following standards:**

- 1. In urban centers and urban villages, the zoned capacity for the center or village taken as a whole shall be no less than 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 be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.*

The subject site is not located within an Urban Village.

**Match between Established Locational 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.*

An analysis of the Lowrise 3 locational criteria has been presented. The next step is to determine whether the proposed Neighborhood Commercial 2 zone better matches the characteristics of the area to be rezoned. The discussion above, under SMC 23.34.072 provided a general analysis of whether a commercial zone designation is or is not appropriate, without determining which zone best meets the characteristics of the rezone site. Thus, it is appropriate to analyze the function and locational criteria for the requested Neighborhood Commercial 2 zone. The following analysis will interrupt the General rezone criteria analysis A-I. The General Rezone analysis will resume at letter C below.

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

***A. Function.***

- 1. A pedestrian-oriented shopping area that provides a full range of household and personal goods and services, including convenience and specialty goods, to the surrounding neighborhoods. These areas provide locations for single purpose commercial structures, multi-story mixed use structures with commercial uses along the street front and multi-story residential structures.*

The property proposed for rezone is located in an area that is almost fully developed with two- and three-story, single purpose multifamily buildings with a few remaining single family residences. The proposal is to allow a much larger scale single purpose residential structure in an area that cannot be defined as a "pedestrian-oriented shopping area". Though the proposed rezone is to NC2 there is no commercial component to the proposal.

*2. Desired Characteristics.*

- a. Variety of small to medium-sized neighborhood-serving businesses;*
- b. Continuous storefronts with commercial use, built to the front property line;*
- c. Pedestrian friendly atmosphere;*
- d. Shoppers can drive to the area, but walk from store to store.*

There are no neighborhood-serving businesses in the rezone area. There are no continuous storefronts with commercial uses. Though this area could be considered pedestrian friendly, there are no stores for shoppers to walk to.

***B. Locational Criteria.***

*Neighborhood Commercial 2 zone designation is most appropriate in areas generally characterized by the following:*

*1. Existing Character.*

- a. Medium sized node generally surrounded by low- to medium-density residential areas; or*
- b. Small commercial area located at the edge of a larger business area, which provides a transition between intense commercial activity and surrounding areas; or*
- c. Area in the core of an established commercial district characterized by a concentration of small retail and service uses; or*
- d. Commercial area along major arterial where lots are generally small and shallow, and are surrounded by low-density residential areas.*

Though the rezone area is surrounded by low- to medium-density residential area, there are none of the remaining commercial characteristics in the rezone area.

*2. Physical Conditions Favoring Designation as NC2.*

- a. Surrounded by low- to medium-density residential areas;*
- b. Lack of strong edges to buffer the residential areas;*
- c. Lack of vacant land or land appropriate for additional commercial development within the commercial area;*
- d. Access is through low- and medium-density residential areas;*
- e. Located on streets with good capacity (major traffic streets and minor arterials), but generally not on major transportation corridors;*
- f. Limited transit service (i.e., a few routes);*
- g. Limited off-street parking capacity; may include a parking area for a supermarket or other larger use.*

The surrounding physical conditions are not conducive to NC designation. The subject area is surrounded by medium density residential area. There are no strong edges to buffer the residential areas. The rezone area cannot be considered to be within a “commercial area” so there is no lack of vacant land for additional commercial development. Access is through low- to medium-density residential areas. The site is located on Thorndyke Avenue West which is an arterial and has good vehicle capacity. There is reasonable transit service; Metro route #33 stops at Thorndyke Avenue West and West Newton Street. There is no off-street parking capacity.

Conclusion: Overall the proposed rezone area does not meet the Neighborhood Commercial 2 functional or the locational criteria.

### **23.34.009 Height limits of the proposed rezone**

*Where a decision to designate height limits in Neighborhood 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.*

The proposal is to accommodate a new 37 foot tall, single purpose residential structure with an additional 10 feet allowed for rooftop mechanical equipment. The 37 foot height is appropriate for the type and scale of development in a commercial area but is not appropriate along this segment of Thorndyke Avenue West, where lower height limits prevail. A residential development on this site with the current L3 zoning could be 30 feet high with additional height for features such as pitched roofs as allowed in the land use code.

- 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 rezone site is topographically compatible with the current L3 zoning. The proposed height limit of 37 feet plus 10 feet for rooftop features is incompatible with the current topography of the area and its surroundings. Elevations on Thorndyke Avenue West continuously to rise to the south. The higher the elevation the greater the impact would be on views of downtown and Elliott Bay from the areas to the west. Residential development consistent with the current L3 zoning would result in less likelihood of view blockage because the building heights would be ameliorated by the reduced bulk required by the L3 development regulations.

- C. Height and Scale of the Area.*

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

*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.*

A 37 foot height limit would be inconsistent with the pattern of development in the area. The development permitted at 2100 Thorndyke Avenue West under erroneous zoning demonstrates the incompatibility with the surrounding neighborhood of the height and scale (bulk) allowed under NC2 zoning regulations. Even though the applicant is proposing to limit the height of the structures to three feet less than that which is permitted in an NC2-40 zone, the greater bulk of the structures would render the slightly lower height unnoticeable.

- D. Compatibility with Surrounding Area.*

1. *Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings development 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.D.2 are present.*

Height limits in the surrounding area are consistent with L2 and L3 zoning, i.e., developed with two- and three-story buildings with the lower lot coverage required for those zones. The proposed rezone would not allow the desired transition in height and scale. The parcel at 1966 abuts an L2 zone and is two lots from single family zoning to the south.

*E. Neighborhood Plans.*

*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.*

*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 is no neighborhood plan for this area.

The Analysis of SMC 23.34.008 A-J will resume with the following criteria:

**C. *Zoning History and Precedential Effect***

*Previous and potential zoning changes both in and around the area proposed for rezone shall be examined.*

Before 1982 these properties were zoned RM (Residential Multifamily). With adoption of Title 23 Land Use Code, the site was rezoned to L3 in 1982. In 1991, a proposal by the Office of Long Range Planning to rezone the east side of Thorndyke Avenue West from L3 to Single Family, L2 and L3 failed.

The approval of this rezone request as proposed may result in precedential effects in the immediate area; in particular, the existing low- to medium-density Thorndyke Avenue West residential block face would be interrupted by a large-scale building. Adjacent property owners may be encouraged to request similar rezones.

**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.*

There is no neighborhood plan for this area.

#### **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.*
2. *Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:*
  - a. *Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;*
  - b. *Freeways, expressways, other major traffic arterials, and railroad tracks;*
  - c. *Distinct change in street layout and block orientation;*
  - d. *Open space and greenspaces;*
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 impact of this proposal would be a very large scale, tall building along this section of Thorndyke Avenue West that would effectively block major portions of views from the neighbors to the west. No transitions or buffers would exist for separation between the less intense residential zones and the proposed rezone area.

#### **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;*
  - b. *Public services;*
  - c. *Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;*
  - d. *Pedestrian safety;*

- e. *Manufacturing activity;*
- f. *Employment activity;*
- g. *Character of areas recognized for architectural or historic value;*
- h. *Shoreline view, public access and recreation.*

Demand for public services would increase with this rezone because of the additional units made possible by the increase in height, bulk and scale with the proposed rezone. Noise and odor would not perceptibly increase, and air quality would perceptibly decrease. Light and glare would likely increase because of the increased bulk and scale and number of units in the proposed building. The proposal would result in considerable increase in impervious surface because of the greater lot coverage proposed than would be allowed in L3 zoning. The proposal would slightly impact natural drainage. The greater lot coverage would decrease the amount of open space and vegetation.

Pedestrian safety would not perceptibly change with this proposal. There would be no impact on manufacturing or employment. Shoreline and downtown views would be severely impacted.

**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;*
- b. *Street capacity in the area;*
- c. *Transit service;*
- d. *Parking capacity;*
- e. *Utility and sewer capacity;*
- f. *Shoreline navigation.*

The proposed rezone should not impact service capacities for the area.

**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 designation in this chapter.*

There do not appear to be any substantial changes in circumstances in the rezone area. Although an NC2-40 development one block to the north was mistakenly permitted, that development did not alter the predominant circumstances of the surrounding neighborhood already discussed above in the context of the relevant zone criteria. In any event, evidence of changed circumstances is not required to demonstrate the appropriateness of a proposed rezone.

**H. Overlay Districts**

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

There are no overlay districts in the rezone area.

**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 area of the proposed rezone is located adjacent to a mapped critical area (potential landslide). A rezone of the nature proposed would likely have little effect on the critical area. Though located in an area with sloping hillsides, the identified steep slope was artificially created by the construction of a rockery on the site to the east along the property line in order to level that site. In addition, buildings such as that proposed are subject to rigorous geotechnical and structural review to minimize impact to critical area.

**Analysis of consistency with SMC Section 23.34.007 A-F**

- A. The provisions of this chapter shall apply to all rezones. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets these provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*
- B. No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.*
- C. Overlay districts established pursuant to neighborhood plans adopted by the City Council may be modified only pursuant to amendments to neighborhood plans adopted or amended by the City Council after January 1, 1995.*
- D. Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except the Comprehensive Plan Shoreline Area Objectives shall be used in shoreline environment re-designations as provided in SMC Section 23.60.060.B.3.*
- E. Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary. This subsection does not apply to the provisions of other chapters including, but not limited to, those which establish regulations, policies or other requirements for commercial/mixed use areas inside or outside of urban centers/villages as shown on the Future Land Use Map*
- F. The procedures and locational criteria for shoreline environment redesignations are located in Sections 23.60.060 and 23.60.220, respectively.*

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

Conclusion: The zone function and locational criteria statements for the Lowrise 3 are appropriate for the site and at the same time the Neighborhood Commercial 2 zone function and locational criteria do not support the contract rezone of this property as analyzed above. Lastly, the General Rezone Criteria do not support the proposed contract rezone. When weighed and balanced together to determine which zone best meets the provisions of this chapter, the analysis shows that the area proposed to be rezoned would function most appropriately as the existing Lowrise 3 zone.

### **RECOMMENDATION – REZONE**

Overall, the applicable policy direction and locational criteria found in SMC 23.34 give a strong indication that the site should not be rezoned from Lowrise 3 to Neighborhood Commercial 2-40'. Given the existing conditions of the site, its location and orientation along Thorndyke Avenue West and its physical relationship to the residential neighborhood it abuts, the Director recommends that the proposal to rezone from Lowrise 3 to Neighborhood Commercial 2-40' be **denied**.

### **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant, June 8, 2004, and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, 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 to be expected: 1) temporary soil erosion; 2) decreased air quality due to increased dust and other suspended air particulates during excavation and construction; 3) increased noise and vibration from construction operations and equipment; 4) increased traffic and parking demand from construction personnel; 5) blockage of streets by construction vehicles/activities; 6) conflict with normal

pedestrian movement adjacent to the site; and 7) consumption of renewable and non-renewable resources. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way); 2) Building Code (construction measures in general); and 3) Stormwater, Drainage and Grading Code (temporary soil erosion). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation. Further mitigation by imposing specific conditions is not necessary for these impacts. However, the proposal site is located adjacent to residential receptors that would be adversely impacted by fugitive emissions and construction noise. Therefore, additional discussion of air and noise impacts is warranted.

### Air

Grading will contribute to concentrations of suspended particulate matter. The construction contractor must comply with the Puget Sound Clean Air Authority regulations, which require that reasonable precautions be taken to avoid dust emissions. These precautions may include applying water or dust-binding chemicals during dry weather. Fugitive dust impacts, however, would be limited in area and duration. Soils and dust carried out of the construction area by exiting trucks would be minimized by wheel washing and by covering dusty truckloads.

Construction would require the use of heavy trucks and smaller equipment such as generators and compressors. These engines would emit air pollutants that would contribute slightly to the degradation of local air quality, but the amount of emissions caused by the construction equipment would be insignificant compared to the amount of emissions generated by the existing traffic sources in the project area. No further mitigation pursuant to SEPA Air Quality Policies is warranted.

### Noise

Most of the earth moving activity will involve loud equipment and activities. This construction activity will have an adverse impact on nearby residences. Because of the proximity of nearby residences, the Department finds that the limitation of the Noise Ordinance is inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit grading and construction activities to non-holiday weekday hours between 7:00 a.m. and 6:00 p.m.

The Department recognizes there may be occasions when critical construction activities of an emergency nature, related to safety or traffic issues, or which could substantially shorten the total construction timeframe, may need to be completed after regular construction hours. Therefore, the Department reserves the right to allow weekday construction from 6:00 a.m. to 8:00 p.m., and Saturday construction from 9:00 a.m. to 6:00 p.m. Extended weekday hours or Saturday work must be approved by the Department on an emergency, case-by-case basis prior to such work.

It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit. In addition, after the buildings are fully enclosed, on a floor-by-floor basis, interior work may be done at any time in compliance with the Noise Ordinance with no pre-approval from the Department required.

### Long-term Impacts

Potential long-term impacts that may occur as a result of this project include: 1) increased surface water runoff from greater site coverage by impervious surfaces; 2) increased bulk and scale on the site; 3) increased traffic and parking demand due to residents and visitors; 4) minor increase in airborne emissions resulting from additional traffic; 5) minor increase in ambient noise due to increased human activity; 6) increased demand on public services and utilities; 7) increased light and glare; and 8) increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

The long-term impacts are typical of multifamily development and will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (storm water runoff from additional site coverage by impervious surface); Land Use Code (aesthetic impacts, height, setbacks, parking); and the Seattle Energy Code (long-term energy consumption).

The other impacts not noted here as mitigated by codes or conditions (increased ambient noise; increased demand on public services and utilities; increased airborne emissions; increased light and glare) are not sufficiently adverse to warrant further mitigation by condition.

### 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.

### CONDITIONS – SEPA

None.

Signature: (signature on file)  
Colin Vasquez, Land Use Planner  
Department of Planning and Development

Date: April 10, 2008