



City of Seattle

Department of Planning and Development

D. M. Sugimura, Director

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

**Application Number:** 3008760  
**Applicant Name:** Roger Newell for Washington Land & Investment  
**Address of Proposal:** 1623 Bellevue Avenue

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a six story building containing 23 residential units and 1,027 square feet of retail at ground level. Parking for 11 vehicles to be provided below-grade within the structure. Project includes 1,950 cubic yards of grading. Existing structure to be demolished.

The following approvals are required:

**Design Review** – Chapter 23.41 SMC.

1. SMC 23.54.030.G. Sight Triangle.

**BACKGROUND DATA**

*Project Description*

The project proposes a six story structure with 23 residential units, approximately 1,027 square feet of retail space and approximately 11 parking spaces within the structure below grade. Parking access would be from Bellevue Avenue.

The proposal has evolved from the EDG design with its pronounced plinth / podium to a moment frame expression encouraged by the Board. The two story building base is cast in place concrete with four wood frame levels above. Overall, the east and west facades are divided into two vertical stacks of units separated by a wider central frame element. On the Bellevue Avenue façade the full site width concrete base frame will continue through the third level in the south vertical stack, to respond to the elevator and stair penthouse that extends beyond the roof above. The north half third level will be clad with cementitious panels as will the entirety of the three levels above, the north and south facades, and levels 2 through 6 on the west (back) façade. Except for the south portion concrete frame that extends to the fourth level, the frame of the

street facing levels above the concrete base will be inset five feet from the north and south property boundaries and set back approximately 23-feet from the street property line leaving a 40-foot wide central section.

The two stacks of units within the frame system are each divided into a larger central bay and a narrow outboard bay. The central bays are comprised predominately of grids of windows for living rooms and narrower areas of decks that recess toward the set back bedroom windows. The five-foot wide outboard bays contain windows leading to each unit's second bedroom.

At sidewalk level, there is a secondary residential exit at the building's south end followed by a commercial area of approximately 18 feet in length divided into two small commercial spaces, then a wider, main residential entry, and finally the garage entry. The main residential entry door and garage door are proposed to be located 5'4" from the sidewalk. To minimize the garage opening impact on the street front, a 10-foot wide garage door and driveway are proposed and the previously presented design departure for a reduced north side sight triangle is requested.

Materials proposed are stained concrete at the building's first level on all facades with this extending through the street side second level and one-half of the third level, as described above. Large dark reddish brown cementitious panels will serve as a rain-screen siding for all façade levels above the concrete. The panels will have visible open joints, likely with exposed fasteners for an industrial appearance. An aluminum storefront window system will be used for the commercial areas. A steel and glass canopy will extend over the commercial frontage. The proposed residential windows are clay color vinyl with the true divided lites forming the grid pattern. The main residential entry canopy of aluminum and plexi-glass will be curvilinear to differentiate it from the commercial area. The metal residential and garage doors will also be a grid pattern. The entry soffits will be a Hardi-panel-like material of a lighter color than the exterior.

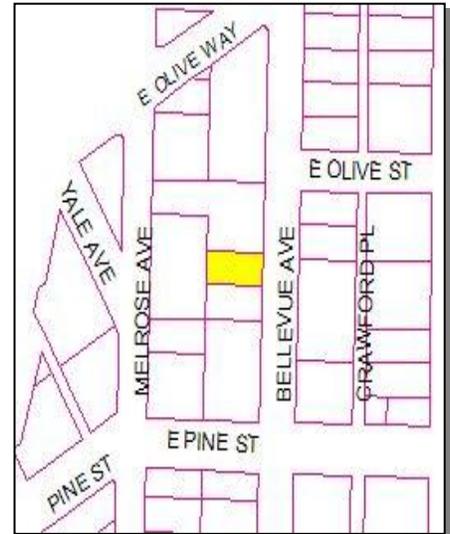
In front of the residential grid windows along the street façade fiberglass planters are proposed. Planters are also proposed in front of the commercial store fronts and a small area by the main residential entry. The rear first level patio will have raised planter areas with an extensive array of trees and lower growing plants. The sidewalk planting strip will be extensively landscaped but a paved area will remain next to the driveway for once a week dumpster placement. There will be a roof-top residential amenity patio area with a raised landscape planter and both surrounded by an extensive green roof.

A request for a design departure from the dimensional requirements for sight triangles was continued from EDG and is described in the design departure table at the end of this document.

### Site and Vicinity Description

The project site is approximately 5,250 square feet in area (50' x 105') and on the west side of Bellevue Avenue between East Pine and East Olive Streets. The site sits above the parcels to the west and is divided from them by a short distance of elevation change that extends northward.

The site is zoned Neighborhood Commercial 3 with a sixty-five foot height limit (NC 3-65) as are all surrounding parcels. A Mid-Rise zone (MR) extends to the northeast beyond the alley across the street. The surrounding parcels are a mix of ages and sizes of multi-family structures, some containing commercial uses, such as directly across Bellevue Avenue, and an occasional early 1900's single-family structure. The site directly to the south contains a 26 unit 1960's era apartment structure that is expected to be demolished for the construction of a six-story 103 unit residential structure with street level commercial space and parking for 123 vehicles (DPD #3007778).



## **ANALYSIS-DESIGN REVIEW**

### **Public Comments**

Two members of the community attended the Early Design Guidance meeting and submitted the following comments and concerns:

- The proposed project will remove an adequate apartment building that provides affordable housing and replace it with more less affordable units.
- Do not use the Hawthorne Apartments directly across Bellevue Avenue for design direction; it does not have a welcoming street presence. The building is too massive / appears “formidable” and the street level retail is hidden beneath the sidewalk awning.
- The proposed plinth with the set back structures above is not a part of the surrounding urban context.
- The proposed recessed garage entry is a potential location for crime.
- Do not agree with the Board that there will be “confusion” between the garage entry and commercial entries as proposed.
- The balconies proposed as modulation “factors” will only serve as out of context “features”; these are not typical of the favorable surrounding light-industrial context.
- There is no reference to the favorable surrounding light-industrial context in the proposed design, but should be.
- Brick should be used as a façade material.
- Consider dividing the proposed large commercial space (approximately 1,200 SF) into two areas. This is more in keeping with the areas predominant small and popular commercial spaces.
- The design proposed would destroy the urban space qualities of the street.

### **Design Guidelines Priorities**

The project proponents presented their initial ideas at an Early Design Guidance Meeting on May 21, 2008. After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members identified the following Citywide Design Guidelines as high priorities to be considered in the final proposed design.

## **A. Site Planning**

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

The Board acknowledges that the relatively narrow site (50') is a limiting site condition. However, the four schemes presented do not show any exploration of alternatives to a plinth with a tower set back above. Although it is in response to the required first to second level set-back from existing Seattle City Light (SCL) power lines, it does not respond to the surrounding architectural context (see *C-1* below). Further design development should strongly explore alternatives to this pronounced base and set-back when responding to the remaining design guidance given.

**A-3 Entrances Visible from the Street. Entries should be clearly identifiable and visible from the street.**

Responding to this guideline could be difficult with the proposed two bay plinths and combined and recessed residential and garage entries. Combining these two entries to avoid a single and narrow residential entry is understandable, however as proposed the residential entry could become lost in the larger bay. Moving away from the strongly expressed plinth as outlined in *C-2* below could provide new design options for this area. The design should also consider bringing the residential entry further toward the property line and /or creating a closer visual association with the commercial entry area. Differentiation of the canopy / overhead weather protection (OHWP) for each entry can be explored, but not fully relied upon.

**A-4 Human Activity. New development should be sited and designed to encourage human activity on the street.**

The proposed recessed commercial and residential entries beneath the frame of the proposed plinth seem to hide these elements and diminish their ability to support human activity.

The one large commercial space proposed isn't in keeping with the smaller commercial spaces in this area. Dividing this into two spaces with two entries may be a better economic choice while creating a better response to this guideline.

**A-6 Transition between Residence and Street. For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors.**

The proposed 10-foot garage and residential door set-backs should not create areas where pedestrian and resident safety is compromised.

**A-8 Parking and Vehicle Access. Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.**

A limitation of a narrow site is the amount of street frontage given over to vehicle access. The Board is supportive of the proposed 10-foot driveway but directs the design to create a visually pleasing and safe vehicle entry area with a high quality door finish / design and quality surrounding materials (soffit, walls, and lighting).

## **B. Height, Bulk and Scale**

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

The Board expressed concerns about the proposed building massing (see C-2 below).

## **C. Architectural Elements and Materials**

**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-2 Architectural Concept and Consistency. Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural context.**

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

The Pike Pine Design Guidelines provide many examples of prevalent contextual building forms and materials. The proposed extensive use of stucco and a pronounced plinth are not among them.

Again, the design should re-examine the use of the plinth with tower above. The Board notes that the proposed upper level frame expression does refer to the “moment frame” auto-row structures throughout the neighborhood. However, this expression is greatly diminished by its set-back from the plinth base and the recessed street level facade within the plinth.

If the underground re-location of the SCL power lines in conjunction with the neighboring project to the south is not possible, alternative to the tower set-back should be found. A possibility may be setting back the base to be in line with the upper levels.

An examination of the quality buildings in the neighborhood should be made to see what the prevalent material choices are; brick is one. If a concrete base is pursued, it should not be covered with stucco or similar. The choice of materials should reinforce the positive “moment frame” expression. Material transitions at the building corners should be visually appropriate. If a ground level setback is pursued careful attention must be given to the choice of soffit material to assure the set-back area is visually inviting.

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

See guidance in A-3, 4, 6, and 8 above. Interior garage lighting should be shielded from sidewalk and street view.

#### **D. Pedestrian Environment**

**D-5 Visual Impacts of Parking Structures. The visibility of all at-grade parking structures or accessory parking garages should be minimized. The parking portion of a structure should architecturally compatible with the rest of the structure and streetscape. Open parking spaces and carports should be screened from the street and adjacent properties.**

See guidance in A-3, 4, 6, 8, and C-5 above.

**D-6 Screening of Dumpsters, Utilities and Service Areas. Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located in the pedestrian right-of-way.**

The applicant discussed splitting the garbage and recycling storage areas within the structure and locating the garbage / dumpster equipment by the garage door since the proposed garage entry won't permit entry of large pick-up vehicles. Any location visible from the street must be fully and attractively screened.

**D-7 Personal Safety and Security. Project design should consider opportunities for enhancing personal safety and security in the environment under review.**

See guidance in A-3, 4, and 6 above.

**D-10 Commercial Lighting. Appropriate levels of lighting should be provided in order to promote visual interest and a sense of security for people in commercial districts evening hours.**

Any street level façade setback, both pedestrian and vehicle, beneath a level above should provide adequate and attractive lighting. In respect to neighboring residential structures across Bellevue Avenue, light should not trespass off site.

## **E. Landscaping**

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

Any street level setback, the planting strip (if it leaves adequate sidewalk width), and any upper level terrace areas are an opportunity for quality landscaping / Green Factor elements that will provide “greening” appropriate to this urban context.

### **REQUESTED CODE DEPARTURES**

A design departure from the full dimensional requirements for driveway to sidewalk sight triangles was requested at the EDG meeting. The Board said it would consider this request due to the buildings northeast corner column, narrow site, and on whether granting the design departure would result in a better project design by adequately addressing any resultant pedestrian safety issues.

### **MASTER USE PERMIT APPLICATION**

The applicant revised the design and applied for a Master Use Permit with a design review component on October 15, 2008.

### **DESIGN REVIEW BOARD RECOMMENDATION**

The Design Review Board conducted a Final Recommendation Meeting on January 21, 2009 to review the applicant’s formal project proposal developed in response to the previously identified priorities. At the public meeting, site plans, elevations, floor plans, landscaping plans, models, and computer renderings of the proposed exterior materials were presented for the Board members’ consideration.

### **Public Comments**

Three members of the public attended and one person offered the following comments in response to the applicant’s presentation:

- The “green roof” is a nice addition – too bad it can’t also be on the lower levels.
- The proposed moment frame design is responsive to the Pike / Pine vernacular, but the planters break the rhythm established by the frame.
- The street level windows should not be a grid pattern like the upper level windows, but instead should follow the Pike / Pine vernacular with larger panes or lights on the bottom with smaller panes on the top of the window assembly. The project’s west side patio level windows are more in keeping with this.
- The proposed garage door grid is attractive but is too similar to the window grid and may be confused as store-front area and thereby be a safety problem.
- The vertical material change (stained concrete below with stained cementitious panels above) is not a part of the Pike / Pine vernacular.

- The curved residential entry canopy should be similar to the flatter and rectilinear commercial canopy.

### **Comment letters**

One comment letter was received concerning potential view blockage and loss of property value.

### Development Standard Departures

The applicant requested departures from the following standards of the Land Use Code:

1. Sight triangle. Two-way driveways less than 22' wide and less than ten feet from the property line may have a 5' by 10' unobstructed sight triangle on that side, otherwise the triangle must have 10' sides.

### **Recommendations**

At the January 21, 2009 Recommendation meeting the Design Review Board reviewed the design submitted in response to the EDG and further developed in conjunction with the project planner and discussed the requested design departure (see design departure table at the end of this document for details). Following the clarifying questions and deliberation, the Board provided the following additional guidance and recommendations.

#### **A. Site Planning**

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

The Board was pleased to see that the design evolved from the original tower and plinth proposal to incorporate a visible moment frame common to the surrounding Pike / Pine area. Consequently, the Board determined that the presented design responds to this particular guidance.

**A-3 Entrances Visible from the Street. Entries should be clearly identifiable and visible from the street.**

The Board was pleased to see that the residential entry door and garage door are proposed to be closer to the sidewalk / property line (5'4" proposed). However, the Board discussed the benefit of creating a better relationship with the street and for the structure's overall architectural expression by moving both even closer to the sidewalk / property line and recommends both should be at the same 18" setback as the commercial storefront. See C-2 below for Board comments about the curved residential canopy proposed.

**A-4 Human Activity. New development should be sited and designed to encourage human activity on the street.**

In light of other comments in this document, the Board determined that the presented design responds to this guidance.

**A-6 Transition between Residence and Street.** For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors.

By following the recommendation on entry door set-back in A-3 above, the Board determined that the design responds to this guidance.

**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.

Concerns about pedestrian safety by a too similar appearance of the residential entry and garage doors were discussed. The Board concluded this should not be a problem since the garage entry width is small and the operating door will be a strong clue to pedestrians of the nature of this area. Also, the garage entry will not have a canopy while the residential entry will. The proposed grid pattern metal garage door should be constructed of quality materials and finish for long term durability and visual appeal. The garage ramp interior walls and soffit (ceiling) visible from the street should also use high quality materials, colors that relate to the building exterior, and appropriate lighting since this area will be visible from the sidewalk.

The Board discussed the Design Departure for a reduced sight triangle on the driveway's north side. The Board recommends approval of this request due to the proposed narrow driveway, which will minimize streetscape visual impacts within the context of this narrow lot, and the proposal to supplement this reduction with mirrors and visible (not) audible alarms. The Board suggested the applicant explore the possibility of altering the sidewalk paving pattern in front of the garage entry as another opportunity for creating a visual cue for pedestrians.

The Board finds that the presented design fully responds to this guidance.

## **B. Height, Bulk and Scale**

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

Based on the Board comments elsewhere in this document, the presented design has fully responded to this guidance.

## **C. Architectural Elements and Materials**

**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-2 Architectural Concept and Consistency.** Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural context.

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

The Board recommends the proposed moment frame expression and stained concrete base, but had concerns about the proposed planters, the durability of the Hardi-panels at exposed corner edges and in proximity to planters, and the lack of details about residential window trim in transition to the panel siding.

The Board discussed the architectural incompatibility and likely maintenance / waterproofing problems of the proposed street facing upper level residential planters and recommended that they not be used. With the removal of the planters, the residential windows should be brought down to, or almost to, the floor level, similar to that proposed on the building's west side. Not using planters will avoid their moisture impacts on the siding panels.

The Board supports the proposed use of Hardi panels as the upper level siding but is concerned that its exposed corners, where it would wrap inward toward the recessed windows and patios, won't withstand moisture impacts and maintain long term visual attractiveness. The Board directs the architect to assure this will not be a problem, and if so, revise this detail compatible with the overall design presented.

The recessed upper level windows proposed should read as assemblies distinct from the "moment frame" element surrounding them. This may require that they extend from floor to ceiling and around corners. The materials that wrap the windows (head, jamb, sill, and corners) must be consistent with the window frames to reinforce the concept of the windows as unified assemblies.

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

Based on the Board comments elsewhere in this document the presented design responds to this guidance.

**D. Pedestrian Environment**

**D-5 Visual Impacts of Parking Structures. The visibility of all at-grade parking structures or accessory parking garages should be minimized. The parking portion of a structure should be architecturally compatible with the rest of the structure and streetscape. Open parking spaces and carports should be screened from the street and adjacent properties.**

Based on the Board comments elsewhere in this document the presented design responds to this guidance.

**D-6 Screening of Dumpsters, Utilities and Service Areas. Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located in the pedestrian right-of-way.**

The garbage and recycling are proposed to be in the garage and away from the garage doors. However, these containers will be brought out to the planting strip once weekly for pickup. The proposed expanded concrete area in the planting strip and next to the driveway should be adequate to keep these off the sidewalk and out of the way of pedestrians. Based on this, the Board finds the design responds to this guidance.

**D-7 Personal Safety and Security. Project design should consider opportunities for enhancing personal safety and security in the environment under review.**

Based on the Board comments elsewhere in this document the presented design responds to this guidance.

**D-10 Commercial Lighting. Appropriate levels of lighting should be provided in order to promote visual interest and a sense of security for people in commercial districts evening hours.**

The Board finds the presented design responds to this guidance.

**E. Landscaping**

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

With the exception of the proposed street facing upper level residential planters discussed above, the Board finds that the landscape and green roof plan responds to this guidance.

The possibility of the existing Pacific dogwood at the site’s southwest corner being an *Exceptional* tree is an unresolved issue. However, if it is and must be retained, the Board does not see any significant implications for the presented and recommended design.

**Board Recommendations:** The recommendations summarized below were based on the plans submitted at the January 21, 2009 meeting. Design, siting or architectural details not specifically identified or altered in these recommendations are expected to remain as presented in the plans and other drawings available at the January 21<sup>st</sup> public meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities, and reviewing the plans and renderings, the four Design Review Board members present unanimously recommended approval of the subject design and the requested development standard departures from the requirements of the Land Use Code (listed below).

Land Use Code Standard	Proposed Amount of Departure	Rationale for Request	Board Recommendation
<p><b>Sight Triangle.</b> Two-way driveways less than 22’ wide and less than 10’ from the property line may have a 5’ by 10’ unobstructed sight triangle on that side, otherwise the triangle must have 10’ sides. SMC 23.54.030.G.</p>	<p>The applicant asked that the property line triangle to be 2’ x 10’ and the south side triangle to extend 6’ into the driveway and 9’ along the sidewalk frontage based on their proposed 5’4” set back. However the Board directs the applicant to bring the door as close to an 18” set back as possible. This would result in 18” by 10’ and 9’ triangles.</p>	<p>The small site and demands of the proposed plinth construction require a column to intrude possibly 2’ into the sight triangle on the north side. On the south side, in order to bring the building toward the property boundary, low architectural elements will intrude into the triangle. The same safety goal can be achieved by the addition of mirrors and visual warning signals. A-6</p>	<p>The Board <b>Recommends Approval</b> of the requested reduction to achieve the guidance given, based on the overall design proposed, and addition of mirrors and audible warning signals.</p>

The Board recommended the following **CONDITIONS** for the project. (Authority referenced in the letter and number in parenthesis):

1. Move the residential entry door and the garage door closer to the sidewalk / property line. Set both doors back 18 inches from the exterior wall similar to the commercial storefront entrances. (A-3)
2. Construct the grid patterned metal garage door of quality materials and finish for long term durability and visual appeal. (A-8)
3. Use high quality materials, colors that relate to the building's exterior, use shielded lighting for the garage ramp's interior walls and soffit as they will be visible from the sidewalk. (A-8)
4. Remove the street facing upper level residential planters and bring the residential windows down to, or almost to, the floor level, similar to that proposed on the building's west side. (C-4)
5. Revise the detailing of the exposed Hardi panel corners where it wraps inward toward the recessed windows and patios in order to prevent negative moisture impacts and maintain long term visual attractiveness. The revised detail should be compatible with the overall design presented. (C-4)
6. Redesign the recessed upper level windows to read as assemblies distinct from the "moment frame" element surrounding them. This may require that they extend from floor to ceiling and around corners. The materials that wrap the windows (head, jamb, sill, and corners) must be consistent with the window frames to reinforce the concept of the windows as unified assemblies. (C-4)

### **DIRECTOR'S ANALYSIS - DESIGN REVIEW**

The Director finds no conflicts with SEPA requirements or state or federal laws, and has reviewed the City-wide Design Guidelines and finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design. The Director agrees with the conditions recommended by the four Board members and the recommendation to approve the design, as stated above.

As referred to in Recommendation guideline E-2, a Pacific Dogwood tree located on the subject property was determined by city arborists to be an "exceptional" tree under the City of Seattle Tree Protection Ordinance 25.11. During DPD's review of the project, the applicant removed the Pacific Dogwood although it had been conveyed to the Barretts' agent and architect that the tree was "exceptional" and should not be removed. DPD issued a notice of violation on December 17, 2009 to the Barnetts for the violation of SMC 25.11, specifically SMC 25.11.040.A.3 and SMC 25.11.100.

A Settlement Agreement has been signed by the applicant, Matthew Barnett, and the City of Seattle which stipulates several conditions to compensate for the tree's removal. The following conditions apply.

1. The Barnetts will pay the assessment value of the tree, which totals \$4100.00 no later than October 11, 2010. Payments should be mailed or hand delivered to the City of Seattle, c/o Elizabeth E. Anderson, City Hall, 600 Fourth Ave. 4<sup>th</sup> Floor, PO Box 94769, Seattle, WA 98124-4769.

2. The parties agree that the City will condition MUP No. 3008760 to require replacement of the exceptional native dogwood that was removed at the request of Mrs. Barnett. The conditions will include the following:
  - a. The Barnetts shall modify their development plans to reserve an 11 by 15 foot area on site for a replacement tree when redevelopment occurs. This minimum area will ensure the replacement tree has adequate room for root development and growth.
  - b. Planting the tree in a “planter box” on site will only be allowed under the following circumstances: if such proposal is specifically reviewed and approved by DPD to, among other things, ensure adequate maintained (for example a permanent irrigation system to water the tree) and if the planter is permanently built into the concrete foundation.
  - c. Prior to obtaining approval by DPD to plant the tree, the Barnetts shall timely submit a landscaping plan to DPD that reflects the type, size and species of the proposed tree to replace the exceptional native dogwood.
    - i. The tree shall be one that has been selected from the attached list of approved Street Trees under the headings of “Large Trees”, “Large/Medium Trees” or “Medium Trees” and must be least be a three inch caliper tree;
    - ii. The proposed tree shall be based on a recommendation by an arborist based on an evaluation of the site conditions.
    - iii. Any proposed tree must “result in a site condition that, to the greatest extent practicable, equals the site conditions that would have existed in the absence of the violation” here, a 15 inch diameter native Pacific Dogwood. Therefore, the Barnetts or their agent must submit the proposed tree to DPD in the form of a landscaping plan for its review and approval and it must conform to the conditions above.
  - d. The proposed tree, as approved by DPD in the form of a landscaping plan, shall be planted prior to receiving a certificate of occupancy for Project No. 3008760.
  - e. The tree must be maintained for the life of the project (Project No. 3008760).
  - f. In addition, the Barnetts or their agent must ensure the tree is properly maintained after it is planted to ensure it that it will become established. Maintenance will include mulching and watering.
    - i. With respect to mulching, the Barnetts or their agent shall place two to three inches of medium-fine bark in a four-foot diameter around the tree ten days after the tree is planted and again, one year after the replacement tree was planted.
    - ii. The Barnetts or their agent shall also regularly water the tree as recommended by the tree purveyor and as is sufficient to maintain tree health. If no such recommendation is provided, water tree weekly between June 1st and September 15th shall occur with between 15 to 30 gallons; more or less water may be required depending on weather conditions and other factors.
3. The Barnetts shall return to the City a signed covenant binding the Barnetts or future heirs and assigns to replace the tree as specified in the covenant no later than October 11, 2010. This will ensure that the replacement tree will be planted even if the proposed development in MUP No. 3008760 is not constructed.
4. If the Barnetts do not timely comply with the terms of this settlement agreement, the City

may file a lawsuit against the Barnetts to seek the full amount of monetary penalties allowed under the Seattle Municipal Code for violating the tree protection ordinance.

5. This Agreement encompasses the entire agreement between the parties and may only be modified by subsequent written agreement.

## **DECISION - DESIGN REVIEW**

The proposed design is **CONDITIONALLY GRANTED**.

## **CONDITIONS-DESIGN REVIEW**

### *Prior to Issuance of a Master Use Permit*

Update the official plan sets to reflect the following:

1. Move the residential entry door and the garage door closer to the sidewalk / property line. Set both doors back 18 inches from the exterior wall similar to the commercial storefront entrances.
2. Construct the grid patterned metal garage door of quality materials and finish for long term durability and visual appeal.
3. Use high quality materials, colors that relate to the building's exterior, use shielded lighting for the garage ramp's interior walls and soffit as they will be visible from the sidewalk.
4. Remove the street facing upper level residential planters and bring the residential windows down to, or almost to, the floor level, similar to that proposed on the building's west side.
5. Revise the detailing of the exposed Hardi panel corners where it wraps inward toward the recessed windows and patios in order to prevent negative moisture impacts and maintain long term visual attractiveness. The revised detail should be compatible with the overall design presented.
6. Redesign the recessed upper level windows to read as assemblies distinct from the "moment frame" element surrounding them. This may require that they extend from floor to ceiling and around corners. The materials that wrap the windows (head, jamb, sill, and corners) must be consistent with the window frames to reinforce the concept of the windows as unified assemblies.
7. The Barnetts will pay the assessment value of the tree, which totals \$4100.00 no later than October 11, 2010. Payments should be mailed or hand delivered to the City of Seattle, c/o Elizabeth E. Anderson, City Hall, 600 Fourth Ave. 4<sup>th</sup> Floor, PO Box 94769, Seattle, WA 98124-4769.
8. The Barnetts shall modify their development plans to reserve an 11 by 15 foot area on site for a replacement tree when redevelopment occurs. This minimum area will ensure the replacement tree has adequate room for root development and growth.
9. Planting the tree in a "planter box" on site will only be allowed under the following circumstances: if such proposal is specifically reviewed and approved by DPD to, among other things, ensure adequate maintained (for example a permanent irrigation system to water the tree) and if the planter is permanently built into the concrete foundation.
10. Prior to obtaining approval by DPD to plant the tree, the Barnetts shall timely submit a

landscaping plan to DPD that reflects the type, size and species of the proposed tree to replace the exceptional native dogwood.

- i. The tree shall be one that has been selected from the attached list of approved Street Trees under the headings of “Large Trees”, “Large/Medium Trees” or “Medium Trees” and must be least be a three inch caliper tree;
  - ii. The proposed tree shall be based on a recommendation by an arborist based on an evaluation of the site conditions.
  - iii. Any proposed tree must “result in a site condition that, to the greatest extent practicable, equals the site conditions that would have existed in the absence of the violation” here, a 15 inch diameter native Pacific Dogwood. Therefore, the Barnetts or their agent must submit the proposed tree to DPD in the form of a landscaping plan for its review and approval and it must conform to the conditions above.
11. The Barnetts shall return to the City a signed covenant binding the Barnetts or future heirs and assigns to replace the tree as specified in the covenant no later than October 11, 2010. This will ensure that the replacement tree will be planted even if the proposed development in MUP No. 3008760 is not constructed.

*During Construction*

12. Arrange a pre-construction meeting with the building contractor, building inspector, and land use planner to discuss expectations and details of the Design Review component of the project.

*Prior to Issuance of all Construction Permits*

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

*Prior to Issuance of a Certificate of Occupancy*

14. Compliance with all images and text on the MUP drawings, design review meeting guidelines and approved design features and elements (including exterior materials, landscaping and ROW improvements) shall be verified by the DPD planner assigned to this project (Bruce P. Rips, 615-1392) or by the Design Review Manager. An appointment with the assigned Land Use Planner must be made at least three (3) working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.
15. The proposed tree, as approved by DPD in the form of a landscaping plan, shall be planted prior to receiving a certificate of occupancy for Project No. 3008760.
16. If the Barnetts do not timely comply with the terms of this settlement agreement, the City may file a lawsuit against the Barnetts to seek the full amount of monetary penalties allowed under the Seattle Municipal Code for violating the tree protection ordinance.

*For the Life of the Project*

17. Any proposed changes to the exterior of the building or the site or must be submitted to DPD for review and approval. 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.

18. The tree must be maintained for the life of the project (Project No. 3008760).
19. In addition, the Barnetts or their agent must ensure the tree is properly maintained after it is planted to ensure it that it will become established. Maintenance will include mulching and watering.
  - i. With respect to mulching, the Barnetts or their agent shall place two to three inches of medium-fine bark in a four-foot diameter around the tree ten days after the tree is planted and again, one year after the replacement tree was planted.
  - ii. The Barnetts or their agent shall also regularly water the tree as recommended by the tree purveyor and as is sufficient to maintain tree health. If no such recommendation is provided, water tree weekly between June 1st and September 15th shall occur with between 15 to 30 gallons; more or less water may be required depending on weather conditions and other factors.
20. This Settlement Agreement regarding the replacement of the Pacific Dogwood tree encompasses the entire agreement between the parties and may only be modified by subsequent written agreement.

Signature: \_\_\_\_\_ (signature on file) Date: November 18, 2010  
Bruce P. Rips, AICP  
Department of Planning and Development