



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

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

Application Number: 3009856
Applicant Name: Jodi O'Hare, PCNW
Address of Proposal: 2026 East Madison Street

SUMMARY OF PROPOSED ACTION:

Land Use Application to allow a six-story structure containing 9,576 sq. ft. of commercial space at ground level and 222 residential units above. Parking for 229 vehicles to be provided below grade. Project includes 29,750 cu. yds. for grading.

The following approvals are required:

SEPA - Environmental Determination - Chapter 25.05, (SMC).

Design Review - Chapter 23.41, (SMC).

Development Standard Departures:

Maximum Setback from Street Frontage, (SMC 23.47A.008.A.3)

Floor to Floor Height and Use Depth of Non-residential Uses (SMC 23.47A.B.3.b)

Location of Residential Uses Relative to Sidewalk
(SMC 23.47A.008.D.2)

Sight Triangle (SMC 23.54.030.G.2)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

Background Information:

This project proposal revises an issued Design Review MUP decision for the site issued under project number 2204305. That design was never constructed. Now under the control of another ownership group, the proposal has been redesigned and presents a substantially different architectural expression. It continues to be a six story, mixed-use building with underground parking and frontages on three streets. In addition the SEPA environmental review is approaching the end of its maximum allowed five year life. A new MUP application was made seeking Design Review approval of the new architectural design and to conduct a new SEPA review. A Design Review Recommendation Meeting was held to review the new design and make a recommendation to DPD. At this meeting the applicant provided Board members with floor and elevation plans, landscape plans, and samples of materials to be used to construct the mixed-use project.



Area Development:

The site, zoned NC2-65 and NC3P-65 is located at the northwest corner of E. Madison St. and E. Denny Way. An alley segment running east and west through the site has received preliminary alley vacation from the Seattle City Council. A north/south alley segment remains in place and connects E. Denny Way and E. Madison Streets. Development in the area is a mix of residential and locally serving restaurant and commercial uses. E. Madison is a focus of retail and restaurant uses. Immediately north thereof uses become multi-family residential and single family residential without commercial use or character.

Proposed Project

The applicant proposes to construct a six-story mixed-use structure with retail and restaurant at grade and five stories of residential floors above. The design is organized around an internal courtyard with three pedestrian entry points from the perimeter of the site. A highly transparent street frontage would run along E. Madison Street, through a two story breezeway from that street into the courtyard and around the corner on to E. Denny Way for the depth of the commercial use. Along the remainder of the street frontage there are residential uses with landscaped areas and porches with steps separating them from the public sidewalk.

As part of the provision of public benefit in exchange for the alley vacation on the site, the development is proposed to step back 7.5 feet from street facing property lines at the first floor. In the sidewalk areas, generous landscape and street tree planting is proposed. In the commercial areas the paved sidewalk area continues across the additional setback to the commercial glass wall. In the residential areas this additional setback is landscaped to complement the public sidewalk realm and for placement of steps and stoops affording connection between residential units and the sidewalk.

The building exterior is comprised of cementitious siding in a range of painted colors, white vinyl windows on residential units, sealed concrete in the base story, aluminum storefront window and door systems along commercial spaces and metal accent pieces. Overall the proposed building presents a modern architecture.



Design Review

This MUP application was made to seek Design Review approval of the new architectural design and to conduct a new SEPA review. This Recommendation Meeting was based upon the new MUP documents and makes use of the Early Design Guidance rendered for the site during the former MUP review. At this meeting the applicant provided Board members with floor and elevation plans, landscape plans, and samples of materials to be used to construct the mixed-use project.

Public Comment

Public comment was received. Questions and comments included:

- The project is more refined and attractive in this second iteration. The atrium pathway into the courtyard works well.
- E. Madison St. is very heavily trafficked and a landscape buffer would help assure the vitality of the retail uses along it.
- Across Denny Way is a bus stop the users of which would be likely to frequent a bakery or coffee shop at the corner of the proposed building.

- The pocket park adjacent the alley and E. Madison St. is partially a parcel owned in common with the property to the west and the location of a surface parking space designated for use in conjunction with that building.
- The breezeway path from E. Denny Way across the site to the alley should have sightlines which encourage members of the public to walk across the site.
- The location of trash and recycling along the alley was pointed out in response to a question.
- A roof top open space was asked for, and the applicants indicated this was unlikely to happen as they have been able to locate their open space and landscape on the grade levels without the necessity of providing elevator and stair access to the rooftop.
- It was pointed out that the rooftop will be visible from properties up hill and that penthouses and equipment on the roof should be architecturally screened in an attractive manner.
- The additional setback of the top floor along E. Denny Way was complemented as the measure will allow more light to reach the street level while lessening the appearance of overall building height.

DRB Recommendation: May 6th 2009

After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and drawings showing the proposal, the Design Review Board members recommended approval of the design and the requested departures with some recommended conditions as described below. The Board found that the east/west pedestrian path across the site from E. Denny Way to the alley is not apparent enough to the public and may not get used. They found that there needs to be a “draw” into the site. Creating a visible sight line along the path from the street to the alley was discussed, but not insisted upon. The use of pavements to signify the public path was discussed. The applicants have proposed areas of wood walks on top of the concrete deck in some areas and concrete surfacing in others. The applicants indicated the wood treatment along the two breezeways in the east/west path would invite pedestrian entry. The Board was not convinced this treatment would read as public rather than private. The Board indicated there needs to be a focal point of some sort, visible from the two entry points, E. Denny Way and the alley, which reads as a public amenity and invites pedestrian entry. In addition they recommended that an entry signifying element be incorporated on the external façade along E. Denny Way and that the wood surface treatment, if used, be extended out of the breezeway tunnel into the sidewalk realm as indicator it is a public path. The lighting treatment of all publically accessible areas is an important detail needing to be addressed at the design review stage. A plan for lighting which will ensure the street fronting areas under building overhangs, the three breezeways and the interior public courtyard area are well lit, safe and inviting needs to be developed and incorporated into MUP plans.

Requested Departures: The Board recommended approval of the four development standard departures listed below.

Departure Request #1
23.47A.008 A3: Setbacks

Standard:

Street-level street-facing façades must be located within 10 feet of the street lot line unless wider sidewalks, plazas or other approved landscaped or open spaces are provided.

Proposed:

Allowing setback greater than 10-feet (12'-8") at the main residential entry along E Madison Street and (14'-10") at the restaurant entry on E Denny Way. Also propose waiving maximum setback requirement at the openings to the courtyard from E Madison Street and E Denny Way.

Rationale:

Due to the narrowness of the sidewalk along E Madison Street, the commercial envelop is set back 7'-6" from the street lot line to provide a generous sidewalk. To provide a similarly scaled experience along the east leg of E Denny Way, the commercial envelop is set back at approximately 12'-0" from the street lot line. The residential lobby and restaurant entries are further inset to differentiate them from the adjacent commercial frontage.

To provide access to the courtyard from the street as a condition of the alley vacation by SDOT, two openings on E Madison Street and E Denny Way, provide no built edge at street level though the building is continuous above.

Each of these features adds public benefit in the sidewalk realm along property frontages. They are a more appropriate response to site conditions than the Land Use Code proscribed approaches. Guidelines A-2 and A-4.

Departure Request #2
23.47A.008 B3b: Height & depth of nonresidential space

Standard:

Nonresidential uses at street level must have a floor-to-floor height of at least thirteen feet.

Proposed:

Propose reducing the floor-to-floor height of the retail space west of the residential entry on E Madison Street from 13'-0" to 12'-0".

Rationale:

The first floor slab will step in accordance with the changing grade of E Madison. This strategy will provide opportunities for multiple entry points and tenants, fostering smaller scale retail spaces. The grade change between the site low point and the highest retail slab is approximately 2'-7". The proposed reduction would still maintain an average floor-to-floor height above the

13'-0" requirement. To offset the effects of the reduced height, the proposed design provides generous glazed areas continuously along the E Madison Street frontage as well as intermittent glazing on the rear and sides of the impacted commercial space.

This approach better meets the goal of providing lively uses along commercial street frontages by better allowing the floor plates of individual commercial spaces to meet sidewalk grade. Guideline A-1, D-1.

Departure Request #3

23.47A.008 D2: Residential street level requirements

Standard:

Either the first floor of the structure at or above grade shall be at least 4 feet above the sidewalk grade or street-level façade shall be set back at least 10 feet from the sidewalk.

Proposed:

Propose the three western-most townhouse units be located between 2 feet 9 inches and 3 feet five inches above grade and setback between 7 and 9 feet from the sidewalk.

Rationale:

While neither the minimum elevation above sidewalk grade nor the minimum setback from the sidewalk are achieved, the combination of the setback provided (7' to 9'), elevation above sidewalk grade (2'-9" to 3'-5"), and intervening stoop and plantings satisfy the intent of the land use code by providing separation and maintaining privacy. Guidelines A-2 and D-1

Departure Request #4

23.54.030 G2: Sight triangle requirements

Standard:

A sight triangle on the side of the driveway used as an exit shall be provided and kept clear of obstructions for a distance of 10' from the intersection of the driveway with a curb intersection.

Proposed:

Reduce sight triangle required distance to 5'-8" and supplement with visual warning device.

Rationale:

The 10' requirement would result in a deep inset condition on the unmonitored alley side of the building. The proposed design provides a 5'-8" inset at the intersection with the alley and a visual warning device would eliminate any potential conflicts. This approach meets the pedestrian safety intent of the code provision while providing a better building frontage. Guideline A-8, D-7.

Recommended Conditions The following conditions of design review approval were recommended.

1. A focal point of some sort, to be approved by the DPD Land Use Planner, shall be included in the interior courtyard, visible from the two pedestrian entry points, E. Denny Way and the alley, which reads as a public amenity and invites pedestrian entry.

2. An entry signifying architectural element shall be incorporated at the breezeway entry along E. Denny Way and the wood walkway surface treatment, if used, shall be extended out of the breezeway tunnel into the sidewalk realm (staying within the property line) as an indicator that it is a public path.
3. Develop a plan for DPD review and approval for lighting which ensures the street fronting areas under building overhangs, the three breezeways and the interior public courtyard area are well lit, safe and inviting and incorporate the plan into the MUP and construction permit plans.

DIRECTOR'S ANALYSIS - DESIGN REVIEW

The Director finds no conflict with SEPA requirements or state or federal laws, and has reviewed the *City of Seattle Design Review: Guidelines for Multifamily & Commercial Buildings (January 2007)* and finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design and development standard departures. In addition, the Director is bound by any condition where there was consensus by the Board and agrees with the conditions recommended the Board members and the recommendation to approve the design and departures, as stated above.

DECISION - DESIGN REVIEW

Therefore, the proposed **design and departures** as presented at the October 15, 2008 Design Review Board meeting are **CONDITIONALLY APPROVED**. Design Review conditions are listed at the end of this decision.

ANALYSIS - SEPA

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations/circumstances (SMC25.05.665) mitigation can be considered. Thus a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: minor decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise, and consumption of renewable and non-renewable resources. Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Additionally, these impacts are minor in scope and are not expected to have significant adverse impacts (SMC 25.05. 794). However, due to the residential density and close proximity of neighboring businesses, further analysis of construction impacts is warranted.

Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality and will require permits for removal of asbestos (if any) during demolition. The owner and/or responsible party (ies) are required to comply with the PSCAA rules pertaining to demolition of projects with or without asbestos. This will ensure proper handling and disposal of asbestos, as well as demolition of structures without asbestos. No further SEPA conditioning is necessary.

Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Noise

The project is expected to generate loud noise during demolition, grading and construction. These impacts would be especially adverse in the early morning, in the evening, and on weekends. The Seattle Noise Ordinance permits increases in permissible sound levels associated with construction and equipment between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends. The surrounding properties are developed with housing and will be impacted by construction noise. The limitations stipulated in the Noise Ordinance are not sufficient to mitigate noise impacts; therefore, pursuant to SEPA authority, the applicant shall be required to limit periods of construction activities (including but not limited to

grading, deliveries, framing, roofing, and painting) to non-holiday weekdays from 7:00 a.m. to 6:00 p.m.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by impervious surfaces; increased bulk and scale on the site; increased demand on public services and utilities; increased light and glare; loss of vegetation; and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

The long-term impacts are typical of a mixed-use structure and will in part be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Storm water, Grading and Drainage Control Code (storm water runoff from additional site coverage by impervious surface); Land Use Code (height, setbacks, parking); and the Seattle Energy Code (long-term energy consumption). Additional land use impacts which may result in the long-term are discussed below.

Drainage and Water Quality

Rain water on roofs and roof decks are the major sources of water runoff on this site. The rainwater will be collected in gutters and connected to the storm drainage system. Therefore, drainage will be directed away from adjoining residential properties. No additional mitigation measures will be required pursuant to SEPA.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Height, Bulk and Scale

Section 25.05.675G2c of the Seattle SEPA Ordinance provides the following: "The Citywide Design Guidelines (and any council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk, and scale impacts addressed in these policies. A project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decision maker pursuant to these height, bulk, and scale policies on projects that have undergone Design Review shall comply with design guidelines applicable to the project."

There are no sensitive height, bulk or scale impact issues which have not been addressed during the Design Review process in the design of this project. Therefore, no additional height, bulk, or scale SEPA mitigation is warranted pursuant to the SEPA height, bulk and scale policy.

Traffic and Parking

Included in the environmental documents in provided by the applicants and found in the project file is an "Updated Transportation Impact Analysis" for the project dated January 13, 2009 by Heffron Transportation, Inc. The document focuses on three intersections near the proposal site, E. Madison/23rd Ave. E., E. Madison/E. Denny Way/22nd Ave. E., and E. Madison/19th Ave. E. These intersections are predicted to have unchanged Level of Service classifications under existing conditions, in the project year 2011 without the project and in that year with the project of "B", "A" and "C" respectively.

The Analysis also surveyed City of Seattle accident data in the immediate proposal area and determined there are no major traffic safety issues present.

A parking demand and supply analysis conducted in the same document predicted parking demand expected to be generated by the proposed development. The peak parking demand generated by residential uses is identified as near 1 space per unit, of approximately 222 spaces. Of the 229 spaces proposed for the project, the study suggests that 22 of them be reserved for the retail and restaurant businesses until 9:00 p.m. each evening to meet the demand for those uses on site. In general, the parking demands of the uses within the proposed project are predicted to be capable of being met by the parking spaces to be supplied on the site.

No SEPA based mitigation of traffic or parking impacts is warranted.

The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file; and any comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant. Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

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. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[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 43.21.030(2)(C).

- [] 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 – DESIGN REVIEW

Prior to Building Permit Issuance

1. A focal point of some sort, to be approved by the DPD Land Use Planner, shall be included in the interior courtyard, visible from the two pedestrian entry points, E. Denny Way and the alley, which reads as a public amenity and invites pedestrian entry.
2. An entry signifying architectural element shall be incorporated at the breezeway entry along E. Denny Way and the wood walkway surface treatment, if used, shall be extended out of the breezeway tunnel into the sidewalk realm (staying within the property line) as an indicator that it is a public path.
3. Develop a plan for DPD review and approval for lighting which ensures the street fronting areas under building overhangs, the three breezeways and the interior public courtyard area are well lit, safe and inviting and incorporate the plan into the MUP and construction permit plans.

CONDITIONS – SEPA

Prior to Issuance of Demolition Permits

None.

During Building Demolition, Site Work and Building Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

4. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays¹ from 7 a.m. to 6 p.m. Interior work using equipment within a completely enclosed structure, such as but not limited to compressors, portable-powered and pneumatic powered equipment may be allowed on Saturdays between 9 a.m. and 6 p.m. provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three (3) days in advance of the requested dates in order to allow DPD to evaluate the request.

¹ New Year's Day, Martin Luther King Junior's Birthday, President's Day, Memorial Day, July 4, Labor Day, Veterans' Day, Thanksgiving Day and Christmas Day.

Signature: _____ (signature on file) _____ Date: November 5, 2009
Scott J. Kemp, Senior Land Use Planner
Department of Planning and Development

SJK:bg

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