



City of Seattle
 Gregory J. Nickels, Mayor
 Department of Planning and Development
 Diane M. Sugimura, Director

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

Application Number: 2402699
Applicant Name: David Wu of TSE Architects for Hue Tan Le, Owner
Address: 7713 Rainier Avenue South

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a two-story 19,300 square foot building including ground floor retail and administrative offices. Demolition of an existing 2,500 square foot one-story restaurant is required. Twenty-nine parking spaces will be provided on site.

The following approvals are required:

Design Review - Chapter 23.41 Seattle Municipal Code (SMC).

SEPA - Environmental Determination - Chapter 25.05 SMC

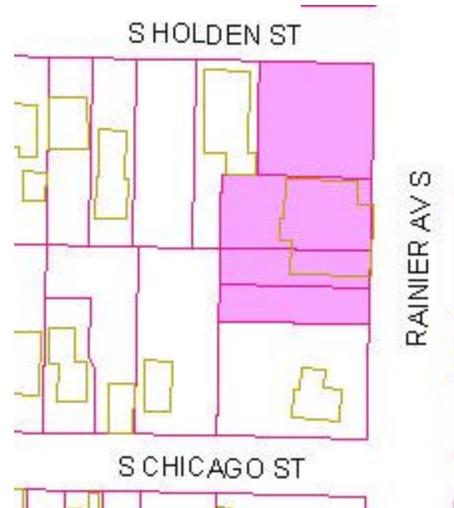
SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition, or involving another agency with jurisdiction.

BACKGROUND DATA

Project and Vicinity Description

The proposal is to construct a two-story commercial and office building at the corner of South Holden Street and Rainier Avenue South. Associated parking will be at grade behind the structure. Access to the parking area will be from Rainier Avenue South through a driveway that extends along the south property boundary.

The development site is located in the Dunlap/Rainier Beach neighborhoods of southeast Seattle. The property is currently developed with a single story restaurant structure



fronting the sidewalk on Rainier Avenue South and surface parking surrounding this structure on the south, west and north sides of the remainder of the lot. The site slopes gently downhill to the south and east from its northwest corner on South Holden Street.

Surrounding zoning and land uses to the south, north and east is NC2-40; land uses are a mixture of one and two-story commercial and office buildings and a single family structure to the south. The parcels to the west are zoned Lowrise 3 (L-3) and contain a mixture of multi-family and single-family structures.

Rainier Avenue South is a four lane arterial with curbs, gutters, sidewalks, and parking on both sides of the street. South Holden Street is a residential street with sidewalks but no curb adjacent to the subject property.

ANALYSIS - DESIGN REVIEW

DESIGN GUIDELINE PRIORITIES, EARLY DESIGN GUIDANCE MEETINGS OF MAY 22, 2001 AND APRIL 27, 2004.

At the Early Design Guidance (EDG) meetings after visiting the site, considering the analysis of the site and context provided by the proponents, the Design Review Board members provided the following siting and design guidance and identified by letter and number those siting and design guidelines found in the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*" of highest priority to this project:

- A-3 Entrances Visible from the Street
- A-4 Human Activity
- A-5 Respect for Adjacent Sites
- A-8 Parking and Vehicle Access
- A-9 Location of Parking on Commercial Street Fronts
- A-10 Corner Lots
- B-1 Height, Bulk and Scale Compatibility.
- C-1 Architectural Context
- C-2 Architectural Concept and Consistency
- C-3 Human Scale
- C-4 Exterior Finish Materials
- D-1 Pedestrian Open Spaces and Entrances
- D-2 Blank Walls
- D-4 Design of Parking Lots near Sidewalks
- D-6 Screening of Dumpsters, Utilities, and Service Areas
- D-7 Personal Safety and Security
- E-2 Landscaping to Enhance the Building and / or Site
- E-3 Landscape Design to Address Special Site Conditions

DEPARTURE REQUESTS.

No design departures were requested.

The Board made the following key design guidance:

- Site the proposed building at the corner and locate the surface parking in the rear,
- Respect the adjacent residential site by using high quality design and materials in the rear and provide adequate and attractive screening along the rear property boundary,
- Provide adequate and attractive screening for all outside utility areas.
- Provide multiple entrances at the street and extensive transparency,
- Use a high quality of design and materials, following the lead of the Emerald City Outreach Ministries building across the street.
- Promote pedestrian and tenant safety through site design, not simply extensive lighting.

Public Comment from the Early Design Guidance Meetings

- Parking access should be from Rainier Avenue South, not South Holden Street, and there should be good visibility for exiting vehicles,
- The project design should be of a high quality to set a high standard for anticipated future neighborhood development.

Design Review Board Recommendation Meeting Summary, February 8, 2005.

The applicant applied for the Master Use Permit (MUP) on July 15, 2004. In the following months the applicants refined their project to respond to the previous Early Design Guidance. On February 8, 2005 the Southeast Design Review Board held their recommendation meeting on this proposal. The applicant brought additional materials, including renderings, to demonstrate how the project design had developed in response to the early design guidance (EDG).

Summary of Architect's Presentation

At the Recommendation Meeting, elevation drawings from the 2nd EDG meeting were mistakenly presented and therefore not updated to respond to the early design guidance, although these had been presented previously to the project land use planner. Floor plans were presented that did not coincide with the elevations. However, the project planner had reviewed the updated plans and thus assured the Board that changes were made responsive to the previous guidance. The architect's presentation was therefore based on the following narrative.

The building program proposes two stories of commercial space fronting Rainier Avenue South with parking for twenty-nine vehicles in the rear. The first floor spaces will be configured for retail use. The second floor spaces will be for office use. At grade units will have dual entry from the street and the parking area. Upper level units will be accessed from an interior corridor.

A variety of materials, colors, modulation and articulation of walls are proposed. The predominant wall material will be Dryvit but with the inset second story wall sections clad with vertically banded metal siding. The first and second stories will be separated by horizontal reveals of inset metal and a color change. The building base will be differentiated by the use of a contrasting color and façade articulation. The main doorways on both the street and parking lot

facades, with the exception of the corner entrance, will be within the recessed metal cladded areas. The building corner and main entry at the intersection of South Holden Street and Rainier Avenue South will be at a 45-degree angle to the other facades to create an exterior transition area into the building. This area will be covered by a canopy extending to the sidewalk. The building roofline will be differentiated through changes in parapet elevation and a pronounced cornice/cap feature. Extensive glazing is provided and arranged to give balance and a human scale to the facades. Street trees along both street fronts and sidewalk, curb, gutter and planting strip along South Holden Street will be added, all as required by City Code. The three existing Little Leaf Lindens in the Rainier Avenue South ROW will remain. Landscaping will be added along both street fronts, in the parking area, and extensively along the rear property boundary as screening for the residentially zoned properties to the west.

Public Comment

No members of the public were in attendance at the Recommendation meeting.

Departures

No design departures were requested.

Board Recommendations

Following the presentation by the applicant as well as Board questions and comments, the five Board members assessed the project based on the narrative response to the previous design guidance developed through application of the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*". In general, the Board members indicated that the project seems to meet the Design Guidance that was prioritized at the two EDG meetings provided it reflects the plans previously submitted to the project planner. The Board noted that there had been considerable effort by the applicant in developing the design, including addressing the Board's concerns. In their deliberations on the project, the Board provided further recommendations on the selected issues in relation to the priority design guidelines below:

A. Site Planning

A-1 Responding to Site Characteristics

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

The site rises in grade approximately seven feet from the southeast corner to the northwest corner and approximately six feet from the northeast corner to the northwest corner along South Holden Street. This elevation change has not been shown on the elevation drawings and is likely to change the building massing along both streets and particularly the proposed north commercial entry along South Holden Street.

- Corrected plans showing the manner the building design will respond to this site condition must be included in the final plans.

DPD Analysis and Response. Building design on north façade responds to topography and street.

A-3 Entrances Visible from the Street

Entries should be clearly identifiable and visible from the street.

A-4 Human Activity

New development should be sited and designed to encourage human activity on the street.

A-10 Corner Lots

Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.

Design guidance from the previous Board meetings directed the project to:

- Make the corner general building entry pronounced relative to the individual unit building entries. Techniques could be a variation of the door frame and/or glazing used elsewhere and changes to this area's façade materials and colors. The corner entry should have an awning unique to this location on the building.
- Clearly identify the parking entry by the use of signage, an entry feature, or a variation in building design.

The presented elevation drawings did not address the above issues.

Prior to Master Use Permit (MUP) approval revised plans must be submitted showing response to this guidance.

DPD Analysis and Response. The corner entry has an arched canopy differentiating it from the individual commercial entries. Entry stanchions labeled parking have been included at the driveway entrance. The design responds to the guidance.

A-5 Respect for Adjacent Sites

Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.

Previous guidance directed the project to use a stepped retaining wall along the west property boundary to better screen the site and associated parking from the adjacent residentially zoned lot. Due to area constraints the architect reports that a stepped wall will not work. The project now proposes to provide screening landscaping for the retaining wall at the parking lot grade and topping the wall with a screening wood fence. For this to work, the project should:

- Use a variety of heights for all plantings in order to provide retaining wall screening within the site and to provide "upper level", or tree height, screening of the building from the residential site.
- Use a high quality of material and design for the wood fence. Fence should be two sided, that is, there should not be a framed, or back, side exposed to either property.

DPD Analysis and Response. The proposed retaining wall will have a landscape area along its entire length. In contrast to previous applicant comments the wall is terraced in two sections for the majority of its length. A wood fence is included on the top of the wall (at grade) to provide visual screening for the adjacent residential structure. A variety of tree species that will grow above the fence will provide an additional layer and texture of screening.

A-8 Parking and Vehicle Access

Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties, and pedestrian safety.

In previous guidance the Board directed the project to provide adequate screening along the west property boundary and visibility from the driveway access to the sidewalk and street. See further guidance in A-5 above regarding screening.

Elevation plans submitted before the Recommendation meeting but not presented at the meeting include glazing at the south side / driveway access façade of the first floor. The glazing provides through-unit visibility for both pedestrians on the sidewalk and vehicles on the driveway and the street. Additionally, the southeast building corner at this entry was modulated to step-back from the front façade. Both the added glazing and modulation should be included in the final MUP drawings.

DPD Analysis and Response. The parking areas have been adequately screened from the adjacent residential property by a combination of fencing and landscaping. Substantial fenestration has been added along the driveway and parking area walls.

B-1 Height, Bulk and Scale Compatibility

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

C-2 Architectural Concept and Consistency

Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building. In general, the roofline or top of the structure should be clearly distinguished from its façade walls.

D-4 Design of Parking Lots near Sidewalks

Parking lots near sidewalks should provide adequate security and lighting, avoid encroachment of vehicles onto the sidewalk, and minimize the visual clutter of parking lot signs and equipment.

The pre-Recommendation meeting plans addressed the EDG *Height, Bulk, and Scale* concerns of the Board by the addition of:

- Varied parapet heights along all facades,
- Reveal lines along the 1st and 2nd floors, additional windows on the south and west facades, and

- A more substantial base element at the sidewalk level.
- The addition of windows on all south and the northwest façade, both stories.

The architectural details must be included in the final MUP drawings.

The architect suggested that a security gate may be added at the driveway and sidewalk intersection of the parking entrance and would be closed and locked only at night. The Board previously noted that a gate, if not placed where it is visible from vehicles on the street before they attempt to enter the driveway, could cause traffic problems if consequent backing onto the street was necessary. At the recommendation meeting, the Board noted that the addition of a gate would be a negative signal, possibly exaggerating a perception of crime. However, if a gate is added it should:

- Be designed to not block the south façade and be architecturally integrated with the building design.
- Create safety by the location and presence of a visually attractive separation, not by the presence of an unsightly security fence that will send a message that crime is a local problem.

Gate design must be developed and presented to the project planner for approval prior to MUP approval. The approved design must be included in the final MUP drawings.

DPD Analysis and Response. The final design addresses the above *Height, Bulk, and Scale* concerns. A security gate will not be included in the design. However, as a Condition of Approval, if a security gate is added in the future it must be reviewed by the project planner for compliance with the above guidance.

C-1 Architectural Context

New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

The Board noted that this project will be a welcome addition to the existing neighborhood commercial architectural context.

C-3 Human Scale

The design of new buildings should incorporate architectural features, elements and details to achieve a good human scale.

Previously, the Board noted that the building should have south façade windows and they supported the addition of a 2nd story south side balcony over the driveway entrance. As per B-1 and C-2 above, these elements must be shown on the final MUP drawings.

DPD Analysis and Response. A balcony was not included. However, substantial fenestration is included along the south side, which successfully responds to this guidance.

C-4 Exterior Finish Materials

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

The material and color choices presented at the 2nd EDG and Recommendation meetings are described in Architect's Presentation above. Additionally the project should:

- Use a color for the metal siding that is not dark brown, as the material sample showed, but of a reddish hue to match the proposed Dryvit wall color.
- Coordinate the south side alternating of Dryvit to metal to match the pattern on the other facades. I.E. the recessed areas should be metal clad and the foreground areas should be Dryvit.

Previous guidance requested details of the dumpster enclosure and site and building lighting fixtures that were not cobra head stanchions. These details (at 1/4 scale or larger for enclosure and with product specification sheets for lighting) must be provided with final MUP drawings.

DPD Analysis and Response. The exterior materials and colors have been coordinated to result in a high quality design. Proposed exterior wall and stanchion lighting models will minimize glare and light-trespass onto adjacent properties and the general neighborhood. The dumpster enclosure and gates have been designed to be visibly attractive.

D-1 Pedestrian Open Spaces and Entrances

Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.

The Board and project architect discussed potential problems with the proposed tandem door entries for adjoining ground floor units. Specifically, they noted that their swing toward each other, the separation of these doors by only a wall thickness, and the location of each unit's other (rear or street) entry directly opposite the other door awkward movement patterns and spaces. The Board recommends, and the architect concurred, that the doors should have greater separation within their recessed location.

DPD Analysis and Response. The individual commercial entry doors have been separated and swing away from each other to reduce conflicts.

D-2 Blank Walls

Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they should receive design treatment to increase pedestrian comfort and interest.

See guidance above regarding the addition of windows to the south and northwest facades.

DPD Analysis and Response. Façade windows, appropriately sized to their direction of orientation, have been added.

D-6 Screening of Dumpsters, Utilities, and Service Areas

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

See guidance above regarding design of dumpster enclosure.

DPD Analysis and Response. This project has successfully responded to this guidance.

E-2 Landscaping to Enhance the Building and/or Site

Landscaping including living plant material, special pavements, trellises, screen walls, planters, site furniture, and similar features should be appropriately incorporated into the design to enhance the project.

E-3 Landscape Design to Address Special Site Conditions

The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas, and boulevards.

A fully developed landscape plan containing a variety of plant types and conforming to Director's Rule 13-92 must be submitted for final MUP approval.

As noted in A-5 above, landscaping along the rear retaining wall should have a variety of heights in order to do 3 things: provide groundcover, screen the concrete wall, and provide project building screening for the residential property to the west.

DPD Analysis and Response. The submitted landscape plan includes an appropriate variety landscaping that will adequately screen the project parking area from adjacent lots and provide visual relief along the street front and throughout the site.

SUMMARY OF BOARD RECOMMENDATIONS

The Board unanimously recommended approval of the project based on the material discussed at the Recommendation meeting and previously shown to the project planner, and provided the guidance discussed above is followed and shown on the final plans, and requested materials are provided.

DIRECTOR'S ANALYSIS AND DECISION - DESIGN REVIEW

Based on the plan updates presented at the applicant's final Design Review meeting and further plan updates presented to the project planner in response to final Board recommendations, the Director finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design. Along with any *non-appealable and building permit* conditions, the Director **CONDITIONALLY APPROVES** the proposed design.

ANALYSIS - SEPA

The initial disclosure of the potential impacts of this project was made in the environmental checklist submitted by the applicant dated July 12, 2004 and annotated by the Department. The information in the checklist, supporting documents, project plans, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment (SMC 25.05.675), certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising 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). However, under certain limitations 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 Construction Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- Construction dust and storm water runoff
- Increased noise levels
- Disruption of adjacent vehicular and pedestrian traffic
- Damage to a designated *exceptional* tree off-site and adjacent to the site's southwest corner but with roots and canopy extending significantly on to the site.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. Puget Sound Clean Air Agency regulations require control of fugitive dust from demolition and construction to protect air quality. The Noise Ordinance regulates the time and amount of construction noise that is permitted in the City. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates obstruction of the pedestrian right-of-way. The Tree Protection Ordinance regulates the protection and removal of trees. The Building Code provides for construction measures in general. Compliance with some of these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, the likelihood of excessive *Noise* from construction activity beyond that addressed by the Noise Ordinance must be analyzed. Additionally, the Tree Protection Ordinance (SMC 25.08) addresses tree preservation on sites undergoing development in commercial zones, but not preservation of trees off-site that may be adversely impacted by adjacent development and therefore must also be analyzed.

Noise

To the west and southwest of the project site the zoning is Lowrise 3 (L3) and contains residential structures and uses. Due to the proximity of these residential dwellings the Noise Ordinance hour limitations will not be adequate, therefore further conditioning is required.

Condition. In addition to the Noise Ordinance requirements all construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. In addition, only low noise impact work such as that listed below, shall be permitted on Saturdays from 9:00 a.m. to 6:00 p.m. and on Sundays from 10:00 a.m. to 6:00 p.m.:

1. Surveying and layout;
2. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. Such construction activities will have a minimal impact on adjacent uses.

Restricting the ability to conduct these tasks would extend the construction schedule, thus the duration of associated noise impacts. DPD recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to issues of safety, or which could substantially shorten the total construction time frame if conducted during these hours. To this end, the hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels may be conducted by DPD Construction Inspections.

As conditioned, noise impacts to nearby uses are considered adequately mitigated.

Plants and Animals

A 37-inch DBH (Diameter at Breast Height) Butternut tree (*Juglens Cinera*), also called a “white walnut”, is located adjacent to the site’s southwest north-to-south property boundary. The eastern half of the tree’s canopy and critical root zone (that area within the drip line of the tree) is on the project site. This non-native species has a diameter of 75 percent or greater than the diameter of the Champion Tree of Washington for this species. Department of Planning and Development Directors Rule 6-2001, which clarifies the SEPA Plants and Animals Policy, SMC 25.05.675.N and establishes appropriate tree protection mitigating measures, requires assessment of trees in this category by a tree professional to determine if it achieves 75 percent points of the state Champion Trees AFA points (American Forestry Association).

A tree report dated October 25, 2005 was submitted by Tree Solutions, a consulting arborist service. That report determined that this specimen reaches 86 percent of the AFA designated points for the State Champion Tree of this species. A tree at or exceeding 75 percent of the AFA

designated points is assessed to determine if its condition and location are not injurious to the public health, safety and welfare and can be expected to remain alive and healthy for a minimum of 20 additional years. If so, appropriate protective measures are warranted.

The submitted report stated that this “tree is an excellent specimen of a large, deciduous hardwood tree...”. To avoid harmful impacts during construction, the Tree Solution report recommends limiting modification of the existing topography to no closer than 25 feet of the critical root zone (CRZ). This will require the placement of a temporary chain link fence at a minimum distance of a 25 foot diameter from the outer limit of the trunk at grade.

The SEPA Plants and Animals Policy states that projects may be conditioned or denied to mitigate the adverse impacts on plants with substantial aesthetic and ecological values, such as exceptional trees. Accordingly, and based on the Tree Solutions assessment, mitigation for likely adverse impacts on this specimen is warranted and the project is conditioned as follows:

Construction Condition

No modifications to the existing topography shall be made closer than 25 feet of the critical root zone (CRZ) of this tree. A temporary chain link fence shall be placed at a minimum distance of a 25 foot diameter from the outer limit of the trunk at grade. At least two weatherproof placards giving notice of the non-disturbance of the trees roots, trunk, and branch system must be attached to the fence and be visible on site for the duration of all exterior grading and construction activity. If any work must be done within the CRZ or removal or pruning of any of the tree canopy is proposed, the arborist, Ann Hirschi of Tree Solutions, 206 528-4670, must be consulted and the project planner (206 733-9074) must be notified and give approval prior to any action. The general contractor shall inform all employees and subcontractors of these conditions.

As conditioned, noise impacts to nearby uses are considered adequately mitigated.

Long-Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased area traffic and demand for parking, and harm to the *exceptional* Butternut tree off site to the southwest (Juglens Cinera).

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts, such as the Land Use Code’s requirements for street improvements and adequate off-street parking. Compliance with the street improvement and parking Code requirements is adequate to achieve sufficient mitigation of long-term impacts. However, due to the limitations of the Tree Protection Ordinance, additional analyzes and mitigation may be warranted to protect an *exceptional* off-site tree.

Height, Bulk, and Scale

The proposed three-story project will rise to approximately 32 feet to the top of the roof parapet from the existing grade at the intersection of Rainier Avenue South and South Holden Street. The site's zoning of Neighborhood Commercial 2 with a 40' height (NC2-40) occurs north and south on both sides of Rainier Avenue South. To the west and adjacent to the site the zoning is Lowrise 3 (L-3).

The proposed project is being developed to NC 2-40 standards, as allowed by the Land Use Code, and is thereby in keeping with the scale potential of the zone and adjacent L-3 zone as well as that of the existing structures in the vicinity.

The SEPA Height, Bulk and Scale Policy (Sec. 25.05.675.G, SMC) states that "*the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the adopted Land Use Policies...for the area in which they are located, and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning.*"

In addition, the SEPA Height, Bulk and Scale Policy states that "*(a) project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated.*" Since the discussion in the previous paragraph indicates that there are no significant height, bulk and scale impacts as contemplated within this SEPA policy, and since the Design Review Board approved this project with conditions, no mitigation of height, bulk and scale impacts is warranted pursuant to this SEPA policy.

Plants and Animals

The Tree Protection Ordinance (SMC 25.08) requires the protection of *exceptional* trees on sites undergoing development in commercial zones and the establishment of a tree protection area to protect the root system. The *exceptional* Butternut tree trunk is on an adjacent site but at the mutual property line with the project site. Consequently, the eastern half of its canopy and root system are on the project site.

The project proposed to construct a retaining wall along the property boundary by the *exceptional* tree. Excavation and construction would therefore require removal of up to one-half of the tree's critical root zone and likely result in the trees death. Based on the information discussed in *Short Term Construction Impacts* above and in accordance with the Plants and Animals Policy of SMC 25.05.675.N, this project is therefore conditioned as follows:

Condition

A minimum 25 foot Tree Protection Zone (TPZ) shall extend from the trunk of the tree in all directions on the project site. No excavation shall occur within that zone and no structure, such as a retaining wall, shall be constructed within this TPZ.

If design or construction conditions arise that require work with the established TPZ, the owner is responsible for assuring consultation with the consulting arborist of Tree Solutions and approval by the project planner will occur before any action is taken.

As conditioned, noise impacts to nearby uses are considered adequately mitigated.

DECISION - STATE ENVIRONMENTAL POLICY ACT

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.

DESIGN REVIEW CONDITIONS

Non-Appealable Design Review Conditions

1. Any proposed changes to the exterior of the building or the site must be submitted to DPD for review and approval by the Land Use Planner (Art Pederson, 733-9074). Any proposed changes to improvements in the public right-of-way must be submitted to DPD and SDOT for review and final approval.
2. Any addition of a security gate must be reviewed by the project planner for compliance with the guidance in *D-4* above.
3. The retaining wall / landscape wall shall be two-tiered along the north to south portion of this wall between approximately 45 feet from the south property line to approximately 15 feet from the north property line.
4. The building constructed shall comply 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). This shall be verified by the DPD planner assigned to this project (Art Pederson, 733-9074), or by the Design Review Manager, before the issuance of the Certificate of Occupancy. An appointment with the assigned Land Use Planner must be made at least (3) working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.

5. Embed all conditions in the cover sheet for the MUP permit and for all subsequent permits including updated MUP plans, and all building permit drawings.
6. Embed MUP approved colored elevation drawings into the Building Permit Plan set in order to facilitate subsequent review of compliance with Design Review.

Prior to Issuance of the Building Permit

1. The design shown in the building permit plans must be confirmed by the project planner to conform to the approved MUP design.

SEPA CONDITIONS

Construction Conditions

1. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, all construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. (minor work between the hours of 7 and 7:30 may be allowed with the submittal and approval of a noise mitigation plan that would then be posted on site for public view). In addition, only low noise impact work such as that listed below, shall be permitted on Saturdays from 9:00 a.m. to 6:00 p.m. and on Sundays from 10:00 a.m. to 6:00 p.m.:
 - Surveying and layout;
 - Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. DPD recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to issues of safety, or which could substantially shorten the total construction time frame if conducted during these hours. Therefore, the hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DPD Construction Inspections.

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

2. No modifications to the existing topography shall be made closer than 25 feet of the critical root zone (CRZ) of this tree. A temporary chain link fence shall be placed at a minimum distance of a 25 foot diameter from the outer limit of the trunk at grade. At least two weatherproof placard giving notice of the non-disturbance of the trees roots, trunk, and branch system must be attached to the fence and be visible on site for the duration of all exterior grading and construction activity. If any work must be done within the CRZ or removal or pruning of any of the tree canopy is proposed, the arborist, Ann Hirschi of Tree Solutions, 206 528-4670, must be consulted and the project planner (206 733-9074) must be notified and give approval prior to any action. The general contractor shall inform all employees and subcontractors of these conditions.

Long – Term Condition

1. A minimum 25 foot Tree Protection Zone (TPZ) shall extend from the trunk of the tree in all directions on the project site. No excavation shall occur within that zone and no structure, such as a retaining wall, shall be constructed within this TPZ.

If design or construction conditions arise that require work with the established TPZ, the owner is responsible for assuring consultation with the consulting arborist of Tree Solutions and approval by the project planner will occur before any action is taken.

Signature: (signature on file) Date: March 30, 2006
Art Pederson, Land Use Planner