



City of Seattle
Edward B. Murray, Mayor

Department of Construction and Inspections
Nathan Torgelson, Director

**CITY OF SEATTLE
ANALYSIS, RECOMMENDATION AND DECISION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Numbers: 3019001
Council File Number: 314312
Applicant Name: Jodi Paterson-O'Hare, for East Union 22 LLC
Addresses of Proposals: 2220 E. Union Street

SUMMARY OF PROPOSED ACTIONS

Council Land Use Action to rezone a 29,044 square foot portion of land from NC2P-40' to NC2-65' and a 4,595 square foot portion of land from NC2-40' to NC2-65'. Project includes construction of a six story, 144 unit apartment building with 20,207 square feet of ground floor retail space. Parking for 148 vehicles will be provided below grade. Review includes demolition of existing structures on site.

The following approvals are required:

Contract Rezone – Rezone two parcels of land from NC2P-40' to NC2P-65' and one parcel of land from NC2-40' to NC2-65' and allow the future construction of a six story mixed use building (SMC Section 23.34.004).

Design Review - Seattle Municipal Code (SMC) Section 23.41

SEPA - Environmental Determination pursuant to SMC 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

PROJECT DESCRIPTION

The applicant proposes a contract rezone from NC2P-40' to NC2P-65' and NC2-40' to NC2-65' of land totaling 29,044 square feet. The site is comprised of platted lots 11 through 13, Block 8 of Renton Hill Addition to the City of Seattle. These parcels have been reconfigured into three parcels, #7228500570, #7228500571, and #7228500585, which comprise the "rezone area" being discussed. A specific development is proposed for the area of these parcels and includes design review and environmental review. Master Use Permit Application (MUP #3019001), in addition to the rezone analysis and recommendation for the site, includes design review and environmental review and determination for a six story mixed-use building. A Property Use and Development Agreement (PUDA) would delimit the development allowed on the site that is to be rezoned.

Adjacent zoning to the north currently is a mix of Single Family (the westerly 79 feet) and Neighborhood Commercial 2P-40' (the easterly 77 feet). Zoning to the east, across 23rd Avenue, is Neighborhood Commercial 2P-40'. Across 22nd Avenue to the west the zoning is Neighborhood Commercial 2P-30', and across E. Union Street to the south the zoning is Neighborhood Commercial 2P 65'. The entire area of the proposed rezone would undergo new development with the construction of a single new 6-story mixed use structure and attendant right-of-way improvements. The area proposed for the rezone is co-extensive with the area subject to the Design Review component.



The proposed mixed use structure will be bounded by 22nd Avenue on the west, 23rd Avenue on the east and E. Union Street on the south. It will accommodate 144 residential units, with 20,207 square feet of ground floor retail space. Parking for the building will total 148 parking spaces to be provided in two parking levels below grade. Access to the parking garage will be from 22nd Avenue, at a driveway to be located at the northwest corner of the proposed development. Access to truck loading will also be from 22nd Avenue.

Site & Vicinity

The development site is currently occupied by 3 structures. The largest of the existing parcels is currently home to a Union 76 gas station, which includes a single-story prefabricated structure that runs parallel to 23rd Avenue and serves as a mini-mart. A covered fueling island is located between the mini mart and 23rd Avenue. The larger of the two parcels along 22nd Avenue, occupying the northwest corner of the development site, is largely covered by a single-story building that is home to Cappy's Boxing Gym, and Seattle Kajukenbo & Kung Fu Kids. The area south of the gym parcel has been utilized as a community garden and contains a small structure that serves as a tool and work shed. The development site is generally flat, with a slight slope of perhaps two feet from north to south. The site contains no environmentally hazardous areas.

The site lies within what has been historically known as Seattle's *Central Area* or *Central District*, and occupies the geographical core of the northernmost node of the 23rd & Union-Jackson Residential Urban Village. It is identified as such in the 23rd Avenue Action Plan Urban Design Framework.

Public Comment

The comment period for this proposal ended on July 12, 2015. The Department received 8 written comments regarding the project during the official comment period. Public comment was also solicited at each of the Design Review meetings and specific comments are included under the Design Review analysis discussed below. While addressing other aspects of the proposal, none of these comments directly addressed the specifics or the appropriateness of the rezone.

ANALYSIS – REZONE

Rezoning is subject to the procedures outlined in (SMC 23.34.002). SMC 23.34.007 directs that the provisions of the rezone chapter shall be weighed and balanced together to determine which height designation, when applicable, best meets those provisions. This analysis of the rezone criteria includes code sections of General rezone criteria (SMC section 23.34.008). All rezonings are subject to the provisions of Sub-chapter II, and the general provisions contained in SMC section 23.34.007. No single criterion or group of criteria shall be applied as an absolute requirement or test of appropriateness of a zone designation, nor is there a “hierarchy of priorities” for rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.

SMC 23.34.004 Contract Rezoning.

- A. *Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone. A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.*

The subject application is for a contract rezone; a PUDA will be developed as part of the City Council review and approval.

- B. *Waiver of Certain Requirements. The ordinance accepting the PUDA may waive specific bulk or off-street parking and loading requirements if the Council determines that the waivers are necessary under the agreement to achieve a better development than would otherwise result from the application of regulations of the zone. No waiver of requirements shall be granted that would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The applicant does not seek a waiver from bulk or off-street parking and loading requirements. Departures from Code standards have been addressed through the Design Review process.

SMC 23.34.007 Rezone evaluation.

- A. *The provisions of this chapter 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.*

No provision of the rezone criteria establishes a particular requirement or sole criterion that must be met for rezone approval. Thus, the various provisions are to be weighed and balanced together to determine the appropriate zone designation for the properties.

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 not be less than the densities established in the Urban Village Element of the Comprehensive Plan.*

The site is located in the 23rd Avenue @ South Jackson – Union Residential Urban Village. The adopted growth targets for this Urban Village in the current Comprehensive Plan are for 650 additional households, and the target density of nine households per acre by 2024. The proposed rezone would slightly increase the zoned capacity of this Residential Urban Village and this increase does not reduce capacity below 125% of the Comprehensive Plan growth targets. The rezone actually aids the City’s ability to meet the population growth targets and densities in the 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.*

No change to the NC2 zone designation is proposed, and thus the criteria for designation of commercial zones in SMC 23.34.072 are not a part of this analysis. The NC2 zone criteria in SMC 23.34.076 continue to match the characteristics of the area better than any other zone designation. The site is located in the primary business district in the Residential Urban Village, on streets with good capacity and excellent transit service. The zone accommodates a pedestrian-oriented shopping area with a wide range of commercial uses, with housing as a compatible use.

No change to the Pedestrian designation is proposed, and thus the criteria for designation of Pedestrian zones in SMC 23.34.086 are likewise not a part of this analysis.

Change to the height designation is discussed below.

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

The commercial node, including the subject property, was zoned Community Business (BC) in 1980 and was rezoned to NC2-40 (with some locations having P zoning) when the most recent commercial zoning code was enacted in 2006. Since then, the zoning history has remained relatively consistent.

The only previous recent zoning change was to the south for the property immediately across the street from the site of the current rezone proposal. In 2008, that property, located at 2203 East Union Street, received contract rezone approval for a rezone from NC2P-40 to NC2P-65. (See CF #308565, DPD #3005925.) The project approved with that rezone was for a six-story apartment building with ground level commercial space. That building has recently been constructed.

In 2013, a rezone was proposed for an entire City block in the vicinity, addressed as 2301 E. Union Street, from NC2-40 and NC2P-40, to NC2P-65. (*In the Matter of the Application of Hugh Bangasser for the Midtown Limited Partnership, CF 3005931 ("Bangasser Rezone")*). This was not a contract rezone and there was no specific development proposal advanced. The Hearing Examiner recommended denial of the Bangasser Rezone in December 2013. The denial was appealed to City Council but later the application was withdrawn by the applicants. The principal reasons for the Hearing Examiner's denial were that in the absence of a specific development proposal, it was not possible to determine if development resulting from the rezone would fully implement the elements of the Action Plan or provide appropriate transitions to nearby zones.

Potential zoning changes for the site have been under consideration by the community and the City since 2013. In June of 2015, SDCI (then DPD) released details of proposed rezones and amendments to the Land Use Code to implement both the Central Area Neighborhood Planning Element and the Action Plan. The site is located in what is called Area 1.

The SEPA Determination of Non-Significance on the proposed rezones and amendments was appealed to the Hearing Examiner in July 2015. The appeal addressed only the public outreach process and height, bulk and scale impacts on Area 2, which is immediately west of Area 1, and extends from 22nd to 21st Avenues along East Union Street. The Examiner affirmed DPD's Determination of Non-Significance in a decision issued October 5, 2015 (Hearing Examiner File W-15-007). It is expected that the legislative proposal will be forwarded for City Council action in 2016.

The proposed 2220 E. Union contract rezone is consistent with the Action Plan and the height limits and other zoning standards recommended by SDCI in its legislative proposal. The proposed rezone also substantially exceeds the setback required in the legislative proposal for sites abutting a single family zone (see the response below to question 16).

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 Central Area Action Plan II (CAAP II) was adopted by the City Council in 1998 as the Central Area's Neighborhood Plan. In 2005, additional neighborhood policies for the Central Area were adopted as part of the Comprehensive Plan update.

More recently, on April 28, 2014, the City Council passed Ordinance 124558 amending the Seattle Comprehensive Plan in order to incorporate changes to the goals and policies in the Central Area Neighborhood Planning Element and changes to the Future Land Use Map that were developed during the planning process of the Action Plan.

On October 16, 2015, the City Council passed Ordinance 124887 amending the Seattle Comprehensive Plan to incorporate additional changes to the goals and policies in the Central Area Neighborhood Planning Element and the Future Land Use Map.

The above planning documents do not establish policies expressly for the purpose of guiding future rezones. Instead, the Action Plan provides the neighborhood's guidance for future rezones of the 23rd and Union location.

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 green spaces.*

There is SF 5000 zoning across 22nd Avenue E., northwest of the rezone site. The 22nd Avenue E. right-of-way is 70 feet wide, providing a separation between the site and the single-family zoning across the street.

The subject property borders NC2 zoning on all sides, except for the western 79 feet of the north property line, which abuts SF 5000 zoning. The SF-zoned property to the north is developed with a 1½ story single family residence that sits just one foot from the north property line of the rezone site (the house being nonconforming to single family side yard setbacks.)

Although a gradual transition between zoning and height categories is preferred by the rezone criteria, as are physical buffers or other buffering elements, the proposed rezone does not change the long-standing zoning pattern of commercial zoning abutting single family zoning along the western half of the north property line. That juxtaposition of zones and uses would not change with the rezone proposal.

What does change is the height designation of the site (from 40 to 65 feet) thus increasing the height differential between the rezone site and the SF 5000-zoned parcel on the northwest. Even in the absence of physical buffers or other buffering elements, however, this height differential has been mitigated through a sensitive building design that achieves a transition in height, bulk and scale through a series of elements that substantially exceed Code requirements and the recommendations in the Action Plan.

In the case of development in an NC zone adjacent to a residential zone, the Land Use Code requires a so-called “wedding cake” building form. The first 13 feet of structure requires no setback; between 13 and 40 feet, a 15-foot setback is required; above 40 feet, an additional 2 feet of setback is required for every 10 feet above 40 feet (resulting in a 20-foot setback above 40 feet). SMC 23.47A.014.B. In the case of this rezone site, the Action Plan relies on these Code setback requirements to provide the transition to an adjacent residential zone.

Although the “wedding cake” approach can sometimes be a successful zone edge transition, it is not well suited to the particular circumstances of this rezone site. Given that the existing single family home sits so close to the north property line, the Code-required setbacks would provide a greater sense of encroachment as no setbacks are required on the development site for the first 13 feet of building height. This Code-compliant setback would put the building structure on the north property line very close to the windows in the single family home. The Code-required setbacks provide bulk relief above the 13 feet, but the majority of the rezone building mass would only be 15 feet from the single family dwelling and zone.

To address the unique circumstances of the rezone site and single family dwelling to the north, a more sensitive building design is proposed as zone edge transition:

- At the ground level, a 5-foot landscaped area and screening would be provided as a buffer for the single family dwelling to the north.

The entire building, from the ground level through the fifth floor, is set back 30 feet-6 inches from the north property line, along the westerly 38 feet of the building. This more than doubles the Code-required (15-foot) setback for the 13-foot to 40-foot portion of the building. It provides a 55% increase over the Code-required (20-foot) setback for the 40-foot to 50-foot height of the building. An even greater setback is provided in this location for the sixth floor.

- For the westerly 38 feet of the building, the sixth floor is set back another four feet from the primary façade, for a total of 34 feet-6 inches from the north property line. This provides additional bulk- and- massing relief to the single family dwelling.
- To the east of the single family dwelling is a carport structure with a substantial setback from the property line. In this area (the easterly 41 feet of the building abutting the SF zone), the proposed building is built to the property line and is about 16 feet-8 inches in height. Above that height, the proposed building sets back 30 feet-6 inches.
- The building's courtyard is oriented toward the north. This substantially reduces building bulk and massing to the north as the building form is divided into two wings separated by the courtyard. The courtyard is landscaped and the western portion of the courtyard is densely landscaped for screening purposes.
- The northern building façade adjacent to the single-family zone includes a careful selection of exterior materials intended to soften the sense of massing.

Together these features create a transition in zoning heights that is appropriate to the particular characteristics of this rezone site and its neighbors to the north.

The issues of height, bulk and scale and zone transition were given close attention by the Design Review Board. At the February 17, 2016 Design Review Recommendation meeting, the Board concluded that the design was well-executed and provided a successful and appropriate transition to the single-family zone to the north. (See the comments of the Design Review Board, contained in the discussion of the meeting in the *Design Review Analysis* below.)

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.*

Zone boundaries would continue to follow platted lot lines and the centerlines of existing streets.

- #### *b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.*

The proposal does not alter the existing location of commercial and residential zones, and thus the proposal is not inconsistent with zone boundary principles.

4. *In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.*

The site is within the 23rd Avenue @ South Jackson – Union Residential Urban Village, where heights above 40 feet are considered appropriate.

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;*

The proposal will not displace any existing housing. Additional market-rate housing is made possible by the proposal. Low income housing is not proposed.

- b. *Public services;*

Public services will be available to the project due to its location in a highly developed urban area. No appreciable impacts to public services are anticipated due to the additional housing made possible by the height increase.

- c. *Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;*

The proposed rezone will allow two stories of additional height without changing the type of uses allowed on the property, which is principally developed with a gas station. There will likely be no appreciable negative environmental impacts associated with allowing additional housing or commercial use at this urban site. Some additional shading of properties to the north, however, would occur due to the height increase.

- d. *Pedestrian safety;*

The area is currently developed with sidewalks, street lights and crosswalks. Site redevelopment will replace an existing small commercial building and gas station, enhancing pedestrian safety by reducing the number of curb cuts associated with the auto-oriented existing conditions. The “pedestrian” zoning designation is being retained.

- e. *Manufacturing activity;*

Anything other than light manufacturing would not be allowed in the NC2 zone. No manufacturing uses are proposed on site.

- f. *Employment activity;*

New retail facilities will be developed to replace existing uses, which may provide additional employment opportunities.

g. Character of areas recognized for architectural or historic value;

A SEPA “Appendix A” report was prepared for the masonry and wood frame building currently occupied by Cappy’s Boxing Gym and Seattle Kajukenbo & Kung Fu Kids. The “Appendix A” report has been reviewed by the Department of Neighborhoods and it has been determined that the existing buildings on the site are unlikely to meet Landmark criteria.

There are no designated Landmark structures or Historic Districts in the immediate vicinity.

h. Shoreline view, public access and recreation.

The site is located at a considerable distance from any shorelines and therefore not subject to public access or recreation considerations. The topography of the area is not conducive of shoreline views.

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.*

A traffic report has been prepared to address items a. through d. Relevant information is contained in the SEPA Analysis which follows.

With respect to utility and sewer capacity, a Water Availability Certificate has already been Approved with No Changes (reference number 20141991), and no issues of water or sewer capacity are anticipated given infrastructure upgrades implemented by SPU.

Item “f” on Shoreline Navigation is not applicable to this site.

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.

The site directly to the south of the subject site was granted a contract rezone to 65 feet in 2008. The 23rd Avenue Action Plan and legislation pending before City Council and recommended for passage by the Council by the Director of SDCI contains substantial changes for height limits within existing Neighborhood Commercial designations in a broader area centered at 23rd Avenue and E. Union Street, an area that includes the subject site and recommends there a change from 40 feet to 65 feet of allowable heights.

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

The site is not located within 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 site is not located in or adjacent to any designated critical area.

J. Incentive Provisions. If the area is located in a zone with an incentive zoning suffix, a rezone shall be approved only if one of the following conditions are met:

The site and area are not located in a zone with an incentive zoning suffix. However, the Action Plan recommends that if a legislative rezone of the area is adopted by the City Council, incentive zoning provisions should apply. The City Council has recently passed two pieces of legislation, described below, that establish new affordable housing requirements. Those requirements will go into effect if and when future zoning map changes or text amendments are adopted that increase development capacity. For example, adoption of the DPD legislative proposal would increase heights at 23rd and Union, triggering compliance with the new affordable housing requirements.

Ordinance 124895 was passed by the City Council on December 9, 2015. This ordinance applies new affordable housing requirements to certain commercial uses¹ where there are development capacity increases resulting from zoning changes, including contract rezone approvals that require compliance with the new requirements.

The second piece of legislation relates to affordable housing requirements associated with residential development. (See Resolution 31612 passed by the City Council on December 9, 2015. This Resolution establishes a framework for future legislation that would establish an affordable housing program for residential development in zones that receive a development capacity increase. The details of that program will be included in a future ordinance, expected to be adopted later in 2016.

The new affordable housing requirements could be made applicable to the proposed contract rezone through the City Council decision on the rezone.

SMC 23.34.009 Height Limits of the Proposed Rezone.

Where a decision to designate height limits in 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:

¹ The Ordinance provides certain exemptions from the new commercial program. For example, street level commercial uses along a designated pedestrian street that are required to meet the street-level use standards of a pedestrian designation, and an additional 4,000 square feet of street-level floor area occupied by eating and drinking establishments or certain entertainment uses are exempt from the affordable housing requirements in Ordinance 124895.

- 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.*

A 65-foot height limit would be consistent with the type and scale of development intended for the NC2 zone classification. The NC2 zone is intended to encourage a pedestrian-oriented shopping area together with other compatible uses such as housing or offices, and is appropriate in areas that are primary business districts located within residential urban villages.

- B. Topography of the Area and its Surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.*

The topography of the site and surrounding area is relatively flat. There appear to be no topographic conditions that would either lessen or increase the impacts of a height increase on the surrounding areas.

- 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.*

The existing zoning along 23rd Avenue and E. Union Street near the site is for a 40-foot height limit, except for the site across the street and south of the rezone site which was rezoned in 2008 to 65 feet. A mixed use building, 65 feet in height, is currently under construction on the site rezoned in 2008. The existing development in this area is older, and generally not built to the 40-foot height limit, and there is additional capacity for more retail and residential development. It appears, therefore, that existing development is not a good measure of the area's development potential. The existing single family development in the area is older as well, but appears representative of SF 5000 residential development.

- 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.*

The proposed 65-foot height limit would not match the existing height in the surrounding area, except for the new building constructed across the street to the south of the rezone site. The proposed 65-foot height, however, would match the recommended height in the Action Plan for the rezone site in Area 1.

The transition to the SF 5000 zoned parcel on the northwest portion of the site has been addressed above and receives additional comment in the Design Review discussion below.

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.*

The adopted neighborhood plan does not specify height limits. The Action Plan does recommend a 65-foot height limit on the proposed rezone site. The proposed rezone is consistent with the height limits recommended in the 23rd Avenue Action Plan to encourage new mixed use, pedestrian-friendly development in the area.

Additional Information-Affordable Housing

The Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee developed a series of recommendations to address the need for additional affordable housing in the City. In response to those recommendations, the City Council adopted Ordinance 124895, and the Mayor signed that Ordinance, in November 2015 (Commercial Ordinance). The Commercial Ordinance specifies requirements only for new commercial floor area; no Ordinance has yet been adopted to specify requirements for new residential floor area.

The Commercial Ordinance adopts a new Land Use Code, Chapter 23.58B. This Chapter provides for “voluntary agreements” for affordable housing (SMC 23.58B.005). The Ordinance applies when the provisions of a specific zone refer to Chapter 23.58B, or through the terms of a contract rezone (SMC 23.58B.010). Although a complete Early Design Guidance application and a complete Master Use Permit application were submitted prior to passage of the Commercial Ordinance, the rezone applicant voluntarily agrees to comply with the requirements of Chapter 23.58B for the commercial floor area within the proposed project.

The specific calculation of the payment/performance requirement under the Commercial Ordinance would be done in connection with a building permit for the project, should the rezone be approved.

As *background information*, the applicant’s preliminary calculation* of the requirement is as follows:

20,207 sf	commercial development in project
- 4,000 sf	exemption for street level retail per 23.58B.020.C.1
- <u>7,596 sf</u>	exemption for street level uses on Pedestrian streets (23rd & Union) required to meet Pedestrian Standards per 23.58B.020.C.2
= 8,611 sf	

Fee Option: 8,611 non-exempt commercial sf x \$7.00 per Table B for 23.58B.040 and Map A for 23.58B.050 (site is mapped as a “Medium” area) = \$60,277 payment for affordable housing.

* The applicant’s calculations are preliminary, based on the Master Use Permit plans, and do not reflect the March 1, 2016 CPI adjustment per 23.58B.040.A.3. Final calculations will be determined by SDCI prior to issuance of a building permit, as that is the time when final commercial use square footages can be determined.

Performance Option: 8,611 non-exempt commercial sf x .05% per Table B for 23.58B.050 and Map A for 23.58B.050 (“Medium” area) = 430.55 sf.*

Since the result of the Performance Option is less than 3 units, the fee must be paid instead of performance, per 23.58B.050.A.2. Therefore, the applicant voluntarily agrees to comply with the Fee Option in the Commercial Ordinance.

SUMMARY

The subject site continues to meet the functional and locational criteria of the currently designated NC2 zone as well as the existing Pedestrian designation (suffix P) function and locational criteria. The proposed contract rezone is consistent with all applicable policies and goals of the Comprehensive Plan. The proposed height of 65 feet is condign with the recommended heights of the 23rd Avenue Action Plan. The siting and design of the proposed development on the site, which comprise the material element of the contract rezone and has been vetted through the Design Review process, provides for a transition from the densities, allowable volumes and scale of a NC2-65 zone to the single family and zoning and development to the north and northwest of the site.

RECOMMENDATION---REZONE

Based upon the above analysis, a weighing and balancing of the provisions of SMC 23.34, the Director recommends that the proposed Contract Rezone to NC2-65 and NC2P65 be **Conditionally APPROVED**, subject to a Property Use and Development Agreement (PUDA) that limits the structure to be erected on site to the design recommended for approval by the Design Review Board and documented in the approved Plans for MUP#3019001.

DESIGN REVIEW-ANALYSIS

FIRST EARLY DESIGN GUIDANCE March 25, 2015

The packet includes materials presented at the meeting, and is available online by entering the project number at this website:

http://www.seattle.gov/dpd/Planning/Design_Review_Program/Project_Reviews/Reports/default.asp.

The packet is also available to view in the file, by contacting the Public Resource Center at SDCI:

Mailing Public Resource Center
Address: 700 Fifth Ave., Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

Email: PRC@seattle.gov

DESIGN DEVELOPMENT

At the Early Design Guidance meeting the applicant presented three alternative development schemes for the site (check the alternatives in the on-line packets). The first proposal arranged commercial street-level uses along 23rd Avenue and E. Union Street, with some of the residential units arrayed about a courtyard that faced west onto 22nd Avenue. A second scheme wrapped some of the units around a north-south running, podium level courtyard that was open to the north. The third and preferred alternative shared an organization similar to that proposed in the second alternative. But a primary difference in schemes was a separation in access points to commercial and residential parking on 22nd Avenue. This scheme also offered a slight difference in the arrangement, if not the quantity, of modulation on the three street-facing façades. While the west (residential side) of this scheme showed residential units at ground level along 22nd Avenue, the ground-level area all along 23rd Avenue (the commercial side) was characterized as an array of connected commercial market spaces.

PUBLIC COMMENT

Public comments touched upon a number of issues and observations, including the following:

- Surprise that the residential lobby was located on E. Union Street; would like to see the size of the residential lobby shrunk to allow more room for retail uses along the street.
- Appreciation that the orientation of the courtyard allowed more sunshine to reach neighbors to the north.
- Intrigue with the “market” concept that shaped the retail/commercial development along 23rd Avenue.
- Support for the overall design, but thought the two vehicle entries along 22nd Avenue could hurt the pedestrian vitalization of that sidewalk.
- In favor of the town-house ground-level residential units proposed for 22nd Avenue.

PRIORITIES & BOARD RECOMMENDATIONS

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 provided the following siting and design guidance:

- Regarding the height, bulk and scale of each of the alternatives shown, there was concern that the proposed structure might overpower its site; it seemed especially top-heavy on the 22nd Avenue side, above the townhomes, and overly bulky at the corner with E. Union in each of the schemes presented.
- There was needed a four-season shadow study to assess impacts on adjacent residential buildings north of the site.
- The point-of-view of the presentation drawings was primarily from the southwest, a direction that did not give a clear perspective of transitions along the north property line of the proposal. The presentation materials needed a clearer depiction of this important transition area. Some street-level perspective drawings would help to illustrate more clearly, the relationship between the proposed structure and the existing single-family residence at the property and zone edge at the northwest corner of the site.

- More details were needed regarding how commercial unloading would work within the parking area and how it would service the retail.
- Provide details regarding the garbage/recycle storage and staging for both the residential and commercial uses.
- The size and location of the residential lobby off E. Union Street was characterized by the Board as “a design problem,” one that could be resolved without constricting or minimizing the importance of an active retail street front.
- The Board would expect to see a fuller and more detailed landscape plan at the time of the Recommendation Meeting; provide, as well, perspectives of the proposed courtyard, ones that would convey a more realistic sense of the space.
- There was an opportunity for overhead weather protection, more than shown, along both 23rd Avenue and E. Union Street.
- There was something of an awkwardness the way the commercial spaces shown along 23rd Avenue comported with the idea of a “market,” a concept which the Board generally thought was rich in potential.
- The use of high quality materials, especially at the prominent corners of the project, were essential for setting precedents for other new development in the area.
- The Board looked forward to seeing more of the courtyard terrace.
- Provide clear visual guides to help in explaining the six requested departures.

DESIGN REVIEW GUIDELINES

The priority Citywide and Neighborhood guidelines identified by the Board as Priority Guidelines are summarized below, while all guidelines remain applicable. For the full text please visit the [Design Review website](#).

CONTEXT & SITE

CS1 Natural Systems and Site Features: Use natural systems/features of the site and its surroundings as a starting point for project design.

CS1-B Sunlight and Natural Ventilation

CS1-B-2. Daylight and Shading: Maximize daylight for interior and exterior spaces and minimize shading on adjacent sites through the placement and/or design of structures on site.

CS2 Urban Pattern and Form: Strengthen the most desirable forms, characteristics, and patterns of the streets, block faces, and open spaces in the surrounding area.

CS2-A Location in the City and Neighborhood

CS2-A-1. Sense of Place: Emphasize attributes that give a distinctive sense of place. Design the building and open spaces to enhance areas where a strong identity already exists, and create a sense of place where the physical context is less established.

CS2-A-2. Architectural Presence: Evaluate the degree of visibility or architectural presence that is appropriate or desired given the context, and design accordingly.

CS2-B Adjacent Sites, Streets, and Open Spaces

CS2-B-1. Site Characteristics: Allow characteristics of sites to inform the design, especially where the street grid and topography create unusually shaped lots that can add distinction to the building massing.

CS2-B-2. Connection to the Street: Identify opportunities for the project to make a strong connection to the street and public realm.

CS2-B-3. Character of Open Space: Contribute to the character and proportion of surrounding open spaces.

CS2-C Relationship to the Block

CS2-C-1. Corner Sites: Corner sites can serve as gateways or focal points; both require careful detailing at the first three floors due to their high visibility from two or more streets and long distances.

CS2-D Height, Bulk, and Scale

CS2-D-1. Existing Development and Zoning: Review the height, bulk, and scale of neighboring buildings as well as the scale of development anticipated by zoning for the area to determine an appropriate complement and/or transition.

CS2-D-3. Zone Transitions: For projects located at the edge of different zones, provide an appropriate transition or complement to the adjacent zone(s). Projects should create a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zone and the proposed development.

CS2-D-4. Massing Choices: Strive for a successful transition between zones where a project abuts a less intense zone.

CS2-D-5. Respect for Adjacent Sites: Respect adjacent properties with design and site planning to minimize disrupting the privacy of residents in adjacent buildings.

CS3 Architectural Context and Character: Contribute to the architectural character of the neighborhood.

CS3-A Emphasizing Positive Neighborhood Attributes

CS3-A-2. Contemporary Design: Explore how contemporary designs can contribute to the development of attractive new forms and architectural styles; as expressed through use of new materials or other means.

CS3-A-4. Evolving Neighborhoods: In neighborhoods where architectural character is evolving or otherwise in transition, explore ways for new development to establish a positive and desirable context for others to build upon in the future.

PUBLIC LIFE

PL1 Connectivity: Complement and contribute to the network of open spaces around the site and the connections among them.

PL1-A Network of Open Spaces

PL1-A-2. Adding to Public Life: Seek opportunities to foster human interaction through an increase in the size and quality of project-related open space available for public life.

PL3 Street-Level Interaction: Encourage human interaction and activity at the street-level with clear connections to building entries and edges.

PL3-A Entries

PL3-A-1. Design Objectives: Design primary entries to be obvious, identifiable, and distinctive with clear lines of sight and lobbies visually connected to the street.

PL3-A-2. Common Entries: Multi-story residential buildings need to provide privacy and security for residents but also be welcoming and identifiable to visitors.

PL3-A-3. Individual Entries: Ground-related housing should be scaled and detailed appropriately to provide for a more intimate type of entry.

PL3-A-4. Ensemble of Elements: Design the entry as a collection of coordinated elements including the door(s), overhead features, ground surface, landscaping, lighting, and other features.

PL3-B Residential Edges

PL3-B-2. Ground-level Residential: Privacy and security issues are particularly important in buildings with ground-level housing, both at entries and where windows are located overlooking the street.

PL3-C Retail Edges

PL3-C-1. Porous Edge: Engage passersby with opportunities to interact visually with the building interior using glazing and transparency. Create multiple entries where possible and make a physical and visual connection between people on the sidewalk and retail activities in the building.

PL3-C-2. Visibility: Maximize visibility into the building interior and merchandise displays. Consider fully operational glazed wall-sized doors that can be completely opened to the street, increased height in lobbies, and/or special lighting for displays.

PL3-C-3. Ancillary Activities: Allow space for activities such as sidewalk vending, seating, and restaurant dining to occur. Consider setting structures back from the street or incorporating space in the project design into which retail uses can extend.

PL4 Active Transportation: Incorporate design features that facilitate active forms of transportation such as walking, bicycling, and use of transit.

PL4-A Entry Locations and Relationships

PL4-A-1. Serving all Modes of Travel: Provide safe and convenient access points for all modes of travel.

PL4-B Planning Ahead for Bicyclists

PL4-B-2. Bike Facilities: Facilities such as bike racks and storage, bike share stations, shower facilities and lockers for bicyclists should be located to maximize convenience, security, and safety.

PL4-B-3. Bike Connections: Facilitate connections to bicycle trails and infrastructure around and beyond the project.

DESIGN CONCEPT

DC1 Project Uses and Activities: Optimize the arrangement of uses and activities on site.

DC1-B Vehicular Access and Circulation

DC1-B-1. Access location and Design: Choose locations for vehicular access, service uses, and delivery areas that minimize conflict between vehicles and non-motorists wherever possible. Emphasize use of the sidewalk for pedestrians, and create safe and attractive conditions for pedestrians, bicyclists, and drivers.

DC1-C Parking and Service Uses

DC1-C-1. Below-Grade Parking: Locate parking below grade wherever possible. Where a surface parking lot is the only alternative, locate the parking in rear or side yards, or on lower or less visible portions of the site.

DC1-C-2. Visual Impacts: Reduce the visual impacts of parking lots, parking structures, entrances, and related signs and equipment as much as possible.

DC1-C-3. Multiple Uses: Design parking areas to serve multiple uses such as children's play space, outdoor gathering areas, sports courts, *woonerf*, or common space in multifamily projects.

DC1-C-4. Service Uses: Locate and design service entries, loading docks, and trash receptacles away from pedestrian areas or to a less visible portion of the site to reduce possible impacts of these facilities on building aesthetics and pedestrian circulation.

DC2 Architectural Concept: Develop an architectural concept that will result in a unified and functional design that fits well on the site and within its surroundings.

DC2-A Massing

DC2-A-1. Site Characteristics and Uses: Arrange the mass of the building taking into consideration the characteristics of the site and the proposed uses of the building and its open space.

DC2-A-2. Reducing Perceived Mass: Use secondary architectural elements to reduce the perceived mass of larger projects.

DC2-D Scale and Texture

DC2-D-1. Human Scale: Incorporate architectural features, elements, and details that are of human scale into the building facades, entries, retaining walls, courtyards, and exterior spaces in a manner that is consistent with the overall architectural concept

DEVELOPMENT STANDARD DEPARTURES

At the time of the Early Design Guidance meeting six departures were identified as potentially necessary to achieve the preferred design alternative. (See EDG packet, unnumbered p.6 following page 24). Departures listed were from the following Code requirements:

SMC 23.47A.008.D, setbacks and height relationship to sidewalk grade for residential units;

23.47A.014.B.1, triangular setback from residential zone to the north;

23.47A.014.B.2, side setback above 13 feet for residential zone to north;

23.54.030.B.2, required distribution of size of parking spaces;

23.54.030.D.2, driveway widths;

23.54.030.G, sight triangles for existing driveways.

The Board indicated a willingness to entertain the requests, but asked for further information regarding how the departures made for a better design and clear illustrations regarding the functionality and impacts of the departures with the design's progression.

BOARD DIRECTION

At the conclusion of the EARLY DESIGN GUIDANCE meeting, the Board recommended 5-0 that the applicant move forward to MUP application. At the Recommendation Meeting the Board would expect to see clear responses to the issues stated on page 8, above, and:

- A study of adjacencies of windows on the north façade, as well as other adjacency impacts.
- A complete Landscape Plan and Green Factor worksheet.
- A four season pertinent hour shadow study.
- A Materials Board.
- A Lighting Plan.

RECOMMENDATION MEETING: February 17, 2016

DESIGN DEVELOPMENT

The packet includes materials presented at the meeting, and is available online by entering the project number at this website:

http://www.seattle.gov/dpd/Planning/Design_Review_Program/Project_Reviews/Reports/default.asp

The design team presented their responses to the guidance given by the Board at the Early Design Guidance meeting held on March 25, 2015.

- The Board had supported the residential character along 22nd Avenue but expressed concerns regarding building massing above the townhouse units and noted that the corner expression at 22nd Avenue and E. Union Street appeared “overly bulky.”
- The Board emphasized the importance of maintaining a residential feel along 22nd Avenue and expressed concern regarding two curb cuts, serving parking loading/unloading along that frontage.
- The Board felt that the massing at the northwest corner of the site had not fully addressed the transition to single-family zoning that occurred there.
- The Board felt the width of the residential lobby along E. Union Street might detract from street activation there.
- The Board endorsed the second-level courtyard, but wanted a fuller clarification of the design, spatial arrangements, landscaping and potential impacts on neighbors to the north; clarification regarding the roof terrace plan was also requested.

Significant alterations in the overall design since the EDG meeting included the following:

- Two below-grade parking levels to accommodate both residential and commercial uses and a separate loading/unloading area within the building, both accessed from 22nd Avenue, replaced the at-grade parking area that had been located within the building behind the market area.
- Extensive transparency with multiple access points along both 23rd Avenue and E. Union Street would ensure street-level activation while a sense of protection and comfort away from street traffic would be afforded by continuous planting strips and numerous street trees.
- The residential character of 22nd Avenue had been augmented by the presence of street-related units with porches and individual landscaped areas attending the units.

- The main residential entry, set at the center of the E. Union Street frontage, was inset with a glass vestibule, offering views into an activated lobby (see pages 46-47 of the packet).
- The design of the project provided for a 30'+ setback at the north property line and the northerly upper floor was set back 4 feet on the north and west sides as a way of transitioning to the single-family zones located north of the site and west across 22nd Avenue.
- The exterior open space at the center of the building's massing was screened from properties to the north, ameliorating shadow impacts to those properties; additional steps had been incorporated into the design to transition and ensure the privacy of adjacent neighbors.

PUBLIC COMMENT

Eleven members of the public signed in at the meeting to be acknowledged as parties of record. Neighbors of the single-family dwelling immediately north of the site on 22nd Avenue and newly moved to the sight were concerned about light, air, noise and privacy issues since their house was located south on its own site and would be located near the parking garage entry. Their concerns were somewhat abated upon hearing of efforts that had been put forth to lessen impacts from the abrupt zone change. They were encouraged by the Board to engage with the developer regarding those impacts outside the context of the meeting.

One speaker expressed disappointment that the development did not take advantage of an opportunity to embrace and reflect the existing historical neighborhood culture, which would entail making some kind of overt gestures toward the African American aesthetic which had been a characteristic of this physical junction and area. Another member of the public acknowledged a "terrific design" for the site and one in keeping with what had been envisioned in the Comprehensive Plan Neighborhood Planning Element of the 23rd Avenue Action Plan. A nearby neighbor to the project sought clarification regarding the landscape plan and the intentionality of how pedestrians would engage with the surrounding sidewalks. Some concern was expressed regarding the loading bay on 22nd Avenue and impacts related to its operation on the pedestrian realm along the adjacent sidewalk.

REQUESTED DEPARTURES FROM DEVELOPMENT STANDARDS

Development of the project as proposed would require that the Board grant five departures from development standards. A list of the requested departures, with specific Code citations and the design rationale for each can be found on pages 41-49 of the packet prepared for the recommendation meeting. Granting the departure requests received unanimous support from the six Board members attending the meeting.

2220 E Union Street Development Standard Departures (#3019001)				
	Standard	Requirement	Request	Rationale
1	SMC 23.47A.014 B3 Side Setback Above 13-Feet for Residential Zone to the North	Where lot is adjacent to a residentially zoned lot and has residential uses, a side yard setback	Extend the zero setback height from 13' above average grade level to approximately 16'-9" above	The departure seeks to allow the portion of the building adjacent to the residential zone to extend 3'-9" above the 13-feet specified in the code. The proposed encroachment occurs about 38-feet off the front lot line on 22 nd Avenue and would maintain the elevation of the proposed building's

		<p>of 15-feet is required for portions of the structure above 13-feet up to 40-feet above grade with an additional sloping setback of 2-feet for every 10-feet above 40-feet</p>	<p>average grade level, for a distance of 41-feet, of which approximately 14-feet is adjacent to the neighboring house</p>	<p>courtyard immediately to the east and enable access to the required exit stair with a structurally efficient slab. To lessen the proposed encroachment into the required setback, the design team has stepped the structural slab and has held the occupied portions of the courtyard back 15-feet from the property line. The space between the property line and the occupiable area of the courtyard is landscaped to provide a privacy and visual buffer with the neighbor.</p> <p>Please note that this modest encroachment at this location is in the context of providing setbacks from the residential zone far in excess of the code requirements in all other locations adjacent to that zone.</p> <p>(Design Guidelines CS2-D.3 Zone Transitions, DC1-C.2 Visual Impacts, DC2-A.1 Reducing Perceived Mass, DC2-C.3 Fit with Neighboring Buildings)</p>
<p>2</p>	<p>SMC 23.47A.005 C.1.A, 23.47A.005 D.1, and 23.47A.008 C.1 Street Level Uses in Pedestrian-Designated Zones</p>	<p>Maximum of 20% of façade length for residential uses, and minimum 80% of façade length for certain types of non-residential uses</p>	<p>Allow for residential lobby that is approximately 29% of the total façade length on E Union Street and allow for nonresidential use that is approximately 71% of the total façade length on E Union Street</p>	<p>Please note that the street frontage along 23rd Avenue exceeds the minimum required façade length with approximately 95% of the street frontage being occupied by non-residential uses.</p> <p>This departure request is for a lobby that is approximately 45'-4" wide, in order to accommodate the intended use of the space and provide the type of activity at the street that the code section intends to promote. The lobby interior will be designed and managed as an active resident amenity space with opportunities for both programmed and unprogrammed activities. Planned uses include periodic resident socials or happy hours and open houses. Several lounge seating clusters, a large communal table, and laptop bar will provide a variety of spaces for individuals and groups alike, to do work, hold meetings, or simply socialize. Portions of the storefront will be operable to allow the lobby to open and engage the sidewalk when weather and activities permit.</p> <p>(Design Guidelines CS2-B.2 Connection To The Street, PL3-A Street Level Interaction-Entries)</p>

3	SMC 23.54.030 D2 Driveway Widths	Minimum width for non-residential driveway is 22-feet for two-way traffic	Allow non-residential driveway width of 21'-6"	<p>The proposed driveway width is 6-inches narrower than the minimum required in order to accommodate a landscape buffer between the driveway and the neighbor to the north. The narrower dimension will also server to minimize the presence of the driveway so as to not detract from the pedestrian environment along 22nd Avenue.</p> <p>(Design Guidelines CS2-B.2 Connection To Street, DC1-C.2 Visual Impacts)</p>
4	SMC 23.54.030 G Sight Triangles for Driveways	10-foot sight triangle required on both sides of driveways less than 22-foot wide	Allow for use of mirrors and scoring patterns used to distinguish pedestrian zone in Lieu of providing sight triangle at parking garage access and loading berth	<p>Eliminating the sight triangle requirement helps diminish the size of the parking garage entry and the loading berth entry, lessens their appearance from the sidewalk, and keeps the entries in scale with the surrounding neighborhood. Mirrors and textured pavement will be employed and are passive ways to mitigate potential pedestrian-automobile conflicts and are used frequently in downtown Seattle and in other mixed-use projects located in neighborhood commercial zones. Shielded lighting at the sides of the parking garage entry provides a subtle, unobtrusive way to supplement the use of mirrors and address low-light situations.</p> <p>(Design Guidelines CS2-B.2 Connection To Street, DC1-C.2 Visual Impacts)</p>
5	SMC 23.54.030 B2 Required Distribution of Size of Parking Spaces	Where 20 or more non-residential parking spaces are provided, provide a minimum of 35% and maximum of 65% small spaces, and a minimum of 35% large spaces	Allow 24 (48%) of the proposed commercial parking spaces to be small, 1 space (2%) to be large, and the remaining 25 spaces to be medium.	<p>The proposed distribution of parking space sizes permits a straightforward, efficient parking layout that maximizes the number of parking spaces dedicated for commercial use. Providing the requisite 35% large spaces would reduce the overall number of parking spaces provided from 50 to 36, would require that all the proposed medium-sized spaces become small sized spaces, and would require a configuration with a dead-end aisle rather than a loop that allows users to easily navigate through the garage without forcing vehicles to back-up in order to turn around and exit the garage.</p> <p>(Design Guideline DC1-C.1 Below-Grade Parking)</p>

BOARD DELIBERATIONS

The Board expressed satisfaction with the overall design of the project, but did engage in further discussion regarding materials, primarily in the preferred pallet of colors of the materials proposed for the building. While there was some support for putting more zing in the pallet, those voices in favor of the muted pallet, as presented, prevailed.

There was clear consensus among the Board members that the wall above the parking entry needed further attention. While one suggestion was to extend the depth of the window along the top of the wall, the Board was unanimously agreed that the design team should specify “board-formed concrete” to impart a desired visual texture to the wall at the parking entry.

The Board noted that they would like to see more projects that were as thoughtful in dealing with zone transitions at the development’s edges. They requested that the development team work with the neighbor directly north of the parking entry to continue to ensure that acceptable mitigation for loss of light and adequate attenuation of sound impacts from vehicles entering and leaving the garage be integrated within the final design.

Other suggestions from the Board were that the design team might look where there might be other opportunities: for the infusion of a broader color pallet; for more actual “place making” and linking the new structure more obviously with the community culture. These might be implemented specifically in conjunction with exploring the detailing of the retail spaces and the residential lobby, in the design of bike racks, street furniture, etc.

Subsequent to the Design Review recommendation meeting of February 17, 2016, and in response to the Board’s suggestion, the owner met with the owners of the house at 1418 22nd Avenue to address their shared lot line and to select plantings that both parties felt were appropriate. Plantings consistent with the selections have been added to the MUP landscape plan (L100). Additionally, in response to the Board’s suggestion, the wall above the parking entry will receive a board-formed textured concrete treatment, verified by a note that has been added to the MUP plans (at A302).

DIRECTOR’S ANALYSIS - DESIGN REVIEW

The six members of the East Design Review Board present at the February 17, 2016, meeting agreed unanimously that the proposed design had met the priority and general Design Review Guidelines previously identified by the Board for the project and recommended approval of the project and of the five requested departures from development standards. The Director accepts the recommendation of the Board from the February 16, 2016 meeting and **approves** the proposed design, together with the five departures from development standards identified in this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 14, 2015. The information in the checklist, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision. The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations and/or circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction related vehicles. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The following is an analysis of construction-related noise, air quality, earth, grading, construction impacts, traffic and parking impacts as well as mitigation.

Noise

Noise associated with construction of the mixed use building and future phases could adversely affect surrounding uses in the area, which include residential and commercial uses. Surrounding uses are likely to be adversely impacted by noise throughout the duration of construction activities. Limitations imposed by the Noise Ordinance are found to be adequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), no further mitigation is warranted.

Air Quality

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction activities, equipment and worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC). To mitigate impacts of exhaust fumes on the nearby residential uses, trucks hauling materials to and from the project site will not be allowed to queue on streets under windows of residential buildings.

Earth

The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. According to the Geotechnical report prepared by PanGEO, Inc, in March, 2015, soils in the vicinity of the site consist of Vashon Till (a glacially overridden deposit of clay, silt, sand and gravel) overlain by Vashon Recessional Lacustrine deposits of silt and clay with localized sand and peat deposits, which in turn is overlain by fill materials of varying depths. Subsurface explorations done to date have encountered a layer of peat with varying thickness below the surface fill layer. The site is not an identified Peat Settlement Prone Area in SMC 25.09.020.A.5.

The soils report, construction plans, and shoring of excavations as needed, will be reviewed by the SDCI Geo-technical Engineer and Building Plans Examiner who will require any additional soils-related information, recommendations, declarations, covenants and bonds as necessary to assure safe grading and excavation. This project constitutes a "large project" under the terms of the SGDCC (SMC 22.802.015 D). As such, there are many additional requirements for erosion control including a provision for implementation of best management practices and a requirement for incorporation of an engineered erosion control plan which will be reviewed jointly by the SDCI building plans examiner and geo-technical engineer prior to issuance of the permit. The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Grading

Excavation to construct the structure will be necessary. The estimated amount of excavation required for the structures is approximately 26,450 cubic yards of soil.

The soil removed will not be reused on the site and will need to be disposed off-site by trucks. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed in-route to or from a site. Future phases of construction will be subject to the same regulations. No further conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

Construction Impacts

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.

Traffic and Parking

Construction of the mixed use structure is proposed to last several months. During construction, parking demand will increase due to additional demand created by construction personnel and equipment. It is the City's policy to minimize temporary adverse impacts associated with construction activities and parking (SMC 25.05.675 B and M). Parking utilization along streets in the vicinity is scarce and the demand for parking by construction workers during construction could reduce the supply of parking in the vicinity. Due to the large scale of the project, this temporary demand on the on-street parking in the vicinity due to construction workers' vehicles may be adverse.

The construction of the project also will have adverse impacts on both vehicular and pedestrian traffic in the vicinity of the project site. During construction a temporary increase in traffic volumes to the site will occur, due to travel to the site by construction workers and the transport of construction materials. Approximately 26,000 cubic yards of soil are expected to be excavated from the project site. The soil removed will not be reused on the site and will need to be disposed

off-site. Excavation and fill activity will require approximately 2,800 round trips with 10-yard hauling trucks or 1,400 round trips with 20-yard hauling trucks. Considering the large volumes of truck trips anticipated during construction, it is reasonable that truck traffic avoid the afternoon peak hours.

A Construction Management Plan (CMP) will be required to be submitted by the contractor before commencement of project-related activities on site, detailing mitigation for construction-related impacts, including, but not limited to, traffic, parking, and noise. The CMP will also identify the timing and methods of communication from the contractor to individuals within the community affected by the anticipated construction. The CMP will be reviewed and approved by both SDOT and SDCI and is expected to mitigate identified and any additional adverse impacts related to construction activities.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces; increased bulk and scale on the site; increased traffic in the area; increased demand for parking; and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: The Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding; the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, due to the size and location of this proposal, greenhouse gas emissions, traffic, and parking impacts warrant further analysis.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the project's 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. It has been estimated that the lifespan emissions (MTCO_{2e}) for the building will be 207,821. While these impacts are adverse, they are not expected to be significant.

Traffic and Transportation

Trip Generation:

A traffic impact analysis, dated December 14, 2015, has been prepared for this project by Transportation Engineering NorthWest, LLC (TENW). According to that analysis the proposed development is anticipated to generate 890 net new weekday trips per day, with 45 trips occurring during the weekday AM peak hour (18 in, 27 out) and 98 trips occurring during the weekday PM peak hour (55 in, 43 out), with trip generation estimates accounting for trip credit for removal of existing uses on site.

Site Access:

With development of the site, vehicle access would be provided by two driveways on 22nd Avenue: a primary driveway providing access to the underground parking garage for both residents and commercial users, and a secondary driveway providing truck access for loading and deliveries. A loading dock, with a clearance of 14 feet in height, would accommodate one truck, 30- 40 feet in length, at a time. Based upon information provided by the proposed grocery-store tenant, approximately 60 trucks would use the loading dock on an average weekday. The earliest deliveries would occur at 3:30 AM and the last deliveries would commence by 2:30 PM. Delivery trucks are not anticipated to use the loading dock between the afternoon PM peak hours of 4:00-6:00. With SDOT concurrence, no parking during control hours would be allowed on the west side of 22nd Avenue across from the loading dock access which would allow trucks adequate space to maneuver in and out of the loading dock.

In addition, the applicant has been working with SDOT to establish a curbside load zone on the east side of 22nd Avenue that would be able to accommodate two single unit SU-40 trucks as well as a smaller-sized delivery truck. TENW anticipates that the additional street capacity for three or four delivery vehicles would be adequate to accommodate anticipated truck deliveries without wait times to use the loading areas.

Intersection Level of Service:

Intersection Level of Service (LOS) weekday PM peak hour analyses were conducted at two study intersections adjacent to the project site and indicated that the signalized intersection of 23rd Avenue/ E. Union Street is anticipated to operate at LOS C in 2017 with or without the proposed project. At the stop-sign controlled intersection of 22nd Avenue / E. Union Street, the southbound stop-controlled movement is anticipated to operate at LOS E in 2017 with the proposed project. The analysis concludes that no off-site transportation mitigation is required to accommodate the proposed development.

Transportation Concurrency:

Transportation concurrency was evaluated for the E. Union Street project based on City guidelines outline in Director's Rule 2009-5. The evaluated screenlines would all operate below the concurrency threshold with the construction of the project. As a result, no concurrency-related mitigation is warranted or required for the project.

Parking

An existing on-street parking utilization study was completed on adjacent streets within an 800-foot walking distance to the project. Based on results of that study, the existing on-street parking utilization on nearby streets is 71 percent. The City of Seattle considers on-street parking to be at capacity when the parking utilization rate reached 85 percent or greater. The existing on-street parking utilization of 71 percent would be considered under capacity. The proposed project would supply 148 on-site parking spaces. Of the 148 parking spaces, 98 would be dedicated to the residential uses and 50 stalls to the commercial uses. The peak parking demand for the apartment and retail uses was estimated for the parking utilization study and it was determined that the parking demand would be accommodated by the proposed parking supply. No off-site parking spillover is anticipated.

Project Mitigation

The traffic impacts of the project are not expected to create a significant adverse impact to the site or adjacent street network; as a result, there is no identified traffic or parking mitigation anticipated for the project.

SEPA Summary

In conclusion, several adverse effects on the environment are anticipated resulting from the proposal, which are anticipated to be non-significant. The conditions imposed below are intended to mitigate construction impacts identified in the foregoing analysis, or to control impacts not regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

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

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2C.
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

RECOMMENDED CONDITIONS - REZONE

The Director recommends **APPROVAL** of this request for a rezone from NC2P-40' to NC2-65' and from NC2-40' to NC2-65', subject to the following recommended condition(s) of the PUDA.

1. Future development in the rezone area shall be those improvements circumscribed by the approved uses, structures, landscaping and street improvements which, having undergone the Design Review Process, are set forth in the approved plan sets for MUP 3019001, the application for the construction of a six-story mixed-use building.

CONDITIONS – DESIGN REVIEW

Prior to Issuance of a Certificate of Occupancy

2. 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 SDCI planner assigned to this project (Michael Dorcy, 615-1393). An appointment with the assigned Land Use Planner must be made at least five (5) working days in advance of field inspection.

For the Life of the Project

3. Any proposed changes to the exterior of the building or the site must be submitted to SDCI for review and approval by the Land Use Planner (Michael Dorcy, 615-1393). Any proposed changes to the improvements in the public right-of-way must be submitted to SDCI and SDOT for review and for final approval by SDOT.

RECOMMENDED CONDITIONS – SEPA

Prior to Building Permit Issuance

4. Provide SDOT with a Construction/Noise Management Plan (CMP) prepared by the contractor for review and approval. The CMP should detail mitigation for all construction-related impacts, including, but not limited to, traffic, parking, and noise. The CMP shall also identify the timing and methods of communication from the contractor to individuals within the community who might be affected by the anticipated construction.

Michael Dorcy, Senior Land Use Planner
Seattle Department of Construction and Inspections

Date: April 28, 2016

MMD:rgc
3019001.docx

IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.