



City of Seattle

Gregory J. Nickels, Mayor
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: 3008274
Applicant Name: Tom Flood et al.
Address of Proposal: 1108 through 1128 33rd Avenue
Clerk File Number: 309121

SUMMARY OF PROPOSED ACTION

Council Land Use Action to rezone 21,660 sq. ft. from L-2 multifamily residential to NC1-30 (Neighborhood Commercial 1 with a 30 foot height limit). The overall site, consisting of six tax parcels (7152200275, 7152200280, 7152200285, 7152200295, 5157700030, 5157700025), is aligned with the predominate grid and measures approximately 217 feet running along the east side of 33rd Avenue in a north to south direction midblock between E. Union Street and E. Spring Street. The area proposed for rezoning is made up of platted lots 5-8, Block 13 of Randell's Second Add., together with platted lots 5-6, Marion Highlands Add. The mid-block property line to the east of the site coincides with a zoning line that separates the L-2 zoning from the NC1-30 zoning designation on the eastern half block. The proposal site is bounded on the west by 33rd Avenue, on the north by tax parcel 7152200270, zoned NC1-30 (Sally Goldmark Branch, Seattle Public Library) and on the south by tax parcel No.5157700015, also zoned NC1-30.

The following approvals are required:

Rezone - Seattle Municipal Code (SMC) Chapter 23.34

SEPA - Environmental Determination - SMC Chapter 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

BACKGROUND DATA

Site Description

The proposed rezone site consists of six tax parcels fronting on east side of 33rd Avenue between E. Union and E. Spring Streets. The rectangular site is approximately 21,660 square feet in size with a total of approximately 217 linear feet of street frontage along 33rd Avenue. Each of the parcels that comprise the proposed rezone area is currently developed with a residential structure. These structures were built between 1903 and 1942. The topography of the site is relatively flat.

The site is currently zoned Lowrise-2. Zoning within the same block, to the north, south, and along the entire eastern half of the block that fronts onto 34th Avenue is NC-1 30. The area of commercial zoning on 34th Avenue is part of a relatively confined strip of NC1-30 zoning that runs along 34th Avenue and extends between E. Pike Street and E. Spring Street. The zoning immediately to the west and across 33rd Avenue where the entire block is occupied by Madrona School, a K-through-8 Seattle public school, is Single Family 5000 (SF-5000).

Vicinity Description

Zoning in the vicinity, apart from this small commercial strip along 34th Avenue, and two other small areas of L-2 multifamily zoning, one on the north side of E. Union Street between 34th and 33rd Avenues and one running generally along the east side of 34th Avenue one block south of E. Spruce Street to E. Marion Street, is zoned SF 5000. As noted, the Madrona School lies directly to the west of the rezone site; the entire block immediately south of the rezone site is occupied by park grounds, athletic facilities and a small community center building (Madrona Playground). A Catholic church and elementary school occupy nearly a square block along 35th Avenue between E. Spruce and E. Marion Streets. Otherwise the immediate area and larger general vicinity are developed with single family homes, many dating back a full century.

Project Description

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 owners/applicants have made application, with supporting documentation, per SMC 23.76.040 D, for an amendment to the Official Land Use Map.

The owners/applicants have not provided any conceptual plans for redevelopment on the lots included within the rezone application.

Public Comments

Initial notice of the proposed re-zone was published on February 14, 2008. The extended public comment period ended on March 12, 2008. DPD received five written comments from nearby residents and property owners who expressed opposition to the rezone, noting in particular existing periodic traffic congestion along 33rd Avenue adjacent the rezone site, the lack of on-

street parking capacity for anticipated commercial uses within the proposed rezone area, and a general contention that property in the immediate area already zoned NC1-30 had unused development potential. It is DPD's understanding that, although the Madrona Community Council discussed the proposed rezone at several meetings and the merits of the rezone were debated in the Madrona News, Newsletter of the Council, the Council declined formally either to support or oppose the proposed rezone.

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), 23.34.018 (L-2 zone, function and locational criteria), 23.34.072 (designation of commercial zones), and 23.34.074 (NC1 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 reasonable order for analysis does not follow the section numbering. In the following analysis, SMC Section 23.34.018 (L-2 function and locational criteria) will be considered first. Then follows 23.34.072, which prescribes general commercial considerations; 23.34.074 (which considers specific NC 1 function and locational criteria); this, in turn, activates consideration of the general rezone criteria of 23.34.008 and the compatibility of height considerations of 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.

SMC 23.34.018 Lowrise 2 zone, function and locational criteria.

A. Function. The intent of the Lowrise 2 zone is to encourage a variety of multifamily housing types with less emphasis than the Lowrise 1 zone on ground-related units, while remaining at a scale compatible with single-family structures.

B. Locational Criteria. Lowrise 2 zone designation is most appropriate in areas generally characterized by the following:

1. Development Characteristics of the Area.

a. Areas that feature a mix of single family structures and small to medium multifamily structures generally occupying one (1) or two (2) lots, with heights generally less than thirty (30) feet.

b. Areas suitable for multifamily development where topographic conditions and the presence of views make it desirable to limit height and building bulk to retain views from within the zone.

c. Areas occupied by a substantial amount of multifamily development where factors such as narrow streets, on-street parking congestion. Local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable.

2. Relationship to the Surrounding Area.

a. Properties that are well-suited to multifamily development, but where adjacent single-family areas make a transitional scale of development desirable. It is desirable that there be a well-defined edge, such as an arterial, open space, change in block pattern, topographic

change or other significant feature providing physical separation from the single-family area. However, this is not a necessary condition where existing moderate scale multifamily structures have already established the scale relationship with abutting single-family areas;

b. Properties that are definable pockets within a more intensive area, where it is desirable to preserve a smaller scale character and mix of densities;

c. Properties in areas otherwise suitable for higher density multifamily development but where it is desirable to limit building height and bulk to protect views from uphill areas or from public open spaces and scenic routes;

d. Properties where vehicular access to the are does not require travel on “residential access streets” in less intensive residential zones.

Regarding function, the L-2 zone designation has allowed for existing, older single-family building stock within the proposed rezone area to be converted, in some instances, into two and three-unit dwellings. There has been no introduction of additional “multifamily building types” in this area. The immediate area of the proposed rezone is relatively flat and consideration of view protections would not appear to be a consideration for L-2 designation in this instance. The proposed rezone area does not abut single-family zoned properties. The entire block zoned for single-family residences across 33rd Avenue is occupied by the Madrona school. The nearest single-family structures within a SF 5000 zone are separated from the proposed rezone area by intervening NC1-30 zoning and/or by intervening uses (school, library). The L-2 designation does provide for a transition between single-family *zoning* to the west and the NC1-30 zoning to the east. The local street system does not generally restrict local access or circulation. Local access and circulation is provided to the west, north and south of the subject site. The area is relatively close to some facilities and services used by households with children. A City park, with sport and recreational facilities lies within easy walking distance to the south of the L-2 zoned area. A public library abuts the area at the north end of the block. An elementary school lies directly across the street to the west.

Based on these factors, the proposal site could be said to be *generally compatible* with both the functional and locational criteria of the L-2 zone designation.

SMC Section 23.34.072 Designation of Commercial Zones

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

B. Areas meeting locational criteria for single-family designation may be designated NC130'/L1, NC2 30'/L1 or NC3 30'/L1 only as provided in Section 23.34.010.B.

C. Preferred configuration of commercial zones shall not conflict with the preferred configuration and edge protection of residential zones as established in the Single Family Policies.

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

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

Directly to the north, the south, and the east of the subject properties the designated zoning is NC 1-30. The entire block containing these parcels and fronting on 33rd Avenue, 34th Avenue, E. Union Street and E. Spring Street would be, as proposed, zoned Neighborhood Commercial 1 with a 30-foot height limit. The area of six lots is discontinuous with other L-2 zoning; the

incorporation of the six lots under the zoning designation of the rest of the block at one time, as proposed by the owners of these lots, does not connote any gradualism or stealth suggested by the term *encroachment*. The designation of NC1-30 zoning for the entire block would not appear to conflict with the preferred configuration and edge protection of residential zones as established in the Single Family Policies. The existing commercial area would remain relatively concentrated and compact with the inclusion of these parcels. The rezone request would not involve the creation of a new business district.

The actual area of single-family dwelling development to the west is functionally separated from the proposed rezone site by the intervening block occupied by the structure of Madrona School, a K through 8 Seattle Public School..

SMC 23.34.078 Neighborhood Commercial 1 (NC1) zone, function and locational criteria.

A. Function. To support or encourage a small shopping area that provides primarily convenience retail sales and services to the adjoining residential neighborhood, where the following characteristics can be achieved:

- 1. A variety of small neighborhood-serving businesses;*
- 2. Continuous storefronts built to the front lot line;*
- 3. An atmosphere attractive to pedestrians;*
- 4. Shoppers walk from store to store.*

B. Locational Criteria. A Neighborhood Commercial 1 zone designation is most appropriate on land that is generally characterized by the following conditions:

- 1. Outside of urban centers and urban villages, or within urban centers or urban villages where isolated or peripheral to the primary business district and adjacent to low-density residential areas;*
- 2. Located on streets with limited capacity, such as collector arterials;*
- 3. No physical edges to buffer the residential areas;*
- 4. Small parcel sizes;*
- 5. Limited transit service.*

The existing land, adjacent to the proposal area and currently zoned NC1-30, is characterized by a variety of neighborhood-serving businesses, some with storefronts built to the front lot line, offering an atmosphere attractive to pedestrians and allowing shoppers the opportunity to walk from store to store. Extending the boundaries of the existing NC1-30 zone to include the subject properties would not change these characteristics and would allow for an extension of these desirable characteristics to the rezoned properties.

The land that is the subject of the proposed rezone and the adjoining properties already zoned NC1-30 lie outside of any designated urban center or urban villages. The properties abut a street, 33rd Avenue, with limited capacity. There are no physical/topographical edges to buffer the residential areas in the immediate vicinity. The land that is the subject of the rezone proposal consists of six, small discrete parcels. The area is served by two Metro bus lines, #2 and #3, but could be said to have limited transit service.

Based on these factors, the proposal site is generally compatible with the function of a Neighborhood Commercial 1 zone but not significantly more so than it is with the function of a L-2 zone.

SMC 23.34.008 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 one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.

2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.

The subject site is not within an Urban Center or Urban Village identified in the Seattle Comprehensive Plan or as amended by subsequent ordinances. Residential development of the sites, therefore, would not exceed targeted residential growth in the planning area. Madrona is not an area targeted for residential growth or increased density in the Seattle Comprehensive Plan.

B. *Match Between Zone Criteria and Area Characteristics.* The most appropriate zone designation shall be that for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.

Street-level neighborhood-serving commercial uses, including mixed-use development along with residential units, were the goal set forth in the CAAP II Neighborhood Plan for this “node” area. It was to be facilitated through a rezone which contemplated extending an existing neighborhood commercial area of small shops, restaurants and some small-scale residential development to the end of the block on 34th Avenue and around the corner on E. Spring Street. Street. The rezone was affected, along with eighteen other rezones, in response to the Central Area Neighborhood Plan, through Council ordinance 119218 in 1998.

Staff exhibits in support of the earlier Madrona rezone noted that the proposal “would result in most of the block zoned Neighborhood Commercial 1” with six “remnant 1-2” parcels south of the library and across from the school and schoolyard. The summary “Rezone Evaluation Criteria Analysis” stated: “The criteria would appear to support the rezone. The addition of more commercial space might lead to some thinning out of commercial development, with residential interspersed among the retail uses rather than uninterrupted shop fronts.” The summary concluded: ***“It should be noted that the analysis supporting NC1 zoning for most of the block would also support such rezoning for the parcels that remain in residential zoning.”***

The Madrona neighborhood is not one of the areas targeted for increase in residential density within the Seattle Comprehensive Plan. Nor is the “nodal” strategy operative in the Central Plan, and in the rezone of a part of this block from L-2 to NC1-30 in 1998, a strategy of the current Comprehensive Plan. Recent proposed development of commercial property in the immediate area, however, suggests a perceived viability of additional commercial development within a relatively small and constricted commercial area that serves the broader residential (primarily single-family residential) vicinity. It does not appear that this rezone proposal would cause any significant diffusion of the pedestrian-oriented, neighborhood-serving commercial area that is contemplated by a Neighborhood Commercial 1 zoning designation. The residential uses associated with mixed-use residential and commercial development would help to tie that development on site into the residential, single-family zoning to the west and south of the site and to the actual single-family development that lies west and southwest of the Madrona School.

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

The subject properties were zoned residential multifamily (RM) in 1957. This zoning designation extended south to E. Spring Street. With adoption of Title 23 Land Use Code, the site was rezoned to L-2 in June, 1982 (Ordinance 110570). The property directly to the north and fronting on 33rd Avenue and E. Union Street as well as properties in the eastern half of the block south of E. Union Street and extending approximately two thirds of the way down the block front to the south were zoned BN in 1957. That area was rezoned to NC1-30 in June, 1986 (Ordinance 112777).

Ordinance 119661, calling for a Land Use Map amendment on this block and changing the designation for limited properties at the south end of the block from L-2 to NC1-30 became effective on December 12, 1998. This rezone left the remnant six parcels, the subject of this rezone application, with an n L-2 designation while the “C” shaped, major portion of the block was included under the NC1-30 zoning.

The residential properties immediately to the east of the site were zoned RS 5000 in 1957 and were rezoned to SF 5000 in 1982.

Circumstances related to the property have changed since the last previous rezone, primarily the construction of a mixed-use, residential and commercial structure, addressed as 3310 E. Spring Street, built on the property that was the subject of the rezone from L-2 to NC1-30 in 1998. There are two applications for mixed use, residential/commercial structures within the larger area designated as NC1-30 since 1986, and BN before that, which are currently under review by DPD. The proposal at 1126 34th Avenue (MUP 3005396), one half block due east of the proposed rezone, is for 2,847 square feet of restaurant space, 8,527 square feet of office space and one residential unit. Another proposal at 1435 34th Avenue is for a mixed-use, residential structure, comprised of 3, 450 square feet of commercial use together with seven townhouse units.

Given the particular configuration of these lots within a block already primarily zoned as NC1-30, the approval of this rezone request would not necessarily result in precedential effect for additional rezones in the immediate area.

D. Neighborhood Plans.

1. For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.

2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.

3. Where a neighborhood plan adopted or amended by the City Council after January 1, 1995 establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.

4. If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.

The project site lies within the planning area of the Central Area Neighborhood Plan II, completed in 1998 and subsequently adopted by Resolution of the City Council. As part of the neighborhood planning process, the Central Area Plan called for a series of rezones, including the rezone of properties on this same block from L-2 to NC1-30. Ordinance 119661, calling for a Land Use Map amendment on this block and changing the designation for limited properties from L-2 to NC1-30 became effective on December 12, 1998.

The proposed rezone would appear to be consistent with the general guidelines, recommended actions and implementation strategies as they are set forth in the Central Area Neighborhood Plan, noting, however, that the “nodal” or “neighborhood anchor” strategies premised in the plan are no longer operative planning strategies within the updated City of Seattle Comprehensive Plan. Extending the NC1-30 zoning to the “remnant” parcels of the 1998 rezone is consistent with the expressed objectives to encourage neighborhood-serving commercial development at this identified area and to provide for the modest intensification of low-impact commercial opportunities as expressed in the Central Area Neighborhood Plan.

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.

NC1 zoning provides, by definition, for low-impact commercial uses adjacent lower density residential uses. 33rd Avenue and the existing Madrona School provide buffers to the single-family residential properties located to the west of the subject sites. Adjacent properties to the north and to the south of the proposed rezone area are already zoned NC1-30. Future *substantial* development involving the subject sites would normally be subject to design review which would effectively deal with additional height, bulk and scale issues, especially as they might relate to perceived compatibilities with the school use across 33rd Avenue.

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.*
- 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 proposal would add a potential for an increase in the number of residential units that could be developed on site. Mixed-use (residential and commercial) development, which would be allowed under NC1-30 zoning, would not otherwise restrict residential density which is limited under the current L-2 zoning. Any particular impacts on traffic, parking, utilities and public services would be evaluated at the time any actual development according to NC1-30 development standards was proposed.

The City of Seattle has lost approximately one half of its tree canopy since 1970. It is one of the top mayoral policies to provide for an increase from 18 percent canopy cover to 40 percent canopy cover over the next thirty years. There are eight mature, healthy ‘Scarlet Sentinel’ maple trees in the planting strip adjacent the six parcels proposed for rezoning. Development, especially piecemeal development within the private properties adjacent the trees, could threaten the health, integrity, and even existence of these city-owned trees. This is especially true where demands could be made for additional curb cuts along the street. DPD will recommend conditioning any rezone approval to regulate future development so as to protect these trees. In addition, pedestrian safety and comfort along the abutting street frontages of the subject area could be affected by additional curb cuts impinging on the pedestrian path (sidewalk). DPD will recommend conditioning any rezone approval to provide for the well-being of both the pedestrians and the trees.

NC1-30 would prohibit all manufacturing, even light manufacturing. Other commercial development could conceivably increase employment opportunities within the rezone area. The architectural character of the street could be altered with new development, but this would not be detrimental to the overall architectural character of the area. Mixed-use development on combined parcels, allowed under NC1-30 zoning, would provide a better opportunity for screened on-site parking, allow for fewer curb cuts, promote retention of street trees and, with

full build-out potential, provide for an uninterrupted continuity of street-facing, street-level retail shops.

The normal and legal functioning of 33rd Avenue provides direct access to the properties proposed for rezoning. The northernmost of the parcels lies within 100 feet of E. Union Street, a collector arterial, while the southernmost of the parcels is within 268 feet of the same street. Larger scale development, if and when proposed, would normally require transportation impact studies.

Parking impact relative to parking capacity in the neighborhood has been a special public concern regarding this rezone proposal. In addition, parking impact analyses for proposed recent development in the vicinity have demonstrated parking capacity in the surrounding areas to have shrunk. Impacts on parking capacity in the vicinity would normally require a Parking Impact Analysis when larger-scale development is proposed. Since smaller, incremental development, not requiring SEPA review, could nonetheless cause cumulative parking capacity impacts that would go unmitigated, dependant on the particular use or mix of uses and hours of operation, it is DPD's recommendation that the rezone be conditioned so that DPD could require, if deemed appropriate, a Parking Impact Analysis, and impose, again if deemed appropriate, mitigation on any proposed change of use or proposed development on any of the parcels subject to the rezone.

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

Circumstances related to the property have changed since the last previous rezone, primarily the construction of a mixed-use, residential and commercial structure, addressed as 3310 E. Spring Street, built on the property that was the subject of the rezone from L-2 to NC1-30 in 1998 and located directly to the south of the parcels proposed for the subject rezone. There are two applications for mixed use, residential/commercial structures within the larger area designated as NC1-30 since 1986, and BN before that, which are currently under review by DPD. The proposal at 1126 34th Avenue (MUP 3005396), one half block due east of the proposed rezone, is for 2,847 square feet of restaurant space, 8,527 square feet of office space and one residential unit. Another proposal at 1435 34th Avenue is for a mixed-use, residential structure, comprised of 3,450 square feet of commercial use together with seven townhouse units. The kind of localized development, commercial and mixed-use (commercial and residential), envisioned in the Neighborhood Plan and expected through the rezone of the southern portion of the block that is the subject of the proposed rezone has been occurring in the vicinity in the last few years

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

The property is not located in an overlay district.

I. Critical Areas. If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.

The subject sites are not located within an Environmentally Critical Area (ECA).

Full residential density potential would appear to be practicable only if the rezone site were to be developed with mixed-use structure larger than would be practicable on the individual platted lots within the rezone area. Given a rezone from L-2 to NC1-30, full residential density potential must be premised upon a mixed-use development scenario, with three stories of residential use above a non-residential base. Without further conditioning, the NC1-30 zoning would not preclude commercial development without any residential use. The rezone application does not include any conceptual development proposals for the area, making any density projections conjectural at this point.

SMC 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.

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.

C. Height and Scale of the Area.

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

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

D. Compatibility with Surrounding Area.

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

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

E. Neighborhood Plans.

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

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

Existing zoning development standards for L-2 allow structures 25 feet in height with an additional allowance of 5 feet for a moderately pitched roof or 10 feet for a steeply pitched roof. The proposed 30-foot height limit would be consistent with the commercially zoned property to the north, south and east and would provide a sufficient transition to the existing school on the west side of 33rd Avenue and single-family development further to the west. The topography of the general area is relatively flat. The right-of-way along the east side of 33rd Avenue is planted

with mature canopy trees which can impart a perceived significant reduction in scale for structures in urban settings. It does not appear that any significant existing views would be blocked by the proposed 30-foot height limit. NC-1/30' regulations allow greater scale of development than L-2 regulations, both horizontally and vertically. The height limits established by the SF 5000 zoning in the vicinity is essentially 30 feet, with a 5-foot allowance for a sloped roof. The requested 30-foot height limit, together with the greater development potential of the NC-1 zone, if approved, would represent an increased bulk and scale potential compared with the height and scale of development potential of the L-2 zoning.

SMC 23.34.007 Rezone evaluation.

A. The provisions of this chapter shall apply to all rezones except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those 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 that Comprehensive Plan Shoreline Area Objectives shall be used in shoreline environment re-designations as provided in SMC Subsection 23.60.060 B3.

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 re-designations are located in Sections 23.60.060 and 23.60.220 respectively.

G. Mapping errors 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.

The above analysis has considered the foregoing criteria.

In 2006, the applicants filed a petition with DPD for a Future Land Use Map (FLUM) amendment from multifamily to neighborhood commercial designation. DPD at that time recommended that the amendment be given consideration for the 2007 Comprehensive Plan Annual Amendments. In doing so, DPD concluded that the proposal could enhance Madrona's low-scale, neighborhood-oriented shopping area consistent with the 1998 Central Area Action

Plan II. City Council Central Staff, however, did not include the amendment within the 2007 Comprehensive Plan Annual Amendments that were forwarded to Council, noting that a FLUM amendment is required by Comprehensive Plan Land Use Policy LU@ only “when significant changes to the intended function of a large area are proposed.” Although “large area” is not defined in the Comprehensive Plan, Central Staff’s assessment was that less than a half block did not constitute a large enough area to be subject to the FLUM amendment process and that the petition should be proposed and a recommendation made under the rezone evaluation criteria of the Land Use Code. In following Central Staff’s recommendation and rejecting the petition as a FLUM amendment, Peter Steinbrueck, then Chair of the Urban Development and Planning Committee of the City Council, noted that the rejection was a decision regarding proper process, made without prejudice and without consideration of the merits of the rezone request itself. “...the Council’s decision to reject the Comprehensive Plan amendment,” he said, “does not constitute rejection of, or support for, the proposed rezone” (Letter, P. Steinbrueck to D. Sugimura, Director DPD, August 7, 2007).

Lacking any development proposals accompanying the rezone application, actual development on the existing parcels could follow a variety of scenarios. There could be no changes from the current residential uses on site. The proposal would allow, however, changes of use on the existing parcels and within the existing residential structures where some or all of the residential space would be converted to commercial uses. New development of single-purpose commercial structures might also take place on individual lots or on lots combined for development. The subject sites are not located in any mapped Environmentally Critical Area (ECA) where restrictions might curtail the full build-out of the sites. The residential portion of a mixed-use structure, allowable under a NC1 zoning designation, should exceed the density of new L-2 structures which might be built, especially if some of the individual subject sites were combined for development purposes.

Given the circumstances of the subject properties, the history of zoning, and the goals of neighborhood planning, as well as the applicable locational and functional criteria in Chapter 23.34 of the Land Use Code, the Neighborhood Commercial 1 zone, with an allowable 30-foot height limit, would appear to be as suitable a zoning designation for the property as is the existing L-2 zone. Although there is unused development potential within existing NC1-30 zoned property in the Madrona Business District, recent development in the area and a longer term perspective would indicate that the an additional 21,660 square feet of commercially-zoned property would not constitute a surfeit of property so zoned.

RECOMMENDATION - REZONE

Based on the above analysis, the Director recommends that the proposed rezone to NC1-30’ be **APPROVED**.

RECOMMENDED CONDITIONS-REZONE

Lacking any development proposals accompanying the rezone application, actual development on the existing parcels could follow a variety of scenarios. There could be no changes from the current residential uses on site. The proposal would allow, however, changes of use on the existing parcels and within the existing residential structures where some or all of the residential

space would be converted to commercial uses. New development of single-purpose commercial structures might also take place on individual lots or on lots combined for development. The subject sites are not located in any mapped Environmentally Critical Area (ECA) where restrictions might curtail the full build-out of the sites. The residential portion of a mixed-use structure, allowable under a NC1 zoning designation, should exceed the density of new L-2 structures which might be built, especially if some of the individual subject sites were combined for development purposes.

Since it is the expressed City of Seattle policy to provide for an increase from 18 percent tree canopy cover to 40 percent tree canopy cover over the next thirty years, and since there are eight mature, healthy ‘Scarlet Sentinel’ maple trees in the planting strip adjacent the six parcels proposed for rezoning, and since future development, especially piecemeal development within the private properties adjacent the trees, could threaten the health, integrity, and even existence of these city-owned trees, DPD recommends conditioning the rezone approval to regulate future development on any or all of the lots so as to protect these trees.

Since providing pedestrian safety and comfort along the abutting street frontages of the subject area are important values within a pedestrian-oriented commercial shopping area, and since pedestrian safety and comfort could be adversely impacted by any additional curb cuts impinging on the pedestrian path (sidewalk), and since additional curb cuts otherwise could be allowed for piecemeal development on the individual parcels within the proposed rezone area, DPD recommends conditioning any rezone approval to provide for the well-being of both the pedestrians and the trees by prohibiting for any or all of the properties any additional curb cuts within the rezone area.

Since parking impact relative to parking capacity in the neighborhood has been a special public concern regarding this rezone proposal, and since parking impact analyses for proposed recent development in the vicinity have demonstrated parking capacity in the surrounding areas to have shrunk, and since smaller, incremental development, not requiring SEPA review, could cause cumulative parking capacity impacts that would go unmitigated, it is DPD’s recommendation that the rezone be conditioned so that DPD might require for any or all of the properties, if deemed appropriate, a Parking Impact Analysis, and impose, again if deemed appropriate, mitigation on any proposed change of use or proposed development on any or all of the parcels subject to the rezone.

See below, Recommended conditions—Rezone.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated January 30, 2008 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, (soils report), 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.

SEPA-REZONE

Short-term Impacts

As a non-project action, the proposed amendments will not have any short-term impacts on the environment. Future development affected by this legislation and subject to SEPA will be required to address short-term and long-term impacts on the environment.

Long-term Impacts

The proposal to rezone the subject parcels from L-2 to NC1-30' is expected to generate various impacts, but while these impacts may be adverse, they are not expected to be significant. The proposal would reduce the quantity of land available for L-2 development. Since mixed-use development would not be required of the site, the proposal could reduce the actual development of residential units in the area. This could diminish the potential for realizing the general residential goals set forth in the Seattle Comprehensive Plan, but the Comprehensive Plan does not call out the Madrona neighborhood as a locale expected to absorb increased residential density.

The existing right-of-way of 33rd Avenue would continue to operate in periodic crowded conditions which could presumably be intensified by development on any of the subject sites. New development on any of the subject sites would undoubtedly mean increased surface water runoff due to greater site coverage by impervious surfaces and loss of plant and animal habitat. Future development may increase demand for on-street parking and may result in increased light and glare and noise and traffic and demand for public services and utilities. These long-term or use-related impacts are associated with development, however, and would be addressed at the time of development permit application. No additional SEPA conditioning or mitigating measures are warranted at this time.

Actual development on any of the sites, if substantial enough, will be subject to further SEPA review. 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). Any required review will include identifying additional mitigation measures needed to achieve consistency with SEPA and other applicable environmental laws.

No new construction of structures is proposed for the subject site at this time. The rezone would result in the opportunity for the properties to be developed as single-purpose commercial structures or as mixed-use structures with commercial and residential uses. Future construction of sizeable structures, especially on combined subject sites, would likely require SEPA and Design Review. Piecemeal change of use or development on individual lots within the rezone area could occur without environmental review of the impacts on the existing canopy street trees and on the availability of on-street parking. DPD has recommended that the City Council place conditions on the rezoned properties to allow for these impacts to be mitigated.

Future construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves might well result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. There would be no temporary or construction-related impacts directly resulting from the rezone, however, which is a change in a Land Use map designation only. Therefore, no conditioning pursuant to SEPA construction policies is warranted.

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.

- [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 43.21C.030 2c.

CONDITIONS - SEPA

None required.

RECOMMENDED CONDITIONS – REZONE

1. Any future change of use or development proposed on separate or combined parcels within the rezone area must account for the continued integrity, health and well-being of the eight ‘Scarlet Sentinel’ maple trees located in the planting strip adjacent the six parcels proposed for rezoning.
2. No additional curb cuts in addition to those already legally established along 33rd Avenue adjacent the six parcels that are the subject of this rezone shall be allowed as part of any change of use or development proposal; for redevelopment proposed on two or more of the existing parcels, relocation of an existing legally established curb cut might be allowed as long as the relocation were determined not to adversely affect pedestrian safety or comfort and were demonstrated not to adversely affect the integrity, health and well-being of the existing street trees along the east side of 33rd Avenue.
3. The applicant(s) for any change of use or development proposal on any of the six parcels that are the subject of this rezone, which change of use or development proposal might otherwise might not require environmental review, shall provide, if deemed appropriate by DPD, a Parking Impact Analysis, and DPD may impose, if deemed appropriate, mitigation to address identified adverse impacts relative to identified street-parking capacity in the vicinity.

Signature: _____ (signature on file) Date: July 17, 2008
Michael Dorcy
Senior Land Use Planner
Department of Planning and Development

MD:bg

dorcym/doc/decision3008274rezone).doc