Legislative Department
Seattle City Council
Memorandum

Date: April 20, 2010

To: Sally Clark, Chair
Tim Burgess, Vice Chair
Sally Bagshaw, Member
Committee on the Built Environment (COBE)

From: Michael Jenkins, Council Central Staff

Subject: **Clerk File (CF) 309451:** Petition of Ezra Teshome to rezone 15,360 square feet of land at 1222 East Pine Street from Neighborhood Commercial 3 with a 40 foot height limit (NC3 40) to Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) (Project No 3007044/Type IV).

1. Overview

Ezra Teshome ("Proponent") proposes to rezone a 15,360 square foot lot located at 1222 East Pine Street from Neighborhood Commercial 3 with a Pedestrian overlay with a 40 foot height limit (NC3P-40) to NC3P with a 65-foot height limit (NC3P-65). I have attached a copy of Hearing Examiner's Exhibit 3, a map documenting the lot in relationship to the surrounding area.

Both the Department of Planning and Development (DPD) and the Hearing Examiner find the proposal to be consistent with the City's rezone evaluation criteria and recommend approval, subject to a Property Use and Development Agreement (PUDA) limiting use and development of the property to the project as approved, and subject to environmental (SEPA) and Design Review conditions.

2. Type of Action – Standard of Review - No Appeal or Request to Supplement the Record

This rezone is a Type IV quasi-judicial rezone under Seattle Municipal Code (SMC) 23.76.036. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication and the Council's rules on quasi-judicial proceedings (Resolution 31001).

The Hearing Examiner establishes the record for the decision at an open-record hearing. After the hearing, the record may be supplemented through a timely request to Council only. No appeal of the Hearing Examiner's recommendation was filed, and there was no timely request to supplement the record.

Because there was no appeal or timely request to supplement the record, the Council's quasi-judicial rules require that the decision be based upon the record as submitted by the Hearing Examiner, and that no oral argument be presented by the parties to COBE. The Council's quasi-judicial rules provide that the action by Council must be supported by substantial evidence in the record.

The record contains the substance of the sworn testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. Those exhibits include but are not limited to:

- The recommendation of the Director of DPD,
- The environmental (SEPA) checklist for the proposal;
- Development plans and photographs showing the rezone area;
- The rezone application, and other application materials; and
- An audio recording of the Hearing Examiner's open record hearing.

The entire Hearing Examiner's record is kept in my office and is available for review at Councilmembers' convenience.

3. Materials from the Record Reproduced in PLUNC Notebooks

Selected documents and exhibits from the record are reproduced in Councilmembers' notebooks as follows:

1. The Hearing Examiner's Recommendation (including the findings of fact and conclusions supporting the recommendation);
2. DPD Director's Analysis and Recommendation[1];
3. Aerial Photograph of the site;[2]
4. Zoning Map of the site;[3]
5. Copies of public comment[4]; and
6. Selected sheets from the project's plan set, including color renderings.[5]

Large scale presentation exhibits from the Hearing Examiner's hearing will be available at the April 28, 2010 briefing.

4. Summary of the record

The Hearing Examiner recommended that Council **APPROVE** the rezone request, following a similar recommendation by the Department of Planning and Development (DPD), subject to SEPA and Design Review conditions recommended by Director.

[1] Hearing Examiner's Exhibit 15
[2] Hearing Examiner's Exhibit 2.
[3] Hearing Examiner's Exhibit 3.
[4] Hearing Examiner's Exhibits 16, 17 and 25
[5] Hearing Examiner's Exhibit 24.

The following is a brief summary of the zoning history, the proposed development and the Hearing Examiner's conclusions.

A. Zoning history

The site is currently zoned NC3P-40. When the Clerk File (CF) was first introduced to Council and referred to the-then Planning, Land Use and Neighborhood Committee (PLUNC) in 2008, the zoning for the site was NC3-40 and was located within the Capitol Hill Station Area Overlay District. Ordinance 123020, adopted July 8, 2009, changed the zoning of the site by removing the station area overlay designation, expanding the boundaries of the Pike/Pine Conservation Overlay District to include the site and added a Pedestrian (P) designation.

Prior to 1986 the site and the surrounding area was zoned Commercial General with a 60 foot height limit (CG-60). In 1986 the site was rezoned to NC3-40 along with properties also fronting East Pine to the east of the site across 13th Avenue. The site immediately to the west along 12th Ave was rezoned from CG-60 to NC3-65, as were other properties fronting East Pine across the street from the rezone site. The Hearing Examiner indicates that the legislative record related to the 1986 rezones (Ordinance 112777) does not provide the rationale for adopting reduced heights on these blocks.

B. Project information

The site currently houses a surface parking and a two-story office building. If approved by Council, the rezone would allow the construction of a six-story mixed use structure containing 6,798 square feet of retail at ground level and 75 apartment units located on five floors above. Parking for 70 vehicles would be located in a below grade parking structure. Part of the parking would be located at the same level as a retail space accessed from East Pine.

Increasing the height limit from 40 to 65 feet would allow an additional 30 dwelling units than would be permitted under the existing zoning. The topography and code provisions unique to the Pike/Pine Conservation Overlay District allow the structure to rise to 70.41 feet at the lowest point of the structure.

No parking is required in an Urban Center. The rezone site is located in the Capitol Hill / First Hill Urban Center. However, 70 parking spaces are being provided. Peak demand is estimated to be 16 stalls for the current office use and 75 stalls for the proposed apartment use. Peak parking demand for the current office space is during daytime hours. No demand appears to be estimated for the proposed retail uses. Peak residential demand is during midnight to 5 am. While there is no authority to require parking to mitigate parking impacts in this Urban Center, the record reflects that there is ample transit within the area to help mitigate the expected demand. The applicant has also proposed to provide free one-time six-month transit passes to first time tenants.

C. Public comment

DPD received four comment letters during the initial early design guidance period, related primarily to building design and the location of curbcuts. The original design included two curbcuts, one on East Pine Street and one in the proposed location on 13th Avenue East. The building was redesigned to eliminate the East Pine Street curbcut so that continuous commercial spaces would be provided along East Pine. No issues were raised with the proposed rezone.

During the Master Use Permit review, five comment letters were provided. The comment letters were generally favorable to both the design and the rezone request. A general issue about noise and traffic was raised. The Hearing Examiner received a comment letter from the owner of the apartment owner to the west also in support of the rezone. One person also testified at the Hearing Examiner's hearing in support of the rezone.

These comment letters are included with this report.

D. Summary of the Hearing Examiner's conclusions

The proposed rezone from NC3P-40 to NC3P-65 would create the opportunity for an additional 30 units that the current zone would not presently accommodate. The rezone would not reduce zoned capacity below 125 percent of the growth target for this urban village.

The zoning history does not show why the previous 60 foot height limit in existence before 1986 was changed to 40 feet. The location of the adjacent Lowrise 3 (L3) zone has a 30 foot height limit. The Hearing Examiner concluded that the 1986 rezone lowering the height at the site from 60 feet to 40 feet may have been a way to buffer the impacts of the NC3-65 foot zone adopted nearby on the L3 zone to the north of the site. However, this conclusion is not directly found in the legislative record of the 1986 rezone.

The proposal is consistent with Pike/Pine neighborhood plan policies that encourage the development of new housing and the creation of new pedestrian–oriented development. However, the plan does not include any specific recommendations for zoning or height for the site. The Hearing Examiner also concluded that the proposed height increase would eliminate the split zoning along the north portion of the East Pine Street block front between 12th and 13th and that the rezone could have a positive effect of encouraging redevelopment along the street. This would be consistent with neighborhood plan policies favoring redevelopment, in particular when redevelopment includes a mix of housing and commercial uses.

Rezone criteria require that the impact of more intensive zones on other zones be considered, with a gradual transition provided. If approved, the rezone would result in both sides of East Pine between 12th and 13th zoned NC3P-65. The Hearing Examiner found that the 66 foot wide right of way on 13th Avenue provides an adequate buffer for properties across 13th Avenue that would retain their existing NC3-40 zoning. The Hearing Examiner also found that the combination of structure design and the required property line and upper level setbacks provide an adequate buffer and mitigation of the height bulk and scale impacts of the 65 foot tall building next to an L3zoned lot. The Hearing Examiner also noted that there are other properties in the area that are similarly zoned. No substantial view blockages would occur from the rezone that would affect the adjacent Lowrise zoned properties.

5. Recommendation

I have two recommendations.

A. Change the CF title

I recommend that you change the title to accurately reflect the change in zoning at the site that resulted from Ordinance 123020.

The following is both the strikeout/underline version and then the title as it would appear if the amendment is adopted:

Clerk File (CF) 309451: Petition of Ezra Teshome to rezone 15,360 square feet of land at 1222 East Pine Street from Neighborhood Commercial 3 with a Pedestrian overlay and a 40 foot height limit (NC3-40) to Neighborhood Commercial 3 with a Pedestrian overlay and a 65 foot height limit (NC3-65) (Project No 3007044/Type IV).

Clerk File (CF) 309451: Petition of Ezra Teshome to rezone 15,360 square feet of land at 1222 East Pine Street from Neighborhood Commercial 3 with a Pedestrian overlay and a 40 foot height limit (NC3P-40) to Neighborhood Commercial 3 with a Pedestrian overlay and a 65 foot height limit (NC3P-65) (Project No 3007044/Type IV).

B. Adopt the Hearing Examiner's recommendation

I recommend that the COBE move to **APPROVE** the rezone request and adopt the Hearing Examiner's findings conclusions and decision dated February 23, 2010.

6. Next Steps

If the Committee recommends approval of the rezone as described above, I will draft Council Findings, Conclusion and Decision (FC and D) and a draft property use and development agreement (PUDA). I will also prepare for introduction and referral a separate Council Bill (CB). Once the CB is introduced the matter will come back to COBE for a vote prior to full Council review and vote.

MUP

Date: April 16 09

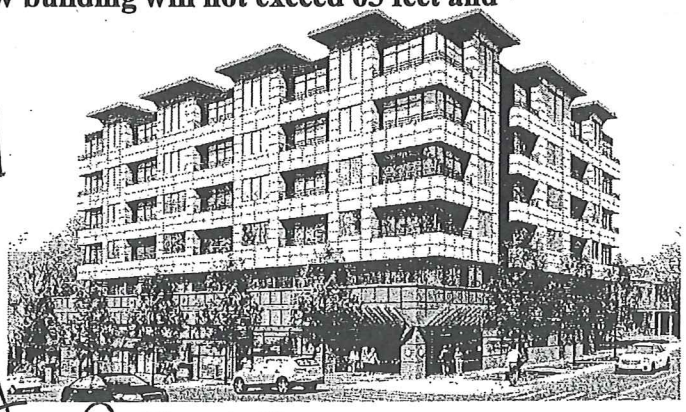
To:
Bradley K. Wilburn, Land Use Planner
City of Seattle
Dept. of Planning and Development
700 Fifth Ave Suite 2000
Seattle, WA 98124-4019

Ref Project: Master Use Permit (MUP) #3007044 located at 1222 E. Pine
This MUP would allow development on the site of a new building which could be up to 65 feet in height.

I have reviewed the project, and I do not object to the redevelopment of the site as a new mixed use building: with commercial business on the first level and apartments on five upper floors. I am aware that the new building will not exceed 65 feet and has underground parking.

Signed By / From: Angela Pfeil
The Feed Bag
Pet Provisions

Phone:
516 E Pike St 98122
Seattle Wa



Additional Comments Representation of building submitted for design review. Minor Modifications still to be made.

City of Seattle Hearing Examiner
EXHIBIT
Appellant ___
Respondent ___ ADMITTED ___
Department ✓ DENIED ___
17

FILE CF #309451, 3007044

MUP

Date: 4/14/09

To:
Bradley K. Wilburn, Land Use Planner
City of Seattle
Dept. of Planning and Development
700 Fifth Ave Suite 2000
Seattle, WA 98124-4019

Representation of building submitted for design review. Minor Modifications still to be made.

Ref Project: Master Use Permit (MUP) #3007044 located at 1222 E. Pine
This MUP would allow development on the site of a new building which could be up to 65 feet in height.

I have reviewed the project, and I am in support of the redevelopment of the site as a new mixed use building: with commercial business on the first level and apartments on five upper floors. I am aware that the new building will not exceed 65 feet and has underground parking.

Signed By / From: Brian Bergmon
Randolph Apartment building Owner
1833 15th Ave
Phone: 206-505-9423

Additional Comments

MUP

RECEIVED
APR 16 2009
DPD

Date: 4/14/~~08~~ 09 per BMW

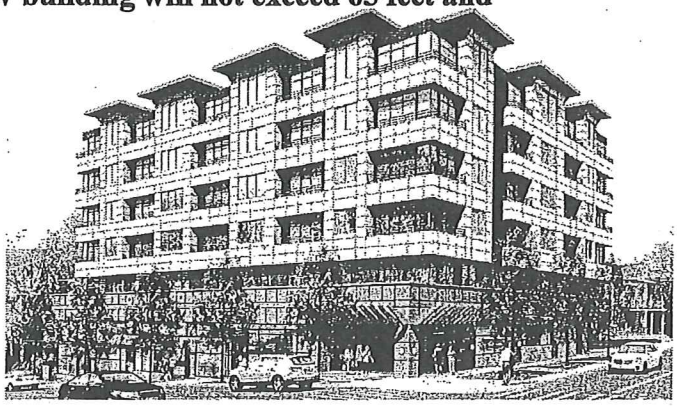
To:
Bradley K. Wilburn, Land Use Planner
City of Seattle
Dept. of Planning and Development
700 Fifth Ave Suite 2000
Seattle, WA 98124-4019

Ref Project: **Master Use Permit (MUP) #3007044 located at 1222 E. Pine**
This MUP would allow development on the site of a new building which could be up to 65 feet in height.

I have reviewed the project, and I do not object to the redevelopment of the site as a new mixed use building: with commercial business on the first level and apartments on five upper floors. I am aware that the new building will not exceed 65 feet and has underground parking.

Signed By / From:

Peter D Hart
2310 Eastlake Ave East
Seattle, WA 98115
Phone: 206-949-3314



Representation of building submitted for design review. Minor Modifications still to be made.

Additional Comments

Lease the commercial spaces at 1701 East Olive

MUP

Date: 4/20/09

To:
Bradley K. Wilburn, Land Use Planner
City of Seattle
Dept. of Planning and Development
700 Fifth Ave Suite 2000
Seattle, WA 98124-4019

Representation of building submitted for design review. Minor Modifications still to be made.

Ref Project: Master Use Permit (MUP) #3007044 located at 1222 E. Pine
This MUP would allow development on the site of a new building which could be up to 65 feet in height.

I have reviewed the project, and I am in support of the redevelopment of the site as a new mixed use building: with commercial business on the first level and apartments on five upper floors. I am aware that the new building will not exceed 65 feet and has underground parking.

Signed By / From: Robert P. Harris
1615 - 13th Avenue
Seattle, Wa. 98122
Phone: (206) 328-1810

Additional Comments

We're concerned about noise & traffic.

MUP

Date: April 27, 2009

To:
Bradley K. Wilburn, Land Use Planner
City of Seattle
Dept. of Planning and Development
700 Fifth Ave Suite 2000
Seattle, WA 98124-4019

Representation of building submitted for design review. Minor Modifications still to be made.

Ref Project: **Master Use Permit (MUP) #3007044 located at 1222 E. Pine**
This MUP would allow development on the site of a new building which could be up to 65 feet in height.

I have reviewed the project, and I am in support of the redevelopment of the site as a new mixed use building: with commercial business on the first level and apartments on five upper floors. I am aware that the new building will not exceed 65 feet and has underground parking.

Signed By / From: Mildred W. Ollée
President
Mildred W. Ollée, Ed.D.
Phone: (206)587-4144

Additional Comments

PARAGON
REAL ESTATE ADVISORS, INC

RECEIVED BY
2010 FEB -5 PM 3:17
OFFICE OF
HEARING EXAMINER

February 3, 2010

Office of the Hearing Examiner
City of Seattle
700 5th Ave. Ste. 4000
PO Box 94729
Seattle, WA 98124-4729

RE: 1222 East Pine Street
Project No.: 3007044

Dear Hearing Examiner:

I am one of the owners of the apartment building located at 1202 E Pine Street and I have reviewed the drawings of the above referenced project. I met with the Architect at his office and was able to look at how it would sit on the site and what the property would look like. Based on the location, I support the Decision by the Department of Planning and Development to grant the property at 1222 E Pine St. a rezone from NC3P-40 to NC3P-65.

If you have any questions regarding this letter or if there is any additional information you require, you are welcome to contact me.

Sincerely,

Eric Smith

Comm'd Ltr. to HE

City of Seattle Hearing Examiner
EXHIBIT
Appellant ___
Respondent ___ ADMITTED ___
Department ___ DENIED ___
25
FILE # CF #309451, 3007044

6

EDG

Elizabeth Dunn

From: Elizabeth Dunn [liz@dunnandhobbes.com] on behalf of Elizabeth Dunn
Sent: Friday, March 04, 2005 2:47 PM
To: JillJanow@comcast.net
Cc: Betsy Hunter
Subject: RE: 13th & Pine

I'm feeling like someone should get back to Bradley. I can send him a letter with the points i've outlined and just make it clear that these are my personal thoughts (i.e. I can't say I'm representing the neighborhood). Jill that gives you an opportunity to say something different if you like. What do you think?

From: JillJanow@comcast.net [mailto:jilljanow@comcast.net]
Sent: Wednesday, February 23, 2005 11:55 AM
To: liz@dunnandhobbes.com
Cc: Betsy Hunter
Subject: Re: 13th & Pine

Thanks, Liz. I'll get back to you on this in a couple of days.

on 2/22/05 2:51 PM, Elizabeth Dunn at liz@dunnandhobbes.com wrote:

Ok I have talked to Betsy today and met again with Rob Humble and looked at the plans and here are my thoughts.

I agree with the DRB that it is extremely difficult to get from the 13th Ave parking entry (the highest point on the site) down to a level that is below the retail on Pine. The ramp would have to do a full loop around the site to get down there so by definition it would take out most of the retail space, leaving a very small superficial ribbon of retail along Pine about 15 feet deep. I don't think this is a particularly desireable outcome from the neighborhood's perspective. And I do think that if we can enforce that this ends up being the ONLY curb cut on Pine, that will be a meaningful accomplishment. In terms of additional public benefit, Rob pointed out some things that we should emphasize (read on) but maybe we need to brainstorm further on this.

My biggest concern is that this could set a precedent that will take the teeth out of our neighborhood plan. Rob thinks that this project will not undermine his ability to enforce the no-curbcut rule on other sites, but my worry is that he (and Annie) are about to cycle off the DRB and we could end up with a bunch of weak-kneed sissiews. I think we need to address this with DPD.

My suggestion is that we write a letter to Bradley with the neighborhood's position and ask for enforcement on key issues before the MUP is issued;
- that DPD enforce the design review board's recommendation to minimize the width of the curb cut to 18'
- that the developer follow the option presented that recesses the parking entry portion of the building (west 18') in from the street. (Besty there is an 18' section on the west end of the building that is just the parking entry with commercial above -- the residential portion pulls back to allow windows facing west)
- that DPD enforce that easement providing parking access to the neighborhood property by written and RECORDED before the MUP is issued
- that DPD help us figure out how to attach a note to the neighboring property that they should NOT ever be granted a curb cut of their own (rather they take advantage of the easement or do no parking at all)
- that the developer of this project give the neighboring a property an easement for light and air in the 18' void they are not using at the residential level so that the neighborhoing property can put windows facing east (this was Rob's suggestion)
- that DPD enforce creation of the second floor retail overlooking the street that is shown in the presenation

- that DPD enforce creation of the public entry lobby shown in the presentation that would connect the public to the second floor
- that the entire building structure be pulled to Pine Street if
- that street trees be planted of a large calibre
- do we want to ask them to install ped street lights and a curb bulb? These are very expensive and not something that it is normally reasonable to ask for, but in light of the upzone maybe it's not unreasonable.

What do you think? We do have some leverage here in that if we can't get some commitments, we can oppose the height increase by writing to city council who are the ones who will decide on the height increase. Perhaps we should cc council on this letter so they know there are issues being discussed.

-- Liz

Liz Dunn
Dunn & Hobbes, LLC
206-324-0637
liz@dunnandhobbes.com

EDG

Pike/Pine Urban Neighborhood Council P/PUNC

April 1, 2005

Bradley Wilburn
Seattle Dept. of Planning & Development
P.O. Box 34019
Seattle, WA 98124-4019

Dear Mr. Wilburn,

We are writing with respect to DPD project #2406656 at 1222 East Pine Street that was recently the subject of an Early Design Guidance meeting. We would like to address some issues with this project from the perspective of the members of the Pike/Pine Urban Neighborhood Council (P/PUNC) who concern themselves with land use issues and the stewardship of the neighborhood plan.

Jill Janow attended the meeting and Liz Dunn subsequently met with Rob Humble to view the plans and receive a summary of the board's deliberations on the project.

The issues we wish to address are as follows:

- On a corner site, the application has requested two curb cuts into the project, one on 13th Avenue and one on Pine Street. The Pike/Pine neighborhood plan explicitly discourages more than one curb cut into a project and explicitly discourages curb cuts on Pine Street if there is an alternative. Pine Street is also subject to a P1 overlay which also discourages any curb cuts if there is an alternative entry point. As such, the curb cut on Pine Street requires that a design departure be granted by the DRB.

- The request for a departure for a curb cut on Pine Street is made in the context of a project where a site-specific up-zone in height is also being sought.

Our understanding is that the Design Review Board has recommended that the departure for a curb cut on Pine Street be granted. This recommendation was made on the basis that it is extremely difficult to get from the 13th Ave. parking entry (the highest point on the site) down to a level that is below the retail space planned for along Pine Street. It has been represented to us that the ramp would have to do a full loop around the site to get down there so by definition it would eliminate most of the retail space, leaving a very small superficial ribbon of retail along Pine about 15 feet deep.

We agree that this is not a particularly desirable outcome from the neighborhood's perspective. While it may be less undesirable than a curb cut on Pine, perhaps allowing small businesses "incubation" space, we are prepared to cede that the viability of retail in that location may require more space.

However, we are concerned that if this departure is granted a precedent could be set that will undermine the future enforcement of our neighborhood plan on

Jill Janow, Chair 417 E. Pine St. #303, Seattle WA 98122 (206) 322-0675 Pike-Pine@comcast.net

other sites. We believe that the difficulties posed by this site are unique due to its configuration and topography.

Our lack of opposition to the DRB's recommendation would be predicated on the following:

- The DRB has requested that if the applicant builds this curb cut that they be required to grant an easement for its use to an adjacent landlocked property on Pine Street. This would ensure that this would ultimately be the ONLY curb cut on Pine on this block. We wish to make sure that this condition is strictly enforced. Specifically, we would request that the easement providing parking access to the neighboring property by written and RECORDED before a MUP is granted. Furthermore, we ask that DPD place a restrictive covenant on the neighboring property that they will NEVER be granted a curb cut of their own, but rather must take advantage of the easement or not provide parking at all and that this be executed prior to granting the MUP as well.

- The DRB has made a recommendation to minimize the width of the curb cut to 18 feet. We ask that this be strictly enforced and, furthermore, that the developer follows the option presented that recesses the parking entry portion of the building in from the street.

- The DRB has made a recommendation that the project restrict itself to the minimum number of parking spaces required by code. There is no requirement for retail parking in this zone, except for eating and drinking establishments. The residential parking requirement may very soon be reduced to .6 parking spots per residential unit. We request that a MUP not be issued until this parking reduction has been passed by City Council and that no more than the minimum parking required by code be provided, in order to reduce the amount of traffic in and out of the project.

- Departures are typically not granted unless the applicant can demonstrate a mitigating public benefit created by the project. We do not believe that any public benefit was granted. Here are some ideas for how some public benefit could be rendered:

    - The developer of this project could give the neighboring a property an easement for light and air in the 18' void they are proposing above their parking entry, so that the neighboring property can have windows facing east instead of a blank wall.
    - DPD could enforce creation of the second floor retail overlooking the street that was shown in the EDG presentation.
    - DPD could enforce creation of the public entry lobby shown in the presentation that would connect the public to the second floor and DRB could give this particular attention in the next DRB public meeting
    - DPD could enforce the current plan to pull the entire building mass toward Pine Street to be consistent with the industrial architecture of the neighborhood.
    - DPD could require that large-sized street trees be planted along the entire building façade on both Pine and 13th.
    - DPD could require that the applicant at 13th & Pine build a curb bulb.

- DPD could require that the applicant along Pine Street install pedestrian streetlights.
- DPD could request that the entryway to parking off Pine be given special architectural treatment so that it becomes an attractive feature. Perhaps an artist-created archway could grace the entrance. We request that P/PUNC participate in selection of this special treatment.

We are cc'ing City Council members on this correspondence so that when they are asked to consider the up zone in height, they are aware that there are related design review issues with this project. We are not opposed to a height increase *per se* since it is also a priority of the neighborhood to increase residential density. Nor do we make it a practice of recommending mitigations which inordinately burden the budget of what is otherwise a well-crafted, mixed-use project that we hope will provide affordable living opportunities in the neighborhood. However we believe that when an owner requests a significant height bonus on a property for which the zoning was well understood when they bought it, that the issue of mitigating negative public impacts of the project is particularly relevant.

Thank you,

Jill Janow
Chair, Pike/Pine Urban Neighborhood Council

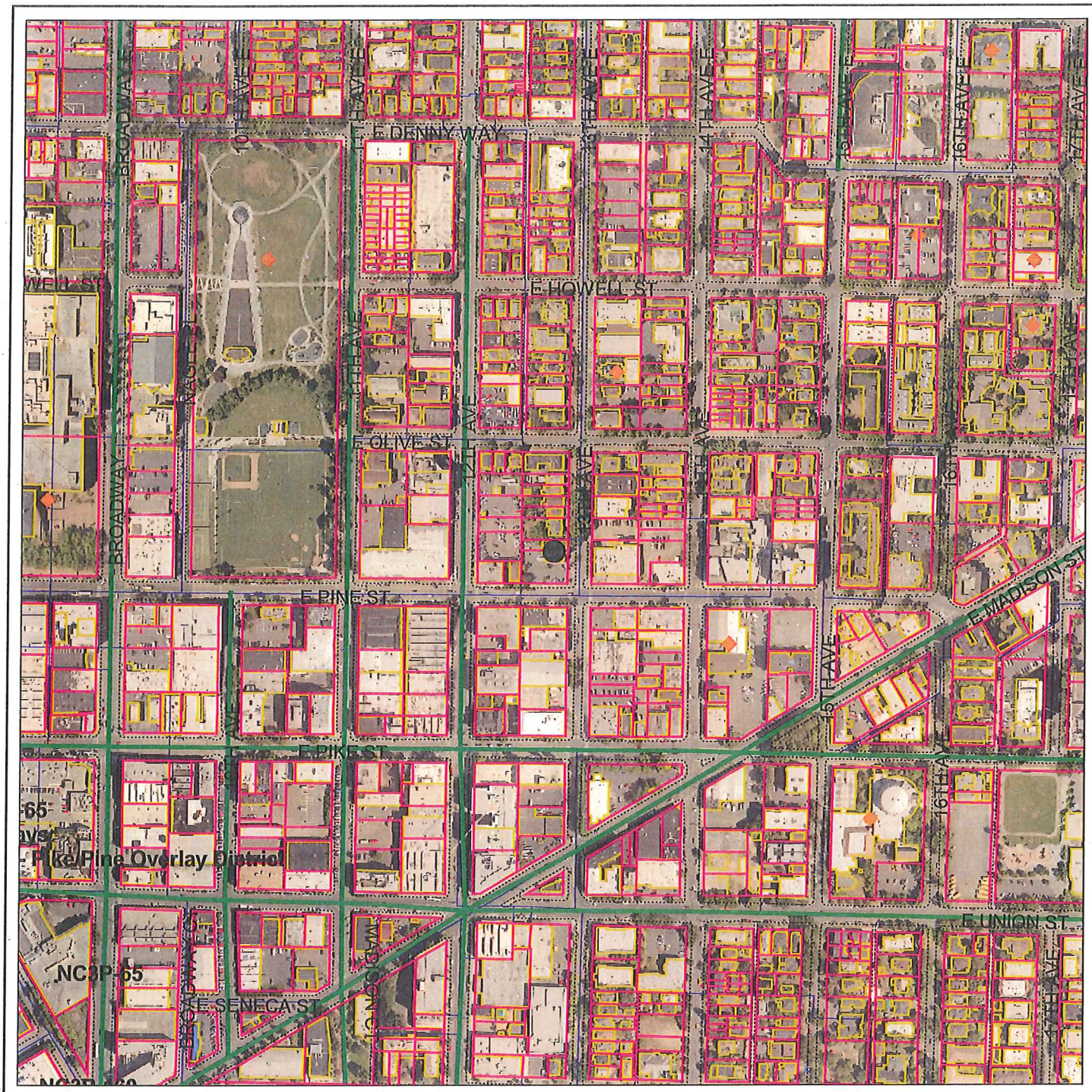
Betsy Hunter by Jill Janow

Betsy Hunter
Vice Chair, P/PUNC

Liz Dunn
P/PUNC Member and Property Owner

Cc:
DRB
City Council

7



1222 E. Pine Street
NC3P-40

City of Seattle Hearing Examiner
EXHIBIT

Appellant ___
Respondent ___ ADMITTED ___
Department ✓ DENIED ___

2

FILE CF #309451, 3007044

N
W E
S

Scale: 1" = 400'

Prepared by DPD, February 08, 2010

No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.

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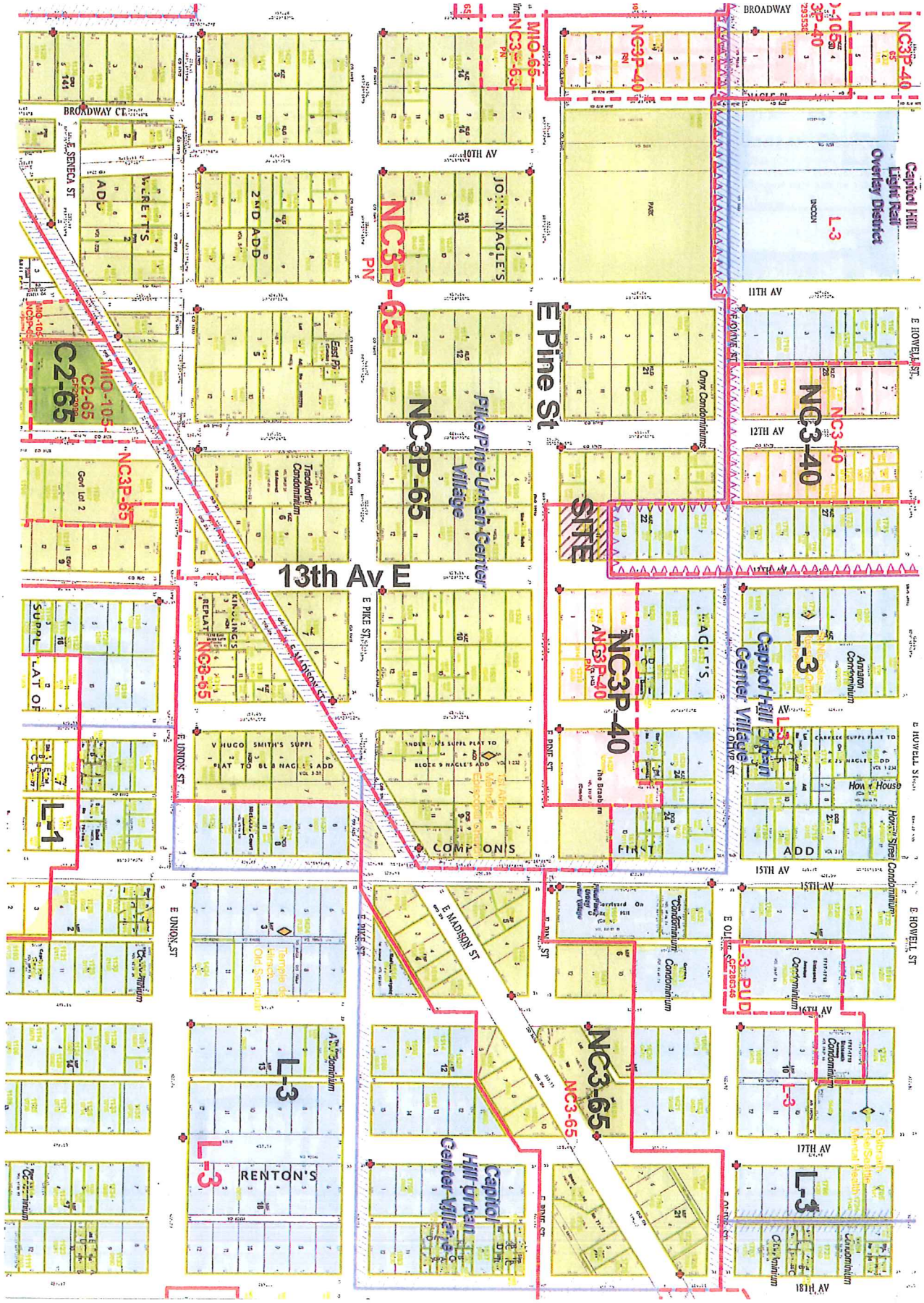
- Parcels
- Principal Pedestrian Streets
- WDFW - Eagle Nesting Sites
- Historic Landmarks

WDFW - Eagle Management Areas
- 400 feet from nesting site
- 400-800 feet from nesting site
- Shoreline within half mile
- Shoreline
- Building Outlines
- Zoning Outlines
- ECA - Known Slides(Shannon & Wilson)
- ECA - New Known Slide Areas
- ECA - Riparian Corridor
- ECA - Wetlands
- ECA - Wildlife
- Pavement Edge

4



VICINITY ZONING MAP

City of Seattle Hearing Examiner
EXHIBIT

Appellant ___
Respondent ___ ADMITTED ___
Department ✓ DENIED ___

3

FILE CF #309451, 3007044

5

EDG

RECEIVED

HOLLY GODDARD

16

****

If you wish to file written comments and/or receive a notice of the decision, please return this completed form with any written comments you have to: Seattle Department of Planning and Development, 700 5th Av Ste 2000, PO Box 34019, Seattle Washington 98124-4019.

Name: Steve Hoffman Project# 2406656

Address: 1205 E. Olive St

Zip 98122

Comment: I have no problem with upzoning neighborhood. Increased density is good policy. My only concern is with noise abatement with existing clubs - ie: Capital Hill arts center, the cafe etc. As a music fan I love having them close by, just wish they would spend time & money on better acoustic barriers etc. Thanks,

City of Seattle Hearing Examiner
EXHIBIT
Appellant ___
Respondent ___ ADMITTED ___
Department ✓ DENIED ___
FILE CF #309451, 3007044

16

ON PINE & 13th NORTH SIDE ARE ONLY PROVIDING INTERNAL PARKING OF ONE SPOT PER RESIDENT. ALL PARKING FOR THE COMMERCIAL PORTION (EX. CONDOMINIUMS) IS STREET PARKING. PLEASE SOMEONE TAKE INTO CONSIDERATION OUR NEED FOR ZONE 4 PARKING ALLOA.

****

If you wish to file written comments and/or receive a notice of the decision, please return this completed form with any written comments you have to: Seattle Department of Planning and Development, 700 5th Av Ste 2000, PO Box 34019, Seattle Washington 98124-4019.

Name: LAURIE E HAVERSTICK Project# 2406656

Address: 1202 E PINE ST APT 201
SEATTLE WA

Zip 98122

Comment:

I AM CONCERNED ABOUT RESIDENTIAL (ZONE 4) PARKING FOR PEOPLE WHO RESIDE ON 12TH OR PINE STREET FROM PINE TO DENNY STREET. PARKING IS ALREADY VERY DIFFICULT WITH STUDENT AND CUSTOMERS ABUSING THE RESIDENTIAL PARKING AVAILABLE ALONG 12, 13th & PINE ST. AFTER 6PM WITH THE ADDITION OF THE CLUBS ON 12TH + 13th IS TERRIBLE. THE CONDOMINIUMS + BUSINESSES (ABOVE)

City of Seattle Hearing Examiner
EXHIBIT
Appellant
Respondent
Department ✓
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FILE CF #309451, 3007044
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City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

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

Project Number:	**3007044 (formerly 2406656)**
Council File Number:	**309451**
Applicant:	**Neal Thompson, Project Architect, Roger H. Newell Architects for Ezra Teshome, Property Owner**
Address:	**1222 East Pine Street**

SUMMARY OF PROPOSED ACTION

Council Land Use Action to rezone 15,400 sq. ft. of property from NC3P-40' to NC3P-65' (Contract Rezone) located between East Pine St. to the south, 13th Ave. to the east, 1210 East Pine St. to the west and 1615 13th Ave. to the north. Project includes a Land Use Application to allow a six-story building containing 6,798 square feet of general retail sales and service (office use) at ground level with 75 residential units above, and below-grade parking for 70 vehicles. Project also includes 7,803 cubic yards of grading and demolition of the existing structures.[1]

The following approvals are required:

Contract Rezone - To rezone from NC3P-40 to NC3P-65 (Seattle Municipal Code 23.34)

Design Review - Section 23.41, Seattle Municipal Code (SMC)

1. *Nonresidential Street-level Requirement 23.47A.008.B.3*
2. *Setback Requirement 23.47A.014.B.2.a*
3. *Driveway Width 23.54.030.D*
4. *Site Triangle 23.54.030.G*

SEPA- Environmental Determination (Chapter 25.05 SMC).

SEPA DETERMINATION: [ ] Exempt [X] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

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

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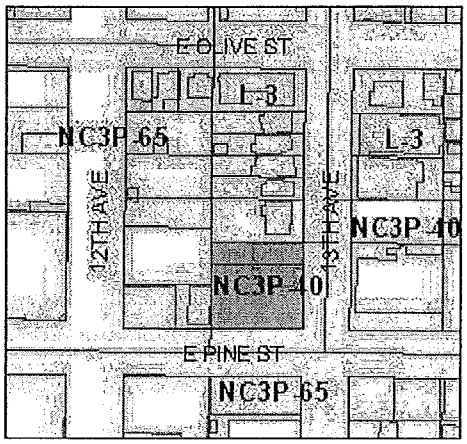
[1] Project was originally published as: Council Land Use Action to rezone 15,400 sq. ft. of property from NC3-40' to NC3-65' (Contract Rezone) located between East Pine St. to the south, 13th Ave. to the east, 1210 East Pine St. to the west and 1615 13th Ave. to the north. Project includes a Land Use Application to allow a six-story building containing 3,515 sq. ft. office, 405 sq. ft. general retail, and 2,157 sq. ft. restaurant use at ground level with 75 residential units above, below-grade parking for 122 vehicles, 12,800 cubic yards of grading and demolition of the existing structures.

**Early Notice DNS published December 4, 2008.

BACKGROUND INFORMATION

Site and Vicinity:



The subject site is a corner lot located at the northwest corner of East Pine Street and 13th Avenue, in the Capitol Hill neighborhood. The development site occupies an area of approximately 15,360 square feet in a Neighborhood Commercial Three Pedestrian zone with a forty foot height limit (NC3P-40). The site is also located within the Pike/Pine Urban Center Village, and the Pike/Pine Conservation Overlay District.
The site is currently occupied by a two-story building containing an administrative office on the upper level and retail use on the lower level. The site also supports a principal use surface parking lot for 35 cars. The lot is paved to provide a hard surface for the parking lot with landscaping berms to soften the development site's edges. The subject lot slopes moderately downward approximately 10 feet from its northeast corner to the southwest corner. Based on the review of information submitted by the applicant the City of Seattle Landmarks Preservation Board found that due to loss of integrity, the building would not meet the standard for designation as an individual landmark.

The abutting property to the west, and adjacent properties across East Pine Street to the south are zoned NC3P-65. Commercial uses include restaurants, manufacturing, retail, and surface parking lots. The abutting lot to the north is zoned residential Multifamily Lowrise Three (L3), with a maximum density limit of one unit per 800 square feet of lot area. The L3 zone currently supports single family and multifamily uses. Across 13th Avenue to the east, a narrow NC3P-40 zoning band extends along East Pine Street for approximately one block and a half. A City of Seattle Fire Station is located directly across the street, fronting both on 13th Avenue and East Pine Street.

Development in the vicinity is predominantly commercial uses to the west and south of the subject site. To the east along East Pine Street, a main arterial, there is a mix of multifamily and commercial uses. The older structures in the area range in height from one to three stories, with brick facades dominating the streetscape. Mature street trees are interspersed along both street frontages, providing a lush green canopy during the summer months.

Summary of Proposal

The owner is requesting City Council approval to rezone 15,400 square foot of property from NC3P-40 to NC3P-65 (Contract Rezone) located between East Pine Street to the south, 13th Avenue to the east, 1210 East Pine Street to the east and 1615 13th Avenue to the north. An approved rezone will allow a 6-story building containing five floors in residential use containing a total of 75 units above ground floor commercial uses. The building's front setback will be oriented off 13th Avenue where the primary residential entry is proposed. Underground parking for 70 vehicles is proposed to be accessed off 13th Avenue near the site's northeast corner. The project includes 7,803 cubic yards of grading and demolition of the existing structure.

Public Comment:

Date of Notice of Application:	July 3, 2008
Date End of Comment Period:	July 16, 2008
# Comment Letters Received	5

The comment period for this proposal ended on July 16, 2008. The Department received five comment (form) letters after the conclusion of the public comment period. All correspondents expressed support to redevelop the site with the requested increase in height to 65 feet.

ANALYSIS - REZONE

The applicable requirements for this rezone proposal are stated at SMC Sections 23.34.004 (contract rezone), 23.34.007 (rezone evaluation), 23.34.008 (general rezone criteria), 23.34.009 (height limits), 23.34.072 (designation of commercial zones), and 23.34.078 (NC3 zone, function & locational criteria). The zone function statements are to be used to assess the likelihood that the area proposed to be rezoned would function as intended.

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 (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to 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 shall be directly related to the impacts that may be expected to result from the amendment. A rezone shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement 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.

This proposal is for a contract rezone in which development would be controlled by the use of a Property Use and Development Agreement (PUDA). The PUDA would restrict the development of the property proposed for rezone to the structure approved by the Director through the Design Review process for which the analysis is included below. The approved design includes, but is not limited to, the structure design, structure height, building materials, landscaping, street improvements, parking access and design, signage and site lighting and is documented in the DPD approved plans dated August 28, 2009.

B. Waiver of Certain Requirements. The ordinance accepting the agreement 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

which would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

No waivers are being requested as part of the contract rezone.

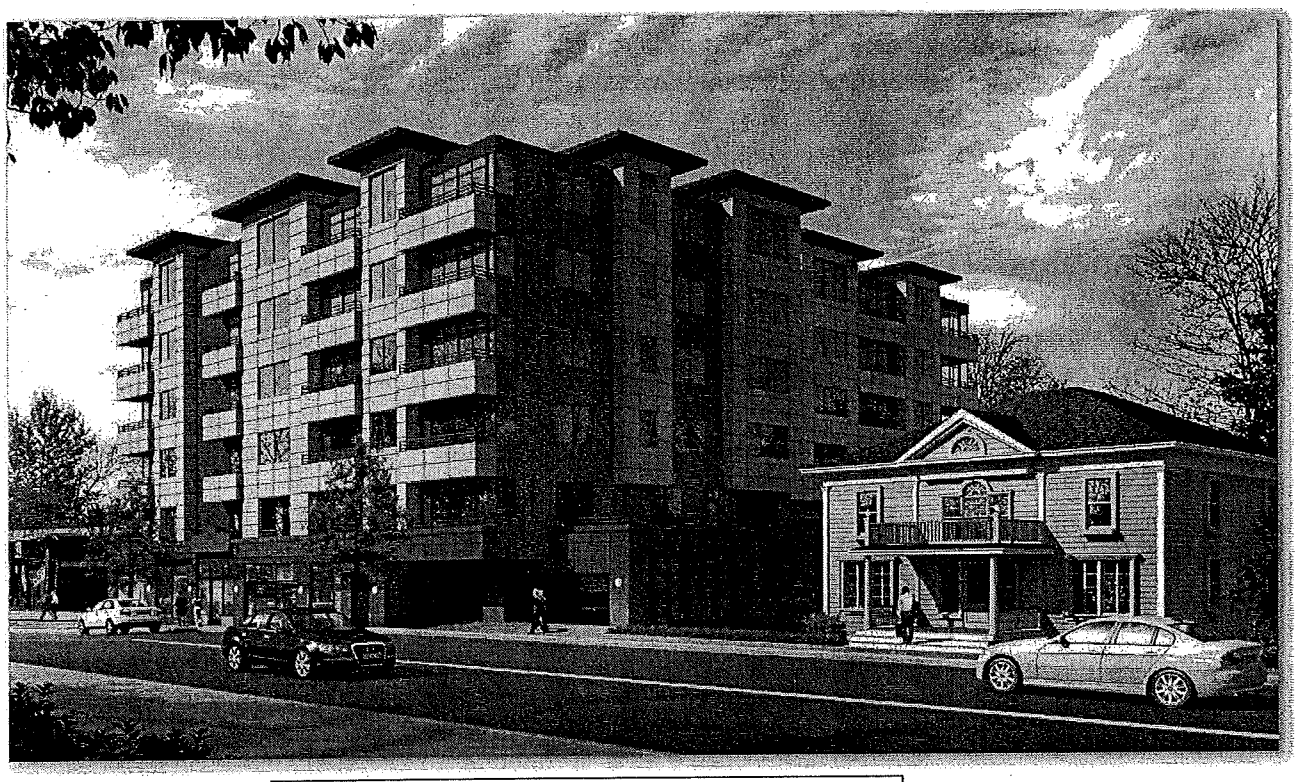


Figure 2: Representation of approved design.

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 those provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*

The designation of the Neighborhood Commercial Three Pedestrian (NC3P) zone will remain the same and will function as intended. The applicant is requesting an increase in the zoned height from 40 feet to 65 feet. (On June 29, 2009, City Council passed Council Bill number 116508 (Ordinance number 123020) which modified the previous zoning designation from NC3- 40 to NC3P-40 and removed the Capitol Hill Station Area Overlay District.)

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.

There is no provision among the applicable criterion that constitutes an absolute requirement or test of appropriateness of a zone designation.

C. Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the Purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Area Objectives shall be used in shoreline environment re-designations as provided in SMC Subsection 23.60.060 B3.

The site meets the functional criteria SMC 23.34.086 for Pedestrian designation areas which constitute consistency with the Comprehensive Plan of parcels zoned Neighborhood Commercial. The site is not in a shoreline environment.

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. This subsection does not apply to the provisions of other chapters including, but not limited to, those which establish regulations, policies, or other requirements for commercial/mixed use areas inside or outside of urban centers/villages as shown on the Future Land Use Map.

The site is in the Urban Center Village of Pike/Pine Conservation Overlay district (Ordinance 123020).[2]

E. The procedures and locational criteria for shoreline environment re-designations are located in Sections 23.60.060 and 23.60.220 respectively.

The proposal is not located within any shoreline area.

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.

No mapping error has occurred.

SMC 23.34.008 General rezone criteria.

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

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[2] The adoption of ordinance #123020 / Council Bill 116508 signed by the Mayor on July 8th, 2009 removed the site from the Transit Overlay Zone and added the "P" pedestrian to the zoning. The Pike/Pine Neighborhood plan changed to be called the Pike / Pine Conservation Overlay District.

1. *In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than one hundred twenty-five percent (125%) of the growth targets adopted in the Comprehensive Plan for that center or village.*

The rezone request is to increase the height of the underlying zone from 40 to 65 feet, which would allow construction of 30 additional residential units on two additional floors as proposed. Three types of units are proposed (studio, one and two-bedroom). The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and the resultant increase in allowable gross square footage on the same area of land. 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 Comprehensive Plan growth target.

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 be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.*

The proposal site and surrounding neighborhood are within the Pike/Pine Urban Center Village. The Urban Village Element Appendix to the Seattle Comprehensive Plan set a 600 household increase as the growth target for this Urban Center Village by the year 2024. This target sets a density increase to 26 households per acre (or 1,675 sq. ft. per household) from the existing 21 households per acre (or 2,074 sq. ft. per household). The subject site's land area is 15,374 sq. ft. which would represent development of nine households on this site. The applicant would exceed the residential density goals of this UCV; therefore, the proposed 75 residential units far exceed this density growth target. This rezone is also consistent with SMC 23.34.008.A.2 because the increased density contributes to the attainment of densities established in the Comprehensive Plan.

According to the latest available progress report on growth, under Seattle's comprehensive plan, this residential urban village has achieved 63% of the targeted growth (Monitoring Our Progress: Seattle's Comprehensive Plan (2003)). The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and the resultant increase in allowable gross square footage on the same area of land. 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 Comprehensive Plan growth target. This rezone is also consistent with SMC 23.34.008.A.2 because the increased density contributes to the attainment of densities established in the Comprehensive Plan.

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

The zone remains the same (NC3P) with area characteristics remaining unchanged. The requested height increase is compatible to the abutting zoned area (NC3P-65) to the west and south. The subject block is split between three zoning designations; NC3P-65 occupies the west half block, L-3 the east half block north of the subject lot; a pattern that is reflective of other areas in the city.

The NC3 function and locational criteria do not distinguish between pedestrian overlays or height designations. The difference is the requested height increase along the East Pine block front. The abrupt zoning height designation splits the block in two along the east west axis along common property lines. This is true of the block and half block to the east of the site; and adjacent property to the west of the site – this is not the case across the street to the south. This is a common occurrence in commercial nodes throughout the city. Physical impacts of the proposed building upon the adjacent L-3 zone property, associated with height, bulk and scale have been evaluated and mitigated including modulation and terracing, to fit within existing area characteristics. When the limitations on development as set out in the PUDA are considered, a rezone of the subject property to NC3P-65, would be consistent with the west half of the block with frontage along East Pine, an active commercial corridor.

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

The zoning history indicates a trend toward moderating the intensity of uses in the immediate vicinity along East Pine between 12th and 15th Avenues. Prior to 1986 the entire area that is now zoned NC3P-40 was zoned Commercial General (CG) with a height limit of 60 feet. Blocks on the north side of East Pine Street from 12th (excluding the west half of the block) to 14th Avenues (excluding the east half of the block) were down-zoned by virtue of the decreased height to NC3-40 in 1986. The west half block of 12th Avenue and the south fronting blocks along East Pine which had been CG went to NC3-65. The east half block of 14th on either side of East Pine went from Business Commercial (BC) to NC3-65. The extended area south of East Pine that is now NC3P-65 was zoned CG and BC prior to 1986. The L-3 area that is just north and east of the NC3P-40 zone was RM prior to 1982.

Leading up to the adoption of the 1986 Ordinance (#112777), the Capitol Hill Community Council made recommendations to the Seattle City Council supporting the higher height limit along the Pike/Pine corridor and Olive Way strip, but this particular area within the Pike/Pine corridor was omitted from the 65 foot height designation.

In anticipation of the establishment of light rail, the City Council adopted Ordinance 112777 in 1986, the Capitol Hill Station Overlay District (Council Bill #113747). It was then amended by Council Bill #116508, Location Criteria for the Neighborhood Commercial zone and approved on July 8, 2009. The boundary of the Pike/Pine Overlay District was expanded and renamed Pike/Pine Conservation Overlay District in 2009, under Council Bill #116507 (Ordinance 123020). Commercial properties within the expanded area were given a Pedestrian zoning designation (suffix P) within the District boundaries. In addition, all properties within the boundary District have recently been removed from the Capitol Hill Station Overlay District.

As a result of this contract rezone, it is likely that there could be further requests for similar rezones for properties to the east of the subject site, which fronts on East Pine in the commercial zone. Excluding the aforementioned properties, an examination of the zoning within the Pike/Pine Conservation Overlay District shows that there are no other blocks that could replicate an increase in height to 65 feet that contain neighborhood commercial zoned parcels.

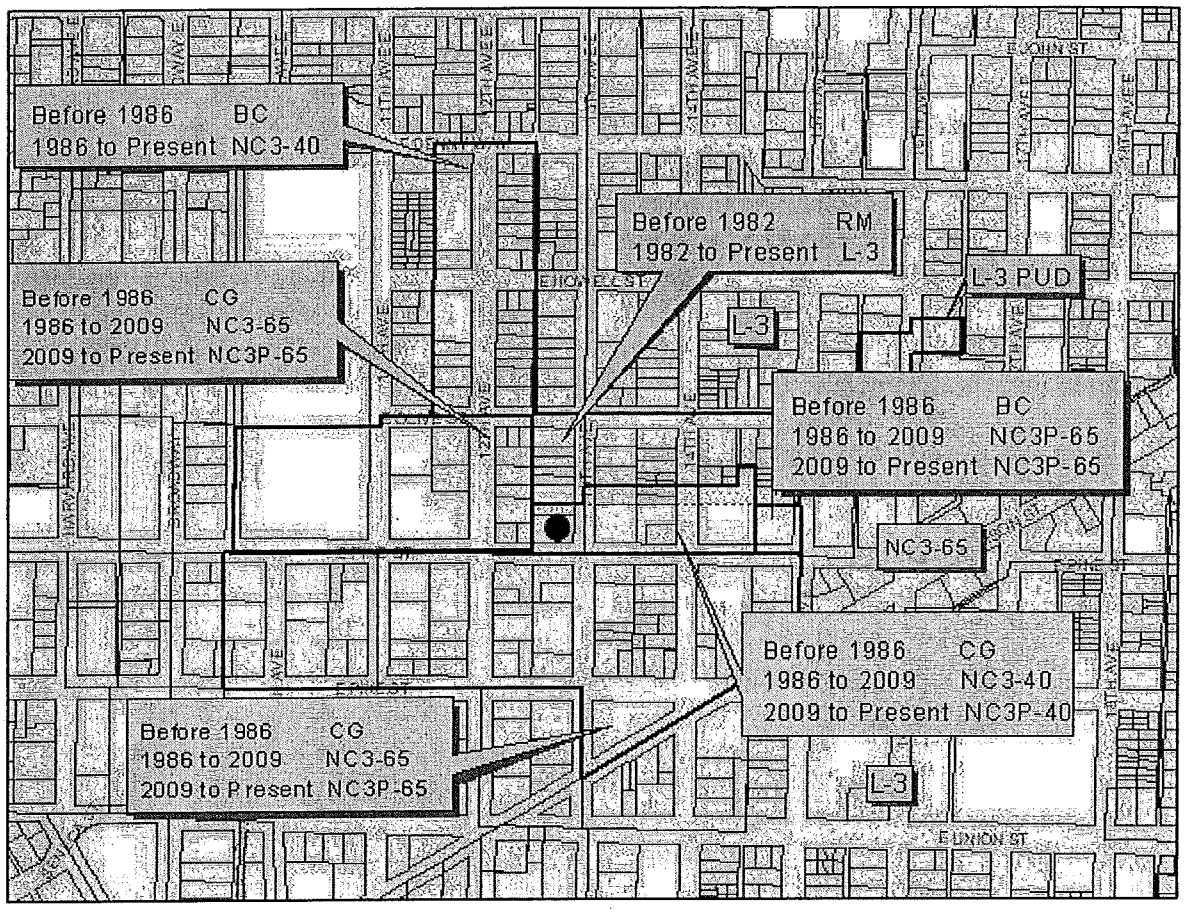


Figure 3: Zoning History

D. Neighborhood Plans.

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

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

The project site lies within the planning area of the Pike/Pine Neighborhood Plan, published in the late 1990's and subsequently adopted by City Council in Ordinance 119413 and implemented as the Pike/Pine Overlay District, SMC 23.73.

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.*

Pike/Pine Plan Policy P/P-P1: *Strengthen the neighborhood's existing mixed-use character and identity by encouraging additional affordable and market-rate housing, exploring ways of supporting and promoting the independent, locally owned businesses, seeking increased opportunities for art-related facilities and activities, and encouraging a pedestrian-oriented environment.*

The proposed project will retain and expand the existing office use establish at street level. Approximately 75 market rate residential apartments will be located above the commercial level. Development of the site will incorporate street front pedestrian amenities such as architectural detailing, overhead weather protection, and landscaping. Street trees are proposed to provide a visual connection to Cal Anderson Park.

Pike/Pine Plan Goal P/P-G3: *A neighborhood that welcomes increased residential densities, with additional affordable and market-rate housing, and proper infrastructure to support the densities.*

Education institutions in the vicinity (Seattle Central Community College, Seattle University, etc.) generate on-going demand for more affordable housing and the additional height proposed for this project will enable more units. The applicant is marketing the proposed residential units to students and staff of these schools and other nearby institutions, and the working class. With close proximity to a number of schools and transit nodes the proposal is expected to meet some of the housing demand in the area. Underground parking stalls for the residential units will be added to minimize the impact to on-street parking congestion. The net parking increase of the project has been limited to 35 new stalls (35 existing plus 35 new = 70).

Pike/Pine Plan Policy P/P-P11: *Promote the additional development of new or rehabilitated housing units, through tools such as code modifications, incentives, and providing flexibility during development review.*

Currently there are no residential units at the development site. With the increase in allowable height to 65 feet, 30 additional residential units will be added to the project proposal. Flexibility in design has been achieved during the design review process which involved neighborhood participation.

Pike/Pine Plan Goal P/P-G4: *A neighborhood that recognizes and meets the diverse and distinctly different human service needs of a culturally and economically diverse population.*

The rezone to NC3P-65 would support neighborhood objectives by providing commercial and residential uses within walking distance the other transit centers and other commercial businesses. The units are proposed to be market-rate to attract a wide-range of potential residents who are culturally and economically diverse; reflecting the demographics of the neighborhood.

Pike/Pine Plan Policy P/P-P37: *Promote the reduction of car ownership of residents to minimize parking demand.*

Increasing the height will allow 75 total units to be located in close proximity to academic centers, light rail, and urban amenities; car ownership and the associated need for parking would likely be reduced. Thus, the applicant will establish 70 total parking stalls for 75 units. At the time of signing a lease agreement occupants will be provided incentives, including transit passes for six

months, to promote public transit. By limiting the number of available stalls and providing transit incentives, the proposed rezone comports with this policy.

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.*

This rezone proposed was not specifically identified in the Neighborhood Plan.

In general, the Pike/Pine Neighborhood plan policies emphasize the area's unique character while encouraging neighborhood development to meet the needs of a cultural and economically diverse population. On balance, the proposed rezone to allow additional height, as limited by the PUDA, is consistent with other neighborhood plan policies for redevelopment and would not significantly increase the intensity of the proposal's bulk and scale in the subject neighborhood.

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 subject lot is part of a small NC3P-40 zoning band, extending one and half blocks east of the subject lot, on the north side of East Pine. Abutting the NC3P-40 zone boundary to the west and to the south across East Pine is NC3P-65 zone. This zone extends south and west for a number of blocks. It is anticipated that the 13th Avenue right-of-way width (66 feet) would provide more than sufficient space to transition from a 65 foot structure to 40 foot structures. With a height limit of 30 feet, the L-3 zoned property immediately to the north of the subject lot will experience a more abrupt transition. Mitigation design measures include upper level setbacks and landscape treatment along the wall of the new building.

The proposed building will modulate both vertically and horizontally to minimize the height transition. Along the north property line the entire building will be setback five feet at the podium level to accommodate ground level landscaping. Above the podium level, as measured from 13th Avenue, approximately 36% of the building's depth will setback 15 feet from the L-3 zoned parcel above, approximately 13 feet above grade. The remaining 64% (above ground floor level) will setback 24 feet from the north property line. The ground floor exterior wall will feature vegetated wall mounted trellises, planter boxes with cascading plants overhanging the wall. The zoning transition would be the similar to what currently exists on the same block just north of the subject lot (west ½ of the block zoned NC3P-65, abutting L-3 to the east).

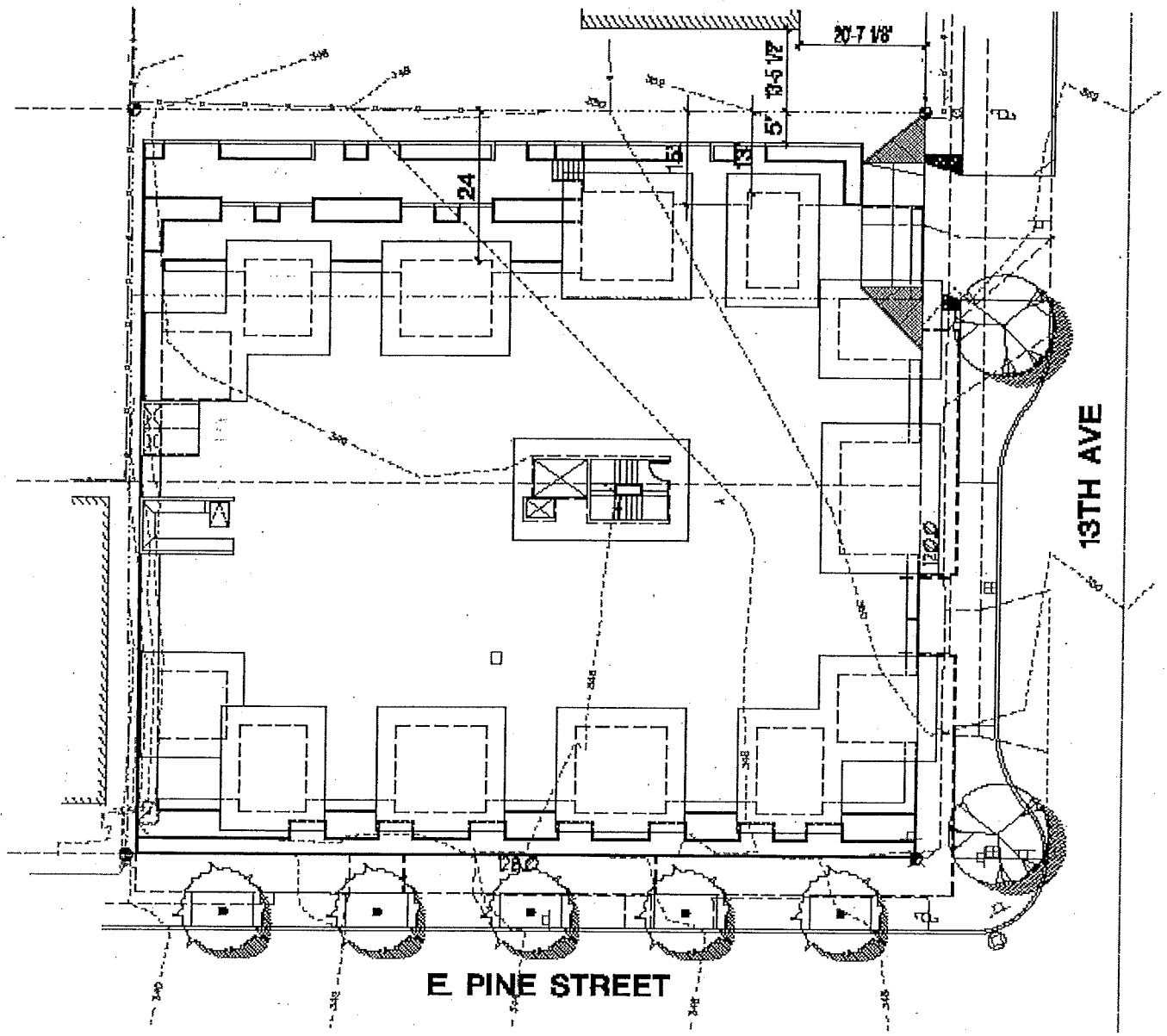


Figure 4: Approved site Plan

2. *Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:*

   a. Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;
   b. Freeways, expressways, other major traffic arterials and railroad tracks;
   c. Distinct change in street layout and block orientation;
   d. Open space and green spaces;

There are no such physical buffers separating the different uses and intensity of development proposed.

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.

Although there are no physical buffers as described in subsection E above, the parcel to be rezoned would follow platted lot lines.

   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 subject lot is a corner lot with two street facing frontages (Pine & 13th). NC3P-65 zoning is in place across East Pine from the subject site. North of the subject lot's north property line, along 13th Avenue, the zoning shifts to L-3. The primary residential entry of the proposed mixed use building will be located along this frontage and will be adjacent to the front of the residentially zoned lot along 13th Avenue. All commercial activity will be oriented along Pine away from the adjacent residential use. The approved design includes varied building design elements that are urban in nature with landscaping amenities on the facade that face the residential use.

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

The proposed zoning is NC3P-65 and is located within the Pike/Pine Urban Center Village and is, therefore, consistent with this criterion.

While L-3 – NC3 boundaries are not encouraged by the general zoning principals they are common throughout the city. Design sensitivity and other mitigation measures can accomplish an adequate transition. The north boundary notwithstanding, the site appears well-suited to a height increase in this NC3P zone.

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

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

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

The proposal would demolish a two-story commercial building and replace it with a commercial use and 75 market rate residential units. Net housing unit growth in Pike/Pine Urban Center has achieved 63% of its 20 year (1995 – 2015) growth target.[3] The addition of two floors will enable 30 additional units. No units would be classified as low-income housing.

b. Public services;

There is a potential for increased impact on public services as the proposed redevelopment of the subject lot will include approximately 6,798 square feet of commercial uses and 75 residential units. However, the service capacity in the area is adequate to serve the new proposal. Service capacities were evaluated as part of the adoption of the Comprehensive Plan which estimated service needs based on build-out of the zone.

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

Factors such as noise, shadows, and energy conservation will have an impact in the immediate area. Noise associated with mechanical equipment and other devices is anticipated to increase from what currently exists at the site. The requested increase to 65 feet in height will cast larger shadows on surrounding properties. The proposed structure in located in a highly urbanized area and includes many energy conservation features. The developer will partner with Seattle City Light Built Smart Program and install energy saving lighting and other building equipment that the program allows and that is compatible with the developer / owners facility plan. In addition each unit will be supplied with Energy Star appliances for reduced energy consumption.

d. Pedestrian safety;

The location of the parking entrance is on 13th Avenue near the north property line. The driveway width has been limited to 20 feet with warning devices to alert pedestrians to exiting traffic. The sidewalk has been textured on either side of the driveway, alerting pedestrians of a change. Warning lights are also included in the design of the garage entrance / exit that is activated when the garage door is opening. The pedestrian entrance to the commercial offices is on East Pine, with primary residential entrance taken off 13th Avenue.

e. Manufacturing activity;

No manufacturing uses are currently permitted and this would not change as a result of this rezone.

f. Employment activity;

Levels of employment activity are not expected to be directly affected.

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

Based on the review of information submitted by the applicant of the existing structure, the City of Seattle Landmarks Preservation Board found that due to loss of integrity, the existing building

[3] Data obtained from Monitoring Our Progress: Seattle's Comprehensive Plan (2003).

would not meet the standard for designation as an individual landmark. The owner and their architect, working with the Capitol Hill/First Hill Design Review Board and staff, has made design modifications to the proposed building (exterior façade, landscaping, and location of entrances, etc.) to better fit within Pike/Pine's existing neighborhood character and context thus, maintaining the area's recognized architectural integrity.

h. Shoreline view, public access and recreation.

The subject site is not located in the shoreline area; therefore this section does not apply.

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;

Service Capacity for street access to the area via East Pine, a secondary arterial will not be exceeded. Neighboring arterial streets (E. Pike & E. Madison) along the east/west axis have direct access to major thoroughfares and Downtown which makes the subject site easily accessible.

b. Street capacity in the area;

The proposed rezone to NC3P-65 will allow 30 additional units above the current zoning height limit, based on the proposed design. These units target students and staff of area institutions and the working class, which are within walking / transit distance of the site. Based on the analysis by the traffic engineer, TraffEx, the net new trips generated by the proposed development are estimated to be 18 trips during the AM peak hour and 23 trips during the PM peak hour. Capacity of East Pine a secondary arterial will not significantly be affected, the level of service is expected to remain the same.

c. Transit service;

The site is currently served by Metro routes number 8 and 43 traveling along East Pine. Metro Transit would like to keep the bus stop adjacent to the project site on East Pine Street in its current location. The applicant is required to either install shelter footings in the sidewalk for the bus shelter (shelter would be installed by Metro), or alternatively, the applicant could install an awning at the bus stop. The applicant has chosen to integrate overhead weather protection canopy to satisfy Metro Transit's request. Two blocks south of the site, on East Madison, Metro bus routes 11 and 12 provides connections to Seattle's Downtown business district. Four blocks to the west is Metro route number 9, and the site of the new Sound Transit Link Light Rail's Capitol Hill Transit Center scheduled to open in 2016.

d. Parking capacity;

The underground parking garage will provide 70 parking spaces for 75 residential units and the proposed (office) commercial use. (See SEPA analysis) The current surface parking lot will be removed from the East Pine frontage. On-site parking supply for this project will be sufficient for

the intended uses. With proximity to transit routes and business and education centers it is anticipated many occupants will not require parking stalls.

In 2004 SDOT studied on-street parking in Pike/Pine and found that spaces were highly used making it a challenge to find on street parking. In July of 2008 SDOT conducted a second parking study and found that a mix of neighborhood uses generates a mix of neighborhood parking needs. On-street unrestricted parking spaces were on average 95% full. Seventy percent (70%) of the cars parked on the street between 11 am and 6 pm stayed for 2 hours or less, reflecting the demand for short-term parking. At 10 PM on-street parking is 90% full. As a result SDOT is proposing to increase the number of on-street restricted parking zones in the Pike/Pike study boundary to this meet demand. While encouraging walking, biking and transit use SDOT has recognized that the policy is slow to be adopted. In June 2009 SDOT through Council Bill 116507 / Ordinance #123001 is now allowed to enforce / restrict parking durations in the area.

e. Utility and sewer capacity;

Utility and sewer services are analyzed for adequate capacity during the Comprehensive Plan process and are based on potential build out at the designated zoning. A Water Availability Certificate has been obtained. Sewer capacity is available and the applicant will provide sewer improvements in 13th Avenue to increase the diameter of the service line. The line extension will facilitate future growth along 13th Avenue and is not being required due to current capacity restraints.

f. Shoreline navigation.

The subject site is not located in the shoreline area; therefore this section does not apply.

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

Public investments to Seattle Central Community College and the Sound Transit's Light Rail station have been the catalyst for this new residential development. During the review of this proposal the boundary of the Pike/Pine Overlay District was expanded and renamed Pike/Pine Conservation Overlay District in 2009, under Council Bill #116507 (Ordinance 123020). Commercial properties within the expanded area were given a Pedestrian zoning designation (suffix P) within the District boundaries. Additionally, all properties within the District have recently been removed from the Capitol Hill Station Overlay District to reduce potential confusion when applying development standards in overlapping Districts, which the Pike/Pine Conservation Overlay District controls.

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

The property is located in the Pike/Pine Overlay District (SMC23.73). The proposed rezone is consistent with the purpose and intent of 23.73.002 which is to preserve and enhance the balance of

residential and commercial uses, by encouraging residential development and discouraging large, single-purpose commercial development. The proposed mixed use project is, therefore, appropriate for this site and will include pedestrian amenities on all rights-of-way that abut the site. The design of the building is such that the commercial activity is located away from any residentially zoned areas. Vehicle access (for the proposed residential use) is located adjacent to the residential zone along 13th Avenue in order eliminate disruptions along East Pine's pedestrian oriented streetscape. Facades facing residential areas will be enhanced with modulations, roof features and extensive landscaping designed to mitigate height, bulk and scale impacts to the residential neighborhood.

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 any mapped Environmentally Critical Area, therefore this criteria is inapplicable.

SMC 23.34.009 Height limits of the proposed rezone.

Where a decision to designate height limits in Neighborhood 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.

It is recommended that the height of the structure in the PUDA will extend to a height of no more than 70.4 feet (77.5 feet allowed for roof top features) above the lowest elevation grade (340.5), which is consistent within NC3P-65 zones. The additional height above 65 feet is a code allowed adjustment for development sites with sloping topography conditions and for ceiling heights to accommodate commercial uses at grade (pursuant to SCM 23.47A.012).

It is anticipated that demand on goods and services and displacement of preferred uses shall not be adversely impacted. The project design responds to area demand for small household / student housing, as a result the proposed apartment mix will contain 50 studios, 10 one-bedroom and 15 two-bedroom apartments. The existing commercial use will be increased by approximately 12% (or 718 sq. ft.) Thus, a mixed of residential and commercial will be achieved with no displacement of 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.

The site is located at the northwest corner of the intersection of East Pine Street and 13th Avenue East. The site sits near the crown of Capitol Hill, with views west into downtown and the Olympics. The site slopes downward from east to west approximately 10 feet over a 128 foot distance. The proposed building will rise approximately 70.4 feet (with applied sloped lot bonus and increased ground level ceiling height) from the lowest elevation grade ((340.5 NAVD 88) near the southwest corner) with roof top features extending a maximum 10 for stair and elevator

penthouses. The proposed height will be consistent with other structures faced with similar topographic characteristics. The adjacent residential L-3 lot to the north, with a height limit of 30 feet, views will not be anymore affected by the proposed 25 foot increase in height. Properties across 13th Avenue to the east and northeast with views to the west would experience additional view blockage due to the height increase. Taking into consideration area topography, properties further to the west and south exerts similar view impacts.

C. Height and Scale of the Area.

1. *The height limits established by current zoning in the area shall be given consideration.*

The subject lot is located within a NC3P-40 zoning band that extends one and half blocks to the east. The west half of the subject block adjacent to the proposed rezone site is zoned NC3P-65. The proposed height limit is consistent with existing zoning to the west and south and suitably transitions with the NC3-40 to the east. The increase in transition impacts to the north, at the site's boundary with L-3, design features, landscaping, among other architectural devices will be provided to mitigate height, bulk and scale impacts.

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 height of the proposed structure is 70.4 feet (with applied height bonuses); this height is compatible with the surrounding properties along East Pine. There is less compatibility along the 13th Avenue frontage to the north of the subject site, where the abutting property is zone L-3. The height of the proposed structure will be compatible with surrounding properties and with the mitigation proposed, it will make an acceptable transition with the L-3 zone to the north. Along East Pine, the height limit abutting the site to the west and across the street to the south is 65 feet. On the north side of East Pine between 12th Ave & 16th, the height moves from NC3-65 to NC3-40, then back to NC3-65. Parcels south of Pine are all zoned NC3-65. The requested height increase from 40 to 65 is compatible with the predominant height and scale of existing development in this area. However, most existing development including multi-family and commercial zoned properties is not built to the area's overall development potential.

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.*

The proposed development is compatible with the 65 foot zoned heights in the surrounding area located to the west and south and (2 blocks) east. While an NC3P-65/L-3 zone boundary does not really align with zoning principals, it is nonetheless, a common occurrence in Capitol Hill and throughout the city. Several areas of Capitol Hill have NC3-65 zones adjacent to L-3. Blocks at East Union at 15th and the north portion of the subject block have NC3-65 zone adjacent to L-3. Directly across East Pine Street the entire strip is zoned NC3P 65. Recently completed projects

within the NC3P-65 zone are built to zoning height limits. Existing structures range in height from one-story to four-stories.

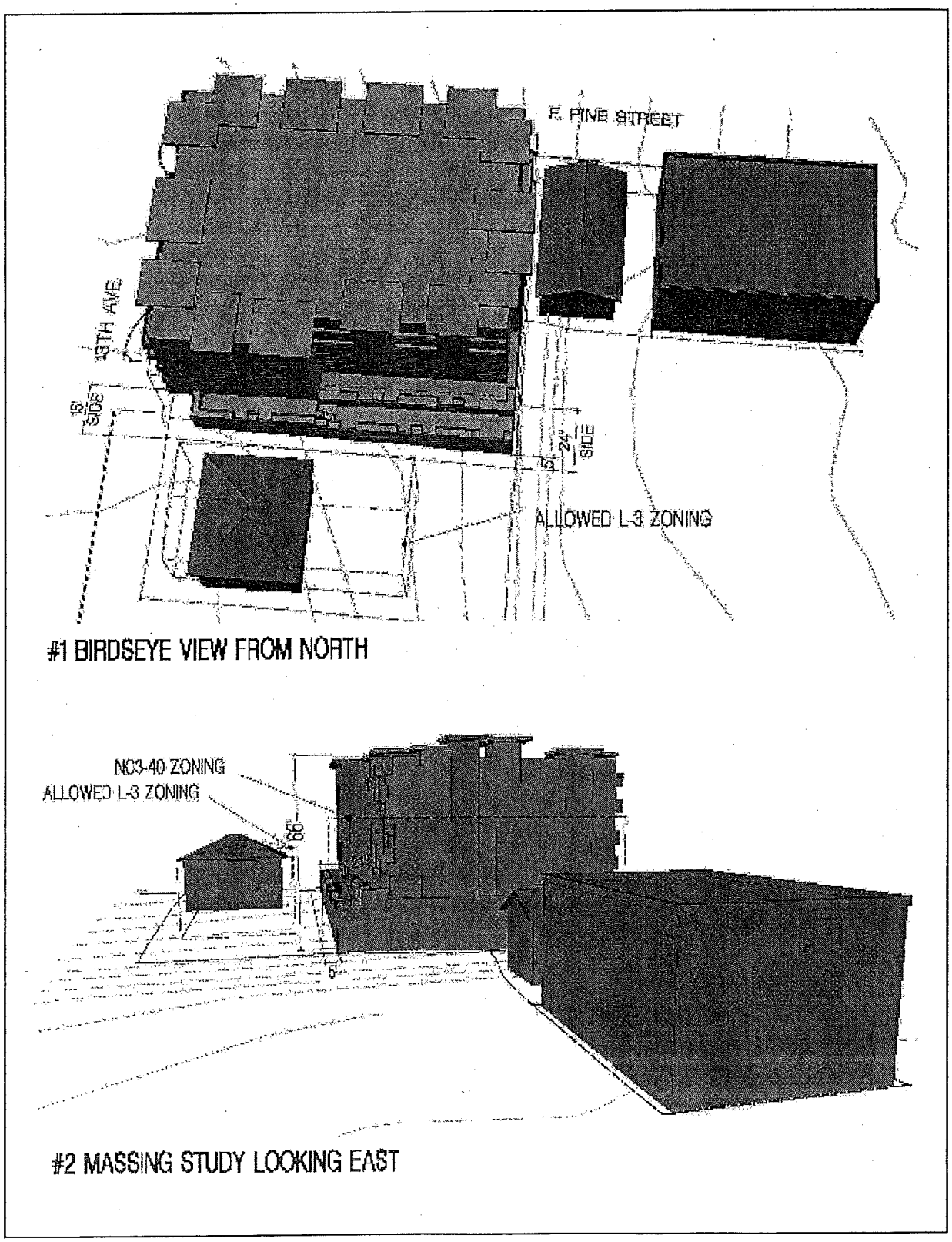


Figure 5: Massing Study

2. *A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.D2, are present.*

The subject lot is located within the adopted Pike/Pine Neighborhood Plan. (Ordinance #119413) This area contains several examples of visual impacts related to L-3 zones directly abutting both NC3P-65 & NC3P-40 zones. Mitigating height and scale impacts between zones has been achieved through terracing building setbacks, and/or creation of both vertical and horizontal modulation in the area and throughout the city. The Design Review Board was unanimous in its supported of a design that featured uninterrupted pedestrian street level experience along East Pine, with moderate sized commercial street level use on both frontages, and locating parking access along 13th Avenue. The west half of the proposed building's upper level steps approximately 24 feet from the shared property line to create a larger spatial openness for the L-3 property. The applicant will be required to use setbacks, modulation and landscaping to ease its impact upon the adjacent L-3 property as recommended by the Board. Though not considered a major physical buffer the sixty-six foot wide right-of-way (13th Avenue) to the east provides a typical zone transition, found throughout the city. More subtle modulation is proposed along the façade to find the appropriate scale to the adjacent NC3P-40 zone across 13th Avenue.

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.*

In order to achieve compatible architectural scale the Pike/Pine Neighborhood Design Guidelines encourages; "new buildings should echo the scale and modulation of adjacent buildings in order to preserve both the pedestrian orientation and consistency with the architecture of nearby buildings." The proponent has designed a building with preferred elements including upper level fenestration, pedestrian oriented streetscape incorporating architectural detailing, pedestrian entries and large storefront windows to visual engage pedestrians. The proposal is compatible with the scale of neighboring properties. An increased upper level setback and a vertical landscape trellis have been designed for the north side to mitigate impacts. The owner of the L-3 property has attended the Design Review meetings and does not oppose the increased height.

2. *Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would otherwise be established pursuant to the provisions of this section and Section 23.34.008.*

The Pike/Pine Neighborhoods Plan, in Policy P/P-P11 seeks to promote additional development of new or rehabilitated housing units, through tools such as code modifications, incentives, and providing flexibility during development review. The proposed contract rezone would be limited to a height of 70.4 feet by a PUDA which is in keeping with structures with similar topographic characteristics on lots in NC3P-65 zones.

The NC3P zone with a 65-foot height limit appears to be the most appropriate zone, and is consistent with the predominant zoning in the area. The height of the proposed structure will be compatible with surrounding properties and with the mitigation proposed, it will make an acceptable transition with the L-3 zone to the north.

SMC 23.34.072 Designation of commercial zones.

A. The encroachment of commercial development into residential areas shall be discouraged.

The site is currently zoned commercial and the requested height increase could be considered an "encroachment" into the adjacent multifamily zone because the building would exert greater height, bulk and scale impacts. The approved design is recommended to be subject to a PUDA, minimizes commercial encroachment into the residential area by softening physical edges with modulations, landscaping and attractive facades finishes, and where no commercial activity will take place.

B. Areas meeting the locational criteria for a single-family designation may be designated as certain neighborhood commercial zones as provided in Section 23.34.010.

Not applicable to subject site.

C. Preferred configuration of commercial zones shall not conflict with the preferred configuration and edge protection of residential zones as established in Sections 23.34.010 and 23.34.011 of the Seattle Municipal Code.

Edge protection on the north boundary between NC3 and L - 3 has been addressed through the Design Review process. The same configuration has existed for over 40 years. No other parcel edges are bordered by residential zones.

D. Compact, concentrated commercial areas, or nodes, shall be preferred to diffuse, sprawling commercial areas.

Not applicable the property is already zoned Neighborhood Commercial, the applicant seeks to increase the allowed height limit from 40 feet to 65 feet.

E. The preservation and improvement of existing commercial areas shall be preferred to the creation of new business districts.

This proposal does not request a creation of a business district.

SMC 23.34.078 Neighborhood Commercial 3 (NC3) zones, function and locational criteria.

A. Function. To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:

1. A variety of sizes and types of retail and other commercial businesses at street level;

2. Continuous storefronts or residences built to the front lot line;

3. Intense pedestrian activity;

4. Shoppers can drive to the area, but walk around from store to store;

5. Transit is an important means of access.

The site is zoned Neighborhood Commercial Three, the applicant requests an increase in the underlying height limit from 40 to 65 feet. This rezone aligns with all five functions, the project will built to the front lot line where is does not now exist.

B. Locational Criteria. A Neighborhood Commercial 3 zone designation is most appropriate on land that is generally characterized by the following conditions:

1. The primary business district in an urban center or hub urban village;

2. Served by principal arterial;

3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;

4. Excellent transit service.

The site is zoned Neighborhood Commercial Three, the applicant requests an increase in the underlying height limit from 40 to 65 feet.

CONCLUSION – REZONE

The parcel proposed for rezone meets the criteria for Neighborhood Commercial Three designation. The proposal seeks an increase in height from 40 feet to 65 feet. The subject lot (east half block between 12th and 13th) and the block and a half from 13th to 14th along the north side of East Pine were zoned 40 feet in 1986, creating a height anomaly inconsistent with the commercial corridor/node along East Pine. The applicant now seeks greater uniformity and height compatibility along East Pine with the requested rezone. Though circumstances in the neighborhood are essentially the same, several criteria have been added by the adoption of Ordinance 1122575, implemented as SMC 23.34.072.E, allowing for the preservation and improvement of existing commercial areas shall be preferred to the creation of new business districts. Aligning the height limit along this commercial corridor could constitute an equitable improvement for property owners to potentially develop their properties in keeping within the area character along East Pine. This proposal seeks to fortify the existing commercial node by increasing residential density by allowing two additional stories. Rather than maintain a split-zoned condition on this block front between neighboring commercial properties, it would seem appropriate for the entire block zoned NC3P to have a continuous 65 foot height limit; subject to a PUDA limiting the height of the proposed structure. Through the Design Review process the proposed building will have a number of features including setbacks, modulations, and landscaping to better fit within the Pike/Pine neighborhood context and scale the proposal to surrounding properties, to minimize the impact of abrupt zone edge transitions.

RECOMMENDATION - REZONE

Based on the above analysis, the Director recommends that the proposed contract rezone to NC3-65 be **APPROVED** subject to a Property Use and Development Agreement (PUDA) that limits the structure to be built to the design approved by the Design Review process and documented in approved Design Review plans dated August 28, 2009.

ANALYSIS - DESIGN REVIEW

Early Design Guidance:

Three Early Design Guidance (EDG) meetings were held, with the last meeting occurring on September 5, 2007, the Capitol Hill/First Hill Design Review Board met in EDG meetings to consider site analysis and design objectives and alternative scheme of the applicant. After visiting the site, considering the analysis of the site, design context provided by the proponents, and hearing public comments the Design Review Board members provided the following siting and design guidance, and identified by letter (A, B, and C, etc.) and number (1, 2, & 3) those siting and design guidelines found in the City of Seattle's *"Design Review: Guidelines for Multifamily & Commercial Buildings"* and *Pike/Pine Urban Village Design Guidelines* area of highest priority to this project. At the meetings, the Board identified the following adopted Guidelines to be of highest priority:

A Site Planning

A-2 Streetscape Compatibility
A-3 Entrances Visible from the Street
A-4 Human Activity

A-5 *Respect for Adjacent sites*
A-6 *Transition between Residential and Street*
A-7 *Residential Open Space*
A-8 *Parking and Vehicle Access*

B ***Height, Bulk and Scale***

B-1 *Height, Bulk and Scale*

C ***Architectural Elements and Materials***

C-1 Architectural Context
C-2 *Architectural Concept and Consistency*
C-3 *Human Scale*
C-4 *Exterior Finish Materials*

D ***Pedestrian Environment***

D-2 *Blank Walls*
D-4 *Design of Parking Lots near Sidewalks*
D-6 *Screening of Dumpsters, Utilities and Service Areas*
D-7 *Personal Safety and Security*

E ***Landscaping***

E-3 *Landscape Design to Address Special Site Conditions*

Public Comment:

During the Early Design Guidance phase four letters were received both in support and opposition to the proposal. Adverse impacts cited ranged from connecting on the availability of on-street parking, potential noise based complaints for nightlife related business when new residential uses is constructed within close proximity, to curb cuts once proposed on a pedestrian oriented Pine Street, but now deleted from the design. One writer felt the increase in height or up-zoning would increase density and had no problem in supporting this change.

Board Guidance:

The Board wanted to know what considerations the design team has made to scale the building to be sensitive to the abutting L-3 zone to the north with the rezone request to add 25 feet above the current zoned height limit. The Board noted no compelling argument has been presented to justify the additional height from a design perspective.

Overall, the Board felt the preferred scheme was well conceived. Ensuring a well proportioned scale at the development site is a critical factor to successfully integrate the project into the existing neighborhood fabric. The Board agreed that the design team demonstrated sound logic in design and is headed in the right direction. The Board is looking forward to how the design team resolves the parking level's exterior wall. The proposal should incorporate as many design elements as necessary to create quality infill development; utilizing building materials and massing sensitive to adjacent zones. The Board felt that there should be more attention directed towards the street level

commercial experience. Several "hot button" items were identified by the Board for the applicant to address as they finalize their design:

- To avoid the design appearing to turn its back to 13th Avenue, pedestrian and/or commercial entries should turn the corner onto 13th Avenue to expand the pedestrian experience.
- Develop an interesting and engaging scale along the north façade above ground floor level to be sympathetic to the abutting L-3 zoned property. As designed, the upper level 15 foot setback along the north property line appears cumbersome, clunky, and inadequate.
- Explore ways to crown the building with traditional cornice elements in keeping with the traditional styled loft buildings, the use of brick or stone is encourage at base. Install fenestration that is in keeping with loft styled buildings.
- The Board was particularly concerned about potential negative impacts of the proposed location of vehicle access off or near East Pine Street. Alternative locations or solutions should be explored to minimize or eliminate vehicle and pedestrian conflict along East Pine Street.

The guidelines noted above were all chosen by the Board to be high priority items. The Board encouraged the developer to engage the streetscape wherever possible and scale the design to integrate itself into an area with two street frontages; 13th Avenue and East Pine Street. The Board wants to increase the building's presence through design. The proposed street level commercial uses should be highly accessible and more compatible with the street experience found within the Pike/Pine neighborhood. The Board supported all departure requests going forward to next the meeting.

(For complete copy of the EDG and Recommendation documents refer to the MUP file or DR Web page; www.seattle.gov/dpd/.design_review_program//project_review/reports).)

Design Review Board Recommendations:

On June 10, 2008, the applicant submitted the full Master Use Permit application, and on March 4, 2009, the Capitol Hill/First Hill Design Review Board (Area 4) convened for the Recommendation meeting. Four of the five Board Members were present during this meeting. The applicant team presented elevation renderings, site plans, materials boards, etc., that responded to design guidelines set forth by the Board during the previous meetings. The applicant requested four departures from the City's Land Use Code:

- *Nonresidential Street-level Requirement;* reduction to the requirement.
- *Setback Requirement,* reduction to the requirement.
- *Driveway width Requirement*; reduction to the requirement.
- *Site triangle Requirement*; reduction to the requirement.

Updated Design:

Since the last Early Design Guidance Meeting held on September 5, 2007, there were a number of refinements that have affected the size and configuration of the proposed development. These include:

Building Mass: The preferred design scheme introduced during the EDG meeting has been refined to take greater advantage of opportunities afforded by a corner lot, with two street

frontages. From the roof line down to street level, the building's south and east façades have a strong articulated presence which firmly holds the corners to help establish a sense of place. The building's mid level mass has been modulated to step away from the abutting residential zone to the north, lessening the appearance of bulk from neighboring uses and zones. The revised plan depicts a building mass along East Pine that holds the street edge with large windows and overhead canopies to help frame and give articulation to the proposals' human scale. The modulation of the building's mass on the upper level with interplay of solid and voids minimizes visual impacts of the proposed six-story structure. Additionally, the upper level modulates both vertically and horizontally to break down the building's scale upon the adjacent residential zone.

At the street level corner of East Pine and 13th Street the base has been cut out to provide a 440 square foot covered entry. This covered pedestrian entry is intended to provide protected access into the proposed building.

Parking: In response to Board guidelines, access and layout of the parking garage has been located in a fashion to increase commercial frontage along East Pine and minimize visual intrusion upon adjacent uses and the street systems. The entry establishes an understated presence along 13th Avenue with challenging grade elevations. Nuanced architectural decorative detailing has been added to make the wall plane more pedestrian friendly and visually appealing.

Landscaping: The amount and allocation of vegetation takes better account of solar exposure impacts upon adjacent uses as directed by the Board. The revised plans depicts a more thoughtful approach to activating pedestrian activity on the roof deck with amenity areas, and installing heavily landscaped areas along the north property line. The courtyard planting boxes prevent residents of the new project from being able to see into the ground level and occupied spaces of the neighboring structure in the abutting residential zone.

Public Comments

Eight members from the public filled out the sign-in sheet. One member from the neighborhood asked the applicant if they had addressed the existing noise levels in the design of their proposed building. There is an active nightlife in the immediate vicinity which could be unfairly targeted by noise complaints from future residential tenants. "Was there an acoustical study prepared to address nightlife activity?" The applicant informed the assembled group that they had not considered an acoustical study but is considering solid walls, double pane glazing and ventilation air ducks to help mitigate outside noise levels. Another member from the public stated dissatisfaction with the braces supporting the overhead weather protection, it does not fit within the neighborhood context. The building appears to have a simple elegance which would be a welcomed addition to the neighborhood minus the frills. Eroding the street level corner at 13th and Pine is a huge mistake, the building needs to firmly hold the corner and celebrate the street level. Another member from the public was concerned about the application of exterior materials and wanted an explanation of the buildings materiality. Lastly, in order to understand pedestrian safety in the evening, the applicant was asked to walk through the lighting detail scheme.

Board Discussion

After considering project context, design plan, public comments, and reconsidering the previously stated priorities, four Board members began their deliberations by providing a general assessment of the proposal and its impact on the neighborhood. Ensuring an elegantly detailed building at the

development site is a critical factor to successfully integrate the project into the existing neighborhood fabric. Generally, the Board liked the design team's response to the guideline priorities set on September 5, 2007. Discussion ensued among the Board, including support of the requested departures, exterior cladding, building articulation, parking access, setbacks along the north property line and resolution of street level frontages.

The street level inset at the corner of 13th and Pine is a major concern for the Board. This proposed covered entry does not fit within the Pike/Pine vernacular. The Board wants the building to boldly step up to the street level property lines to maintain a continuous street frontage. The corner should be given over to active use within the structure; with more coherent pedestrian entries to establish a stronger street presence. In removing the inset corner, the need for the commercial space departure may go away. Consideration should be made to establishing readable entries on both street frontages. **The Board did not support a commercial departure request as currently designed. Therefore, the Board recommended the applicant work with DPD to find an appropriate design solution for the final design entry locations and detail with a stronger corner presence. Consideration should be made to make the entries readable on both street frontages.** (*Guidelines* A-2, A-3, A-4, C-1, & C-3)

The overall language of the building still needs further refinement; it lacks a coherent top, middle and base. The building is in need of either a horizontal or vertical expression, as yet it's still looking for its voice. Exploring a more consistent materiality expression from the roof line down to grade may prove beneficial to the overall design composition. Emphases may need to be directed on the vertical elements to give the building its full expression. If the roof overhangs were removed or depth reduced, it may provide a needed vocabulary shift to fit better within the neighborhood context. No matter what, the support braces have no design coherence to the proposed building at roof level and should be removed.

The middle vertical expression needs a stronger presence; the design team should explore eroding the horizontal band. The concrete base solidly grounds the building to grade which needs high quality finish to weather gracefully over time. **The Board recommended the applicant should work with DPD to explore a more consistent materiality expression from the roof line down to grade to achieve the desired coherent presence that is both well designed with quality materials and readable. The support braces have no design coherence to the proposed building and should be removed at roof level.** (*Guidelines* A-2, A-3, A-4, C-1, C-2, C-3, & C-4)

The street level overhead canopy at the corner of 13th and Pine needs further work and will need to be redesigned. This feature seems at odds with other architectural elements within the neighborhood and lacks design continuity with other design elements of the proposed building. **Therefore, the Board recommended the applicant work with DPD to find an appropriate design solution for the overhead weather protection system in keeping with the neighborhood vernacular.** (*Guidelines* A-3, A-6, C-2, C-4, & D-7)

As presently design, the street level experience does not maximize transparency, the height of the tile kick plates seems too imposing along both street fronts. Where possible, storefront windows should be enlarged, increasing the amount of transparency to engage the public realm. In addition, the height of the upper level windows should be increased to be more in alignment with loft styled units. **Therefore, the Board recommends the applicant work with DPD to design and install larger storefront windows extending downward to increase the amount of transparency,**

where possible. In addition, the height of the upper level windows should be increased to be more in alignment with loft styled units. (*Guidelines* A-2, A-3, A-4, C-1, C-2, C-4, & C-3)

As depicted in the presentation materials the driveway access appears troubling adjacent to the residential zone. Two levels of parking are being provided in a zone that requires no parking. The width of the double door entry seems out of scale and will need additional refinement to allow vehicles to safely access the development site without compromising congestion within the right-of-way. The access opening leading to the lower level parking garage should be a minimum of 18 feet. **The Board recommends the applicant should work with DPD to design and build residential vehicle access threshold (driveway) leading to the lower parking level not less than 18 feet.** (*Guidelines* A-5, A-8, C-2, C-4, D-&, & E-3)

Departure Analysis

1. Height & Depth of Nonresidential Space (SMC 23.47A.008.B.3a)

To promote viability of commercial activity located at street level, nonresidential uses must extend an average of at least 30 feet and a minimum of 15 feet in depth from the street level street facing facade. At the corner of Pine and 13th Avenue the street-level corner has been eroded to create a covered entryway into the proposed structure. Due in part to the layout of the floor plan the commercial space along 13th Avenue has been designed with an average of 27.2 feet and a minimum of 10.92 feet in depth to accommodate a residential foyer. During previous EDG meetings the Board requested the applicant to open up the pedestrian experience along both Pine and 13th Avenue. In recessing the street-level corner the building's presence is diminished and at odds with the neighborhood vernacular. The applicant has misinterpreted Board guidance to increase street level recesses at entries along 13th and Pine to one isolated corner, an area that can least afford it. The proposed structure should boldly hold the corner. The Board does not support a design that reduces viable street level commercial use for an eroded corner that is out of character for the neighborhood vernacular. The Board directs the applicant to maintain a strong vertical presence at street-level at the corner of 13th and Pine. **Owing in part to the graphic boards presented at the recommendation meeting, the Board recommended not to approve depth reduction of nonresidential use with the understanding that the commercial space will be pushed out to the property line to fully engage pedestrian in the right-of-way.** *(Design Guidelines: A-3, A-4, C-1 C-2, & D-7).*

2. To allow alternatives to Rear and Side Setback for lot adjacent to Residential zones (SMC 23.47.014.B.2.a)

A setback is required along any rear or side lot line that abuts a lot in a residential zone as follows: Ten feet for portions of a structure above 13 feet in height to a maximum of sixty-five (65) feet. The proposed structure will establish a two stepped lateral clearance from the abutting (L-3) residential zoned property above 13 feet (as measured above lowest grade), approximately 15 feet within 55 feet from 13th Avenue and 24 feet for the remaining 67 feet of the lot's depth. The setback above 13 feet establishes greater zone transition sensitivity to the abutting residential zone. A shadow study was presented to demonstrating the effects of additional height on the abutting property. The applicant proposes to attach planter boxes to the podium level resulting in encroachments into the setback area. Planter boxes and rail system will extend 6 to 48 inches in the setback area and will be filled with plants to soften visual impacts upon adjacent uses. The

podium level (exterior wall) will feature modulations in the form of concrete planter boxes, scored concrete and vegetated walls. If not for the planter boxes, the departure would not be required. The intention of the planter boxes in the setback area is to provide additional vegetation at the buildings edges. Though the setback reduction represents a small percentage of the setback area affected by this request (refer to sheet A301), it will have a significant positive impact by allowing an integrated design that features robust landscaping elements. The benefit to accommodate a landscape design concept outweighs any minor inconvenience in the reduction in the setback adjacent to a residential zone. **The Board felt that the design objectives expressed during EDG were achieved in the proposed design. Provided that the planter boxes are made of concrete or other durable material the Board approves the departure request.** *(Design Guidelines: A-5, A-7, C-2, C-4, D-2, & E-3).*

3. *To allow reduction in Driveway Width for Residential and two-way Nonresidential Use (SMC 23.54.030)*

The project proposes three underground parking levels devoted to residential use and one street level for nonresidential use within the structure. Access to the parking will be taken off 13th Avenue in response to Board guidance and neighborhood comments to maintain East Pine as a pedestrian oriented street. Driveway width requirement for nonresidential use serving 2-way traffic shall be 22 feet. The Board was encouraged with the applicant's desire to reduce the visual impacts of access to parking along 13th Avenue. The garage doors will be setback approximately 15 feet from 13th Avenue with the driveway width reduced to 20 feet. The reduction of the driveway width opens up the exterior façade to be devoted to more active internal uses. Within the structure the at-grade level commercial parking level is providing stalls for 15 vehicles; it was assumed that the volume generated by the 15 parking spaces could accommodate a reduction in driveway width to not less than 10 feet in width from the garage door entry.

The minimum residential width for driveways serving 2-way traffic shall be 20 feet. A total of 107 residential parking stalls will be dispersed over three levels below grade. In order to minimize visual impact of an area devoted to parking the applicant was encouraged by the Board to reduced the width down to safely allow two-way traffic to pass within the garage. With the limited number of vehicles accessing the parking level and layout around the threshold door, traffic safety is anticipated not to be compromised with the reduction of the driveway width by 2 feet to 18 feet within the structure. The applicant's design was supported by the Board, with suggestions to incorporate safety devices to increase vehicular visibility and measures to protect landscaping around the threshold. **Owing in part to the graphic materials presented at the recommendation meeting, the Board recommended approval of the reduction in nonresidential driveway width outside the structure to 20 feet and to not less than 10 feet at street level within the structure. In addition, the Board approved an 18 foot wide driveway serving the lower parking levels. Safety devices to increase vehicular visibility and other measures to protect pedestrian shall be secured with the approval of the assigned planner.** *(Design Guidelines: A-8, C-1, D-7, & E-3)*

4. *To allow modifications to Site Triangle (SMC 23.54.030.G)*

For two-way driveways or easements less than 22 feet wide, a sight triangle on the side of the driveway used as an exit shall be provided and shall be kept clear of any obstruction for a distance of 10 feet from the intersection of the driveway or easement with a driveway, easement, sidewalk

or curb cut intersection if there is no sidewalk. The entrance and exit lanes shall be clearly identified. The garage doors will be recessed approximately 15 feet from the property line that will open up a visual field for drivers exiting the site. The applicant proposes to hold the street edge along 13th Avenue in commercial and residential use creating an obstruction on the exit side. The site triangle on the exit side does not have the lateral clearance from the property line to accommodate the full site triangle dimension. The proposed design solution incorporates safety features as allowed in downtown zones - visual warning, enunciator, or mirrors are proposed in lieu of sight triangle. **The Board approves removing the site triangle on the exit side so long as the applicant provides other means to secure exiting visibility and/or warning systems to minimize the potential for pedestrian vehicle conflicts. The architect will provide alternative means to safeguard pedestrians with such measures as mirrors, warning lights and or buzzers.** *(Design Guidelines: A-3, A-8, C-1, C-3, C-4, & D-7)*

Departure Summary

The four Board members present unanimously supported granting three of the four requested departures for alterations to Land Use Development Standards, which includes modifications to setback requirement (side setback adjacent to residential zone), residential and nonresidential driveway width, and site triangle. The Board turned down the applicant's departure request for height and depth of nonresidential space development standards. As long as the exterior façade remain consistent with what was presented, with materials, upper level fenestration, and with the requested refinements to be approved by the DPD planner, the Board fully supported the three departure requests with two conditions. In granting the setback departure, planter boxes shall be made of concrete or other durable material and an exit warning device shall be required for granting relief from site triangle and driveway width requirements. The applicant has done an admirable job of integrating height bulk and scale, landscape design with robust plantings that has enhanced the building and its impact upon adjacent properties. **Therefore, the Board recommends approval of three requested departures.**

Summary of Departures

Development Standard	*Requirement*	*Proposed*	*Comment/Rationale BY Architect*	*Board Recommendation*
1. Nonresidential Street-level Requirement. SMC 23.47A.008.B.3	*Height and depth of nonresidential space must extend an average of at least 30 feet and a minimum of 15 feet in depth from the street level street facing façade.*	*An average of 27.2 feet and a minimum of 10.92 feet in depth. .*	*Due in part to the alignment of the residential foyer's relationship to proposed commercial spaces. Additionally, creating covered grand entry at the corner of 13th and Pine.*	▪ *Not Approved (Design Guidelines A-3, A-4, C-1, C-2, & D-7)*

2. Setback Requirement SMC 23.47A.014.B.2.a	*A setback is required along any rear or side lot line that abuts a lot in a residential zone as follows: Ten feet for portions of a structure above 13 feet in height to a maximum of sixty-five (65) feet.*	*Planter boxes extend above 13 feet.*	*The massing of the proposed structure includes concrete planter boxes to allow robust vegetation to frame the upper level courtyard to drape over the wall.*	▪ *Approved (Design Guidelines A-5, A-7, C-2, C-4, D-2, & E-3)* *Provided that the planter boxes be made of concrete or other durable material*
3. Driveway width 23.54.030.D	*(Nonresidential) The minimum width of a driveways serving 2-way traffic shall be 22 feet.* *(Residential) The minimum width of a driveways serving 2-way traffic shall be 20 feet.*	*Reduce driveway width to not less than 20 feet (exterior) and 10 feet (interior) in width.* *Reduce driveway width to 18 feet in width.*	*To increase commercial street presence along 13th a reduction in driveway width is required.*	▪ *Approve (Design Guidelines: A-8, C-1, D-7, & E-3)* *Exit vehicle warning device*
4. Site triangle 23.54.030.G	*For two-way driveways at least 22 feet in width are required to be kept clear of any obstruction for a distance of 10 feet on the exit side of the driveway.*	*No site triangle on the exit side.*	*The site triangle will erode the building at a relatively short street frontage.*	▪ *Approve (Design Guidelines: A-3, A-8, C-1, C-3, C-4, & D-7)* *Exit vehicle warning device*

Summary of Boards' Recommendations:

The recommendations summarized below were based on the plans submitted at the March 4, 2009 meeting. Design, siting or architectural details not specifically identified or altered in these recommendations are expected to remain as presented in the plans and other drawings submitted for review on May 7, 2009. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities, and reviewing the plans and renderings, all four Design Review Board members presents recommended that the design should be approved with refinements noted to be worked out with DPD. In particular; the street level façade treatment at should boldly hold the corner with active commercial uses with large storefront windows to engage the public. The Board also recommends approval of three of the requested four departures as stated in the departure matrix. Thus, the project should move forward as designed. The Board made the following recommendations. (Authority referred to in letter and numbers are in parenthesis):

1. Design and build the street level facade stepping up to the property line to maintain a continuous street frontage at the corner of 13th and East Pine Street. (*Guidelines* A-2, A-3, A-4, C-1, & C-3)

2. Design and install larger storefront windows extending downward to increase the amount of transparency to open up visual engagement in the public realm, where possible. In addition, the height of the upper level windows should be increased to be more in alignment with loft

styled units subject to review and approval by the DPD planner. (*Guidelines* A-2, A-3, A-4, C-1, C-2, C-4, & C-3)

3. Design and build roof overhangs that better fit within the neighborhood context. No matter what, the support braces have no design coherence and shall be removed. (*Guidelines* B-1, C-1, C-2, C-3, & C-4)

4. Design and build an overhead weather protection device at the corner of 13th and Pine which better fits within the neighborhood vernacular subject to review and approval by the DPD planner. (*Guidelines* A-3, A-6, C-2, C-4, & D-7)

5. Design and build vehicle driveway width thresholds leading to the lower level residential parking garage no greater than or less than 18 feet, and for commercial uses a minimum of 10 feet (within structure) and 20 feet (outside of building) in width, subject to review and approval by the DPD planner. (*Guidelines* A-5, A-8, C-2, C-4, D-&, & E-3)

6. Design and build planter boxes that are made of concrete or other durable material subject to review and approval by the DPD planner. *(Design Guidelines: A-5, A-7, C-2, C-4, D-2, & E-3).*

7. Design and install alternative means to safeguard pedestrians with such measures as mirrors, warning lights and or buzzers, and measures to protect landscaping around the driveway threshold subject to review and approval by the DPD planner. *(Design Guidelines: A-3, A-8, C-1, C-3, C-4, & D-7)*

Director's Analysis and Decision: Design Review

The Design Review Board recommended that the assigned planner should work with the applicant to resolve several Board recommendations prior to final DPD approval. The Director is equally pleased with the overall building design but as noted in the recommendation meeting the proposed design is contingent upon Council approval to rezone the site from NC3-40 to NC2-65. As was noted by the Board, the street level pedestrian experience needs additional refinement, as well as the upper level street facing façades. Further, the Director is authorized to provide additional analysis and then accept, deny or revise the Board's recommendations (SMC 23.41.014.F) to advance the proposal forward. The Design Review Board identified elements of the Design Guidelines (above) which are critical to the project's overall success with concurrence of the Director.

The design of the new 6-story building (containing 75 residential units and approximately 6,798 sq. ft. of office use) has a scale, proportion and materials that reduce the appearance bulk by breaking down the building mass through application of modulation, exterior wall materials and color. The design of the proposed structure is a reinterpretation of the surrounding vernacular seeking modern expression to provide visual interest while seeking a sense of individuality. With the inclusion of the previously stated refinements the proposed structure is anticipated to boldly announce its presence at street level. Along all street frontages the upper level subtly steps back to lessen the weight of the building within the pedestrian environment below. Creating a sensitive transition to the abutting L-3 zone is a high priority item to successfully integrate the proposal into neighborhood fabric. The proposed structure has found the balance to minimize height and bulk

and scale impacts by vertically and horizontally stepping the structure back from the north property line. As viewed from the north facade, the proposed 6-story structure features a number of layers including terracing, landscaping, fenestration, decks, and modulations to minimize the building's mass. The design incorporates cement, glass, metal, and cement-fiber board panels, in a creative fashion, to dynamically invigorate the north facade. The Director concurs with the Board that this proposal will be a compatible addition to the neighborhood.

The Director has determined that no additional measures are warranted to strengthen the commercial streetscape experience. Since the recommendation meeting held on March 4, 2009, the assigned planner has worked with the applicant to resolve outstanding Design Review recommendations and conditions of approvals. During this phase the design now has added more vibrancy on the street facing façades by using more appropriate architectural detailing. Furthermore, the applicant has revised the proposal to no longer seek departure from non-residential street use requirements.

The Director of DPD has reviewed the recommendations of the Design Review Board. The Director finds that the proposal is consistent with the *City of Seattle Design Review Guidelines for Multifamily & Commercial Buildings and Pike/Pine Urban Center Village Design Guidelines*. The Director **APPROVES** the subject design consistent with the Board's recommendations and conditions included at end of this document. This decision is based on the Design Review Board's final recommendations and on the plans submitted at the public meeting on March 4, 2009 and the plans on file at DPD. Design, siting or architectural details not specifically identified or altered in this decision are expected to remain substantially as presented at the recommendation meeting and subsequent plans submitted to DPD on June 8, 2009.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the Mr. Robert W. Thorpe (dated submitted February 27, 2008) and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant 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) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

Short-term Impacts

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which

adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

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

Historic and Cultural Preservation - Construction of the proposed commercial and residential structure will necessitate the demolition of one existing commercial structure that was constructed in 1901. In accordance with the *Department of Planning and Development – Department of Neighborhoods Interdepartmental Agreement on Review of Historic Building during SEPA Review*; the planner referred potential landmark eligibility approval to the Historic Preservation Officer. The Historic Preservation Officer evaluates criteria for designation of historic landmark structures (in response to the SEPA Historic Preservation Policy (SMC 25.05.675.H.2.d). The review of the information associated with the status of the existing structure (addressed 1222 East Pine Street) did not warrant landmark status, as determined by the Landmarks Preservation Board, (LPB 13/09) in a letter dated January 8, 2009.

Parking - Construction of the project is proposed to last for up to fifteen months. Parking utilization along streets in the vicinity is at capacity and the demand for parking by construction workers during construction is anticipated to significantly reduce the supply of parking in the vicinity. Parking demand for construction personnel can be accommodated near the development site at off-site locations with a shuttle service for workers, if needed. Therefore, the applicant will be required to secure off-site parking locations with shuttle service for all workers until onsite parking is made available to meet construction parking demand; no further mitigation will be required.

Traffic - Construction activities are expected to affect the surrounding area. Impacts to traffic and roads are expected from truck trips during earth moving activities. The SEPA Overview Policy (SMC 25.05.665) and the SEPA construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with transportation during construction. The excavation of the lower level to accommodate parking will require removal of material and can be expected to generate truck trips to and from the site. In addition, delivery of concrete and other materials to the site will generate truck trips. As a result of these truck trips, an adverse impact to existing traffic will be introduced to the surrounding street system, which is unmitigated by existing codes and regulations.

It is expected that most of the material to be removed from the site will be due in part to excavation for a building with two levels of parking below grade will have impacts on surrounding properties. During excavation a single-loaded truck will be used which holds approximately 10 cubic yards of material. This will require approximately 780 to 1,014[4] truck loads to remove approximately 7,803

[4] Includes fluff factor of 30% when soil is tossed around.

cubic yards of soil material and may require a number of trucks loads of deconstruction material resulting from demolition of existing structure. The site abuts East Pine Street, a secondary arterial, which provides access to Interstate Five (5). In order to limit this negative impact as much as possible, a Truck Trip Plan will be required and approved by SDOT prior to issuance of a building permit. The Truck Trip Plan shall delineate the routes of trucks carrying project-related materials. Traffic impacts resulting from the truck traffic associated with the hauling of debris will be of short duration and mitigated by enforcement of SMC 11.62.

The Street Use Ordinance includes regulations that mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) would be adequately controlled with a street use permit through the Transportation Department, and no further SEPA conditioning would be needed.

Noise - The development site is located adjacent to a residential area where construction of this scale would impact noise levels. The SEPA Noise Policy (Section 25.05.675B SMC) lists mitigation measures for construction noise impacts. It is the department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is not necessary to mitigate impacts that would result from the proposal on surrounding properties. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7am to 7pm. Interior work that involves noisy construction equipment, including electrical compressors, may be allowed on Saturdays between 9am and 7pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three (3) days in advance of the requested dates in order to allow DPD to evaluate the request.

Air and Environmental Health - Given the age of the existing structure on the site, it may contain asbestos, which could be released into the air during demolition. The Puget Sound Clean Air Agency (PSCAA), the Washington Department of Labor and Industry, and EPA regulations provide for the safe removal and disposal of asbestos. In addition, federal law requires the filing of a demolition permit with PSCAA prior to demolition. Pursuant to SMC Sections 25.05.675 A and F, to mitigate potential adverse air quality and environmental health impacts, project approval will be conditioned upon submission of a copy of the PSCAA permit prior to issuance of a demolition permit, if necessary. So conditioned, the project's anticipated adverse air and environmental health impacts will be adequately mitigated.

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC). No unusual circumstances exist, which warrant additional mitigation, per the SEPA Overview Policy.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by impervious surfaces; increased bulk and scale on the site; increased demand on public services and utilities; increased light and glare; loss of vegetation; and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

The long-term impacts are typical of commercial and residential structures and will in part be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (stormwater runoff from additional site coverage by impervious surface); Land Use Code (height; setbacks; parking); and the Seattle Energy Code (long-term energy consumption). Additional land use impacts which may result in the long-term are discussed below.

Height, Bulk, and Scale - The area of development is located along the west slope on Capitol Hill overlooking Downtown and the Olympics to the west. The proposal will occupy the southeast portion of a block that is bounded by 12th Avenue, East Pine Street, and 13th Avenue. Adjacent to the development site are structures of varying heights. The proposed six-story project will rise to approximately 70.41 feet to the top of the flat roof from the lowest elevation grade along the East Pine Street frontage, with the stair and elevator penthouse extending an additional 9 feet. The development site is currently located within a NC3P-40 zone, the proposal's impact is being evaluated under the requested rezone height expansion to 65 feet (NC3P-65). Abutting the development site to the north, the height limit is 30 feet within an L-3 zone. Currently a multifamily use (two-story apartment building) occupies the abutting property to the north. The residential use to the north will not experience the full weight of the proposed structure; above the 13 foot concrete base, as measured from the 13th Avenue frontage, 44% of proposed structure will step back approximately 15 from the north property line. The remaining 56% will step back an additional 24 feet from the north property line to establish a sympathetic zone transition to the neighboring property.

The remaining property to be directly impacted by the proposed structure is immediately to the west. Currently the property houses a two-story structure that is underdeveloped for its zoned height limit of 65 feet (NC3P-65). The proposed structure will provide a modest setback of five feet above the commercial level to offset its bulk. With a few exceptions the remaining Neighborhood Commercial zoned area surrounding the development site are occupied by a mix of structures of varying heights. The majority of existing buildings are less than the Code allowed height limit. A number of existing buildings in the immediate area have a visual presence that will be unaffected by the addition of this proposal. Topography and site location have helped to scale the building within the neighboring context, while taking advantage of its unique corner block location. The proposed structure features setbacks and modulations, which serves to scale the building down as viewed from the site's perimeter. The proposed project is being developed to NC3-65 standards, as allowed by the Land Use Code, and is thereby in keeping with the scale of the potential of the zone as well as that of several existing structures in the vicinity.

The SEPA Height, Bulk and Scale Policy (Sec. 25.05.675.G, SMC) states that *"the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the goals and policies set forth in Section C of the land use element of the*

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

Land Use - The proposed project includes a requested Council Action to rezone a 15,374 square foot portion of land (120.09' X 128.02') from NC3-40 to NC3-65 to allow a 93,883 square foot, six (6)-story building. See the rezone analysis at the beginning of this report.

Traffic and Transportation - The applicant submitted a Traffic Analysis, prepared by TraffEx that addressed trip generation and distribution analysis. The report contrasted existing and proposed uses at the development site with impacts associated with personal trip generation. Trip generation for the proposal was determined by employing figures derived from Trip Generation (*Institute of Transportation Engineers' [ITE], Trip Generation Manual, 7th Edition, 2003*). Quantitative values found within the reference document reflect nationwide studies in suburban communities that are not necessarily representative of urban trends. It has been DPD's experience that vehicle trip generation figure's based on the aforementioned manual have been found to be less in urban areas, with proximity to employment centers that have ready access to mass transit and other alternative modes of travel, i.e., choosing to walk or bike. In the traffic impact analysis, credit was given for the existing general office use (ITE Land Use Code 710) at the development site. Net changes in trips generated by the proposed development are estimated to be 18 trips during the AM peak hour and 23 trips during the PM peak hour. During the peak PM hour 16 (70%) net new trips will be entering and 7 (30%) net new trips will be exiting the development site.

The proposed project is anticipated to generate an average of 580 vehicle trips per day; currently an estimated 116 trips are generated at the development site. The net increase in total daily vehicle trips at the combined development site is 464. The residential use accounts for approximately 87% (504) of the daily vehicle trips. With an increase of approximately 18trips during the AM peak hour and 23 trips during the PM peak hours anticipated from the existing uses, this increase is not expected to have a substantial impact on the surrounding roadway intersections.

Circulation within the area includes bus routes and bike lanes providing access to downtown and other employment destinations. There are also many dining, shopping, educational, medical, and entertainment options within walking/bicycling distance and along the public transit routes. The proposed commercial uses are at the development site are expected to draw clientele from the surrounding neighborhood. It is anticipated that East Pine Street, a secondary arterial, will handle the increase demand falling within its capacity. Secondary local streets which can be used to access the site will experience slight increased volumes.

Parking - The Land Use Code sets minimum parking requirements for residential and commercial uses within urban centers, which has eliminated required parking for all uses in commercial zones. This regulation is a manifestation of policy changes to encourage alternative modes of travel (i.e.,

public transit, bicycle) for urban city dwellers. The proposed development is located in the Pike/Pine Urban Center Village. The applicant has proposed to exceed the land use parking requirement of zero spaces to accommodate a total of 70 parking stalls at the development site for the proposed uses (75 residential units and 6,798 square feet of commercial use).

Peak parking demand for the proposal is expected to reach a combined total of 91 stalls as determined from information found in Parking Generation (*Institute of Transportation Engineers' [ITE], Parking Generation Manual, 3rd Edition, 2003*). Peak parking demand for office use (ITE Land Use Code 701) is 16 stalls, between the hours of 9:00 AM and 4:00 PM. With peak demand for Low/Mid-Rise Apartment (ITE Land Use Code 221) is 75 stalls between midnight and 5:00AM. The peak demands for the commercial and residential uses do not overlap. Due to the different peak parking periods, alternate means of accessible transportation (i.e., public transit, bicycle), and incentives by the owner to reduce on-site parking demands (refer to rezone analysis), it is likely that the provided on-site parking will be sufficient to meet the need of proposed uses.

The parking policy in Section 25.05.675M of the Seattle SEPA Ordinance states that parking impact mitigation may be required only where on-street parking is at capacity as defined by the Seattle Transportation Department or where the development itself would cause on-street parking to reach capacity. Parking utilization in the vicinity is at capacity. Limited availability of on-street parking can be found during the daytime during evening hours. Additionally, Ordinance (121792) modified SEPA Parking Policy (Sec. 25.05.675M, SMC) removing SEPA authority to mitigate residential parking impacts within the Pike/Pine Urban Center Village.

Therefore, no mitigation of parking impacts is necessary pursuant to SEPA.

CONCLUSION - SEPA

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

DECISION - SEPA

This decision was made after review by the responsible official on behalf of DPD as the lead agency of the 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.

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

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment with respect to transportation, circulation, and parking. An EIS limited in scope to this specific area of the environment was therefore required under RCW 43.21C.030 (2) (C).

PREPARATION OF FINAL PLAN AND FUTURE CHANGES

The owner/applicant shall update plans to show:

- Embed all conditions of approval into the cover sheet on the updated MUP plan set and all subsequent building permit drawings.
- Embed colored elevation and landscape drawings into the MUP and building permit drawings.
- Update plans and supporting documents to provide consistent and current project information, i.e., parking calculations, residential unit count, etc.
- Any proposed changes to the external design of the building, landscaping or improvements in the public right-of-way must first be reviewed and approved by the DPD planner prior to construction.

RECOMMENDED CONDITONS – REZONE

Prior to Issuance of Master Use Permit

1. Approval of this contract rezone is conditioned upon the development of the project in accordance with the final approved Master Use Permit drawings, last updated December 15, 2009, including the structure design, structure height, building materials, landscaping, street improvements, parking lot design and layout, signage and site lighting.

INSTRUCTION – DESIGN REVIEW

Prior to Issuance of a Certificate of Occupancy

2. All proposed changes to the exterior facades of the building and landscaping on site and in the ROW must be reviewed by a Land Use Planner prior to proceeding with any proposed changes.

3. Compliance with the approved design features and elements, including exterior materials, parapets, facade colors, landscaping and ROW improvements, shall be verified by the DPD Planner assigned to this project (Bradley Wilburn, 206-615-0508) or by the Manager of the Urban Design Program. Inspection appointments with the Planner must be made at least three (3) working days in advance of the inspection.

CONDITIONS – DESIGN REVIEW

Prior to Issuance of MUP:

The owner/applicant shall update plans to show:

4. The owner/applicant shall update plans to show the street level facade stepping up to the property line to maintain a continuous street frontage at the corner of 13th and East Pine Street. (*Guidelines* A-2, A-3, A-4, C-1, & C-3)

5. The owner/applicant shall update plans to show larger storefront windows extending downward to increase the amount of transparency to open up visual engagement in the public realm, where possible. In addition, the height of the upper level windows should be increased to be more in alignment with loft styled units subject to review and approval by the DPD planner. (*Guidelines* A-2, A-3, A-4, C-1, C-2, C-4, & C-3)

6. The owner/applicant shall update plans to show roof overhangs that better fit within the neighborhood context. No matter what, the support braces have no design coherence and shall be removed. (*Guidelines* B-1, C-1, C-2, C-3, & C-4)

7. The owner/applicant shall update plans to show overhead weather protection device at the corner of 13th and Pine which better fits within the neighborhood vernacular subject to review and approval by the DPD planner. (*Guidelines* A-3, A-6, C-2, C-4, & D-7)

8. The owner/applicant shall update plans to show vehicle driveway width thresholds leading to the lower level residential parking garage no greater than or less than 18 feet, and for commercial uses a minimum of 10 feet (within structure) and 20 feet (outside of building) in width, subject to review and approval by the DPD planner. (*Guidelines* A-5, A-8, C-2, C-4, D-&, & E-3)

9. The owner/applicant shall update plans to show planter boxes that are made of concrete or other durable material subject to review and approval by the DPD planner. *(Design Guidelines: A-5, A-7, C-2, C-4, D-2, & E-3).*

10. The owner/applicant shall update plans to show alternative means to safeguard pedestrians with such measures as mirrors, warning lights and or buzzers, and measures to protect landscaping around the driveway threshold subject to review and approval by the DPD planner. *(Design Guidelines: A-3, A-8, C-1, C-3, C-4, & D-7)*

RECOMMENDED CONDITIONS – SEPA

Prior to Issuance of Demolition or Construction Permits

The owner(s) and/or responsible party(s) shall:

11. Submit a copy of the PSCAA permit prior to issuance of a demolition permit, if a PSCAA permit is required

12. Submit a Truck Trip Plan to be approved by SDOT prior to issuance of a building permit. The Truck Trip Plan shall delineate the routes of trucks carrying project-related materials.

13. The applicant shall submit documentation securing off-site parking locations with shuttle service (if needed) for all workers until onsite parking is made available to meet construction parking demand.

During Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.

14. In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to non-holiday weekdays between 7:00 AM and 7:00 PM and Saturdays between 9:00 AM and 7:00 PM. This condition may be modified by the Department to permit work of an emergency nature to allow low noise exterior work (e.g., installation of landscaping) or to allow work which cannot otherwise be accomplished during the above hours upon notification to the Land Use Planner at least three (3) days in advance of the requested activity to allow DPD to evaluate the request. After the structures are enclosed, interior work may proceed at any time in compliance with the Noise Ordinance.

Signature: (signature on file) Date: January 7, 2010
Bradley Wilburn, Land Use Planner
Land Use Services
Department of Planning and Development

BW:lc
I:\WILBURB\Design Review\3007044\3007044Dec.doc

CONCERNING FURTHER REVIEW

NOTE: It is the responsibility of the person seeking further review to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person substantially affected by or interested in the Hearing Examiner's recommendation may submit in writing an appeal of the recommendation to City Council and, if desired, a request to supplement the record. No appeals of a DNS, or the determination that an EIS is adequate, will be accepted. The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and the relief sought.

Appeals of the Hearing Examiner's recommendation shall be filed with the City Clerk by five (5:00) p.m. of the fourteenth (14th) calendar day following the date of issuance of the Hearing Examiner's recommendation. When the last day of the request period so computed is a Saturday, Sunday or federal or City holiday, the request period runs until five (5:00) p.m. on the next business day. The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought.

2

FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Application of

NEAL THOMPSON (for Ezra Teshome)

for a contract rezone of property addressed as 1222 East Pine Street

CF 309451

DPD Project No: 3007044

Introduction

The applicant, on behalf of property owner Ezra Teshome, seeks a contract rezone from Neighborhood Commercial 3 Pedestrian with a 40-foot height limit (NC3P-40) to NC3P with a 65-height limit.

The public hearing on this application was held on February 8, 2010, before the undersigned Deputy Hearing Examiner. The Director's SEPA determination on the proposal was not appealed. Represented at the hearing were the Director, Department of Planning and Development (DPD), by Bradley Wilburn, Land Use Planner, and the applicant, Ezra Teshome, by Neal Thompson, architect. The Examiner viewed the site on February 8, 2010.

The record was reopened on February 18, 2010, to receive additional information from the parties. The parties responded by February 22, 2010, the information was added to the record, and the record was closed at that time.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code"), as amended, unless otherwise indicated. After due consideration of the evidence elicited during the hearing, the following shall constitute the findings of fact, conclusions and recommendation of the Hearing Examiner on this application.

Findings of Fact

Site and Vicinity

1. The subject site is addressed as 1222 East Pine Street, and is bounded by East Pine Street to the South, 13th Avenue East to the east, and by other properties to the west and north, in the Capitol Hill neighborhood. The site consists of two parcels which have a combined size of approximately 15,360 square feet.

2. The site is currently developed with a two-story building built in 1901. The building is owned by the applicant, Ezra Teshome, who also operates his insurance

business out of this building. The building has a footprint of 4,000 square feet and has three levels. A commercial parking lot is also located on the site, with space for 35 vehicles. There is no alley. The site is accessed by two curbcuts; one on East Pine Street Street, and one on 13th Avenue East.

3. At this location, 13th Avenue East has a 66-foot right-of-way. East Pine Street is a secondary arterial. East Pike and East Madison are nearby arterials providing direct access to major thoroughfares and downtown.

4. The site is served by Metro routes 8 and 43 along East Pine. Two blocks south of the site, on East Madison, Metro routes 11 and 12 serve routes to downtown. Four blocks west is the site of the Sound Transit Link Light Rail Capitol Hill Transit station, which is scheduled to open in 2016.

5. The property is zoned Neighborhood Commercial 3 Pedestrian with a 40-foot height limit (NC3P-40). The property is located within the Pike/Pine Urban Center Village, and is within the Pike/Pine Conservation Overlay District.

6. The Landmarks Preservation Board has reviewed information submitted by the applicant and has concluded that the building would not meet the standards for designation as a landmark.

7. The site is not within a shoreline area and is not mapped as an environmentally critical area. The lot slopes downward approximately 10 feet from its northeast corner to the southwest corner.

8. The abutting property to the west is zoned NC3P-65, as are properties across East Pine Street to the south, both of which are within a larger area of NC3P-65 zoning in the area. Immediately to the north of the site, the zoning is Multifamily Lowrise 3 (L-3). East across 13th Avenue East, there is a band of NC3P-40 zoning extending along East Pine Street for a block and half; this band of NC3P-40 zoning is surrounded by NC3P-65 and L3 zoning.

9. The development in the vicinity includes a City of Seattle Fire Department station directly across 13th Avenue East from the site, a two-story apartment structure to the north, and a two-story structure to the west. Other development in the vicinity includes commercial uses to the west and south, including restaurants, retail, and surface parking. Many of the existing buildings in the NC3 zone adjacent to the site are not developed to the Code-allowed height. Further to the west along East Pine Street are Cal Anderson Park and Seattle Central Community College. The future Capitol Hill Link Light Rail Station is located four blocks west of the site.

Zoning history

10. With the adoption of Ordinance 112777 in 1986, several changes were made to the zoning in this area. The site had been zoned Commercial General (CG) with a 60-

foot height limit until 1986. The 1986 ordinance changed the zoning to NC3-40. The western half of the same block, which had been CG with a 60-foot height limit, was rezoned to NC3-65. The Lowrise 3 zone in the remaining portion of the block (i.e., to the north of the site) was left unchanged.

11. At the same time, the CG zoning in the block between 13th and 14th on East Pine (east of the site) became NC3-40. The block between 14th and 15th Avenues on East Pine also was rezoned, with the CG zoning changed to NC3-40. The Business Commercial (BC) zone with a 60 foot height limit was changed to NC3-65. The legislative history does not identify a reason for the reduction in height that occurred with the passage of Ordinance 112777.

12. As noted above, the site is within the Pike/Pine Conservation Overlay District. During the pendency of this application, Ordinance 123020 was enacted (in 2009). The ordinance removed the site along with other properties from the Capitol Hill Station Area Overlay District. The ordinance also expanded the boundaries of the Pike/Pine Overlay District and renamed it the Pike/Pine Conservation Overlay District, and added a "P" (Pedestrian) suffix to the zoning designation.

13. The Comprehensive Plan sets a residential growth target for this Urban Center Village of 600 households by year 2024, a density increase to 26 households per acre over the baseline of 21 households per acre. The Director's report notes that, according to a 2003 report, this urban village has reached 63 percent of its targeted growth.

Neighborhood Plans

14. The project is located within the planning area of the Pike/Pine Urban Village Neighborhood Plan, which was adopted as part of the City's Comprehensive Plan through Ordinance 119413. The Pike/Pine Conservation Overlay District provides requirements which are codified in Chapter 23.73 SMC.

Proposal

15. The proposed contract rezone would change the height designation from NC3P-40 to NC3P-65. The applicant seeks the height change to allow redevelopment of the site with a six-story mixed-used building. The building would include five floors of 75 apartment units consisting of 50 studio units, 10 one-bedroom units, and 15 two-bedroom units. The applicant intends to market the residential units to students and staff of Seattle Central Community College and Seattle University.

16. The first floor will house commercial office or retail uses. The proposal also includes below-grade parking for 70 vehicles, to be accessed from 13th Avenue East near the northeast corner of the site. Street trees and other pedestrian amenities are proposed as described in the plans in the record.

17. With a 65-foot height limit, the applicant proposes 30 additional residential units than would be permitted under the current zoning height limit. Because of the sloping topography at the site and bonuses allowed by the Code, a 65-foot height limit would allow the project to achieve a planned height of approximately 70.41 feet to the rooftop from the lowest elevation grade along the East Pine Street frontage. A stair and elevator penthouse would extend an additional nine feet. Upper level setbacks and modulation are proposed (see design review discussion below, and Director's Report and Analysis, page 35). Above the building's 13-foot concrete base, 44 percent of the proposed structure would set back approximately 15 feet from the north property line which is shared with the L-3 zone; the remaining 56 percent of the structure would step back 24 feet from the north property line.

18. The applicant submitted traffic and parking impact analyses, which were reviewed by the Director. The project would generate 18 net new AM peak hour trips, and 23 net new PM peak hour trips. The project would not generate traffic that would significantly affect levels of service at surrounding roadway intersections. The applicant's parking analysis estimates that the project would generate a peak parking demand of 91 stalls. Of this total, the peak demand for 16 stalls for the office use would occur during workday hours, while the peak residential demand for residential for 75 stalls would occur between midnight and 5 a.m.

19. The Code does not require off-street parking for this project, although Seattle Department of Transportation (SDOT) has determined that on-street parking utilization in the vicinity of the site is at capacity. Also, the City's SEPA policies do not include authority to mitigate for residential parking impacts within the Pike/Pine Urban Center Village. In any event, given the lack of overlap between peak demand periods, and the availability of alternate transportation modes, the Director's SEPA analysis concluded that the proposed on-site parking is sufficient to meet the project's parking demand. The applicant has also proposed to provide free one-time, six-month transit passes to the first tenant in each unit, to encourage transit use by residents.

20. Seattle Public Utilities issued a certificate of water availability for the project on July 24, 2009.

Design review

21. The project was reviewed by the Capitol Hill/First Hill Design Review Board, which held an initial Early Design Guidance meeting in December 2004. The Board convened meetings during the next several years to review the applicant's proposal as it was revised in response to the Board's direction. Changes to the design included elimination of the existing curbcut on Pine Street, massing and modulation changes to lessen the impacts of bulk and scale on the adjacent residential zone, an increased depth in the commercial space along East Pine, a strong vertical presence at the corner of 13th and East Pine, and pedestrian-oriented features (such as a covered pedestrian entry and street trees). At its March 2009 meeting, the Board recommended approval of the design and three departures, as described in the Director's report at page 30.

22. The Director granted design review approval in accordance with the recommendations of the Board, concluding that the proposal was consistent with the Pike/Pine Urban Center Village Design Guidelines and the Design Review Guidelines for Multifamily and Commercial Buildings. The conditions of approval are set forth in the Director's Analysis at pages 38-39. The Director's design review decision was not appealed.

23. The Director also reviewed the proposal pursuant to SEPA, and issued a DNS on the proposal, with conditions. The Director's SEPA decision was not appealed.

24. The applicant submitted information (see February 4, 2010 letter from applicant to DPD) and updated drawings at hearing which reflect the conditions imposed by DPD in its MUP decision.

25. DPD has reviewed the proposed contract rezone and recommends that it be approved. The Director's Analysis and Recommendation recommends that the contract rezone be approved subject to a Property Use and Development Agreement (PUDA) that limits the structure to the approved design.

Public comments

26. DPD received five comment letters supporting the proposed rezone. The Hearing Examiner received a comment letter from the owner of the apartment building to the west of the site, stating his support for the rezone, and one person at hearing testified in support of the rezone (other people declined to testify but indicated that they were in support of the rezone). Public comments were also submitted to DPD and the Design Review Board during the review of the proposed project design, which are summarized in the Director's report and analysis.

Codes

27. SMC 23.34.004 addresses the use of contract rezones, and authorizes the Council to approve a map amendment *"subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to 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."*

28. SMC 23.34.007 provides that "*In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions.*" The section also states that *"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.*

29. SMC 23.34.008 states the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers, boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; and the presence of overlay districts or critical areas.

30. SMC 23.34.009 provides that *"Where a decision to designate height limits in Neighborhood 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,"* additional criteria should be considered. The criteria address the zone function, the topography of the area, the height and scale of the area, the compatibility with the surrounding area, and height recommendations or requirements imposed by neighborhood plans.

Conclusions

1. The Hearing Examiner has jurisdiction to make a recommendation on the proposed contract rezone to City Council, pursuant to SMC 23.76.052.

2. Several Code criteria apply to the proposed contract rezone, including the general rezone criteria, and change in height in a commercial zone; the proposal does not involve a designation of a new commercial zone subject to SMC 23.34.072. Under SMC 23.34.007, the rezone provisions are to be weighed and balanced to determine the appropriate zone designation, and none of the criteria are to be applied as absolute requirements.

3. The general rezone criteria are set forth in SMC 23.34.008, with the first criterion addressing zoned capacity within an urban village. The proposed rezone to a 65-foot height limit would allow the creation of 30 additional residential units at this site. The rezone would not reduce zoned capacity below 125 percent of the growth target for the Pike/Pine Urban Center Village. The zoned capacity on this individual site would exceed the target density (26 households per acre) for the urban village area as a whole, contributing to attainment of the target densities within the urban village.

4. Match between zone criteria and area characteristics. Under this criterion, the most appropriate zone designation is 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. In this case, the underlying zone, NC3P, remains unchanged and continues to match the area characteristics.

5. Zoning history and precedential effect. The site and much of the surrounding area were zoned Commercial General with a 60-foot height limit prior to 1986, when the site was zoned NC3-40 while other sites were designated with a 65-foot height limit. The zoning history in the record does not show why specific properties were included or excluded from the NC3-40 zone, although the location of the L3 zones suggests that the NC3-40 zones were located to buffer the L3 zones from the NC3-65 zones. The granting

of this rezone request may have a precedential effect, in that NC3P-40 properties to the east may seek similar height rezones to match the surrounding NC3P-65 zone. This site can be distinguished from those properties, however in that this site is physically separated from the rest of NC3P-40 zone, and adjoins other NC365 properties that front on East Pine Street.

6. Neighborhood plans. The site is within the area covered by the Pike/Pine Neighborhood Plan, adopted by the City Council. The Pike/Plan Neighborhood Plan does not identify this site as one required to be rezoned. The proposed rezone would be generally consistent with certain Plan policies, including P1 (encouraging new housing and a pedestrian-oriented environment) and P11 (promoting development of new housing units through development review). The rezone would increase the number of residential units that could be built on this site, while also encouraging development of commercial and retail uses along East Pine Street.

7. P37 calls for the reduction of car ownership of residents to minimize parking demand. The project would create new on-site underground parking stalls, a net increase of 35 spaces at the site (a total of 70 spaces for 75 units) although new residents at this project will be given transit passes to encourage ridership. The new housing would be within walking distance of the community college, the planned transit station, further lessening the project's impacts on on-street parking.

8. General zoning principles. The impact of more intensive zones on other zones must be considered, and a gradual transition between height limits is preferred. The western half of the block is already in NC3P-65 zoning, as are several blocks to the south and west. The increased height at this site would mean that both sides of East Pine Street would have a 65-foot height at this location. 13th Avenue East and its 66-foot right-of-way width would provide an adequate buffer for the NC3P-40 properties east across 13th Avenue East. The City Fire Department station directly across 13th from the site also provides transition to other properties further east. The L-3 zoned property to the north would likely be most affected by the height change, although these properties are already adjacent to NC3P-65 properties, a situation that is not uncommon in the area (see Exhibit 3). The design approved by the Director includes upper-level setbacks (above its 13-foot concrete base, the building would be stepped back between 15 to 24 feet from the north property line) and landscape treatments, which were specifically developed to address impacts on the L3 properties. Given the project's design, as well as the fact that other NC3P-65 properties are in close proximity already, adequate buffering and transition appear to be provided by the proposed rezone.

9. There are no physical boundaries of the kind listed in SMC 23.34.008.E.2. The boundaries of the rezone would follow platted lot lines. The boundaries between commercial and residential areas would not be affected by the rezone, and this site would still face other commercially-zoned properties across 13th Avenue East and East Pine Street. The site is located in the Pike/Pine Urban Village Center, so meets the criterion that height limits greater than 40 feet should be limited to urban villages.

10. Impact evaluation. The proposal is to replace a two-story commercial building with 75 market-rate residential units, and ground floor commercial uses; no low-income housing is proposed. The service capacity in the area is adequate to serve the new development. The Director's SEPA analysis considered environmental impacts associated with the proposal, concluded there were no significant adverse impacts, and imposed conditions to address other adverse impacts. The effects of shadows from the taller building, and its bulk and scale, were also considered as part of the design review process. The vehicle entrance was moved to 13th Avenue East near the north property line, away from the East Pine Street frontage, in order to address pedestrian safety. The proposal includes warning devices and textured sidewalk to alert pedestrians to the presence of the driveway. The character of the surrounding area was considered as part of the design review process, and modifications were made to the original proposal, including location of entrances, façade, landscaping, commercial spaces, to ensure a better fit within this area of the Pike/Pine neighborhood. The proposed rezone is not expected to have any impact on manufacturing or employment activity in the area, and the site is not located in or near a shoreline area so as to affect views or access.

11. Service Capacities. The 30 additional housing units associated with the rezone would not impair street access to the area or street capacity in the area. The site is served be several Metro routes, and transit service in the area would not be exceeded by this proposal, and the project includes improvements to an adjacent bus stop. The 2016 opening of the Link Light Rail Capitol Hill station four blocks will add more service capacity to the area. On-street parking capacity in the area is nearly completely utilized, but because the project provides 70 off-street parking spaces, it is not anticipated to affect the parking capacity in the neighborhood. Utility and sewer services are adequate to serve this project. Shoreline navigation will not be affected by this rezone, which is not located in or near a shoreline area.

12. Changed circumstances. Under SMC 23.34.008.G, changed circumstances are not a requirement for a rezone, but relevant changes in circumstance are to be considered. There are no changed circumstances here that necessitate the rezone, although the applicant has cited the proximity of the planned light rail station which would serve residents of the proposed project.

13. Overlay Districts. The site is within the Pike/Pine Conservation Overlay District. The stated intent of the District is to encourage and enhance the balance of residential and commercial uses, by encouraging residential development and discouraging large, single-purpose commercial development. The rezone would allow additional residential units to be constructed within a mixed-use building that has been designed to enhance pedestrian use of East Pine Street.

14. Critical areas. There are no critical areas on the site.

15. The designation of height limits in the NC3 zone is subject to the criteria in SMC 23.34.009, in addition to the general criteria of SMC 23.34.008. These criteria address the function of the zone, topography, height and scale of the area, compatibility with

surroundings, and neighborhood plans. The 65-foot height limit proposed here would be consistent with the type and scale of development for NC3. Development to the south and west has been developed to NC3P-65 standards. The project would not displace preferred uses and would provide new housing, including housing for students attending nearby institutions, and commercial services along this stretch of East Pine Street.

16. Topography. The site is located near the crown of Capitol Hill, with views west to downtown. Under the proposed 65-foot height limit, the site would have the same height limit as properties to the west and south; while development of this site would potentially affect views from properties located across 13th Avenue East, the potential for view blockage already exists on account of the existing NC3P-65 zoning. The views from the adjacent L3 zone, which has a 30-foot height limit, will not suffer increased view blockage as a result of a 65-foot limit instead of a 40-foot, height limit.

17. Height and scale of area. The existing height limits in the area include the 65-foot heights of the large NC3P-65 zone to the west and south, the 30-foot height limit of the L3 zone to the north, and the 40-foot height limit in the band of NC3P-40 zoning to the east across 13th Avenue East. The proposed height of the applicant's building would be comparable to and compatible with the height and scale of development in the NC3P-65 zone further west along East Pine. The design of the building has been adjusted to create compatibility with the existing L3 development to the north. To some extent, existing development in this area is not a reliable measure of the area's overall development potential. Much of the existing commercial and multifamily development in the area has not yet been built out to development standards, so the project would appear taller than other development in the area which is zoned with a 65-foot height limit.

18. Compatibility with surrounding area. The 65-foot height limit would be compatible with other zoned height limits in the area. There are large areas of NC3P-65 zoning adjacent to and surrounding this site, and in many cases the NC3P-65 zone is located directly adjacent to an L3 zone or an NC3P-40 zone. The height of existing development ranges from older structures with one to four stories, but newer structures have been developed to full height limits and the proposed project would be compatible with newer development, and future redevelopment that is expected once the Link Light Rail Station is completed.

19. A transition in height and scale and activity to the L3 property to the north has been provided through design, including upper level setbacks, modulation and landscaping, and 13th Avenue East provides separation between the site and remaining band of NC3P-40 zoning across the street. Given that the L3 zone on this block is already adjacent to the NC3P-65 zone, the design measures for the project would create adequate transition for the nearby zones.

20. Neighborhood plans. The Pike/Pine Neighborhood Plan does not recommend a specific height limit applicable to this site, and does not require a height limit different from that which would be established under SMC 23.34.008 or SMC 23.34.009. The

planning and legislative history found in this record do not identify any legislative intent or policy that would apply specifically to this contract rezone request.

21. There are factors that favor granting the requested height increase and some which weigh against it. The increased height will have some impacts to views in the area, including the L3 zone to the north, but it appears that no substantial view blockage will result. The impacts of height, bulk and scale appear to have been mitigated through the design review process and the Director's design review decision. Also, given the proximity of other NC3P-65-zoned properties which presumably will be built to the height limit in the future, it is difficult to conclude that this rezone would substantially impair future views in the area.

22. The rezone would result in an NC3-65 zone adjacent to the L-3 zone, which is generally not preferred by the Code. However, the existing zoning in the area, including on this block, already presents a pattern of L3 and NC3P-65 zones abutting each other. It is not clear what buffering or transition function would be accomplished by retaining the NC3P-40 zoning for this site, as the site is separated from the rest of the NC3P-40 zone by 13th Avenue East, and is directly adjacent to other NC3P-65 sites to the west which front on East Pine Street.

23. As noted by the Director, the proposed height increase would eliminate the split zoning along the East Pine Street block front, and would have a potentially positive effect of encouraging redevelopment along this street on both sides. This effect would be consistent with neighbo rhood plan policies en couraging new housing and pedestrian access to commercial services. Unifying the block in this way is an important factor in favor of the proposed height increase. The project itself would be more consistent with policies regarding housing and pedestrian emphasis, than are the current office structure and surface parking lot. Upon weighing and balancing the criteria which apply to this rezone request, the proposed NC3P-65 designation is the most appropriate designation for the site. The proposed contract rezone should be approved with the conditions recommended by the Director.

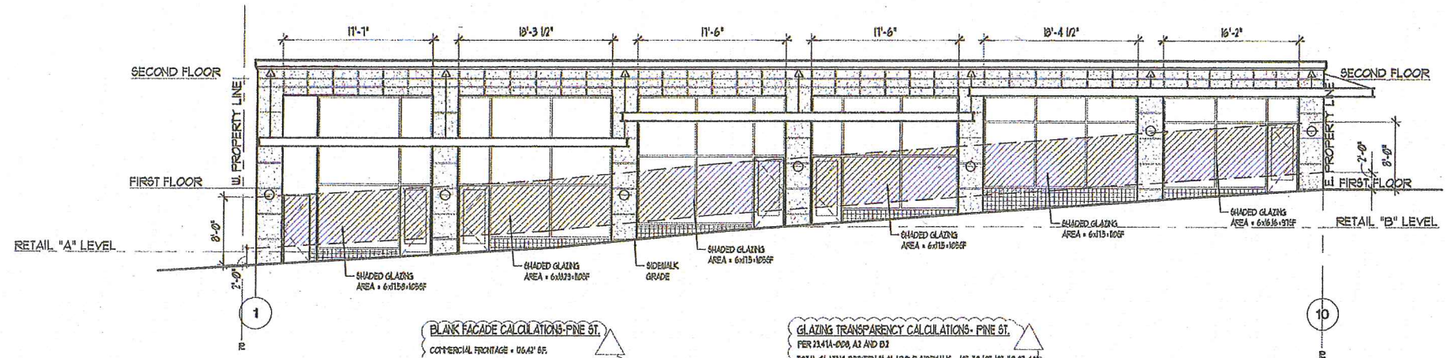
Recommendation

The Hearing Examiner recommends **APPROVAL** of the contract rezone with a PUDA subject to all conditions recommended by the Director.

Entered this 23rd day of February, 2010.

Anne Watanabe
Deputy Hearing Examiner

1



BLANK FACADE CALCULATIONS-PINE ST.

COMMERCIAL FRONTAGE = 126.42' SF.

BLANK FRONTAGE = 126.42'-(11.58+18.23+11.5+18.37+16.16)=71.62

BLANK FRONTAGE % = 71.62 / 126.42 = 56.6% (40% MAX)

GLAZING TRANSPARENCY CALCULATIONS- PINE ST.

PER 23.47A.008, A3 AND B3

TOTAL GLAZING BETWEEN 2'-8' ABOVE SIDEWALK = 169+169+169+169+169+151=837

COMMERCIAL FRONTAGE = 126.42' SF.

COMMERCIAL FRONTAGE BETWEEN 2'-8' ABOVE SIDEWALK GRADE = 6 x 126.42 = 758

GLAZING % = 837 / 758 = 83% GLAZING

South Elevation

North

SCALE: 1/8"=1'-0"

DATE: 06-10-2009
DRAWN: ST
CHECKED: RGN

△ 10/09/09 MYP REVIEW RESPONSE
△ 01/11/09 LAND USE CORRECTION
△ 06/10/09 REVISIONS PER DESIGN REVIEW

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A303

PROJECT NO.
0718
10/06/08

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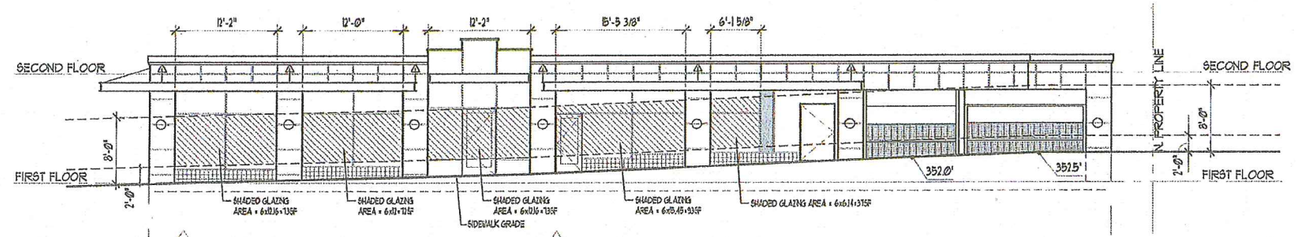


3 BLANK FACADE CALCULATIONS 13TH AVE.

COMMERCIAL FRONTAGE = 110.42-23 (DRIVEWAY) = 86.42' SF.

BLANK FRONTAGE = 86.42 - (12.16+12.16+15.43+6.34) = 38.53

BLANK FRONTAGE % = 38.53 / 86.42 = 38.9% (40% MAX)

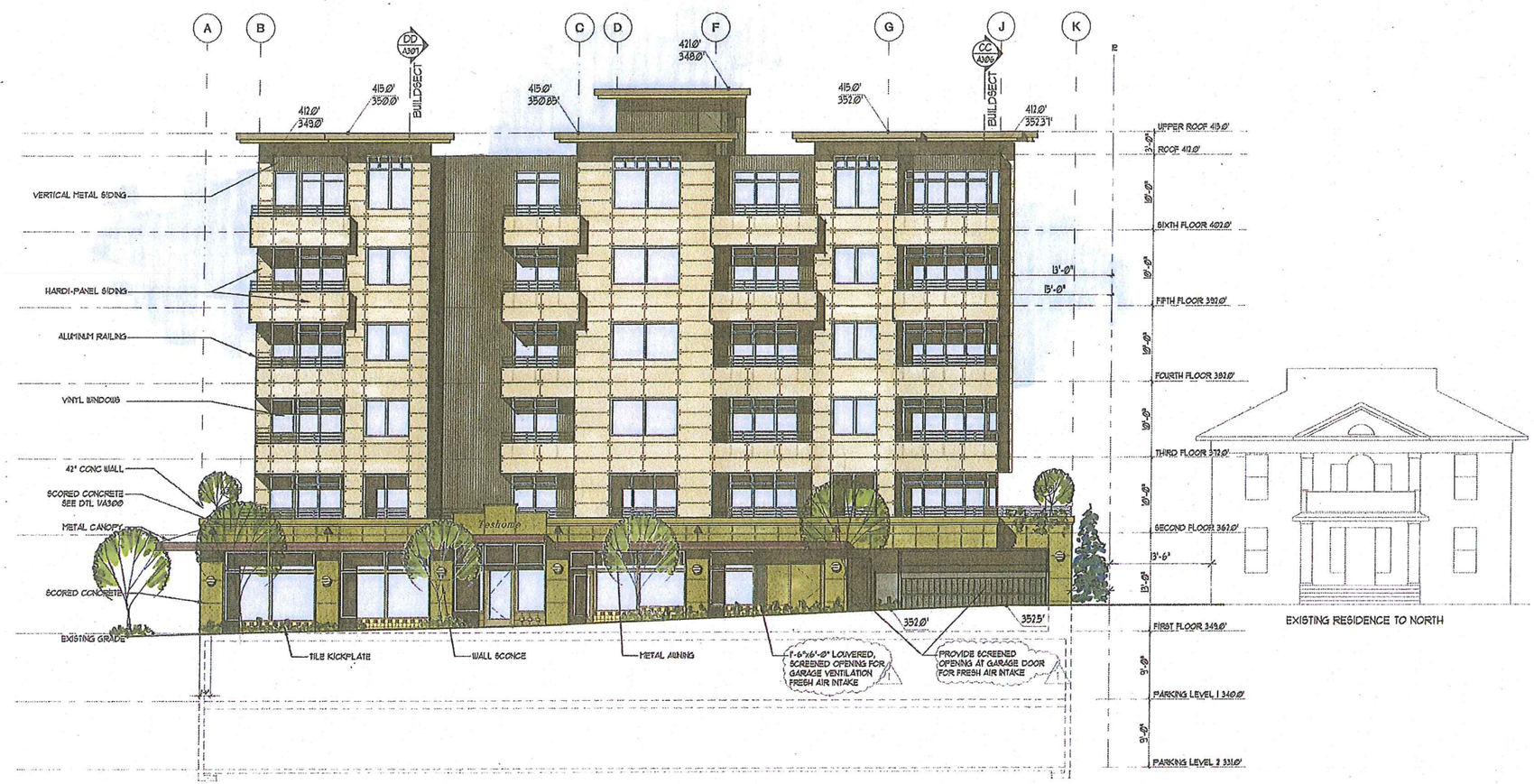
3 GLAZING TRANSPARENCY CALCULATIONS 13TH AVE.

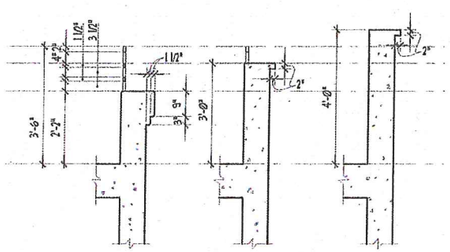
TOTAL GLAZING BETWEEN 2'-0" ABOVE SIDEWALK = 13+12+13+5.3+3.9=48SF

COMMERCIAL FRONTAGE = 110.42-23 (DRIVEWAY) = 86.42' SF.

COMMERCIAL FRONTAGE BETWEEN 1'-0" ABOVE SIDEWALK GRADE = 86.42 x 6 = 518

GLAZING % OF WALL AREA 2'-0" ABOVE SIDEWALK GRADE =48 / 518 = 8.0% GLAZING PROVD. (60% REQUIRED)





1 Cornice Detail
SCALE: 1/2" = 1'-0"

East Elevation

3

North

SCALE: 1/8"=1'-0".

DATE: 06-18-2009
DRAWN: ST
CHECKED: RJN

△ 10/06/08 HVP REVIEW RESPONSE
△ 01/17/09 LAND USE CORRECTION

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PROJECT NO. 0718
10/06/08

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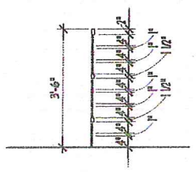

1 Metal Rail Detail
SCALE 1/2" = 1'-0"

3 North Elevation
SCALE: 1/8"=1'-0"

DATE 06-18-2008
DRAWN ST
CHECKED RN

△ 3 DPD/SDR MGR REVIEW RESPONSE
△ 2 ADDITIONAL DPD CORRECTIONS
△ 1 ADDITIONAL DPD CORRECTIONS
△ 0 DPD/SDR MGR REVIEW

ROGER H. NEWELL ARCHITECT AIA
Cell 425-292-7562

FACSIMILE
1001 NINETEENTH AVENUE EAST
SEATTLE, WASHINGTON 98112
(206) 323-0195

Ezra Teshome
13th and Pine
Seattle, WA

A301

PROJECT NO.
0718
10/06/08

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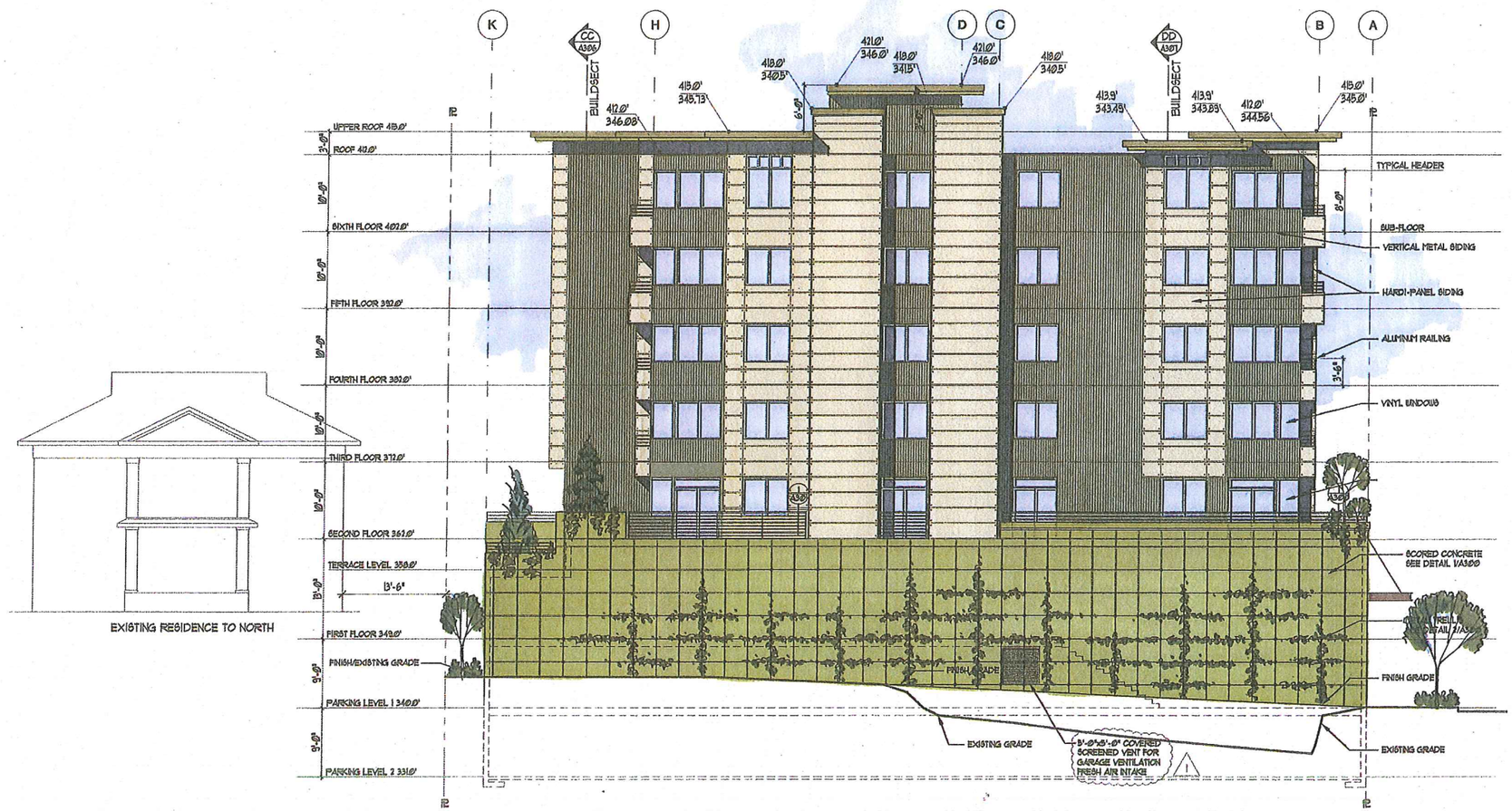


West Elevation

SCALE: 1/8"=1'-0"

ROGER H. NEWELL AIA ARCHITECT (206) 322-7982

FACSIMILE (206) 323-4261
1522 NINETEENTH AVENUE EAST
SEATTLE WASHINGTON 98112

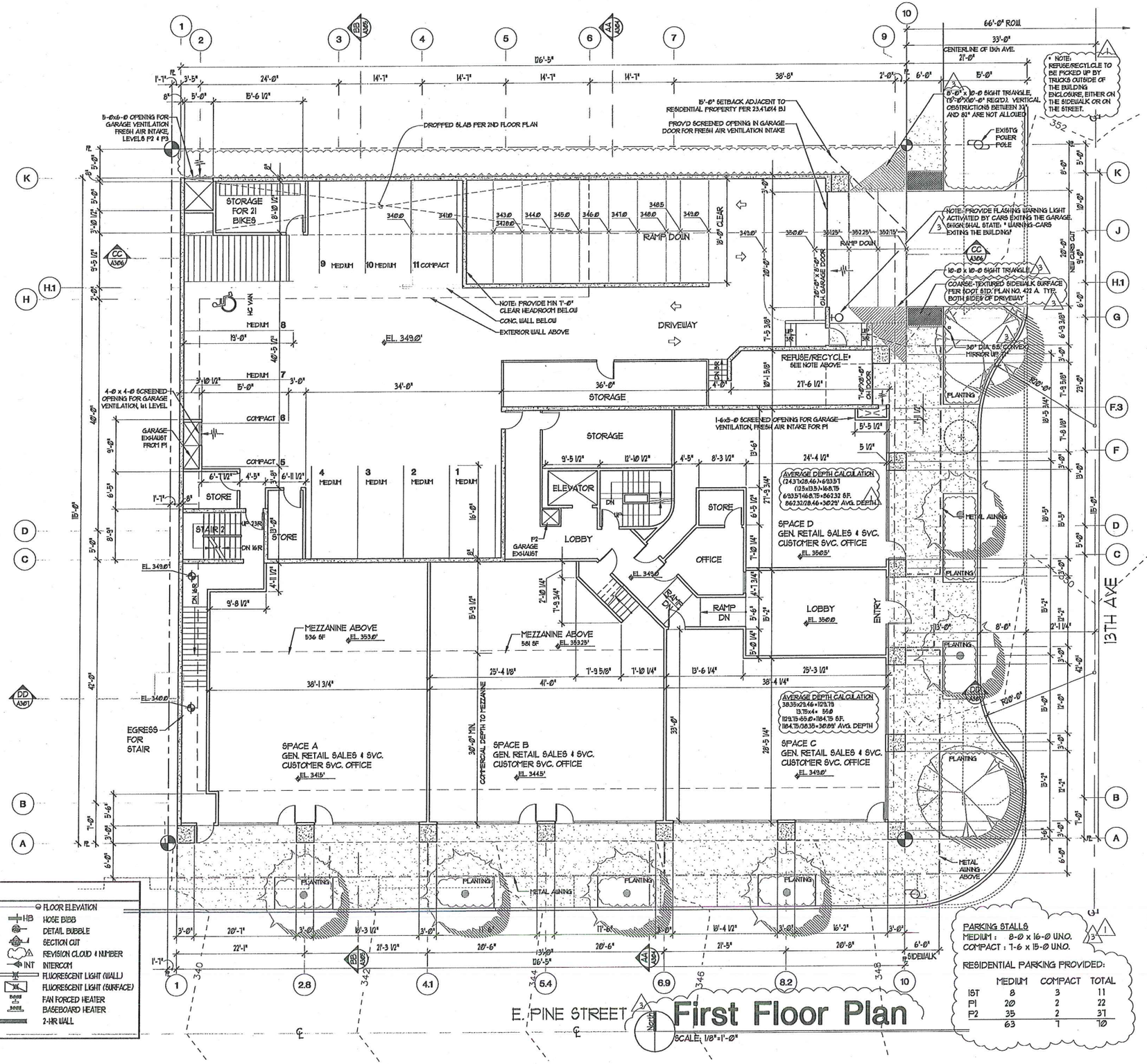
△1 DEPARTMENT REVIEW RESPONSE
△2 ENTITLEMENT LAND USE CORRECTION
△3 ENTITLEMENT LAND USE RESPONSE
△4 MADA REQ. TO STREET FRONTS, PER SDCI

DATE: 06-05-2009
DRAWN: ST
CHECKED: RHN

Ezra Teshome
13th and Pine
Seattle, WA

A302

PROJECT NO. 0718
10/06/08



First Floor Plan

PARKING STALLS
MEDIUM : 8'-0 x 16'-0 U.N.O.
COMPACT : 7'-6 x 15'-0 U.N.O.

RESIDENTIAL PARKING PROVIDED:

	MEDIUM	COMPACT	TOTAL
1ST	8	3	11
P1	20	2	22
P2	35	2	37
	63	7	70

LEGEND

	EXIT SIGN & DIRECTION		OUTLET 210V		FLOOR ELEVATION
FAN	90CFM VENTILATION FAN		LIGHT FIXTURE (SURFACE)	HB	HOSE BIBB
	FIRE EXTINGUISHER	R	LIGHT FIXTURE (RECESSED)		DETAIL BUBBLE
A	FIRE ALARM	R-LV	(RECESSED LOW VOLTAGE)		SECTION CUT
SP	STANDPIPE (1CLASS)		LIGHT FIXTURE (WALL)		REVISION CLOUD & NUMBER
	SLOPE		EMERGENCY LIGHT (WALL)	INT	INTERCOM
FD	FLOOR/YARD DRAIN	SD	SMOKE DETECTOR		FLUORESCENT LIGHT (WALL)
5	WINDOW TYPE	P	TELEPHONE OUTLET		FLUORESCENT LIGHT (SURFACE)
B	DOOR TYPE	TV	TELEVISION OUTLET		FAN FORCED HEATER
D-3	SWITCH (DIMMER/POLES)		STAKE		BASEBOARD HEATER
	OUTLET 120V		PROPERTY LINE		2-HR WALL
	OUTLET 210V (CEILING/FLOOR)		BUILDING GRID		

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1 DEPARTMENT REVIEW RESPONSE 09/11/09
2 CITY LAND USE CORRECTION 09/30/09
3 REVISIONS PER DESIGN REVIEW 10/14/09
4 MINOR REVS TO STREET PROVIDED PER SDOT

DATE: 06-10-2008
DRAWN: ST
CHECKED: RJN

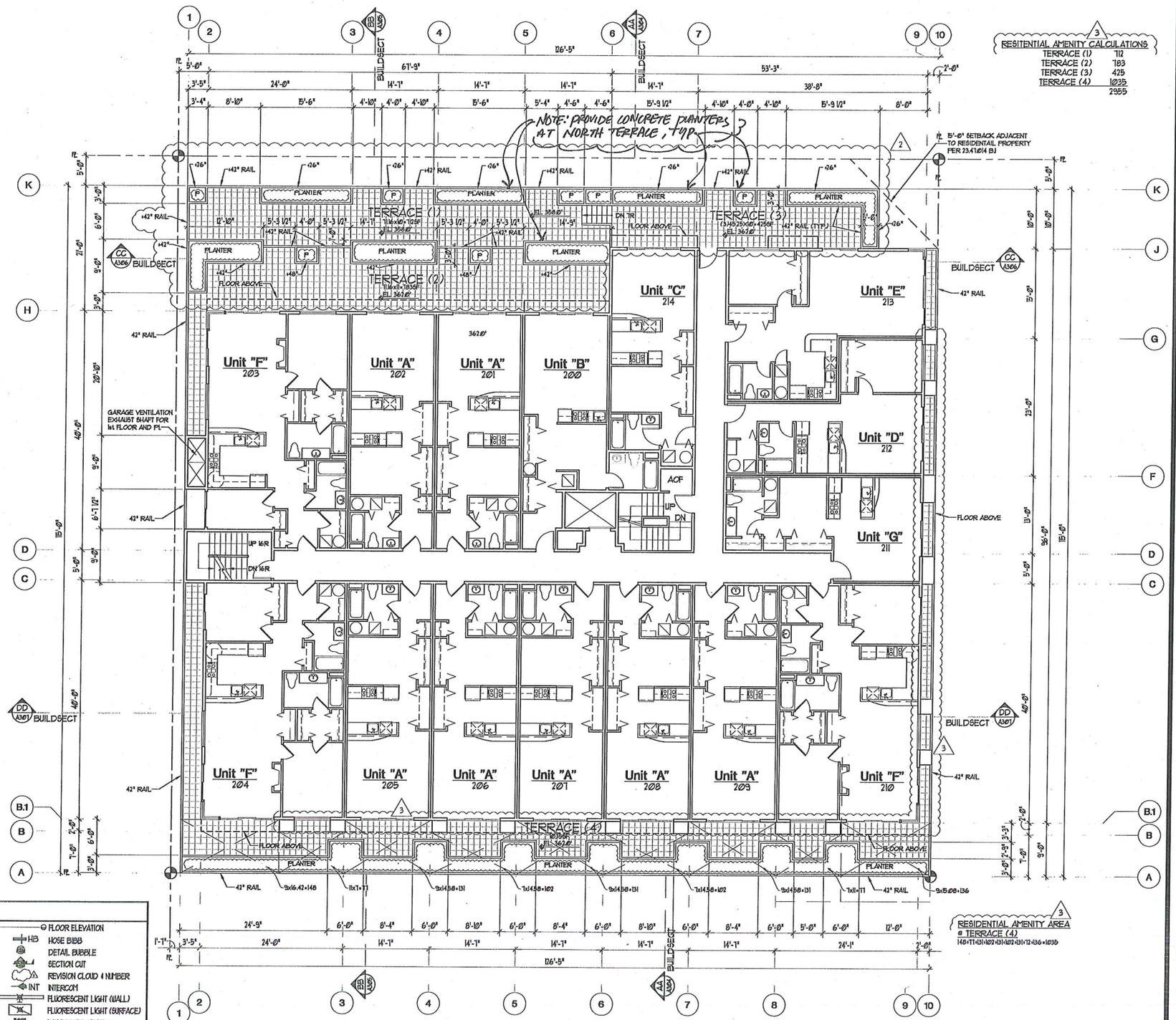
ROGER H. NEWELL ARCHITECT (206) 323-0382

AJA ARCHITECTS (206) 323-4261 1122 EAST PINE STREET SEATTLE, WASHINGTON 98122

Ezra Teshome
13th and Pine
Seattle, WA

A203

PROJECT NO. 0718
10/06/08



RESITENTIAL AMENITY CALCULATIONS

TERRACE (1)	112
TERRACE (2)	183
TERRACE (3)	425
TERRACE (4)	1035
	2955

RESIDENTIAL AMENITY AREA @ TERRACE (4)
148+171+131+102+131+102+131+72+136+1035

LEGEND

EXIT SIGN & DIRECTION	OUTLET 210V	FLOOR ELEVATION
FAN 350CFM VENTILATION FAN	LIGHT FIXTURE (SURFACE)	HB HOSE BIBB
FIRE EXTINGUISHER	LIGHT FIXTURE (RECESSED)	DETAIL BUBBLE
FA FIRE ALARM	R-LV (RECESSED LOW VOLTAGE)	SECTION CUT
SP STANDPIPE (1CLASS)	LIGHT FIXTURE (WALL)	REVISION CLOUD & NUMBER
SLOPE	EMERGENCY LIGHT (WALL)	INT INTERCOM
FD FLOOR/YARD DRAIN	SD SMOKE DETECTOR	FLUORESCENT LIGHT (WALL)
5 WINDOW TYPE	P TELEPHONE OUTLET	FLUORESCENT LIGHT (SURFACE)
B DOOR TYPE	TV TELEVISION OUTLET	FAN FORCED HEATER
D-3 SWITCH (DIMMER/POLES)	STAKE	BASEBOARD HEATER
OUTLET 120V	PROPERTY LINE	2-HR WALL
OUTLET 210V (CEILING/FLOOR)	BUILDING GRID	

Second Floor Plan

SCALE: 1/8"=1'-0"

DATE 04-20-2009
DRAWN ST
CHECKED RJN

1 INTERIM DPD REVIEW RESPONSE
2 EDITING LAND USE CORRECTION
3 EDITING REVISIONS PER DESIGN REVIEW
4 MINOR REVS TO STREET PROVISIONS PER SDOT

ANDERSEN-HOWELL ARCHITECT (206) 322-4262
FACSIMILE 102 NORTH ALASKA STREET SEATTLE WASHINGTON 98102

Ezra Teshome
13th and Pine
Seattle, WA

A204

PROJECT NO. 0718
10/26/08

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