



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

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

Application Number: 3003215
Applicant Name: Lesley Bain, Architect of Weinstein AU for Dana Bahar,
HAL Real Estate Investments, Inc
Address of Proposal: 4801 Rainier Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a six-story 306 unit residential building with 8,129 square feet of retail located at the ground level. Parking for 330 vehicles (formerly noticed as 319 vehicles) will be located in a below grade garage. Existing 16, 915 square foot retail building to be demolished.

The following approvals are required:

SEPA - Environmental Determination - (SMC 25.05)

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

[X] DNS with conditions

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

PROJECT AND SITE DESCRIPTION

The proposal is to construct a six story predominately residential building with some at grade commercial spaces and below grade parking. The site abuts Columbia Park along the park's east property boundary and has street frontage on both South Edmunds Street (to the south) and Rainier Avenue South (to the east). The site's north property boundary is with a parcel containing a mid-Twentieth Century office building. Directly to the north of this neighboring office building site is the Columbia City Library. The site contains a commercial building originally constructed as a supermarket / grocery store in 1957.

The subject site is zoned NC3-P 65 (Neighborhood Commercial 3 with a Pedestrian overlay and 65-foot height limit) with a 15-foot wide portion extending along the length of the site's western property boundary with the park zoned L 2 (Lowrise 2). It is within the Columbia City Landmark District and the South Seattle Reinvestment Area. Location within a landmark district requires review of the building design and a Certificate of Approval through the Department of Neighborhoods.

The site's surrounding zoning is Lowrise 2 to the west and north, which includes Columbia Park, the Columbia City Library, and the residential structures to the west of the park and fronting on 35th Avenue South; to the west of 35th Avenue the zoning is Lowrise 3 with a Light Rail Station Overlay and contains mostly residential structures but also the Washington State Rehabilitation Center for the Blind and the Zion Preparatory Academy. Directly across South Edmunds Street to the south is the Columbia School, a City of Seattle elementary school, which is zoned Lowrise 1. To the west of the school the zoning becomes SF 5000 (Single-Family 5000) and is predominately comprised of older single-family structures. To the east of the site the NC 3P-65 zoning ends with the adjacent bank property and then becomes NC 3P-40 along both sides of Rainier Avenue South and to the south into the commercial core of Columbia City. Abutting the project site and at the northwest corner of South Edmunds Street and Rainier Avenue South is a 1950's style bank building with surface parking abutting the project property boundaries. On the east side of Rainier Avenue South to the north of the NC 3 zone the zoning becomes NC 2P-40.

Public Comments

The two-week public comment period ended on October 8, 2008. One comment letter was received that during that time that raised these issues:

- A concern whether the Department of Neighborhoods Historic District Review process will adequately condition the project to mitigate for Height Bulk and Scale impacts of the project on the neighboring park and overall low-height character of the Columbia City commercial core,
- Shadow and shading impacts on Columbia City park, and
- Construction phase impacts on residential noise levels at the residential area along the west side of Columbia Park and pedestrian circulation along Rainier Avenue South.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated August 29, 2008 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant (a Traffic Impact Analysis), project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, 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 certain

limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

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

- Erosion and storm water impacts from excavation,
- Disruption of adjacent vehicular and pedestrian traffic,
- Increased traffic and demand for parking from construction deliveries and personnel,
- Increased noise levels,
- Decreased air quality due to suspended particulates from building activities and hydrocarbon emissions and greenhouse gas emissions from construction vehicles, equipment, and the manufacture of the construction materials.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: the Stormwater, Grading and Drainage Control Code, the Street Use Ordinance and the Noise Ordinance. 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. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates construction truck routing, obstruction of vehicle traffic and the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Noise Ordinance regulates the time and amount of construction noise that is permitted. Compliance with these applicable codes and ordinances will reduce or eliminate most of these short-term impacts to the environment. However, some impacts may not be entirely mitigated by existing codes and ordinances, such as the greenhouse gas affects on air quality, construction noise and traffic impacts, and therefore warrants further analysis.

Air Quality

Non-machinery related construction activities themselves will generate minimal direct impacts. However the direct impact of construction activities includes construction worker commutes, truck trips, and the operation of construction equipment and machinery. Indirect impacts include the manufacture of the construction materials themselves. Both of these will result in increases in carbon dioxide and other greenhouse gas emissions that adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project, therefore no potential short term adverse impact to air is anticipated and no air quality mitigation is necessary.

Noise

The project is estimated to take over 24 months from the start of demolition / excavation activities through the issuance of a Certificate of Occupancy. Residential and commercial uses, institutions (Columbia School) and public facilities (library and park) in the vicinity will experience increased noise impacts during the different phases of construction, such as but not limited to demolition, excavation, shoring, and construction. Compliance with the Noise Ordinance (SMC 22.08) is

required and limits noise levels registering 57 dBA at a receiving residential property boundary between 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 7:00 p.m. on weekends and holidays. Noisy processes integral to building construction, such as general construction equipment (not impact or impulse sound generating equipment) are allowed to exceed this limit by 15-25 dBA during these same hours.

Although the Noise Ordinance places limits on construction noise and hours, the project's adjacency to a passive activity park (not active, such as ball fields, skate park, etc, which themselves are noise producing) and the residential block next to the park, in conjunction with its lengthy construction schedule, will result in noise impacts on the character, inhabitants, and users of these areas.

The SEPA Policies in SMC 25.05.675.B and 25.05.665 allow the Director to require additional mitigating measures to further address adverse noise impacts during construction. Pursuant to these policies, it is DPD's conclusion that a further limitation on the hours of construction beyond the requirements of the Noise Ordinance is necessary.

Consequently, as a ***Condition of Approval*** construction activities (including but not limited to demolition, excavation, shoring, deliveries, framing, roofing, and painting) and shall be limited to non-holiday weekdays from 7AM to 7 PM. Interior work that involves noisy construction equipment, including electrical compressors, may be allowed on Saturdays between 9am and 7pm once the shell of the structure is completely enclosed, provided windows and doors remain closed and the mechanical equipment is enclosed within the structure or within a noise attenuating structure. Low noise generating activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Additionally, DPD recognizes that some construction-related activities (e.g., surveying and layout, stocking the building, testing and tensioning of post-tension cables, etc.) will generate little or no noise, and could substantially shorten the construction schedule, hence can be allowed under during the normal Noise Ordinance hours and days of operation.

Construction Parking

During the peak of construction activity, the project is anticipated to generate a demand for approximately 150 parking spaces. According to the applicants, approximately 40 of these vehicles will need proximity to the site (for employee access to tools and materials in subcontractor vehicles) while the remainder would be used for employee commuter trips only. Some employees are expected to arrive by bus or light rail. Bus service is provided by numerous nearby routes with frequent headways. Light rail is also scheduled to have frequent headways.

On-street parking is limited on the surrounding streets due to the relatively high residential density, parking restrictions due to traffic on Rainier Avenue South and South Alaska Street, parking restrictions for the load and unload periods for the Columbia School and Zion Preparatory Academy, and anticipated future commuter parking demand once the Edmunds Street light rail station begins operation.

Due to the limitations of on-street parking in the area, parking impacts from construction are likely to occur and mitigation of these impacts on the surrounding neighborhood street system are warranted.

To mitigate the anticipated parking impact the project is *Conditioned* (per SMC 25.05.675.B.2.g) as follows:

- The owner and/or responsible party along with the general contractor shall provide off-street parking for the expected construction personnel (employees and subcontractor employees). An alternative to this is to develop and implement a construction worker transportation plan that achieves reductions in the expected parking demand by providing transit subsidies, shuttles to transit, or similar means. Any parking demand not reduced by the plan must then be provided off street. The general contractor shall notify all sub-contractors of the location, availability, and requirement to use off-street parking lots and the requirements of the construction worker transportation plan. The provision of off-site off-street parking may be reduced after completion of the structured parking garage in proportion to the ability to use the on-site structured parking for employee parking.
- The owner, responsible party, or general contractor shall submit the name, location, and a copy of the use agreement for this parking and / or the construction phase transportation / parking plan to the project planner for review and approval before issuance of project building permits. Following approval of the plan, the plan requirement for off-street parking and its location shall be posted at the construction site (both street frontages) for the duration of construction activity.

Traffic

Site preparation will involve removal of the existing building, pavement, and excavation for the foundation and below grade parking garage. Approximately 40,000 cubic yards of material will be excavated and removed from the site. Existing City Code, Regulating the Kind and Classes of Traffic on Certain Streets (SMC 11.62), designates major truck streets that must be used for hauling and otherwise regulates truck traffic in the city.

The proposal site has direct access to the surrounding arterial system beginning with Rainier Avenue South, which connects to Interstate 90 and then Interstate 5, or connecting to South Alaska Street one block to the north for access to Interstate 5 to the west. Traffic impacts resulting from truck queuing while waiting to load excavated materials could block traffic resulting in traffic congestion.

To address this impact, traffic control will be regulated through SDOT's (Seattle Department of Transportation) street use permit process, required truck routing plans and through compliance with the regulations in SMC 11, Vehicles and Traffic, pertaining to the construction activity. DPD experience with mitigation of construction traffic impacts through SMC 11 has shown that compliance with this Code will provide adequate mitigation for any of these short-term unavoidable impacts, therefore no *Conditioning* is required.

Pedestrian Circulation

The site fronts on both South Edmunds Street and Rainier Avenue South, both well travelled by pedestrians. Additionally, Rainier Avenue South carries high volumes of vehicle traffic. Both streets provide access between the neighborhoods on either side of Rainier Avenue South, to the Columbia City commercial district, Columbia Park, the Columbia City Library and local schools and residences. Beginning July of 2009, South Edmunds Street will be a primary east to west connection between the above neighborhood elements and the light rail station at South Edmunds Street and Martin Luther King Junior Way South.

The high traffic volumes on Rainier Avenue South, and City Code prohibitions against “jay walking” require pedestrians and library patrons coming from the east of Rainier Avenue below South Angeline Street to use the cross walk at South Edmunds Street and then the sidewalk along the west side of Rainier Avenue South in front of the project site to access the library. Pedestrians traveling along the west side of Rainier Avenue South south of South Edmunds Street must also use the west side of Rainier Avenue. Because of the importance of this portion of the Rainier Avenue South sidewalk to pedestrian circulation, as a *Condition of Approval*, the sidewalk along the project’s east property boundary shall not be closed during construction except when absolutely necessary, such as for the removal and replacement of the sidewalk or installation of underground utilities that cannot be done by working from the site. Any sidewalk closure (except for immediate emergency purposes) shall be approved in writing by SDOT in consultation with the DPD project planner. Emergency based closures shall be presented to SDOT for approval the business day it occurs, or for after hours closures, the next business day.

The South Edmunds Street sidewalk along the project’s south property boundary shall also remain open during construction. However, because of the lower traffic volumes on this street and the presence of a marked cross walks at Rainier Avenue South and directly to the west between Columbia School and Columbia Park, temporary sidewalk closures may be allowed with the prior approval of SDOT on a case by case basis.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased building bulk and scale and relative to the surrounding historic district; shadow and shading impacts on Columbia City Park; increased noise on the adjacent park and residential area across from the park; increased traffic in the area and increased demand for parking; and increased carbon dioxide and other greenhouse gas emissions primarily from increased vehicle trips.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these include: the Land Use Code that controls site coverage, setbacks, building height and contains other development and use regulations to assure compatible development, including shading on adjacent properties; the Certificate of Approval process from the Department of Neighborhoods, which bases its approval on how well the building design, bulk and scale, materials and color and other features are compatible with the historic district; and the Noise Ordinance. However, some impacts may not be entirely mitigated by existing codes and ordinances, such as: building scale and shading affects, noise impacts, traffic and parking, and the greenhouse gas affects on air quality and traffic impacts, and therefore warrants further analysis.

Height, Bulk, and Scale

The City's SEPA Height, Bulk and Scale Policy Background states that a purpose of the City's adopted land use regulations is to preserve the character of individual city neighborhoods, but that land use regulations can not anticipate or address all substantial adverse impacts that may occur from incongruous Height, Bulk and Scale, for example, when a site is substantially larger than the prevalent platting pattern in an area.

The residential lot and building sizes along the west side of Columbia Park (zoned L-2) and the typical and predominate building sizes in the Columbia City commercial core (zoned NC3 P with a 40 foot height limit and within the Columbia City Historic District) are small buildings that reflect their underlying lot size. The subject site, although it is comprised of multiple underlying platted lots that reflect the area's predominant platting pattern, is 63,752 square feet and proposed to be developed with one structure that will utilize the maximum 65-foot height allowed on its NC zoned portion. A 15-foot wide band along the site's west property boundary with the Columbia Park is zoned L-2, which has a 25-foot base height limit. The L-2 portion is proposed to be used for a portion of the project's open space requirement and is not proposed for any building structure. This degree of difference in building scale, if not tempered by a design that is responsive and reflective of the site's surroundings would likely result in significant adverse Height, Bulk and Scale impacts.

The proposed design is subject to the review and ultimate approval of the Landmarks Preservation Board following review by the Columbia City Landmark District Review Committee. Criteria used in these reviews are in the Columbia City Landmarks District Design Guidelines, which addresses building massing and scale relative to its surroundings as well as building form, façade composition, and materials, colors and finishes. Both the Landmarks Preservation Board and Landmark District Review Committee include members of the design and preservation professions chosen for their understanding and experience with architectural and preservation issues.

As of the publication of this decision, the proposed project has been before the Review Committee numerous times and been given design direction on the building's scale relative to its surroundings. This direction includes reducing the area of and setting back the building's upper two levels along South Edmunds Street and the west façade and increasing the facade modulation along the west façade, which will result in a larger setback for some portions of the building relative to the park. Although the final design has not been approved by the Landmarks Preservation Board, the building bulk and scale have already been reduced from the inappropriately large bulk and unified mass of that proposed initially for this Master Use Permit. Based on the rigorous architectural review process and extensive guidelines in place and the evolution of the project as it moves toward a full response to the scale issues raised it can be presumed that the final design will not require SEPA mitigation for Height, Bulk and Scale impacts, therefore no **Conditioning** is warranted .

Shadows on Open Spaces

It is the City's policy to minimize and prevent light blockage and the creation of shadows on open spaces most used by the public, such as Columbia Park, a publically owned park. The proposed building would be approximately 60 and 65-feet in height at its southwest and northwest corners, respectively, on its west façade and set-back 15-feet from the east boundary of the park. The

existing structure on site is approximately 24-feet in height and set-back approximately 37 feet from the park property boundary.

Because of the expected shading to the park from the proposed structure DPD requested and received a shadow study from the applicant. The shadow study was forwarded to the Seattle Department of Parks and Recreation (DPR). The study used the bulk, height and massing proposed for the MUP and not the most recent and reduced design iteration in response to the Columbia City Landmark District Review Committee. This “worse case” design scenario indicated that the proposed project would substantially shade the park’s north to south portion (which is approximately 116 feet wide) in the early morning hours between the autumnal and vernal equinoxes (early morning defined as from sunrise to 9 AM). During the early morning hours between vernal and autumnal equinoxes, which captures the summer months and the time of year the park is most heavily used, only the eastern third of this north to south leg would remain shaded by 9 AM.

DPD and DPR have concluded that the amount of shading to the park will not generate significantly adverse shadow impacts and will not substantially block sunlight at a time when the public most frequently uses the space (SMC 25.05.675.Q). It is anticipated that some people will walk through the park in the pre-9 AM hours, the majority of use occurs later in the date when the proposed building would cast minimal to no shadows on the park. Based on this, no **Conditioning** is warranted for shadow impacts.

Noise

The submitted plans do not provide details on the location of garage ventilation fans or specifics on the size or configuration of roof-top mechanical equipment, therefore no assessment of possible noise impacts can be made at this time. This is not unusual for a project at this early level of design development. However, noise from this equipment could adversely impact the surrounding street and park environments and the residences across the park to the west if improperly sized, located or insulated.

At the time of building permit application and review, the Noise Ordinance and the Seattle Building Code (SMC Title 22) and specifically the Mechanical Code (SMC 22.400) will be used to assess conformance with the allowed noise levels for these types of equipment to assure no significant adverse noise impacts are created, therefore no **Conditioning** is warranted.

Traffic and Transportation

A *Transportation Impact Analysis* by the Transpo Group, dated November 2008, was submitted with this application. (A copy is available in the MUP project file). The report evaluated the existing traffic conditions in the study area, collision records for a safety analysis, estimated the amount of new traffic to be generated by the project (net new trips), examined possible impacts on transit service and non-motorized facilities, and evaluated the impact of these new trips on the level-of-service of intersections in the study area and relevant transportation concurrency screen-lines.

The Transpo report concluded that with the addition of project traffic all study intersection will continue to operate at their current LOS (Level of Service) D through A; no study intersections

meet the City criteria for a High Collision Location and the proposed project is not expected to significantly impact traffic safety in the study area; no significant impacts on transit service or non-motorized facilities in the surrounding area are expected; City of Seattle concurrency standards will continue to be met following building occupancy; and specific off-site mitigation measures are not required to reduce / offset potential site-generated traffic impacts.

DPD's transportation planner has reviewed the study's findings and agrees with the report's conclusions, therefore no **Conditioning** is warranted.

Parking

The proposed development proposes 330 below-ground parking spaces on two levels. (The original MUP application was for 319 spaces. The Land Use Code requires 306 parking spaces.

The submitted Transpo Group *Transportation Impact Analysis* also analyzed anticipated parking demand and the proposed supply. It found that the proposed on-site parking is enough to both meet the estimated demand and exceed City code requirements, therefore no **Conditioning** for parking impacts is required.

Air Quality

The number of residential and commercial tenant vehicular trips and customer and visitor vehicular trips associated with the project is expected to increase from the amount currently generated by the site's current and relatively small commercial use (see *Traffic and Transportation* above). The projects' overall electrical energy and natural gas consumption is expected to increase. Together these changes will 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 due to the relatively minor contribution of greenhouse gas emissions from this project, therefore no mitigation is required.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

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

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

CONDITIONS – SEPA

Prior to Issuance of any Building Permit

1. The owner, responsible party, or general contractor shall submit the location of the provided parking and a copy of the parking use agreement for the required off street parking and any construction worker transportation plan to the project planner for review and approval.

During Construction

2. Post the location of the DPD approved off-street parking and any alternative transportation requirements in lieu of off-street parking on the project property perimeter along both street frontages and clearly visible to construction workers and surrounding residents for the duration of construction activity.
3. The sidewalk along the project's east property boundary (Rainier Avenue South) shall remain open and passable to pedestrians during construction. Exceptions to this are when a closure is absolutely necessary, such as for the removal and replacement of the sidewalk or installation of underground utilities that cannot be done working from the site. Any sidewalk closure (except for immediate emergency purposes) shall be approved by both the DPD project planner and SDOT. Emergency based closures shall be presented to SDOT for approval the business day it occurs, or for after hours emergency closures, the next business day.
4. The South Edmunds Street sidewalk along the project's south property boundary shall remain open during construction. Necessary and temporary sidewalk closures may be allowed with the prior approval of SDOT on a case by case basis.

Signature: _____ (signature on file) Date: June 29, 2009
Art Pederson, Land Use Planner
Department of Planning and Development

AP:lc