



City of Seattle
 Gregory Nickels, Mayor

Department of Planning and Development
 D. Sugimura, Director

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

Application Numbers: 3007892 and 3008939
Applicant Name: Brandon Nicholson of Nicholson Kovalchick Architects
Addresses of Proposal: 3514 W Government Way

SUMMARY OF PROPOSED ACTION

Land Use Application to allow one two-story Live-Work Unit (DPD# 3007892) and allow two three-story duplex townhomes (4 units total) with parking for four vehicles to be provided in private garages under each townhome (DPD# 3008939). The following Land Use approvals are required:

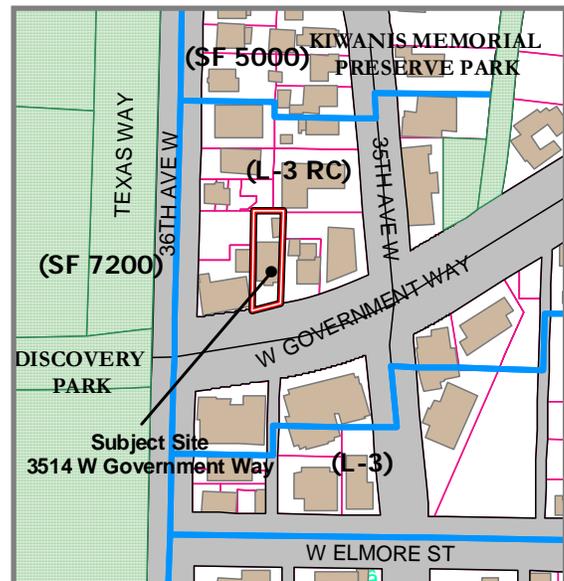
- **Administrative Design Review – Chapter 23.41** Seattle Municipal Code.
 Numerous departures requested.
- **SEPA – Chapter 25.05** Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

VICINITY AND BACKGROUND:

The applicant proposes to construct one, 2-story live work unit and two, 2-unit townhouse structures (4 total townhomes). The existing residence will be removed. Parking for each townhouse unit is proposed within garages underneath each unit, while the live-work unit is not required to and does not provide parking. Vehicle access for the townhomes is proposed from an existing shared driveway via 36th Ave W. This access currently serves two properties, 4300 and 4310 36th Avenues West.

The approximately 5,589 square foot development site is located in the Magnolia neighborhood of Seattle and is zoned Lowrise Three Residential Commercial (L3-RC). W Government Way is the site’s only street



frontage.

L3-RC zoning exists along W Government Way in this area where it terminates at 36th Ave W. Single Family zoning (SF 7200) begins west of 36th Ave W into Discovery Park. North of the site, SF 5000 zoning exists. L3 zoning is located south of W Government Way along 36th Ave W transitioning into SF 5000 zoning further south.

There are natural areas in close proximity to the subject site, to the northeast, Kwanis Memorial Park and to the west, Discovery Park. Heron Habitat Critical Area is mapped on the site. The site is located between these two natural features. Development in the vicinity consists of some small multifamily structures and mostly small scale single family structures to the north and larger scale multifamily structures to the south with some small scale single family structures. Of note a newly constructed townhouse structure is located adjacent to the site, to the northwest known as 4316 36th Ave W. Construction is nearly complete on the abutting site to the west for a four unit townhouse structure (MUP# 3004998). Also abutting to the west, an office building (4300 36th Ave W) was recently renovated with siding, windows and interior improvements.

The applicant has volunteered for the Administrative Design Review process to request departures from development standards. Administrative Design Review is conducted by DPD staff and does not involve a Design Review Board. Departures are granted based on how well the proposed design responds to the Early Design Guidance (EDG) and how the project design is made better as a whole.

A short plat of the property has been applied for preceding the submittal of the Master Use Permit in order to create two separate parcels. The short plat was requested in order to allow separate ownership of the front (southern) live-work unit from the four townhouse units in the rear. Creating a new parcel with the proposed development scheme necessitates the granting of development standard departures from front and rear setback requirements as well as lot coverage standards that would not be required or at the same levels without the short plat, although no change in the built form would be apparent as a result of these specific departures. DPD approved the short plat proposal at the time of this report and will be recorded in the near future.

ADDITIONAL INFORMATION

The applicant will also request a unit lot subdivision to create separate ownership of the four townhouses on the northern parcel as a subsequent permit to these actions. Separate Land Use public notice will be required for the unit lot subdivision of the townhomes.

DESIGN REVIEW EARLY DESIGN GUIDANCE (EDG)

Design Alternatives EDG Stage

Design option 1 shows two duplex townhouse structures and is a typical site layout for townhouse development, access is proposed via a shared driveway to 36th Ave W. Both duplexes orient north/south, with the parking court and garage entries located between the two structures.

Option 2 introduces a detached live-work unit in addition to the two duplex townhouse structures in option 1. The live-work unit locates near the street to create a uniform street relationship with the office building abutting to the west. Vehicle access to a single parking space is proposed from

W Government Way for the live-work unit. Parking access for the two duplexes remains from the shared drive accessed via 36th Ave W.

Option 3, is very similar to option two with the exception that the live-work unit is proposed to be attached to the southern duplex. Access to parking is the same as option 2.

Design Summary

MASTER USE PERMIT APPLICATION

The applicant submitted a complete Master Use Permit and preferred design to DPD on Feb.1.08. The overall scale and massing of the building is similar to the 3rd scheme presented during EDG. The major change is the live-work unit, which is proposed with two stories with a green roof. The curbcut and parking space from W Government Way serving the live-work unit has been removed, allowing a continuous façade along W Government Way.

The proposed setbacks and all departure requests are summarized below in the analysis for each parcel within the development site. The applicant has submitted an addendum to an existing arborist's report pertaining to the site. The elements of the applicant's preferred design are summarized to the right.

- The main body finish material for the building is vertical cedar siding, very similar to the abutting development under construction (MUP #3004998).
- Horizontal bands at each floor are used to break up the verticality of the entire building.
- The live-work unit is proposed with two stories and a flat roof with a green roof. An offset ridge gabled roof form is used with the gable ends facing east and west for the center townhouse units. The roof forms for the northern duplex are designed with a traditional centered gabled end.
- The roof material is proposed to be 3-tab composite shingle.
- Decks are proposed for all townhomes, two north facing bolt-on decks for north duplex and two inset decks along the south wall of the central townhouse units which have peek-a-boo views over the green roof southward.
- A variety of black aluminum windows are proposed which are symmetrically placed.
- The decks are proposed as metal with horizontal metal railings.
- Individual metal with frosted glass weather protection for the auto court entry pedestrian doors are proposed for the four townhouse units.
- The pedestrian access doors for the townhomes are proposed to be metal (Hunter Green) with central glazing.
- The garage doors are proposed with 2 over 4 window pattern yielding a lot of glazing.
- Wall mounted down lighting is proposed along the internal auto court above the pedestrian access doors and each garage door.
- Individual wall sconces, unit address signs, and mailbox at the entries.
- The live work unit is proposed to match the existing office structure to the west architecturally and massing, it is proposed as two stories with horizontal oak stained cedar siding.
- The street level of the live-work unit provides good glazing and wraps to the east façade. Two commercial entry doors are proposed and one residential door.
- Providing weather protection, a metal awning is proposed for the east 2/3rd of the street facing façade and the awning wraps around to the east façade.

PUBLIC COMMENT EDG AND MUP

DPD received five written comment letters and some phone calls during the EDG comment period (9.27.07 to 10.24.07). During the EDG comment period DPD received ten written comment letters and some phone calls concerning the project. The comments expressed concern about the retention of trees to buffer the Heron Habitat Area as well as concern over granting the proposed departures. Retention of the trees on the western abutting property was a common comment found in the letters. Division of the property was also a concern.

During the Master Use Permit comment period (2.14.08 to 2.27.08) DPD received ten written comments for the project. The comments revolved around tree protection setback areas, tree pruning, tree replacement (size and species), Heron Habitat protection, sight lines and window placement with regards to the eastern abutting residence and use of landscaping for privacy and separation for property to the east.

DPD ANALYSIS: DESIGN REVIEW

The applicant applied for the MUP on February 1st, 2007. On March 5th, 2007 DPD issued the final design recommendations for the proposal based on the applicant's design response to the priority design guidelines issued during the EDG phase of the project.

Below is a summary of the EDG guidelines and guidance statements determined to be of highest priority for this project identified by letter and number (*Citywide Design Review Guidelines for Commercial and Multifamily Buildings*). Listed below the EDG guidelines and statements are DPD's recommendations based on the applicant's design response. These recommendations were transmitted to the applicant and parties of record following the MUP review. The absence of DPD recommendations regarding specific guidelines below indicates that DPD determined the design achieves the priority guidelines set during the EDG stage. The applicant re-submitted the MUP plans for review to the Department on April 15th 2008, responding to the recommendations report. The Director's final analysis & decision are found at the end of this section.

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.

A-2 Streetscape Compatibility.

The siting of the 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 on 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-6 Transition Between Residence and Street

Use space between building and sidewalk to provide security, privacy and interaction among residents and neighbors

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.

Early Design Guidance

Ample tree protection areas must be provided for the four trees located on the west property line. An arborist's recommendation for conservative setbacks and construction protection measures must be provided upon MUP application. Proposed trees along the north portion of the property should also include arborist's recommendation for setback and construction protection. Setback areas, protection measures and true tree canopy areas for all trees must be shown on the MUP plans. Moving the proposed northern duplex eastward is supported to maximize setbacks for the four trees located on the west property line. **(A-1)**

A reduced setback along the street front is supported to mimic the westerly abutting office building, but an appropriate modulation or transition feature should be provided to the abutting easterly property. **(A-1)**

The Department supports access from the shared driveway; avoiding access from W Government would be a plus for the overall design. **(A-1)**

Design of the street facing façade should define the live-work use with commercial design features. The live-work space layout and street façade should be flexible enough to allow for a range of uses. There should be some commercial street front facade elements included in the design. Creating a harmony and complementing scale with the easterly office structure is important to the success of the streetscape compatibility. The proposed design should provide some common design features or relationships with the easterly office structure. **(A-2)**

This guideline mainly applies to the live work unit, its entrance should be highlighted with weather protection, color or other design feature of the architect's choosing. **(A-3)**

Although this isn't a major pedestrian area, creating a street front that is compatible with human activity is important considering the live-work use. **(A-4)**

Placement of buildings and proposed setbacks should respect the privacy of the abutting easterly property (know as 3508 W Government Way). **(A-5)**

Application of this guideline regards the vehicle and pedestrian access to 36th Ave W. The design should continue the delineated pedestrian access created on the townhouse project at 4310 36th Ave W and should be well lit to provide a connection with 36th Ave W. **(A-6)**

Proposed open space areas for the southern townhomes in the preferred option seem unusable. The applicant should come up with a way to provide some usable open space for these units. The proximity of Discovery Park will be taken into account when reviewing the open space proposal. (A-7)

DPD supports using the existing driveway shared access from 36th Ave W. Curbcuts on W Government Way should be avoided, since it would detract from the human scale and street compatibility of the live-work and street level experience of the structure. The applicant should provide an alternative design that eliminates curbcuts W Government Way if feasible. (A-8)

C. Architectural Elements and Material

C-1 Architectural Context

New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

C-4 Exterior Finish Materials.

Building exteriors should be constructed of durable and maintainable materials. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

Proposed architecture should include features and elements found in the area. Flat roofs for the southern structure are appropriate considering the live-work use, the abutting office structure's design and L3-RC zoning designation. Using pitched roof forms for the rear structures is also appropriate considering the nearby townhomes currently under construction and the gable roofed single family home to the east. Using different roof forms on the two structures will provide a desirable, subtle variety between the buildings. The proposed structures should also provide continuity with the design elements of the townhouse structures currently under construction at 4316 36th Ave W. (C-1)

Materials used for the townhomes should have a traditional residential character and use elements from neighboring structures such as architectural brackets and window mullions. The live-work unit's finish should relate to the development as a whole, but the designer should incorporate different materials to architecturally express the different use and structure type of the proposed live-work. (C-4)

D. Pedestrian Environment

D-1 Provide convenient, attractive and protected entries.

Convenient and attractive access to the building's entries 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.

D-6 Screen Dumpsters, Utility and Service Areas.

Elements such as dumpsters, utility meters, mechanical units and service areas should be situated and screened from view and should not be located in pedestrian areas.

D-7 Personal Safety and Security

Project design should consider opportunities for enhancing personal safety and security in the environment under review.

Entries to the residential units, while not directly visible from the street, should be well designed and have detailing and interest to activate the parking and drive-court area. Use of individual weather protection, lighting and or other feature should be incorporated. **(D-1)**

Trash receptacle areas should be screened from street view and neighbors. **(D-6)**

A lighting plan should be provided to ensure that areas for pedestrians on site are sufficiently lit. If any pedestrian paths are proposed from W Government Way they should also be well designed and lit. **(D-7)**

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 abutting streetscape.

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.

An appropriate scale and amount of landscaping should be provided in the front setback; landscaping in the front setback is a common element in the area. Landscaping should not over-screen the street façade but should accentuate the ground floor live-work commercial space. **(E-1)**

Providing ample setback for the continued preservation of the four trees on the west property line is a paramount design parameter. **(E-3)**

The two new mature trees proposed are strongly supported by the Department. Proper tree protection setbacks and construction measures must be included. **(E-3)**

DPD Recommendations

Proposed tree protection and plantings have responded to the guidance and should be commended in plan view at least, with one exception. The setback proposed (approximately 6.5') for the 12" Lawson Cypress to be retained appears to be lacking to ensure health and life of the tree. Please provide analysis as recommended by the Land Use correction review to determine the actual root zone of this tree. Based on that information, further building setback or placement of the northern duplex may be modified. DPD is in support of granting further or altered departures to retain this tree. **(A-1, E-3)**

Three (3) trees are proposed to be removed although one is already dead (2 Lawson Cypress on abutting western property) and 4 trees are proposed to be retained (2 northernmost Lawson Cypress on abutting western property and 2 Douglas Firs along north property line). In addition the design proposes to plant 6 new trees not required by the Land Use Code (4 Hornbeams along the west property line and 2 Serviceberry trees at the southwest corner of the site). In addition two street trees are proposed (Hawthorns) along the planting strip abutting W Government Way. **(A-1, E-1, E-3)**

Provide a tree protection plan for trees being retained as an additional sheet in the Master Use Permit that outlines construction/grading limits, shows the location of construction barriers to be in

place prior to grading and any requirements for maintenance requirements during and after construction. (A-1, E-1, E-3)

Design and scale of the live-work is strongly supported by DPD, the two story frame provides a great visual transition from the existing office building to the west and meets the guidance set during EDG. The two story scale proposed green roof and glazing along the first floor wrapping to the east façade provides an ample transition to the single family residence. Design of the proposed easterly fence and wrapping canopy is important for screening and privacy, but should be interesting and provide some interest for the abutting easterly single family residence. Further detail on this element should be provided with the building permit application. (A-5, C-1, C4)

Removal of the driveway, parking space and curbcut from W Government Way is a benefit to the neighborhood and the design's interaction with the street. The removal allows maximum focus on the base and entry of the structure while providing enjoyment of the sidewalk environment for pedestrians. Also, the unusually large space from the sidewalk to the property line will provide great compatibility with the Boulevard feel and its heavily landscaped nature. (A-2, A-3, A-4, A-8)

The proponent has met the guidance with the placement of Eco Stone and Rima paver stones within the drive-court and used an accentuated pattern to outline pedestrian access to the 36th Ave W. (A-6)

The inset decks for the southern two townhomes overlooking the green roof are a nice design response and provide a great deck experience looking southward for the townhouse inhabitants. (A-7)

Subtle differences between the proposed townhomes when contrasted with the abutting townhomes to the west provide some variation due to the live-work unit attachment. The design concept, materials and windows provide cohesion between sites and are supported by DPD. The one area where improvement could be made would be a slight variation in stain or finish to the proposed vertical cedar siting for some or all of the townhouse units. This would allow some variation but would still allow the related projects and architecture to maintain cohesion. (C-1, C-4)

Director's Analysis Design Review

(A - Site Planning)

Regarding protection of the 12" Cypress Lawson (AC.12), with DPD approval, the applicant performed a test trench to determine the actual root zone of the tree in question on March 14th 2008. The test trench was conducted under direction of the applicant's arborist and in consultation with DPD. A 7' setback for the test trench was used which is intended to mimic the actual foundation and cut that would be necessary to construct a typical footing and foundation for the proposed north duplex townhouse. As a result of the test trench findings, the consulting arborist is of the opinion that with tree preservation techniques, the tree will survive construction as proposed. The report and analysis was reviewed by DPD and by The City's consulting arborist, the determination was made that the assumptions in the report were appropriately applied and the 7' setback will provide sufficient tree protection area for the construction of the townhomes, all contingent upon meeting the pre, post and during construction requirements set by the applicant's arborist.

The MUP plans have been augmented to reflect the tree protection areas on the landscape plan and make reference to the numerous techniques called for in the arborist recommendations. DPD and SDOT staff reviewed the report and are in agreement with the ensured execution of all of the tree protection measures, the siting of the structure and retention of the tree in question can be achieved. Conditioning is warranted to ensure that all recommendations found in the arborist's recommendations are properly executed. As a result, DPD conditionally approves the Design Review regarding Site Planning issues.

(C - Architectural Elements and Materials)

Design of the fencing proposed along the east property line will be reviewed at the building permit to ensure the design is appealing and provides visual interest to respect the easterly abutting property. As a result proper conditioning is warranted related to the final design of the fence.

As a result, DPD Conditionally approves the Design Review for Architectural Elements and Materials issues.

(E - Landscaping)

In consideration of the proposed tree plantings, their proposed locations and in concert with the protection of several trees on site, as shown in the above analysis and in the Design Review recommendations, DPD approves the Design Review for Landscaping issues.

REQUESTED DEPARTURE FROM DEVELOPMENT STANDARDS

Development Standard Req.: Parcel A Live-Work Unit	Proposed	DPD Decision
(1) Structure Depth: 65% of lot depth (28’-9”) or 18’-8” SMC Table 23.45.011-A	26’-5”	DPD grants approval of the departure based upon the design response, design of the live-work unit and the willingness of the applicant to create a commercial use at the street front absent of driveways, parking and paving provides bases to approve the departure. (A1, A2, A6, A7,A8, C2, E1, E3)
(2) Front Setback: 15’ or average of front setbacks on either side. Average = 7.75’ SMC 23.45.014-A	2’-4”	DPD grants approval of the departure based the abutting westerly structure setback pattern and how the design continues the scale (two stories) and feel of the existing office building. The absence of driveways and parking along the street façade also provides justification for this departure. (A1, A2, A4, A6, A7, A8, C2, E1, E2)
(3) West Side Setback: 5’ minimum a 5’ average SMC Table 23.45.014-A	3’-3”	DPD grants approval of the departure as the goal of the live-work unit is to create a commercial-like street front to complement the existing and currently remodeled office structure. Providing the required 5’ setback which is a residential standard, doesn’t reflect the commercial architecture, program and scale that the live-work unit is aiming to produce. (A1, A2, A4, A7, A8, C2, E1, E3)
(4) Rear Setback: 15’ SMC 23.45.014-B	0’	DPD grants approval of the departure as the live-work unit to be viable and to be proposed by the applicant requires a short platted lot or fee simple property, where a unit lot subdivision is not possible with a commercial use. As a result, the short plat allows the developer to construct the live-work unit and have it fee simple. With the scale and design of the live-work unit DPD supports the granting of this departure. (A1, A7, A8, C2, E1, E2)
(5) Projections Into Setbacks: 18” allowed into a required setback. SMC 23.45.014-F.1.a	Allow canopy to extend 4’-6” from the building to within .5’ of the east property line and to extend 2’ from the building to within 4” of the front property line.	DPD grants approval of the departure based on the desire to create a commercial feel for the live-work unit and a positive street experience. The oversized projection will further provide interest to the live-work unit and provide weather protection to prospective customers of the business establishment. Also, the fact the proposal is limited to two stories factors in to allowing more non-livable area projection into the setbacks. (A2, A3, A5, A6, A8, C2, C4, E2)
(6) Lot Coverage: 45% of lot area (1,115.2 sq. ft.) or 501.84 sq. ft. SMC 23.45.010-A.2	73.4% or 818.55 sq. ft.	DPD grants approval of the departure as the goal of the live-work unit is to create a commercial-like street front to complement the existing and currently remodeled office structure. Allowing the design to exceed the residential lot coverage standard further promotes the architecture, program and scale the live-work unit is aiming to produce. (A2, A4, A6, A7, A8, C1, C2, E1, E2)

Development Standard Req.: Parcel B Townhomes	Proposed	DPD Determination
<p>(1) Structure Depth: 65% of lot depth (107'-7") or 69'-11"</p> <p>SMC Table 23.45.011-A</p>	<p>71'-6"</p>	<p>The Department grants approval of the departure based upon the design response, the stepping or modulation of the rear townhomes necessitates this departure. The modulation is not required but does provide a design link to the adjacent townhouse stepped design.</p> <p>(A1, A2, A6, A7,A8, C2, E1, E3)</p>
<p>(2)Front Setback: 15'</p> <p>SMC 23.45.014-A</p>	<p>0'</p>	<p>DPD recommends grants of the departure as attaching the live-work unit to the townhomes provides the interesting and different building type which is supported by Design Review. Requiring the setback would take away from the street presence of the backdrop townhomes over the live-work unit and green roof.</p> <p>(A1, A2, A4, A6, A7, A8, C2, E1, E2)</p>
<p>(3) East Side Setback: 5' minimum a 6' average</p> <p>SMC Table 23.45.014-A</p>	<p>3'1 min. and 4'-9" avg. Allow the northeast townhome to project into the side setback. Allow southwest townhome to provide a 5'-6" average side setback.</p>	<p>The Department grants approval of the departure with a contingency upon retaining the 12" Lawson Cypress on the westerly abutting site. DPD would entertain additional departure amounts to pull the building footprint and foundation further away from the 12" Lawson Cypress, in order to provide any required tree protection areas as determined by the approved tree root location trench.</p> <p>(A1, A2, A4, A7, A8, C2, E1, E3)</p>
<p>(4) Rear Setback: 15'</p> <p>SMC 23.45.014-B</p>	<p>12' minimum for northwestern townhome and 14' for northeastern townhome.</p>	<p>The Department grants approval of the departure based on the four trees being retained (2 Lawson Cypress and 2 Douglas Firs). This departure is contingent upon providing tree protection areas around the Lawson Cypress. The setback, fence line and area to redesign the landscape plan for the Douglas Firs should be the drip line unless documented by a licensed landscape architect and reviewed and approved by DPD. Also, the design is absent of any cantilevers over the parking area, greatly reducing the bulk of the structures, which is a major asset to the design and scale of the townhomes and allows more light and air between the townhomes.</p> <p>(A1, A7, A8, C2, E1, E2)</p>
<p>(5) Open Space: Average 300 sq ft with no unit having less than 200 sq ft. & No horizontal dimension less than 10'.</p> <p>SMC 23.45.016-A.3.a.(1) & SMC 23.45.016-B.1.c.(1)</p>	<p>Allow central townhouses to have less than 200 sq. ft. of open space (52 and 158 sq ft) and allow the average amount to be less than 300 sq ft. (276 sq ft.). Allow central units to count areas less than 10' as open space.</p>	<p>DPD grants approval of this departure based on the proposed green roof over the live-work unit and the response to the EDG providing large inset decks for the central two townhouse units with south views over the green roof. The proximity to Discovery Park and Kiwanis Ravine is also a factor in approving this departure.</p> <p>(A1, A2, C2, C4, E1, E2)</p>
<p>(6) Lot Coverage: 50% of lot area (4,614.3 sq. ft.) or 2307.15 sq. ft.</p> <p>SMC 23.45.010-A.1</p>	<p>53.3% or 2459.42 sq. ft.</p>	<p>DPD grants approval of the departure related to the proposed eco-stone auto-court which will provide additional pervious area as opposed to a traditional paved area. The additional pervious area offsets an additional runoff and drainage concerns. Also the absence of cantilevers is a great benefit to the design and separates itself from normal townhouse design.</p> <p>(A2, A4, A6, A7, A8, C1, C2, E1, E2)</p>

DECISION: DESIGN REVIEW

After analyzing the site in its context, the MUP plans, the recommendation packet and the applicant's design responses, the Director **conditionally approves** the Design Review of the proposal and the above departures.

ANALYSIS – SEPA

The proposed live-work unit and four townhouse units are located in an environmentally critical area (Fish and Wildlife Habitat Conservation Area; Great Blue Heron Management Area), thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated February 1st, 2008. The information in the checklist, pertinent public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development has analyzed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in this analysis, this action will result in some adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "*Where City regulations have been adopted to address and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Short-term adverse impacts are anticipated from the proposal. With conditions, no adverse long-term impacts on the environmentally critical area are anticipated.

Short-term Impacts

The following temporary or construction-related impacts to the environmentally critical area are expected: 1) temporary soil erosion, 2) increased vibration from construction operations and equipment; 3) Noise/construction impacts on Great Blue Heron nesting season. Impacts numbers 1) and 2) are temporary and/or minor in scope (SMC 25.05.794). Impact 3), regarding the Blue Heron nesting season, is considered an adverse impact and while Director's Rule 5-2007 provides adequate nobuild times during the nesting season (February 1st through July 31st) a SEPA

condition is warranted to ensure compliance. The Director's Rule does not permit any clearing, grading or outside construction outside of the nesting. As a result, proper conditioning is warranted to execute Director's Rule 5-2007. The Washington Department of Fish and Wildlife may be willing to approve an alternative site-specific plan, which will be reviewed upon request by the applicant.

DECISION

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

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

CONDITIONS - DESIGN REVIEW

Non-appealable Conditions

1. Any proposed changes to the exterior of the building for life or the site or must be submitted to DPD for review and approval by the Land Use Planner (Lucas DeHerrera, 206.615.0724) or responsible official. 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.
2. Update the above departure matrix in the MUP and Building Permit plans, specifically, the open space calculation for the northern site.
3. Embed all of these conditions on the cover sheet of the MUP and Building Permit plan sets 1 and 2 prior to issuance.

Prior to Building Permit Issuance

4. Incorporate a copy of the arborist's excavation review letter and report by Arborea Consultants, LLC (report dated March 28th 2008) to be apart of the Building Permit plan set so that it always accompanies it. Also update the Building Permit plans to reflect the tree protection measures and plans shown in the Master Use Permit plan set. The report may be modified by a certified arborist as necessary with DPD approval. The report must be issued as part of the building permit plan set which is to be onsite at all times prior to and during construction.
5. Submit a specific fence type (fence along east property lines) and design for review and approval to the Land Use Planner (Lucas DeHerrera, 206.615.0724).

Prior to Building Permit Certificate of Occupancy

6. Compliance with all images and text on the MUP drawings, design review meeting guidelines, approved design features and elements (including exterior materials, landscaping and ROW improvements) and as conditioned hereto in shall be verified by the DPD planner assigned to this project (Lucas DeHerrera, 206.615.0724), or by the Design Review Manager. 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.

Prior to any Grading or Site Work (For the life of the Project)

7. Document that the recommended soil treatments, tree protection fence structure and site clearance requirements have been executed by or under supervision of an International Society of Arboricultural (ISA) certified arborist. Certification of these elements and any element in the related arborist's report must be provided by letter to the Land Use Planner, Lucas DeHerrera (206.615.0724 – lucas.deherrera@seattle.gov). The Land Use Planner will conduct a site visit to ensure the required measures have been taken.

During Construction and For the Life of the Project

8. Implement all recommendations for tree protection specification during construction under supervision of an International Society of Arboricultural (ISA) certified arborist, as recommended by Arborea Consultants, LLC. The report may be modified by a certified arborist as necessary with DPD approval.
9. All changes to the exterior facades of the building and landscaping on site and in the R.O.W. must be submitted as a revision to the building permit and reviewed by a Land Use Planner prior to proceeding with any proposed changes.

CONDITIONS - SEPA

For the Life of the Project

10. Any clearing, grading or outside construction shall be done outside of the nesting season (February 1st - July 31st). The Washington Department of Fish and Wildlife may approve an alternative site-specific plan, depending on likely impacts of the plan.

Signature: _____ (signature on file) Date: May 26, 2008
Lucas DeHerrera, Land Use Planner
Department of Planning and Development

LJD:lc

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