FINDINGS, CONCLUSIONS AND DECISION OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of:	)	C.F. 311813
	)	
Application of R.C. Backer and Aegis Living for a contract rezone of approximately 12,800 square feet of land at 225 West Galer Street from Neighborhood Commercial 2 with a 30 foot limit (NC2-30') to Neighborhood Commercial 2 with a 40 foot limit in height (NC2- 40'), to construct a 48,000 square foot, four-story 57 unit assisted living facility, to include 21 parking stalls in a below grade garage. (Project No. 3012582, Type IV).	)	FINDINGS, CONCLUSIONS AND DECISION

Introduction

This matter involves the petition of R.C. Backer and Aegis Living for a contract rezone of 225 West Galer Street. The site, depicted on Attachment A, is approximately 12,800 square feet. The proposal is to rezone the site, by changing the mapped height limit, from Neighborhood Commercial 2 with a 30 foot height limit (NC2-30) to NC2 with a 40 foot height limit (NC2-40) The contract rezone will allow the construction of a 4 story, 57 unit assisted living facility (that can accommodate a total of 60 beds) and includes a 507 square foot retail space, an on-site loading space, and 21 parking spaces in a below grade garage.

On January 7, 2013, the Director of the Department of Planning and Development (DPD) recommended approval of the proposed rezone and proposed development. On February 19 and 22, 2013, the City of Seattle's Hearing Examiner held an open record hearing on the petition, including an appeal of the Design Review and environmental review (SEPA) determination for the proposed development. On March 13, 2013 the Hearing Examiner issued Findings and

Recommendations recommending approval of the rezone, with conditions. The Hearing Examiner also issued a decision that affirmed DPD's decision on the SEPA determination and Design Review decisions (Hearing Examiner File MUP-13-001).

On May 8, 2013, the matter came before the Planning, Land Use, and Sustainability Committee (PLUS), which reviewed the Hearing Examiner's record and exhibits. At their May 22, 2013 committee meeting, PLUS voted to approve the rezone and adopted these Findings, Conclusions and a Decision for this Clerk's File, and reviewed a draft Ordinance (Council Bill 117794) to change the City's Official Land Use Map.; both matters were referred to full Council for a vote. PLUS also approved an amendment to the title of the Clerk's File, which is reflected in title of this document.

Findings of Fact and Conclusions

The Council hereby adopts the Hearing Examiner's Findings of Fact, Conclusions and Recommendation for C.F. 311813, dated March 13, 2013. All conditions in the Hearing Examiner's recommendation are adopted.

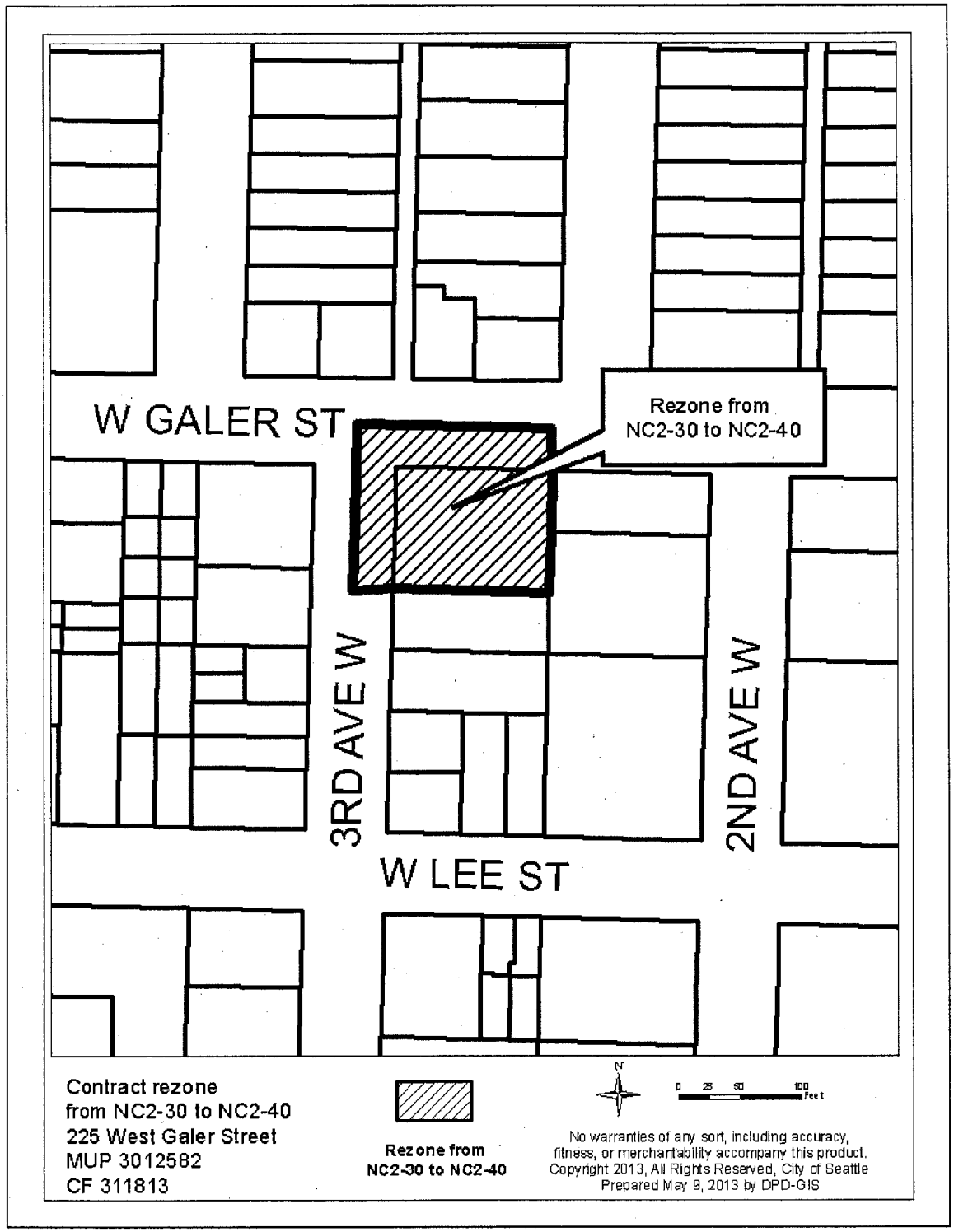
Decision

The Council hereby GRANTS a rezone of the properties from NC2-30 to NC2-40, as reflected in Attachment A, subject to the conditions set forth in the Property Use and Development Agreement (PUDA) attached to Council Bill 117794.

Dated this 3rd day of June, 2013.

_____
City Council President

ATTACHMENT A



Legislative Department
Seattle City Council
Memorandum

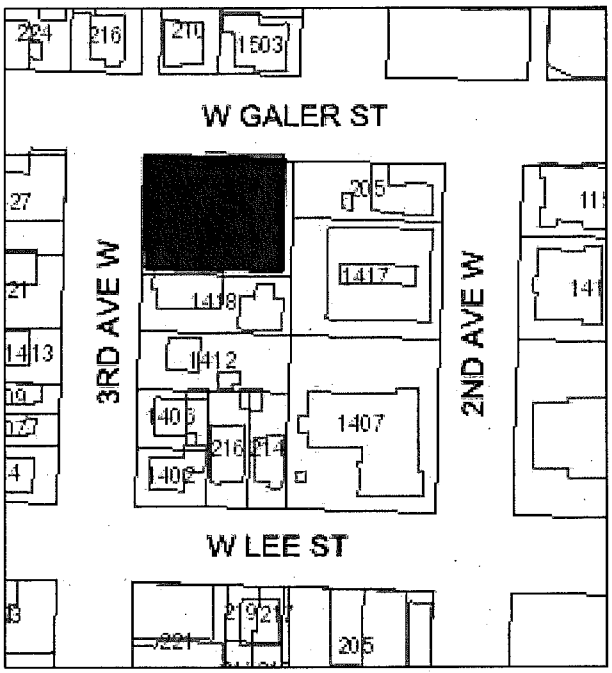
Date: May 6, 2013

To: Richard Conlin, Chair
Tim Burgess, Vice Chair
Mike O'Brien, Member
Planning, Land Use and Sustainability (PLUS) Committee

From: Michael Jenkins, Council Central Staff

Subject: Application of R.C. Backer for a contract rezone of approximately 12,800 square feet of land at 225 West Galer Street from Neighborhood Commercial 2 with a 30 foot limit (NC3-30') to Neighborhood Commercial 2 with a 40 foot limit in height (NC2- 40'), to construct a 27,000 square foot, three-story 48 unit assisted living facility, to include 18 parking stalls in a 21,000 sq. ft. of below grade area. (Project No. 3012582, Type IV).

1. Overview



R.C. Backer, on behalf of Aegis Living ("Proponent") proposes a contract rezone on a 12,800 square foot site at 225 West Galer Street in the Upper Queen Anne residential urban village. The site, reflected in the embedded map[1], is located at the southwest (S.W.) corner of 3rd Avenue West and West Galer Street.

The site is currently zoned Neighborhood Commercial 2 with a 30 foot height limit (NC2-30). If the request is approved, the site would be rezoned to NC2 with a 40 foot height limit (NC2-40). The rezone would allow the construction of a 4 story building that includes 57 assisted living residential units[2], a 507 square foot retail space and 21 below grade parking spaces. The site, currently developed with a one-story warehouse structure, would be demolished.

Both the Department of Planning and Development (DPD) and the Hearing Examiner find the proposal to be consistent with the City's rezone criteria and recommend approval of the rezone.

[1] The site is also known as 223 West Galer Street.
[2] A total of 60 beds could be accommodated

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 31375). 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 PLUS. 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 your review.

3. Materials from the Record Reproduced in PLUS Notebooks

I have provided copies of the following exhibits from the Hearing Examiner's record:

1. The Hearing Examiner's Recommendation (including the findings of fact and conclusions supporting the recommendation) (Attachment A);
2. DPD Director's Analysis and Recommendation[3] (Attachment B);
3. Relevant copies of project plans, renderings, and elevations[4] (Attachment C);
4. November 26, 2012 Parking Analysis memorandum (Attachment D)[5]; and
5. Hearing Examiner's decision on the appeal of Richard Gordon, Hearing Examiner's decision MUP-13-001 (Attachment E).

[3] Hearing Examiner's Exhibit 3
[4] Excerpts from Hearing Examiner's Exhibits 11-16
[5] Excerpts from Hearing Examiner's Exhibit 6

4. Summary of the record

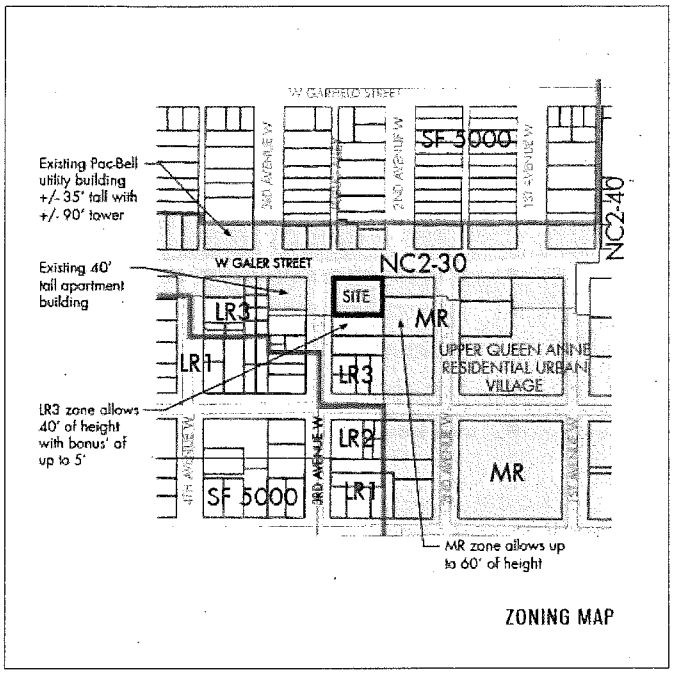
The Hearing Examiner recommended that Council **APPROVE** the rezone request, following a similar recommendation by the Department of Planning and Development (DPD), subject to recommended conditions.

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

A. Zoning history

The site has been zoned NC2-30 since the adoption of the 1986 zoning code.

B. Surrounding area



As reflected in the embedded map, the site is located within the Upper Queen Anne Residential Urban Village, approximately 1/2 block from its southwest edge. The properties in this area that face West Galer Street are zoned NC2-30. Properties abutting the rezone site to the south are zoned Lowrise 3 (LR3), a residential zone that allows apartment buildings of up to 40 feet in height. The areas to the south and west are developed with low scale multi family structures of up to 39 feet in height.

The site also abuts a Midrise (MR) zone on its east property line. The MR zone permits residential buildings of up to 60 feet in height outright, and up to 75 feet if development complies with the City's Incentive Zoning ordinance. Uses in this area include a variety of 5 and 6 story multifamily structures and a few minor institutions, including St. Anne's Church and School. A NC2-40 zone is located approximately 500 feet to the east along Queen Anne Avenue North and West Galer Street.

Properties across the street from the site along the north side of West Galer Street are also zoned NC2-30 and include small scale residential and mixed use buildings. A grocery store (Trader Joes) is located ½ block from the rezone site. Immediately north of these NC2-30 zoned properties is a Single Family 5000 zone.

The geography of the site and the abutting properties is relatively flat. Away from the rezone site, West Galer Street rises to the east approximately 20 feet over a three block area.

C. Project information

Attachment C includes a variety of drawings, photos and renderings showing details of the proposed project, the neighborhood context, and various drawings illustrating the difference between what is permitted in the existing and proposed zones.

If the rezone is approved, it would authorize the construction of a 4 story structure that includes 57 assisted living units and 21 below grade parking spaces. At the ground level, a 507 square foot retail space is proposed for the 3rd Avenue West and West Galer Street corner. A common dining room and living room for building residents is located along West Galer Street, along with the building entrance. Along 3rd Avenue West, the facility's kitchen is located at ground level, along with a screened loading space for the building's passenger shuttle. The driveway to the garage is located at the southwest corner of the building. The driveway and a related planting area are located between the south property line and the structure; at ground level there is a 15 foot setback from the structure to the property line while the upper floors are setback approximately 7 feet.

In addition to the enclosed living and dining room, the project includes a roof top garden and a south facing 2nd floor deck. Ground level plantings will also be provided as well as a 12 foot screen wall along the south property line to hide the garage ramp from view of the neighbors. Right of way improvements are also proposed that includes retention of an existing stand of mature cypress trees along 3rd Avenue West, street tree plantings along West Galer Street, and restoration of sidewalks and curbs.

D. Public comment

DPD received a significant amount of public comment throughout their review of both the rezones request and the meetings before the City's design review board. The comments in regard to the rezone generally opposed the request. For example, DPD received 75 emails between September 17 and 18, 2012 using a template that reiterated three specific concerns:

- The site should not be rezoned and doesn't meet either rezone criteria or the City's Comprehensive Plan
- The loading dock for the facility should be located along West Galer Street and not 3rd Avenue West
- Adequate parking for visitors and staff should be provided

These three points were also sent in another template email from around 22 people on August 31 and September 1

Additional public comments focused on the perceived loss of property value from the proposal, the traffic and parking impacts that would result from the development, safety concerns related to monitoring by the facility of its residents,[6] and other impacts of the use.

[6] The facility is designed to serve individuals with Altzhemiers and Dementia.

E. Summary of the Hearing Examiner's conclusions

1. Impact on zoned growth capacity:

General rezone criteria require an analysis of the effect of a rezone on zoned capacity. Zoned capacity is the amount of growth assigned to an urban center or village as part of the Comprehensive Plan. The Queen Anne Residential Urban Village has a growth target of 31 households per acre by 2024. The proposal would allow 57 assisted living residential units to be constructed on the site, serving up to 60 individuals. The Hearing Examiner found that these additional units support growth goals for the Upper Queen Anne Urban Village. While no information was provided as to how this development contributes towards this goal for this urban village, this .3 acre site will accommodate up to 60 individuals in the proposed development, thereby exceeding this goal for this site. Without the rezone, a development complying with the NC2-30 zone requirements could potentially accommodate approximately 43 individuals, still in excess of the stated growth target.

2. Relationship to neighborhood plans:

The Hearing Examiner noted that the adopted Queen Anne neighborhood plan does not include specific policies related to future rezones, nor does it identify specific sites or areas for rezones. The Hearing Examiner concluded that the proposed assisted living facility, which is a permitted use in an NC2 zone, broadens the range of housing choices (single family, multi-family, assisted living, etc) in this urban village. The Hearing Examiner noted several Queen Anne neighborhood plan goals and policies support the proposal, including

- Neighborhood Character (QA-G1, QA-P2)
- Human Service needs (QA-G4)
- Quality Design (QA-P3)
- Pedestrian oriented streetscapes (QA-P1)
- Urban-character enhancing improvements (QA-P40)
- Solutions to parking needs in business districts (QA-P44)

Neighbors opposing the project argued to the Hearing Examiner that the project is not consistent with the following Queen Anne neighborhood policies:

"Seek to alleviate parking problems in the Queen Anne Planning Area"(QA-P41)
"Seek to maintain and establish quality design in the Queen Anne neighborhood. Through neighborhood design guidelines and design review, consider unique or particular local design characteristics " (QA-P3).

On the issue of parking problems at or near the site, the Hearing Examiner concluded that the City's land use code[7] does not require parking for the facility, as the site is located within an urban village and is also located within ¼ mile of "frequent transit[8]". Attachment D to this report is a copy of the traffic study for the facility, required to meet the facility's

[7] Seattle Municipal Code Section 23.54
[8] Frequent Transit is defined in Seattle Municipal Code Section 23.84A and generally means that the service has a minimum of 15 minute headways during the daytime

environmental review (SEPA) requirements. The traffic study concluded that 24 parking spaces would be needed to address parking demand for the facility's staff, residents and visitors. While the facility only provides 21 parking spaces, the Hearing Examiner concluded that the 3 space parking deficit is adequately mitigated by the availability of approximately 150 parking spaces[9] during the day within 800 feet of the site, determined through a survey on surrounding streets.

On the issue of design quality the Hearing Examiner concluded that the project's design is consistent with the neighborhood plan. The project was subject to review by the City's Design Review Board to ensure compliance with the City's Design Review requirements and the neighborhood guidelines[10]. The Board concluded after 2 meetings that the project met the Citywide and neighborhood design guidelines and unanimously approved the design and its 7 related departures from development standards. This recommendation and DPD's approval was the subject of an appeal to the City's Hearing Examiner; the Hearing Examiner found that the project did comply with these guidelines (Attachment E).

3. Rezoning the property from NC2-30 to NC2-40 – height.

Because the rezone request is for a 10 foot increase in height, and no change in zone classification, the Hearing Examiner only considered the height increase and its impact nearby properties.

The proposal calls for increasing height on the site from 30 feet to 40 feet. The additional height would allow the construction of one additional floor containing 16 dwelling units. Height evaluation for rezones in SMC 23.34.009 requires an evaluation of 5 criteria. I have listed the criteria with a summary of the Hearing Examiner's conclusions:

A. Function of the Zone.

The Hearing Examiner concluded that the proposed 40 foot height limit was consistent with the scale of development anticipated for NC2 zones. The Hearing Examiner noted that the design of the project, its proximity to pedestrian oriented shopping areas along West Galer Street and Queen Anne Avenue North, and the use of the structure, were consistent with the height and scale of development anticipated for an NC 2 zone.

B. Topography of the Area and its Surroundings

The Hearing Examiner concluded that the site is located at the bottom of a series of grade changes to the east and west and is also located in a relatively flat area, with a slight grade change to the south. The Hearing Examiner concluded that these conditions, coupled with the proposed development, would not result in view blockages from the 10 feet in additional height.

[9] Of the 150 spaces that are available in the day time, 63 of these spaces are unrestricted and the remaining are subject to 2 hour time limits.
[10] Seattle Municipal Code Section 23.41

C. Height and Scale of the Area.
D. Compatibility with Surrounding Area.

The Hearing Examiner noted that the site abuts a LR3 zone to the south. The height limit for apartment buildings in LR zones is 40 feet, with additional height for rooftop equipment and building features. The Hearing Examiner noted that the site also abuts an MR zone, which allows for apartments up to 60 feet in height, also with allowances for rooftop equipment and features. The MR zone also allows for an additional 15 feet in height when buildings comply with the City's Incentive Zoning ordinance.[11] Finally, the Hearing Examiner noted that the facility is across the street from the Wimbledon Apartments, a 4 story apartment building built in the 1920's. The Hearing Examiner noted that the 3rd Avenue West façade facing the proposed development is approximately 39 feet in height.

The Hearing Examiner concluded that the proposed 40 foot height limit on this site would provide a gradual and appropriate transition to the NC2-30 zone across West Galer Street and to the adjacent LR and MR zones. The Hearing Examiner also noted that sites within the immediate area were likely to redevelop, given their current uses, the existing zoning designation, and their location in an urban village.

E. Neighborhood Plans.

The adopted Queen Anne neighborhood plan does not include recommendations for height in relation to rezones.

4. Impact evaluation

SMC 23.34.008.F.1 requires an analysis of impacts of the rezone. Extensive analysis was undertaken of the project's impacts. This included a determination that the project complies with the City's design review program and SEPA, including an analysis of the project's traffic and parking impacts. The community expressed significant concern about the traffic and parking impacts of the facility, in particular traffic impacts along 3rd Avenue West and impacts to the pedestrian network. The Hearing Examiner concluded that the project did adequately address traffic impacts along 3rd Avenue West, and for the project in general, noting that:

- When compared with the current development, PM peak trips would be *reduced* by approximately 11 trips;
- Trip volumes along 3rd Avenue West would generally be low (17 PM peak trips);
- Vehicle access would be located along 3rd Avenue West, which was also the Design Review board's preferred solution;
- Sidewalks along the project would be improved and widened
- Lighting and overhead weather projection would be provided along West Galer Street

[11] Seattle Municipal Code Section 23.58A

Most notably, there was concern about the proposed shuttle van movements entering and leaving the site from a loading zone; the loading zone also shares a curbcut with the entrance to the parking garage. While 3rd Avenue West is 66 feet wide, the roadway area is somewhat narrow and is constrained by existing on-street parking. Neighbors expressed concerned that adequate turning area be provided to ensure safe movement to and from the loading zone. While the traffic study concluded that the project provided safe turning movements from the proposed on-site loading space and the garage, a condition was developed (and agreed to by the developer) that onsite personnel would be provided when the shuttle, or any truck, uses the onsite loading space. It should also be noted that the on-site loading space would be screened with a decorative fence.

As discussed in Attachment E, community members appealed DPD's SEPA determination and design review approval to the City's Hearing Examiner. The Hearing Examiner concluded that DPD adequately analyzed and, where needed, mitigated the impacts of the rezone and the proposed development. The Hearing Examiner noted that while the community was frustrated by the process and the community's ability to participate in the way they had hoped, DPD did not err in its decision to approve the project and that DPD did consider the neighbors concerns in their review and decision making.

5. Recommendation

I recommend that PLUS move to **APPROVE** the rezone request and adopt the Hearing Examiner's findings, conclusions and decision.

I also recommend that you vote to change the title of the Clerk's File to reflect the scope of the project, as follows:

Application of R.C. Backer and Aegis Living for a contract rezone of approximately 12,800 square feet of land at 225 West Galer Street from Neighborhood Commercial 2 with a 30 foot limit (NC3-30') to Neighborhood Commercial 2 with a 40 foot limit in height (NC2- 40'), to construct a ((~~27,000~~)) 48,000 square foot, ((~~three-story~~)) four-story ((~~48~~)) 57 unit assisted living facility, to include ((~~18~~)) 21 parking stalls in a ((~~21,000 sq. ft. of~~)) below grade ((~~area~~)) garage. (Project No. 3012582, Type IV).

6. Next Steps

If the Committee recommends approval of the rezone, 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 PLUS for a vote prior to full Council review and vote.

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

In the Matter of the Application of

AEGIS LIVING

for a contract rezone of property addressed as 223 and 225 West Galer

CF 311813

DPD Project: 3012582

Introduction

The applicant, Aegis Living, seeks a contract rezone of 12,800 square feet of land from Neighborhood Commercial 2 with a 30-foot height limit, to Neighborhood Commercial 2 with a 40-foot height limit. The proposal is for a rezone to allow a four-story structure with 60 assisted living units (57 units are actually proposed with bed space for up to 60 people) located above 509 square feet of street level retail, with parking for 21 vehicles.

The public hearing on this application, and the hearing on an appeal of the Master Use Permit decision (MUP) for the project, were held on February 19 and 22, 2013, before the undersigned Deputy Hearing Examiner. A separate decision on the MUP appeal has been issued this day. Represented at the rezone hearing were the Director, Department of Planning and Development (DPD), by Colin Vasquez, Senior Land Use Planner; and the applicant, by Jessica Clawson, attorney at law. The record on the contract rezone application was held open after the hearing for purpose of the Examiner's site visit, which occurred on March 1, 2013.

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 site is a 12,800-square-foot lot which is addressed in the file as 223 and 225 West Galer Street. The site is located southeast of the intersection of West Galer and 3rd Avenue West, in the Queen Anne neighborhood.

2. The site is currently developed with a one-story structure that was most recently utilized as a commercial warehouse with offices (the building was apparently vacated some time prior to hearing). A row of tall mature cypress trees borders the west side of the site, adjacent to 3rd Avenue West.

A

3. Directly east of the site is a service garage with a surface parking lot. To the west, across 3rd Avenue West, is the Wimbledon Co-op, a multifamily structure with four levels (three stories over a basement level) at a height of approximately 39 feet. To the south are multifamily structures and single family structures, including a five-story SHA structure on the same block within the MR zone. Along West Galer near this location are several commercial or retail uses, including restaurants and a Trader Joe's store. A 90-foot communications monopole is located to the west and north.

4. The site is zoned Neighborhood Commercial 2 with a 30-foot height limit (NC2-30) and is within the Upper Queen Anne Residential Urban Village. The site is located in a corridor of NC2-30 zoning that lies along either side of West Galer. To the east and south of southeast of the site, the zoning is Midrise (MR), which allows a maximum height of 75 feet. The zoning southwest of the site is Lowrise 3 (LR3), which allows up to 40-foot height for multifamily (except for cottage housing, rowhouses or townhouses, and portions of lots within 50 feet of a single family zone in which case a 30-foot height limit applies) an additional five feet in height is allowed for a pitched roof. The zoning further south and west is LR1, Single Family 5000 (SF 5000) and LR2; the zoning to the north of West Galer is SF 5000.

5. The site is relatively level. The topography in this area slopes slightly downward from Queen Anne Avenue to the site, than rises again west to 6th Avenue.

Proposal

6. The proposal is to change the zoning at this property from NC2-30 to NC2-40. The applicant, Aegis Living, proposes to develop the site with a four-story structure containing up to 60 units of assisted living above 509 square feet of street level retail, with parking for 21 vehicles. (The applicant has actually proposed 57 units, but up to 60 persons may reside in the facility.) The proposed 10-foot height increase results in the project being able to have 16 units above what would be permitted under the NC2-30 designation. Community meeting space would be available as part of the street level use. The existing curbcuts on West Galer would be removed. Access to a loading/service area and underground parking would be taken from a 25-foot driveway on 3rd Avenue West. An existing loading zone on West Galer would be maintained. Three of the four tall cypress trees located along the west side of the site would be preserved.

7. Aegis Living operates several other assisted living facilities in the Puget Sound area. The average age of residents at entry to an Aegis assisted living facility is 82 years old and 80 percent of the population is female. The second floor of the Galer facility would be dedicated to "Memory Care" for residents suffering from cognitive disease. Aegis's experience at its other facilities is that its residents typically do not drive.

8. Service vehicles are expected to access the site as follows, based on Aegis's experience at its other facilities:

Facility passenger van (for transporting residents, or moving assistance): once a day
Food delivery: three times a week
Office supply delivery: once a week
Garbage/recycle trucks: once a week
Resident moving: two or fewer move-ins/move-outs per month

Design Review

9. The Queen Anne/Magnolia Design Review Board held an Early Design Guidance (EDG) meeting on the project proposal on October 10, 2011. The DPD notice for the meeting was published on September 8, 2011, and the Notice described the project as "a 3-story structure with 48 units of assisted living. Parking for 18 vehicles proposed below grade."

10. At the meeting, the applicant presented three options for the project, shown at Applicant's Ex. 15. All options were based on a rezone to NC2-40. Options 1 and 2 included approximately 64 units and 17 parking stalls. Option 3 included approximately 66 units and 18 parking stalls. One option included taking access for parking from West Galer, for which a departure would be required, since the Code requires access in this case to be taken from 3rd Avenue West.

11. The Board identified the Citywide Design Guidelines and the neighborhood-specific guidelines (Upper Queen Anne Neighborhood Design Guidelines) of highest priority for the project. The identified guidelines are set out at pages 22-28 of the Director's Report, DPD Ex. 3, along with a summary of the Board's early design guidance to the applicant. Among other directives, the Board recommended that vehicle access not be taken from West Galer and that it be taken from 3rd Avenue West.

12. The Board held its Recommendation meeting on the project a little over a year later, on October 24, 2012. At this meeting, all three of the Board members present recommended approval of the proposed design and seven departures. One of the applicant's departure requests was a response to the Board's direction that vehicle access be restricted to 3rd Avenue West. The applicant therefore requested a 25-foot wide, rather than a 20-foot wide, curb cut along 3rd Avenue West to allow for a consolidated loading and parking access on that street which would allow adequate room for maneuvering clearance.

13. The applicant's response to the Board's October 10 direction is shown in the MUP drawings in the file and Applicant's Ex. 11 and 16. The access to the loading dock and to the below-grade parking was moved to 3rd Avenue West, consistent with the Code and the Board's direction. On West Galer, an existing loading area is maintained, two new on-street parking spaces are added (because of the removal of a curb cut on this side) and a passenger load/unload area located near the building entrance. The project would have 21 off-street parking stalls.

14. The building was set back from the property line by two feet along West Galer, allowing for a wider sidewalk and planting area. Along the 3rd Avenue West, the building was set back 3-10 feet, and no activity areas were located on this side, to lessen privacy impacts on the Wimbledon building across 3rd Avenue W; the retained cypress trees are also expected to provide screening of the building from that side.

15. The façade concept, materials and colors are shown in Applicant's Ex. 16. The landcape plan as noted above retains three of the four mature cypress trees on the 3rd Avenue West, and includes new street trees on West Galer, as well as a rooftop garden; Applicant's Ex. 9 and 16.

DPD Review

16. DPD reviewed the proposal pursuant to SEPA, and issued a Determination of Nonsignificance (DNS). DPD also conditionally approved the design of the project.

Impacts

17. The applicant's transportation engineering consultant, Transpo Group, prepared two Transportation Analysis Memoranda for this proposal. PD Ex. 6. After reviewing the first memorandum, dated May 17, 2012, DPD transportation planner John Shaw issued a correction notice noting that the traffic data count appeared to be based on observations at the intersection of Galer and 3rd Avenue North, rather than West Galer Street and 3rd Avenue West, closest to the site. The notice asked for confirmation that the latter intersection had actually been studied, or new data collected at that intersection. Transpo submitted a second Transportation Analysis Memorandum on November 26, 2012, which addressed traffic impacts and parking demand.

18. Based on the standard trip generation formula in the ITE Manual, with no reductions for transit use, the proposed assisted living facility is expected to generate 17 new weekday daily PM peak hour trips. The study also noted that the former use of the site as a warehouse and office would generate 28 weekday daily PM peak hour trips, so that a net reduction of 11 weekday daily PM peak hour trips would occur with the assisted facility use.

19. The transportation and analysis prepared by Transpo shows that the impact of traffic on the nearby street system is expected to be minor, because of the low volume of trips generated by the use, which are fewer trips than were generated by the previous occupant's uses at the site. The garage access at 3rd Avenue West and West Galer is expected to operate at Level of Service A, with less than 10 seconds of delay for outbound traffic and little or no delays for inbound traffic.

20. The parking demand for the proposed assisted living facility, based on the ITE Parking Generation Manual, is predicted to be 24 vehicles at peak hour (which for

parking is around 11 a.m., when vehicles associated with the use are likely to be generating demand for parking). As with the trip generation calculations, no reduction for transit was calculated. The estimated peak parking demand is 24 vehicles. The former warehouse use and office space on the site would have generated a peak parking demand of 48 vehicles, so that a net decrease in parking demand is expected to occur.

21. The project will include 21 off-street parking spaces for an estimated demand of 24 spaces, so an overflow of three spaces may be created. An on-street parking supply within 800-feet walking distance of the site was conducted. The study references the methodology use in CAM 117. CAM 117 refers to conducting a parking waiver study for accessory dwelling units. DPD has no CAM for conducting parking surveys for other purposes, but considers the CAM 117 methodology to be a reasonable as starting point. CAM 117 refers to a 400-foot study radius, but for other uses, DPD generally recommends that surveys use an 800-foot walking distance radius. Although only one day's worth of data, instead of two, was provided, DPD in this case concluded that, given that at most 3 spillover spaces were expected, the survey was adequate.

22. Transpo's survey found a total public parking supply of 525 spaces, 375 of which were occupied, leaving 150 spaces available within the study area, 81 of which were designated as Residential Parking Zone (RPZ) spaces and 69 which were unrestricted. At the public hearing, public comments pointed out restrictions on some of the on-street parking areas included in the survey. The applicant's transportation expert, Mr. Gahnberg, noted that Transpo revisited the area and revised its figures slightly. The overall number of parking spaces was actually a little higher than what had previously been identified in the November 2012 memo; however, the number of restricted spaces was actually higher as well, so that 63 spaces were unrestricted. Mr. Gahnberg noted that this was still well above the three spaces of off-street parking demand that might be generated by the project.

23. SMC 23.54.015 addresses required minimum parking. Table B line C provides that an assisted living facility use should have 1 space for each 4 units, plus 1 space for each 2 staff members on-site at peak staffing time, and 1 barrier-free passenger load/unload space. Line M states that no minimum parking is required for all residential uses in commercial and multifamily zones within urban villages not within an urban center or Station Area Overlay District, if the residential use is located *"within 1,320 feet of a street with frequent transit service, measured as the walking distance from the nearest transit top to the lot line of the lot containing the residential use."*

24. SMC 23.84.038 defines *"Transit service, frequent"* as *"transit service headways in at least one direction of 15 minutes or less for at least 12 hours per day, 6 days per week, and transit service headways of 30 minutes or less for at least 18 hours every day."*

25. The applicant prepared a study to compare the shadow impacts of the project built to a 30-foot height limit and a 40-foot height limit. The study is shown at Applicant's Ex. 16.

Public comments

26. Many public comments and petitions were submitted to DPD and the Hearing Examiner on the proposed contract rezone, and are found in the record on this matter. The proposal is opposed by many residents who cite impacts such as the rezone's consistency with the neighborhood plan; impacts on-street parking supply; the project's traffic impacts; safety along 3rd Avenue West; the proposed use as an assisted living facility; the need for this facility; and other issues. As noted above, the MUP decision for the project was appealed, and a separate decision has been issued on that appeal this day.

27. The Land Use Review Committee (LURC) of the Queen Anne Community Council (QACC) reviewed the project proposal and held several public meetings as the project was going through the design review process. Among other issues, the LURC and QACC provided input on building height, parking and traffic, and vehicular access from 3rd Avenue West. The QACC voted to support the proposed rezone at its March 7, 2012 meeting. The QACC submitted a letter to the Hearing Examiner on February 19, 2013 stating its support for the proposal on February 19, 2013.

Neighborhood Plan

28. Portions of the Queen Anne Neighborhood Plan was adopted in 1999 as an amendment to the City's Comprehensive Plan.

29. The Queen Anne Residential Urban Village has a growth target of 31 households per acre by 2024.

Codes

30. 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.*

31. SMC 23.34.008 states the general rezone criteria. These 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; the presence of overlay districts or critical areas, and whether the area is within an area with an incentive zoning suffix.

Conclusions

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

2. Under SMC 23.34.007, the rezone provisions are to be weighed and balanced to determine the appropriate zone designation. No single criterion or group of criteria are to be applied as an absolute requirement or test of appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations unless specified by the Code. The proposed rezone is located within the Queen Anne Residential Urban Village, so the proposed rezone is subject to the sections of Chapter 23.34 which apply to urban villages.

General rezone criteria

3. Effect on zoned capacity. SMC 23.34.008.A requires that, within the urban center or urban village, the zoned capacity taken as a whole shall be no less than 125 percent of the applicable adopted growth target, and not less than the density established in the Comprehensive Plan. The proposed contract rezone would allow 17 additional residential units to be built on the site, and would not therefore reduce the zoned capacity of the Queen Anne Residential Urban Village, or cause this urban village to fall below the zoned capacity and density identified in the Comprehensive Plan.

4. Match between zone criteria and area characteristics. 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 designation. In this case, the site is already zoned NC2 and the proposal would not change the NC2 designation. The site currently matches the NC2 function and locational criteria, and NC2 continues to be the appropriate designation for this site. The proposal would change the height limit, which is considered under SMC 23.34.009 discussed below.

5. Zoning history and precedential effect. The property has been zoned NC2-30 since enactment of the City's Zoning Ordinance in 1986. It is difficult to predict precedential effects of a contract rezone. However, the rezone of this site to a 40-foot height limit would add to the existing factors (i.e., proximity of zones whose height limit is greater than 30 feet, and existing development that exceeds 30 feet in height) that tend to encourage a greater height limit than 30 feet.

6. Neighborhood plan. SMC 23.34.008.D provides that the Council-adopted portions of the Queen Anne Neighborhood Plan should be considered. The adopted portions of the Plan include goals and policies related to the Queen Anne environment and community. The adopted Plan does not include express policies to guide future rezones, and does not identify specific sites or areas for rezones. The proposed use, which is permitted in the NC2 zone, would contribute to the range of housing types in the area by providing assisted living units. The project design is consistent with the Queen Anne Neighborhood Plan goals and policies, e.g., concerning neighborhood character

(QA-G1, QA-P2), human service needs (QA-G4), quality design (QA-P3), pedestrian-oriented streetscapes (QA-P1); urban character-enhancing improvements (QA-P40) and finding solutions to parking needs in the business districts (QA-P44). The proposed rezone to allow a 10-foot height increase is consistent with the adopted neighborhood plan.

7. Some public comments argued that the proposed rezone is not consistent with the Neighborhood Plan policies, e.g., QA-P41, "Seek to alleviate parking problems in the Queen Anne planning area," arguing that the project's impacts on parking violate this policy. But the applicant is providing more off-street parking spaces than are required to meet the demand predicted for the facility. Similarly, some public comments strongly disagreed with the proposal's consistency with policies related to design and transition, or those related to preservation of the neighborhood. But the project's design is consistent with the plain language of the neighborhood plan. Certainly, policy and design guidelines do not set numerical standards, and can mean different things to different people. But on the basis of this record, the proposal appears to be consistent with the adopted neighborhood plan.

8. Zoning principles. Zoning principles are to be considered under SMC 23.34.008.E., including impacts, physical buffers, location of zone boundaries along platted lot lines or include physical buffers, and the boundaries between commercial and residential areas.

9. The impact of "more intensive zones on less intensive zones" is to be considered. In this case, the underlying zoning controlling the types of use at this site will remain NC2. However, the proposed new height limit should be examined relative to other zoned heights, as a gradual transition between height limits is preferred. The proposed change to NC2-40 would match the height limits of the property to the south zoned LR 3 (40-45 feet) and would be less than the 60-75-foot height limit in the MR zone to the east and southeast. The massing studies in Applicant's Ex. 16 show projected heights of future construction after sites are redeveloped to the existing zoning heights. The existing development includes the Wimbledon building directly west of the site, at approximately 40 feet in height, and a five-story building to the southeast in the MR zone. The proposed 40-foot height limit would provide a transition between the existing zone heights near the property. There are no physical buffers such as natural features or freeways, etc., present to separate the site from the other uses or developments nearby. The proposed zone boundaries would follow platted lot lines, and boundaries between commercial and residential areas would not be changed by this action. The proposal is consistent with zoning principles identified in SMC 23.34.008.E.

10. SMC 23.34.008.F.1 requires evaluation of "possible negative and positive impacts" of the rezone. Factors to be examined include but are not limited to, housing, public services, environmental factors, pedestrian safety, manufacturing activity, employment activities, historic or architectural value, and shoreline values.

11. Housing would be provided as part of the proposal, with 16 additional units of assisted living associated with the requested height increase. Public services, including police and fire, are available to serve the site.

12. The record shows no significant environmental factors associated with the proposed rezone. The impacts of increased shadows from the extra story are shown in the Applicant's shadow studies in Applicant's Ex. 16 and appear to be minimal. Some public comments objected to noise at street level, but the small amount of ground-floor space and the use proposed at street level were not shown to be particularly noisy, particularly when compared with other NC2 uses (e.g., restaurants) that are allowed in the zone. No significant views were shown to be affected.

13. Pedestrian safety is to be considered. The proposal includes moving the vehicle access to the site away from West Galer, and includes widening the sidewalk and providing lighting and overhead weather protection along Galer to improve pedestrian comfort and safety. Vehicle access will instead be limited to 3rd Avenue West, which was recommended by the Design Review Board and is consistent with the Code.

14. Many neighbors urged that access be taken from West Galer, because of pedestrian safety concerns as well as general concerns regarding congestion on 3rd Avenue West. This is understandable, since 3rd Avenue West is narrow and only allows for one lane of travel when vehicles are parked on the street. But the evidence does not show that pedestrian safety would be harmed by this proposed rezone. The trip volumes would be low, 17 PM peak hour trips per day, and the traffic study and expert testimony at hearing established that the proposed vehicle access is not unusual or inherently hazardous to traffic or pedestrians.

15. The Transpo study did include a recommendation that, to minimize any potential for vehicle or pedestrian conflicts associated with the operation of the service dock on 3rd Avenue West, the applicant provide on-site personnel to oversee backing maneuvers and control adjacent traffic and pedestrian movements during these movements. Given the narrowness of 3rd Avenue West and the fact that the access point is new at this area, the Examiner agrees that the applicant should be required to provide on-site personnel to supervise backing maneuvers to avoid any conflicts.

16. Manufacturing activity does not occur at this site and is not proposed. Employment activity does not appear to be a significant factor in the proposed rezone; the applicant estimates perhaps 1-2 additional employees will be retained on account of the additional 16 units associated with the rezone. There are no landmarks or other designated historic structures on or near the site. The character of the area, Upper Queen Anne, as reflected in the neighborhood design guidelines, was considered during the design review process. The site is not within the shoreline area.

17. SMC 23.34.008.F.2 addresses service capacities, including street access, street capacity, transit service, parking capacity, utility and sewer capacity, and shoreline navigation.

18. The site is served by METRO transit; currently routes 2, 13 and 29. Street access and capacity would not be significantly affected by the proposed rezone. The entire project, when compared with the previous use at this site, will result in 11 fewer PM peak hour trips, and levels of service would not be noticeably reduced at nearby intersections or at the driveway location. The turning radii required for vehicles accessing or leaving the site was shown to be adequate. As noted above, many public comments objected to the access on 3rd Avenue West, but this access was disfavored by the Design Review Board as impairing the pedestrian environment on West Galer, and is not consistent with the Code. Many neighbors believe that the access will create substantial congestion on 3rd Avenue West, but the transportation analysis and the testimony of traffic experts at hearing show that street access and capacity are adequate.

19. Parking capacity is to be considered. The project would generate a peak parking demand of 24 vehicles and will provide 21 parking stalls, for a possible overflow of three spaces. The Transpo parking utilization study shows that there are over 154 on-street parking spaces on the street, with approximately 63 spaces that are unrestricted, and 91 spaces with 2-hour limits (RPZ or other limits). The supply of off-street parking is of concern to neighbors who utilize on-street parking; e,g., the Wimbledon building across the street does not have off-street parking, and the Queen Anne Christian Church a block away engages in income-generating activities during the week which generate a demand for on-street parking. The church is very concerned that its income will be impaired because of a lack of on-street parking. But the parking studies and expert testimony show that the proposed rezone will not impair parking capacity in the area, and that demand will be reduced from the demand previously generated by the prior uses at the site.

20. Public comments have objected to Aegis's statements that there is no Code-required parking for this project under SMC 23.54.015, because of the site's location in a residential urban village with "frequent transit." Some comments have included references to bus schedules showing more than a 15-minute gap in scheduled bus service.[1] But the rezone criteria address the proposal's impact on parking capacity, not the Code requirements, which regardless of the rezone decision, apply to the project. In this case, the project includes 21 off-street parking spaces, and the evidence in the record shows that parking capacity may at most be reduced by 3 spaces. There is adequate capacity to serve the proposal.

21. Utility and sewer capacity are sufficient to serve the proposed rezone, and shoreline navigation is not a factor in this rezone.

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[1] No formal Director's interpretation was requested on this question; the Director's application of this standard, if a Type I decision, would be final under SMC 23.76.004 absent issuance of an appealable DPD interpretation.

22. Changed circumstances. Under SMC 23.34.008.G, changed circumstances are to be taken into account, but are not required to demonstrate whether a proposed rezone is appropriate. The zoning code was recently amended to allow development in LR and MR zones, to achieve heights up to 45 feet and 75 feet, respectively, under certain circumstances. Otherwise, there appear to be no changed circumstances related to the criteria for the zone.

23. The criteria of SMC 23.34.008.H, I and J do not apply, as the site is not within a critical area, overlay district (except possibly the Airport Height Overlay district, which would not be relevant to the proposed height rezone in this case), a zone with an incentive zoning suffix, or in or adjacent to a environmentally critical area.

24. The proposed rezone, from NC2-30 to NC2-40, is consistent with the general rezone criteria of SMC 23.34.008.

Height Limits

25. Under SMC 23.34.009, additional criteria apply to this proposal, because it would change the height limit. The first criterion considers whether the height limit is consistent with the type and scale of development intended for the zone classification. The demand for permitted goods and services, and the potential for displacement of preferred uses shall be considered.

26. The proposed change to a 40-foot height limit is consistent with the type and scale of development intended for the NC2 classification. Under SMC 23.34.076, the NC2 zone is intended to support or encourage a pedestrian-oriented shopping area providing a full range of household and personal goods. The proposed assisted facility use is permitted in the NC2 zone, and the Design Review Board and DPD have required that the development encourage pedestrian use of West Galer and that landscaping, façade treatment and other design components be utilized to make the building appropriate at this location. The rezone for additional height does not appear to have any impact on the demand for permitted goods and services or on the potential for displacement of preferred uses. The height rezone would appear consistent with the height and scale of development in the NC2 zone.

27. Under SMC 23.34.009.B, the topography of the area and its surroundings are to be considered, and height limits are to reinforce the natural topography of the area and surroundings; view blockage is to be considered. The local topography slopes downward from 1st Avenue West west to the site, and rises again further west of the site to 6th Avenue West. The site sits slightly lower than areas to the north and south, and view blockage appears unlikely to result from the 10-foot height increase.

28. SMC 23.34.009.C considers the height and scale of the area, including the zoned height limits, and the height and scale of existing development, where that development is a good measure of the area's overall development potential. SMC 23.34.009.D

addresses the compatibility of the proposed height with the actual and zoned heights in surrounding buildings. The height limits in the immediate area include a 30-foot height limit in the NC2-30 area north of the site which runs along West Galer; the 40-foot height limit for the LR3 zone which lies adjacent to the property on the south; and the 60-75-foot height limit allowed in the MR zone which lies adjacent to the property on the south and southeast. The existing development in the area includes buildings of comparable height and scale, e.g., the Wimbledon and SHA buildings, as well as townhouses and developments in the nearby MR zone that are of comparable height and scale. Given that the surrounding area is a designated Residential Urban Village, and that sites nearby have recently been rezoned to the height limits allowed in MR and LR3, it seems likely that future redevelopment of nearby sites to allowable height limits will occur. The proposed height limit appears to be compatible with the actual and zoned height limits in the surrounding areas. The proposed 40-foot height will provide a gradual transition between the NC2-30 zoning to the north, the LR3 (40-foot height limit) zoning to the west and south, and the MR zoning (60-75 foot height limit) to the east and south.

29. SMC 23.34.009E provides that particular attention is to be given the height recommendations in adopted neighborhood plans. The adopted provisions of the Queen Anne Neighborhood Plan do not include recommendations or requirements for height limits.

30. The proposed height increase from NC2-30 to NC2-40 would be consistent with the criteria of SMC 23.34.009.

31. Neighbors have commented in opposition to the structure at this location, and have expressed deep concerns about traffic, parking, the proposed height of the building, or other issues related to Aegis's proposal and DPD's review. But the record does not show that the proposal's actual impacts would be substantial, or that any aspects of the proposal are inconsistent with the general rezone criteria of the Code. The proposed rezone on balance meets the rezone criteria, and therefore, the Examiner recommends approval of the proposed rezone with the condition set forth below.

Recommendation

The Hearing Examiner recommends **APPROVAL** of the rezone from NC2-30 to NC2-40 with the following conditions:

1. Approval is subject to a Property Use and Development Agreement (PUDA) that limits the development to the design as approved by DPD in its January 7, 2013 decision.
2. The applicant shall provide on-site personnel to oversee backing maneuvers associated with the operation of the service dock, and to control adjacent traffic and pedestrians during such movements.

The following conditions have been imposed on this project by DPD pursuant to its SEPA and Design Review decisions:

SEPA

1. During demolition, excavation, and construction. For the duration of the removal of the existing building, excavation of materials, and delivery of construction materials; the owner(s) and/or responsible party(ies) shall cause truck trips to and from the project site to cease during the hours between 4 PM and 6 PM on weekdays.

Design review

2. Prior to issuance of building permit. Any proposed changes to the exterior of the building or site must be submitted to DPD for review and approval by the Land Use Planner assigned to the project.

3. Compliance with all images and text on the MUP drawings, as modified by this decision and approved by the Land Use Planner, shall be verified by the Land Use Planner assigned to this project. An appointment with the assigned Land Use Planner must be made at least three working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans I required to ensure that substantial compliance has been achieved.

4. Prior to issuance of a Permanent Certificate of Occupancy. The applicant shall arrange for an inspection with the Land Use Planner to verify that the construction of the buildings width, siting, materials, and architectural details is substantially the same as those documented in the approved/issued plans.

Entered this 13th day of March, 2013.

Anne Watanabe
Deputy Hearing Examiner

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 a recommendation of the Hearing Examiner may submit an appeal of the Hearing Examiner's recommendation to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the Hearing Examiner's recommendation, and be addressed to: Seattle City Council Planning, Land Use and Sustainability Committee, c/o Seattle City Clerk, 600 Fourth Avenue Floor 3, P.O. Box 94728. Seattle, WA 98124-4728. The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought.

City of Seattle

Department of Planning and Development
Diane M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: **3012582**

Council File Number: CF#311813

Applicant Name: Via Architecture for Aegis Living

Address of Proposal: 223 W Galer St

SUMMARY OF PROPOSED ACTION

Council Land Use Action to Contract Rezone 12,800 sq. ft. of land from NC2-30' to NC2-40'. Project includes a 4-story structure containing 60 assisted living units above 509 sq. ft. of street level retail and 10,000 cu. yds. of grading. Parking for 21 vehicles to be provided below grade. Existing structure to be demolished.

The following Master Use Permit components are required:

Contract Rezone – To rezone from NC2-30 to NC2-40. Seattle Municipal Code (SMC) 23.34

Design Review – SMC 23.41 with Development Standard Departures:
(As noted in the DEPARTURE MATRIX below).

SEPA Environmental Review – SMC 25.05

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

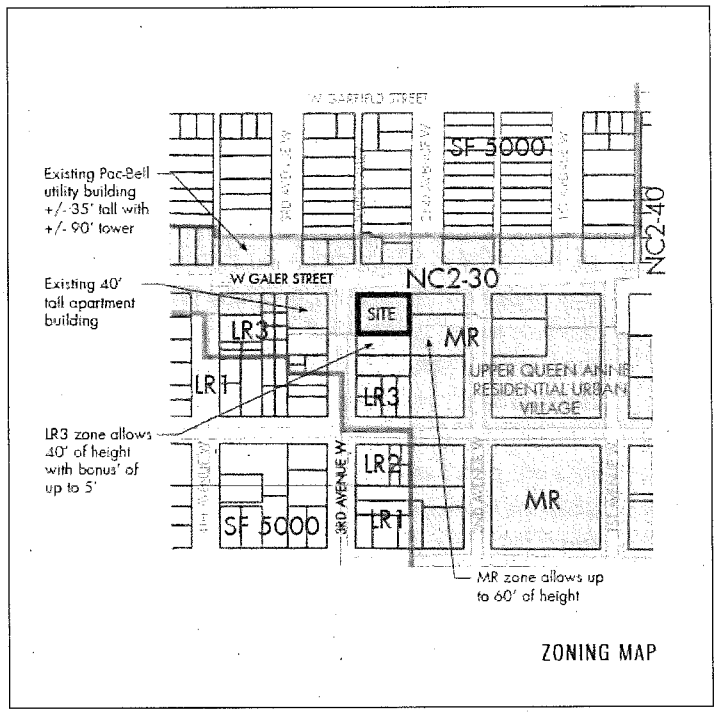
[X] DNS with conditions

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

B

BACKGROUND INFORMATION *(including Site and Vicinity)*

The proposal is the contract rezone, pursuant to SMC 23.34.004, of 12,800 s.f. of property located generally at 223 W Galer St in the Queen Anne neighborhood. The property is located at the northwestern corner of the block located between W Galer St, 3rd Ave W, W Lee St and 2nd Ave W. The site is currently zoned Neighborhood Commercial 2 with a 30 foot height limit ("NC2-30") and is located in the Upper Queen Anne Residential Urban Village. The site is located on several zone boundaries, with Lowrise-3 zoning directly adjacent to the south of the property, and Midrise zoning located directly adjacent to the south and west of the property. Lowrise 3 allows maximum heights of 40 feet, while Midrise allows maximum heights of 75 feet. The zoning across 3rd Ave W is both NC2-30 and Lowrise-3. The zoning across W Galer St to the north is NC2-30. The proposed contract rezone would increase the height limit of the property to 40 feet but would retain the NC2 zoning designation.



The current character of the neighborhood includes a mix of apartments, condominiums, single family residences, heavy commercial uses, and lighter commercial uses. The W Galer St corridor has undergone somewhat of a transition in the past 10 years, with several popular businesses locating on W Galer St. Trader Joe's located kitty corner from the project site approximately 10 years ago. Several popular small businesses have located near the project site include Café Fiore, Top Pot Doughnut, Molly Moon's Ice Cream, and Via Tribunali pizza. Other commercial uses in the area include a service garage and large surface parking lot directly adjacent to the project site to the east. Multifamily residential uses are also located near to the project site, and include a 4-story apartment building (nonconforming to height standards of its NC2-30 zoning designation) to the west, and a 5-story apartment building to the southeast (conforms to height standards of its MR zoning designation).

The contract rezone is proposed concurrently with the application for a Master Use Permit with Design Review and State Environmental Policy Act ("SEPA") components for a four-story structure containing 60 assisted living units above 509 s.f. of street level retail and 10,000 cubic yards of grading. Parking for 21 vehicles will be provided in a below grade garage. The existing on-site structure will be demolished.

Public Comments

Public comments were invited at the two Design Review public meetings and the Master Use Permit application. Comments from the Design Review meetings are noted within the Design Review process summaries which follow below.

Master Use Permit Application

The applicant revised the design and applied for a Master Use Permit with a design review component on June 15, 2012. The extended public comment period ended on August 15, 2012. The Land Use Application information is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000[1].

REZONE ANALYSIS

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.

The 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 properties proposed for rezone to the structure approved through the Design Review process 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 design and layout, signage and site lighting and is documented in the approved plans.

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.

[1] http://www.seattle.gov/dpd/PRC/LocationHours/default.asp

SMC 23.34.007 Rezone evaluation.

A. The provisions of this chapter 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.

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

This section requires the consideration of all applicable rezone criteria with no single criterion being the determining factor. The conclusion at the end of the Rezone Analysis summarizes the detailed analysis.

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 redesignations as provided in SMC Subsection 23.60.060.B3.

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

The project site is located within the Upper Queen Anne Residential Urban Village.

E. The procedures and locational criteria for shoreline environment redesignations 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.

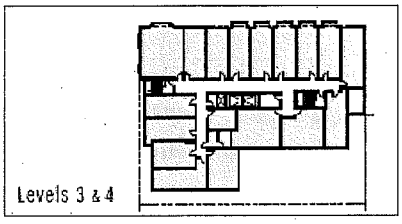
The proposed contract rezone is not due to cartographic or clerical mistakes in the zoning map.

SMC 23.34.008 General rezone criteria.

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

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 proposal is located in the Upper Queen Anne Residential Urban Village in the Queen Anne neighborhood. The proposal will not change the permitted uses but will increase the permitted height on the property by 10 feet. The proposal will result in a minor increase in the total zoned capacity of the Upper Queen Anne Residential Urban Village and zoned density for this site. The proposed rezone is consistent with SMC 23.34.008.A.1 because the increased height does not reduce capacity below 125% of the Comprehensive Plan growth target.



The proposal is for a height increase on the site in the Neighborhood Commercial 2 zone from a 30-foot height limit to a 40-foot height limit. This increase in height would allow additional floor to ceiling heights and additional 17 residential units. The proposed residential units would contribute to an increase in zoning capacity. The Upper Queen Anne Residential Urban Village growth target is 125% of capacity.

2. *For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.*

The property is located in the Upper Queen Anne Residential Urban Village. The household growth target by 2024 is 31 households per acre, resulting in an addition of 200 households by 2024. *Comprehensive Plan, Urban Village Appendix A.*

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 property is currently zoned NC2. No change is proposed to the NC2 zoning designation or pedestrian overlay. The only proposed change is to the height limit. As discussed in detail under the heading SMC 23.34.009 (Height Limits of the Proposed Zone), infra, the 40 foot height limit is appropriate to the property.

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

The property has not recently been rezoned. The applicant only asks for a change in the height allowed for the zone.

The site has been part of the City of Seattle since 1860's. Under the 1923 zoning Ordinance, the site was mapped Business Commercial. The Zoning Ordinance of 1986 remapped the site Neighborhood Commercial 2/30'. There is a gap in available zoning history records so that actual dates of zoning history in the early years of Title 24 for this area are not readily available for detailed zoning changes from 1947 through the early 1980s. The current zoning of the site is NC2-30'. The site is located within the Upper Queen Anne Residential Urban Village.

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.*

The City Council adopted portions of the Queen Anne Neighborhood Plan as amendments to the Seattle Comprehensive Plan by Ordinance 119403 on March 15, 1999. These portions constitute the adopted Neighborhood Plan. Other portions of the Neighborhood Plan constitute the vision and desires of the community but have not been adopted as City policy.

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

The proposal is consistent with the adopted Queen Anne Neighborhood Plan. Specifically, the proposal furthers the following goals and policies of the Neighborhood Plan (***Goal/Policy in italics*** followed by response/analysis):

QA-G1: *Queen Anne is recognized for the uniqueness of its different neighborhoods, including the Urban Center, each with a distinctive physical characteristics and a strong sense of community.*

The project provides assisted living and memory care for seniors in the community, which strengthens the sense of family and community in Queen Anne by providing a place for our elders.

QA-G4: *Human service needs are addressed in the Queen Anne community.*

The project provides much-needed assisted living and memory care for seniors in Queen Anne.

QA-G9: *Queen Anne is a neighborhood with a vibrant and sustainable business community and safe commercial district.*

The project will contribute to the vibrancy of the businesses on Queen Anne by including new residents that will be able to safely walk to and from several small businesses in the immediate area.

QA-P1: *Seek to create and maintain attractive pedestrian-oriented streetscapes and enhance Queen Anne's community character with open space, street trees, and other vegetation.*

The project will redevelop the project site with an attractive pedestrian oriented mixed use development. The project will include improvements to the pedestrian environment, including a pedestrian plaza, voluntary setbacks, ground level retail, overhead weather protection, landscaping, and seating.

QA-P2: *Preserve the character of Queen Anne's single-family and mixed-use neighborhoods.*

As shown in the materials submitted in connection with Early Design Guidance and the application for Design Review, the project is consistent with the established character of this commercial and mixed use neighborhood and will redevelop an underutilized property.

QA-P3: *Seek to maintain and establish quality design in the Queen Anne area. Through neighborhood design guidelines and design review, consider unique or particular local design characteristics, and include consideration of signage, adjacent public ROWs, and historic boulevards.*

The project will redevelop the existing site with a high quality mixed use building, which has obtained recommendation of approval from the Design Review Board. It also complies with the community's picture perfect Queen Anne design guidelines.

QA-P5: *Encourage an attractive range of housing types and housing strategies to retain Queen Anne's eclectic residential character and to assure that housing is available to a diverse population.*

The project provides much needed memory care and assisted living units for seniors to ensure that elders can remain on Queen Anne.

QA-P9: *Enhance the unique character of each business district.*

The project is consistent with and enhances the existing character of its neighborhood.

QA-P11: *Provide for an attractive and harmonious transition between different land uses, including commercial areas and single-family areas.*

The project includes memory care and assisted living units for seniors near lowrise, midrise, and in NC2-zoned areas; a relatively low-impact use that provides a harmonious transition between NC2 and multifamily uses.

QA-P40: *Strive to provide urban character-enhancing improvements to Queen Anne's streets such as sidewalk improvements, transit facilities, landscaping, and appropriate lighting.*

The project includes urban character enhancing improvements to the streets, including the pedestrian plaza, voluntary setbacks, ground level retail, overhead weather protection, and landscaping.

QA-P41: *Seek to alleviate parking problems in the Queen Anne planning area.*

The project provides sufficient parking to meet the needs of its residences and businesses.

QA-P42: *Strive to ensure adequate facilities, such as lighting, for safety in pedestrian and parking areas in Queen Anne's business districts.*

The project will bring additional residents to the neighborhood, contributing to more "eyes on the street." In addition, the project is designed with safety in mind and will include lighting and other features as appropriate.

QA-P4: *Strive to ensure that Queen Anne's commercial areas and business districts are safe from crime.*

The project will contribute to a safe environment by bringing residents to the area and by incorporating appropriate design features.

QA-P44: *Strive to find solutions to the parking needs of Queen Anne's business districts.*

The project will include sufficient parking to meet the needs of the project tenants (staff and visitors).

QA-P45: Seek to fill identified market gaps in Queen Anne and support locally-owned businesses and other businesses that meet the needs of the local population.

The project will fill the current market deficit of assisted living and memory care for seniors on Queen Anne.

Conclusion: The proposed contract rezone is consistent with all applicable policies contained in the Comprehensive Plan's adopted Queen Anne Neighborhood Plan.

3. *Where a neighborhood plan adopted or amended by the City Council after January 1, 1995 establishes polices 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 polices of such neighborhood plan.*

The adopted Queen Anne Neighborhood Plan does not establish policies expressly for the purpose of guiding future rezones.

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

The adopted Queen Anne Neighborhood Plan does not specifically address the rezone of the project site.

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 property is currently zoned NC2 and intends to retain its NC2 designation. The property to the west of the project site is zoned NC2-30 but is developed by a four-story apartment building. The properties across Galer Street to the north are zoned NC2-30 and are currently developed as commercial businesses (Café Fiore), office/residences, and single family residences. The property is surrounded to the south with Lowrise 3 and Midrise zoning designations. The adjacent property to the south that is zoned Lowrise 3 is currently developed as a duplex, but could redevelop in the future to a height of 40 feet if developed as apartments. SMC 23.45.514. The adjacent property to the east that is zoned NC2-30 is currently developed as a service garage with a large surface parking lot, which is a fairly heavy commercial use. The property east of and south of the project site is zoned Midrise. It is currently developed as a three story apartment building but could be redeveloped in the future to a maximum height of 75 feet. SMC 23.45.514. Consistent with the MR zone, the parcel farther southeast of the property is developed with a five story apartment building.

Thus, the proposal to add 10 feet of additional height to the property is appropriate given the multifamily and heavy commercial uses adjacent to the property, and the future zoning potential on the properties directly adjacent to the property. The 40 foot height is consistent with the current development to the west across 3rd Avenue West, and Galer Street provides an appropriate buffer between the existing uses and the NC2-30 zoned property.

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

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

The properties surrounding the proposal site are all zoned neighborhood commercial. The proposed 40 foot height limit provides an appropriate transition from the properties zoned LR3 (could develop to 40 feet) and Midrise (could develop to 75 feet) from those properties located across the street that are zoned NC2-30.

3. *Zone Boundaries.*

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

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

The proposed rezone follows platted lot lines and meets the physical buffers criteria described in subsection E2 above.

   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 current patterns and play between residential and commercial uses will not be changed as a result of the proposal as the project seeks to retain the existing commercial zoning on the property.

<u>Conclusion:</u> The proposal, as designed, is consistent with the zoning principles stated above.

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 project will not adversely impact housing, as none currently exists on the site. The project will provide approximately 60 new units of assisted living and memory care for seniors, which are much needed on the top of Queen Anne Hill.

b. Public services;

Public services are available to the project, which is located in a highly developed urban area. No significant adverse impacts to public services are anticipated.

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

There is little increase in *noise, air and water quality* impacts expected with the proposed increase in height. *Terrestrial and aquatic flora and fauna* would likely not be affected. *Glare and odor* impacts would likely not change and these are mostly associated with street level uses which would be the same regardless of structure height.

Shadowing on adjacent streets would increase with additional height. The additional story creates more shadows, but primarily in the winter months when natural sun light is scarcer. There will be no significant adverse impacts due to shadows on public spaces. The increases in shading impacts anticipated as a result of the increased height have been addressed through the Design Review and SEPA policies. Given the relationship between the building and its surroundings, the Design Review Board has not recommended any special conditions. Beyond those incorporated into the design as mitigation for the increased height. A Shadow Study is included in the submitted plan set.

Energy consumption would be increased slightly with the additional residential units. The proposed rezone, results in 17 additional residential units above the likely density that could be achieved in the NC2-30 zone.

d. Pedestrian safety;

The proposal will enhance pedestrian safety by consolidating existing driveways from the project site and providing additional residents for "eyes on the street." The project also provides pedestrian improvements such as sidewalk widening, street trees, overhead weather protection and lighting.

e. Manufacturing activity;

There is no manufacturing activity existing or proposed at this location.

f. Employment activity;

The proposal will provide jobs in a senior living facility on the site.

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

There are no designated historic structures near the project site, and the project is not located in a landmark district. The project is compatible with existing and proposed development in the area.

h. Shoreline view, public access and recreation.

The proposal is not located within or near any shoreline area.

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;

There is no change to street access.

   b. Street capacity in the area;

The project will not have a significant impact on traffic. The Transportation Impact Analysis completed for the project shows the replacement of the existing use on site results in a reduced traffic trip generation count for the parcel — resulting in 11 less total PM peak hour trips.

The surrounding streets continue to operate at adequate levels of service; levels of service will not be reduced on streets as a result of the proposal.

   c. Transit service;

The project site is well served by public transit. The project will not have significant adverse impacts on transit service.

King County Metro Transit (MT) route numbers 29 and 2 have scheduled stops at W Galer St & 1st, 2nd, and 3rd Ave W adjacent to the project site. MT 2, 13, and 29 has scheduled stops at W Galer St and Queen Anne Ave N. Depending upon destination, ridership on some or all of these routes is likely to increase slightly with the proposal. Though limited parking is proposed for the building, the availability of transit service makes it likely that transit would be the preferred choice for commuting increasing ridership. Some increase in transit usage could be anticipated from the redevelopment of the site with only a small amount attributable to the rezone.

   d. Parking capacity;

A parking capacity analysis was done as part of the study of the project. Peak parking demand for the project is 24 vehicles. 21 parking stalls will be provided by the project, suggesting a potential for up to 3 on-street parking spaces being needed in the surrounding neighborhood. A neighborhood parking utilization study was completed to determine the extent to which on-street parking could accommodate any parking overflow from the project. The survey showed that 150 spaces are available within 800 feet walking distance of the project site. Therefore, the potential of 3 overflow spaces could be accommodated by existing on-street parking capacity in the neighborhood.

   e. Utility and sewer capacity;

      Sewer Capacity:

The proposed rezone would not result in an increase in the sewer capacity; over what would be allowed to be built outright under the existing zone.

Electrical Service:

The proposed rezone would is not expected to significantly increase service load over what is allowed under the current height limit.

f. Shoreline navigation.

The project site is not located within or near any shoreline area.

Conclusion: A slightly increased demand for police and fire services is anticipated due to the net increase of 17 residential units. Other environmental impacts related to height increase would be minimal. Positive impacts include increased pedestrian safety, improvement in traffic conditions and the provision of a vibrant pedestrian streetscape. Sewer capacity needs would be minimally increased due to the rezone. Adequate parking will be provided and transit service is excellent.

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.

The City Council adopted the Queen Anne Neighborhood Plan in 1999, the goals and policies of which are furthered by the project. The project presents an opportunity for redevelopment of this property with uses that complement neighborhood and provide much needed assisted living and memory care for seniors on Upper Queen Anne Hill, consistent with the desires of the neighborhood as reflected in the adopted Neighborhood Plan. The development of the project will provide numerous benefits, including 60 senior living units, street level retail, ground- and upper-level setbacks and numerous improvements to the pedestrian environment.

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

The site is not located in an overlay district.

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 project site is not located within or near any Environmentally Critical Area.

SMC 23.34.009 Height limits of the proposed rezone.

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

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

The proposed 40-foot height limit provides a transition between adjacent 30-foot, 40-foot, and 75-foot height limits and is consistent with existing development on adjacent properties (a 5-story apartment building to the southeast and a 4-story apartment building to the west). A demand for assisted living and memory care for seniors units exists on Upper Queen Anne so elders can age in the neighborhood. The proposal does not displace a preferred use but instead provides the uses desired by the neighborhood for this area as reflected in the adopted Neighborhood Plan.

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.

There are no topographic features that would make the 40-foot height limit inappropriate. The hill gently slopes up from the project site to the west and somewhat to the north. The general area of the project proposal is flat. The proposal will not result in significant adverse view blockage impacts, as there are no real views currently.

C. Height and Scale of the Area.

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

As discussed above, the property is uniquely situated adjacent to a Lowrise-3 zone to the south (allows heights to 40 feet), Midrise zone to the south and east (allows heights to 75 feet), and NC2-30 zoned property to the north and west. The proposed 40-foot height limit on the property would provide a transition from the height limit across W Galer St (30 feet) to properties in the higher zones. Accordingly, the proposed height limit is consistent with the height limits established by current zoning in the area.

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 40 foot height limit provides a transition between the predominant scale and height of existing developments nearby. Across 3rd Ave W to the west of the project is a 4-story apartment building that was built in the early to mid 20th century. To the south and east of the project site is a 5-story apartment building that was built in the mid-20th century. Existing development across W Galer St to the north is generally around 30 feet tall. The proposal to change the designation to 40 feet provides an appropriate transition from property that is developed at 30 foot heights across the street to taller properties to the south and east.

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 40-foot height is consistent with actual and zoned heights in the area. As discussed above, the 40-foot height limit provides a transition between the actual and zoned developments across Galer (30 feet) to the potential zoning heights and actual zoning heights (ranging from 40 to 75 feet) on the properties across Galer to the south and across 3rd Avenue West to the west.

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 23.34.008D2, are present.*

As discussed above, the proposed 40-foot height limit provides a gradual transition between NC2-30, LR3 (40 feet) and MR (75) zoned properties, as well as existing developments. The proposed rezone includes a modest increase of 10 feet (from NC2-30 to NC2-40) that provides this gradual transition.

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.*

The adopted Queen Anne Neighborhood Plan does not make recommendations regarding height limitations.

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 adopted Queen Anne Neighborhood Plan does not contain requirements regarding height limitations.

Conclusion: The proposed rezone from the NC 30-foot height limit to a 40-foot height limit fit with the function, topography and the height and scale of the area. The proposed height is compatible with development in the surrounding area. The Neighborhood Plan contains no height recommendations for the area.

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 Neighborhood Commercial and would remain Neighborhood Commercial.

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.

The area is not zoned Single Family and is already zoned Neighborhood Commercial.

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.

The proposal does not conflict with the preferred configuration and edge protection of the residential zones as established by SMC Sections 23.34.010 and 23.34.011.

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

The proposal is located in the Upper Queen Anne Residential Urban Village where higher densities and intensities of uses are preferred.

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

The proposal does not involve a new business district. The proposal seeks to improve the existing business community within the Upper Queen Anne Residential Urban Village.

Conclusion: The subject property is appropriately zoned Neighborhood Commercial.

SMC 23.34.076 Neighborhood Commercial 2 (NC2) zones, function and locational criteria.

A. Function. To support or encourage a pedestrian-oriented shopping area that provides a full range of household and personal goods and services, including convenience and specialty goods, to the surrounding neighborhoods, and that accommodates other uses that are compatible with the retail character of the area such as housing or offices, where the following characteristics can be achieved:

1. A variety of small to medium-sized neighborhood-serving businesses;

The proposal includes approximately 509 square feet of retail space at street level. The applicant is proposing a small retail establishment at the northwest corner of the building. The storefront design echoes the rhythm of smaller commercial business in the neighborhood.

2. Continuous storefronts built to the front lot line;

The proposed design includes continuous storefront style façade built to the sidewalks along W Galer St and 3rd Ave W.

3. An atmosphere attractive to pedestrians;

By virtue of the sidewalk and vehicle access enhancements, pedestrians should experience an attractive atmosphere.

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

Because the proposal is located in an Urban Village no parking is required. However, parking is provided within the building and is accessed from 3rd Ave W.

Conclusion: The proposal for the subject property meets all of the above function criteria and is appropriately zoned Neighborhood Commercial 2.

B. Locational Criteria. A Neighborhood Commercial 2 zone designation is most appropriate on land that is generally characterized by the following conditions:

1. Primary business districts in residential urban villages, secondary business districts in urban centers or hub urban villages, or business districts, outside of urban villages, that extends for more than approximately two blocks;

The property meets this criterion. The property is located in the Upper Queen Anne Residential Urban Village. The W Galer St commercial stretch is an extension of the Queen Anne Avenue business district. In addition, the business district extends for more than two blocks.

2. Located on streets with good capacity, such as principal and minor arterials, but generally not on major transportation corridors;

1. Served by principal arterial;

Within the study area, W Galer St is classified as a collector arterial at the site, and 3rd Ave W as a non-arterial (access street). Principal arterials are roadways that distribute traffic to collector arterials and access streets.

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

The subject site is located near low-density residential zones areas. However, design review has addressed the physical edge condition.

3. Lack of strong edges to buffer the residential areas;

The area lacks strong edges, such as street breaks or topographical breaks, to residential areas. The project site itself is directly adjacent to Lowrise-3 zoning and Midrise zoning, which are multifamily residential designations. Single family zoning designations are located approximately ½ block to the north of the property, across W Galer St, and approximately 1.5 blocks away to the southwest.

4. A mix of small and medium sized parcels;

Parcel sizes in the area are mixed. The subject property is 12,800 s.f. Parcel sizes fronting West Galer Street tend to be larger, while smaller parcels dominate the Lowrise 3 and single family areas surrounding.

5. Limited or moderate transit service.

W Galer St is defined as a "frequent transit service" street. SMC 23.84A.038. It is also defined as a Minor Transit Street in the Seattle Transit Classification Map. Depending upon destination, ridership on some or all of these routes is likely to increase with the proposal. Though limited parking is proposed, the excellent availability of transit service makes it likely that transit would be the preferred choice for commuting increasing ridership. Some increase in transit usage could be anticipated from the redevelopment of the site but not the rezone.

Conclusion: The proposal for the subject property meets all of the above locational criteria and is appropriately zoned Neighborhood Commercial 2.

Summary

In summary, the proposal meets all of the functional and locational criteria of the zone and is, therefore, appropriately zoned Neighborhood Commercial 2. The proposed contract rezone is consistent with all applicable policies in the Comprehensive Plan and in the Queen Anne Neighborhood Plan. In particular, the proposal provides much-needed assisted living and memory care for seniors units on the top of Queen Anne Hill.
The proposal as designed is consistent with zoning principles that incorporate a gradual transition in height from the NC2-30 zone along W Galer St to the higher density LR3 and MR zones to the south and west of the project site that would allow zoning heights of 40 to 75 feet. In addition, the proposal is consistent with the existing character of the surrounding area, and will blend nicely with the existing 4-story apartment building to the west, and the 5-story apartment building to the southeast. The project will also provide significant pedestrian amenities and is designed in compliance with the Picture Perfect Queen Anne guidelines and Queen Anne specific design guidelines.

Impacts of the proposed height increase to surrounding area appear to minimal. Development of the site will result in an increase of 17 residential units and the anticipated increased demand for police and fire services and other environmental impacts would be minimal. Positive impacts include increased pedestrian safety, improvement in traffic conditions, the provision of a vibrant pedestrian streetscape, and the provision of additional assisted living units. The proposal results in a net reduction of traffic trips from the project site, and peak parking demand is mainly accommodated by the provided garage parking stalls, while any overflow can be accommodated by the neighborhood on-street parking, which has more than enough capacity. Positive impacts of the proposed rezone include pedestrian improvements, senior living units on the top of Queen Anne, and redevelopment of an underutilized parcel.

Sewer capacity and energy needs would not be increased notably beyond what new development could require without a rezone. Adequate parking will be provided and transit service is excellent.

RECOMMENDATION – REZONE

Based on the above analysis, the Director recommends that the proposed contract rezone to NC2-40' be **CONDITIONALLY 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 plans.

ANALYSIS - DESIGN REVIEW

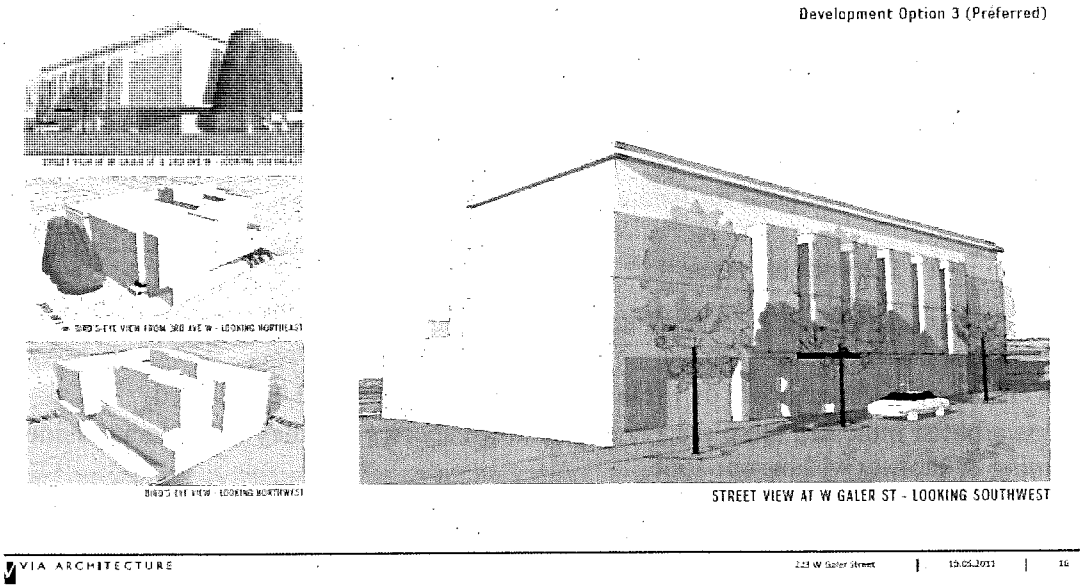
Architect's Presentation:
(at the Early Design Guidance meeting on October 5, 2011)

Three alternative design schemes were presented. *All of the options include a retail space at the corner of 3rd Ave W and W Galer St.*

The first scheme (Option A) showed a building with an internal light well, a residential entry mid-structure on W Galer St, and a loading dock on 3rd Ave W. A portion of the building shown pushed further south than in the other two schemes. A "Memory Garden" open space was shown at the second level on the south side.

The second scheme (Option B) showed the Memory Garden moved to the north side creating an upper level setback along W Galer St, no loading dock and vehicle entry from 3rd Ave W near the southern property line.

The third scheme (Option C) showed an option where the Memory Garden was moved back to the south side and the driveway and loading dock were both located on 3rd Ave W. Bay window elements were shown along W Galer St and a cornice line was incorporated above. Massing diagrams of this preferred scheme are shown below.



PUBLIC COMMENT *(at the early design guidance meeting)*

Approximately seven members of the public attended this Early Design Review meeting. The following comments, issues and concerns were raised:

- Asked for the rational for not putting vehicular access on W Galer St in the preferred scheme and was told that it would require a development standard departure and would negatively impact the commercial frontage and pedestrian environment.
- Stated that 3rd Ave W has had "a lot of traffic on it in recent months" with several trucks side swiping parked cars.
- Objected to placing the loading dock on 3rd Ave W because there would not be enough room in the roadway for maneuvering.
- Opposed removing existing street trees on 3rd Ave W as they offer privacy screening for the Coop housing building to the west....
- Encouraged designing for the context of the neighborhood.
- Concerned with about windows of the proposed windows being lined up with bedroom windows of the Coop to the west and suggested the windows be arranged so that this does not happen.

Architect's Presentation:

(at the Recommendation Meeting on October 24, 2012)

The presentation Design Team consisted of Matt Roewe, AIA, from VIA Architects.

The project has evolved slightly from the EDG meeting in response to board recommendations, as well as the natural progression of design development required for a recommendation meeting. The revised packet, enclosed and dated 10/24/2012, includes illustrations, diagrams and further text that complements the following written description of the information presented at the meeting:

1. The context, locational information and the preferred alternative (option 3) were briefly presented again to refresh the board and the public's memory of the EDG proposal. Per the board's recommendations from the EDG meeting, the primary issues included:
   - The main building entry remains on W Galer St
   - The access to the loading/below grade parking areas off 3rd Ave W
   - The preferred building massing holds the street wall against W Galer St, then steps down and sets back from the south property line.

2. In response to board's initial request for further detail, the following subjects were addressed:

   - Site Planning A1 - Exceptional trees:
     - Existing cypress trees on 3rd Ave W are not recommended street trees but do meet exceptional tree criteria.
     - SDOT has approved removal of 1 tree, 3 northernmost trees will be retained.
     - Aegis arborist indicated these are a hearty & tough species and they will tolerate moderate pruning & shoring within root zone.
     - 4 new street trees will be installed on W Galer St

   - Parking & vehicle access loading A-8: The DRB direction at EDG was to locate the driveway and loading off 3rd Ave W:
     - Keep vehicle access points off W Galer St
     - Better urban solution in this context
     - Willingness to consider a departure for a wider driveway
     - Consistent with Picture Perfect Queen Anne goals
     - Complies with the municipal code & SDOT requirements

   - A-5 Respect for Adjacent Sites: West Façade:
     - The DRB requested that the design team arrange windows on 3rd Ave W for privacy
     - Saved trees are coniferous and block/buffer neighbors to the west.
     - The building sets back from the sidewalk along 3rd Ave W allowing for landscaping buffers
     - No Aegis common activity areas are programed or planned to be on the west facing side of the building.

- B-1 Height Bulk and Scale: Some board members were concerned with the window bays crowding the sidewalk in the EDG proposal: This has been addressed by:
  - Number of bays reduced from 6 to 5
  - Bays raised up an additional floor

3. The advanced building design was presented with the following key points:

- **Overall concept:** This site presents a unique opportunity to create a prominent, activated and neighborhood friendly intersection at the crossroads of W Galer St and 3rd Ave W. In this spirit the building massing has been clearly divided into two asymmetrical components that expresses and emphasizes a strong corner element enhance in brick with a distinctive bay window. The corner element has a street width proportion that is compatible with other storefront commercial buildings in the district. The remaining Galer side elevation is simply and elegantly composed to express the residential uses on the upper floors with uniform bay windows while the street level is detailed to express a more public and commercial character. This approach reflects the following guidelines:
  - A-1 Site characteristics – responsive
  - A-2 Streetscape character compatibility
  - A-10 Corner lot addressed
  - B-2 Height bulk and scale appropriate
  - Neighborhood specific Guidelines:
    - Galer as a vibrant pedestrian street – as suggested by the QACC LURC Committee
    - Sustainability, LID, roof gardens
    - Strong focal point corners with public realm setbacks
    - Simple massing, well fenestrated
    - Break up building mass
    - Bay Windows , not Balconies
    - Individualized Storefronts

- **A4- Human Activity and C-3 Human Scale:** The street level has been composed with quality materials and articulation to allow Individualized storefronts, distinctive canopies and entries. The street side along W Galer St has also been enhanced with a 2' setback with generous plantings between widely spaced structural columns.

- **Character:** The design intent is to express a timeless character and quality that is referential to neighborhood precedents such as the Victorian Townhouses on Lee Street and other dignified mixed-use and apartment buildings in the district. At the same time the detailing will be crisp and appropriately proportioned but not overly decorative.

- **D-6 Screening Services**:
  - The loading bay has been enhances with an artistic metal gate and screening. It has also been setback from the sidewalk to allow greater maneuvering and more pedestrian safety.
  - The loading bay and the driveway entrance to the below grade parking garage has been enhanced with a metal trellis, a green screen and generous multi-season vine plantings.

- **Materials:**
  - A significant amount of reddish/brown brick is used to accentuate and feature the primary corner of the building. This also includes a rustication recess effect at the ground level, a second lighter brick color at the base of the columns, header courses and masonry sills at windows openings.
  - Bay windows, storefront columns and the commercial "frieze" will be painted wood trim with board and batten style multi-level paneling.
  - Windows will be pre-finished storefront aluminum at the ground floor and white or beige vinyl windows on the residential floors. Windows will be surrounded with painted trim wood or cementitious trim.
  - Lap siding is painted cementitious siding with a 6" exposure.
  - Painted concrete block at the east property line.
  - Cast in place concrete plinths along W Galer St.
  - Painted steel trellis, steel and glass canopies and steel brick channel headers.
- **Landscape Design:**
  - Compliments and enhances the site
  - Works with preserved significant trees
  - Adds new trees on Galer
  - Buffering plantings and green screens near sidewalks and adjacent properties
  - Accessible planted roof garden
  - Meets the Seattle Green Factor requirements

PUBLIC COMMENTS *(at the recommendation meeting)*

Public comment was offered at the meeting. Members of the public gave the following comments:

- Concerns regarding large trucks hitting cars parked on 3rd Ave W
- Proposal will shade W Galer St
- Loading and parking concerns surrounding the project
- Concern about the quality of siding materials proposed to be used
- Concern about height bulk and scale
- Concern about how building will be lit at night, want to make sure that any lighting provided is consistent with the code standards
- Would like more space on W Galer St for public to sit — the planters are currently filled with planting; could be seating areas

DESIGN GUIDELINE PRIORITIES

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following siting and design guidance. The Board identified the Citywide Design Guidelines & Neighborhood specific guidelines (as applicable) of highest priority for this project.

The Neighborhood specific guidelines are summarized below. For the full text please visit the Design Review website.

A. Site Planning

A-1 ***Responding to Site Characteristics.*** *The siting of buildings should respond to specific site conditions and opportunities such as non-rectangular lots, location on prominent intersections, unusual topography, significant vegetation, and views or other natural features.*

Queen Anne Supplemental Guidance:

A. Solar Orientation
B. Stormwater Management

At the Early Design Guidance Meeting, the Board discussed four very large Cyprus trees in the 3rd Ave N planting strip, their existing trimmed condition, the green amenity they provide and the negative influence they would have on new uses on the site and on the nature of the pedestrian area beneath them. The Board indicated it would like to see an arborist's report on the Cyprus trees to help in determining what options there might be for them in relation to the new development.

At the Final Recommendation Meeting, with regards to the Cyprus trees on the project site, the project proposes to retain 3 of the 4 existing Cyprus's. The Board was satisfied with this response.

A-2 ***Streetscape Compatibility.*** *The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.*

Queen Anne Supplemental Guidance:

A. Architectural Diversity
B. Older and Historic Buildings
C. Wider Sidewalks
D. Ground Level Residential
E. Streetscape Improvement

At the Final Recommendation Meeting, the Board discussed the sidewalk spaces particularly along W Galer St. The Board wants to makes sure the sidewalk spaces are usable—as this is a senior living community, there should be wide enough areas for walking for residents, as well as enough room for people from the community to walk along W Galer St. *'Life needs to be able to happen on W Galer St, and this area may need a wider sidewalk.'* The Board acknowledged that the sidewalk is 10 feet wide, and 6 feet from the planter box, which is a wide sidewalk.

The Board suggested pulling the planter on the building face back, or providing seating areas in the planting walls instead.

A-4 ***Human Activity.*** *New development should be sited and designed to encourage human activity on the street.*

Queen Anne Supplemental Guidance:
A. Outdoor Dining
B. Individualized Storefronts

At the Final Recommendation Meeting, see the Board responses to A-2. The Board wants to ensure that the W Galer St façade encourages comfortable human activity.

A-5 ***Respect for Adjacent Sites.*** *Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.*

At the Early Design Guidance Meeting, the Board stated that the placement and orientation of windows on the west façade should be developed to maximize the privacy of residents in the proposed building and in the coop multifamily building across 3rd Ave W.

At the Final Recommendation Meeting, the Board found that the Cyprus trees along 3rd Ave W, which are evergreen, will lessen the impact of privacy issues for the apartment building across 3rd Ave W. In addition, the building "holds proud" to the face of W Galer St while eroding away from adjacent properties to the south and east.

A-8 ***Parking and Vehicle Access.*** *Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.*

Queen Anne Supplemental Guidance

A. Parking on Queen Anne Avenue
B. Access to Parking
C. Preserving Existing Sidewalk Areas
D. Widening Narrow Alleys

At the Early Design Guidance Meeting, the Board indicated it preferred locating both the driveway and loading dock entrances on 3rd Ave W. It indicated a willingness to consider a departure to allow a wider driveway to aid vehicles entering and leaving the narrow roadway. The Board stated that keeping vehicle crossings off the W Galer St sidewalk creates the better urban context; one consistent the vision for the future presented in the "Perfect Queen Anne" neighborhood plan.

At the Final Recommendation Meeting, the Board reiterated its support for the driveway for loading and parking access to be located on 3rd Ave W. The board noted that the departure being sought to combine the allowed two curb cuts on 3rd Ave W (would allow 40 feet of curb cut) into only one curb cut of 25 feet wide would limit the number of deliveries that would occur to the 3rd Ave W loading area, since the size of the curb cut and the garage overhang will significantly limit the amount and size of trucks that can access the loading area.

The Board also noted that a loading area has been designated in front of the building to facilitate deliveries along W Galer St.

A-10 ***Corner Lots.*** *Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.*

Queen Anne Supplemental Guidance:

A. Curb Bulbs
B. Intersections.

At the Final Recommendation Meeting, while the project does not include curb bulbs at the intersection of 3rd Ave W and W Galer St, it does provide a wide plaza-like area at the corner to facilitate gathering. The retail space is also located at the corner to help enliven this area. The parking and loading access is located well away from the corner, and the building is pushed to the corner, massing its bulk and scale away from neighboring properties.

B. Height, Bulk and Scale

B-1 ***Height, Bulk, and Scale Compatibility.*** *Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to near-by, less intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk, and scale between anticipated development potential of the adjacent zones.*

Queen Anne Supplemental Guidance:

A. Breaking Up Building Mass
B. Preferred Strategies for Modulation
C. Top Floor Setback
D. Setbacks Where Commercial Abuts Residential

At the Final Recommendation Meeting, the Board found that the stepping back of the building on the south and east sides is a good response to the existing height bulk and scale context. The building has been modulated with a series of bays along W Galer St that breaks up the apparent height bulk and scale of the building. The changes in materials (from brick to lap siding) also help break down the mass of the building and are in keeping with the context of Queen Anne. Finally, the elevator overruns to access the roof deck are minimal and clad in residential-type materials.

C. Architectural Elements and Materials

C-2 ***Architectural Concept and Consistency.*** *Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building. In general, the roofline or top of the structure should be clearly distinguished from its facade walls.*

Queen Anne Supplemental Guidance:

A. Individualized storefronts
B. Highlighting distinctive features
C. Screening rooftop systems
D. Sustainable building features

At the Early Design Guidance Meeting, the Board discussed what the building architecture should look like. Of the photographs of precedential projects shown at the meeting, the Board indicated they liked the fifth one, a flat roofed, recently constructed building. They indicated a flat roof, at least along W Galer St seems most appropriate and that a strong cornice line is an important element.

The Board considered the proposed bay window elements along W Galer St and the width, perceived width and nature of the sidewalk experience. Some of the Board members were concerned that a row of bay windows would *"crowd the sidewalk"* and detract from a wide sidewalk experience which the entire Board found to be important. The Board concluded that they were not directing that the bay windows be removed, but that they be designed to minimize their influence over the sidewalk environment, perhaps by recessing the building a bit, thereby increasing the apparent width of the sidewalk and resulting in less overhang of the property line.

At the Final Recommendation Meeting, the Board recognized the design team's response to the Board's previous guidance under this guideline as being an appropriate response. The roof is flat instead of gabled. The bays previously ran the length of the wall, where they now stop at the third story, reducing the overhang and giving more light and air to the sidewalk. The Board appreciated the use of materials and detailing that mirrors Queen Anne-like architecture.

C-3 ***Human Scale****. The design of new buildings should incorporate architectural features, elements and details to achieve a good human scale.*

Queen Anne Supplemental Guidance:

A. Pedestrian Orientation

At the Final Recommendation Meeting, the building includes overhead weather protection, retail space at the corner, residential-style detailing, window openings, and planting areas to create an appealable human scaled design.

C-4 ***Exterior Finish Materials****. Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.*

Queen Anne Supplemental Guidance:

A. Building for the Long Term
B. Cladding Materials
C. Ground Floor Façade Materials
D. Colors
E. Renewable Materials

At the Final Recommendation Meeting, the Board appreciated the mixed use of brick and lap siding materials. The Board asked that the building wrap the solid materials to the 3rd Ave W frontage and to the structured parking entry to give that side a more durable feel. The Board also asked that the lap siding actually terminate into the brick in order to make a more natural and durable transition. Finally, the Board contemplated the difference between 4" and 6" wide siding and left it up to the planner to decide what the most appropriate material was.

C-5 ***Structured Parking Entrances***. The presence and appearance of garage entrances should be minimized so that they do not dominate the street frontage of a building.

At the Final Recommendation Meeting, the Board appreciated the use of a trellis and a detailed gate to minimize the appearance of the parking entrance.

D. Pedestrian Environment

D-1 ***Pedestrian Open Spaces and Entrances.*** *Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.*

Queen Anne Supplemental Guidance:

A. Building Setbacks for Wider Sidewalks
B. Creating Pedestrian Open Space
C. Recessed Retail Entry Areas
D. Avoiding Dark, Unusable Spaces
E. Pedestrian Weather Protection
F. Operable Storefront Windows
G. Retail Use and Open Space at Sidewalk Level
H. Pedestrian Amenities and Street Furniture
I. Bus Waiting Facilities in Buildings
J. Residential Entries

At the Early Design Guidance Meeting, the Board indicated that the pedestrian environment along W Galer St needs to be a pedestrian oriented extension of the commercial district along Queen Anne Ave. The sidewalk should read a broad path and curb bulbs would be a good feature to incorporate. A building setback providing additional paved area as an extension of the public sidewalk would work effectively here. The Board indicated that an abundance of planting strip area in the sidewalk along W Galer St was not as appropriate as a more urban commercial paved sidewalk; although street trees too would be important.

The Board discussed if a departure to reduce the rear setback to allow the building to be moved away from Galer would be supported and did not reach a consensus.

At the Final Recommendation Meeting, please see the response to A-2. The Board asked for more seating options along the W Galer St frontage, as well as potentially more building setbacks, to help activate the W Galer St streetfront and to create a more usable pedestrian space.

D-6 ***Screening of Dumpsters, Utilities and Service Areas***. *Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When it is not possible to locate these elements away from the street front, they should be screened from view using high-quality and compatible materials and should not be located in the pedestrian right-of-way.*

Queen Anne Supplemental Guidance:

A. Additional Screening near Single-family zoning

At the Final Recommendation Meeting, the Board was satisfied with the way garbage would be dealt with and picked up from the loading area.

D-7 ***Personal Safety and Security.*** *Project design should consider opportunities for enhancing personal safety and security in the environment under review.*

Queen Anne Supplemental Guidance:

A. Sidewalk Obstructions
B. Tree Grates
C. Curb Bulbs and Crosswalks
D. Bus Bulbs
E. Curb Cuts
F. Security and Visibility

Please see the A-2 response.

E. Landscaping

E-1 ***Landscaping to Reinforce Design Continuity with Adjacent Sites.*** *Where possible, and where there is not another overriding concern, landscaping should reinforce the character of neighboring properties and abutting streetscape.*

Queen Anne Supplemental Guidance:

A. Uniform Street Tree Plantings
B. Landscape Maintenance and Irrigation
C. Street-level Landscaping
D. Visible Landscaping
E. Art in the Pedestrian Environment

At the Final Recommendation Meeting, the Board appreciates the fact that this project is essentially "creating a place" in an area that does not currently enjoy a redeveloped pedestrian environment. The Board endorsed the landscaping and endorsed the retention of three of the four Cyprus trees on 3rd Ave W. It appreciated the addition of street trees on W Galer St. The board asked whether the planting strips on W Galer St could be narrowed to allow for more walking room, particularly for seniors, and whether more seating could be added to the building rather than planting the planter boxes.

The Board also expressed concern about the species of screening plants on the south side of the property — hydrangeas are shown, even though these are relatively slow-growing. The board would like to see a mix of evergreen and deciduous plants back there, preferably plants that grow faster than hydrangeas.

E-2 ***Landscaping to Enhance the Building and/or Site.*** *Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture, and similar features should be appropriately incorporated into the design to enhance the project.*

See E-1. The Board appreciated the addition of the trellis along the east side of the property.

E-3 ***Landscape Design to Address Special Site Conditions.*** *The landscape design should take advantage of special on-site conditions ....*

See E-1.

DEVELOPMENT STANDARD DEPARTURES

The Board's recommendation on the requested departure(s) will be based upon the departure's potential to help the project better meet these design guideline priorities and achieve a better overall design than could be achieved without the departure(s). The Board's recommendation will be reserved until the final Board meeting. Six potential development standard departures were presented with any one of the three alternative schemes requiring only four.

At the time of the Early Design Guidance meeting, the following departures were requested:

1. Vehicular access for a corner lot without an alley from other than the side street. (SMC 23.47A.032.1.c): The Code requires access to be from the side street. The applicant proposes access from W. Galer St. in one of the presented options.

   The Board indicated that W Galer St would not be its preferred location for vehicular access.

2. Reduction in dimension of sight triangle. (SMC 23.54.030.G.4): The Code requires driveway sight triangle of 10 feet on a side for exiting vehicles crossing a sidewalk. The applicant proposes seven feet on a side.

   The Board indicated no early indication with regard to this departure request as it would be needed only for Option 1 with a driveway on W Galer St which it did not endorsed.

3. Reduction in required side setback above 13 feet. (SMC 23.47A.014.B.2): The Code requires a 10 foot side setback for portion of a façade above 13 feet in elevation. The applicant proposes a 224 sq. ft. floor area portion of the building on each level above 13 feet to a height of 16 feet to be in the required setback.

   The Board indicated a willingness to consider this departure.

4. Reduction in required rear setback above 13 feet. (SMC 23.47a.014.B.3): The Code requires a 15 foot setback from the rear lot line for portions of a structure above 13 feet in elevation. The applicant proposes an approximately 36% portion of the building to be setback 7 feet six inches with the remainder being setback further so that the average setback is greater than 15 feet.

The Board indicated it was undecided on this departure with some members favoring it and others concerned about the impact on the residential structure to the south.

5. Reduction of Loading Dock dimensions. (SMC 23.54.035.C.1 and C.2): The Code requires that among other dimensions, a loading dock in this instance must be a minimum of 14 feet tall and 35 feet deep. The applicant proposes a loading dock height of 12 feet and a depth of 25 feet.

   The Board indicated support for this departure.

6. Location of residential use in relation to the sidewalk. (23.47A.008.A.3 and D.3): The Code requires the entry level of a street facing residential use to be either four feet above grade or setback 10 feet from the sidewalk. The applicant proposes two residential units to be two feet above sidewalk grade and two feet back from the property line.

   The Board indicated support for this potential departure.

At the time of the Recommendation meeting the following **departure was requested and <u>conditionally approved</u>.** See the Boards deliberation above and the Departure Matrix below.

DEPARTURE MATRIX			
DEVELOPMENT STANDARD	**DEPARTURE REQUEST/ PROPOSAL**	**JUSTIFICATION**	**ACTION**
SMC 23.47A.008.B.3.a Street Level Development Standards. Non-Residential Uses Shall Extend an average of 30' and provide a minimum of 15' of depth from the street level façade.	The proposed design provides 25'-6" minimum depth for the non-residential use.	The space is reduced as a result of façade being setback 2'-0" from the property line along Galer and the location of an internal stair for the building. The setback provides an opportunity for a landscaped planting area and wider sidewalk area along the building face, recessing and articulating the building face and enhancing the pedestrian experience. The exist stair location is a result of parking which is being provided as a concession to the neighborhood. No parking is required for residential building types in Urban Villages. Moving the stair would result in a loss of parking space. The scale of existing retail along W Galer St is very small, making this a contextually sensitive solution.	The Board voted **unanimously to recommend approval.**

SMC 23.47A.014.B.1 Setback Requirements Lots abutting a residential zone will provide a 15'x15' setback triangle along the street lot line and side lot line.	The design proposes a steel trellis above the parking garage entrance which encroaches into the required setback triangle.	The proposed trellis is intended to buffer the vehicle and loading entrances from the street as well as screen the driveway from the adjacent LR3 site. Designed to work in conjunction with the vertical green screens, landscaping is specified that will train up the green screens and onto the trellis. Additionally, the trellis is primarily open and horizontal in its projection, minimizing its apparent bulk.	The Board voted **unanimously to recommend approval.**
SMC 23.47A.014.B.3.a Setback Requirements 15' rear setback required for portions of structure from 13' to 40' in height when adjacent to a residential zone.	Proposing 7-6" setback for a 49'-6" long portion of south façade.	The smaller setback is on just 39% of the rear yard. The remainder of the façade provides a setback dimension between 20' and 31'. The resulting average rear setback is 22'-10". The overall impact to the adjacent LR3 zoned property is less than the strict application of the setback requirement of 15' to all floors above 13'.	The Board voted **unanimously to recommend approval.**
SMC 23.47A.014.B.3.a Setback Requirements 15' side setback required for portions of structure from 13' to 40' in height when adjacent to a residential zone.	Proposing a 10' setback for a 19' long portion of east façade.	Design proposes a 10' setback along 19' (38%) of the affected portion of the east façade. The remainder of the façade provides between a 15' setback and up to 71'. The resulting average side setback is 43'-11". The overall impact to the adjacent MR zoned property is less than the strict application of the setback requirement of 15' to all floors above 13'.	The Board voted **unanimously to recommend approval.**
SMC 23.47A.014.B.3.a Setback Requirements 15' setback required for Portions of structure above 13'.	The project is proposing that a small portion of the first floor abutting the MR zone on the east facade begins the 15' setback at 15' above grade rather than 13' above grade.	Due to the slope of the site, it is difficult to keep this portion of the main floor below 13' above grade without costly structural vertical jogs in the post-tensioned podium slab at the second floor. The first floor plan area needing the departure is only 224 sf and it would be about 15' above grade rather than the allowed 13'.	The Board voted **unanimously to recommend approval.**

SMC 23.54.030.F.1.b.2 Curb Cuts For residential uses, combined curb cuts are limited to 20' of total width	Requesting a combined curb cut of 25' for the driveway and loading dock access.	The proposed design consolidates the driveway and loading dock access points to be adjacent to one another and are allowed a 20' combined curb cut for driveways serving residential uses. To better accommodate vehicle maneuvering to and from 3rd Ave W, a 25' wide combined curb cut is proposed. The net result is less impact that two separate curb cuts.	The Board voted **unanimously to recommend approval.**
SMC 23.54.035.C.2 Loading Berth Requirements Loading areas for a "medium demand" use are required to be 14' tall and 35' long. Assisted living is categorized as "medium demand".	Requesting reductions to 12' vertical clearance and 25' depth	Though floor to floor height is 15' from level 1 to level 2, existing grade at the loading dock location limits the available height to 12' clear. The actual delivery vehicles and aegis passenger van servicing the facility require less than 12' clear vertically and can easily park and load in a 25' deep bay. The garbage pick-up will occur at the street and does not require pulling into the bay. Since the site is so compact and the delivery needs are well known to Aegis, who operates 35 communities, a medium demand loading area isn't necessary. The existing street truck loading zone on W Galer street will be maintained and will be used for any larger deliveries.	The Board voted **unanimously to recommend approval.**

BOARD RECOMMENDATIONS

The recommendation was based on the design review packet and the presentation by the applicant at the October 24th, 2012 Design Recommendation Meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the materials, three (all those present) of the Design Review Board recommended **APPROVAL** of the subject design.

DIRECTOR'S DECISION — *Design Review*

The Board's recommendation was based on the design review packet and the presentation by the applicant at the Design Review meetings. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities and reviewing the materials, (all those present) of the Design Review Board recommended APPROVAL of the subject design.

The design review process is prescribed in Section 23.41.014 of the Seattle Municipal Code. Subject to the above-proposed recommendations, the design of the proposed project was found by the Design Review Board to adequately conform to the applicable Design Guidelines.

The Director of DPD has reviewed the recommendations of the Design Board members present at the final Design Review recommendation meeting and finds that the Board acted within its authority and the Board's recommendations are consistent with the City of Seattle Design Review Guidelines for Multi-family and Commercial Buildings, and is consistent with SEPA requirements or state and federal laws.

Therefore, the Director accepts the Design Review Board's recommendations and **CONDITIONALLY APPROVES** the proposed design with the conditions summarized at the end of this Decision.

CONDITIONS

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

ANALYSIS – SEPA

The proposal includes a contract rezone of 12,800 sq.ft. of property from NC2-30 to NC2-40, and a project containing 60 units of assisted living and memory care for seniors (assisted living units) and 21 below grade parking stalls. The proposal includes the demolition of on-site structures, and will include grading/excavation of 10,000 cubic yards of material. Thus, the application is not exempt from SEPA review. Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Chapter 25.05 SMC) because the proposal is located in a Residential Urban Village and exceeds the exemption threshold of 4 dwelling units and grading levels.

This analysis relies on the ***Environmental (SEPA) Checklist*** for the proposed development submitted by the applicant which discloses the potential impacts from this project. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

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

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

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

Short-Term Impacts

The following temporary construction-related impacts are expected: temporary soils erosion; temporarily decreased air quality due to dust and other suspended air particulates during construction and demolition; increased noise from construction operations and equipment; increased traffic and parking demand from construction personnel; tracking of mud onto adjacent streets by construction vehicles; conflict with normal pedestrian movement adjacent to the site; and consumption of renewable and nonrenewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794). Although not significant, these impacts may be adverse, and in some cases, mitigation is warranted.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City.

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

Earth

The project will require excavation and DPD anticipates further study and design associated with the grading and construction permits. DPD geotechnical staff indicates that existing Codes (Grading and Drainage Control Ordinance, SMC 22.800) provide authority to require appropriate mitigation for this project, and that no specific conditioning is warranted in this regard.

Air Quality

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

- During demolition, excavation and construction, debris and exposed areas will be sprinkled as necessary to control dust and truck loads and routes will be monitored to minimize dust-related impacts.
- Using well-maintained equipment and avoiding prolonged periods of vehicle idling will reduce emissions from construction equipment and construction-related trucks.
- Using electrically operated small tools in place of gas powered small tools wherever feasible.
- Trucking building materials to and from the project site will be scheduled and coordinated to minimize congestion during peak travel times associated with adjacent roadways.

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

Environmental Health

State law provides for the cleanup and appropriate disposal of hazardous substances. The Model Toxics Control Act (WAC 173-340) is administered by the Washington Department of Ecology (DOE) and establishes processes and standards to identify, investigate, and clean up facilities where hazardous substances have come to be located. DPD alerts the applicant to this law and provides a contact: Joe Hickey, DOE, (425) 649-7202.

Discharge of contaminated groundwater to the sewage system is regulated by the King County Department of Natural Resources under Public Rule PUT 8-14. A factsheet and permit application is available online or by calling (206) 263-3000.

Disposal of contaminated fill is regulated by the City/County Health Department, contact: Jill Trohimovich, (206) 263-8496.

Existing regulations adequately address potential impacts to environmental health. In addition, there is no evidence of environmental health issues on the project site. No further conditioning of site cleanup or hazardous waste treatment is warranted pursuant to SEPA policies.

Construction Noise

As redevelopment proceeds, noise associated with demolition/construction activities at the site could adversely affect the surrounding residential/commercial uses. However, the limitations of the Noise Ordinance are found to be adequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), no mitigation other than compliance with the Construction Noise Ordinance is warranted.

Construction Parking

During construction, parking demand will increase due to additional demand created by construction personnel and equipment. It is the City's policy to minimize temporary adverse impacts associated with construction activities. Construction workers can be expected to arrive in early morning hours and to leave in the mid-afternoon. Surrounding residents generate their peak need for on-street parking in the evening and overnight hours when construction workers can be expected to have departed. In addition, most of the commercial uses in the surrounding area include enough on-site parking such that street parking is not an issue. Construction parking impacts will be insignificant and therefore SEPA mitigation of parking impacts during construction is unwarranted.

Traffic and Circulation

Site preparation would involve removal of the existing structure, pavement, and excavation for the foundation of the proposed building and below grade parking garage.

Existing City code (SMC 11.62) requires truck activities to use arterial streets to every extent possible. Traffic impacts resulting from the truck traffic associated with the removal of the existing building and excavation for the foundation of the proposed building will be of short duration and mitigated in part by enforcement of SMC 11.62. This immediate area is subject to traffic congestion during the PM peak hours, and large trucks turning onto arterial streets would further exacerbate the flow of traffic. Pursuant to SMC 25.05.675 B (Construction Impacts Policy) and SMC 25.05.675 R (Traffic and Transportation) additional mitigation is warranted.

The construction activities will require the export/import of material from the site and can be expected to generate truck trips to and from the site. In addition, delivery of concrete and other building 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. Assuming contractors use double loaded trucks to export/import grade/file material, with each truck holding approximately 20 cubic yards of material, thus requiring approximately 500 truckloads (1,000 trips) to remove the excavated material.

For the duration of the grading activity, the applicant(s) and/or responsible party(ies) shall cause truck trips to cease during the hours between 4 PM and 6 PM on weekdays. This condition will assure that truck trips do not interfere with daily PM peak traffic in the vicinity. As conditioned, this impact is sufficiently mitigated in conjunction with enforcement of the provisions of SMC 11.62.

City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed en route to or from a site. No further conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

Streets and Sidewalks

The proposed on-site demolition, excavation and construction are controlled by a demolition/building permit, separate from this Master Use Permit. The Street Use Ordinance includes regulations which mitigate dust, mud, and circulation. Any temporary closure of the sidewalk and/or traffic lane(s) is controlled with a street use permit through the Seattle Department of Transportation. It is the City's policy to minimize or prevent adverse traffic impacts which would undermine the stability, safety, and/or character of a neighborhood or surrounding areas (25.05.675 R).

In this case, adequate mitigation is provided by the Street Use Ordinance, which regulates and provides for accommodating pedestrian access. Therefore, additional mitigation under SEPA is not warranted.

Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant, so mitigation is not required pursuant to SEPA.

Long-Term Impacts

Potential long-term or use impacts anticipated by the proposal include: increased height, bulk and scale of building in some areas of the site; increased light and glare from exterior lighting, increased noise due to increased human activity; increased demand on public services; increased traffic on adjacent streets; increased on-street parking, and increased energy consumption. These long-term impacts are not considered significant because they are minor in scope, but some warrant further discussion (noted below).

The likely long-term impacts are typical of this scale of mixed use development, and DPD expects them to be mitigated by the City's existing codes and/or ordinances (together with fulfillment of Seattle Department of Transportation requirements). Specifically these are: the Land Use Code (aesthetic impacts, height, light, traffic, setbacks, parking) the Seattle Energy Code (long-term energy consumption), and the Street Use Ordinance. However, more detailed discussion of some of these impacts is appropriate.

Several adopted City codes and/or ordinances provide mitigation for the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires provisions for controlled release to an approved outlet and may require additional design elements to prevent isolated flooding. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies.

Operational activities, primarily vehicular trips associated with the project and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not significant, so do not require mitigation pursuant to SEPA.

Land Use

The proposed project includes a Council Action to rezone the subject site from NC2P-40 to NC2P-65. See the **REZONE ANALYSIS** at the beginning of this report.

Height, Bulk, and Scale

SMC 25.05.675.G.2.c states, "*The Citywide Design Guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk, and scale impacts addressed in these policies. A project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk, and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decision maker pursuant to these height, bulk, and scale policies on projects that have undergone Design Review shall comply with design guidelines applicable to the project.*"

The site is surrounded by properties that are similarly zoned. The Design Review Board considered issues of height, bulk and scale in its review of this project and unanimously recommended approval of the project design. The proposed structure is located on an NC2-40 zoned site, and the structure conforms to zoning requirements, including height and bulk. No additional height, bulk, or scale SEPA mitigation is warranted pursuant to the SEPA height, bulk and scale policy.

Light and Glare

The checklist discusses the project's potential light and glare effects on the surrounding area. The proposed project exterior design emphasizes a sympathetic arrangement of glazing and materials on the facades. Lighting will be downshielded but will provide enough light in the evening to provide a safe environment. DPD therefore determines that light and glare impacts are not substantial and warrant no further mitigation per SMC 25.05.675.K.

Vehicle Parking Demand

The site is currently occupied by a 10,900 sq.ft. commercial building containing four different tenant spaces. Uses include both warehouse and office space. Only 4 vehicle spaces are provided on-site, located on the north frontage of the building, access directly off W Galer St. Total daytime employment on-site has historically varied. The latest information from the existing on-site tenants indicates that 58 daytime employees are associated with the business in the existing building.

A parking analysis was completed for the project. The peak parking demand was estimated based on data provided in the Institute of Transportation Engineers' (ITE's) Parking Generation report documenting average parking demand for the assisted living use. Based on the study, peak parking demand for the site would be 24 vehicles. The project provides 21 stalls, resulting in parking overflow of 3 stalls. A neighborhood parking utilization study was completed to determine whether neighborhood on-street parking demand could accommodate overflow parking demand. The study concluded that on an average weekday, 150 spaces would be available within an 800 foot walking distance of the site, to accommodate the potential parking spillover of three vehicles. The parking study also noted that the 150 on-street spaces include spaces designated in a Residential Parking Zone (RPZ), which only restrict long-term parking. However, even if the RPZ spaces were entirely removed from consideration of available parking supply, 69 spaces would be available for use by the three potential overflow vehicles for parking.

Table 2. Estimated Weekday Peak Parking Demand

Land Use	Size	Rate	Peak Parking Demand (vehicles)
Proposed Land Use			
Assisted Living Facility (ITE Land Use 254)	57 units	0.41	24
Less Existing Land Use			
Warehouse (ITE Land Use #150)	10 Emp	0.78	8
Office (ITE Land Use #701)	48 Emp	0.83	40
Total			*48*
Net New Parking Demand			**-24**

Based on the availability of parking supply both in the project and on-street, no significant adverse parking impacts are anticipated to result from the project, and no mitigation of parking impacts is warranted or required according to SMC 25.05.675.M.

Traffic and Transportation

A transportation impact analysis was completed for the project. To estimate the proposal's trip generation, weekday daily and PM peak hour person trip rates were estimated for the proposed land uses. Vehicle trip rates were determined using the ITE Trip Generation, 9th Edition. The number of trips generated by the proposed senior living use was then adjusted to account for the number of trips

generated by the existing use on site to determine the impact of the proposal. The proposal would generate approximately 160 vehicular weekday trips, with 17 trips occurring during the weekday PM peak hour. The existing site uses generate approximately 198 vehicular weekday trips, with 28 occurring during the PM peak hour. Thus, the proposal would generate 38 less daily weekday trips and 11 less PM peak hour trips than the existing on-site uses.

Trip distribution patterns in and out of the project site were also examined. The substantial majority of PM peak hour trips in and out of the garage will orient immediately to the north, to access Galer Street, which provides the most direct and uninterrupted access to other destinations. With the project, all intersections studied by the transportation impact analysis will continue to operate under acceptable levels of service following construction and occupancy of the project. No mitigation is warranted pursuant to SMC 25.05.675.R.

The transportation analysis included analysis of service vehicles that will access the site. Service vehicles that will access the site include the Aegis Passenger Van, food delivery trucks, office supply delivery trucks, garbage/recycle trucks, and resident moving vehicles. First the report analyzed movements of the Passenger Van, which will park in the below-grade garage when not in use. It will be used about one time per day. The driveway on 3rd Ave W was analyzed to ensure that the turning movements of the van into the garage will be accommodated by the driveway and street width and would be able to be conducted in a safe manner. The report concluded that this movement would indeed be safe. Second, the report analyzed delivery trucks. Approximately four truck deliveries are anticipated each week. Truck deliveries will occur in an on-street loading space on W Galer St, as 3rd Ave W does not accommodate delivery trucks. The on-street delivery space safely accommodates delivery vehicles expected to visit the site. Finally, resident moving activities were analyzed. Moves happen infrequently, approximately one to two times per week. Move ins and outs may stage either in the parking garage or in the on-street loading zone. Both areas are adequate to accommodate these activities. No significant adverse impacts to pedestrian or vehicular safety are anticipated as a result of truck activities associated with the site. Therefore, no mitigation is warranted pursuant to SMC 25.05.675.R.

Other Impacts

Several codes adopted by the City will appropriately mitigate the use-related adverse impacts created by the proposal. Specifically these are: Grading and Drainage Control Ordinance (storm water runoff from additional site coverage by impervious surface); Puget Sound Clean Air Agency regulations (increased airborne emissions); and the Seattle Energy Code (energy consumption in the long term).

Greenhouse Gas

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

DECISION – STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

[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).

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

RECOMMENDED CONDITONS – REZONE

1. Approval of this contract rezone is conditioned 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 plans.

CONDITIONS – SEPA

During Demolition, Excavation, and Construction

2. For the duration of the removal of the existing building, excavation of materials, and delivery of construction materials; the owner(s) and/or responsible party(ies) shall cause truck trips to and from the project site to cease during the hours between 4 PM and 6 PM on weekdays.

CONDITIONS-DESIGN REVIEW

Prior to Issuance of Building Permit

3. Any proposed changes to the exterior of the building or the site must be submitted to DPD for review and approval by the Land Use Planner assigned to the project.
4. Compliance with all imagines and text on the MUP drawings, as modified by this decision and approved by the Land Use Planner, shall be verified by the Land Use Planner assigned to this project. An appointment with the assigned Land Use Planner must be made at least three working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that substantial compliance has been achieved.

Prior to Issuance of a Permanent Certificate of Occupancy

5. The applicant shall arrange for an inspection with the Land Use Planner to verify that the construction of the buildings with, sitting, materials, and architectural details is substantially the same as those documented in the approved/issued plans.

Signature: (signature on file) Date: January 7, 2013
Colin R. Vasquez, Senior Land Use Planner
Department of Planning and Development

Context

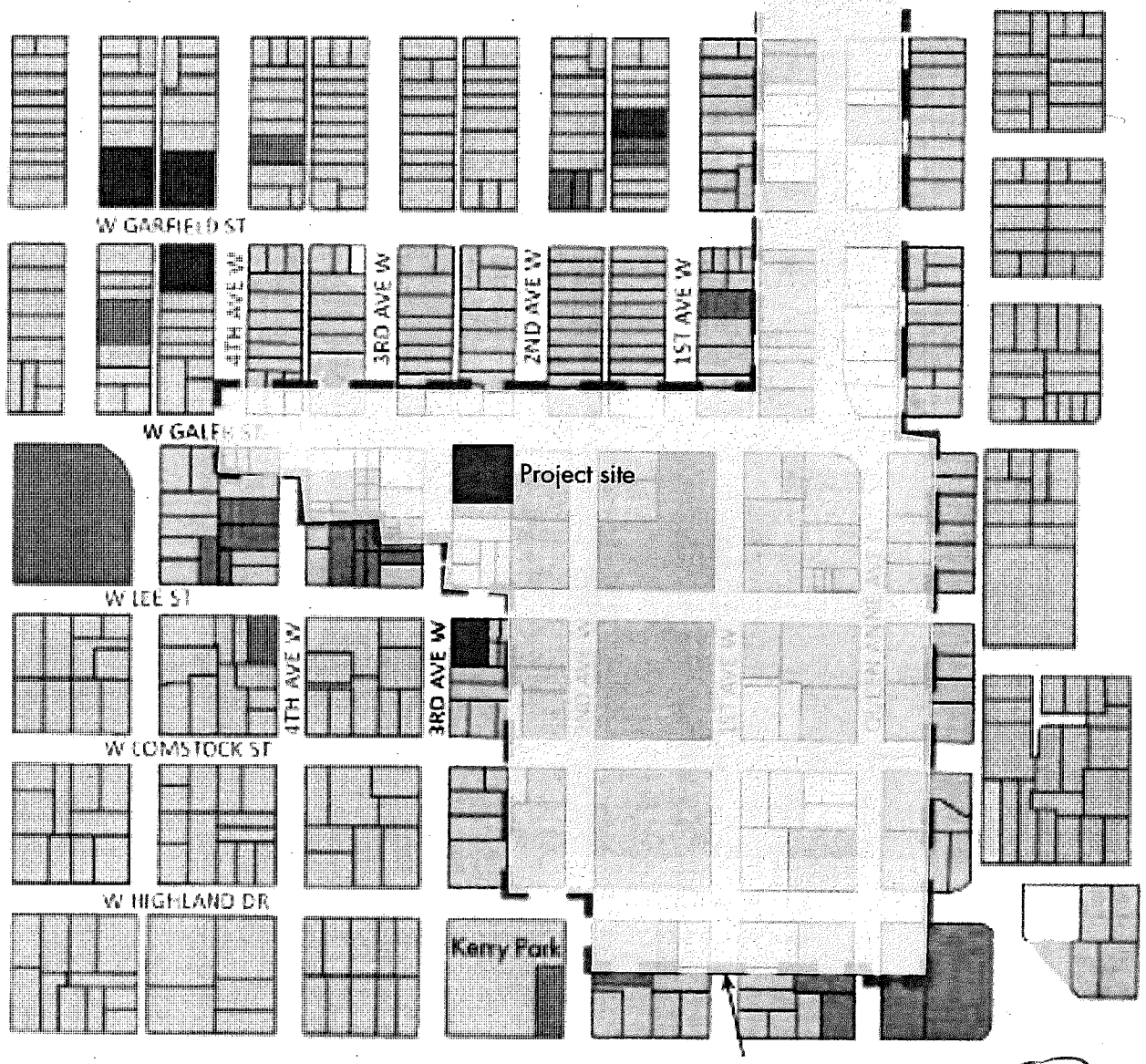
World • United States • WA • King Co • Seattle • Lower Queen Anne
Project site
Upper Queen Anne
Residential Urban
Village

Urban Village

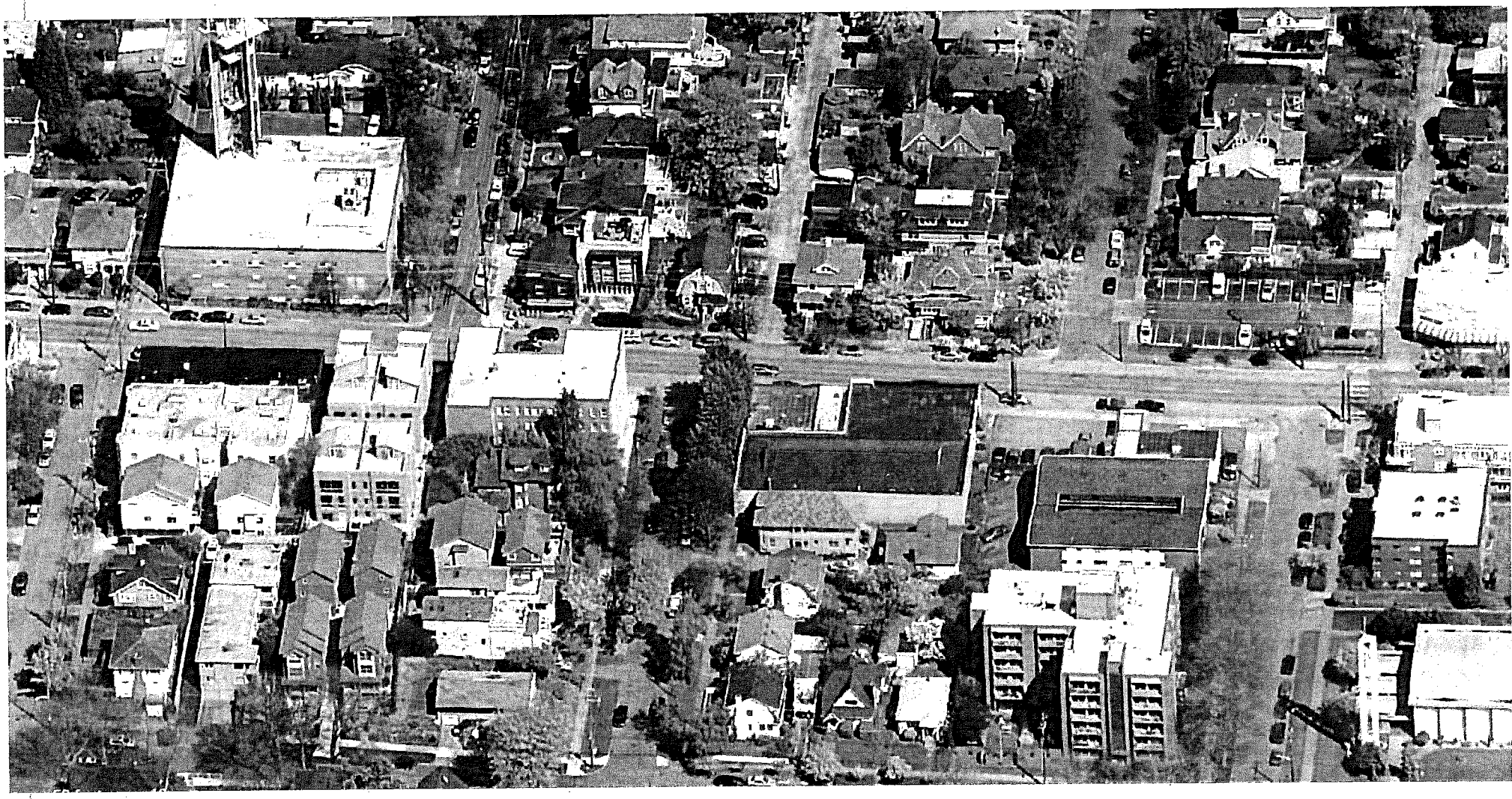
UV Goal:
Targeted growth areas with a commitment to grow wisely, more sustainably

UV Policy:
Promote the growth of urban villages as compact mixed-use neighborhoods in order to support walking and transit use, and to provide services and employment close to residences

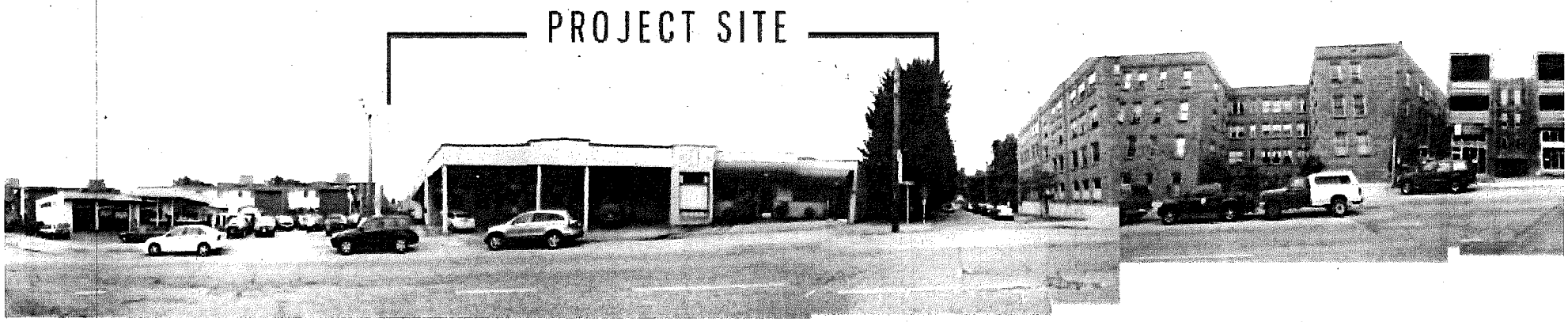
Seattle Comprehensive Plan



Context Map

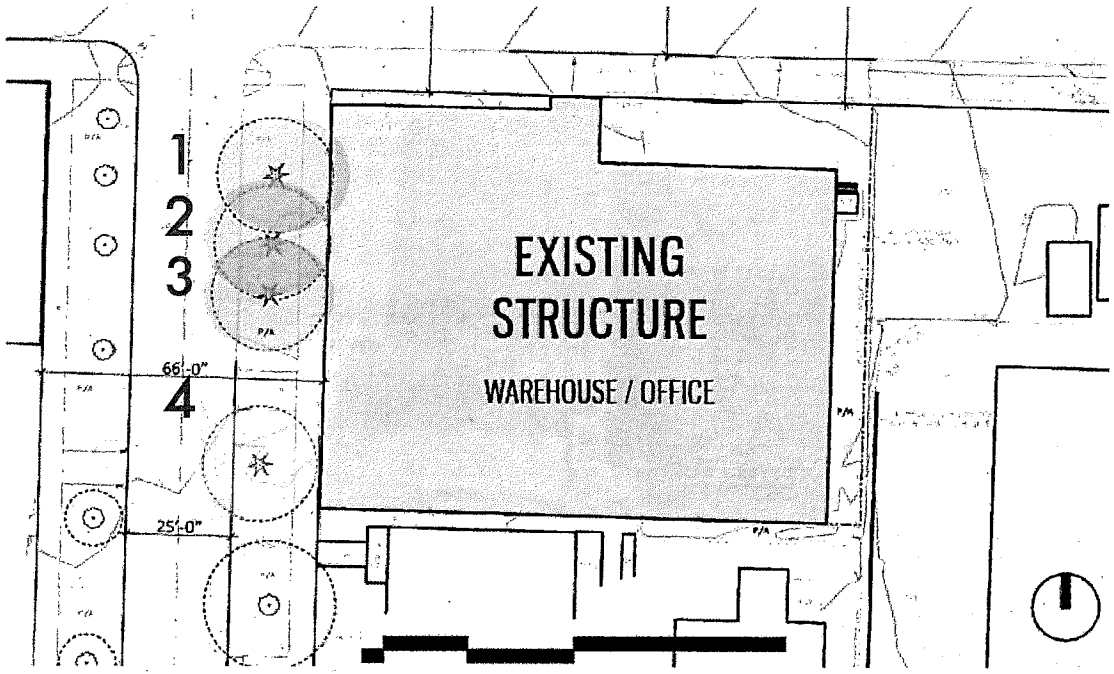


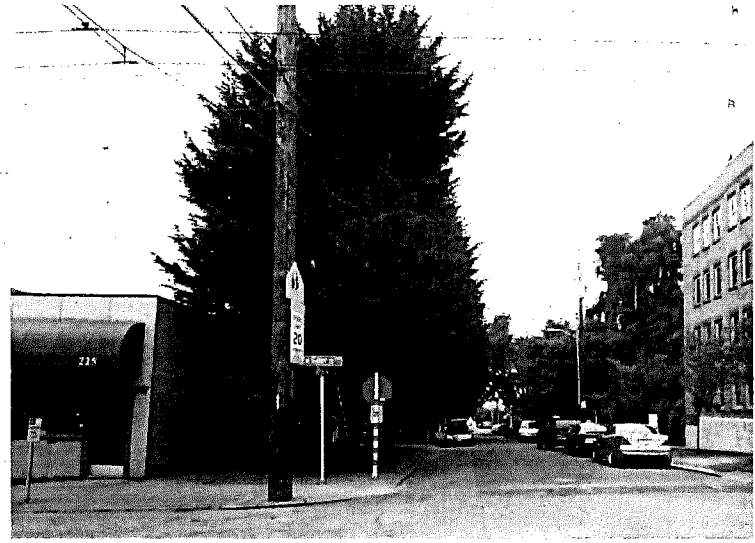
Existing Conditions - Galer Street



(5)

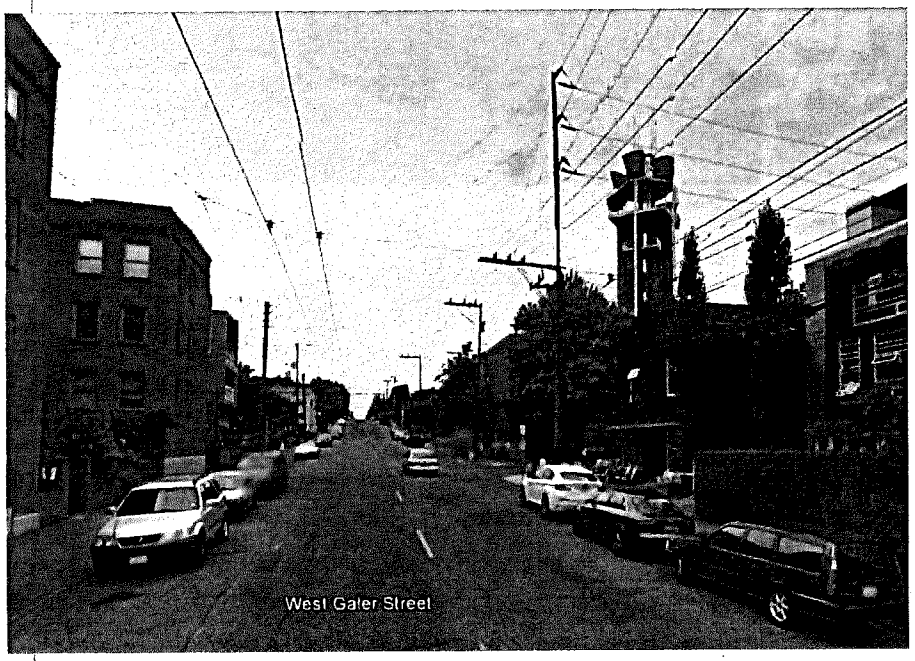
Existing Conditions

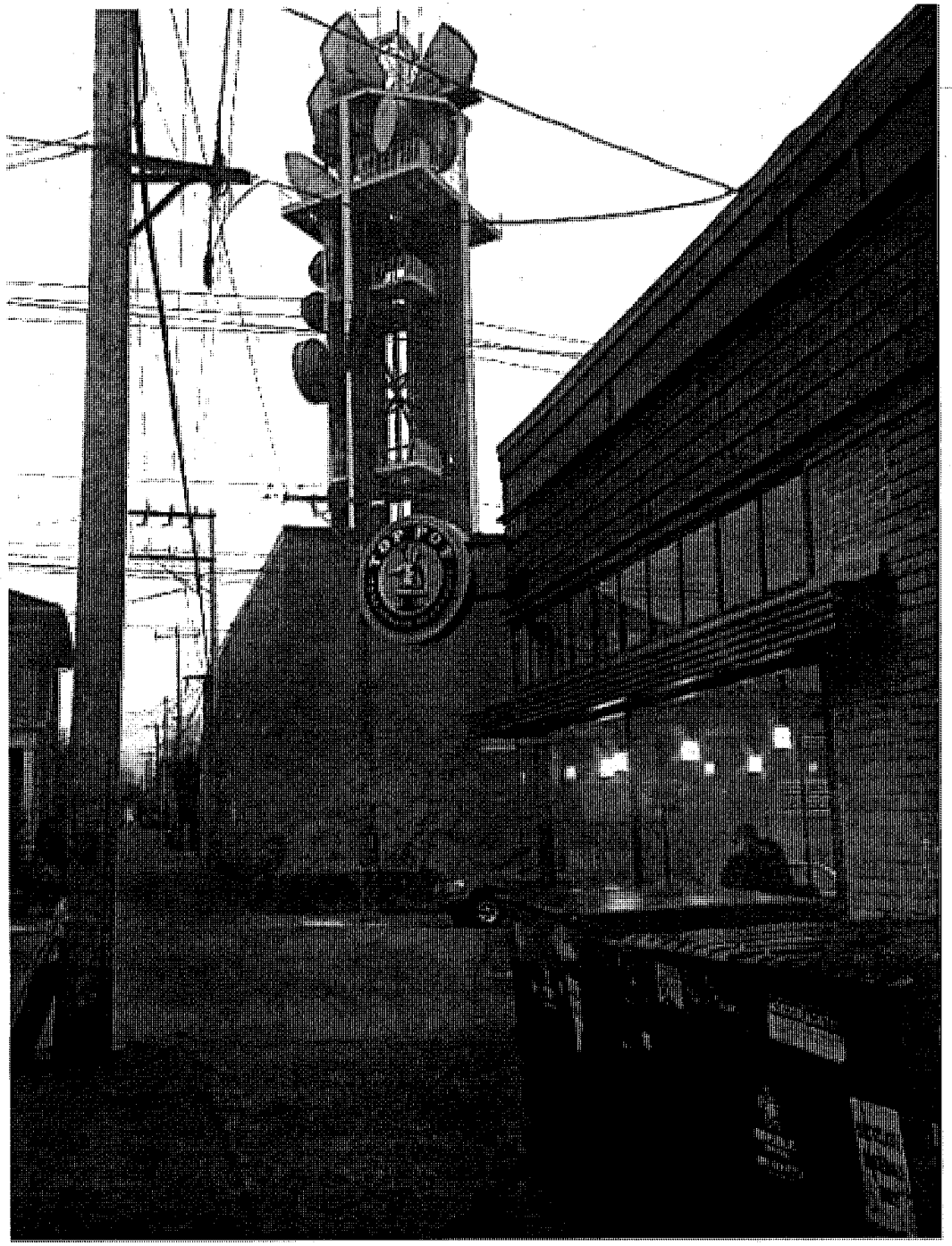




Existing Context Height

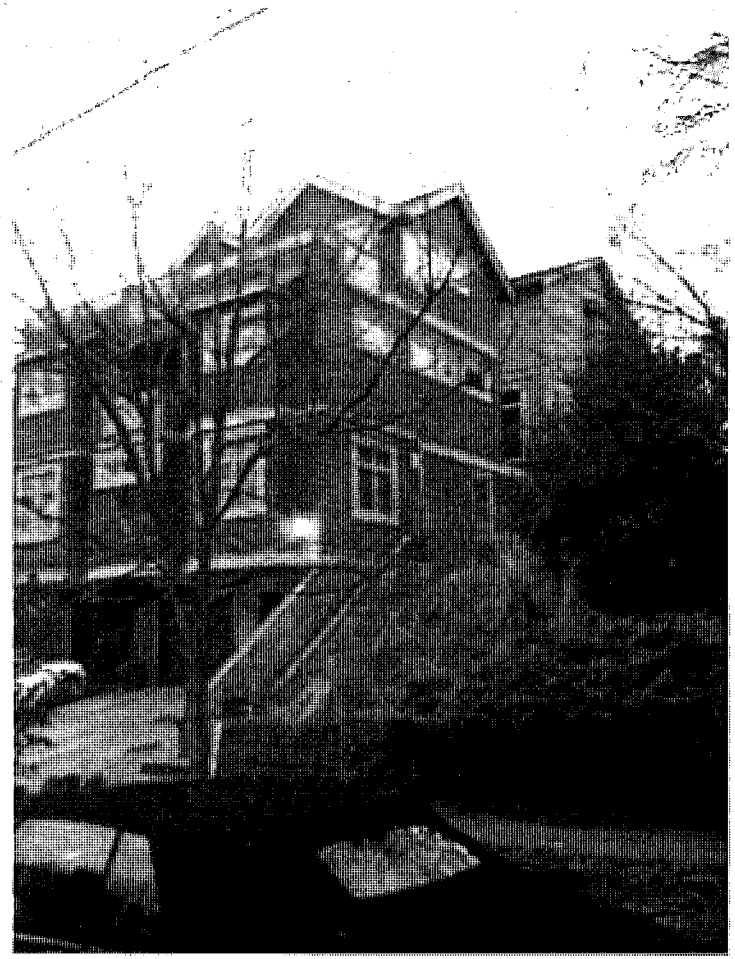
Telecommunications Tower –
Approximately 90′ Tall.

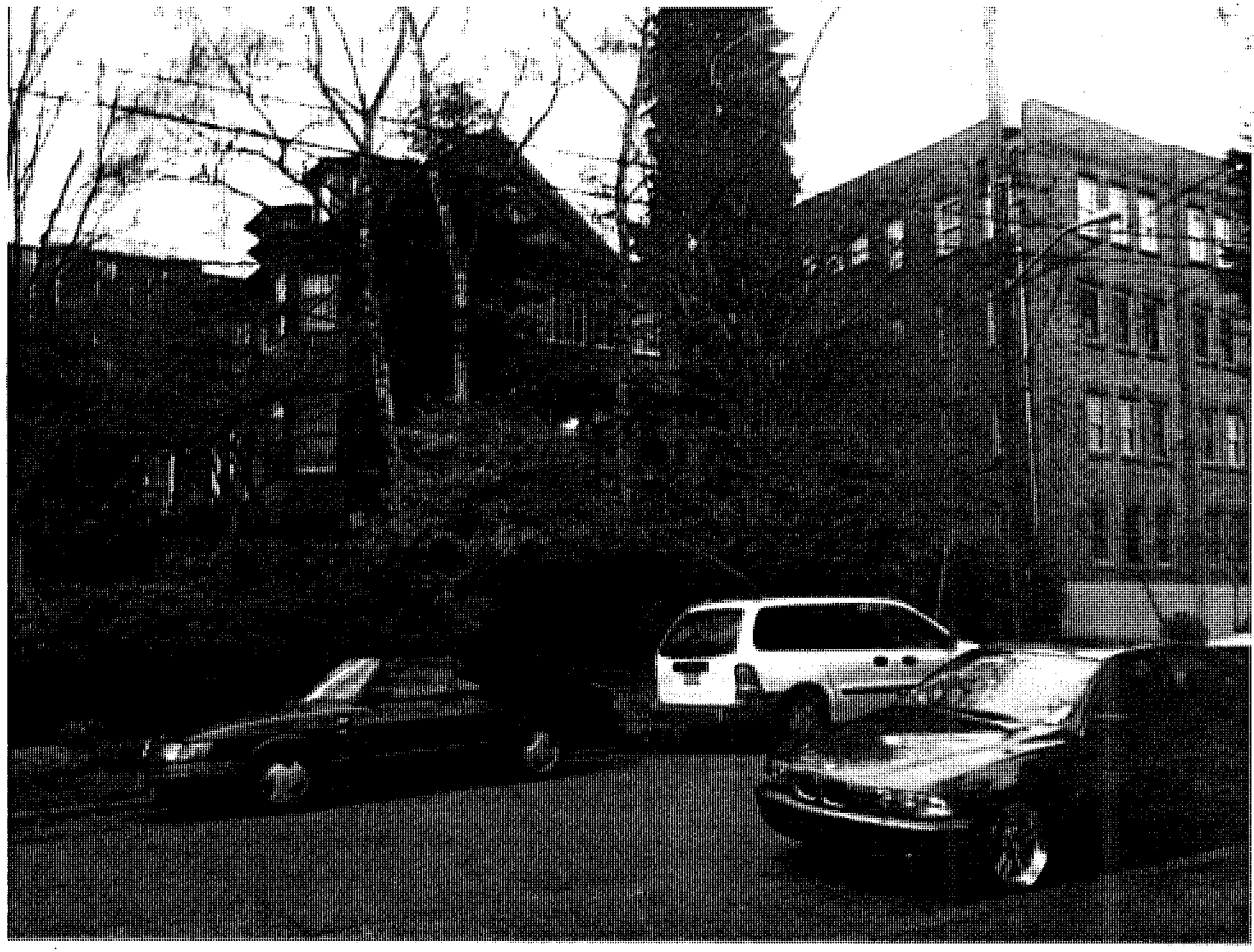




Existing Context - Height

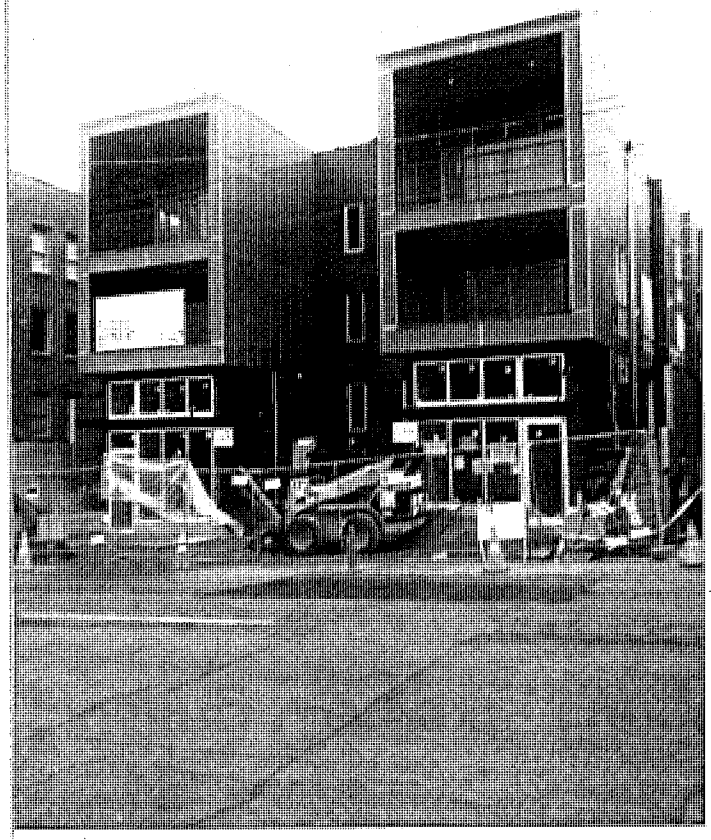
3rd Ave. W neighbors – grade advantage results in a full story higher
(effectively 4 levels above the street)





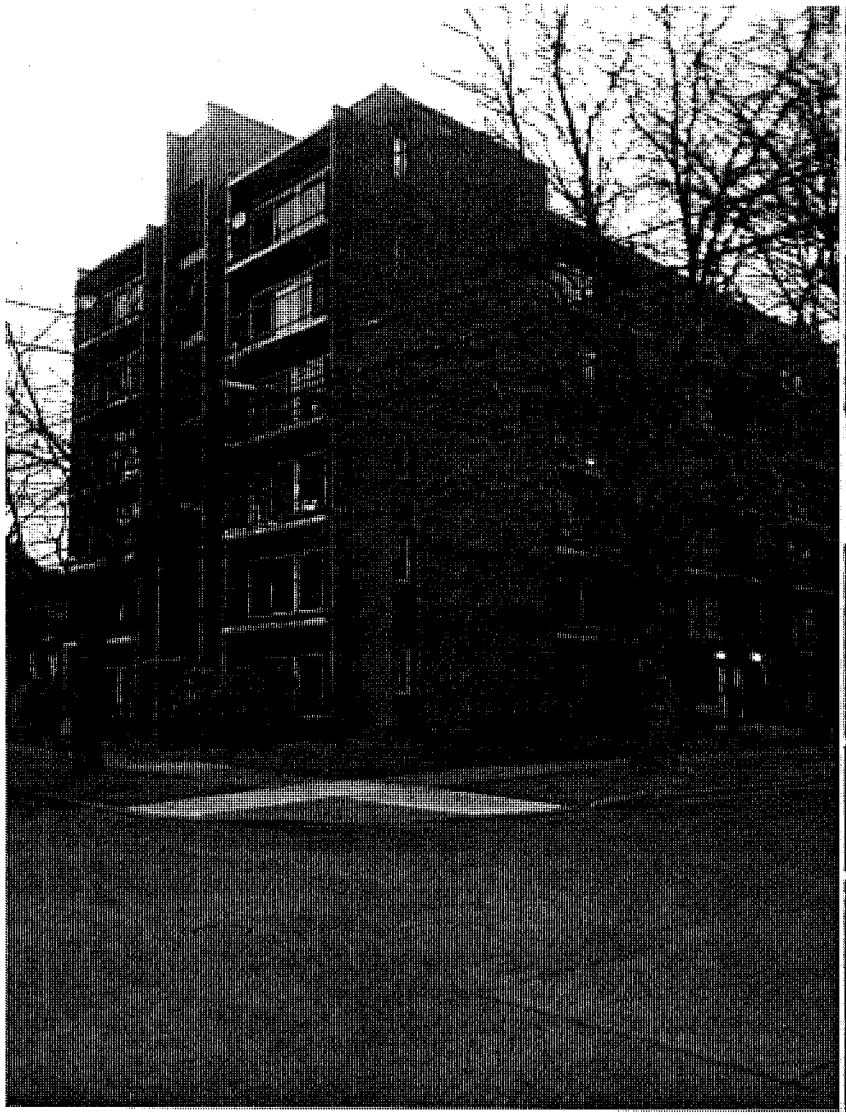
Existing Context Height

Galer Street "Gayteway" Townhouse - Grade advantage effectively results in a full story higher



Existing Context - Height

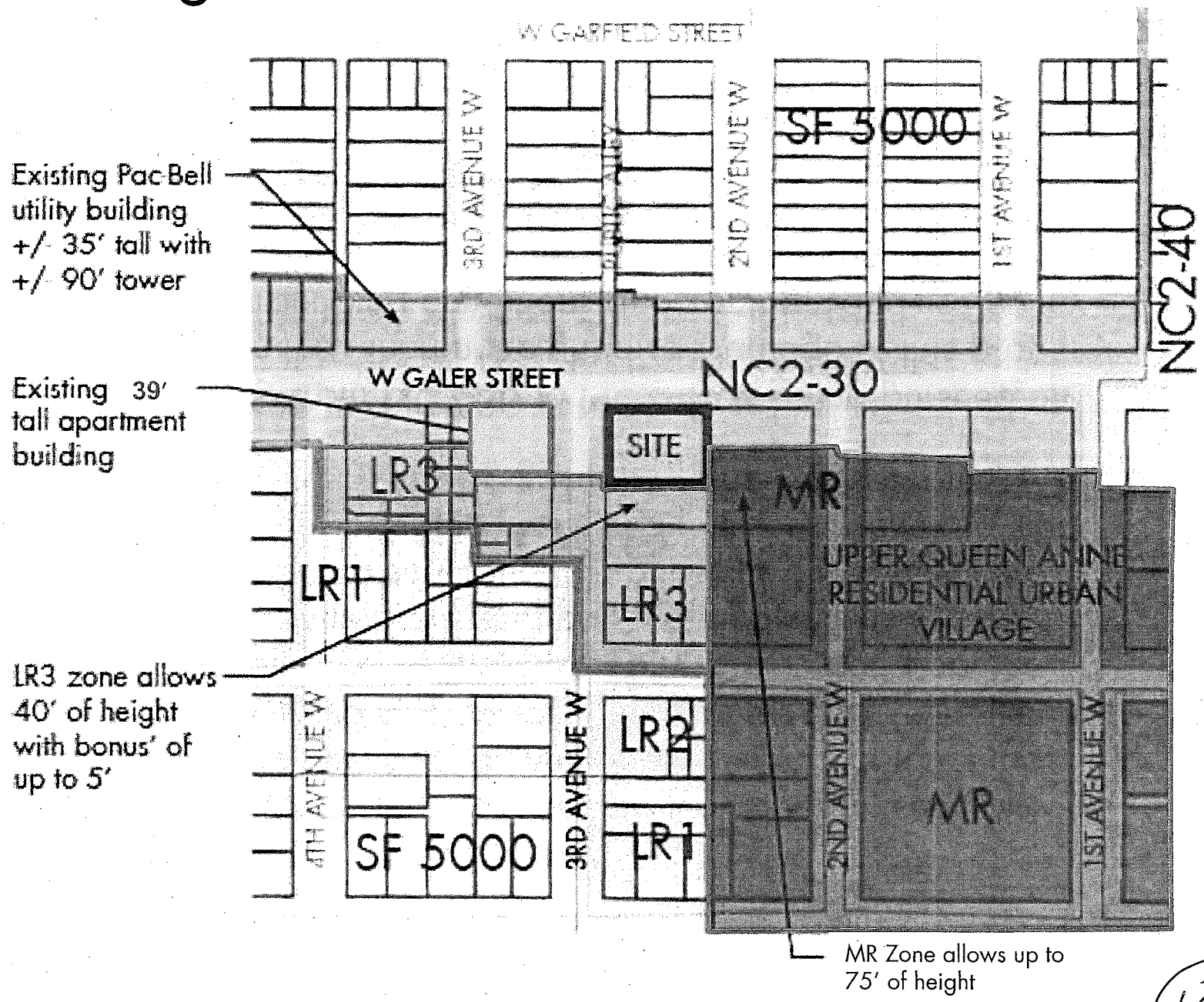
SHA Housing on the same block – 6 Stories, MR Zone



Contract Rezone

A Contract Rezone to from NC2-30 to NC2-40 is being pursued on this project based on the inherent height disadvantage of this property compared to the surrounding conditions and zoning. Land-use policy generally places a height and bulk hierarchy at the center of neighborhood commercial districts then transitions into smaller scale multifamily and single family zones. This project looks to echo that traditional hierarchy. The following land use, zoning and existing conditions justify a contract rezone in this location:

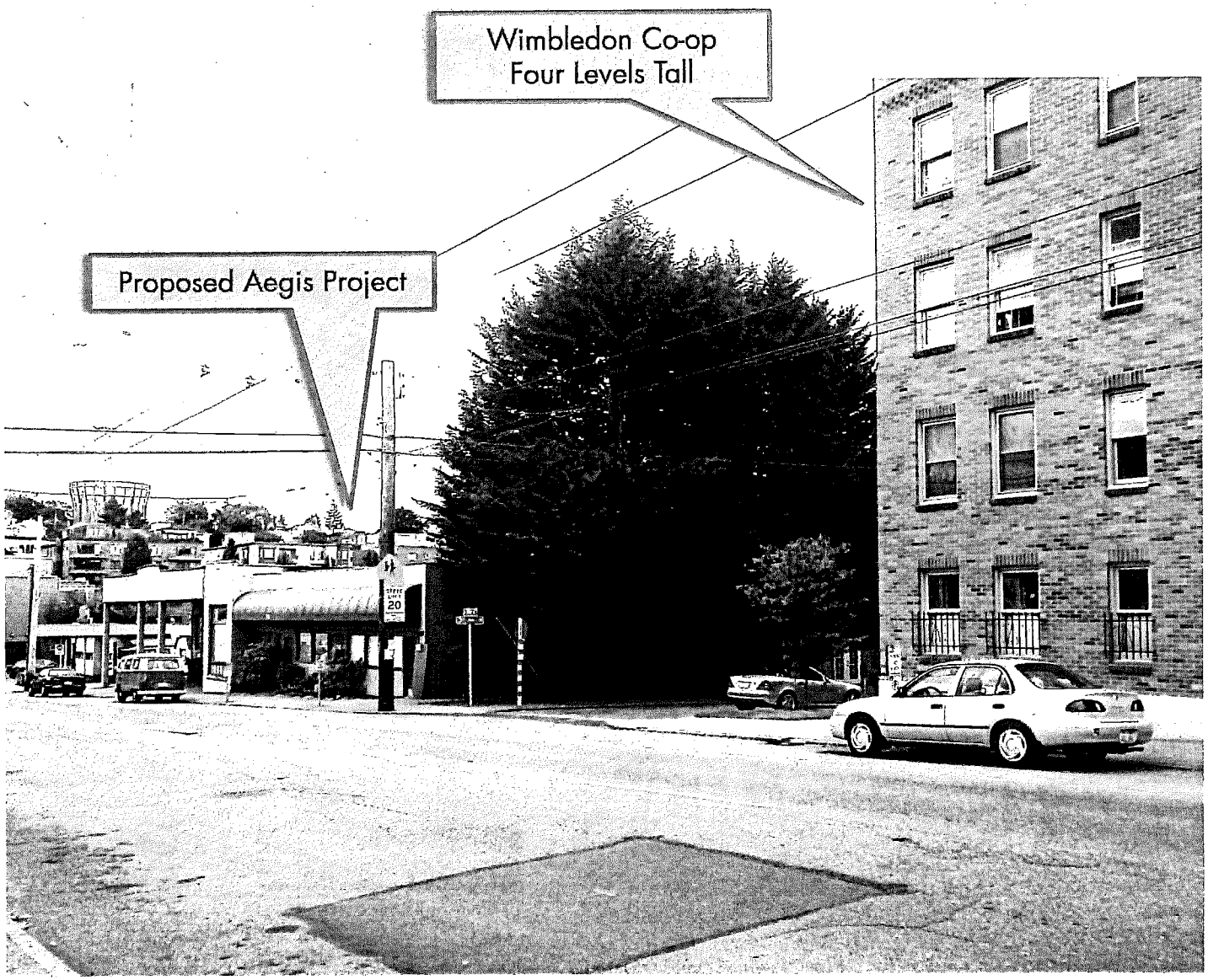
Existing Zoning



Existing Context - Height

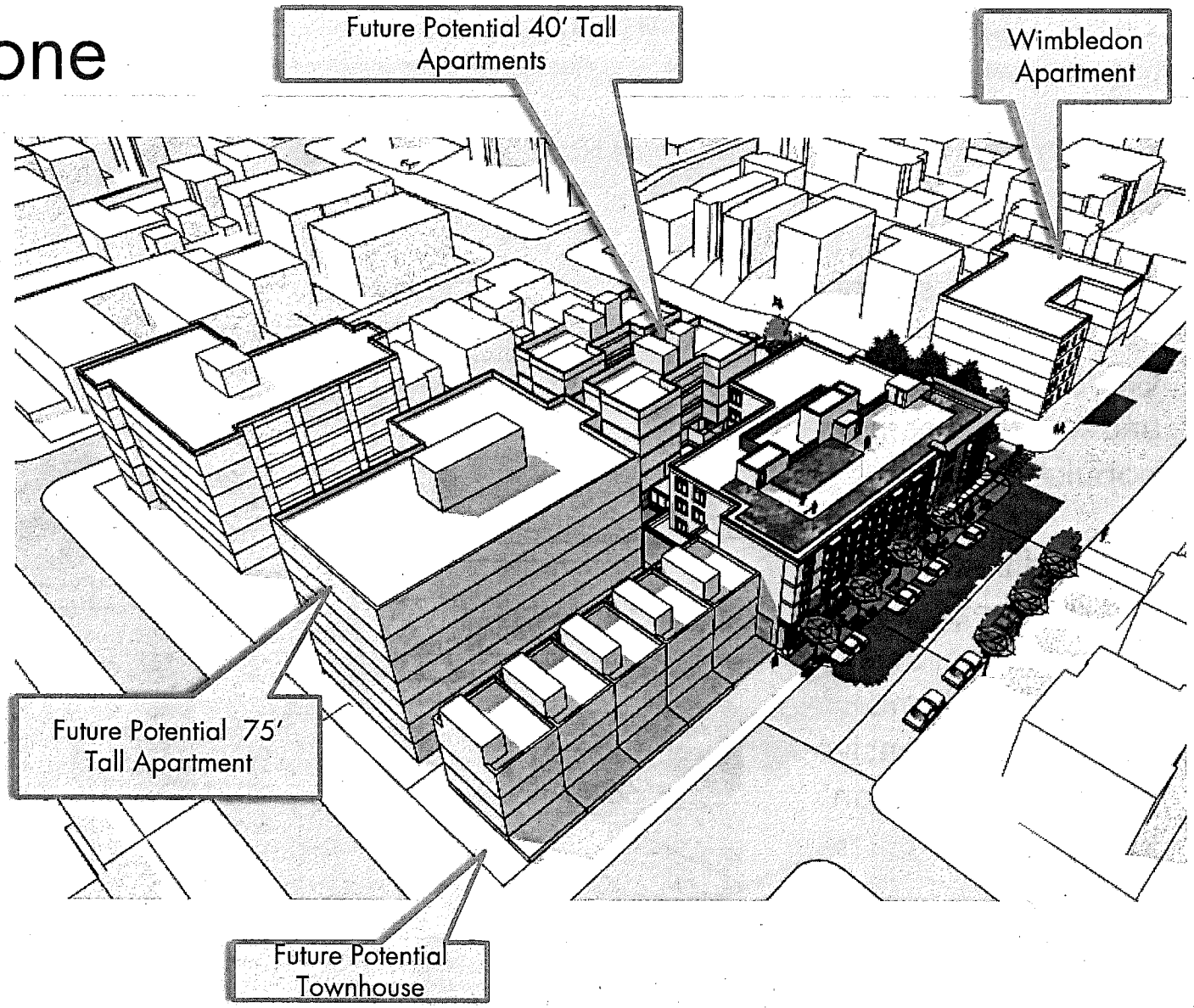
Adding one floor to the project will allow the project to add 16 more units of senior housing to serve Queen Anne's under-served senior population.

The addition of units will also help the city better meet growth management and other comprehensive plan goals in urban Villages.



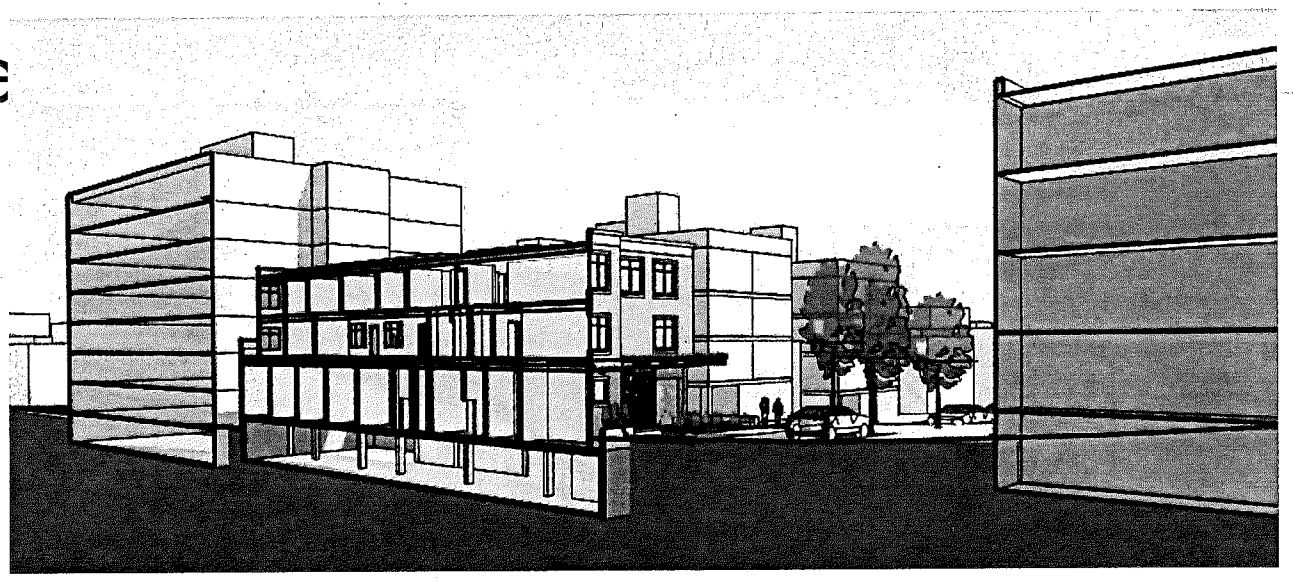
Contract Rezone

- Future development potential (pink) shows crowding around the site
- The property to the west (behind Hobbs Auto Repair) overlaps 1/2 of the project's east boundary. It is zoned MR (midrise) which allows 75' of height and considerably more bulk than NC2-30 zoning (FAR 4.25 vs. 3.25).

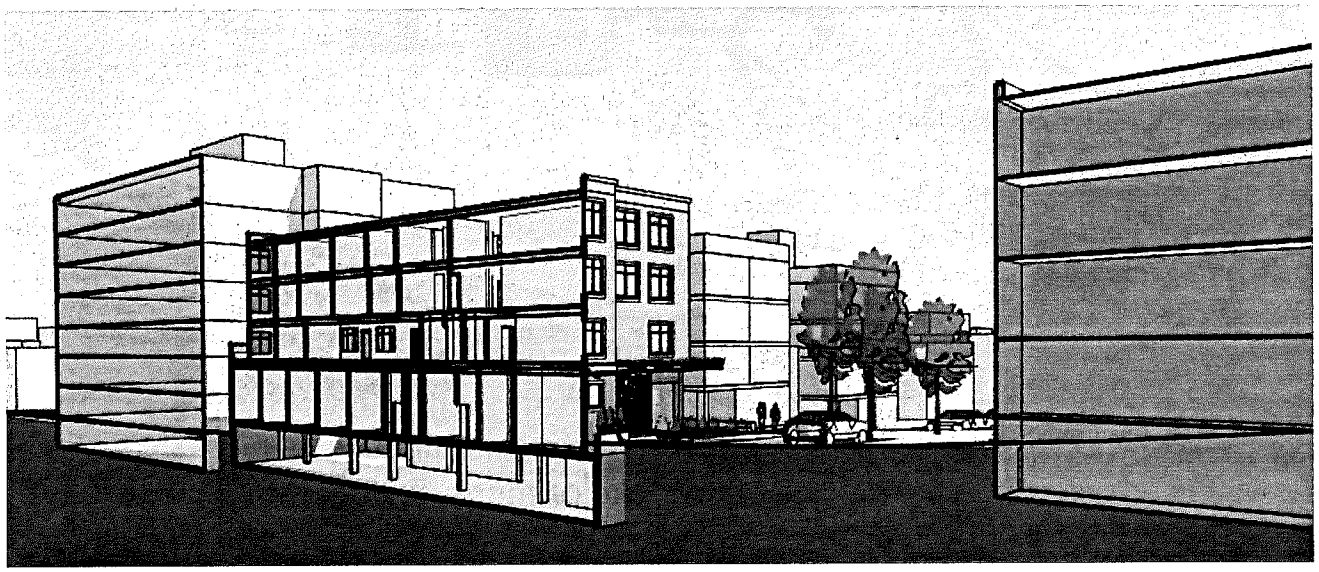


Contract Rezone

- Current zoning creates an incongruous transition condition.
- Allowing an extra floor level creates a more appropriate height transition from commercial to multifamily to single family
- NC2-40 zoning would more closely match zoned and existing conditions to support development in this location

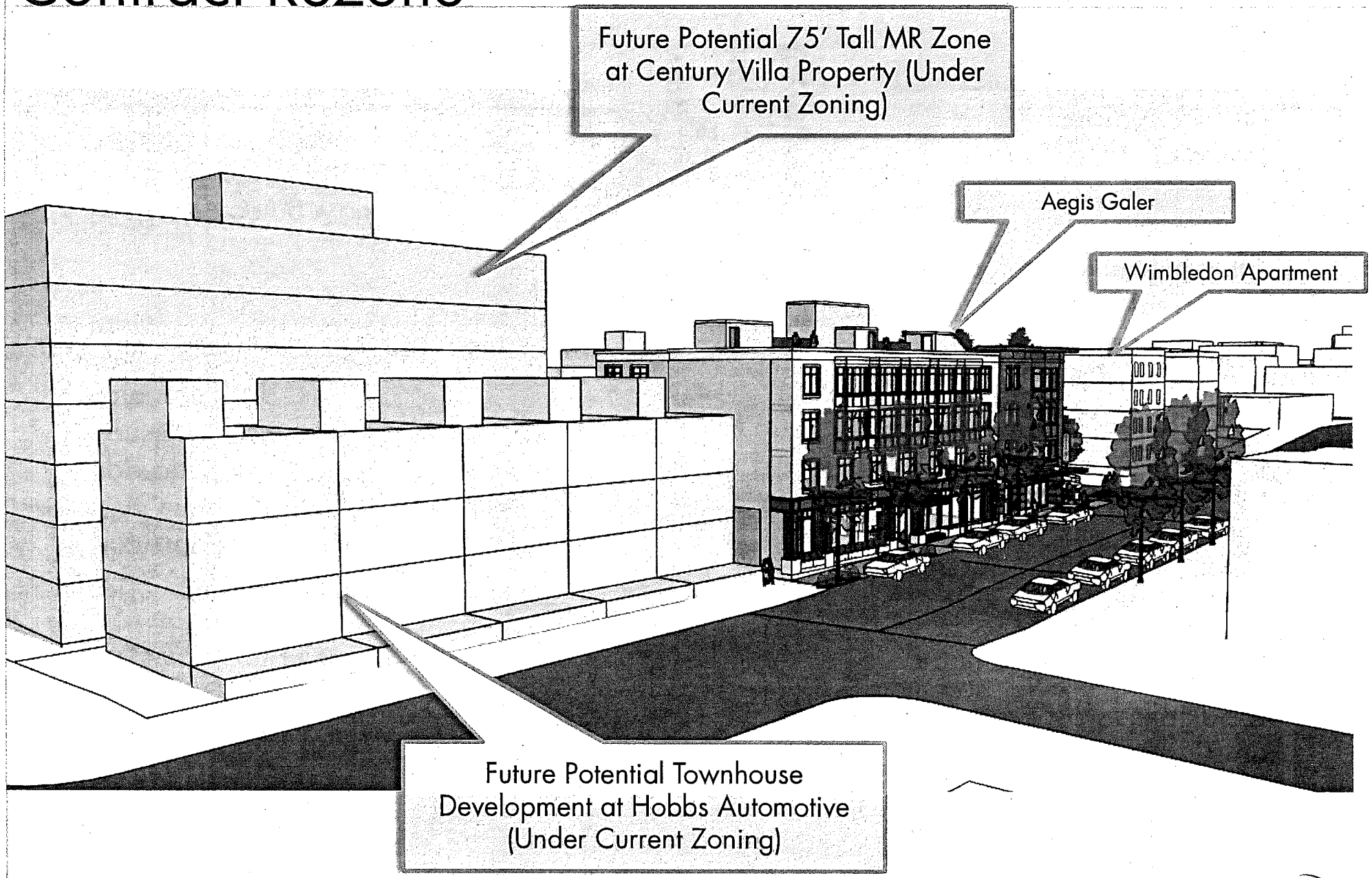


SECTION THRU 3 STORY OPTION - EXISTING NC2-30 ZONE



SECTION THRU 4 STORY OPTION - CONTRACT REZONE TO NC2-40

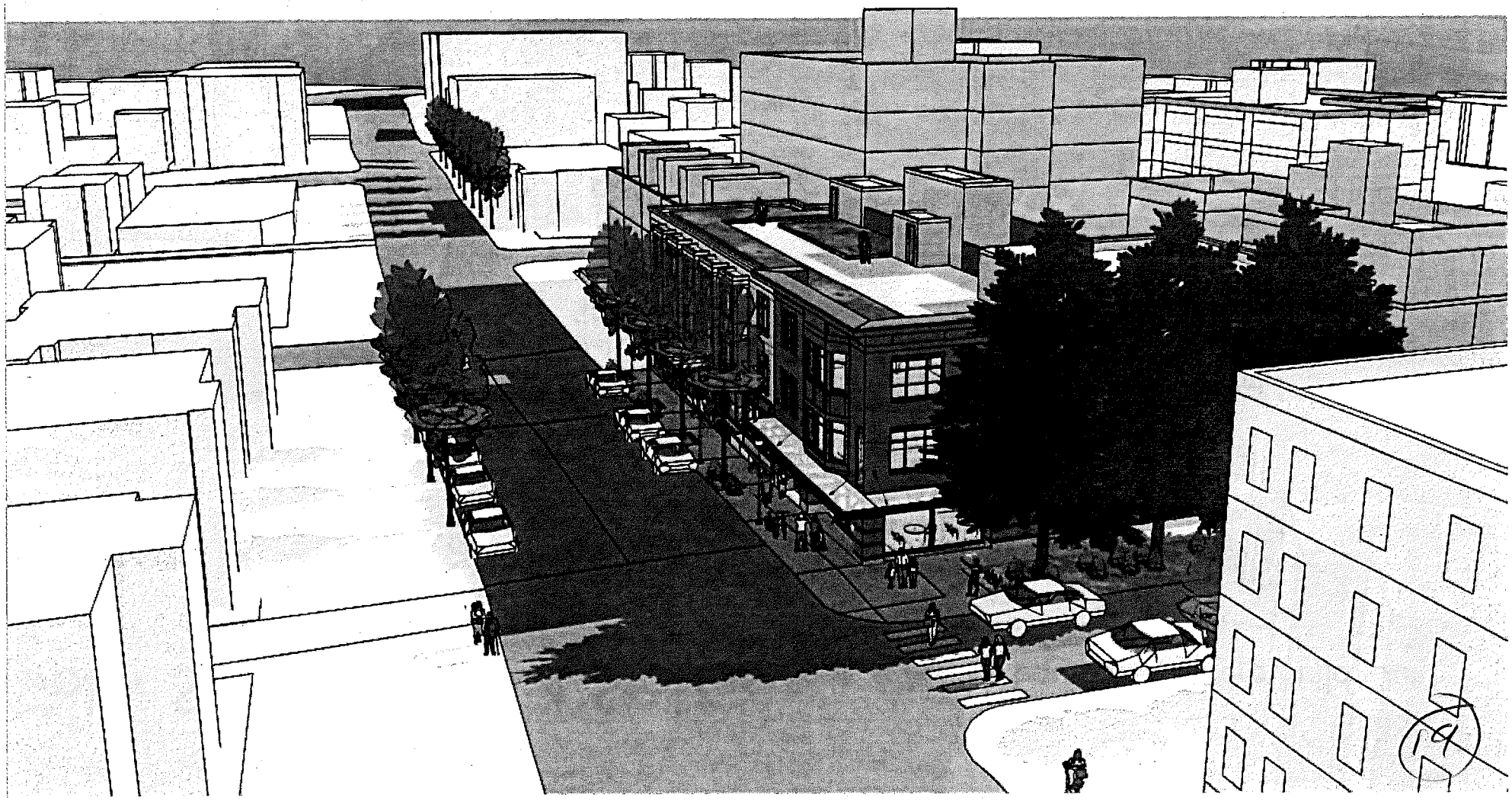
Contract Rezone



Galer Street View – 3 Stories Summer Solstice

Galer Street View – 4 Stories Summer Solstice

Galer Street View – 3 Stories Sept. & March Equinox + Future Build Out



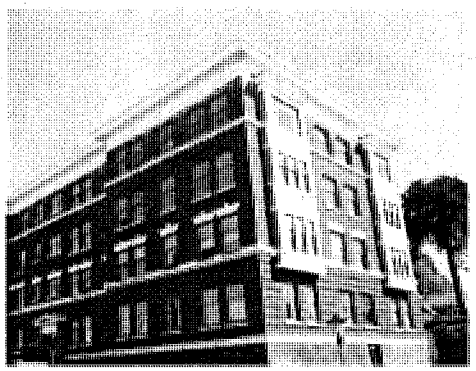
Galer Street View – 4 Stories Sept. & March Equinox + Future Build Out

Design

Timeless Character & Quality

Precedents

Upper Queen Anne contains a wealth of typologies to draw inspiration from. Our intent is to match the high level of detailing and quality materials of this rich context.



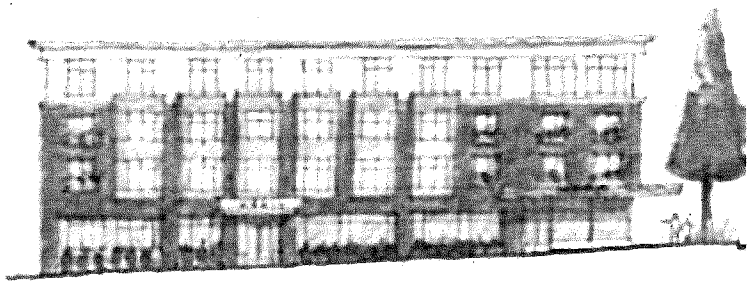
Façade Concept

B-1 Height Bulk and Scale

DRB at EDG:

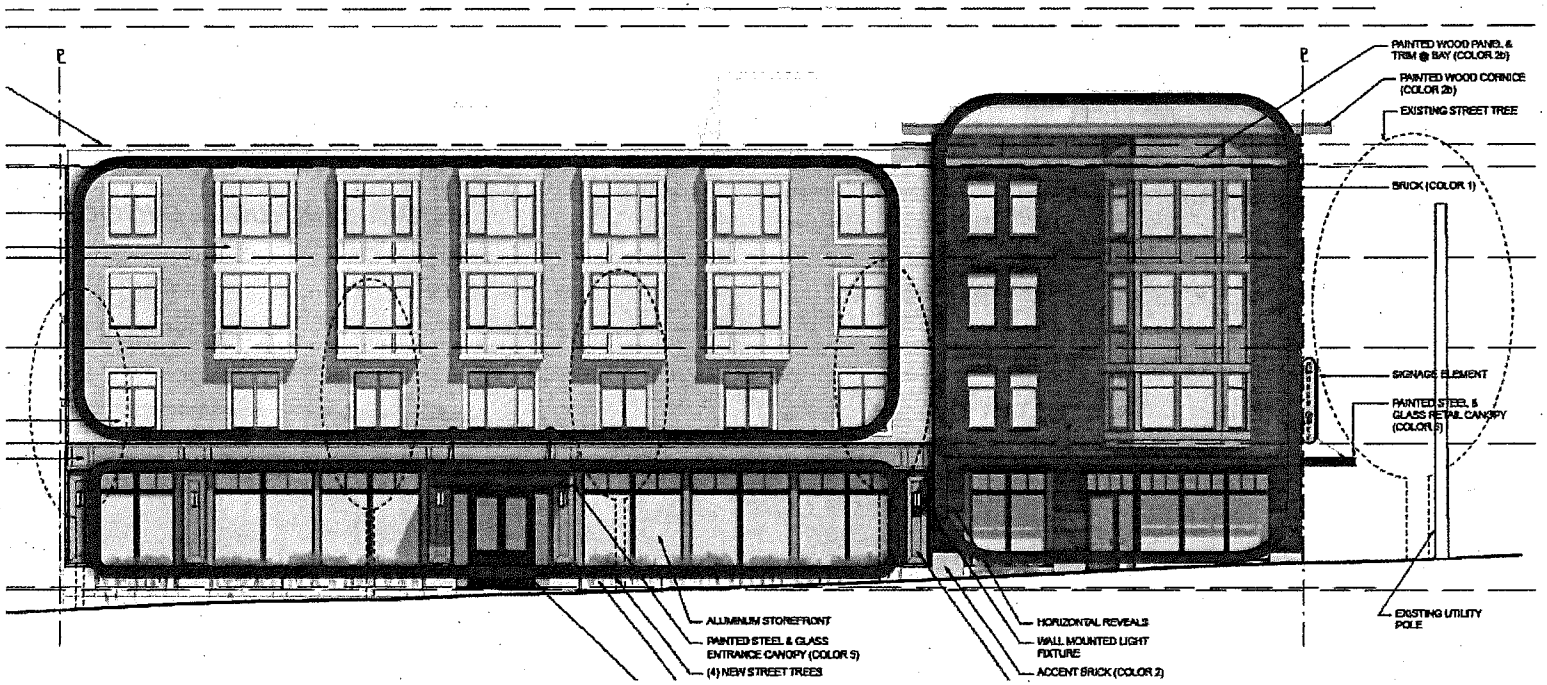
Some board members were concerned with the window bays crowding the sidewalk...

- Number of bays reduced from 6 to 5
- Bays raised up an additional floor



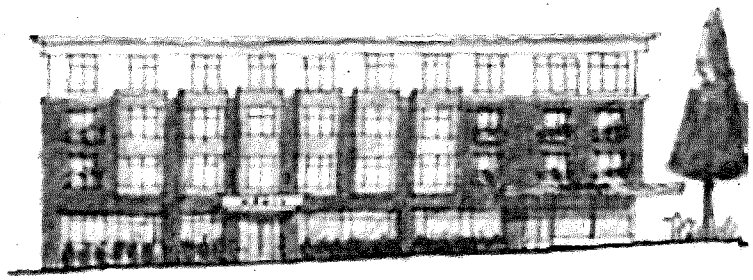
EDG Concept

Façade Concept



B-1 Height Bulk and Scale

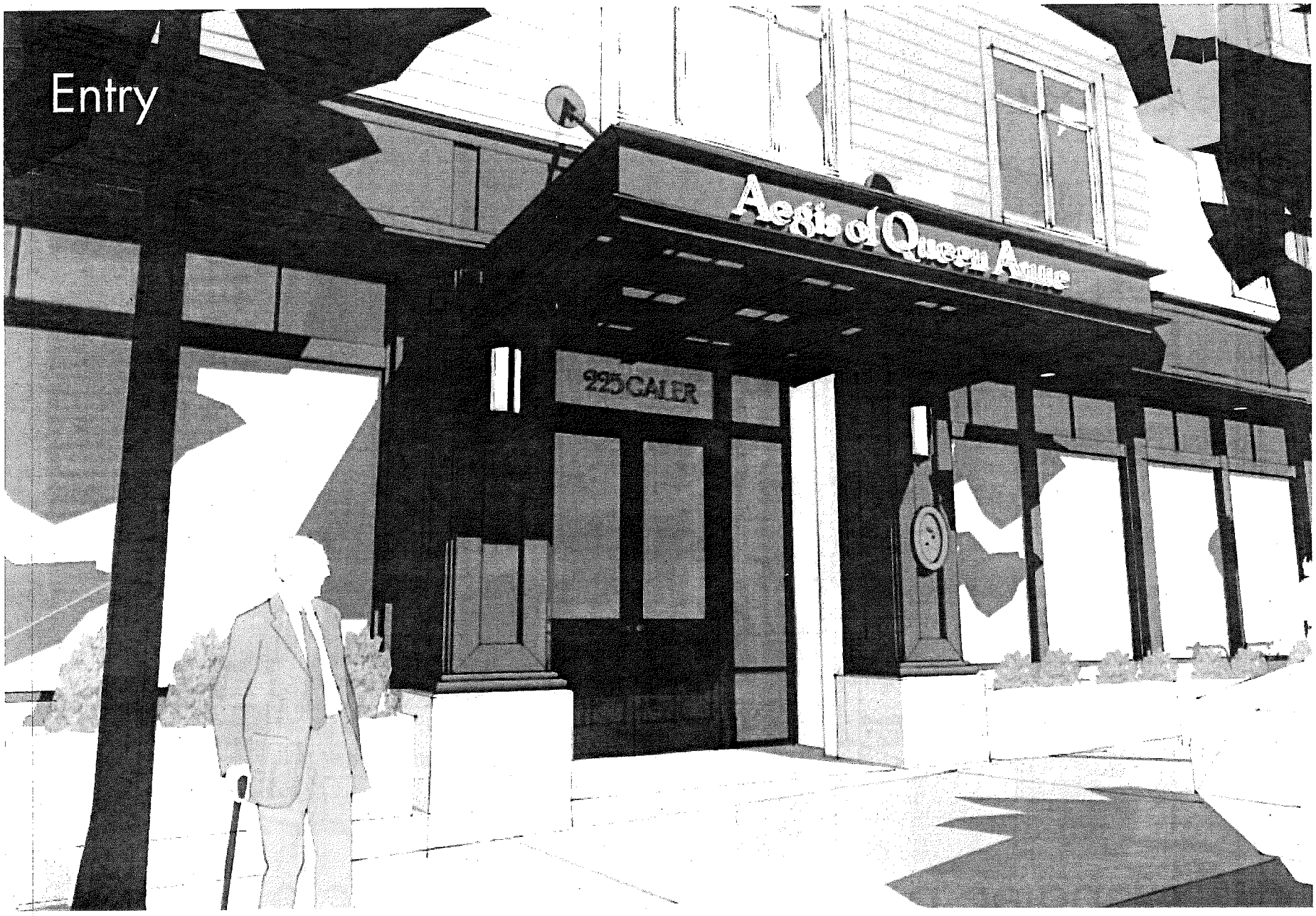
- Simple clear design parti
  - Corner focal element, breaks up mass
  - Delineated commercial base expresses ground plane uses
  - Straight forward residential body articulated by uniform bays



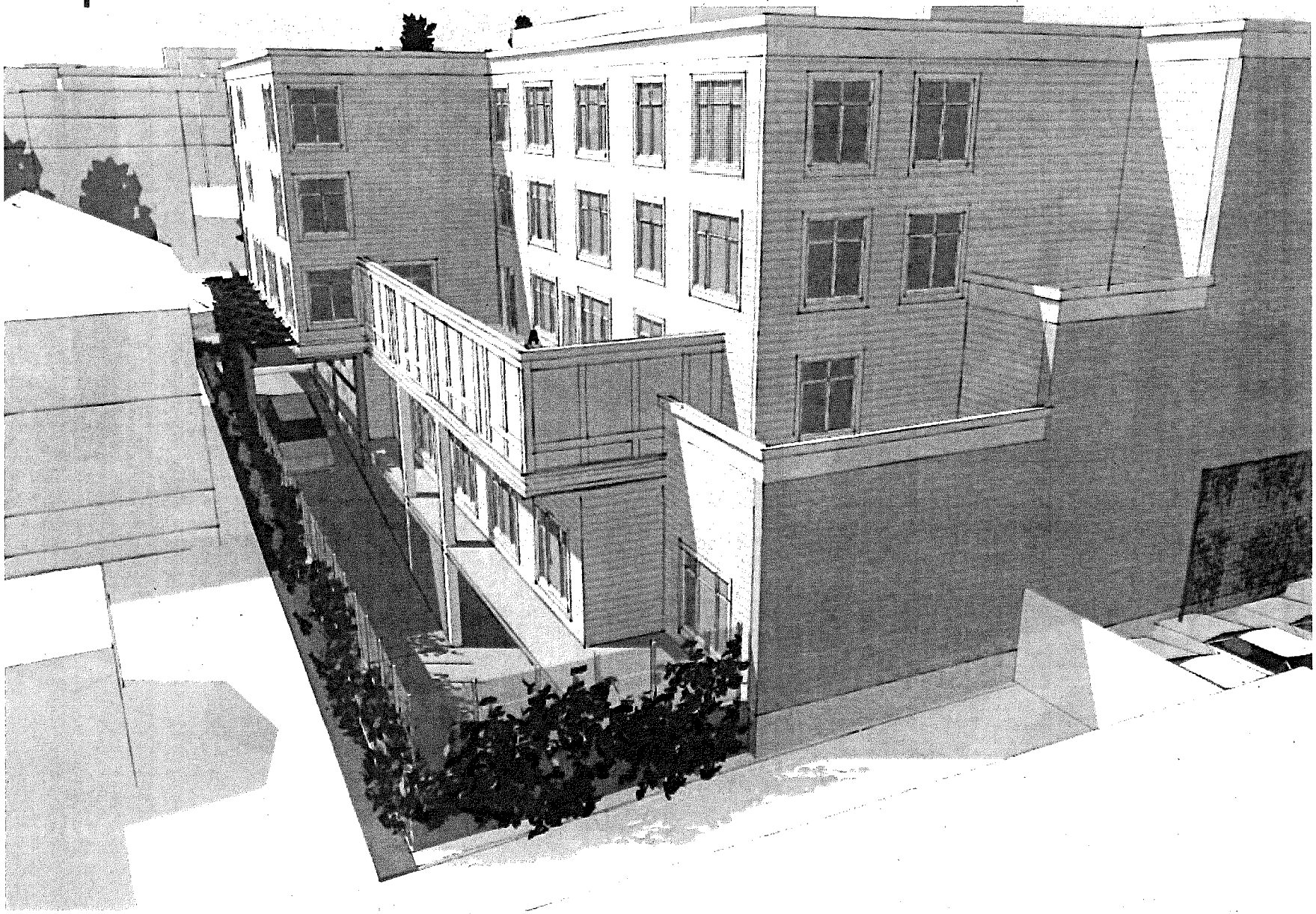
CONCEPT 5

Top floor color/material change
Simple elegant facade
Bay windows rhythm

Galer Streetscape

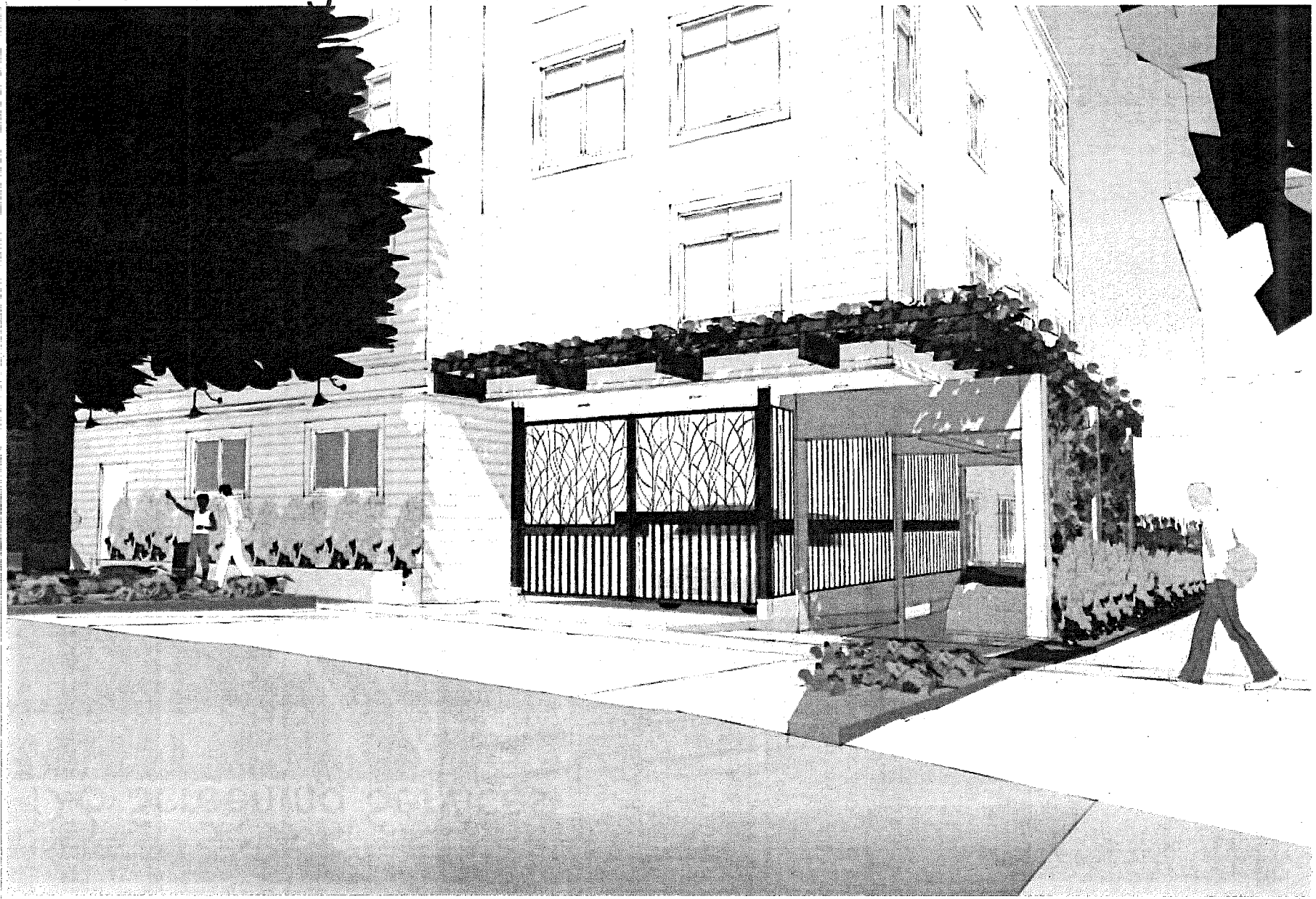

Entry
Aegis of Queen Anne
925 CALER

Departure 3 & 4: Rear & Side Yard Setbacks



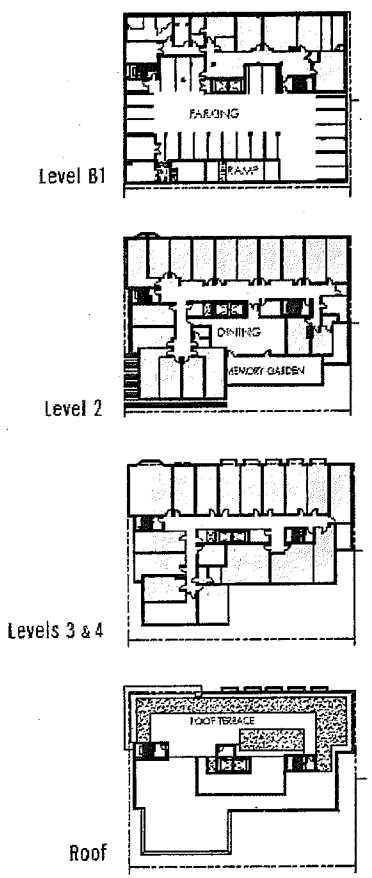
D-6 Screening Services

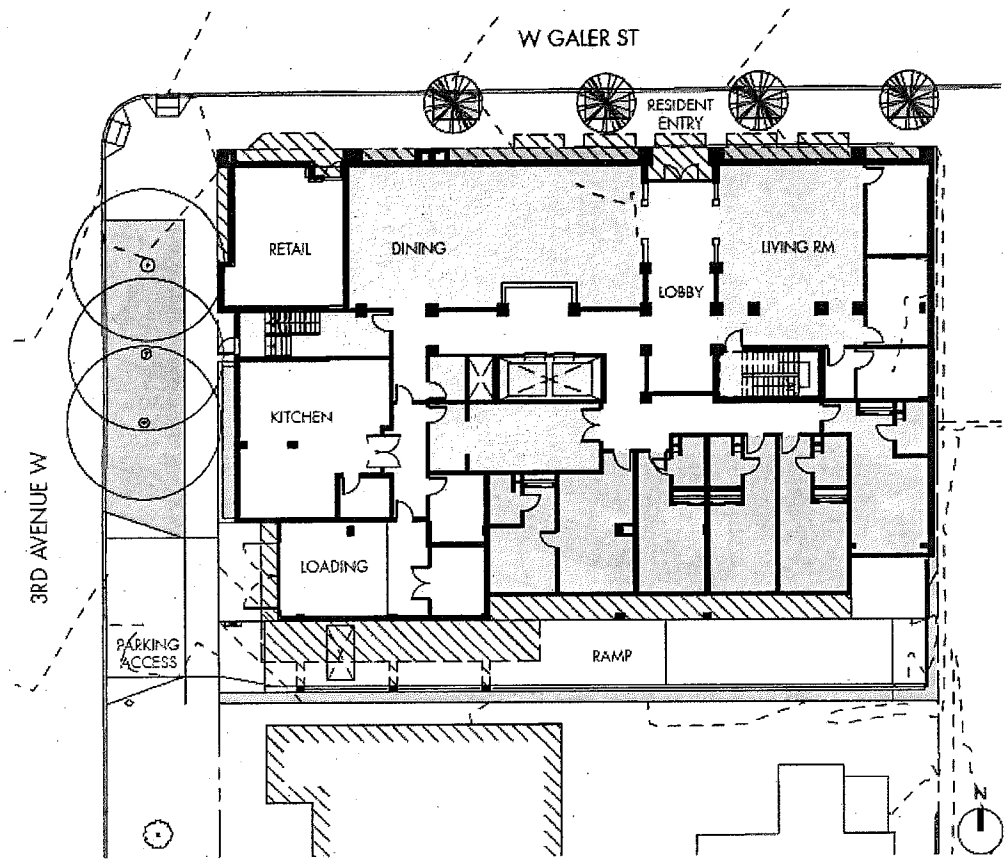
D-6 Screening Services



Site & Floor Plans

Proposed Design
(Contract Rezone to NC2-40)





57 residential units

500 sf of commercial space

21 parking stalls

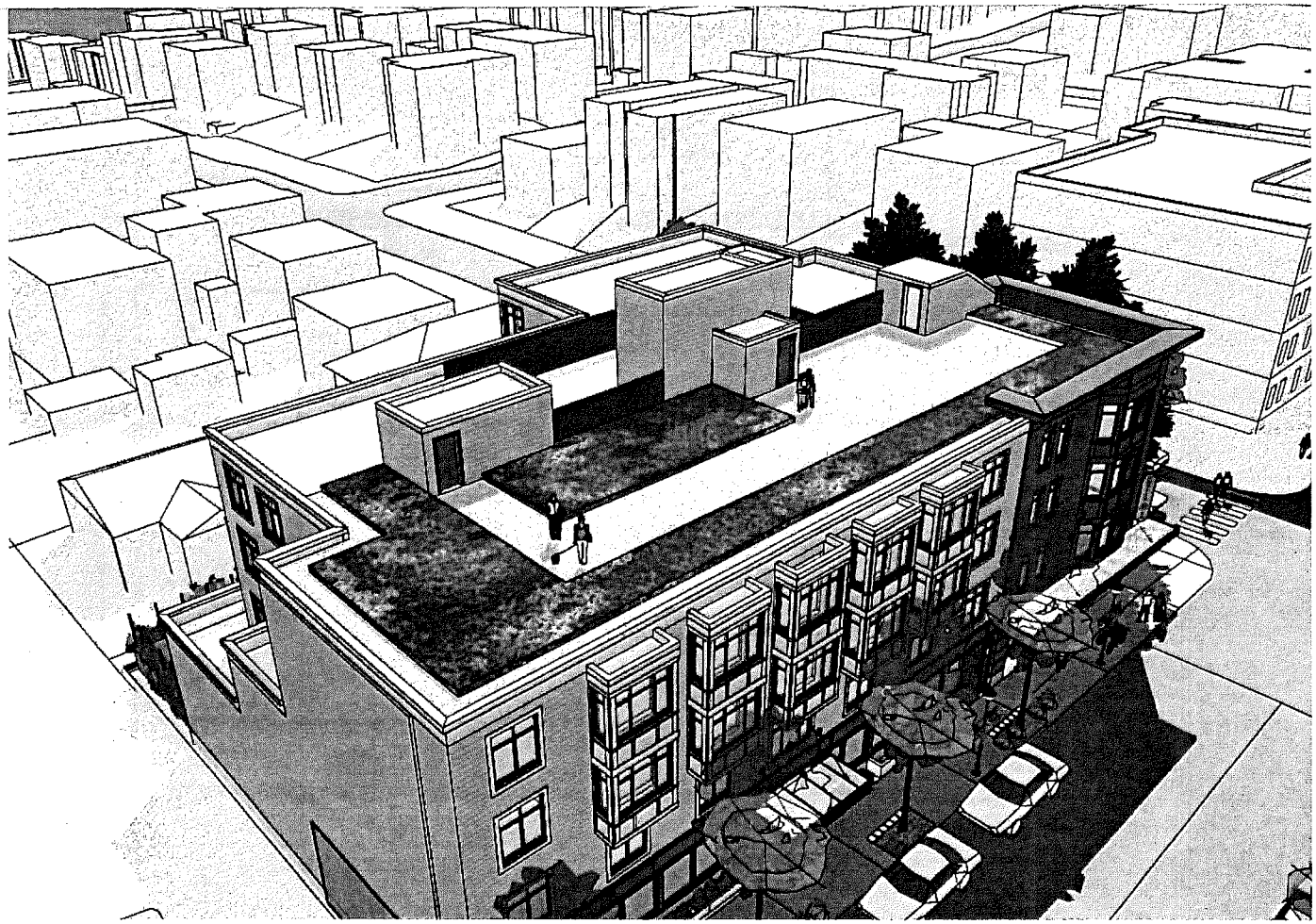
The proposal has applied for a Contract Rezone from the existing NC2-30 to NC2-40. The design proposes a small retail space at the corner of W Galer Street and 3rd Ave W. The residential entry is located at the mid-point of the structure on W Galer Street. Level 1 program areas include retail as well as resident dining and living room spaces fronting W Galer Street. Below grade parking and loading dock access are off of 3rd Ave W and require the removal of one "exceptional" tree. Other building elements include below grade resident amenity areas, three levels of assisted living and memory care units, a second level "memory garden" as well as a rooftop terrace amenity space.

PROGRAM LEGEND
- COMMERCIAL
- RESIDENTIAL
- CIRCULATION
- AMENITY
- GARDEN
- VERTICAL CIRCULATION
- SUPPORT

GROUND LEVEL - L1

Roof Garden

- Accessible planted roof garden for residents
- Nurturing open space with vegetable garden for residents & the house chefs
- Elevator and stair access elements rise above the main roof 10′ to 15′ but make up only 6% of the top floor roof. they are located 35′ away from the building edge at Galer.
- Western stair roof access slopes with stairs to reduce impact on 3rd W.



3012582

transpoGROUP
WHAT TRANSPORTATION CAN BE.

MEMORANDUM

Date:	November 26, 2012	**TG:**	12058.00
To:	John Shaw, City of Seattle DPD		
From:	Kurt Gahnberg, Transpo Group Scott Lee, Transpo Group		
Subject:	Aegis Living: 223 W Galer Street – Transportation Analysis		

Aegis Living proposes to construct a 57-unit assisted living residence at 223 W Galer Street in the Queen Anne neighborhood. Specifically, the project will be located on the southwest corner of the intersection of W Galer Street and 3rd Avenue W, and will replace an existing building of 10,900 sf that houses multiple businesses. This memorandum identifies potential transportation-related impacts associated with the proposal, and includes discussion of anticipated site traffic volumes and their impact, truck loading activity, and parking, consistent with City of Seattle requirements.

Project Description

Project Proposal. Aegis Living develops and operates assisted living and memory care residences in Washington, California and Nevada. In the City of Seattle, Aegis operates a residence in Northgate, and has a residence at Madison Street under construction. This proposal for the Queen Anne neighborhood will include a total of 57 living units, with a complement of support spaces and functions. The 57 units will include both assisted living units, as well as memory care units for residents with Alzheimer's and other dementias. We understand that between 2 and 5 of these units could accommodate couples, thus the analysis assumes a total of 60 beds for the 57 dwelling units. Located centrally in the Queen Anne neighborhood, the residence will be less than three blocks west of Queen Anne Avenue, the central commercial spine of Queen Anne, and just three blocks north of Kerry Park.

Access to a 21-space below-grade parking garage will be provided via a driveway on 3rd Avenue W. A single 25-foot wide curb cut on 3rd Avenue will provide access to the below-grade garage parking spaces as well as to a below-grade service/loading dock area that would be primarily used to store the Aegis passenger shuttle when not in use. Parking will be utilized by staff, residents and guests. A preliminary site plan for the proposed development is shown in Attachment 1. The project is anticipated to be completed and occupied by 2014.

Existing Site Uses. The site is currently occupied by a 10,900 sf commercial building containing four different tenant spaces. Uses include both warehouse and office space. Only four parking spaces are provided on-site, located on the north frontage of the building, accessed directly off W. Galer Street. Total daytime employment on-site has historically varied. The latest information from the existing on-site tenants indicates that 58 daytime employees are associated with the businesses in the existing building.

The balance of this memorandum is organized to describe the anticipated changes in traffic and parking demands associated with the proposal, and to discuss the impact of these changes on the physical street system, traffic operations, site access and loading considerations, and traffic safety.

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Project Traffic Demand

This section describes the anticipated level of site-generated traffic that would occur as a result of the proposal.

Trip Generation

In order to estimate the proposal's trip generation, weekday daily and PM peak hour person trip rates were estimated for the proposed land uses. Vehicle trip rates were determined using the ITE *Trip Generation*, 9th Edition. Table 1 shows the weekday daily and PM peak hour vehicle trip generation estimates for the proposed facility, as well as the trip generation associated with the existing on-site use. For the proposed facility, the number of proposed beds is the basis for the estimate of traffic; for the existing use, the number of employees was used as the basis, since they were based on interviews with the existing building tenants.

Table 1. Weekday Daily and PM Peak Hour Vehicular Trip Generation

Land Use	Size	Daily	PM Peak Hour Rate	Total PM Peak Hour Vehicle Trips		
				In	Out	Total
Proposed Land Use						
Assisted Living Facility (LU #254)	60 Beds	160	0.29	8	9	17
Less Existing Land Use						
Warehouse (LU#150)	10 Emp	39	0.59	2	4	6
Office (LU#710)	48 Emp	159	0.46	4	18	22
Total		*198*		*6*	*22*	*28*
Net New Trips		**-38**		**2**	**-13**	**-11**

Source: ITE Trip Generation, 9th Edition (2012).

As illustrated above, the development would generate approximately 160 vehicular weekday daily trips, with 17 occurring during the weekday PM peak hour. By comparison, the combined existing site uses generate approximately 28 PM peak hour trips. In both cases, no adjustment (reduction) for transit use was made beyond that included in the ITE data. When the amount of traffic generated by the existing on-site business contained in the 10,900 sf building is subtracted, the estimate of future site-related trips and resulting off-site impacts is approximately 11 PM peak hour trips lower than the current experience.

Project Traffic Distribution

Given the low traffic generation, trip distribution patterns in and out of the project site were based on local, existing directional traffic volumes on W Galer Street. Based on current travel patterns, the substantial majority of PM peak hour trips in and out of the garage will orient immediately to the north, to access Galer Street, which provides the most direct and uninterrupted access to all other destinations. From Galer, current traffic patterns suggest an even split between orienting to the west toward 6th Avenue W, and to the east toward Queen Anne Avenue. Thus, even assuming that all traffic generation associated with the project were new trips, no portion of Galer Street would experience an increase in traffic of as many as 10 vehicle trips.

Street System Changes

Changes to the surrounding street system as a result of the proposal would be extremely minor. On W Galer Street, the current building is served by two curb cuts that would be removed. An

existing truck loading zone would be maintained. On 3rd Avenue W, a 25-foot wide dual-use driveway would serve a loading/service area (15 feet), and a single lane garage entrance (10 feet). No adverse impact to the street system is expected.

Traffic Volume Impacts

General Impacts. As described above, overall traffic volume impacts to the local transportation system will be unnoticeable to the average observer. Even if the total traffic from the project is assumed to be new trips (which ignores the removal of a comparatively intense on-site use), no street segment, besides the portion of 3rd Avenue W immediately north of the site driveway, would experience as many as 10 PM peak hour vehicle trips. Impacts in this range fall far well below any possible threshold of significant impact.

Site Access Operations. Because the proposal includes on-site parking for21 vehicles, an analysis of driveway operations on 3rd Avenue W was performed to assure adequate operations of the access driveway. An intersection count at 3rd Avenue W / W Galer Street was conducted in August to determine volumes on 3rd Avenue W. (Attachment 2). The garage access is forecast to operate at LOS A, with little or no delay for inbound movements, and less than 10 seconds of delay for outbound traffic (Attachment 3).

It is recognized that the proposed single lane driveway may result in the occasional need for vehicles entering and exiting the garage to alternate entering and existing. However, considering the low volumes anticipated using the garage, even at peak demand periods, the level of added delay and potential for conflict will be minimal. At peak, inbound and outbound traffic would occur on the average of about once every 10 minutes; simultaneous inbound and outbound vehicles would occur occasionally at most. Overall traffic on 3rd Avenue W is very low and would not be unduly impacted in the event that a short delay occurs. The level of use associated with the adjacent truck service bay would also be low and not materially contribute to conflicts or delays on a regular basis.

Service Vehicle and Passenger Van Operations

Service vehicles will also access the site on a recurring, though infrequent basis. Due to the fact that Aegis operates several similar residences in the area, the number of service vehicles accessing the site can be quantified. The service vehicles accessing the site include:

- Aegis Passenger Van – This vehicle is use for the convenience of residents, for scheduled excursions, and for assistance with moving. The van is typically used an average of onetime per day.
- Food Delivery – Three times per week.
- Office Supply Delivery – Once per week.
- Garbage/Recycle Trucks – Once per week.
- Resident Moving – less than two move-ins/move-outs per month, typically.

Aegis Passenger Van. The Aegis passenger van is a 23-foot long Ford Allstar passenger van typical of similar assisted living and congregate care facility vehicles. The van will be stored in the below-grade service dock space accessed from the driveway off 3rd Avenue W. When the van is used for resident transportation it will be pulled around to the loading area on W Galer Street to load and unload passengers.

A review of the van's entry/exit onto 3rd Avenue W shows that the van can pull forward on 3rd Avenue W, and back into the loading dock without impacting on-street parking on the west side of the street (see diagram on Attachment 4). It should be noted that the turning maneuvers reflected

in Attachment 4 are based on the specific vehicle anticipated to be used by Aegis for this van service, not a generic representation of a "similar" vehicle. With the additional 10 feet of curb cut to the south for the garage access, and no on-street parking north of the service driveway, sight triangles associated with the van's movements are more than adequate. No unexpected safety issue or conflict with pedestrian or vehicle traffic is anticipated.

Delivery Trucks. Truck deliveries to the development will occur in the existing 40-foot loading space on W Galer Street. Based on coordination with Aegis and a review of its other Aegis locations, approximately four truck deliveries are anticipated each week. This includes three food deliveries and one office supply related delivery per week. A typical delivery truck to the site is up to 30 feet in length. Attachment 5 shows the movements from a 30 foot truck in the existing loading space on W Galer Street.

Garbage/Recycle Trucks. Garbage/recycle bins will be located in the service dock area. As is the case throughout the City, these vehicles will circulate through the neighborhood, and stop in-street briefly as the garbage and recycle bins are rolled from the dock into position for loading onto the truck.

Resident Moving. As noted, these activities are anticipated to be infrequent (once or twice monthly on average). Move-ins/move-outs that occur with family/passenger vehicles can stage either in the parking garage, or on the Galer Street curb, depending on what appears most convenient during the move-in period.

No significant impact to traffic or pedestrian safety due to service or delivery activity is anticipated in association with service or delivery activities at the proposed facility.

Parking

Both parking code requirements and actual parking demand were considered in the parking evaluation. In addition, the change in parking demand that will occur following construction of the project compared to the current site parking demands is also described to help understand how neighborhood parking may change in the future due to this project.

Parking Supply

The proposed development is providing a 21 stall below-grade garage; these spaces will replace the 4 existing on-site spaces associated with the current use of the site. It is noted that between 2 and 3 on-street parking spaces on the east side of 3rd Avenue W will be eliminated following construction of the proposal to accommodate the proposed garage and service driveway. However, the elimination of two existing driveways on W Galer Street will add 2 additional on-street parking spaces. Overall, the number of on-street parking stalls provided in the vicinity will not be significantly impacted by the proposal.

Parking Code Requirements

Seattle Municipal Code Section 23.54.015, Table B, Row C applies to the proposal. The project is located within the Upper Queen Anne Urban Village and located within 1,320 feet of frequent transit service. Based on this, there is no minimum parking requirement for residential uses. Thus, the proposed parking supply will meet City of Seattle land use code requirements.

Parking Demand

A parking demand analysis for the proposed assisted living facility was conducted to ensure that adequate parking supply is provided for residents, employees, and visitors. The parking demand rate from ITE *Parking Generation*, 4th Edition for the assisted living facility land use (LU 254) was

used to calculate the estimated parking demand at the development. The results of the parking demand analysis are shown in Table 2.

Table 2. Estimated Weekday Peak Parking Demand

Land Use	Size	Rate	Peak Parking Demand (vehicles)
Proposed Land Use			
Assisted Living Facility (ITE Land Use 254)	57 units	0.41	24
Less Existing Land Use			
Warehouse (ITE Land Use #150)	10 Emp	0.78	8
Office (ITE Land Use #701)	48 Emp	0.83	40
Total			*48*
Net New Parking Demand			**-24**

Peak parking demand for the project would be 24 vehicles; however the existing site use peak parking based on the number of on-site employees is 48. As indicated, the proposed site parking supply is slightly less than the calculated peak demand for the site, suggesting a potential for up to 3 on-street parking spaces being needed in the surrounding neighborhood. No assumption of employee or visitor transit use was made. If as few as 3 additional employees or visitors chose to use transit to travel to the residence, then the site parking would calculate to fully contain peak parking demand.

When consideration of the existing site use is included in the evaluation, the actual impact to off-site parking demand suggests a reduction in off-site (neighborhood, on-street) demand of 24 spaces compared to current demand conditions. This means that the impact to parking of this project would be positive.

Neighborhood Parking Utilization

To complete the understanding of parking context in the neighborhood, surveys of off-site parking were completed to confirm to what extent the surrounding area was able to accommodate any potential level of use by site parking demand. The on-street parking study was completed using the methodology outlined by the City in the Seattle Client Assistance Memo (CAM) 117. Parking utilization studies were completed within a reasonable walking radius from the site.

The off-site parking survey was conducted on Thursday, May 3, 2012. The utilization counts were conducted hourly from 9:00am to 6:00pm to capture the peak hour of the development and the adjacent street. The survey was conducted within an approximate 800 foot walking distance of the site to reflect the City's commonly recognized guideline of comfortable walking distances between parking and ultimate destination. The result of this analysis indicates that the worst case time period (period during which the highest level of on-street parking utilization) would occur at 11:00 AM, when parking associated with the proposal is at its peak. The data summarizing the hour by hour parking demand and supply is summarized in Attachment 6.

During this time, of a total public parking supply of 525 spaces, 375 were observed to be occupied. Thus, on an average weekday, 150 spaces would be available (unutilized) within an 800 foot walking distance of the site, to accommodate the calculated worst case spillover of three vehicles. This does not adjust for the removal of demand from existing on-site uses that were present during the parking study.

It is noted that these totals include spaces designated within a Residential Parking Zone (RPZ), which is appropriate since RPZs only restrict long term parking. Even if the RPZ spaces were

entirely removed from consideration of available parking supply, 69 spaces would be available for use by Aegis parking demand.

No adverse impact to parking around the site is expected. Even if the site demands were considered on a worst case basis, and considered to be entirely new demand, an excess demand of 3 vehicles could easily be absorbed in the surrounding neighborhood. When consideration of the existing site uses to be removed is included, the level of utilization of neighborhood parking would actually decrease as a result of the proposed project.

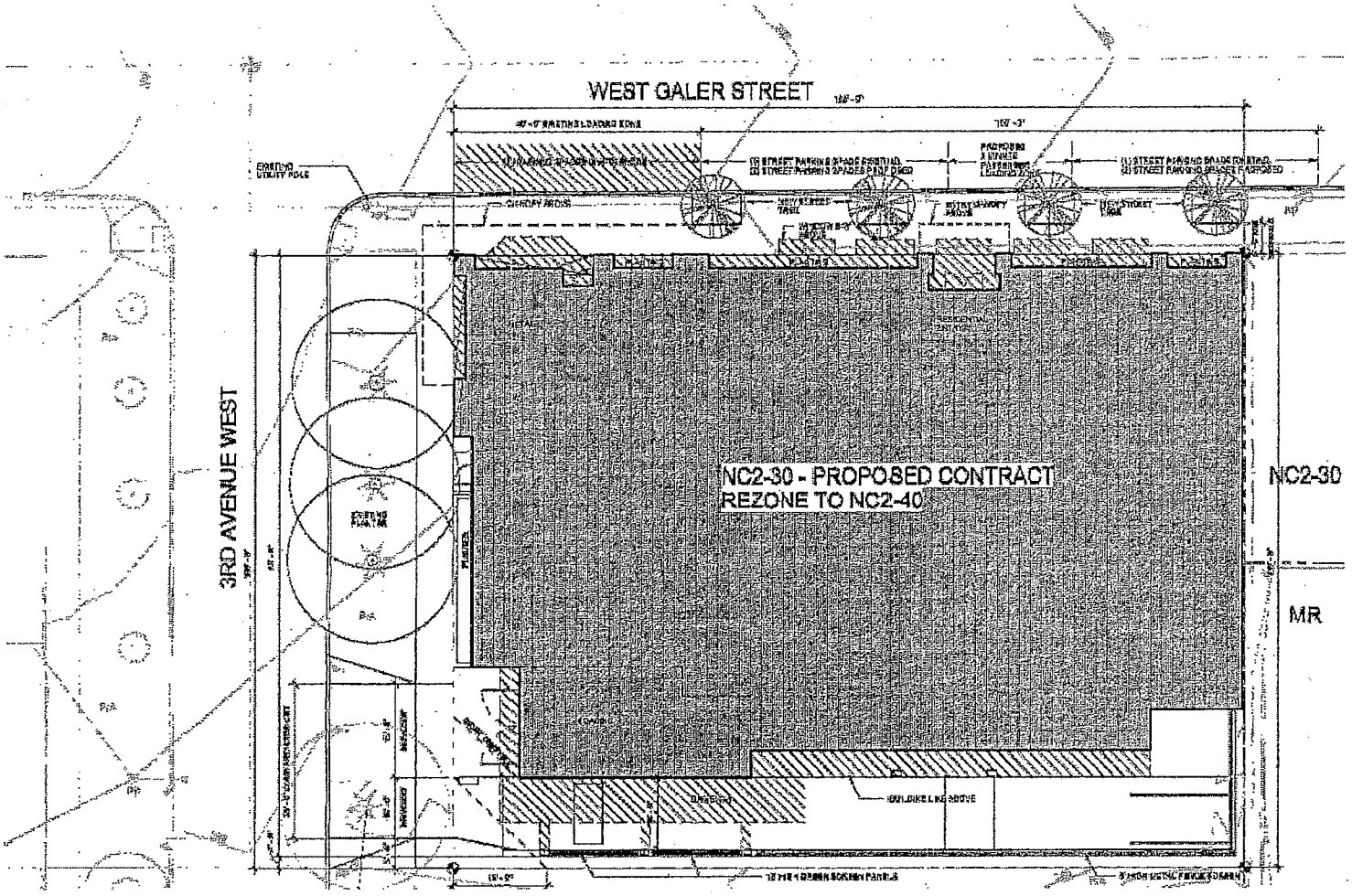
Parking Safety

No noticeable change in area or neighborhood traffic safety is expected based on the minimal change in traffic. Given the comparison to the existing site use, such changes would likely be positive. To minimize any potential for vehicle or pedestrian conflicts associated with the operation of the service dock on 3rd Avenue, Aegis could provide on-site personnel to oversee/direct backing maneuvers and control adjacent traffic and pedestrians during these movements.

Summary

In general, traffic and parking impacts associated with this proposal are anticipated to be minimal and would not result in a noticeable or significant adverse impact. The level of added traffic would fall well within the daily variation that would occur throughout the area, with or without the project. Considering existing uses, the proposed level of traffic and off-site parking demand is likely to be reduced from even current levels. It is noted that the parking surveys conducted in the neighborhood demonstrate that the area could actually accommodate a project with parking spillover many times greater than the modest level anticipated on even a worst case basis for this project.

To minimize any potential for vehicle or pedestrian conflicts associated with the operation of the service dock on 3rd Avenue, Aegis could provide on-site personnel to oversee/direct backing maneuvers and control adjacent traffic and pedestrians during these movements.



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Site Plan

ATTACHMENT 1

Aegis Living

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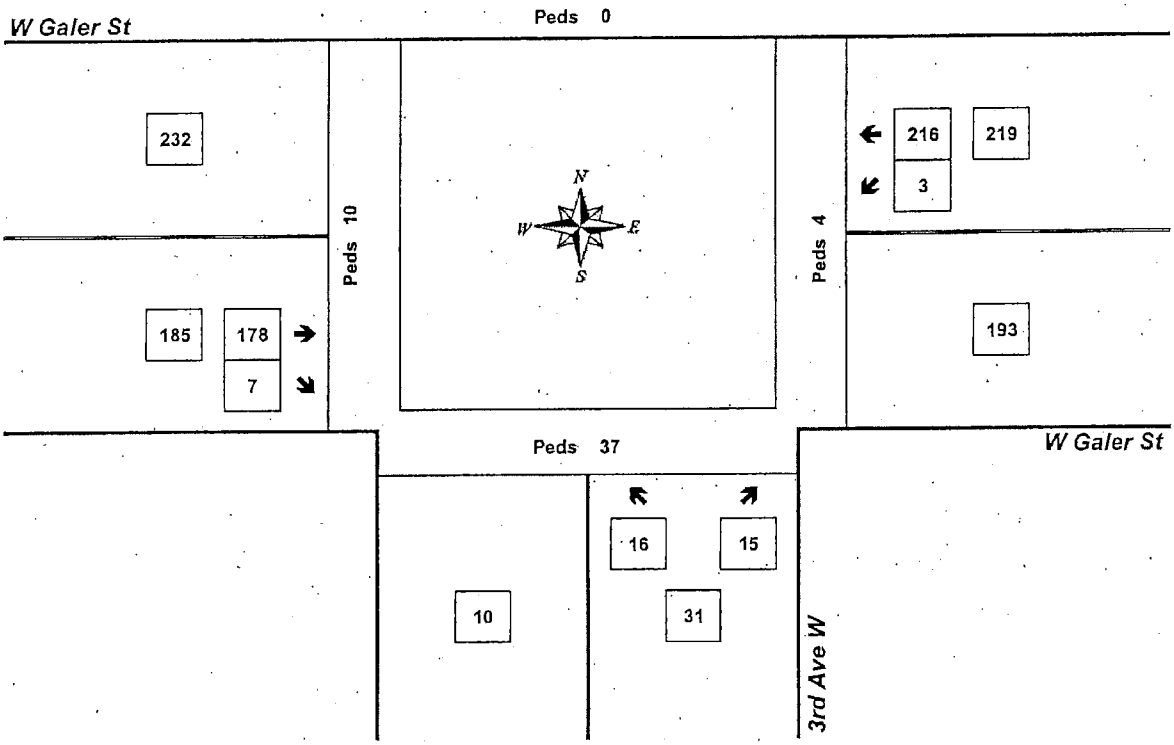
Peak Hour Summary

All Traffic Data Services Inc.

Mark Skaggs
(206) 251-0300

3rd Ave W & W Galer St

4:45 PM to 5:45 PM
Wednesday, August 01, 2012



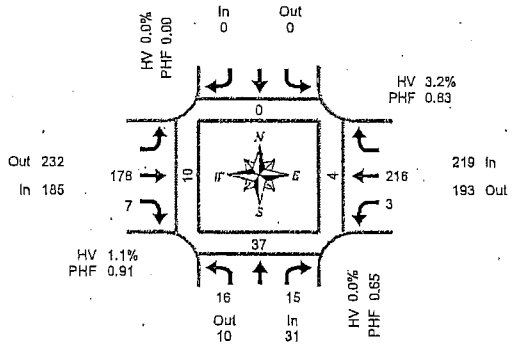
Approach	PHF	HV%	Volume
EB	0.91	1.1%	185
WB	0.83	3.2%	219
NB	0.65	0.0%	31
SB	0.00	0.0%	0
Intersection	0.85	2.1%	435

Count Period: 4:00 PM to 6:00 PM

Total Vehicle Summary

All Traffic Data Services Inc.

Mark Skaggs
(206) 251-0300



Peak Hour Summary
4:45 PM to 5:45 PM

3rd Ave W & W Galer St

Wednesday, August 01, 2012
4:00 PM to 6:00 PM

15-Minute Interval Summary
4:00 PM to 6:00 PM

Interval Start Time	Northbound 3rd Ave W				Southbound 3rd Ave W				Eastbound W Galer St			Westbound W Galer St				Interval Total	Pedestrians Crosswalk			
	L		R	HV					T	R	HV	L	T		HV		North	South	East	West
4:00 PM	1		2	0					33	1	1	0	38		0	75	0	9	0	4
4:15 PM	1		5	0					37	2	1	2	53		2	100	0	7	3	1
4:30 PM	2		2	0					40	4	0	4	48		0	100	0	6	5	0
4:45 PM	2		3	0					39	3	0	0	48		1	95	0	11	0	1
5:00 PM	7		5	0					39	3	0	1	56		3	111	0	6	3	1
5:15 PM	6		6	0					50	0	1	1	65		0	128	0	13	0	4
5:30 PM	1		1	0					50	1	1	1	47		3	101	0	7	1	4
5:45 PM	3		1	0					40	1	0	3	38		2	86	0	8	3	0
Total Survey	23		25	0					328	15	4	12	393		11	796	0	67	15	15

Peak Hour Summary
4:45 PM to 5:45 PM

By Approach	Northbound 3rd Ave W				Southbound 3rd Ave W				Eastbound W Galer St				Westbound W Galer St				Total
	In	Out	Total	HV	In	Out	Total		In	Out	Total	HV	In	Out	Total	HV	
Volume	31	10	41	0	0	0	0		185	232	417	2	219	193	412	7	435
%HV	0.0%				0.0%				1.1%				3.2%				2.1%
PHF	0.65				0.00				0.91				0.83				0.85

Pedestrians Crosswalk			
North	South	East	West
0	37	4	10

By Movement	Northbound 3rd Ave W				Southbound 3rd Ave W				Eastbound W Galer St			Westbound W Galer St				Total
	L		R	Total				Total		T	R	Total	L	T		Total	
Volume	16		15	31				0		178	7	185	3	216		219	435
PHF	0.57		0.63	0.65				0.00		0.89	0.58	0.91	0.75	0.83		0.83	0.85

Rolling Hour Summary
4:00 PM to 6:00 PM

Interval Start Time	Northbound 3rd Ave W				Southbound 3rd Ave W				Eastbound W Galer St			Westbound W Galer St				Interval Total	Pedestrians Crosswalk			
	L		R	HV					T	R	HV	L	T		HV		North	South	East	West
4:00 PM	6		12	0					149	10	2	6	187		3	370	0	33	8	6
4:15 PM	12		15	0					155	12	1	7	205		6	406	0	30	11	3
4:30 PM	17		16	0					168	10	1	6	217		4	434	0	36	8	6
4:45 PM	16		15	0					178	7	2	3	216		7	435	0	37	4	10
5:00 PM	17		13	0					179	5	2	6	206		8	426	0	34	7	9

Attachment 3

HCM 2010 TWSC
7: 3rd Ave W & Driveway

11/26/2012

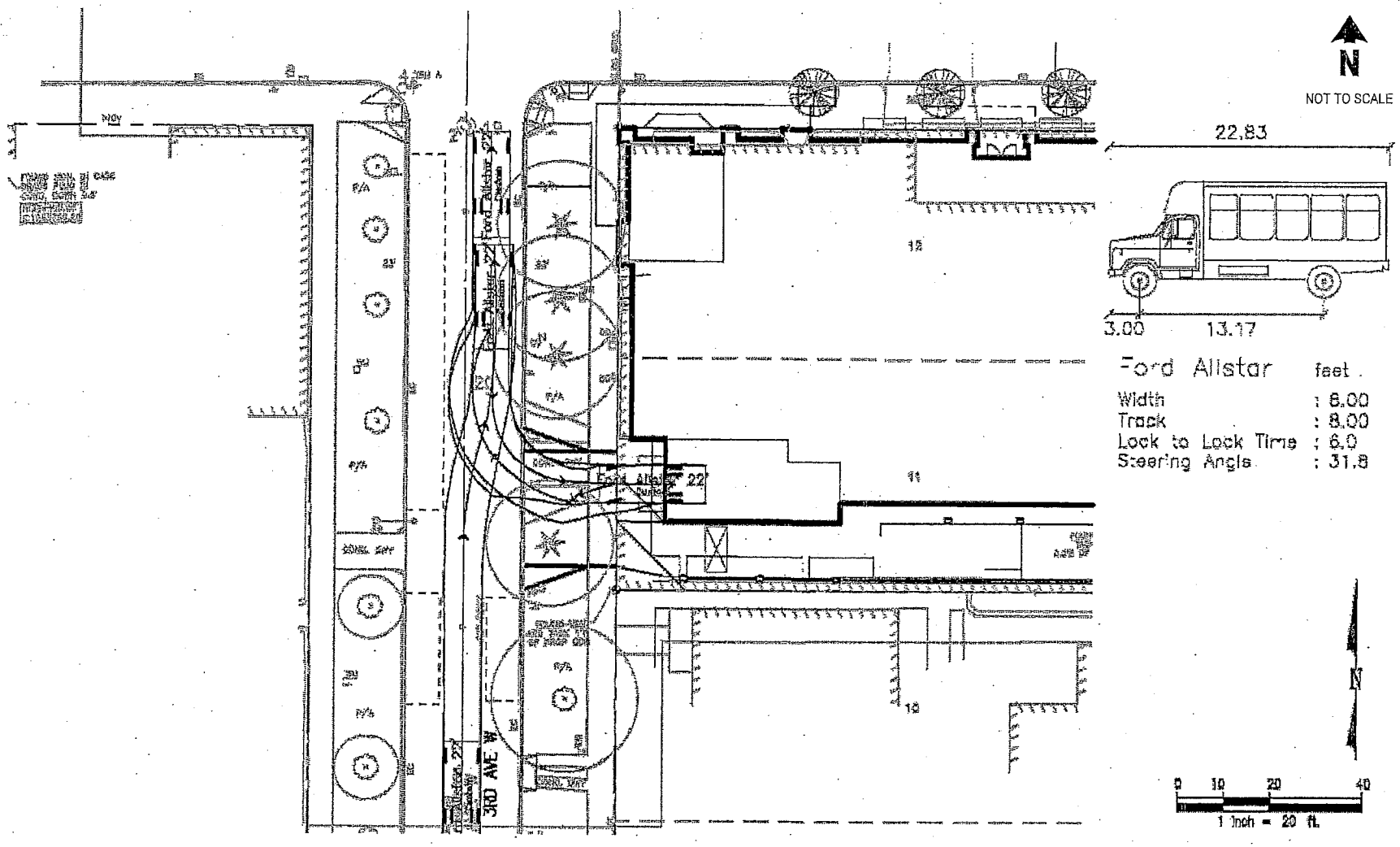
Intersection	
Intersection Delay (sec/veh):	2.4

Movement	WBL	WBR	NBT	NBR	SBL	SBT
Volume (vph)	0	9	30	0	8	10
Conflicting Peds.(#/hr)	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
Right Turn Channelized	None	None	None	None	None	None
Storage Length	0	0		0	0	
Median Width	12		0			0
Grade (%)	0%		0%			0%
Peak Hour Factor	0.84	0.84	0.84	0.84	0.84	0.84
Heavy Vehicles (%)	2	2	2	2	2	2
Movement Flow Rate	0	11	36	0	10	12
Number of Lanes	1	0	1	0	0	1

Major/Minor			Major1		Major2	
Conflicting Flow Rate - All	68	36	0	-	36	0
Stage 1	36					
Stage 2	32	-	-	-	-	-
Follow-up Headway	3.518	3.318		0	2.218	
Pot Capacity-1 Maneuver	937	1037	-	0	1575	-
Stage 1	986			0		
Stage 2	991	-	-	0	-	-
Time blocked-Platoon (%)	0	0		0	0	
Mov Capacity-1 Maneuver	931	1037	-	-	1575	-
Mov Capacity-2 Maneuver	931					
Stage 1	986	-	-	-	-	-
Stage 2	985					

Approach	WB	NB	SB
HCM Control Delay (s)	8.5	0	3.2
HCM LOS	A	A	A

Lane	NBT	WBLn1	SBL	SBT
Capacity (vph)		1037		
HCM Control Delay (s)		8.5	7.3	
HCM Lane VC Ratio	-	0.01	0.006	-
HCM Lane LOS		A	A	
HCM 95th Percentile Queue (veh)	-	0.031	0.018	-



Van Auto-Turn

Aegis Living

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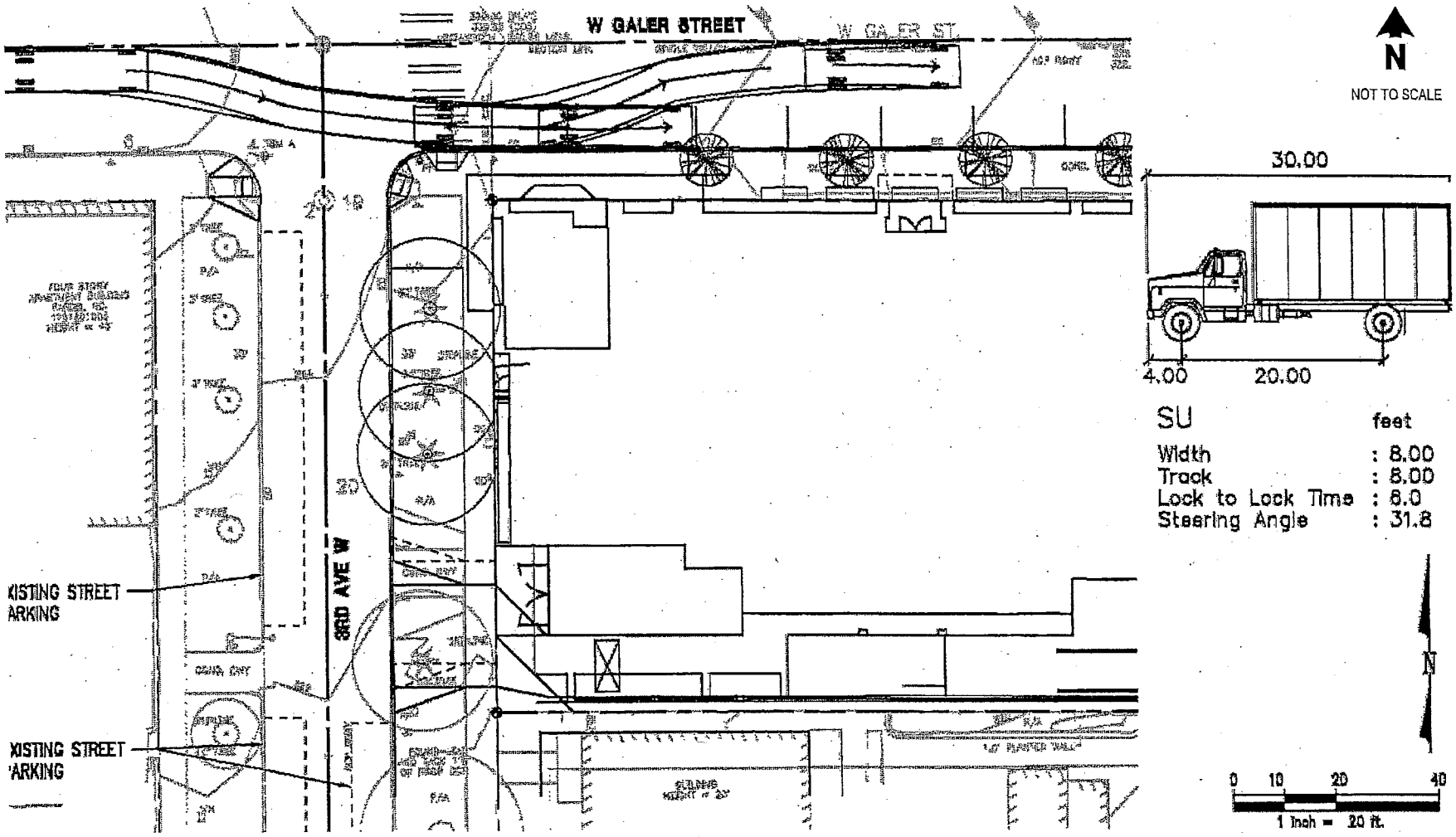

Truck Movement In/Out of Existing Loading Space on W Galer Street

ATTACHMENT 5

Aegis Living

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Attachment 6

Aegis of Queen Anne
Weekday Parking Demand Estimate

Land Use	Assisted Living (LU 254)[1]
Amount	57 Units
Rate	0.41 Stalls/Unit
Peak Demand	24 Units

Weekday Parking Demand Estimate - Including RPZs

	Projected Project Demand				On-Street Parking Study				
Time	Hourly Distribution[1]	Hourly Parking Demand	Garage Supply	On-Street Parking Needed?	On-Street Supply (Including RPZs)[2]	On-Street Demand (Including RPZs)	Utilization (%)	Excess Supply (On-Street)	Parking Supply Greater than Demand?
7:00am	65%	15	21	No	525	No Count Necessary		No Count Necessary	Yes
8:00am	78%	18	21	No	525	No Count Necessary		No Count Necessary	Yes
9:00am	81%	19	21	No	525	213	41%	312	Yes
10:00am	87%	20	21	No	525	369	70%	156	Yes
11:00am	100%	23	21	Yes	525	375	71%	150	Yes
12:00pm	95%	22	21	Yes	525	354	67%	171	Yes
1:00pm	97%	23	21	Yes	525	356	68%	169	Yes
2:00pm	92%	22	21	Yes	525	347	66%	178	Yes
3:00pm	86%	20	21	No	525	337	64%	188	Yes
4:00pm	81%	19	21	No	525	328	62%	197	Yes
5:00pm	87%	20	21	No	525	320	61%	205	Yes
6:00pm	77%	18	21	No	525	379	72%	146	Yes
7:00pm	55%	13	21	No	525	No Count Necessary		No Count Necessary	Yes

1. Based on ITE's *Parking Generation* manual, 4th Edition.
2. On-street supply based on 800 foot walking distance from the site. Also includes RPZs within 800 feet.

Weekday Parking Demand Estimate - Excluding RPZs

	Projected Project Demand				On-Street Parking Study				
Time	Hourly Distribution[1]	Hourly Parking Demand	Garage Supply	On-Street Parking Needed?	On-Street Supply (Not Including RPZs)	On-Street Demand (Not Including RPZs)	Utilization (%)	Excess Supply (On-Street)	Parking Supply Greater than Demand?
7:00am	65%	15	21	No	320	No Count Necessary		No Count Necessary	Yes
8:00am	78%	18	21	No	320	No Count Necessary		No Count Necessary	Yes
9:00am	81%	19	21	No	320	130	41%	190	Yes
10:00am	87%	20	21	No	320	251	78%	69	Yes
11:00am	100%	23	21	Yes	320	251	78%	69	Yes
12:00pm	95%	22	21	Yes	320	243	76%	77	Yes
1:00pm	97%	23	21	Yes	320	244	76%	76	Yes
2:00pm	92%	22	21	Yes	320	231	72%	89	Yes
3:00pm	86%	20	21	No	320	226	71%	94	Yes
4:00pm	81%	19	21	No	320	226	71%	94	Yes
5:00pm	87%	20	21	No	320	215	67%	105	Yes
6:00pm	77%	18	21	No	320	242	76%	78	Yes
7:00pm	55%	13	21	No	320	No Count Necessary		No Count Necessary	Yes

1. Based on ITE's *Parking Generation* manual, 4th Edition.
2. On-street supply based on 800 foot walking distance from the site. Does not include RPZs within 800 feet.

800-Feet On-Street Parking Study - Blockface Key

Aegis of Queen Anne

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Collected on 5/3/2012

Block	Distance	Type	Supply	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00
5BS	800	NR	10	7	7	9	8	6	7	6	6	6	6
5C	800	NR	10		5	8	8	7	1	7	7	6	7
6BS	800	RPZ	10	2	3	3	2	2	2	3	3	3	4
6C	800	RPZ	9		3	3	3	2	2	3	2	2	3
6DS	800	RPZ	10	7	6	6	6	6	6	6	5	6	8
7BS	800	RPZ	10		4	4	3	4	4	4	2	5	6
7C	800	RPZ	11		6	4	8	6	6	7	6	7	9
7DS	800	RPZ	7	3	3	1	0	1	1	1	2	3	2
8C	800	RPZ	6		8	6	7	7	7	6	6	8	8
8DS	800	RPZ	9		0	1	5	4	2	2	2	3	4
11B	800	NR	16	6	6	7	6	7	9	6	8	10	9
11C	800	NR	6		5	6	5	4	4	5	5	6	5
12A	800	NR	10		6	5	2	3	1	1	3	4	5
12B	800	MIXED	13	11	10	10	10	9	9	6	6	4	8
12C	800	NR	7		7	6	6	8	6	7	6	6	6
12D	800	NR	17	6	8	11	10	12	14	13	10	11	9
13A	800	RPZ	10		1	2	1	1	3	3	3	3	3
13B	800	PRZ?	17	5	6	4	3	5	6	4	5	5	7
13C	800	NR	10		9	7	10	8	9	7	9	10	9
13D	800	MIXED	14	14	14	13	11	10	12	11	10	10	11
14A	800	RPZ	10		4	4	5	4	5	7	6	6	7
14B	800	RPZ	18		11	14	11	13	12	12	10	6	13
14C	800	NR	7		4	1	3	3	2	5	5	3	5
14D	800	RPZ	17	5	4	8	8	7	7	7	7	6	6
15A	800	MIXED	10		5	10	9	8	7	7	8	6	10
15B	800	2HR	31	12	27	30	28	27	22	24	22	24	29
15C	800	NR	10		12	11	9	10	9	7	10	10	10
15D	800	RPZ	17		14	18	14	11	9	9	4	6	14
16D	800	2HR	13			4	9	6	5	8	6	7	11
19A	800	MIXED	9	8	7	9	5	4	5	4	5	9	8
19B	800	NR	10	6	6	9	10	9	8	9	9	10	11
19C	800	NR	10	5	3	3	3	3	2	3	2	1	6
19D	800	NR	17	5	5	4	4	4	4	6	5	6	5
20A	800	MIXED	10	9	7	8	5	9	10	6	8	11	11
20B	800	MIXED	10	8	7	5	5	9	9	9	10	7	9
20C	800	NR	6	8	8	8	8	6	5	6	5	3	5
20D	800	NONE	0										
21A	800	RPZ	5	5	6	6	6	6	5	5	4	4	7
21B	800	NONE	0										
21C	800	NR	12	10	11	11	12	11	11	11	10	8	7
21D	800	MIXED	8	6	6	6	8	7	7	8	6	7	7
22A	800	NR	5	6	6	6	6	5	5	6	5	4	6
22B	800	NONE	0										
22C	800	NR	25	27	22	21	20	21	21	20	20	18	18
22D	800	NR	8	12	10	11	10	10	10	8	9	6	9
23A	800	NR	6	4	6	5	7	13	6	3	4	4	6
23B	800	NR	6	7	7	6	5	5	7	6	6	6	6
23C	800	NONE	0					0					
23D	800	NR	9	10	11	10	10	9	10	10	9	6	10
26A	800	NR	8	5	5	5	5	5	5	5	7	6	6
26B	800	NR	4		2	2	2	3	3	1	2	4	7
26CE	800	NR	5		1	1	0	2	1	0		2	1
27A	800	NR	9	9	10	9	8	7	7	7	5	6	5
27B	800	NR	12		10	8	10	7	10	9	6	5	5
27C	800	NR	12		7	7	6	6	7	7	7	7	7
27D	800	NONE	0				0						
28A	800	NR	15		12	14	10	10	10	9	7	5	9
28B	800	NR	3		5	4	4	4	4	4	6	5	5
28C	800	NR	8		9	8	8	8	9	7	8	6	9
28D	800	NR	9		9	11	9	10	9	9	10	9	6
29A	800	NONE	0										
29B	800	NONE	0										
29C	800	NONE	0										
29D	800	NR	10	9	11	9	10	9	9	9	9	8	10
30A	800	NR	10	9	10	10	10	12	9	10	10	9	10
30D	800	NR	10		9	9	8	7	11	9	6	8	9

Collected on 5/3/2012

33AE	800	NR	3		1	0	0	0	0	0	2	0	1
33BN	800	NR	4		1	1	0	1	1	1	1	0	0
34A	800	NR	10		1	1	1	2	2	3	2	4	4
34B	800	NR	10		7	7	8	6	6	5	3	4	5
34DN	800	NR	3		0	0	0	0	0	0	0	0	0
35A	800	NR	11		8	8	5	8	5	8	8	10	10
35B	800	NR	9		8	8	7	5	6	9	6	8	7
35D	800	NR	5		3	3	4	4	5	3	4	4	5
36A	800	NR	13		11	13	11	12	8	12	13	12	13
36D	800	NR	8		5	4	3	2	4	5	4	6	2

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

In the Matter of the Appeal of

RICHARD GORDON, et al.,

From a decision by the Director of the Department of Planning and Development

Hearing Examiner File: **MUP-13-001(W,DR)**

Department Reference: 3012582

Introduction

The Director, Department of Planning and Development issued a decision and the Appellants timely appealed.

The appeal hearing was held on February 22, 2013, following a public hearing on a contract rezone application for the property (the rezone recommendation has been issued separately this day). Parties represented at the proceeding were: the Appellants, Richard Gordon, et al, by Richard Gordon; the Director, Department of Planning and Development, by Colin Vasquez, Senior Land Use Planner; and the applicant, Aegis Living, by Jessica Clawson, attorney at law. The record was held open after the hearing for purposes of the Examiner's site visit on March 1, 2013. After the hearing, the Appellant filed additional materials, which the Applicant moved to strike. The decision below includes the Examiner's order on the request to add post-hearing materials to the record.

After due consideration of the evidence elicited during the hearing and the Examiner's inspection of the site, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The site is addressed as 223 West Galer Street and 225 West Galer Street. The site is located in the Queen Anne neighborhood, southeast of the intersection of Galer and 3rd Avenue West, and is approximately 12,800 square feet.

2. The site is designated Neighborhood Commercial 2 with a 30-foot height limit (NC2-30) and is located within the Upper Queen Anne Residential Urban Village. The site is currently developed with a one-story structure; the site formerly housed a commercial warehouse and office spaces.

3. The zoning near the site is NC2-30 to the north, Midrise (MR) to the east and southeast of the site, and Lowrise 3 (LR3) to the south and southwest.

4. Development in the vicinity of the site includes the Wimbledon multifamily structure to the west, a service garage and parking lot to the east, West Galer to the north, and residential structures to the south.

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5. The applicants propose to rezone the site from NC2-30 to NC2-40, and to develop the site with a four-story assisted living facility that will contain 60 living units above 509 square feet of street level retail, and below-grade parking for 21 vehicles. The existing curbcuts on West Galer would be removed and the site would accessed by a 25-foot-wide driveway at the southeast corner of the site on 3rd Avenue West. Vehicles will access both the loading area and the parking area by means of this driveway.

Design Review

6. On September 8, 2011, DPD published a notice for the Early Design Guidance meeting of the Queen Anne/Magnolia Design Review Board scheduled for October 5, 2011. The notice stated that "The proposal is for a 3-story structure with 48 units of assisted living. Parking for 18 vehicles proposal [sic] below-grade."

7. At the meeting, the applicant presented three options. All three options were for four stories, provided the applicant received approval for a contract rezone to NC2-40. The Board heard public comment, considered the applicant's options, and identified the design guidelines, including Citywide and neighborhood design guidelines of highest priority for the project. The Board recommended that vehicle access not be taken from West Galer, instead recommending that it be taken from 3rd Avenue West.

8. On October 4, 2012, DPD published a notice of the Design Review Board's Recommendation meeting. The notice stated that "The proposal is for a four-story structure containing 60 assisted living units above 509 sq.ft. of street level retail and 10,000 cu. yds. of grading. Parking for 21 vehicles to be provided below grade. Existing structure to be demolished. Council approval of rezone required."

9. This notice also stated that: "The public may offer comments regarding the proposed design" and stated in a footnote: "Please note that public comment at the Recommendation meeting is limited to design considerations. If environmental review is triggered, comments related to environmental impacts (such as traffic, parking, noise, etc) may be sent to DPD following notice of that review."

10. At the Final Recommendation meeting on October 24, 2012, the Board took some public comment, but others were advised by the Board that their comments could not be taken because they pertained to the height of the building and the contract rezone. Some members of the public felt extremely frustrated and shut out of the process on account of not being able to present their objections to the Board. The three Board members present at this meeting voted to recommend approval of the design and the requested departures.

11. The applicant also met with the Land Use Review Committee (LURC) of the Queen Anne Community Council (QACC) on September 19, 2011, December 15, 2011, and February 13, 2012. The QACC's Board voted to support the proposal, and the QACC commented in support of the proposal at the rezone hearing.

DPD Review

12. DPD received the master use permit application for the project on June 15, 2012. DPD extended the public comment period for the project to August 15, 2012, and received a number of comments on the project.

13. DPD issued a Correction Notice to the applicant on September 7, 2012, regarding the transportation analysis submitted by the applicant's transportation consultant, Transpo. The Notice noted three corrections, including that the traffic data count summaries indicated that traffic was counted at the intersection of Galer Street and 3rd Avenue. The notice asked for confirmation that that data had actually been collected at the intersection adjacent to the project site, W. Galer Street and 3rd Avenue W., or for new counts from the correction location.

14. Transpo submitted a Transportation memorandum to DPD on November 26, 2012, which included traffic counts obtained at West Galer Street and 3rd Avenue West.

15. Transpo's parking utilization study examined the existing on-street parking within 800-feet walking distance of the site. CAM 117, which applies to parking waiver for an accessory dwelling unit, references the use of a 400-foot walking distance radius for surveys. However, for other kinds of proposals, DPD generally recommends use of an 800-foot walking distance radius. In this case, DPD transportation planner John Shaw reviewed the traffic and parking studies and the driveway access and maneuvers proposed, and concluded that the methodologies utilized were acceptable, and that no significant impacts would arise on account of the project.

16. DPD issued its decision on January 7, 2013, which included a Determination of Non-significance (DNS) and design review approval with the requested development standard departures. DPD also issued on this date its recommendation of conditional approval for the proposed rezone of the property from NC2-30 to NC2-40.

17. The appeal was filed on January 22, 2013. A prehearing conference was held with the parties on January 30, 2013, and a prehearing order was issued on January 30, 2013.

18. The appeal raised the following objections to the decision: (1) the decision violated Guideline B.1 of the design review guidelines regarding height, bulk and scale; (2) the DPD notice for the initial (early) design review meeting incorrectly identified the project as a three-story, rather than a four-story building; (3) DPD and the Board failed to incorporate neighborhood consensus as the applicable guidelines; (4) the Design Review Board did not allow public comments on the height, mass, and scale of the building as being contract rezone issues; the SEPA decision was in error because (a) the traffic study was performed at the wrong intersection; (b) the parking study was not consistent with the City's guidelines; (c) the description of the zoning in the checklist is inaccurate; and (d) views across the site will be altered if the height is increased to 40 feet with 15 feet of rooftop equipment.

Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 23.76.022. The Code directs the Examiner to accord "substantial weight" to the Director's SEPA and design review decisions. This is a deferential standard of review, and a party appealing the Director's decision bears the burden of proving that the decision is "clearly erroneous." *Brown v. Tacoma*, 30 Wn.App 762, 637 P.2d 1005 (1981). A decision is clearly erroneous if the Hearing Examiner is left with a definite and firm conviction that a mistake has been made; *Moss v. Bellingham*, *109 Wn. App 6, 13, 31 P.3d 703 (2001)* (citations omitted).

2. The appeal hearing ended on February 22, 2013, and the Hearing Examiner noted that the record was being held open to allow the Examiner's viewing of the site. On February 26, 2013, the Appellant filed a request and emailed the Examiner asking to submit additional information. The Applicant opposed the request based on Hearing Examiner Rule 2.21 and moved to strike the communications. DPD emailed the Examiner with a response but since this response was not filed or served, it has not been considered.

3. The Appellants offered additional information to rebut the Applicant's and DPD's testimony regarding the frequency of transit service at the site, and the availability of the design packet online prior to the EDG meeting. But the respondents' testimony was in response to the issues raised by the Appellants and the additional rebuttal information offered by Appellants was available to them prior to the hearing. The Appellants have not shown good cause for why the information could not with due diligence have been discovered and offered earlier at hearing. (It should be noted that similar information regarding bus schedules was submitted in comment letters that were in the DPD project file, and those comments are in the record for both this appeal and the contract rezone application)

SEPA appeal

4. The Appellants argue that the SEPA decision is in error because the traffic study was performed at the wrong intersection. However, the evidence shows that DPD noticed that the initial traffic study appeared to identify the wrong intersection. DPD therefore asked for and received a transportation analysis dated November 26, 2012, which included traffic studies examining traffic volumes at 3rd Avenue West and West Galer Street. This was the relevant intersection for purpose of the traffic study and no other errors with the study have been shown. DPD did not err in relying on the traffic information submitted by the applicant.

5. The Appellants also argue that the parking study was not consistent with the City's guidelines, specifically CAM 117, which refers to a 400-foot walking distance study radius. CAM 117 on its face applies to requests for parking waivers for accessory dwelling units (ADU); it is not required to be used by applicants for other projects. DPD's evidence showed that it normally recommends that applicants use an 800-foot walking distance study radius for other types of projects. There was no other evidence to show that use of the 800-foot walking distance study area was unreasonable for this site. No clear error has been shown in the parking study, or in the DNS on account of the parking study submitted by the applicant.

6. The appeal claimed that the zoning was incorrectly described in the SEPA checklist. The checklist at page 11, item 8.e states that "the site is zoned NC2-30" which is correct. The Appellants have pointed out that the checklist erroneously states that property to the north is "single family residential, zoned NC2-30" (it is NC2-30). But there is no evidence in the record which leads to the conclusion that DPD was somehow mistaken or misled about the zoning at the site or the adjacent zoning when it issued its SEPA decision; no error has been shown in this regard.

7. The Appellants claimed that views across the site would be altered if the structure's height were increased. But the Appellants did not present evidence sufficient to show any significant impacts on SEPA-protected views.

8. Although the Appellants strenuously objected to the proposed height of the building, they did not present evidence showing that the environmental impacts of the additional height or the project would be significant. No clear error was shown as to the Director's SEPA decision.

Design Review appeal

9. The Appellants argue that the design review decision violated Design Guideline B.1 regarding height, bulk and scale. The Board's direction and the applicant's response regarding this guideline do not show that the design violates that guideline. The building mass was broken up by stepping the structure back and modulating the facade with bay windows and variation in materials, and the building was set back from the street. The Appellants argued that a lower, smaller building would be better, but did not present evidence specific to show how Guideline B.1 had been ignored or violated by the decision.

10. The Appellants also argued that the design review decision was in error, because the September 8, 2011 notice of the October 5, 2011 EDG meeting described the proposal as a three-story, rather than a four-story, structure. DPD noted at hearing that the EDG packet materials showing a four-story structure were in the DPD online files for the public to review, but that does not correct the error in the notice. The question is whether this error voids the Design Review Board's recommendation and DPD's decision. Although the Appellants argue that the error violates "due process," they have cited no applicable Codes or law that would support their position.

11. Nevertheless, the effect of the incorrect public notice should be examined to see whether it led to an erroneous decision. The purpose of the public comments to the Board at the EDG meeting is to implement SMC 23.41.014C.1, which directs the Board to *"incorporate any community consensus regarding design"* to the extent reasonable, into the Board's identification of guideline priorities. If the notice had correctly identified the project as a four-story structure, it could presumably have resulted in greater attendance from people who would have wanted to voice their objections to a four-story structure. But objections to height limits are not the "community consensus" on design that the Board is to consider at the EDG meeting. The Appellants did not offer persuasive evidence that the Board at its EDG meeting chose the wrong

guidelines or omitted correct guidelines; Appellants instead disagree with the Board's conclusions that the project satisfies the identified guidelines. Furthermore, over a year elapsed between the time of the EDG and the Board's Final Recommendation meetings on the project, and Appellants have not shown that the EDG notice deprived the public of an opportunity to attend the Board's second meeting. On this record, it has not been shown that the design review decision was in error on account of the EDG notice.

12. The Appellants argue that decision is in error because DPD and the Board failed to incorporate neighborhood consensus concerning the applicable guidelines. The Appellants point to language in SMC 23.41.C.1 and appear to argue that this language forbids the Board from recommending approval of a project unless community consensus on the project is achieved.

13. But the Code does not require this. As noted above, the Board is to incorporate into the guideline priorities "*any community consensus regarding design, to the extent the consensus is consistent with the design guidelines and reasonable in light of the facts of the proposed development*" (emphasis added); SMC 23.41.014.C.1 Here, the evidence showed that many neighbors objected to the proposed rezone to change the height of the building, although even on this point, it is not clear there was community consensus on proposed height, in light of the LURC and QACC recommendations. But even if there were a community consensus against allowing the proposed height increase, that would not be a consensus "regarding design." The Board is required to incorporate consensus regarding the design of the building, such as its modulation, setbacks, materials and other design elements, respect for adjacent sites, etc., and the Board did so. Further, it would not be reasonable for the Board to recommend a height limit based on community consensus, since the Board and DPD lack authority to establish a different height limit than that established by the City Council or existing Codes. No error was shown in the Board's handling of community consensus on the project's design.

14. Finally, the Appellants argue that the decision was in error because the public was prevented from commenting on the height, mass, and scale of the building at the Design Review Board meetings. There is some dispute about the comments allowed at the meetings, and it appears that at least initially, the Board allowed people to talk about their objections to the 40-foot height limit. The Board apparently attempted to respond to some height-related comments by recommending design elements such as setbacks and modulation to address impacts associated with the building's height, mass and scale. However, at some point the Board refused to take more comments concerning the proposed height increase, causing many neighbors to feel disrespected, and angry that they could not speak about their greatest concern, the rezone to allow four stories. Again, the Appellants argue this failure to let people address the contract rezone was a fatal error. But as frustrating as that experience may have been for the neighbors, the Board does not set height limits, and the Appellants do not cite any Code or law that requires the Board to take public comments on matters outside of the Board's authority. No clear error in DPD's decision has been shown on account of the public meetings.

15. DPD's decision was not shown to be clearly erroneous, and should therefore be affirmed.

Decision

The Director's decision is hereby **AFFIRMED.**

Entered this 13th day of March, 2013.

Anne Watanabe
Deputy Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner concerning the appeal of the Director's environmental and decision review decisions is the final decision for the City of Seattle. In accordance with RCW 36.70C.040, a request for judicial review of the Hearing Examiner's decision must be commenced within twenty-one (21) days of the date the City Council decision on the Type IV decision is issued.

The person seeking review must arrange for and initially bear the cost of preparing a verbatim transcript of the hearing. Instructions for preparation of the transcript are available from the Office of Hearing Examiner. Please direct all mail to: PO Box 94729, Seattle, Washington 98124-4729. Office address: 700 Fifth Avenue, Suite 4000. Telephone: (206) 684-0521.

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