



# City of Seattle

Gregory J. Nickels, Mayor

## Department of Planning & Development

D. M. Sugimura, Director

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

**Application Number:** 3003281

**Applicant Name:** Scott Waggoner of Callison Architecture for City Investors XXIII, LLC

**Address of Proposal:** 2105 5th Avenue

#### **SUMMARY OF PROPOSED ACTION**

Land Use Permit to allow a 24-story, 172-unit residential tower with 4,310 sq. ft. of retail at ground level. Parking for 191 vehicles to be provided above- and below-grade.

The following approvals are required:

**SEPA Environmental Determination** – Chapter 25.05 SMC.

**Design Review** – Chapter 23.41 Seattle Municipal Code (SMC)

[Departures from the Land Use Code are requested as follows:

1. SMC 23.49.008 (Maximum Rooftop Coverage)]

**SEPA Determination:** [ ] Exempt [X] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

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

#### **BACKGROUND DATA**

##### Site and Vicinity Description

The site is located at 2105 Fifth Avenue and occupies a two-lot area at the northwest corner of Fifth Avenue and Lenora Street. The project site is bounded by Fifth Avenue to the east, Lenora Street to the south, an existing building to the north, and the 16-foot mid-block alley to the west. The property is approximately 12,960 sq. ft. and gently slopes from west to east by roughly five percent with an elevation difference of approximately five feet, but no remarkable topographic features.

The current development on the property consists of a surface parking lot with spaces for roughly 53 vehicles.

The project is currently zoned Downtown Mixed Commercial with a 240-foot non-residential height limit and a 290 to 400-foot residential height limit (DMC-240/290-400). Properties to the west, south, north, and southeast are also zoned DMC-240/290-400. Directly east of the project is the boundary of the Downtown Office Core 2 zone with a 500-foot non-residential height limit and a 300 to 500-foot residential height limit (DOC2-300/300-500). The site was recently rezoned as part of an overall downtown rezone. Prior to the recent rezoning, the site was zoned DMC-240 with a 240-foot height limit. This project is vested to and is proceeding under the prior DMC-240 zoning.

The pattern of existing land uses surrounding the project site includes a mix of commercial, office, residential, and service-related uses. Mid-to-high rise apartment/condominium buildings, surface parking lots, commercial/retail uses, motels, Denny Park and Seattle Center are present north and northwest of the site. Commercial, office, condominiums, mixed-use buildings, and surface parking lots are located north and northeast of the site. Land uses southeast, south, and southwest of the site include office, the City's Retail Core, hotels, and residential buildings. Land uses west of the project site consist mainly of retail and residential uses. The Cinerama Theater is directly west of the site across the mid-block alley. The Seattle Monorail runs north-south along Fifth Avenue, directly east of the project site.

### Proposal Description

The project consists of construction of a 24-story building with three levels of below-grade parking. The proposal anticipates construction of approximately 266,435 square feet of above grade space for residential, retail, and parking uses. Residential use will consist of approximately 172 market rate units. Retail area of approximately 4,310 sq. ft. will be located at street level. Approximately 9,800 sq. ft. of open space, landscaping, and other amenities, including a 4,705 sq. ft. rooftop terrace, will be provided for building residents. The project site will be required to dedicate to the City for alley purposes a two-foot strip along the west property line abutting the eastern edge of the alley right-of-way. The existing 16-foot wide mid-block alley directly west of the project site will be widened to 18 feet.

Ingress and egress to the below-grade parking area for 78 vehicles will be from a curb-cut on Fifth Avenue that is in approximately the same location, but smaller than the existing curb-cut; ingress and egress to the above-grade parking for 113 vehicles and loading dock will be from the two-way mid-block alley located to the west of the project. Project design and landscaping will include the addition of street trees along Fifth Avenue and Lenora Street. Screening of above-grade parking will be provided by a two-layer metal appliqué designed by California artist Ned Kahn. Construction of the project will require removal of the existing surface parking and excavation of approximately 19,000 cu. yds. of earth.

### Public Comments

Public comment was invited at the initial Master Use Permit applications and at the three Design Review public meetings. Comments from the Design Review meetings are noted within the Design Review process summaries which follow below. Written comments from members of the Belltown community were sent to DPD through the voice of the Belltown Housing and Land Use Subcommittee (BHLUS). BHLUS objected to the above-ground parking that was proposed, "as above ground parking provides a dead façade to the streetscape, is generally unattractive, and reduces the development potential of the site, particularly for lower cost residential units." Further, BHLUS questioned the effectiveness of the proposed artist-designed metal screening to provide adequate mitigation for these impacts. In addition, BHLUS objected to the curbcut

proposed for Fifth Avenue, as being “particularly damaging to the neighborhood.” Allowing the proposed curbcut, in the subcommittee’s view, would have a negative effect on the pedestrian safety and comfort on Fifth Avenue, set a negative precedent for the neighborhood, and nullify the neighborhood’s intentions for developing Fifth Avenue as a pedestrian corridor.

## **ANALYSIS – DESIGN REVIEW**

### **Early Design Guidance Meetings**

#### **Early Design Guidance Meeting, October 11, 2005**

##### Architects’ Presentation

At the Board meeting conducted on October 11, 2005, the architects for Callison Architects began by describing the site influences and context and the ownership’s development objectives of developing a residential tower with a ground floor of retail/commercial lease space and several floors of parking accessory to the residential use separating the ground floor from the residential portion of the building. They showed a variety of massing sketches and a preferred scheme that provided a five-foot setback from the north property line so as to enable 25 percent unprotected openings along the north façade. All the schemes showed a smaller proportion of the overall parking provided underground and accessed from 5<sup>th</sup> Avenue, with the majority of parking accessed from the alley and located on numerous floors above the proposed ground floor commercial space.

As explained by the architect, a controlling design consideration in the schemes presented was a desire to respect the Cinerama movie theatre across the alley to the west and an attempt to provide some linkage to that structure from the proposed building. One possible element of that linkage was a proposed public parking access lobby on Lenora at the alley.

##### Public Comment

At the October 11<sup>th</sup> Board meeting nine individuals filled out the sign-in sheet presented at the Board meeting to become parties of record for the project. After presentation of the project’s preliminary objectives and schematic design, and after some clarifying questions from members of the Board, comment on design-related issues was elicited from members of the public in attendance. Among the questions and comments were the following:

- Whether the above-ground parking levels would have natural ventilation? The architect’s response: screening of the parking levels would be fifty percent open to provide for natural ventilation.
- Whether the proposed structure was being designed as a “sustainable” structure? The architect responded that it was the developer’s intention to seek LEED certification for the structure.
- A concern that the parking entrance and exit for the new development off Fifth Avenue and off the alley should not compromise the opportunity for pedestrian safety and attractiveness.
- In clarifying the differentiation between the below-grade and above-grade parking areas, the architect indicated that the below-grade parking might include some “public parking,” along with the private residential parking, while the above-grade parking would all be accessory to the proposed residential units.

## **PRIORITIES:**

After visiting the site, considering the analysis of the site and context provided by the proponents, after asking further questions of the architects and hearing public comment, the Design Review Board members provided the siting and design guidance described below at the Board meeting conducted on October 11, 2005. The concerns, general observations about the project, and priorities expressed by the Board are stated briefly below and then more formally linked to their appropriate Guidelines from *Design Review Guidelines for Downtown Development*.

- The Board was concerned both by the appearance of the multi-storied, above-grade parking and the significant remoteness of the lowest residential units from the street.
- The Board commented that a more equally proportionate distribution of parking below and above grade would help to get the residential units in closer relationship with the street.
- While noting the greater desirability of taking all vehicular access from the alley, the Board acknowledged the difficulties in design, given the smallness of the lot, of providing internal vehicular circulation which would not gobble up the potential ground floor commercial/retail space.
- The Board noted that the proposed north façade, at least for the immediately foreseeable future, would be clearly visible to those approaching downtown from the north along Fifth Avenue, and commended the effort to avoid a blank façade there and to set back and open the wall closest that property line for fenestration.
- The Board generally agreed that, ignoring the issues proposed by the above-grade parking portion of the proposed structure, the preferred scheme had the massing “about right.” In particular, the separation of the structure into two parts, with the taller and wider eastern portion, mostly-glazed, standing proud of the western portion as it faced Lenora Street was thought by the Board to be a commendable design move.
- The Board spent some time discussing whether it was necessary or even desirable to attempt to visually tie the proposed structure to the existing Cinerama across the alley. Even if a more obvious link was not desirable, the Board suggested that the façade and roofline of the movie theatre should at a minimum establish clear datum points which were not referenced in the presented design.

In the light of the above comments of the Board, the following Guidelines from *Design Review Guidelines for Downtown Development, April 1999*, were considered by the Board to be particularly applicable and of critical and highest priority for the site and for the project (A-1, B-1, B-3, B-4, C-1, C-3, C-4, C-5, C-6, D-3, D-6, E-2). These Design Guidelines, regarded as of highest priority for this project, are identified by letter and number below.

### **A-1 Respond to the physical environment**

*Develop an architectural concept and compose the building's massing in response to geographic conditions and patterns of urban form found beyond the immediate context of the building site.*

In particular the Board expressed concern that the new structure address the problem of the discontinuity of the residential units with the street. The parking program which had been imposed on the project created an ethereal residential realm, removed from the street and from the desiderata of good urban design. At street level the proposed building should do

hand stands in order to activate the sidewalks along Lenora and Fifth Avenue and to compensate for a lack of interaction between the residential units and the pedestrian realm.

**A-2 Enhance the Skyline**

*Design the upper portion of the building to promote visual interest and variety in the downtown skyline.*

The Board indicated that, as was their wont, they would be expecting to see something interesting and distinctive at the top of the building, both as an enhancement of the skyline and as an assist for urban wayfaring.

**B-1 Respond to the neighborhood context.**

*Develop an architectural concept and compose the major building elements to reinforce desirable urban features existing in the surrounding neighborhood.*

The proposed building should provide for a harmonious transition between itself and the Cinerama and, in general, establish a standard for how new development can reinforce desirable urban features existing in the surrounding neighborhood.

**B-3 Reinforce the positive urban form & architectural attributes of the immediate area.**

*Consider the predominant attributes of the immediate neighborhood and reinforce desirable siting patterns, massing arrangements, and streetscape characteristics of nearby development.*

The Board considers the activation of Fifth Avenue and Lenora Street to be essential to the success of the project. The biggest challenge will be to provide for the parking without introducing elements that run counter to the best urban design principles and that may adversely affect the desirable qualities of downtown urban life.

**B-4 Design a well proportioned & unified building**

*Compose the massing and organize the publicly accessible interior and exterior spaces to create a well-proportioned building that exhibits a coherent architectural concept. Design the architectural elements and finish details to create a unified building, so that all components appear integral to the whole*

The proposed structure should provide a tighter relationship to the datum points and scale of the existing Cinerama Theater across the alley. The above-grade parking portion of the proposed structure should be designed to be an integral part of a well-proportioned building and convey an impression from that portion of the structure that architectural delight is at least as important as architectural utility.

**C-1 Promote pedestrian interaction**

*Spaces for street level uses should be designed to engage pedestrians with the activities occurring within them. Sidewalk-related spaces should be open to the general public and appear safe and welcoming.*

See the comments under A-1 and B-3 above. Provide details relating to the qualities of the pedestrian entrance to the underground parking and the commercial/retail space along Lenora and 5<sup>th</sup> Avenue.

**C-3 Provide active-not blank- facades.**

*Buildings should not have large blank walls facing the street especially near sidewalks.*

The façade along Lenora Street and Fifth Avenue should be designed so as to be not without character or pedestrian amenity or interest.

**C-4 Reinforce building entries**

*To promote pedestrian comfort, safety, and orientation, reinforce the building's entry.*

The street-level spaces should be designed as a truly usable and marketable street-level uses, uses that engages the street and promote the pedestrian environment.

**C-5 Encourage overhead weather protection.**

*Encourage project applicants to provide continuous, well-lit, overhead weather protection to improve pedestrian comfort and safety along major pedestrian routes.*

In order to enhance the pedestrian experience, the project should provide overhead weather protection continuously along the Fifth Avenue and Lenora Street façades.

**C-6 Develop the alley facade**

*To increase pedestrian safety, comfort, and interest develop portions of the alley façade in response to the unique conditions of the site or project.*

This guideline was considered appropriate since there appeared to be opportunities specifically to link the entry to the proposed public parking to the box office and theatre across the alley and to enhance the pedestrian experience along this pathway.

**E-2 Integrate parking facilities**

*Minimize the visual impact of parking by integrating parking facilities with surrounding development. Incorporate architectural treatments of suitable landscaping to provide for the safety and comfort of people using the facility as well as those walking by.*

The impact from the above-grade parking floors should be minimized. The Board agreed that it wanted to see considerably more details of any proposed screening. The Board also indicated that the project proponents should explore and be prepared to present to the Board other conceptual options, for instance reducing the amount of parking provided, putting a higher proportion of the proposed parking underground, placing an intervening use between the ground floor and the above parking levels, in order to minimize the impact of the parking on the overall structure as well as on the life of the adjacent streets and alley. These studies should be presented at the next Early Design Guidance meeting.

It was the judgment of the Board that a second Early Design Guidance meeting would be required to impart fuller details of the Board's expectations and to prioritize the various Guidelines under "**D, Public Amenities: Enhancing the Streetscape and Open Space.**" In

addition, the Board requested that the proponents provide, at the next meeting of the Board concerning this project, a list, if any, of departures from development standards (as provided for in SMC 23. 41.012) which might be contemplated/requested for the project as design development has progressed. The Board indicated its willingness to entertain the recommendation of the granting of such departures as long as the design development favorably responds to the Design Guidelines already identified, or those that will be identified at a second Early Design Guidance meeting of the Board, as important for the project.

### **Second Early Design Guidance Meeting, January 24, 2006**

At the second Early Design Guidance presentation, Brandon Morgan, of Vulcan, Inc., reviewed the general project scope -- eighteen floors of residential use, totaling approximately 165 units, with 3 floors of below grade parking, one floor of retail/lobby space at sidewalk level, and 5 floors of parking above grade between the retail space and the residential units. Several contextual considerations were highlighted: the proposal's proximity to the Cinerama theatre, across the alley to the west, the adjacency to the monorail that runs along 5<sup>th</sup> Avenue, and the project's location within the lower Belltown neighborhood. The total parking would provide for 214 vehicles. It was explained that it is the intent of the development team to produce a LEED certified "green" building.

Howard Fitzpatrick next made the general architectural presentation on behalf of the architectural team. Chief among the design developments to date had been the following:

- The project still maintains the general massing of the preferred scheme shown at the first Early Design Guidance meeting.
- The tower massing has been articulated with balconies that are partly recessed and cantilevered from the face of the building.
- The tower is more fully glazed to the south & east sides, with more of a "punched opening" treatment on the west & north sides.
- The team settled on a 5' setback on the north, which allows up to 25% glazing on that side of the building.
- A retail entrance has been developed right at the Fifth & Lenora corner of the building to help activate the pedestrian activity at the most visible ground-level area. The main residential lobby entrance is further up the 5<sup>th</sup> Avenue side of the building.
- An architectural "fin" element has been refined, which creates a vertical focus element on the two street sides of the building. This fin extends up one side, carries across the roof, and returns down the other side. Between the fins on the street sides are the more "glassy" facades, and outside the fins on the north and west sides are the more punched-opening facades.
- Amenity floor functions and outdoor roof terraces occur at the top of the building to allow all residents some access to the most dramatic views from the property.

Pablo Schugurensky, of Meta Arte, then made a presentation of the notion of an art screen proposed for that portion of the structure that was open parking above grade. It was explained that, after interviewing a number of artists, Vulcan, Inc. had engaged artist Ned Kahn of California to propose a garage-screening art piece for the project. A video was shown of some of

Mr. Kahn's past installations and it was explained that it was intended that Mr. Kahn's proposal for this site would become available for Design Review Board review once it was received.

### Public Comment

After clarifying questions directed at the development team, the Board elicited comments and questions from members of the public in attendance. Among the comments from the public were the following:

- A generally favorable response to design development; in particular, there were favorable comments relating to the rooftop open space with accompanying amenities and with the "fins" that ran vertically up the 5<sup>th</sup> Avenue and Lenora Street facades to be conjoined at the top of the proposed structure.
- A concern about the potential overweening effect of the five stories of above-grade parking and the attendant disjunction between the residential units and the streets below; the concern about the lifelessness and formidable austerity of the screening for the parking was at least partially tempered by positive responses to the potential mitigation proffered by the suggestions of an "art solution" for this area; one comment suggested that, while the kinetic art screen was intriguing, it needed to provide vertical as well as horizontal movement to help to tie the upper, residential floors to the street-level portion of the structure.
- A "critical issue" for one observer was the absence, despite words to the contrary on the part of the designer, of convincing visual or architectural connectivity between the Cinerama theatre and the Lenora Street façade of the proposed new building.

### Board Deliberations

#### Extended Guidelines

As they indicated they would do at the earlier Design Guidance meeting, the Board extended the range of *Guidelines for Downtown Development* which they judged to be of highest priority for the project by citing the following guidelines under Section D, which focuses on making effective streetscapes and open spaces. Regarding this area of consideration, the Board commended the distinctive building roofscape that had been presented and the incorporation by the proponents of the occupants' amenity area at the rooftop level.

#### **D-3 Provide elements that define the place**

**Provide special elements on the facades, within public open spaces, or on the sidewalk to create a distinct, attractive, and memorable "sense of place" associated with the building.**

#### **D-4 Provide appropriate signage**

**Design signage appropriate for the scale and character of the project and immediate neighborhood. All signs should be oriented to pedestrians and/or persons in vehicles on streets within the immediate neighborhood.**

#### **D-5 Provide adequate lighting**

**To promote a sense of security for people downtown during nighttime hours, provide appropriate levels of lighting on the building façade, on the underside of overhead weather**

**protection, on and around street furniture, in merchandising display windows, in landscaped areas, and on signage.**

In relation to D-3, D-4, and D-5, the Board requested that at the next—recommendation-meeting the design team provide further details of proposed street-level landscaping, details of appropriate and site-specific signage, and details of proposed lighting, particularly at the street level.

Singled out as of particular importance for the project was Guideline D-3, “elements that define and provide a memorable “sense of place.”

The Design Review Board generally responded with favor to the following overall façade elements that had been presented to them:

- the incorporation of a “glassier” look for the north wall to break down its monolithic appearance; the overall glazing orientation of the upper tower and the proposed decks
- the vertical fin/stripe element, with its shadow and reveal, which served to tie the tower to the base of the building

Regarding the fins, some members of the Board suggested that the design team should explore a greater accentuation of the fins as they pass over the roof and accenting the vertical portions of the fins with some integrated lighting. It was also suggested that what was needed was a greater degree of *fin-esse* and clearer integration of elements at the points where the vertical fins terminate at the canopy level.

In general, the Board members were hopeful that the proposed, though still embryonic, “art solution” for screening the above-grade parking levels might go a long way toward dealing with a fundamental problem and, in addition, provide a façade element that was so distinct as to help create a memorable sense of place as called for in Guideline D-3. They cautioned, however, that any proposed artistic façade treatment would need to integrate the entire composition of the structure and to extend in a meaningful way to enliven and embolden the experience provided by the building at the pedestrian and sidewalk levels of Lenora Street and 5<sup>th</sup> Avenue. If an artist were to be commissioned as a collaborator to deal with the screening of the upper level parking portion of the structure, the Board indicated that the artist should not be limited to this canvas only. The talent of the artist should be tapped where possible to achieve, a desirable overall integration of the structure.

Per the earlier guidance of A-1, B-3, C-3 and C-5, the Board indicated, further design development should raise the level of architectural performance at the pedestrian levels of both Lenora and 5<sup>th</sup> to enhance pedestrian amenities and interest and to activate the sidewalks; it was not generally felt that the proposed structure was “doing hand stands” at this level yet.

The Board cautioned that the “art solution” might only be a partial solution to a bigger problem. Members of the Board remained apprehensive regarding the five floors of above grade, interstitial, long- and short-term automobile storage. The Board felt that the massing of the parking garage remains as the most troublesome of the project components; it will remain a major element of the design review process as it proceeds. It was suggested that this garage will

be the most visible portion of the building for people on the sidewalks and driving by in their cars. It was generally felt that the parking garage was an obstacle that prevented the building from achieving a vertical dynamism or of conveying a feeling of integrated composition; as presented, it obviated a sense of scale and of proportion. The proposed structure was identified by the Board as “precedent setting” for any further development in the area; and it was deemed important by the Board “to come close to getting it right.”

While the Board agreed that the proposed art approach might help to avoid a characterless chunk of building that could have the effect of killing the street life around the building, the Board were agreed that the massing of the above-grade parking portion of the structure was too large (at five stories) in proportion to the street-level portion of the structure. As one Board member put it, the proponents of the structure were “relying on a brilliant artist to solve a fundamental problem in scale.”

*Referencing the earlier guidance and in particular Guidelines B-1 and B-4, the Board indicated that the design team should explore and present a building configuration with less above-grade parking, with either less overall parking, or more below-grade parking, to lower the scale of the above-grade parking portion of the building.*

In addition, there remained a lack of convincing visual or architectural connectivity between the Cinerama theatre and the Lenora Street façade of the proposed new building which the Board had indicated as something to be desired at the first Early Design Guidance meeting (see under B1 and B-4) above. While this condition might be improved by lowering the overall height of the parking block within the structure, *the Board affirmed the earlier design guidance priority that the facade of the movie theatre building should establish clear datum points which should be referenced, even if subtly, in the proposed design.* It was suggested that this desired connectivity may have been confused by the “quirkiness” of the fenestration line of the western portion of the Lenora Street façade of the proposed structure which followed the contour of the parking slab above the street-level commercial space.

While reducing one floor of the above-grade parking portion of the structure might strike a better sense of proportionality between the box of the theatre and the parking box, *the design team should further explore, as well, how the horizontal placement of fenestration and/or commodious layering of canopies—or other treatment-- at the western, street level portion of the new Lenora Street façade might produce a more rhythmic and referential façade procession along the street, linking the structures on either side of the alley.*

The Board also noted that, in pursuing further development of the project, the design team should observe the following: the lower portion of the north façade, because of its visibility along 5<sup>th</sup> Avenue, should not want for attractive architectural treatment

### Design Departures

The applicants indicated to the Board that they were seeking no departures from development standards for their proposal.

### Staff Comments

It was noted that the applicant was expected to proceed to further design development in accord with the Guidelines and guidance of the Board stated above and then proceed to a Master Use Permit. After MUP application, a Recommendation Meeting was to be scheduled before the Board, at which time the applicant would demonstrate a more fully developed design in accord with the Design Guideline priorities identified at the two Early Design Guidance meetings.

### **Final Recommendation Meeting, May 23, 2006**

#### Architect's Presentation

Howard Fitzpatrick made the presentation for Callison Architects highlighting the responses in design that had been made in response to the Board's earlier guidance. In particular, he noted that the above-grade parking had been reduced from five floors to four at the Board's request. He demonstrated how this move had enabled another positive response to the Board's request, namely that of referencing data points on the Cinerama building with the new construction and providing a composition which in terms of the height and length of the above-grade parking was in proportion to the façade of the theatre building across the alley to the west.

In making the presentation, the architect indicated that the development team was seeking a departure from development standards to allow 31 percent roof mechanical coverage, rather than the 25 percent maximum allowed by the Land Use Code (SMC 23.49.008 (Maximum Rooftop Coverage)). No other departures from development standards were requested for the project.

Next, Pablo Schugurensky, of Meta Arte, gave an introduction to progress that had been made on the art screen proposed for that portion of the structure that was open parking above grade. A video was shown of Ned Kahn's mock-up of a panel of the proposed art screen for the project and a sample of the perforated stainless steel proposed for inclusion was demonstrated to the Board.

#### Public Comment

After asking several clarifying questions of the development team, the Board solicited comments from members of the public who were present (seven individuals had signed the sign-in sheet). Speaking for neighborhood interests, two members of the public asked for a diminution of the portion of the proposed structure given to above-grade parking and opposed the curbcut proposed on 5<sup>th</sup> Avenue. Staff also presented the Board with the written comments from the Chair of the Belltown Housing and Land Use Subcommittee who was unable to attend the meeting. Those comments likewise challenged the amount of above-ground parking, additionally questioned the adequacy of the proposed artist's screening to mitigate the negative impact, and expressed strong opposition to the 5<sup>th</sup> Avenue curbcut. Another concern was the lack of any ground level open space as a public gesture from the developer.

#### Board's Deliberations

After hearing the presentation and public comments, the Board commended the development team on the quality of its presentation and on the responsiveness shown to the Board's earlier

guidance and to many of the guidelines identified by the Board as being of highest priority for the project. The Board expressed particular satisfaction with how the reduction of a floor of above-grade parking had brought that portion of the proposed new structure into an improved relationship in proportion to the massing of the Cinerama theatre and had allowed the new structure to respond more directly to datum points in the existing structure. Also commendatory were the quality of the proposed roof-top open space offered as an amenity to the proposal's tenants and the originality and whimsy of Mr. Kahn's artistic approach to mitigating the impact of the above-grade parking levels.

Among the lingering concerns expressed by the Board were the following:

- Since there is not a sight triangle provided at the exit along 5<sup>th</sup> Avenue, there is a need to provide for the safety of pedestrians near the 5<sup>th</sup> Avenue curbcut through a variety of visual cues, including paving patterns, and more traditional warning devices activated when vehicles were existing from the garage onto the sidewalk;
- There is a need specifically to integrate the design and choice of fixtures, the placement, the choice of the color of emanating light, etc., within the above-grade parking floors so as to integrate these elements of design as part of the overall experience of the proposed art screen.

There were two areas where members of the Board felt that further selective improvements would greatly enhance the overall aesthetic performance of the building. First, they did not feel that the street level, pedestrian experience evidenced the levels of interest, engagement, excitement, playfulness and whimsy that they meant to be conveyed in their choice of characterization at the January 24<sup>th</sup> meeting of a building and streetscape expected to be "doing hand stands." In order to inch closer to the "hand stands" ideal, two improvements were recommended:

- Design and provide lighting along and above the perimeter sidewalks which is not only adequate but which emotionally energizes the pedestrian pathways;
- The chamfered entry to the retail space at the corner of 5<sup>th</sup> Avenue and Lenora Street, as the public's only *entree* into the proposed structure, needs to be more generous and inviting; specifically, the chamfered window and door wall needs to be set further inboard to allow more space between the door swing and the exterior structural column.

Second, the Board felt that there remained an awkwardness in the abrupt termination of the "fins" above the sidewalk. These features, vital elements of the design, still required some adroit manipulation or maneuvering, suggested in their call for more "fin-esse" at the January 24<sup>th</sup> meeting, at their lower termination points. By conveying a greater sense of structural integrity between the fins and the rest of the building, the design would be further improved. The Board indicated that this was especially true for the fin adjacent the entry to the parking garage on 5<sup>th</sup> Avenue. It was believed that some sort of perceptible "return" into the structure would clearly strengthen the effect of its composition.

A final recommendation of the Board was directed at the top of the south-facing façade. The top parapet wall along the south façade of the structure, the Board felt, should be pierced with some openings to provide light and air into the areas behind and to provide views out for those enjoying the amenity of the roof-top open space, pea patches, etc.

It was the Board's expectation that the recommended changes to the retail entry, fins and parapet should be submitted to the Land Use planner for approval and incorporation into the MUP plan sets and prior to MUP issuance. The Board unanimously recommended approval of the design presented, with these changes, and unanimous approval of the requested departure from development standards.

During the Design Review process, there were public and Design Review Board comments regarding parking access and the proposed curb cut on 5<sup>th</sup> Avenue. Curb cuts in downtown Seattle zones are governed by SMC 23.49.018 and SMC 23.54.030.F. The standards for downtown zones allow "a maximum of two (2) curbcuts for one (1) way traffic at least forty (40) feet apart, or one (1) curbcut for two (2) way traffic... on each street front where access is permitted by Section 23.49.018" (SMC 23.54.030.F.2.a.3). SMC 23.49.018 provides a hierarchy for access preferences and requires the Director to "determine whether the location of the access will expedite the movement of vehicles, facilitate a smooth flow of traffic, avoid the on-street queuing of vehicles, enhance vehicular safety and pedestrian comfort, and will not create a hazard" (SMC 23.49.018).

This project fronts two streets, Fifth Avenue and Lenora Street, both of which are classified as minor arterials. Fifth Avenue is a Class I pedestrian street, while Lenora Street is a Class II pedestrian street. In addition, Lenora is a principal transit street. A mid-block alley abuts the west property line of the site and separates the project from the Cinerama Theater.

While acknowledging the public's concerns about maintaining a pedestrian-friendly environment along Fifth Avenue, the Design Review Board also stated that other concerns needed to be balanced. These included a concern for pedestrian safety near the Cinerama theatre and the prevention of lengthy vehicle queues on either Fifth or Lenora. Arguably, allowing more than one vehicular access point could decrease vehicle-pedestrian conflicts when compared to a single access point. This is particularly true in this case where there is extensive pedestrian use in and about the alley area next to the Cinerama. Periodic lengthy patron queues and a restricted sight distance which can be generated by the presence of Metro buses stationed in the lay over area on Lenora Street immediately east of the alley can generate potential alley related points of vehicular-pedestrian conflict.

SMC 23.54.030.F contemplates access from more than one right-of-way to a property in appropriate instances after applying the criteria found in SMC 23.49.018. Moreover, and this was an element of special concern in the Board's deliberations, by allowing access both from the alley and from Fifth Avenue, the project would be able to provide a larger and more attractive street-level retail space, one that could enhance the overall pedestrian environment. This was of particular concern for the Board because of the disjunctive separation of residential uses –and eyes—from the street. In light of these considerations the Design Review Board unanimously recommended that a curb cut for access on Fifth Avenue be approved together with access via the mid-block alley.

The Design Review Board's recommendation does not conflict with applicable regulatory requirements and is consistent with the design review guidelines. After consultation with the Seattle Department of Transportation regarding those criteria and appropriate departmental review, the Director concurs with the Design Review Board's recommendation to approve the proposed design which allows the project two different access points, one on Fifth Avenue and

one on the mid-block alley. Recognizing the public's legitimate concerns, appropriate pedestrian safety measures (i.e. mirrors, pavement indicators, signage, etc.) shall be provided by the applicant at the Fifth Avenue curb cut. SDOT, in acknowledging its approval of the 5<sup>th</sup> Avenue curbcut, has indicated that the applicant will be required for safety reasons to provide a curbed island within the Fifth Avenue right-of-way between the two monorail support columns opposite the curbcut, Other appropriate measures will be determined by the Director in conjunction with the applicant during approval of construction permits, with SDOT consultation as necessary.

### Departures from Development Standards

Certain departures from Land Use Code requirements may be permitted as part of the design review process. Departures may be allowed if an applicant demonstrates that a requested departure would result in a development which better meets the intent of the adopted design guidelines (see SMC 23.41.012).

During the course of his presentation, the project architect indicated to the Board that the development team was seeking a departure from development standards to allow 31 percent roof mechanical coverage, rather than the 25 percent maximum allowed by the Land Use Code (SMC 23.49.008 (Maximum Rooftop Coverage)). No other departures from development standards were requested for the project. During the Board's deliberation one Board member recommended to the applicant and to the other Board members that the departure request be modified to "allow up to 35 percent" maximum rooftop coverage for mechanical equipment. As so amended and agreed to by the applicant and the Board, the request was unanimously recommended for approval by the Board.

### DECISION – DESIGN REVIEW

After considering the proposed design and design solutions presented in relation to previously prioritized design guidelines and after having heard public comments on the project's design, the five Design Review Board members present unanimously **recommended approval** of the subject design **with conditions noted below** and unanimously **recommended approval** of the requested design departure.

The Land Use Code states (SMC 23.41.016 F3) that "if four (4) or more members of the Design Review Board are in agreement in their recommendation to the Director, the Director shall issue a decision that makes compliance with the recommendation of the Design Review Board a condition of permit approval," unless the Director concludes that the recommendation of the Design Review Board reflects inconsistent application of the design review guidelines, does not exceed their authority or conflict with SEPA conditions, nor conflict with other requirements of state or federal law.

The Director of DPD has reviewed the recommendations of the five Design Board members present at the final Design Review recommendation meeting and finds that the Board acted within its authority and the Board's recommendations are consistent with the *City of Seattle Design Review: Guidelines for Downtown Development* and do not conflict with regulatory requirements.

Therefore, the proposed design and departure from development standards are **APPROVED** as presented at the May 23, 2006 Design Review Board meeting.

## **CONDITIONS**

Design Review conditions are listed at the end of this report.

## **ANALYSIS – SEPA**

This analysis relies on the *Environmental Checklist for the proposed Fifth and Lenora Mixed-Use Development Project* submitted by the applicant on February 21, 2006, which discloses the potential impacts from this project. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Seattle SEPA ordinance provides substantive authority to require mitigation of adverse impacts resulting from a project (SMC 25.05.655 and 25.05.660). Mitigation, when required, must be related to specific adverse environmental impacts identified in an environmental document and may be imposed only to the extent that an impact is attributable to the proposal. Additionally, mitigation may be required only when based on policies, plans, and regulations as enunciated in SMC 25.05.665 to SMC 25.05.675, inclusive, (SEPA Overview Policy, SEPA Cumulative Impacts Policy, and SEPA Specific Environmental Policies). In some instances, local, state, or federal requirements will provide sufficient mitigation of a significant impact and the decision maker is required to consider the applicable requirement(s) and their effect on the impacts of the proposal.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: “*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,*” subject to some limitations. Under specific circumstances (SMC 25.05.665 D 1-7) mitigation can be required.

The policies for specific elements of the environment (SMC 25.05.675) describe the relationship with the Overview Policy and indicate when the Overview Policy is applicable. Not all elements of the environment are subject to the Overview Policy (e.g., Traffic and Transportation). A detailed discussion of some of the specific elements of the environment and potential impacts is appropriate.

### **Short-Term Impacts**

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulates from demolition and building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from

construction equipment and personnel; increased noise; and consumption of renewable and non-renewable resources.

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 (PSCAA) regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City.

Most short-term impacts are expected to be minor. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, impacts associated with air quality, noise, and construction traffic warrant further discussion.

### Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality and will require permits for removal of asbestos or other hazardous substances during demolition. The applicant will take the following precautions to reduce or control emissions or other air impacts during construction:

- *During demolition, excavation and construction, debris and exposed areas will be sprinkled as necessary to control dust and truck loads and routes will be monitored to minimize dust-related impacts. Due to the small size of the site, an on-site truck wash and quarry spall may not be necessary or appropriate as the applicant may use “scoop and dump” excavation. This would entail using an excavator tractor to move excavated material to trucks queued along the street. If scoop and dump excavation is used, then a truck wash and quarry spall will not be required.*
- *Using well-maintained equipment and avoiding prolonged periods of vehicle idling will reduce emissions from construction equipment and construction-related trucks.*
- *Using electrically operated small tools in place of gas powered small tools wherever feasible.*
  - *Trucking building materials to and from the project site will be scheduled and coordinated to minimize congestion during peak travel times associated with adjacent roadways.*

These and other construction and noise management techniques shall be included in the Construction Impact/ Noise Impact Management Plan to be submitted for approval prior to issuance of construction permits.

### Noise

The project is expected to generate loud noise during demolition, grading and construction. Compliance with the Noise Ordinance (SMC 25.08) is required and will limit the use of loud equipment registering 60 dBA (not including construction equipment exceptions in SMC

25.08.425) or more at the receiving property line or 50 feet to the hours between 7:00 a.m. and 10:00 p.m. on weekdays, and between 9:00 a.m. and 10:00 p.m. on weekends and holidays. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work after the exterior of the structure is enclosed. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DPD. Construction noise is within the parameters of SMC 25.05.675.L, which states that the Noise Ordinance provides sufficient mitigation for most noise impacts. Any need to address specific additional noise restrictions because of particularly sensitive sites nearby will be addressed in the Construction Impact/Noise Impact Management Plan to be approved by DPD and SDOT prior to issuance of any construction permits.

### Traffic and Circulation

Site preparation would involve removal of the existing asphalt pavement and excavation for the foundation of the proposed building and below grade parking garage. Approximately 19,000 cubic yards of material would be excavated and removed from the site. Existing City code, Regulating the Kind and Classes of Traffic on Certain Streets (SMC 11.62) designates major truck streets which must be used for hauling and otherwise regulates truck traffic in the city. The proposal site has relatively direct access to both Highway 99 and Interstate 5 and traffic impacts resulting from the truck traffic associated with grading will be of short duration and mitigated by enforcement of SMC 11.62.

Traffic control would be regulated through the City's street use permit system, and a requirement for the contractor to meet all City regulations pertaining to the same. Temporary sidewalk or lane closures may be required during construction. Any temporary closures of sidewalks would require the diversion of pedestrians to other sidewalks. The timing and duration of these closures would be coordinated with SDOT to ensure minimal disruptions.

Compliance with Seattle's Street Use Ordinance administered by Seattle Department of Transportation (SDOT) is expected to mitigate any adverse impacts to traffic which would be generated during construction. of this proposal and no further conditioning is necessary.

### Long-Term Impacts – Use-Related Impacts

#### Historic

There are no known or listed historical resources or any officially-designated historical resources on the project site. Three historic landmarks are within five blocks of the project site: McGraw Square (two blocks south at the intersection of Westlake and Fifth Avenues), the William Volker Building (five blocks east of the project), and Norway Hall (five blocks east of the project). The project is not expected to have any impact on any of these designated historic landmarks.

#### Land Use

The proposed project is consistent with the *City of Seattle Comprehensive Plan* and the Land Use Code.

### Archaeological

There is no surficial evidence to indicate that any archaeologically significant resources exist on-site and would be disturbed by the project. However, the Seattle Commons EIS stated that archaeological "resources would likely be located in a historical fill zone ranging from approximately one to four blocks wide along the alignment of Westlake Avenue; a wider fill zone is near the lakeshore of Lake Union." The project site is located to the west of and on the outer edge of the Westlake Avenue fill zones.

If resources of potential archaeological significance are encountered during excavation or construction associated with the Proposed Action, the following measures would apply:

- work that is occurring in the portion of the site where potential archaeological resources are found would be stopped immediately;
- the City of Seattle land use planner that is assigned to the project and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP) would immediately be contacted; and
- regulations would be adhered to pertaining to discovery and excavation of archaeological resources, including but not limited to, Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25-48 WAC, as applicable or as revised.

Otherwise, the project will not have any significant adverse impacts on archaeological resources.

### Traffic and Transportation

The Environmental Checklist includes a Transportation Impact Analysis prepared by The Transpo Group. Checklist pp. 39 – 42 and Appendix A. This report evaluates existing traffic conditions in the study area, estimates the total amount of new traffic to be generated by this project, and evaluates the impact of these new trips on the level-of-service of intersections in the study area. The Transpo Analysis includes projected impacts from thirteen "pipeline" projects identified by DPD as development that will generate additional traffic volume in the vicinity of the project.

In project year 2008, the project will generate approximately 931 new daily vehicle trips to the surrounding street system, including 70 during the PM peak hour. The project will increase traffic volumes at nearby intersections by less than one percent to just over four percent during the PM peak hour, with higher percentage increases typically occurring at intersections with currently lower traffic volumes. At each of the studied locations, the impact is below five percent, falling in the range of unnoticeable daily traffic fluctuation.

During the weekday PM peak hour, the project's impact at the most congested intersection of the five studied is 0.8 percent at the 5<sup>th</sup> Avenue/Olive Street intersection. There would be no change in the Level of Service (LOS) at this intersection (or any of the studied intersections) based on the project's impacts. Peak hour traffic volumes typically vary on a daily basis and have been documented to fluctuate by as much as 5 percent, yet the fluctuation is usually unnoticeable from a driver's perspective. Therefore, the project's traffic impacts are not significant and no mitigation is required.

Transportation Concurrency

The City of Seattle has implemented a Transportation Concurrency system to comply with one of the requirements of the Washington State Growth Management Act (GMA). The system, described in DPD's Director's Rule 4-99 and the City's Land Use Code is designed to provide a mechanism that determines whether adequate transportation facilities would be available "concurrent" with proposed development projects. The three evaluated screen-lines included in the Transpo analysis would all continue to operate below the concurrency threshold with construction of the project.

Parking

The proposed development will provide approximately 191 parking spaces, including 113 below-ground stalls. The project will eliminate a surface parking lot of approximately 53 spaces, resulting in a net on-site parking increase of 138 spaces. Based on the Seattle Parking Code and Land Use Code, the proposed development is not required to provide any parking spaces for the development; residential uses and retail uses under 7,500 sq. ft. are not required to provide parking.

According to the February 2006 Transpo Analysis (Environmental Checklist Appendix A), peak parking demand for this project will be 176 spaces. In addition to the project's 191 spaces available to meet this demand, there are 1,826 public parking spaces within a walkable distance (800 feet). Of these public parking spaces, 547 were available during weekday mid-day hours and 1,493 were available during evening hours. Thus, even with removal of the 53 parking spaces currently on the site, sufficient on and off-site parking supply will be available in the project vicinity to meet parking demand.

**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. 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 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 43.21C.030(2)(c).

Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

The proposed action is **APPROVED WITH CONDITIONS.**

## **CONDITIONS – SEPA**

### *Prior to issuance of any Construction, Shoring or Grading Permits*

1. The applicant shall submit for review and approval a Construction Impact/ Noise Impact Management Plan to the Department of Planning and Development for concurrent review and approval with Seattle Department of Transportation. The plan shall identify management of construction activities and noise, including construction hours, parking, traffic and issues concerning street and sidewalk closures.

### *During Excavation, Demolition, and Construction*

2. Debris and exposed areas shall be sprinkled as necessary to control dust; a truck wash and quarry spill areas shall be provided on-site prior to the construction vehicles exiting the site if scoop and dump excavation is not used; and truck loads and routes shall be monitored to minimize dust-related impacts. *Due to the small size of the site, an on-site truck wash and quarry spill may not be necessary or appropriate as the applicant may use “scoop and dump” excavation. This would entail using an excavator tractor to move excavated material to trucks queued along the street. If scoop and dump excavation is used, then a truck wash and quarry spill shall not be required.*
3. If resources of potential archaeological significance are encountered during excavation or construction associated with the Proposed Action, the following measures will apply:
  - work that is occurring in the portion of the site where potential archaeological resources are found must be stopped immediately;
  - the City of Seattle land use planner that is assigned to the project and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP) must immediately be contacted; and regulations must be adhered to pertaining to discovery and excavation of archaeological resources, including but not limited to, Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25-48 WAC, as applicable or as revised.

## **CONDITIONS-DESIGN REVIEW**

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

4. Submit for approval of the Land Use planner corrected plan sheets that incorporate the refinements requested by the Design Review Board:
  - a modified entry into the retail space at the corner of the structure that allows for ample room between the external structural column and the door swings;
  - openings at rooftop level in the parapet that caps the south façade;
  - modifications that convey a greater sense of structural integrity between the fins and the rest of the building, especially for the fin adjacent the entry to the parking garage on 5<sup>th</sup> Avenue where some sort of perceptible “return” into the structure would clearly strengthen the effect of its composition.

**NON-APPEALABLE CONDITIONS – DESIGN REVIEW**

*Prior to issuance of a Certificate of Occupancy*

5. Construct buildings with siting, materials, and architectural details substantially the same as those presented at the May 23, 2006 Design Review Board meeting.
6. Construct and install appropriate pedestrian safety measures for the Fifth Avenue curb cut as determined in consultation with SDOT.

Signature: (signature on file) Date: June 29, 2006  
Michael Dorcy, Senior Land Use Planner  
Department of Planning and Development