



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: 3005996
Applicant Name: Jason Land
Clark Design Group
Address of Proposal: 2654 NW Market St

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 3-story 26,667 sq. ft. administrative office building with 3,524 sq. ft. of retail on ground level. Project includes removal of three 500 gallon fuel tanks (totaling 1,500 gallons) and grading of 8,500 cu. yds. of material. Parking for 44 vehicles will be provided in below grade garage. Existing gas station to be removed.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

BACKGROUND DATA

Site & Area Description.

The subject property is located on the corner of NW Market Street and 28th Ave NW in downtown Ballard. The site formerly was a gas station, but has been closed; the building, canopy and pump islands were removed last summer. The 15,358 sq. ft. site is zoned Industrial Buffer (IB U/45), where the height is unlimited for industrial uses and 45 feet for non-industrial uses. Adjacent properties on the north side of Market Street are also zoned Industrial Buffer. Directly east of the site is an office building for Windemere Real Estate; to the west across 28th is

an older retail store – the Locks Deli and Grocery. North across the alley is multi-family zoning (L-1 and L-3), containing newer townhouse structures, and older single family residences. To the south, across Market Street, is the Fenpro property, zoned Industrial General with older warehouses of a light industrial nature.

The site rises six feet across the site heading away from Shilshole Bay. The property has 148 feet of frontage on Market Street, with a depth of about 104 feet along 28th Ave W. An alley runs at the north side of the property.

The proposed development is a new three story commercial building with retail on the ground floor facing Market Street, 2nd and 3rd floor offices, and 44 parking spaces located below grade and at the back of the site at grade. The entrance is a 22' curb cut along 28th Avenue NW. Street improvements are required as part of the project. Preliminary plans have been submitted to SDOT showing curb, sidewalk and street trees along 28th Ave W, with filled curb cuts and new street trees along NW Market Street. The 12' alley is substandard for the zoning, and requires a 4' setback for potential future alley widening; the 4' setback is shown on the plans.

There are no critical areas on the site. Market Street is a SEPA scenic route, but the property, being on the north side of Market, would not affect views of the water.

Public Comments

The project was originally filed and noticed in April, 2005 under Project #2409291. Two public comments were submitted.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated March 2, 2005 and annotated by the Department. 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 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.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; increased traffic and demand for parking from construction equipment and personnel; conflicts with normal

pedestrian and vehicular movement adjacent to the site; and increased noise. Due to the temporary nature and limited scope of these impacts, they are not considered significant or are mitigated by existing City codes and ordinances. (SMC 25.05.794).

Adopted City codes and ordinances that provide for mitigation of impacts include: Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). Compliance with applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment. However, where such regulations do not adequately mitigate impacts, SEPA policy 25.05.675B states that it is the City's policy to minimize or prevent temporary adverse impacts associated with construction activities and gives authority to condition a project to mitigate such impacts. Further discussion of specific impacts and mitigation follows.

Air Quality

Excavation and grading to prepare the site is expected to temporarily add suspended particulate matter to the air. The construction contractor must comply with the Puget Sound Clean Air Agency (PSCAA) regulations, which require that reasonable precautions be taken to avoid dust emissions. These precautions may include applying water or dust-binding chemicals during dry weather. Fugitive dust impacts, however, would be limited in area and duration. Soils and dust carried out of the construction area by exiting trucks would be minimized by wheel washing and by covering dusty truckloads. No additional mitigation for air quality impacts is warranted.

Earth/Soils & Environmental Health

Due to the use of the site historically as a gas station, a soils report was done to evaluate potential levels of hydrocarbons in the soils from underground storage tanks. Soil studies in the file include:

- Geotechnical Investigation, February 23, 2005, by GeoGroup Northwest;
- Subsurface Sampling and Testing; Shell Gas Station; 2654 NW Market Street, August 25, 2004, by Environmental Associates.
- Supplemental Subsurface Sampling and Testing; Shell Gas Station, 2654 NW Market Street; February 16, 2005, by Environmental Associates.

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 has alerted the applicant to this law and has provided a contact: Annette Ademasu (425) 649-7000 at the Underground Storage Tank Unit of the DOE. DOE's process requires that a 30-day notice be provided to DOE prior to tank removal including identification of the ICC certified decommissioner and site assessor, and the date when the tank will be removed.

The City of Seattle Fire Marshall issues permits for removal of underground storage tanks, and inspects the site to ensure tanks are appropriately removed or filled with inert materials. The [application](#) for the commercial flammable tank decommissioning permit can be found on the Fire Department website.

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 [fact sheet](#) and permit application is available online or by calling (206) 263-3000.

Discharge of contaminated fill is regulated by the City/County Health Department, contact: Steve Burke, (206) 296-3965.

Construction plans will be reviewed by DPD for compliance with applicable codes and ordinances related to grading and drainage.

Because of the ground water level at this location, it is likely that dewatering will be required during excavation; it is also possible that long-term dewatering may be required after the project is built. Because of the dual issues of potentially contaminated soil and dewatering from such as a site, extra precautions are needed to ensure appropriate handling of soil and groundwater.

The SEPA Policy regarding Earth (SMC 25.05.675D) addresses impacts associated with excavation, grading and drainage not be covered by existing regulations, while the SEPA policy regarding Environmental Health (SMC 25.05.675F) addresses the disposal of hazardous substances--such as petroleum-contaminated soils--that may pose a threat to human health, plants, animals and ecological systems if not properly handled.

While these issues are largely regulated by the processes and agencies cited above, providing notice to DPD prior to the start of demolition that the appropriate process is being followed for Underground Storage Tank removal will facilitate coordination between the responsible jurisdictions, and will help to ensure that any contaminated soils and ground water are handled safely, both during the critical construction phase, as well as in the long term.

Transportation: Truck & Equipment

The site is in an industrial zone and served by an arterial, Market Street, as well as being close to Shilshole Avenue NW which typically carries industrial traffic in the area.

The Seattle Municipal Code (SMC 11.74.160) states that material hauled in trucks shall be loaded so no debris falls onto the street or alley during transport. Grading and export of 8500 cubic yards of soil is anticipated in excavation for the underground garage and foundation. During the excavation phase, this could result in 8 to 12 truck loads per hour (a trip about every 3 minutes). Given an 8-hour construction day, the excavation will take one to two weeks.

Under the SEPA policy for construction impacts (SCM 25.05.675), it is the City's policy to minimize or prevent temporary adverse impacts associated with construction activity. While the time period of one to two weeks for excavation is a relatively short duration, temporary impacts could result from congestion during evening rush hour. Limiting hauling of loaded trucks during the evening rush hour would reduce the congestion impact to the area.

A condition is detailed at the end of this document limiting hauling after 4 pm.

Construction Parking

Construction worker parking is anticipated to create a short-term demand. It is the City's policy to minimize or prevent temporary adverse impacts associated with construction activity (SMC 25.05.675).

The demand for construction parking is likely to peak during the interior work on the project, when the site work has been completed enough to allow the on-site parking to be utilized. To reduce the demand of construction parking, as soon as the garage is able to be occupied for parking, construction workers should park in the garage. A condition to this effect is detailed in the conditions section at the end of this document.

Construction Noise

Because the project is on the edge of a lower intensity zone (L-1 and L-3 multi-family residential), noise from construction activity will impact residential uses on the adjacent properties. The times allowed for construction per the Noise Ordinance (SMC 25.08) are found to be inadequate to mitigate the noise impacts on residential areas. Thus proper conditioning is warranted and addressed in the conditions section at the end of this decision.

Long-term Impacts

Long-term use-related impacts anticipated as a result of approval of this proposal include increased automobile and foot traffic in the area due to the new uses. Previously adopted City ordinances provide mitigation of the identified impacts; the Land Use Code controls uses and contains other development regulations to ensure compatible development and required infrastructure improvements. The impact of increased traffic generation was evaluated, as follows.

Bulk and Scale

The project is on the edge of a lower intensity zone (L-1 and L-3), although separated by a 12' alley. Per code requirements, the project will not use the alley for access. 4' of landscaping (low shrubs) are proposed at ground level along the alley. The Industrial Buffer zone requires that a project be stepped back along a rear property line adjacent to a residential zone. While this requirement reduces the bulk of the building, the standard does not address the scale of the length of the façade without vertical modulation or substantial landscaping, such as trees.

SEPA policy 25.05.675 (G.) provides for conditioning of a development to reduce impacts in height bulk or scale where the regulations do not provide adequate mitigation. In this case, the properties in the multi-family zones to the north of the project are platted at a smaller scale than the industrial zone. To provide transition in scale, the applicant has added 2nd story planters and a change in materials to moderate the length of the façade. These items are essential to mitigating the impact of scale, and are detailed in a condition at the end of this document.

Transportation

A trip generation analysis was provided by the applicant (Heffron Transportation, June 21, 2007). The analysis was reviewed by the DPD's transportation planner. It is anticipated that the road network will be able to adequately accommodate the increased long-term demand.

Parking

A study was done of parking utilization in the area. The existing utilization of on-street parking and projected utilization with the completed project are measured at acceptable levels.

Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of the long-term impacts.

Summary

The Department of Planning and Development has reviewed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in the checklist, this action will result in adverse impacts to the environment. However, the anticipated short-term and long-term impacts can be mitigated through the conditions which have been discussed and are stated below.

Other than these specific conditions, codes and development regulations applicable to this proposed project will provide sufficient mitigation of other potential impacts pursuant to the SEPA Overview Policy (SMC 25.05.665).

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 (RCW 43.21C), including the requirement to inform the public 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 2c.

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

CONDITIONS – SEPA

Prior to Issuance of Demolition Permit

1. An Underground Storage Tank removal permit shall be obtained from the City of Seattle Fire Department; documentation of the permit shall be attached to the demolition permit for the site. (Non-Appealable Condition).
2. A 30-day notice shall be given to the Department of Ecology per their requirements prior to tank and fuel line removal. (Non-Appealable Condition).

Prior to Issuance of Construction Permit

3. The final version of the building plans shall reflect the following features to moderate the length of the north façade adjacent to the residential zone:
 - A change in the color of the prodema panels between each pair of 2nd and 3rd story windows;
 - Planters on the second level exterior area.

During Construction

4. No loaded trucks shall leave the site or arrive at the site after 4 pm.
5. Parking for all construction vehicles shall be provided on-site as soon as the garage is approved as safe for temporary use.
6. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7am to 6pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9am and 6pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

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

