



**City of Seattle**  
Edward B. Murray, Mayor

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**Department of Construction and Inspections**  
Nathan Torgelson, Director

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

**Application Number:** 3018178  
**Council File Number:** 314349  
**Applicant Name:** Doug Leigh, Mithun  
**Address of Proposal:** 2320 East Union Street

**SUMMARY OF PROPOSED ACTION**

Council Land Use Action to contract rezone 22,177 sq. ft. of land from NC2P-40 and NC2-40 to NC2P-65. Application to allow a six-story structure with a total of 115 apartment units above 3,264 sq. ft. of commercial space. Parking for 18 vehicles to be located within the structure.\*

\*Note –The project description has been revised from the following original notice of application: Land Use Application to allow a six-story structure with a total of 115 apartment units above 3,264 sq. ft. of commercial space. Parking for 18 vehicles will be located within the structure. This project requires a contract rezone from Neighborhood Commercial 2 with a 40' height limit and pedestrian overlay (NC2P-40) and a Neighborhood Commercial 2 with a 40' height limit - no pedestrian overlay (NC2-40) to a Neighborhood Commercial 2 with 65' height limit and pedestrian overlay (NC2P-65). Existing structure to be demolished.

The following approvals are required:

**Design Review with Departures (Seattle Municipal Code (SMC) 23.41)**

**Contract Rezone (SMC 23.34)**

**SEPA - Environmental Determination (SMC 25.05)**

*\* Departures are listed near the end of the Design Review Analysis in this document*

**SEPA DETERMINATION:**

**Determination of Non-Significance**

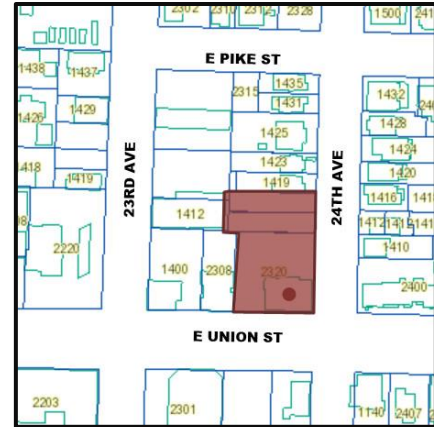
- No mitigating conditions of approval are imposed.
- Pursuant to SEPA substantive authority provided in SMC 25.05.660, the proposal has been conditioned to mitigate environmental impacts.

## **BACKGROUND**

### Site and Vicinity

Site Zone: Neighborhood Commercial 2 with a 40' height limit and pedestrian overlay (NC2P-40) and a Neighborhood Commercial 2 with a 40' height limit - no pedestrian overlay

Nearby Zones: North: NC2-40  
South: NC2P-40  
West: NC2P-40  
East: Lowrise 2 (LR2), NC2-40 & NC2P-40



Environmentally Critical Areas: None.

Site Size: 22,177 square feet (sq. ft.)

### Public Comment

The public comment period ended on September 4, 2016. In addition to the comments received through the Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to traffic, rezone, parking and construction-related impacts. Comments were also received that are beyond the scope of this review and analysis per SMC 25.05.

### Additional Background Information and Project Requirements

#### *Affordable Housing Requirements*

In November of 2015, City Council passed Ordinance 124895 establishing a new Chapter 23.58B of the Land Use Code (Commercial Program). The purpose of Chapter 23.58B is to mitigate certain adverse impacts of development of new commercial floor area on the need for affordable housing for the households of new workers having lower-wage jobs. The Chapter provides regulations for how a development must provide an affordable housing payment or affordable housing performance to mitigate affordable housing impacts.

In August of 2016 City Council passed Ordinance 125108 creating a new Land Use Code Chapter 23.58C, Mandatory Housing Affordability for Residential Development (MHA-R). The purpose of Chapter 23.58C is to implement an affordable housing incentive program authorized by RCW 36.70A.540. Chapter 23.58C specifies a framework for providing affordable housing in new development, or an in-lieu payment to support affordable housing, in connection with increases in residential development capacity.

Chapters 23.58B and 23.58C are applicable as follows:

- Where the provisions of a zone specifically refer to Chapter 23.58B or Chapter 23.58C, or
- Through the terms of a contract rezone in accordance with Section 23.34.004.

#### *Property History and Community Partnership*

An existing one-story building resided on the subject property prior to submission of this application to SDCl. This development, formerly the Liberty Bank building, was founded in 1968

and recognized as the first Black-owned bank west of the Mississippi. This bank was formed as a community response to redlining and disinvestment in Central Seattle. Liberty Bank closed in 1988; reopened as Emerald City Bank and was eventually purchased by Key Bank. The current owner, Capitol Hill Housing (CHH), acquired the project site from Key Bank in 2015 with the intention of eventually developing the property with affordable housing.

In 2014, the Department of Neighborhoods Historic Preservation Staff reviewed the proposal and recommended that a landmark nomination be presented to the Landmarks Preservation Board. At the March 19, 2014 meeting of the City's Landmarks Preservation Board, the Board voted to deny the designation of the Liberty Bank Building (*Landmarks Preservation Board letter, LPB 146/14*, Department of Neighborhoods, March 21, 2014).

In the fall of 2014, CHH convened an advisory board (Liberty Bank Advisory Board (LBAB)) comprised of the original founders' relatives, established community members, Central Area leadership and former employees to advise on how best to honor the Bank and its founders' story through art, historic documents and architecture. This effort culminated in a set of recommendations varying in complexity and character; and were intended to be utilized to inform the building design. Additionally, CHH intentionally salvaged artifacts from the existing structure during the demolition activity on the site which occurred in 2015.

CHH has signed a Memorandum of Understanding with community partners - Africatown-Central District Preservation and Development Association (Africatown), The Black Community Impact Alliance (BCIA) and Centerstone to guide the development of the subject project and "to use the site as a vehicle for the empowerment of the African-American community."

## **I. ANALYSIS – DESIGN REVIEW**

### **CURRENT AND SURROUNDING DEVELOPMENT; NEIGHBORHOOD CHARACTER**

The project site is a corner property situated on the northwest corner of East Union Street and 24<sup>th</sup> Avenue in the Central Area neighborhood of Seattle. The site is vacant property currently being utilized as a temporary equipment and material storage yard for the 23<sup>rd</sup> Avenue street improvement project. Vehicular access to the subject property is possible from both East Union Street and 24<sup>th</sup> Avenue.

Surrounding development includes institutional (Mt. Calvary Church) and commercial (retail, restaurant) uses to the west; residential uses to the north (single family residence); commercial uses to the south (Midtown retail development with accessory surface parking); and residential uses (Seattle Housing Authority (SHA) apartment development, single family residences, townhouses) east of the subject site.

The project is located within the 23rd & Union-Jackson Residential Urban Village. There is a variety of institutional, residential and commercial uses in immediate vicinity of the project along the East Union/Union Street and 23rd Avenue corridors. The neighborhood character is evolving with blocks of significant development of residential and commercial development and proposed development interspersed along the main east-west/north-south arterials. Varied architectural styles and building exteriors are present in this area which is moderately pedestrian and transit oriented due to its proximity to bus transit along East Union/Union Street and 23rd Avenue.

## EARLY DESIGN GUIDANCE MEETING: May 5, 2016

### Public Comment

The following public comments were offered at this meeting:

- Voiced support of the street-level courtyard design that abuts 24<sup>th</sup> Avenue.
- Voiced opposition to the proposed massing's height, bulk and scale abutting a residentially-scaled street (24<sup>th</sup> Avenue).
- Expressed concern regarding parking and traffic impacts to 24<sup>th</sup> Avenue associated with the proposed project.
- Representatives of the Central Area Land Use Review Committee:
  - Confirmed that this organization had hosted a public outreach meeting prior to the EDG meeting concerning this proposal.
  - Thanked the property owner (Capitol Hill Housing) for honoring the legacy of Liberty Bank by convening the Liberty Bank Advisory Board. Challenged the design team to make the Liberty Bank Advisory Board's recommendations integral to the building design in a meaningful manner.
  - Encouraged a design that is a positive architectural expression of the African American culture that is representative of the neighborhood and recognized that this could be challenging.
  - Appreciated the developer's verbal effort to create commercial spaces that would accommodate local neighborhood businesses.
  - Encouraged a design that accommodates family-friendly infrastructure (i.e. family-sized units, common children play spaces)
  - Supported the courtyard and residential lobby entry design that faces 24<sup>th</sup> Avenue. Encouraged bicycle access occur from the courtyard.
  - Expressed support of City legislation (rezone) that would allow a six-story commercial residential proposal that is comprised of affordable housing.
  - Voiced Committee support of the requested departures.
- Encouraged the Board to evoke measures that would showcase some of the Liberty Bank Advisory Board's recommended architectural/site elements in the public realm, preferably at the prominent corner.
- Desired stormwater mitigation should occur within the right-of-way versus onsite within the courtyard space.
- Discouraged a development that incorporates design cues from recent neighboring development (the Central).
- Felt a window study is necessary to evaluate future impacts to resident's privacy at adjacent properties north of the subject site.

All public comments submitted in writing for this project can be viewed using the following link and entering the project number: <http://web6.seattle.gov/dpd/edms/>

### Priorities & Board Recommendations

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following siting and design guidance based on current adopted Citywide Design Guidelines.

**1. Design Concept, Architectural Character and Massing:** The design and siting pattern of the new commercial/residential development should respond to specific site conditions, be oriented to the corner, incorporate historical/cultural elements and respect adjacent properties.

- a. The Board voiced unanimous support for the preferred design scheme Option 3 and proposed that design scheme Option 3 move forward to Master Use Permit (MUP) submittal with the following guidance:
  - i. It is imperative that the design be respectful of adjacent properties-especially to the north. The Board appreciated that the proposed design included upper-level massing setting back 10' from the north property line. The Board recognized that further information related to the north façade and podium space was necessary to better understand how the new building will respond to certain adjacency pressures (i.e. privacy, light, outdoor activities, etc.). The Board requested building sections, window study, shadow studies, elevation/perspective views and design details (landscaping, screening, fenestration, lighting, etc.) be provided at the next meeting to demonstrate how the design meets this guidance. (CS2.D.5, PL3.B.1, DC2.C.)
  - ii. The Board commented on the numerous quantity of reveals shown on the massing diagrams and expressed disappointment that the stylized diagram was hard to evaluate. At the next meeting, the Board expects to review a well-composed design diagram with facades inclusive of reveals and modulation that are developed and expressed well. (DC2.A, DC2.B, DC2.C)
  - iii. The Board acknowledged that this corner site has the attributes of being a gateway site which led to a discussion concerning the southeast corner point massing. The Board noted that the southeast corner massing appeared unresolved (“floaty”) and commented that it needs further study as it moves forward in development. The Board stated material quality, historical reference (Liberty Bank identity) and form should be considered to make the corner mass prominent. (CS2.A, CS2.C.1)
- b. The Board was excited to learn about the formation of the Liberty Bank Advisory Board (LBAB) and the owner’s intent to incorporate the LBAB’s recommendations inclusive of signage, artifacts, materials and art into the project design (pg. 16). The Board concurred with public sentiment that the artifacts should have integrity in the way that they are placed and should be expressed in both the public realm as well as within the structure. (CS3.B, DC4.A)
- c. In acknowledgement of the proposed residential typology (low-income) and budget, the Board stated that it is still very important that building exteriors be constructed of durable, high quality, attractive and maintainable materials that will age well in Seattle’s climate and be consistent/compatible with the historical character of the Liberty Bank. The Board also encouraged the usage of as much of the salvaged brick material as possible and recommended matching any new brick material to the salvaged brick. At the Recommendation meeting, the Board expects to review physical materials and a color palette that meets the intent of this guidance. (CS3.B, DC4.A)

**2. East Union Street Streetscape**

- a. Board comments concerning the streetscape and commercial frontage along East Union Street were very positive. The Board appreciated the potential flexibility built into the arrangement of the commercial interior spaces to accommodate larger and smaller tenant spaces as the building evolves. The Board also liked that the commercial use continued around the building’s southeast corner base. (CS2.B.2, PL3.C, DC1.A)

- b. The Board appreciated the information concerning the waste/recycling storage location and access that had been illustrated in the design packet (pgs. 28 & 29) and conveyed in the presentation. The Board observed that staging the waste storage containers in a location that is easily accessible by the waste provider and not impactful to the East Union Street public realm could be challenging and advised the applicant to give focused attention to this concern. The Board requested that specifics concerning waste storage, location, access and feedback from Seattle Public Utilities (SPU) should be presented to the Board at the next meeting. (PL1.B.3, DC1.C.4)

### **3. 24<sup>th</sup> Avenue Streetscape, Design Concept, Architectural Character and Massing**

- a. The Board supported public comment requesting that the design accommodate family-friendly infrastructure (i.e. family-sized units, common children play spaces) and asked that dedicated play area, either internal or in the courtyard, be explored and considered in the next design iteration. (DC3.B)
- b. In general, the Board was very receptive to the courtyard space concept. However, the Board questioned the courtyard's relationship to the ground-level interior common amenity space (resident lounge), the residential lobby entry and how the courtyard will be secured at the street (gate vs. no gate). It is imperative that the Board understands the courtyard experience. At the next meeting, the Board expects to review details related to the courtyard area (seating, patios, landscaping/hardscape, lighting, fencing, access, etc.) and its relationship to surrounding spaces that activates the space, defines the public space, defines the private space and supports security measures for both pedestrians and residents. (PL2.B, PL3.A, PL3.B, DC1.A, DC2.D.1, DC3.A, DC3.B, DC3.C, DC4.C, DC4.D)
- c. The Board supported the residential lobby entrance being set back from the street edge but emphasized that the main residential entry should be visually prominent from the street. (PL2.B, PL3.A)

### **4. Vehicular/Bicycle Parking and Access**

- a. The Board had positive comments concerning the location of onsite vehicular parking and access via 24<sup>th</sup> Avenue. In consideration of public comments concerning parking impacts, the Board explained that parking requirements are not part of the Board's purview and encourage commenters to discuss their parking concerns/questions with the SDCI Land Use Planner. (DC1.B.1)
- b. The Board was unconvinced that the ground-level bike workshop and storage area abutting the 24th Avenue streetscape would be utilized as such based on past Board experience with the review of such concepts for recent developments. The Board also voiced strong concerns related to visual impacts of bike parking to pedestrians at the street, visual impacts of bike parking to occupants of the courtyard space, lighting impacts, bike storage security and access. The Board encouraged a design that provides access to the bike workshop and storage area from the courtyard and minimizes views into this space from the public spaces. The Board expects to review details concerning the bike workshop (storage, equipment, lighting, transparency, access, programming, etc.) that contribute positively to the public spaces (courtyard, 24th Avenue) and a programmatic demonstration that this concept can be successfully executed at the next meeting. (PL3.A, PL3.B.1, PL4.B.1, PL4.B.2)

## RECOMMENDATION MEETING: November 30, 2016

### Public Comment

The following public comments were offered at this meeting:

- Representative of the Central Area Land Use Review Committee (LURC):
  - Reiterated support of the project’s mission to provide affordable housing to the neighborhood.
  - Supported the proposed street-level street facing facades and encouraged further development of the ground-level blank walls facades within the courtyard space.
  - Supported the incorporation of existing brick material with the proposed building cladding and requested that a similar composition be applied within the courtyard space.
  - Expressed concern that the proposed color scheme is “lacking a certain punch” and does not agree with the stated design concept (African American quilt).
- Voiced concern about the perceived overbearing effects of the continuous overhang of the south façade to pedestrians. Encouraged a design that pushed the south façade upper floor levels to align with the setback of the south-facing street-level storefront facades.
- Encouraged a design that included more detailing applied to the building’s southeast corner and additional texture to the exterior building facades to add more human interest.

All public comments submitted in writing for this project can be viewed using the following link and entering the project number: <http://web6.seattle.gov/dpd/edms/>

### Priorities & Board Recommendations

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following siting and design guidance based on current adopted Citywide Design Guidelines.

1. **Design Concept, Architectural Character and Massing:** The design and siting pattern of the new commercial/residential development should respond to specific site conditions, be oriented to the corner, incorporate historical/cultural elements and respect adjacent properties.
  - a. Overall, the Board supported the courtyard design scheme but observed that the presented design had evolved since EDG to include a continuous upper-level massing that cantilevered above the ground-level commercial street front abutting East Union Street. The Board listened to the applicant’s reasoning for support of a changed south-facing façade composition; considered public concerns related to this façade condition; and had a focused discussion about the continuous upper-level overhang. Ultimately, the Board agreed that the continuous nature of the upper-level cantilevered massing condition did not weaken the previously accepted courtyard design scheme and supported the presented massing design. The Board also stated that the inclusion of the opaque continuous canopy above the commercial storefronts would diminish a potential “looming” effect of this upper-level massing onto pedestrians traversing East Union Street.
  - b. The Board stated that the design of the structure’s north façade is respectful to the commercially-zoned (NC2-40’) residential property north of the subject site and an appropriate response to the existing surrounding context and anticipated scale of development. (CS2.D.1, CS2.D.5, PL3.B.1)

- c. The Board reviewed and had a focused discussion concerning the proposed materials and color palette identified in the design packet and on the physical material/color samples board presented to the Board at the Recommendation meeting. Board response regarding the design's materiality was very positive. The Board appreciated that the chosen materials are well composed, add texture and are consistent with the overall architectural concept. Additionally, the Board was excited that salvaged bricks from the original Liberty Bank will be integrated in the ground-level street-facing facades and the courtyard portal (pg. 50). The Board understood that the salvaged brick material is limited but encouraged the design team to incorporate any residual salvaged brick at the interior courtyard facades to provide more visual interest in this space. (CS3.B, DC4.A)

The Board supported the applicant's rationale that utilization of a solid color to create an accent wall would assist in pronouncing the residential lobby entrance which will be set back from the street edge. (PL2.B, PL3.A)

The Board was very supportive of the design inspiration illustrated in the design packet which references the "African American quilt" (pg. 28). The Board agreed, however, with public concerns that the proposed color palette, comprised of warm but muted colors, was not in keeping with the exemplary images of African American quilts presented in the design packet. The Board emphasized that the composition of the design's color palette needed further study. Therefore, the Board recommended a condition that the design's overall color palette be revised to be less muted and more in the spirit of the design inspiration (African American quilts) with richer colors illustrated in the REC design packet (pg. 28). The design team should seek input from the Liberty Bank Advisory Board (LBAB)/community members regarding the chosen color palette. (CS3.B, DC4.A)

- d. The Board was very pleased that the historical references to Liberty Bank remained integral to the overall design concept and commended the design team/owner for the thoughtful execution of the Liberty Bank Advisory Board's (LBAB) recommendations (signage, plaques, artifacts, materials, art, etc.) into the project design (pgs. 48-51). (CS3.B, DC4.A)
- e. The Board commented that the signage concept design as illustrated in the Recommendation design packet was complementary to the historical aspects of the design concept. (CS3.B, DC4.B)
- f. The Board commented that the lighting concept design as illustrated in the Recommendation design packet was appropriate. (DC4.C)

## **2. East Union Street Streetscape**

- a. The Board enthusiastically reiterated support of the overall streetscape composition and the placement of the commercial frontage along East Union Street. The Board was pleased that the presented design still included flexibility to accommodate larger and smaller commercial tenant spaces as the building evolves. The Board also liked that the commercial use continued around the building's southeast corner base. (CS2.B.2, PL3.C, DC1.A)

## **3. 24<sup>th</sup> Avenue Streetscape, Design Concept, Architectural Character and Massing**

- a. The Board reviewed the residential amenity spaces and appreciated that the design had evolved to provide external (roof deck and courtyard) and internal (resident lounge and



- resident workshop) areas that will accommodate a flexible programming approach for future residents (adults and children). (DC3.B)
- b. The Board was very pleased with the design evolution of the courtyard area abutting 24<sup>th</sup> Avenue. Board comments regarding the amalgamation of small intimate gathering spaces with the unique building entrance sequencing (portal and residential lobby entry) at ground-level illustrated in the design packet (pgs. 54-55) were very positive. The Board also expressed that the proposed landscaping/hardscape/design elements integrated well with the streetscape and addressed past Board concerns pertaining to overall courtyard experience and security/privacy issues. (PL2.B, PL3.A, PL3.B, DC1.A, DC2.D.1, DC3.A, DC3.B, DC3.C, DC4.C, DC4.D)
  - c. The Board reviewed and discussed the arrangement of ground-level bike storage space adjacent to the courtyard area and the resident workshop room abutting the 24<sup>th</sup> Avenue streetscape. The Board observed that the outcome of minimizing views to the bike storage space created a blank wall condition (north interior brick façade). The Board encouraged the applicant to seek methods (landscaping, art, material, etc.) that would add interest to this façade. (PL3.A, PL3.B.1, PL4.B.1, PL4.B.2)

#### 4. Vehicular Parking and Access

- a. The Board observed the glazed panel entry adjacent to the garage door entry which allows for views into the ground-level parking garage from 24<sup>th</sup> Avenue and questioned its intent. The applicant explained that this glazed door treatment was necessary to meet code required street-level transparency standards. The Board felt it odd that visibility to a non-active space would meet the spirit of the Code and encouraged the design team to reconsider other methods that would minimize pedestrian views into this space and be compatible with design. The Board also proactively voiced support for a code departure from transparency standards should the applicant decide to pursue this departure to meet the intent of the Board's direction. (PL2.B.3, DC1.C.2)

### DESIGN REVIEW GUIDELINES

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

<b>CONTEXT &amp; SITE</b>
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**CS2 Urban Pattern and Form: Strengthen the most desirable forms, characteristics, and patterns of the streets, block faces, and open spaces in the surrounding area.**

**CS2-A Location in the City and Neighborhood**

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

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

**CS2-B Adjacent Sites, Streets, and Open Spaces**

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

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

**CS2-C Relationship to the Block**

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

**CS2-D Height, Bulk, and Scale**

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

**CS2-D-2. Existing Site Features:** Use changes in topography, site shape, and vegetation or structures to help make a successful fit with adjacent properties.

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

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

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

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

**CS3-A Emphasizing Positive Neighborhood Attributes**

**CS3-A-1. Fitting Old and New Together:** Create compatibility between new projects, and existing architectural context, including historic and modern designs, through building articulation, scale and proportion, roof forms, detailing, fenestration, and/or the use of complementary materials.

**CS3-A-3. Established Neighborhoods:** In existing neighborhoods with a well-defined architectural character, site and design new structures to complement or be compatible with the architectural style and siting patterns of neighborhood buildings.

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

**CS3-B Local History and Culture**

**CS3-B-1. Placemaking:** Explore the history of the site and neighborhood as a potential placemaking opportunity. Look for historical and cultural significance, using neighborhood groups and archives as resources.

**CS3-B-2. Historical/Cultural References:** Reuse existing structures on the site where feasible as a means of incorporating historical or cultural elements into the new project.

**PUBLIC LIFE**

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

**PL1-B Walkways and Connections**

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

**PL1-B-2. Pedestrian Volumes:** Provide ample space for pedestrian flow and circulation, particularly in areas where there is already heavy pedestrian traffic or where the project is expected to add or attract pedestrians to the area.

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

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

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

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

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

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

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

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

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

### **PL3-A Entries**

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

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

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

### **PL3-B Residential Edges**

**PL3-B-1. Security and Privacy:** Provide security and privacy for residential buildings through the use of a buffer or semi-private space between the development and the street or neighboring buildings.

**PL3-B-4. Interaction:** Provide opportunities for interaction among residents and neighbors.

### **PL3-C Retail Edges**

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

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

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

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

**PL4-B Planning Ahead for Bicyclists**

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

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

**DESIGN CONCEPT**

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

**DC1-B Vehicular Access and Circulation**

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

**DC1-C Parking and Service Uses**

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

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

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

**DC2-A Massing**

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

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

**DC2-B Architectural and Facade Composition**

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

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

**DC2-C Secondary Architectural Features**

**DC2-C-1. Visual Depth and Interest:** Add depth to facades where appropriate by incorporating balconies, canopies, awnings, decks, or other secondary elements into the façade design. Add detailing at the street level in order to create interest for the pedestrian and encourage active street life and window shopping (in retail areas).

**DC2-C-2. Dual Purpose Elements:** Consider architectural features that can be dual purpose— adding depth, texture, and scale as well as serving other project functions.

**DC2-C-3. Fit With Neighboring Buildings:** Use design elements to achieve a successful fit between a building and its neighbors.

**DC2-D Scale and Texture**

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

**DC2-D-2. Texture:** Design the character of the building, as expressed in the form, scale, and materials, to strive for a fine-grained scale, or “texture,” particularly at the street level and other areas where pedestrians predominate.

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

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

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

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

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

**DC3-B-2. Matching Uses to Conditions:** Respond to changing environmental conditions such as seasonal and daily light and weather shifts through open space design and/or programming of open space activities.

**DC3-B-4. Multifamily Open Space:** Design common and private open spaces in multifamily projects for use by all residents to encourage physical activity and social interaction.

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

**DC4-A Exterior Elements and Finishes**

**DC4-A-1. 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.

**DC4-A-2. Climate Appropriateness:** Select durable and attractive materials that will age well in Seattle’s climate, taking special care to detail corners, edges, and transitions.

**DC4-B Signage**

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

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

**DC4-C Lighting**

**DC4-C-1. Functions:** Use lighting both to increase site safety in all locations used by pedestrians and to highlight architectural or landscape details and features such as entries, signs, canopies, plantings, and art.

**DC4-C-2. Avoiding Glare:** Design project lighting based upon the uses on and off site, taking care to provide illumination to serve building needs while avoiding off-site night glare and light pollution.

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

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

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

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

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

## DEVELOPMENT STANDARD DEPARTURES

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

At the time of the Recommendation meeting the following departures were requested:

1. **Street-Level Requirements (SMC 23.47A.008.A.3):** The Code requires a street-level street-facing facade be located within 10' of a street lot line unless wider sidewalks, plazas, or other approved landscaped or open spaces are provided. The applicant proposes a street-level street-facing facade be located more than 10' from the street lot line (51') abutting 24<sup>th</sup> Avenue. The applicant explained that this setback area would be an at-grade courtyard space comprised of fixed seating, patios, landscaping and hardscape intended to benefit the public realm, accommodate exterior gathering areas and be compatible with existing residential character along 24<sup>th</sup> Avenue.

This Board agreed that the departure would result in an overall design that would better meet the intent of Design Review Guidelines CS2.B.2 Connection to the Street, PL3.A.1 Entries Design Objectives, PL3.A.2 Common Entries, PL3.A.4 Ensemble of Elements, PL3.B.1 Residential Edges Security and Privacy, PL3.B.4 Residential Edges Interaction, DC3.A Building-Open Space Relationship and DC4.D Trees, Landscape, and Hardscape Materials. The Board appreciated how the varied design elements (benches, bioretention planter, landscaping, hardscape, materials, interpretive signage, etc.) would assist in activating the courtyard space in an interesting and creative manner. The Board agreed that the proposed courtyard design would be a positive amenity to the neighborhood.

The Board unanimously recommended that SDCI grant the requested departure.

2. **Street-level Prominent Entry (SMC 23.47A.008.D.1):** The Code requires when residential uses are located along a street-level street-facing façade, at least one of the street-level street-facing facades containing a residential use shall have a visually prominent pedestrian entry. The applicant proposes a courtyard space/entry portal leading to a residential entry that is set back from the 24<sup>th</sup> Avenue street lot line. The applicant states that this requested departure meets the intent of the code because the courtyard will be designed to be active and visually prominent.

This Board agreed that the departure would result in an overall design that would better meet the intent of Design Review Guidelines PL3.A.1 Entries Design Objectives, PL3.A.2 Common Entries, PL3.A.4 Ensemble of Elements and PL3.B.1 Residential Edges Security and Privacy. The Board agreed that the presence of the courtyard portal design, the courtyard design itself and other design elements (lighting, materials, accent wall façade, etc.) all assist in providing visual cues to announce the main residential entrance.

The Board unanimously recommended that SDCI grant the requested departure.

- 3. Sight Triangle (SMC 23.54.030.G.1):** The Code requires for two way driveways, a sight triangle on both sides of the driveway or easement to be provided. The driveway shall be kept clear of any obstruction for a distance of 10' from the intersection of the driveway with a sidewalk or curb intersection if there is no sidewalk. The applicant proposes a reduction of the 10' sight triangle distance from the intersection of the driveway and the sidewalk abutting 24<sup>th</sup> Avenue. The applicant explained that a reduced sight triangle area would minimize the width and visual prominence of the garage entry along 24<sup>th</sup> Avenue.

The Board agreed that this departure would result in an overall design that would better meet the intent of Design Guideline DC1.B Vehicular Access and Circulation. The Board was very supportive of the applicant's intent to provide pavement patterning at the sidewalk to provide a visual cue to pedestrians traversing along 24<sup>th</sup> Avenue.

The Board unanimously recommended that SDCI grant the requested departure.

## **RECOMMENDATIONS**

### **Board Direction**

The recommendation summarized above was based on the design review packet dated Wednesday, November 30, 2016, and the materials shown and verbally described by the applicant at the Wednesday, November 30, 2016 Design Recommendation meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the materials, the four Design Review Board members recommended APPROVAL of the subject design and departures with the following condition:

1. The design's overall color palette shall be revised to be less muted and in the spirit of the design inspiration (African American quilts) with richer colors as illustrated in the design packet (pg. 28). The design team should seek input from the Liberty Bank Advisory Board (LBAB)/community members regarding the chosen color palette. (CS3.B, DC4.A)

*The design packets include materials presented at the Early Design Guidance (EDG) and Recommendation meetings, and are available online by entering the project number (3018178) at this website:*

*<http://www.seattle.gov/dpd/aboutus/news/events/DesignReview/SearchPastReviews/default.aspx>*



*These packets are also available to view in the file, by contacting the Public Resource Center at Seattle DCI:*

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

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

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

### **Director’s Analysis**

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

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

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

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

At the conclusion of the Recommendation meeting held on November 30, 2016, the Board recommended approval of the project with the conditions described in the summary of the Recommendation meeting above.

Four members of the East Design Review Board were in attendance and provided recommendations (listed above) to the Director and identified elements of the Design Guidelines which are critical to the project’s overall success. The Director must provide additional analysis of the Board’s recommendations and then accept, deny or revise the Board’s recommendations (SMC 23.41.014.F.3).

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

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

Applicant response to Recommended Design Review Condition:



1. The applicant responded with a memo on February 15, 2016 describing proposed color palette revisions in response to further study by the design team and Liberty Bank Advisory Board (LBAB)/community members. The MUP drawings have been revised to illustrate that the chosen color palette is reflected in colored elevations. This response satisfies recommended condition #1.

The applicant shall be responsible for ensuring that all construction documents, details, and specifications are shown and constructed consistent with the approved MUP drawings.

The Director of Seattle DCI agrees with the Design Review Board's conclusion that the proposed project and conditions imposed result in a design that best meets the intent of the Design Review Guidelines and accepts the recommendations noted by the Board. The Director is satisfied that all of the recommendations have been met.

### **DIRECTOR'S DECISION**

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

### **II. ANALYSIS – REZONE**

Seattle Municipal Code (SMC) Chapter 23.34, "Amendments to Official Land Use Map (Rezoning)," allows the City Council to approve a map amendment (rezone) according to procedures as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The owner/applicant has made application, with supporting documentation, per SMC 23.76.040.D, for an amendment to the Official Land Use Map. Contract rezones and Property Use and Development Agreements (PUDAs) are provided for in the Code at SMC 23.34.004.

The applicable requirements for this rezone proposal are stated in SMC Sections 23.34.004 (Contract rezones), 23.34.007 (Rezone evaluation), 23.34.008 (General rezone criteria), 23.34.009 (Height limits of the proposed rezone) and 23.34.086 (Pedestrian designation (suffix P), function and locational criteria).

The applicable portions of the rezone criteria are shown in italics, followed by analysis in regular typeface.

#### **SMC 23.34.004 Contract Rezones.**

- A. *Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone.*

A Property Use and Development Agreement (PUDA) will be executed and recorded as a condition of the contract rezone.

- B. Notwithstanding any contrary provision of subsection 23.34.004.A, the Council may approve a map amendment subject to execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions applying the provisions of Chapter 23.58B or Chapter 23.58C to the property. The Director shall by rule establish payment and performance amounts for purposes of subsections 23.58C.040.A and 23.58C.050.A that shall apply to a contract rezone until Chapter 23.58C is amended to provide such payment and performance amounts for the zone designation resulting from a contract rezone.***

As noted on page 2, in August of 2016, the City Council passed Ordinance 125108 creating a new Land Use Code Chapter 23.58C, Mandatory Housing Affordability for Residential Development (MHA-R). As also noted on page 2, SMC 23.58B and SMC 23.58C are applicable through the terms of a contract rezone in accordance with Section 23.34.004. A PUDA will be executed and recorded as a condition of the contract rezone and shall require that development of the rezoned property shall be subject to the requirements of SMC Chapters 23.58B and 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58C in this case. A Director's Rule is being prepared pursuant to SMC 23.34.004.B that will, when adopted, govern the payment and performance calculation amounts for purposes of Chapter 23.58C for a contract rezone where Chapter 23.58C does not yet provide payment and performance amounts for the zone designation resulting from a contract rezone.

- C. A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.***

A PUDA will be executed and recorded as a condition of the contract rezone.

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

At the time of the Seattle DCI recommendation, no waivers from bulk or off-street and loading requirements had been requested.

**SMC 23.34.007 Rezone Evaluation.**

- A. The provisions of this chapter shall apply to all rezones, except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets these provisions. In addition, the zone function statements, which describe the intended***

*function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*

This rezone is not proposed to correct a mapping error, and therefore the provisions of this chapter apply. In evaluating the proposed rezone the provisions of this chapter have been weighed and balanced together to determine which zone and height designation best meets the provisions of the chapter. Additionally, the zone function statements have been used to assess the likelihood that the proposed rezone will function as intended.

***B. No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.***

This analysis evaluated the full range of criteria called for and outlined in Chapter 23.34 Amendments to Official Land Use Map (Rezoning) as they apply to the subject rezone (listed at the beginning of this “Analysis” section).

***C. Compliance with the provisions of this Chapter 23.34 shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Environment Policies shall be used in shoreline environment redesignations as provided in SMC subsection 23.60A.042.C.***

The subject property is not located in the shoreline environment and the proposed rezone does not include a shoreline environment redesignation. Therefore, the Comprehensive Plan Shoreline Environment Policies were not used in this analysis.

***D. Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary.***

The entire subject site is located within the 23rd & Union-Jackson Residential Urban Village with boundaries as established in the Comprehensive Plan. The proposed rezone has been evaluated according to the provisions of this chapter that apply to areas that are inside of urban villages.

***E. The procedures and criteria for shoreline environment redesignations are located in Sections 23.60A.042, 23.60A.060 and 23.60A.220.***

The subject site is not in the shoreline environment and the proposed rezone is not a shoreline environment redesignation. Thus, the procedures and criteria in Sections 23.60A.042, 23.60A.060 and 23.60A.220 do not apply.

***F. Mapping errors due to cartographic or clerical mistakes may be corrected through process required for Type V Council land use decisions in SMC Chapter 23.76 and do not require the evaluation contemplated by the provisions of this chapter.***

The subject rezone is not a correction of a mapping error and so should not be evaluated as a Type V Council land use decision.

**SMC 23.34.007 Conclusion:** The proposed rezone meets the requirements of SMC 23.34.007, per the analysis above.

**SMC 23.34.008 General rezone criteria**

***A. To be approved a rezone shall meet the following standards:***

- 1. In urban centers and urban villages, the zoned capacity for the center or village taken as a whole shall be no less than 125% of the growth targets adopted in the Comprehensive Plan for that center or village.***
- 2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.***

The site is located in the 23rd & Union-Jackson Residential Urban Village as described in the response to SMC 24.34.007.D.

The estimated housing unit growth target for this Residential Urban Village in the Growth Strategy Appendix of the 2035 Comprehensive Plan is a density of 1,600 housing units at a growth rate of 30% between the years of 2015 to 2035. The established growth accommodation for residential urban villages in the 2035 Comprehensive Plan is zoning that permits at least 12 dwelling units per gross acre.

The proposed rezone will not reduce the zoned capacity for the 23rd & Union-Jackson Residential Urban Village. The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and residential units. The applicant intends to develop the site with 115 apartments. The existing zoning would allow approximately 69 similarly-sized apartment units within the proposed commercial/residential design, leading to an increase in zoned capacity of approximately 46 residential units.

The proposed rezone is consistent with SMC 23.34.008.A.1 because the increase in zoned capacity does not reduce capacity below 125% of the 2035 Comprehensive Plan growth target.

This rezone is also consistent with SMC 23.34.008A.2 because the proposed change would not result in less density for this zone than the density established in the Urban Village Element (Growth Strategy) of the Comprehensive Plan.

- B. Match between Established Locational Criteria and Area Characteristics. The most appropriate zone designation shall be that for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.***

No change to the NC2 zone designation is proposed, and thus the criteria for designation of commercial zones in SMC 23.34.072 are not a part of this proposal. The NC2 zone criteria in SMC 23.34.076 continue to match the characteristics of the area better than any other zone designation. The site is located in the primary business district in the Residential Urban Village, on streets with

good capacity and excellent transit service. The zone accommodates a pedestrian-oriented shopping area with a wide range of commercial uses, with housing as a compatible use. No change to the Pedestrian designation is proposed.

This proposal does include a Pedestrian designation to the northern portion of the project site. Thus, analysis of the locational criteria and area characteristic for designation of Pedestrian zones in SMC 23.34.086 is provided in greater detail below.

Changes to the height designation is discussed below.

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

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

A zoning change occurred southwest of the project site for the property located at 2203 East Union Street. This site received contract rezone approval for a rezone from NC2P-40 to NC2P-65 (CF #308565, DPD #3005925). The project approved with that rezone was for a six-story apartment building with basement parking and ground-level commercial space. That building construction was completed in 2016.

A more recent zoning change occurred west of the project site for the corner property located at 2220 East Union Street. This site received contract rezone approval for a rezone from NC2-40 and NC2P-40 to NC2-65 and NC2P-65 (CF #314312, SDCI #3019001). The approved project for that rezone was for a six-story building comprised of apartments above ground-level retail space and below-grade parking area. This development is currently being constructed.

In 2013, a rezone was proposed for an entire City block in the vicinity, addressed as 2301 East Union Street, from NC2-40 and NC2P-40, to NC2P-65. This was not a contract rezone and there was no specific development proposal advanced. The Hearing Examiner recommended denial of the Bangasser Rezone in December 2013 (CF #312973, DPD #3005931). The denial was appealed to City Council but later the applicants withdrew the application. The principal reasons for the Hearing Examiner's denial were that in the absence of a specific development proposal, it was not possible to determine if development resulting from the rezone would fully implement the elements of the Action Plan or provide appropriate transitions to nearby zones.

Potential zoning changes in the area have been under consideration by the community and the City since 2013. In June of 2015, SDCI (then DPD) released details of proposed rezones and amendments to the Land Use Code to implement both the Central Area Neighborhood Planning Element and the 23<sup>rd</sup> Avenue Action Plan (Action Plan). The site is located in what is called Area 1.

The SEPA Determination of Non-Significance on the proposed rezones and amendments was appealed to the Hearing Examiner in July 2015. The appeal addressed only the public outreach process and height, bulk and scale impacts on Area 2, which is immediately west of Area 1, and extends from 22<sup>nd</sup> to 21<sup>st</sup> Avenues along East Union Street. The Examiner affirmed DPD's

Determination of Non-Significance in a decision issued October 5, 2015 (Hearing Examiner File W-15-007). It is expected that the legislative proposal, which entails the finalization of the rezone ordinances, Central Area 23<sup>rd</sup> Avenue Action Plan and Urban Design Framework (UDF) documents, will be forwarded for City Council action in 2017.

***D. Neighborhood Plans***

- 1. For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.***

Portions of the Central Area Action Plan II (CAAP II) were adopted by City Council November 2, 1998 (Ordinance #119216) as the Central Area's Neighborhood Plan. The adopted portions can be found in the City of Seattle Comprehensive Plan Adopted Neighborhood Plans (*section B-6*).

Historically, the City Council has passed several ordinances amending the Seattle Comprehensive Plan in years 2005 (Ordinance #121955), 2013 (Ordinance #124177), 2014 (Ordinance #124458), 2015 (Ordinance #124887) to incorporate changes to the goals and policies in the Central Area Neighborhood Planning Element and changes to the Future Land Use Map that were developed during the planning process of the Action Plan.

More recently, the City Council adopted the Seattle 2035 Comprehensive Plan in October of 2016, (Ordinance #125173). The goals and policies for the Central Area Adopted Neighborhood Plan found in the Neighborhood Plans section of this document (*pg. 226*) remained the same.

- 2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.***

The subject property is within the 23<sup>rd</sup> & Union-Jackson Residential Urban Village and is covered by the Central Area Neighborhood Plan as described above.

- 3. Where a neighborhood plan adopted or amended by the City Council after January 1, 1995, establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.***

The above planning documents do not establish policies expressly for the purpose of guiding future rezones. Instead, the 23<sup>rd</sup> Avenue Action Plan, which was created in 2014 and continues to evolve during 2017, provides the neighborhood's guidance for future rezones of the 23<sup>rd</sup> and Union commercial node of which the subject site is a part of. This Action Plan has not been adopted by City Council.

- 4. If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.***

The Council-adopted portions of the Central Area's Neighborhood Plan do not identify any specific areas for rezone.

**SMC 23.34.008.D Summary:** There are no specific Land Use policies to guide rezones within the Central Area neighborhood.

The proposed rezone is consistent with the density anticipated in and around the Residential Urban Village as contemplated in the Seattle Comprehensive Plan. The development is consistent with the adopted portions of the Central Area Neighborhood Plan. The proposal will facilitate future development that will best accomplish the City's planning objectives.

*E. Zoning Principles. The following zoning principles shall be considered:*

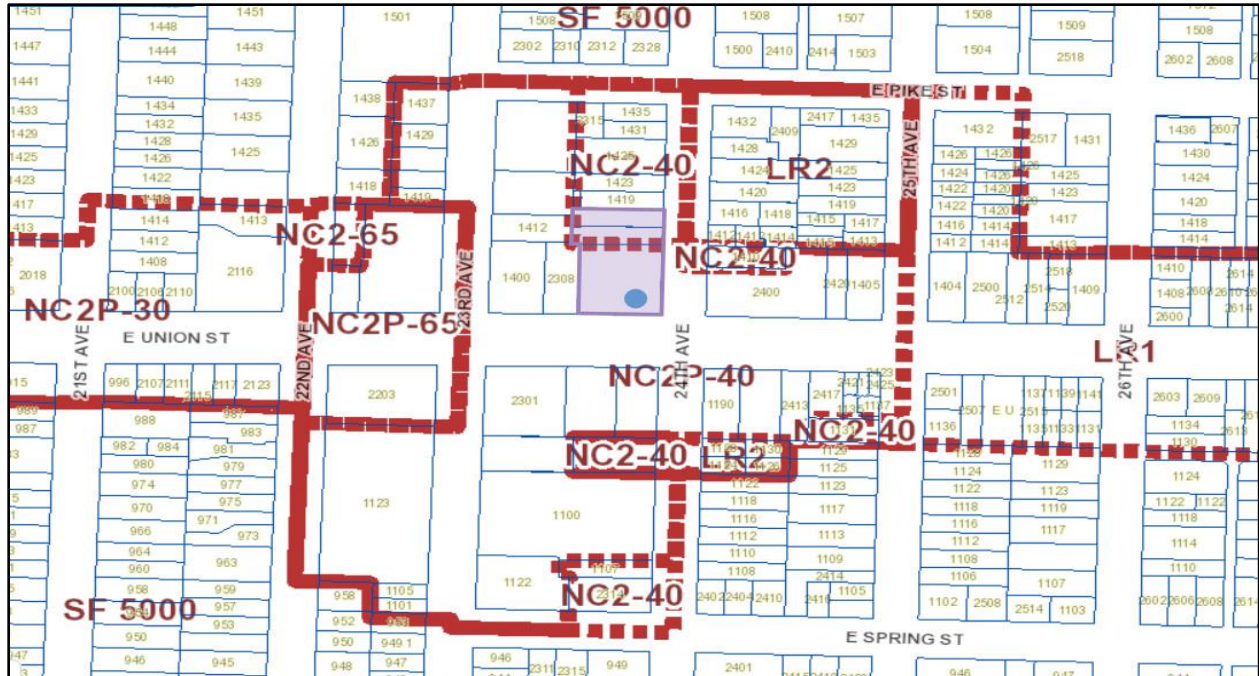
- 1. The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.*

The rezone proposal does not include any changes to the existing designation beyond the extension of a pedestrian overlay to the northern portion of the subject site. The existing pattern of single family, lowrise and commercial zoning will continue to exist. The proposed rezoned does propose a change from the existing 40' height limit to 65' in height. Therefore, an analysis of the transition between heights is warranted.

The Central Area neighborhood includes residential small lot (RSL) single family, multifamily and commercial zones of varying intensities and heights. Within the 23<sup>rd</sup> & Union community core of the Central Area neighborhood, there are many transitions in zoning intensity. In the immediate proximity, commercial zones are located adjacent to commercial, and commercial to residential. There are some examples of a 40' height zone located adjacent to a 65' height zone and 40' and 65-foot height zones adjacent to lowrise and single family zones. In some instances, the transition does include buffers, such as a right-of-way street, but in other instances the transition occurs along a shared property line.

The subject corner lot is located at the intersection of East Union Street and 24<sup>th</sup> Avenue, just east of the centralized main intersection of this neighborhood at 23<sup>rd</sup> Avenue and East Union Street. The overall development pattern illustrates a decrease in zoning intensity and height as properties continue north and south along 23<sup>rd</sup> Avenue; and east and west along East Union Street.

The general development pattern along the west side of 24<sup>th</sup> Avenue shows similar zoning intensity and height to the north and south. Conversely, the development pattern along the east side of 24<sup>th</sup> Avenue decreases in zoning intensity and height as the properties continue north and south of the corner properties at East Union Street. The proposed rezone to NC2P-65 would allow for a gradual transition between those properties zoned NC2P-40 to the south, north, east and west. A gradual transition between zoning categories would not occur between the northernmost portion of the subject site and the LR2 zoned properties to the east. This condition would allow for a 65' height zone in proximity to a 30' maximum height zone. Since the subject property is separated from the LR2 zoned properties by a street, this difference in height impact would be minimal.



2. *Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:*
- a. *Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;*
  - b. *Freeways, expressways, other major traffic arterials, and railroad tracks;*
  - c. *Distinct change in street layout and block orientation;*
  - d. *Open space and greenspaces.*

The proposed rezone would result in a zone edge condition of NC2P-65 adjacent to NC2-40 properties to the north and east; NC2P-65 adjacent to NC2P-40 properties to the west, east and south; and NC2P-65 adjacent to the LR2 properties to the east.

Some buffers are present between the proposed and existing zoning designations. The NC2P-65 zoning designation would be separated from the LR2 and NC2-40 zoning designations by 24<sup>th</sup> Avenue, a 66' wide right-of-way. The NC2P-65 zoning designation would be separated from the NC2P-40 zoning designation south of the site by East Union Street which is a 90' wide right-of-way.

The existing topography is characterized as gently sloping in a downward manner approximately 2' across the site from east to west. The site remains relatively flat from the south towards the north where it transitions to rockery retaining walls at the site's north and the northerly most portion of the west boundary lines measured approximately 10' above existing grade. Existing vegetation consists of ground cover and two mature trees at that portion of the site which extends beyond the subject lot and creates a landscaped topographic berm in which the existing structures (two-story religious facility and one-story single-family residence) located in the northwest and north are sited upon. The two trees will be removed but other mature trees located within proximity



to the north and northeasterly boundary lines on the neighboring properties will be maintained and protected during development.

The proposed rezone would also result in a zone edge condition of NC2P-65 adjacent to NC2P-40 with no street or topography separation. This condition is characterized at a portion of the west edge which abuts a two-story commercial building and a one-story commercial building.

The proposed rezone includes a specific proposed development that has gone through the Design Review process consistent with SMC 23.41. The design that has been recommended for approval by the Design Review Board includes design strategies to minimize the appearance of height, bulk, and scale. The design review process also considered the transition to adjacent properties, to mitigate the impacts of the zone edge facing the neighboring properties. The details of that process and analysis are described in the Design Review section of this document.

### **3. Zone Boundaries.**

#### ***a. In establishing boundaries the following elements shall be considered:***

- (1) Physical buffers as described in subsection E2 above;***
- (2) Platted lot lines.***

The proposed rezone would establish zoning boundaries with some physical buffers as described in response to subsection E2 above. The proposal would rezone the entire platted lot to NC2P-65 zoning and extend to the centerlines of existing adjacent streets.

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

The proposed rezone would maintain the existing pattern of commercially-zoned properties facing commercial and multifamily-zoned properties across the street on 24<sup>th</sup> Avenue. The proposed rezone will not create a new boundary between commercial and residential areas.

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

As described in response to SMC 23.34.007.D above, the propose rezone is located within the 23rd & Union-Jackson Residential Urban Village. The proposed rezone is for NC2P-65. The proposal is consistent with this criterion.

**SMC 23.34.008 E Summary:** The proposed rezone would result in a zoning transition that currently exists in vicinity of the project site.

There is some effective separation provided by topography changes, existing mature vegetation and adjacent streets to the east, west, north and south. No physical buffer is present at a portion of the west property line.

The proposed rezone includes a specific proposed development that has gone through Design Review per SMC 23.41. The Design Review process recommended a design with specific strategies to reduce the impacts of additional height, bulk and scale to the adjacent sites including setbacks.

*F. Impact Evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.*

*1. Factors to be examined include, but are not limited to, the following:*

*a. Housing, particularly low-income housing;*

The future proposal will not displace any existing housing and will have a positive impact on the supply of housing on the site and its surroundings by providing 115 new residential dwelling units intended to meet low-income housing requirements. The PUDA will ensure that the provisions of Chapters 23.58B and 23.58C will apply to the project proposal. Participation in the program under Chapter 23.58C (if applicable) will yield affordable housing within the project or an equivalent in lieu payment.

*b. Public services;*

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

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

The proposed rezone will allow two stories of additional height without changing the type of uses allowed on the property. There will likely be no appreciable negative environmental impacts associated with allowing additional low income housing or commercial use at this urban site. A more detailed analysis is provided below.

Noise – No significant impacts are anticipated from the change in zone. With development in the future, noise will be limited to that typically generated by neighborhood commercial and residential activities.

Air quality – No noticeable change in impacts will result from a change in zoning to allow additional building mass and an additional 25’ height at this site. Future Air Quality measures will comply with applicable Federal, State, and regional emission control requirements.

Water quality – No noticeable change in impacts will result from change in zoning. Stormwater runoff from future development will be conveyed to a city drainage system. The Stormwater Code includes requirements for Green Storm Water Infrastructure (GSI), which includes pervious concrete paving, rain gardens, and green roofs. Stormwater collection and management would be in conformance with City of Seattle standards. The existing site is entirely paved. The proposed rezone would not create the potential for more impervious surface than would be possible under existing zoning.

Flora and fauna – No noticeable change in impacts will result from a change in zoning, with or without the rezone. Existing landscaping and trees will potentially be removed for future construction, but additional vegetation is proposed to comply with Land Use Code requirements. The proposed development has been designed to maintain existing mature street trees; an Exceptional Tree and other mature trees located on the adjacent properties north and northeast of the subject site. The change in zoning would not reduce the vegetation requirements for future development.

Glare – No noticeable change in impacts will result from a change in zoning.

Odor – No noticeable change in impacts will result from a change in zoning.

Shadows – Potential development will create additional shadows. Design Review included consideration of shadow impacts from the proposal, and examined massing options to minimize shadow impacts. The increased shadows that would result from the proposed design are relatively small compared to that massing permitted in a 40' zone.

Energy – No noticeable change in impacts will result from a change in zoning. Development will be required to comply with the City of Seattle energy codes.

***d. Pedestrian safety***

The area is currently developed with sidewalks, street lights and crosswalks. Site redevelopment will replace the previously developed bank building. The proposed development includes public right-of-way improvements. Pedestrian safety will be enhanced by reducing the number of curb cuts associated with the auto-oriented existing conditions. The “pedestrian” zoning designation is being retained.

***e. Manufacturing activity;***

Anything other than light manufacturing is not permitted in the NC2 zone. No manufacturing uses are proposed on site.

***f. Employment activity;***

The existing and proposed zoning would both allow commercial uses at this site. New commercial facilities will be developed, which may provide additional employment opportunities.

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

There are no designated Landmark structures or Historic Districts in the immediate vicinity. The prior building, Liberty Bank, was denied Landmark status by the Landmarks Board (Landmarks Preservation Board letter, LPB 146/14, Department of Neighborhoods, March 21, 2014) and was subsequently demolished.

*h. Shoreline view, public access and recreation.*

The site is located at a considerable distance from any shorelines and therefore not subject to public access or recreation considerations. The topography of the area is not conducive of shoreline views. There are no nearby public parks with shoreline views across the subject property.

**2. Service Capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:**

- a. Street access to the area;*
- b. Street capacity in the area;*
- c. Transit service;*
- d. Parking capacity;*

The proposed development abuts East Union Street and 24<sup>th</sup> Avenue. King County Metro transit stops are located on 23<sup>rd</sup> Avenue and East Union Street. The transit stops provide access to transit routes 2 and 48.

In response to criteria (a), (b) and (d), the street access, street capacity and parking capacity are discussed in the SEPA analysis below.

*e. Utility and sewer capacity;*

Seattle Public Utilities (SPU) has indicated that the existing sewer and water utility systems in this area have capacity for the proposed development at this site. Any future development will go through city review and be required to meet/conform to city of Seattle standards, codes and/or ordinances.

*f. Shoreline navigation*

The area of the rezone is not located within a shoreline environment so shoreline navigation is not applicable to this rezone.

**SMC 23.34.008.F Summary:** The proposed rezone will allow development of a mixed-use commercial/residential building that will positively contribute to the City's supply of affordable housing inventory. This building that will result in minor shadow impacts for the surrounding properties will not block any additional views beyond what would occur with the existing zoning designation.

All other impacts are anticipated to be relatively minor or not applicable.

**G. Changed circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the**

*appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designation in this chapter.*

A site to the southwest of the subject site was granted a contract rezone to 65' in 2008. The 23<sup>rd</sup> Avenue Action Plan and legislation pending before City Council and recommended for passage by the Council by the Director of Office of Planning and Community Development (OPCD), contains substantial changes for height limits within existing Neighborhood Commercial designations in a broader area centered at 23<sup>rd</sup> Avenue and East Union Street, an area that includes the subject site (Area 1) and recommends a change from 40' to 65' of allowable height. As noted above in response to SMC 23.34.008.C, the City Council has recently approved a similar rezone at 23<sup>rd</sup> and East Union Street (CF #314312, SDCI #3019001).

**SMC 23.34.008 G Summary:** The proposed rezone responds to changed circumstances for this area.

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

The site is not located in any of the following Overlay Districts defined in the Land Use Code:

- Shoreline SMC (23.60A)
- Station Area Overlay SMC (23.61)
- Airport Height Overlay District (SMC 23.64)
- Special Review Districts SMC (23.66)
- Southeast Seattle Reinvestment Area (SMC 23.67)
- Major Institution Overlay (SMC 23.71)
- Northgate Overlay (SMC 23.71)
- Sand Point Overlay (SMC 23.72)
- Pike Pine Conservation Overlay District (SMC 23.73)
- Stadium Transition Area Overlay District (SMC 23.74)

**SMC 23.34.008 H Summary:** The proposed rezone and development is not currently located in an Overlay District and none is proposed.

*I. Critical Areas. If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.*

The site is not located in or adjacent to a critical area; therefore, this criterion does not apply.

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

1. *The rezone includes incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone; or*
2. *If the rezone does not include incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone, an adopted City housing*

*policy or comprehensive plan provision identifies the area as not a priority area for affordable housing, or as having an adequate existing supply of affordable housing in the immediate vicinity of the area being rezoned*

The proposal is not located in a zone with an incentive zoning suffix, therefore this criterion does not apply.

**SMC 23.34.008 Conclusion:** The proposed rezone will allow for a development to be permitted to be constructed 25' taller than the maximum height limit permitted in the current zoning (40'). The proposed development has been reviewed through Design Review, including strategies to ease the transition to less intensive adjacent zones. The proposed rezone meets all other requirements of SMC 23.34.008, per the analysis above.

**23.34.009 - Height limits of the proposed rezone**

*If a decision to designate height limits in residential, commercial or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:*

- A. Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.*

The Seattle 2035 Comprehensive Plan states, "Residential urban villages are areas of residential development, generally at lower densities than urban centers and hub urban villages. While they are also sources of goods and services for residents and surrounding communities, for the most part they do not offer many employment opportunities." The proposed rezone lies within the boundaries of the 23rd & Union-Jackson Residential Urban Village and would allow increased density in this urban village.

The existing zoning allows a combination of multifamily and limited commercial uses for that portion of the site that is within the Pedestrian zone abutting the principal pedestrian street (East Union Street) per SMC 23.47A.005.D. The proposed rezone would allow an additional 25' in height and would increase the capacity for multifamily residential uses. The variety and size of commercial uses that are allowed would not change. There is no potential to displace preferred uses.

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

Generally, the 23<sup>rd</sup> & Union community core of the Central Area neighborhood slopes down from west to east towards M. L. King Jr. Way. The surrounding area to the north and south and the subject property is relatively flat except at the north and west boundary lines where the grade is elevated 10' above existing grade. There appears to be no topographic conditions that would either lessen or increase the impacts of a height increase on the surrounding areas.

The Land Use Code does not include criteria for protection of views from private property. Most private property territorial views of the neighborhood to the east would be blocked by development built to the current maximum zoning at the site. The proposed rezone will have negligible impact beyond what would be allowed under the current zoning designation.

***C. Height and Scale of the Area.***

- 1. The height limits established by current zoning in the area shall be given consideration.***
- 2. In general, permitted height limits shall be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area's overall development potential.***

The existing zoning at this site is NC2-40 and NC2P-40. The proposed zoning is NC2P-65. In the NC2-40 and NC2P-40 zones, an additional 4' of building height may be obtained through the requirements in SMC 23.47A.012.A, including provision of 13' floor-to-floor non-residential uses at the street level. A 65' NC zone does not allow additional height per SMC 23.47A.012.A. Other rooftop features are permitted above the 40' and 65' height limit per SMC 23.47A.012.C, including mechanical equipment and stair/elevator penthouses such as the ones proposed with this development. Zoning review for compliance with all building height provisions in SMC 23.47A.012 is a Type I review as defined in SMC 23.76.004.

The current height limit at this site is 40'. Nearby zones include height limits of 30', 40' and 65'. The proposed development would be consistent with the predominant height and scale of nearby newer development, which is representative of the area's anticipated overall development potential. The predominant existing development in this area is older, and generally not built to the 40' height limit, and there is additional capacity for more retail and residential development. It appears, therefore, that existing development is not a good measure of the area's existing development potential. The existing single family development in the area is older as well, but appears representative of lowrise residential development.

***D. Compatibility with Surrounding Area.***

- 1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.***
- 2. A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.E.2, are present.***

The subject property is not in or near a Major Institution. The proposed 65' height limit would not match the existing height of the adjacent/immediate existing properties; however, it would match the heights of two corner lot developments in the surrounding area constructed (2203 East Union Street) and being constructed (2220 East Union Street) one block southwest and west of the rezone site.

The proposed development is 65' in height, and includes setbacks and modulation at the west, east, north and south property lines. The proposed rezone would be consistent with the scale of development in the area and the anticipated scale of development being contemplated in the Action Plan for the rezone site in Area 1.

*E. Neighborhood Plans*

1. *Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.*
2. *Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would otherwise be established pursuant to the provisions of this section (23.34.009) and Section 23.34.008.*

As described in response to SMC 23.34.008.D above, portions of the Central Area Action Plan II (CAAP II) were adopted by City Council as the Central Area's Neighborhood Plan and are included in the City of Seattle Comprehensive Plan Adopted Neighborhood Plans (*section B-6*) and the 2035 Seattle Comprehensive Plan Adopted Neighborhood Plans (*pg. 226*). The adopted portion of the Central Area Neighborhood Plan does not explicitly address height recommendations that relate to future proposed rezones. It is relevant to note that the Action Plan does recommend a 65' height limit on the proposed rezone site.

**SMC 23.34.009 Conclusion:** The additional height increase that would result in a change of zoning from NC2-40 and NC2P-40 to NC2P-65 would meet the criteria of SMC Section 23.34.009, as described above. No additional views from private property would be blocked by the additional building height resulting from the contract rezone.

**SMC 23.34.086 Pedestrian designation (suffix P), function and locational criteria**

- A. *Function. To preserve or encourage an intensely retail and pedestrian-oriented shopping district where non-auto modes of transportation to and within the district are strongly favored, and the following characteristics can be achieved:*
1. *A variety of retail/service activities along the street front;*
  2. *Large number of shops and services per block;*
  3. *Commercial frontage uninterrupted by housing or auto-oriented uses;*
  4. *Pedestrian interest and activity;*
  5. *Minimal pedestrian-auto conflicts.*

Approximately 2/3 of the subject property is zoned NC2P-40; the remaining 1/3 of the project site is zoned NC2-40 without the pedestrian designation. The proposed rezone would extend the Pedestrian Overlay designation further to the north of the subject site.

The site is a corner lot oriented at the northwest intersection of 24<sup>th</sup> Avenue and East Union Street. A variety of commercial uses (retail, restaurants, offices, movie theater, etc.) and institutions (churches) in the vicinity are oriented east and west along East Union Street; north and south on 23<sup>rd</sup> Avenue; and oriented at the corners of remaining north-south directional streets east and west of 23<sup>rd</sup> Avenue. The existing pattern of the commercial frontages along both East Union Street



and 23<sup>rd</sup> Avenue includes some auto-oriented uses (car wash, gas station) and vehicular access to those uses and surface accessory parking areas. Additionally, existing housing is intermingled with commercial storefronts along both East Union Street and 23<sup>rd</sup> Avenue.

The proposed rezone would allow for a development that will provide a variety of commercial opportunities mainly oriented along East Union Street and will turn the corner onto 24<sup>th</sup> Avenue to reinforce characteristics of the existing and recent commercial/residential developments at corner properties along East Union Street. The proposal will provide additional residential density in support of the commercial district surrounding the site. The project will also minimize pedestrian conflicts by removing three existing curb cuts that currently allow access to East Union Street and 24<sup>th</sup> Avenue; and add one ingress/egress drive on 24<sup>th</sup> Avenue. Safety features have been included in the building design to provide a visual cue to pedestrians traversing along 24<sup>th</sup> Avenue.

***B. Locational criteria. Pedestrian-designated zones are most appropriate on land that is generally characterized by the following conditions:***

- 1. Pedestrian district surrounded by residential areas or major activity centers; or a commercial node in an urban center or urban village;***
- 2. NC zoned areas on both sides of an arterial, or NC zoned block fronts across an arterial from a park, major institution, or other activity center; and***
- 3. Excellent access for pedestrians, transit, and bicyclists.***

The proposed rezone lies within the boundaries of the 23<sup>rd</sup> & Union-Jackson Residential Urban Village and less than a block east of the Community node on 23<sup>rd</sup> Avenue. The Seattle 2035 Comprehensive Plan describes the 23<sup>rd</sup> and Union community node as, “A medium-sized community-serving node with mixed-use developments. This node has locally owned businesses and institutions and continues to serve as the center of the African American community. It is a neighborhood-scale destination that builds on existing assets and draws customers from the larger neighborhood.” The 23<sup>rd</sup> Avenue Corridor policy pertinent to this community corridor (CA-P65) is as follows: “Encourage new pedestrian-friendly mixed-use development at 23<sup>rd</sup> and Union that includes neighborhood serving shops and services, opportunities for startup businesses, affordable housing, and live-work housing while respecting the small scale and historic character of this node.”

The predominant zoning along both sides of East Union Street and 24<sup>th</sup> Avenue in vicinity of the project site is neighborhood commercial (NC). The project is located within a frequent transit corridor with transit routes on East Union Street and 23<sup>rd</sup> Avenue. Bicycle facilities including bicycle lanes currently exist on East Union Street in the project vicinity.

A rezone that applies the pedestrian designation to the entire project site is appropriate. The project will support and enhance the 23<sup>rd</sup> Avenue Community node as described above. It will also meet the intent of the 23<sup>rd</sup> Avenue Corridor policy for East Union Street.

<p><b>SMC 23.34.086 Conclusion:</b> The proposed rezone would allow for the pedestrian designation to be applied to the entire site and is consistent with the pedestrian designation function and locational criteria of SMC 23.34.009 as described above.</p>
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## **RECOMMENDATION – REZONE**

Based on the analysis undertaken in this report, the SEPA analysis of the rezone and project proposal, and the weighing and balancing of all the provisions in SMC 23.34, the Director recommends that the proposed rezone from Neighborhood Commercial 2 and Neighborhood Commercial 2 Pedestrian with 40' height limits (NC2-40 and NC2P-40 respectively) to Neighborhood Commercial 2 Pedestrian with a 65' height limit (NC2P-65) be **CONDITIONALLY APPROVED**, subject to the conditions summarized at the end of this report.

### **III. ANALYSIS – SEPA**

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated July 21, 2017 (in error-should be July 21, 2016). The Seattle Department of Construction and Inspections (SDCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted by the applicant or agents; and any pertinent comments which may have been received regarding this proposed action have been considered. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

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

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

#### **Short Term Impacts**

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, a small increase in traffic and parking impacts due to construction related vehicles, and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following analyzes greenhouse gas, construction traffic and parking impacts, construction noise, environmental health-contaminated soils as well as mitigation.

*Greenhouse Gas Emissions*

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A.

*Construction Impacts - Parking and Traffic*

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

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

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

*Construction Impacts - Noise*

The project is expected to generate loud noise during grading and construction. The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends and legal holidays in Neighborhood Commercial zones.

If extended construction hours are desired, the applicant may seek approval from Seattle DCI through a Noise Variance request. The applicant's environmental checklist does not indicate that extended hours are anticipated.

The limitations stipulated in the Noise Ordinance are sufficient to mitigate noise impacts and no additional SEPA conditioning is necessary to mitigation noise impacts per SMC 25.05.675.B.

*Environmental Health – Contaminated Soils*

Existing contamination could have an adverse impact on environmental health. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions, to the extent permitted by federal and state law.

The applicant submitted the following reports and correspondence referenced in the annotated SEPA checklist concerning existing contamination on the project site:

1. "Phase I/Phase II Environmental Site Assessment, Key Bank East Union, 2320 East Union Street, Seattle, Washington" for Capitol Hill Housing prepared by SoundEarth Strategies, Inc. dated May 10, 2013.

2. A written memo titled “*RE: 24<sup>th</sup> and Union Contamination*” prepared by CHH dated June 27, 2014 outlining different strategies for cleaning the subject site.
3. “*Site Cleanup and Monitoring Report, Union and 24<sup>th</sup> Development, 2320 East Union Street, Seattle, Washington*” for Union and 24<sup>th</sup> Associates LLC and Lucky Seven Foundation by PBS Engineering + Environmental dated March 24, 2016.
4. A report summary from the Washington State Department of Ecology (DOE) titled “*Cleanup Site Details, Key Bank E Union St, ID #12509*” dated March 13, 2017.

Mitigation of contamination and remediation is in the jurisdiction of Washington State Department of Ecology (“Ecology”), consistent with the City’s SEPA relationship to Federal, State and Regional regulations described in SMC 25.05.665.E. This State agency program functions to mitigate risks associated with removal and transport of hazardous and toxic materials, and the agency’s regulations provide sufficient impact mitigation for these materials. The City acknowledges that Ecology’s jurisdiction and requirements for remediation will mitigate impacts associated with any contamination.

Adherence to Model Toxic Control Act (MTCA) provisions and federal and state laws are anticipated to adequately mitigate significant adverse impacts from existing contamination on site. The “*Site Cleanup and Monitoring Report, Union and 24<sup>th</sup> Development, 2320 East Union Street, Seattle, Washington*” describes strategies to ensure adherence with MTCA provisions and indicates compliance with Washington State Department of Ecology regulatory authority.

The proposed strategies and compliance with Ecology’s requirements are expected to adequately mitigate the adverse environmental impacts from the proposed development and no further mitigation is warranted for impacts to environmental health per SMC 25.05.675.F.

#### Long Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: greenhouse gas emissions; parking; and possible increased traffic in the area. Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, greenhouse gas emissions, height, bulk and scale, parking and traffic impacts warrant further analysis.

#### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project construction and the project’s energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A.

#### Height, Bulk, and Scale

The proposal has gone through the design review process described in SMC 23.41. Design review considers mitigation for height, bulk and scale through modulation, articulation, landscaping, and façade treatment.

Section 25.05.675.G.2.c of the Seattle SEPA Ordinance provides the following: “The Citywide Design Guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk, and scale impacts addressed in these policies. A project that is approved pursuant to the Design Review Process shall be presumed to comply with these

Height, Bulk, and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decision maker pursuant to these height, bulk, and scale policies on projects that have undergone Design Review shall comply with design guidelines applicable to the project.”

The proposal includes a contract rezone which will allow additional building mass and an additional 25’ height at this site. The height, bulk and scale of the proposed development and relationship to nearby context have been addressed during the Design Review process. Pursuant to the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to height bulk and scale are presumed to be sufficient, and additional mitigation is not warranted under SMC 25.05.675.G.

### Parking

The contract rezone will allow for more density and may generate more parking demand. The proposed development includes 115 residential units with 18 off-street vehicular parking spaces. TENW prepared a scoping memo and parking analysis (Traffic Scoping Memo Liberty Bank Building dated August 18, 2016 and Liberty Bank Building Updated Transportation Impact Study by Transportation Engineering Northwest (TENW) dated February 27, 2017) for the subject site to provide preliminary traffic/parking information and assess the expected parking demand and supply.

A parking utilization study conducted by TENW collected on-street parking information within 800’ of the project site. Additionally, impacts to street parking from one other development (either planned or under construction within the study area) was included in the analysis to predict future demand. The TENW study identified 350 legal on-street parking spaces within the study area and based on two days of parking counts. The study documented that utilization of these spaces is 72% on weekday evenings. The study also indicated that a small amount of additional parking demand is expected from one other development in the area, bringing the future without-project utilization rate to 74%. The Gibson study estimated that the proposed development at 2320 East Union Street is expected generate a peak parking demand for about 40 vehicles. As 18 spaces will be provided on-site, the project will have a spillover of about 22 vehicles. This will result in a future with-project parking utilization rate on weekday evenings of 78%. Total cumulative parking demand of the proposal and other project in the vicinity would result in a potential on-street parking utilization of 80% within 800’ of the site.

SMC 25.05.675.M notes that there is no SEPA authority provided for mitigation of residential parking impacts in Urban Villages within 1,320 feet of frequent transit service. This site is located within the 23rd & Union-Jackson Residential Urban Village and within 1,320 feet of frequent transit service. Regardless of the parking demand impacts, no SEPA authority is provided to mitigate residential impacts of parking demand from this proposal.

### Transportation

The increase in density allowed by the contract rezone would impact traffic patterns in vicinity of the proposal site. The Traffic Impact Analysis (Transportation Engineering Northwest (TENW), Liberty Bank Building Updated Transportation Impact Study, February 27, 2017) indicated that

the project is expected to generate a net total of 427 daily vehicle trips, with 43 net new PM Peak Hour trips and 33 AM Peak hour trips.

The additional trips would have minimal impact on levels of service at nearby intersections and on the overall transportation system. Concurrency analysis was conducted for nearby identified areas. That analysis showed that the project is expected to be well within the adopted standards for the identified areas. The SDCI Transportation Planner reviewed the information and determined that no mitigation is warranted per SMC 25.05.675.R.

### **DECISION – SEPA**

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

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

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

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

### **CONDITIONS – DESIGN REVIEW**

#### *Prior to Certificate of Occupancy*

1. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner (Tami Garrett, [tami.garrett@seattle.gov](mailto:tami.garrett@seattle.gov)) or a Seattle DCI assigned Land Use Planner.

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

2. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner (Tami Garrett, [tami.garrett@seattle.gov](mailto:tami.garrett@seattle.gov)) or a Seattle DCI assigned Land Use Planner.

### **RECOMMENDED CONDITIONS – REZONE**

The Director recommends approval of the contract rezone subject to the following conditions, which shall be contained in the PUDA:

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

3. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying SMC 23.58C or demonstrate the parameters in which the proposal is exempt from SMC 23.58C.

#### *Prior to Issuance of a Building Permit*

4. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3018178.

### **RECOMMENDED CONDITIONS – SEPA**

#### *Prior to Issuance of Excavation/Shoring or Construction Permit*

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

Tami Garrett, Senior Land Use Planner  
Seattle Department of Construction and Inspections

Date: April 3, 2017

TG:drm

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### **IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

#### Master Use Permit Expiration and Issuance

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

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

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

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