



City of Seattle  
Edward B. Murray, Mayor

Department of Construction and Inspections  
Nathan Torgelson, Director

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

**Application Number:** 3019495  
**Applicant Name:** Thomas Hemba  
**Address of Proposal:** 4516 Union Bay Place NE

**SUMMARY OF PROPOSAL**

Land Use Application to construct a 5-story structure containing 61 residential units above 2,400 sq. ft. of retail space in an environmentally critical area. Parking for 115 vehicles to be provided at and below grade. Existing structures to be demolished.

The following approvals are required:

**Design Review** pursuant to Chapter 23.41, Seattle Municipal Code, with Departures:

**Development Standard Departure** to allow access to off-street parking from a street for a structure in a C2 zone with residential uses. (SMC 23.47A.3)

**Development Standard Departure** to reduce the amount of large parking stalls and the amount of small parking stalls for non-residential uses. (SMC 23.54.030.B.2.c)

**Development Standard Departure** to reduce the amount of medium parking stalls for residential uses. (SMC 23.54.030.B.2.c)

**Development Standard Departure** to allow a driveway width less than 22 feet. (SMC 23.54.030.D.2)

**Administrative Conditional Use** to establish a residential uses in a Commercial 2 zone (SMC 23.47A.006)

**SEPA – Environmental Determination** – Chapter 25.05, Seattle Municipal Code.

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

DNS with conditions

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

## **BACKGROUND**

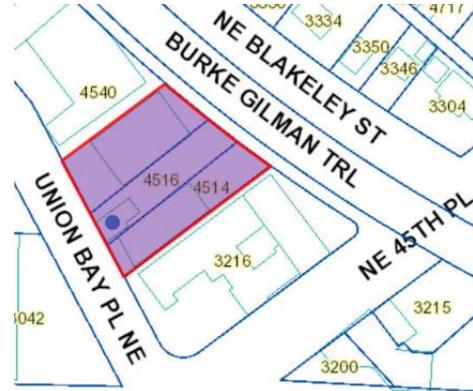
**Zoning:** C2-40

**Nearby Zones:** (North)  
(South)  
(East)  
(West)

### **Site Development**

The site is currently developed with a one-story covered parking lot, two-story commercial building, one story auto-repair garage, and small surface parking area along Union Bay Pl.

The site is accessed via three curb cuts along Union Bay Place NE, as well as from the adjacent alley to the northeast. The alley right-of-way is largely unimproved, and the developed portion of the alley dead-ends midway.



### **Surrounding Development and Neighborhood Character**

Union Bay Place is currently a mix of low scale one and two story buildings and parking lots. Sidewalks are lacking along much of Union Bay Place NE.

The site slopes up from Union Bay Place NE to the northeast, with approximately a 10 foot elevation change leading to a steep slope at the northeast portion of the site. At the top of this slope, adjacent to the site, is the Burke Gilman Trail. Currently, only half of the alley has been improved, along which a concrete retaining wall has been constructed.

To the north of the site is a two-story medical office. To the south of the site is a four-story medical/dental office. Across Union Bay Place to the southwest is a one-story retail structure with surface parking. University of Washington play fields are located south of the site, across NE 45<sup>th</sup> Street. A grocery store and University Village Shopping Center are located in the vicinity to the west of the site.

### **Environmentally Critical Areas**

Steep slope, peat settlement prone, landfill.

The northeast portion of the site is mapped as an Environmentally Critical Area (ECA) Steep Slope. The site qualified for a Limited Steep Slope Exemption as described in SMC 25.09.180 B2b, (Exemption provided under Seattle DCI Project #6471544), so that it is exempt from the development standards for steep slopes. However, the ECA General and Landslide-Hazard Development Standards and criteria still apply.

### **Public Comment**

The public comment period ended on September 16, 2015. In addition to the comments received through the Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment

related to traffic, density, zoning, potential noise, shadow, and traffic impacts to the adjacent park. Comments were also received that are beyond the scope of this review and analysis per SMC 23.41 and 25.05.

## **I. ANALYSIS – DESIGN REVIEW**

### **DESIGN PROPOSAL**

The Early Design Guidance (EDG) Design Proposal and Design Recommendation booklets includes materials presented at the meeting, and are available online by entering the project number at this website: <http://www.seattle.gov/dpd/aboutus/news/events/DesignReview/SearchPastReviews/default.aspx>

The booklets are also available to view in the Seattle DCI file, by contacting the Public Resource Center at Seattle DCI:

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

**Email:** [PRC@seattle.gov](mailto:PRC@seattle.gov)

### **EARLY DESIGN GUIDANCE MEETING: July 6, 2015**

#### **Public Comment Summary**

The following comments, issues and concerns were raised at the Early Design Guidance Meeting:

- Would like to see direct connection to the Burke Gilman Trail to Union Bay Place NE.
- Appreciated the applicant's rationale for locating parking entrance on Union Bay Place, and encouraged applicant to consider closing parking access from the street after office hours.
- Encouraged more apartment units, and fewer parking stalls, noting that the site was appropriate for higher density uses.
- Concerned about view impacts from the Burke Gilman Trail and residences to the northeast. Encouraged the applicant to consider the design of the rear façade.
- Concerned that not providing direct trail access would result in increased traffic on NE Blakely, which is narrow and lacking sidewalks.
- Concerned that charging for parking may result in more on street parking.
- Desired a more clear section of the project and the context, including the steep slope and NE Blakely Street.
- Expressed desire to see the grade change as an opportunity for the project design.
- Concerned about overflow traffic and parking on NE Blakely.
- Would like to see more detail regarding the design of the courtyard.
- Noted the existing stair access, and encouraged the applicant to consider a pedestrian connection from Blakely to Union Bay Place NE.

## Priorities and 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.

### 1. Massing and Context Response:

- a. The Board supported the massing presented in Option 3 as an appropriate response to site characteristics and context, and encouraged the applicant to further explore how the programming of the building can be expressed in the massing. (CS1-C, C2-B, CS2-D, DC2-A)
- b. The Board preferred the location of the upper level courtyard and massing of Option 3, as it allows for sun access, provides a visual connection to the Burke Gilman Trail corridor, and retains a strong street edge along Union Bay Place NE. (CS1-B, PL1-C, DC3-A, DC3-B)
- c. The Board requested more information regarding the design of the courtyard. (DC3-A, DC3-B, DC3-C, DC4-D)
- d. A pedestrian connection from Blakely would be supported, but the Board recognized the difficulty of achieving this due to the location of the right-of-way and the significant elevation change. If this is pursued, the Board suggested locating this connection towards the west side of the site. (PL1-A, PL1-B)
- e. The design of the north façade should respond to potential development that could occur on the adjacent parcel. The Board expressed concern that locating patio spaces on this façade could create privacy concerns. (CS2-B, CS2-D)

### 2. Architectural Composition:

- a. The Board supported the design concept of a one-story base and floating three-story mass above, and the clear articulation of a base, middle, and top. (DC2-A, DC2-B)
- b. Demonstrate how the materials respond to the design concept, for each façade. (DC2-B)
- c. The northeast façade will be visible the Burke-Gilman Trail and NE Blakely Street. Provide more information, including sections and perspectives from these locations, and design the façade appropriately. (CS2-B, DC2-B)
- d. Explore incorporating continuous overhead weather protection, and consider how this relates to the overall design concept. (PL2-C)
- e. Demonstrate how the units relate to the massing and architectural composition. (DC2-A, DC2-B)
- f. Provide a conceptual signage plan, especially in regards to the parking entry. (DC4-B)

3. **Entry:** The Board supported the proposed location of the lobby entry of the preferred alternative; however, they expressed that the entry should be clearly articulated and reinforced through the overall massing and architectural composition. (PL3-A, PL4-A)

## RECOMMENDATION MEETING: February 22, 2016

### Public Comment Summary

No public comment was offered at the meeting.

## Priorities and Board Recommendations

The Board commended the clarity and thoroughness of the packet in demonstrating the thoughtful design strategies and responses to Board concerns raised at EDG. The Board

commended the applicant for a proposal that provides both parking and residential uses in thoughtfully designed building that sets a positive precedent for the area and contributes to an emerging pedestrian realm.

- 1. Massing and Context Response:** The Board discussed the refinement of the massing, noting that the proposal responds to the context on each side.
  - a. The Board supported the small balconies on the north façade, noting that the size and set back provided access to light and air while respecting the current and future context. (CS1. B, CS2.B, DC2.A)
  - b. The Board felt that the potential blank wall condition at the base on the north was resolved by using cast in place concrete, which will provide adequate texture and interest. (CS2.B, DC2.B)
  - c. The Board supported the treatment of the east façade, which is visible from the Burke-Gilman Trail, which appears to read as a second “front” due to the repetition of the staggered bays and high-quality finishes and composition. The Board appreciated that the perspectives helped demonstrate the potential impacts from the trail, and noted that the building is set back a significant distance from that trail, and is further buffered by the dense vegetation that limits views of the whole mass façade. (CS1.B, CS2.D, DC2.B)
  - d. The Board supported the development of the courtyard design, including the extension out to the east that relates to the Burke-Gilman Trail corridor. The Board supported the lush vegetation, including trees, and separation of private and shared amenity spaces. (CS1.B, CS2.B, PL1.A, PL1.C, DC2.A, DC3.A, DC3.B, DC3.C, DC4.D)
  - e. The green roof on the trash enclosure structure softens the appearance of this structure from the courtyard and upper units, and helps it blend into the landscape. The Board was concerned about the gap in between the trash enclosure and the structure, and conditioned that this security issue be resolved by either closing off access or moving the structure. (CS2.B, DC2.B, DC1.C, DC3.B, DC3.C)
  - f. The Board supported the use of overhead weather protection at the residential entry only to reinforce the prominence of the entry. (PL2.C, PL2.D, DC2.B, PL3.A)
  
- 2. Architectural Composition:** The Board discussed the success of the design in breaking down the massing into distinct portions which are reinforced by the material application. The resulting composition expresses a clear design concept, and maintains a consistent design language across each façade.
  - a. The Board supported the wood-toned lap siding at the gasket areas and on the side of the bays. The Board felt that the change in materials, combined with a discernable reveal, adds interest, highlights the bays, and reinforces the massing concept. (DC2.A, DC2.B)
  - b. The second level features a unique rhythm and fenestration pattern, which reinforces the expression of the horizontal gasket as a separate piece from the upper massing. The Board discussed the color of window trim, and questioned if the white would diminish the intended expression. Ultimately, the Board agreed that the window color should relate to the units in the upper massing. (DC2.A, DC2.B)
  - c. The Board supported the composition of the base in dark brick with large storefront windows. (DC2.A, DC2.B)
  - d. The Board supported the expression of the entry as an extension of the gasket, as well as the ensemble of elements that provide clear wayfinding including the change in paving, bench, angled canopy, and storefront window system. To further improve the prominence of the entry, the Board conditioned that the storefront window system be carried up to the

second level above the residential entry to create the appearance of a two-story entry mass. (PL3.A, DC2.A, DC2.B, DC3.A)

## 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.

#### CS1-C Topography

**CS1-C-1. Land Form:** Use natural topography and desirable landforms to inform project design.

**CS1-C-2. Elevation Changes:** Use the existing site topography when locating structures and open spaces on the 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-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-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-2. Existing Site Features:** Use changes in topography, site shape, and vegetation or structures to help make a successful fit with adjacent properties.

**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.

### 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-1. Enhancing Open Space:** Design the building and open spaces to positively contribute to a broader network of open spaces throughout the neighborhood.

**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.

## **PL1-B Walkways and Connections**

**PL1-B-1. Pedestrian Infrastructure:** Connect on-site pedestrian walkways with existing public and private pedestrian infrastructure, thereby supporting pedestrian connections within and outside the project.

**PL1-B-3. Pedestrian Amenities:** Opportunities for creating lively, pedestrian oriented open spaces to enliven the area and attract interest and interaction with the site and building should be considered.

## **PL1-C Outdoor Uses and Activities**

**PL1-C-1. Selecting Activity Areas:** Concentrate activity areas in places with sunny exposure, views across spaces, and in direct line with pedestrian routes.

## **PL2 Walkability: Create a safe and comfortable walking environment that is easy to navigate and well-connected to existing pedestrian walkways and features.**

### **PL2-B Safety and Security**

**PL2-B-1. Eyes on the Street:** Create a safe environment by providing lines of sight and encouraging natural surveillance.

**PL2-B-2. Lighting for Safety:** Provide lighting at sufficient lumen intensities and scales, including pathway illumination, pedestrian and entry lighting, and/or security lights.

**PL2-B-3. Street-Level Transparency:** Ensure transparency of street-level uses (for uses such as nonresidential uses or residential lobbies), where appropriate, by keeping views open into spaces behind walls or plantings, at corners, or along narrow passageways.

### **PL2-C Weather Protection**

**PL2-C-1. Locations and Coverage:** Overhead weather protection is encouraged and should be located at or near uses that generate pedestrian activity such as entries, retail uses, and transit stops.

**PL2-C-2. Design Integration:** Integrate weather protection, gutters and downspouts into the design of the structure as a whole, and ensure that it also relates well to neighboring buildings in design, coverage, or other features.

## **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-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.

## **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-A-2. Connections to All Modes:** Site the primary entry in a location that logically relates to building uses and clearly connects all major points of access.

#### **PL4-B Planning Ahead for Bicyclists**

**PL4-B-1. Early Planning:** Consider existing and future bicycle traffic to and through the site early in the process so that access and connections are integrated into the project along with other modes of travel.

**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-B-2. Facilities for Alternative Transportation:** Locate facilities for alternative transportation in prominent locations that are convenient and readily accessible to expected users.

##### **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.

#### **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-B Architectural and Facade Composition**

**DC2-B-1. Façade Composition:** Design all building façades—including alleys and visible roofs—considering the composition and architectural expression of the building as a whole. Ensure that all façades are attractive and well-proportioned.

**DC2-B-2. Blank Walls:** Avoid large blank walls along visible façades wherever possible. Where expanses of blank walls, retaining walls, or garage façades are unavoidable, include uses or design treatments at the street level that have human scale and are designed for pedestrians.

**DC3 Open Space Concept: Integrate open space design with the building design so that they complement each other.**

**DC3-A Building-Open Space Relationship**

**DC3-A-1. Interior/Exterior Fit:** Develop an open space concept in conjunction with the architectural concept to ensure that interior and exterior spaces relate well to each other and support the functions of the development.

**DC3-B Open Space Uses and Activities**

**DC3-B-1. Meeting User Needs:** Plan the size, uses, activities, and features of each open space to meet the needs of expected users, ensuring each space has a purpose and function.

**DC3-B-3. Connections to Other Open Space:** Site and design project-related open spaces to connect with, or enhance, the uses and activities of other nearby public open space where appropriate.

**DC3-C Design**

**DC3-C-1. Reinforce Existing Open Space:** Where a strong open space concept exists in the neighborhood, reinforce existing character and patterns of street tree planting, buffers or treatment of topographic changes. Where no strong patterns exist, initiate a strong open space concept that other projects can build upon in the future.

**DC3-C-2. Amenities/Features:** Create attractive outdoor spaces suited to the uses envisioned for the project.

**DC4 Exterior Elements and Finishes: Use appropriate and high quality elements and finishes for the building and its open spaces.**

**DC4-B Signage**

**DC4-B-1. Scale and Character:** Add interest to the streetscape with exterior signs and attachments that are appropriate in scale and character to the project and its environs.

**DC4-B-2. Coordination with Project Design:** Develop a signage plan within the context of architectural and open space concepts, and coordinate the details with façade design, lighting, and other project features to complement the project as a whole, in addition to the surrounding context.

**DC4-D Trees, Landscape, and Hardscape Materials**

**DC4-D-1. Choice of Plant Materials:** Reinforce the overall architectural and open space design concepts through the selection of landscape materials.

**DC4-D-2. Hardscape Materials:** Use exterior courtyards, plazas, and other hard surfaced areas as an opportunity to add color, texture, and/or pattern and enliven public areas through the use of distinctive and durable paving materials. Use permeable materials wherever possible.

**DC4-D-3. Long Range Planning:** Select plants that upon maturity will be of appropriate size, scale, and shape to contribute to the site as intended.

**DC4-D-4. Place Making:** Create a landscape design that helps define spaces with significant elements such as trees.

**DEVELOPMENT STANDARD DEPARTURES**

The Board's recommendation on the requested departure(s) will be based upon the departure's potential to help the project better meet these design guideline priorities and achieve a better overall design than could be achieved without the departure(s).

At the time of Recommendation the following departures were requested:

1. **Access to Parking (23.47A.032.A.3):** The Code requires structures in Commercial zones with residential uses to meet the requirements of parking access for NC zones. SMC 247A.032A.1.a requires that access to parking in NC zones shall be from the alley if the lot abuts an alley. The applicant proposes taking access from the alley and from a curb cut on Union Bay Place NE.

The Board unanimously recommended approval of the departure, noting that the lack of visibility of the alley may present a wayfinding challenge for those visiting the adjacent medical office building, which could result in the potential for increased pedestrian and vehicular conflict as vehicles circulate back around to the entry. The Board acknowledged the challenge of a shallow water table, and that accommodating a ramp in the parking garage to allow for a single access would result in the raising the parking garage and reducing the number of units open to the courtyard. The Board recommended that locating the access to parking for the retail and medical office uses from Union Bay Place NE would provide more predictable setting for pedestrians and vehicles. The Board supported the multi-sensory approach to indicating the garage entry. (CS1.C, PL2.B, PL4.A, DC1.B, DC1.C, DC2.A)

2. **Driveway Width (23.54.030.D.2.a.2):** The Code requires two-way driveways to be a minimum width of 22 feet. The applicant proposes a width of 20'-0".

The Board unanimously recommended approval of the departure, noting that reducing the width of the driveway would help to reduce the speed of vehicles entering and exiting the garage, and reduce the impacts on the pedestrian environment. The Board supported the change in texture at the sidewalk, and conditioned that the transparency at the staircase which wraps the corner into the garage remain transparent to provide maximum visibility. (PL2.B, PL3.A, PL4.A, PL4.B, DC1.B, DC1.C)

3. **Parking Stall Sizes (SMC 23.54.030.B.1 & SMC 23.54.030.B.2):** The Code requires a that for residential uses a minimum of 60% of the parking spaces be sized for medium vehicles. In addition, the Code requires that for commercial uses a minimum of 35% of parking spaces be sized for small vehicles, and a minimum of 35% of parking spaces be sized for large vehicles. The applicant proposes all of the parking spaces be sized at 8'-6" by 16'-0", which is the width of a large stall, and the length of a medium stall.

The Board unanimously recommended approval of the departure, noting that the parking garage is likely to have many first-time or infrequent visitors to the building, and providing stalls for a wider variety of car sizes would reduce the amount of circulation within the garage, thereby reducing the potential for pedestrian and vehicular conflicts. (PL2-B, PL4.A, DC1.B, DC1.C)

## **BOARD RECOMMENDATION**

**The recommendation summarized above was based on the design review packet dated February 22, 2016 and the materials shown and verbally described by the applicant at the February 22, 2016 Design Recommendation meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the materials, the three Design Review Board members recommended APPROVAL of the project design with conditions, listed below.**

1. The gap between the trash enclosure and the structure shall be closed off or eliminated by relocating the structure.

2. The windows at the second level above the residential entry shall match the window system used at the entry to unify the two-story mass.
3. The transparency at the staircase near the garage entry shall remain transparent.

### **ANALYSIS & DECISION – DESIGN REVIEW**

The design review process prescribed in Section 23.41.014.F of the Seattle Municipal Code describing the content of the Seattle DCI Director’s decision reads in part as follows:

The Director’s decision shall consider the recommendation of the Design Review Board, provided that, if four (4) members of the Design Review Board are in agreement in their recommendation to the Director, the Director shall issue a decision which incorporates the full substance of the recommendation of the Design Review Board, unless the Director concludes the Design Review Board:

- a. Reflects inconsistent application of the design review guidelines; or
- b. Exceeds the authority of the Design Review Board; or
- c. Conflicts with SEPA conditions or other regulatory requirements applicable to the site; or
- d. Conflicts with the requirements of state or federal law.

Subject to the following conditions, the design of the proposed project was found by the Design Review Board to adequately conform to the applicable Design Guidelines.

At the conclusion of the Recommendation meeting held on February 22, 2016, the Board recommended approval of the project with the conditions described in the summary of the Recommendation meeting above.

Three members of the Northeast Design Review Board were in attendance and provided recommendations (listed above) to the Director and identified elements of the Design Guidelines which are critical to the project’s overall success. The Director must provide additional analysis of the Board’s recommendations and then accept, deny or revise the Board’s recommendations (SMC 23.41.014.F3).

The Director agrees with the Design Review Board’s conclusion that the proposed project and conditions imposed result in a design that best meets the intent of the Design Review Guidelines and accepts the recommendations noted by the Board.

Following the Recommendation meeting, Seattle DCI staff worked with the applicant to update the submitted plans to include the recommendations of the Design Review Board.

#### **Applicant response to Recommended Design Review Conditions:**

1. The plans have been revised to include a minimum 6’-0” high fence on each side of the gap between the trash enclosure and the structure. (Sheet A2.02)
2. The windows at the second level above the residential entry have been revised on the plans to match the window system used below, at the entry. (Sheets 1/A3.01 and 2/A3.01)

3. A note has been added to the plans that reads “Storefront windows at the staircase near the garage entry shall remain transparent per DRB Recommendation Meeting conditions.” (Sheet A2.01) This responses satisfies the recommended condition for the MUP decision. This item applies to the life of the project, as conditioned below.

The Director of Seattle DCI has reviewed the decision and recommendations of the Design Review Board made by the three members present at the decision meeting and finds that they are consistent with the City of Seattle Design Review Guidelines. The Director accepts the Design Review Board’s recommendation and will require a condition to satisfy the Board’s recommended condition #3.

### **DIRECTOR’S DECISION**

The Director accepts the Design Review Board’s recommendations and **CONDITIONALLY APPROVES** the proposed design and the requested departures with the conditions summarized at the end of this Decision.

## **II. ANALYSIS – ADMINISTRATIVE CONDITIONAL USE**

The Land Use Code allows the establishment of residential uses in Commercial 2 zones through the administrative conditional use process. This proposal is to establish a commercial/residential building consisting of apartment units which is allowed in a Commercial 2 zone subject to administrative conditional use approval. The Seattle DCI Director has the authority to approve, condition or deny a conditional use application. This decision shall be based on the whether the proposed use will be materially detrimental to the public welfare or injurious to property. The applicable criteria used for evaluating and or conditioning the applicant’s proposal are discussed below.

### **Administrative Conditional Use – General Provisions (SMC 23.42.042)**

- A. *Administrative conditional uses and uses requiring Council approval as provided in the respective zones of Subtitle III, Part 2, of this Land Use Code, and applicable provisions of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, may be authorized according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.*

The procedural requirements of SMC 23.76 have been followed for this proposal.

- B. *In authorizing a conditional use, the Director or City Council may impose conditions to mitigate adverse impacts on the public interest and other properties in the zone or vicinity.*

The criteria listed in SMC 23.47A.006.A.3 are used to evaluate the proposal and imposed conditions, if necessary, to mitigate adverse impacts on the public interest and other properties in the vicinity of the proposal. This is an administrative conditional use permit application, requiring approval by Seattle DCI and does not require approval by the City Council.

*C. The Director may deny or recommend denial of a conditional use if the Director determines that adverse impacts cannot be mitigated satisfactorily, or that the proposed use is materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The decision shall be based on whether the proposed use meets the criteria for establishing a specific conditional use as described in SMC 23.47A.006.A.3.a. The criteria for establishing the proposed residential use shall be evaluated, and the project will be conditioned, as necessary, to mitigate material detriment to the public welfare or injury to property in the vicinity of the project.

*D. A use that was legally established but that is now permitted only as a conditional use is not a nonconforming use and will be regulated as if a conditional use approval had earlier been granted.*

This criterion is not applicable to the proposal.

*E. Any authorized conditional use that has been discontinued may not be re-established or recommenced except pursuant to a new conditional use permit. The following will constitute conclusive evidence that the conditional use has been discontinued:*

- 1. A permit to change the use of the lot has been issued and the new use has been established; or*
- 2. The lot has not been used for the purpose authorized by the conditional use for more than 24 consecutive months. Lots that are vacant, or that are used only for storage of materials or equipment, will not be considered as being used for the purpose authorized by the conditional use. The expiration or revocation of business or other licenses necessary for the conditional use will suffice as evidence that the lot is not being used as authorized by the conditional use. A conditional use in a multifamily structure or a multi-tenant commercial structure will not be considered discontinued unless all portions of the structure are either vacant or committed to another use.*

This criterion is not applicable to the proposal.

#### Administrative Conditional Uses (SMC 23.47A.006)

*A. The following uses, where identified as administrative conditional uses on Table A for 23.47A.004, or other uses identified in this Section 23.47A.006, may be permitted by the Director when the provisions of both Section 23.42.042 and this subsection 23.47A.006.A are met:*

Provisions for Section 23.42.042 are discussed above.

- 3. Residential Uses in C2 zones. Residential uses may be permitted in C2 zones as a conditional use subject to the following criteria:*
  - 1) The residential use generally should not be located in an area with direct access to major transportation systems such as freeways, state routes and freight rail lines.*

The site does not have direct access to major transportation systems such as freeway, state routes, and freight lines. As described above, the site abuts Union Bay Place NE and an alley to the northeast. Union Bay Place NE connects to NE 45<sup>th</sup> Street and State Route 513 to the south of the site. Although this is a State Route, it is a regional arterial and is removed from connections to the freeway or other state highways. Interstate 5 is approximately 1.4 miles away.

Access to I-5 requires traveling indirect routes along Union Bay Place to NE 45<sup>th</sup> Street, which are frequently congested.

- 2) *The residential use generally should not be located in close proximity to industrial areas and/or nonresidential uses or devices that have the potential to create a nuisance or adversely affect the desirability of the area for living purposes as indicated by one of the following:*
- i. The nonresidential use is prohibited in the NC3 zone;*
  - ii. The nonresidential use or device is classified as a major noise generator; or*
  - iii. The nonresidential use is classified as a major odor source.*

The proposed residential use will not be located in close proximity to industrial areas. The site is surrounded by commercial and residential zoning. Per the Seattle DCI GIS mapping tool, the closest industrial zoning is approximately 1.25 miles to the southwest.

The following table lists the properties and nonresidential uses that are in close proximity of the site.

<b>Table A: Nonresidential Uses in Close Proximity to the Site</b>		
<b>Address</b>	<b>Existing Development</b>	<b>Proximity to Subject Site</b>
4050 Union Bay Place NE	Two-story retail and medical dental center	Abuts the subject site to north
3216 NE 45 <sup>th</sup> Place	Three-story medical/dental center	Abuts the subject site to the south
N/A	Designated as open space (Burke Gilman Trail)	Across 15' abutting alley ROW
4535 Union Bay Place NE	Two-story commercial structure (Crossfit)	Across 60' street ROW (Union Bay Place NE)
3042 Union Bay Place NE	One-story commercial structure (Tully's Coffee, FedEx Office Print & Ship Center)	Across 60' street ROW (Union Bay Place NE)
3040 Union Bay Place NE	One-story restaurant (Burgermaster)	Across 60' street ROW (Union Bay Place NE)

The nonresidential uses identified above are permitted in the Neighborhood Commercial 3 (NC3) zone per SMC 23.47.A.004. None of these nonresidential uses are listed as a major source of odor per SMC 23.47A.020. None of these nonresidential uses are listed as a major source of noise per SMC 23.47A.018.

- 3) *In making a determination to permit or prohibit residential uses in C2 zones, the Director shall take the following factors into account:*
- i. The distance between the lot in question and major transportation systems and potential nuisances;*
  - ii. The presence of physical buffers between the lot in question and major transportation systems and potential nuisance uses;*

As noted above, the site is located approximately 1.4 miles to the west, with a grade change of approximately 150 feet. The nearest rail is over 3.5 miles away.

Minimal potential nuisances are located in close proximity to the site, as demonstrated in Table A, or within the vicinity of the site. The Burke-Gilman Trail abuts the site to the northeast, beyond which is largely single-family residences. Existing development to the northwest, along Union Bay Plane NE, are retail, commercial, and office developments. Beyond NE 45<sup>th</sup> Street, to the south, are playfields, multi-family, and single-family residences. To the west are 1 and 2 story commercial structures with large surface parking lots.

Properties to the south of NE 45<sup>th</sup> Street, approximately, 205 feet away, contain nonresidential uses (outdoor recreation) that are prohibited in NC3 zones per 23.47A.004. According to information provided by the applicant, University of Washington online schedules for the playfields located to the south of NE 45<sup>th</sup> Street shows that intramural games start between 4-5 pm, year-round. It is unlikely that games will extend past 10pm. Due to the distance and features between the proposal site and the playfields, it is likely that none to minimal impacts would be generated from this use.

- iii. *The potential cumulative impacts of residential uses on the availability for nonresidential uses of land near major transportation systems; and*
- iv. *The number, size and cumulative impacts of potential nuisances on the proposed residential uses.*

In reviewing the information submitted by the applicant pertaining to the proximity of major transportation systems and the established development surrounding the subject site, as well as the application of the conditional use criteria, Seattle DCI concludes that the residential use should be allowed.

The site does not have direct access to major transportation systems and the proposed residential use will not have a large impact on the availability of nonresidential uses of land near major transportation systems, as demonstrated by the nearby land uses discussed previously.

The subject property is located in an area that is suitable for a mix of commercial and residential uses. There are minimal potential nuisances in the vicinity, so cumulative impacts are not expected to adversely impact the proposed residential use.

### **DECISION – ADMINISTRATIVE CONDITIONAL USE**

The Administrative Conditional Use application is **GRANTED** without conditions.

### **III. 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 (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 9/9/2015. The Seattle Department of Construction and Inspections (Seattle DCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted

by the applicant or its agents; and any pertinent comments which may have been received regarding this proposed action have been considered. The information in the checklist, the supplemental information, 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 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts in appropriate.

Public Comment:

The SEPA public comment period ended 11/08/2015. Several SEPA comments were received.

**A. 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, a small increase in traffic and parking impacts due to construction-related vehicles, environmental health and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following analyzes greenhouse gas, earth/soils, environmental health and construction traffic and parking impacts, as well as mitigation.

*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.

*Earth / Soils*

The ECA Ordinance and Director's Rule (DR) 18-2011 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in landslide prone areas. Pursuant to this requirement the applicant submitted a geotechnical engineering studies<sup>1,2,3</sup>. The study has been reviewed and approved by Seattle DCI's geotechnical experts, who will require what is needed for the proposed work to proceed without undue risk to the property or to adjacent properties. The existing ECA, Grading and Stormwater Codes will sufficiently mitigate adverse impacts to the ECAs.

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<sup>1</sup> "Geotechnical Engineering Study." Geotech Consultants, Inc. 20 October 2015.

<sup>2</sup> "Groundwater Monitoring Well, Union Bay Plaza, Seattle, Washington." Golder Associates. 20 March 2012.

<sup>3</sup> "Preliminary Geotechnical Engineering Report." Golder Associates. 9 August 2007.

*Environmental Health*

Demolition of existing buildings may result in encounters with materials containing lead and/or asbestos. Should asbestos be identified on the site, it must be removed in accordance with the Puget Sound Clean Air Agency (PSCAA) and City requirements. PSCAA regulations require control of fugitive dust to protect air quality and require permits for removal of asbestos during demolition. The City acknowledges PSCAA's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination. No further mitigation under SEPA Policies 25.05.675.F is warranted for asbestos impacts.

Should lead be identified on the site, there is a potential for impacts to environmental health. Lead is a pollutant regulated by laws administered by the U. S. Environmental Protection Agency (EPA), including the [Toxic Substances Control Act \(TSCA\)](#), [Residential Lead-Based Paint Hazard Reduction Act of 1992 \(Title X\)](#), [Clean Air Act \(CAA\)](#), [Clean Water Act \(CWA\)](#), [Safe Drinking Water Act \(SDWA\)](#), [Resource Conservation and Recovery Act \(RCRA\)](#), and [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\)](#) among others. The EPA further authorized the Washington State Department of Commerce to administer two regulatory programs in Washington State: the Renovation, Repair and Painting Program (RRP) and the Lead-Based Paint Activities Program (Abatement). These regulations protect the public from hazards of improperly conducted lead-based paint activities and renovations. No further mitigation under SEPA Policies 25.05.675.F is warranted for lead impacts.

*Construction Parking & Traffic*

Increased trip generation is expected during the proposed grading and construction activity. The area is subject to significant traffic congestion during peak travel times on nearby arterials. Large trucks turning onto arterial streets would be expected to further exacerbate the flow of traffic.

The area includes limited and timed or metered on-street parking. Additional parking demand from construction vehicles would be expected to further exacerbate the supply of on-street parking. It is the City's policy to minimize temporary adverse impacts associated with construction activities.

Pursuant to SMC 25.05.675.B (Construction Impacts Policy), additional mitigation is warranted and a Construction Management Plan is required, which will be reviewed by Seattle Department of Transportation (SDOT). The requirements for a Construction Management Plan include a Haul Route and a Construction Parking Plan. The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.

**B. LONG –TERM IMPACTS**

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: greenhouse gas emissions; parking; possible increased traffic in the area. Compliance with 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, greenhouse gas emissions; height, bulk and scale; traffic and transportation; and parking impacts warrant further analysis.

### *Greenhouse Gas Emissions*

Operational activities, primarily vehicular trips associated with the project construction 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. While these impacts are adverse, they are not expected to be significant, therefore, no further mitigation is warranted.

### *Height, Bulk & Scale*

The project went through a Design Review process which addressed the issue of Height, Bulk & Scale; see the above Design Review Analysis for details of the process and design changes.

Pursuant to SEPA Policy 25.05.675.G.2.c: Height, Bulk and Scale, "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 is presumed to comply with the 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 that have undergone design review shall comply with the design guidelines applicable to the project."

The height, bulk and scale of the proposed development and relationship to nearby context have been addressed during the Design Review process for any new project proposed on the site. Per the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to historic resources are presumed to be sufficient, and additional mitigation is not warranted under SMC 25.05.675.G.

### *Parking*

The proposed development includes 61 residential units with 115 off-street vehicular parking spaces. The submitted study<sup>4</sup> indicated that the development will utilize a shared parking system with the developments to the north and south of the site (medical and general offices). The combined total for all three sites will be 174 spaces. The study indicates that the three properties are expected to have a peak parking demand with 67% of the available parking being utilized (117 spaces of the 174).

The number of proposed parking spaces accommodates all of the anticipated parking demand, and no additional mitigation is warranted per SMC 25.05.675.M.

### *Transportation*

The Traffic Impact Analysis<sup>4</sup> indicated that the project is expected to generate a net total of 240 vehicle trips, with 15 net new PM peak hour trips and 9 net new AM peak hour trips.

The additional trips would have minimal impact on levels of service at nearby intersection and on the overall transportation system. Concurrency analysis was conducted for nearby identified areas. That analysis showed that the project is expected to be well within the adopted standards

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<sup>4</sup> "Union Bay Place Development, Traffic Impact Analysis." Gibson Traffic Consultants. October 2015.

for the identified areas. The Seattle DCI Transportation Planner reviewed the information and determined that while these impacts are adverse, they are not expected to be significant; therefore, no further mitigation is warranted per SMC 25.05.675.R.

### **DECISION - STATE ENVIRONMENTAL POLICY ACT (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 requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

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

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW [43.21C.030](#) (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC [197-11-355](#) and Early review DNS process in SMC 25.05.355. There is no further comment period on the DNS.

### **CONDITIONS – DESIGN REVIEW**

#### *Prior to Certificate of Occupancy*

1. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by Seattle DCI Land Use.

#### *For the Life of the Project*

2. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by Seattle DCI Land Use.
3. Storefront windows at the staircase near the garage entry shall remain transparent.

**SEPA - CONDITIONS OF APPROVAL**

*Prior to Issuance of a Demolition, Excavation/Shoring, or Construction Permit*

4. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.

Cheryl Waldman for Katy Haima, Land Use Planner  
Seattle Department of Construction and Inspections

Date: June 6, 2016

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**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](mailto:prc@seattle.gov) or to our message line at 206-684-8467.