



City of Seattle

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

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

Application Number: 3006881
Applicant Name: Lee Michaelis – R.W. Thorpe & Associates, Inc
Address of Proposal: 11310 Lake City Way NE

SUMMARY OF PROPOSED ACTION

Land Use Application (MUP) to combine 2 adjacent sites for parking and access purposes and to establish accessory parking to serve all existing uses (gas station, carwash, performance theater) on the 2 sites in L2/RC/C1-40 zones. Project includes reconfiguration of existing parking and establishing 35 new parking spaces.

The following approvals are required:

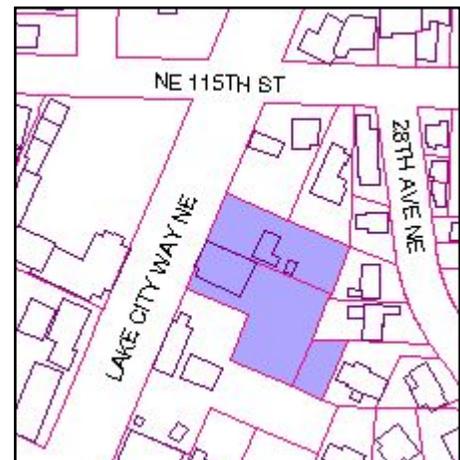
Administrative Conditional Use – To allow non-residential parking in an L2/RC zone, pursuant to Seattle Municipal Code (SMC) 23.46.006.C.

SEPA - Environmental Determination, pursuant to 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

BACKGROUND

The two sites being combined may be informally identified as “the Rick’s site” and “the Rosellini site.” The former consists of an existing performing-arts theatre, a one story, approximately 16,000 sq. ft. structure located on a 41,702 sq. ft. parcel on the eastern mid-block frontage of Lake City Way NE between NE 115th St. and NE 113th St. The western portion of the Rick’s site, where the structure is located, is zoned Commercial 1 with a forty (40) foot height limit (C1-40); surface parking is located to the northeast, east and southeast. Zoning for the eastern and southeastern surface parking is Lowrise Multifamily/Residential Commercial (L2/RC). There are presently 95 parking spaces legally



established on the Rick's site, many of which are subject to limitation and condition under Council Ordinance 121323.

The Rosellini site, to the south of the Rick's site, presently consists of a carwash, a gas station, extensive paving, and 9 legally-established parking spaces – 6 in a trapezoidal area of Lot 11, in the L3/RC zone, north of the existing curb, and 3 in the most southerly, westerly portion of Lot 10. The site has been used in the past for considerably more parking. The unauthorized parking has been the subject of a zoning enforcement action which would be corrected by the present application. The southeast portion of the Rosellini site is undeveloped due to environmentally-critical areas, including steep slope, wetlands, and riparian corridor. A wetlands report characterizing the wetland as largely drained with only a small amount of Type IV wetland remaining was received on August 29, 2007 and verified by DPD .

Commercial uses along Lake City Way NE – north of NE 110th St. to NE 115th St. – are characterized by auto-oriented businesses such as: a car wash/gas station, vehicle sales, vehicle repair, automotive parts, restaurants, retail sales and services, and administrative/customer service offices. Residential single-family uses abut the sites to the east and southeast.

Proposal

The present proposal revises and supersedes an earlier proposal under DPD Project No. 2401025, which was intended to accomplish essentially the same thing – to provide accessory parking for the Rick's use on the Rosellini site. Complicated zoning and easement considerations drove the revised application, as described below.

The current proposal is to combine the sites for development (permitting) purposes, legally establish a substantially-increased number of parking spaces on the Rosellini site, some of which cross onto the Rick's site, and reconfigure parking and access on the Rick's site to function optimally with those uses being established on the Rosellini site. The parking spaces on the Rosellini site would be for use after the operating hours of the other uses on the Rosellini site. Changes in limitations and conditions on the portion of the Rick's site regulated by Ordinance 21323 are implicit in the present proposal and must be consistent with that ordinance.

Public Comments

Notice of the initial project was published on April 8, 2004. Revised notice of the project capturing the current proposal was published on March 23, 2006. All comment letters submitted in response to both notices were considered in this decision. Because of the double notice, many parties commented more than once on the project. In total, 13 separate parties commented on the proposal, including representatives of the North District Council, the Greater Lake City Community Council, and the Meadowbrook Community Council.

Issues identified in comments include the following:

- Need for enforcement of conditions imposed under the rezone of a portion of the Rick's property (restriction to employees; parking attendant after 6:00 p.m.).
- Incompatibility of proposed use with residential zone adjacent
- Encroachments of commercial parking onto private property
- Need for appropriate screening and buffer zones
- Loud music and other disruptive noise coming from late night customers

- Increased crime in parking lot
- Drainage from the existing paving
- Rick's becoming more of a regional attraction
- Increased demand for police/fire services
- Poor design and adverse aesthetic impacts
- Need for more open space and landscaping
- Headlights shining into homes on adjacent properties
- Increased vehicular circulation on the site
- Overall high light levels
- Intoxicated drivers along Lake City Way NE
- Increased trash and litter (including broken bottles)
- Adverse impacts to a branch (Kramer Creek) of Thornton Creek in the adjacent ECA
- Piece-mealing of projects – need for comprehensive plan for the site
- Previous illegal filling on the property
- History of violations on the property
- Adverse impacts on property values
- Implications of proposed adult cabaret ordinance to proposal

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.46.006.C provides that at-grade parking accessory to nonresidential uses in an adjacent commercial zone may be permitted as an Administrative Conditional Use when it meets the following criteria as applicable:

1. *The Director may authorize such parking if:*
 - a. *The proposed parking is necessary to meet parking requirements, or the proposed parking will be used as a shared parking facility¹;*

The July 19, 2007 parking study by TSI, Inc. documents that parking demand for the Rick's use exceeds its parking supply on weekends by a deficit of 18 spaces on Saturday nights. Moreover, the study indicates that summer operations at Rick's tend to be of lesser intensity than during autumn and winter. It is reasonable to project somewhat higher parking demand during the autumn and winter seasons and to conclude the proposed parking is necessary to meet parking demand for Rick's existing use.

- b. *The proposed parking is necessary to avoid increased parking congestion in the adjacent commercial areas; and*
 - c. *The proposed parking is necessary to avoid creation or worsening of excessive spillover parking in adjacent residential area;*

The TSI study states, “. . . formalizing additional parking supplies . . . would reduce the potential for spillover parking demand on adjacent properties and local streets.” This statement seems valid in that excess parking will spill over to adjacent commercial and residential areas. These two criteria are met.

- d. *Other parking options such as shared parking have been considered and found to be unavailable in the adjacent commercial zone; and*

¹ The minimum number of off-street parking spaces required for Performing Arts Theater's is—1 space for each 8 fixed seats or 1 space for each 100 square feet of spectator assembly area not containing fixed seats—set forth in Chart A of SMC 23.54.015. Where, in the judgment of the Director, uses on Chart A are not comparable, the Director may base their parking determination on information provided by the applicant. The information required may include, but not be limited to, a description of the physical structure(s), identification of potential users, and analysis of likely parking demand. (Refer to SMC 23.54.015B).

Based on the information provided by the applicant, other parking options such as shared parking were considered and found to be unavailable in the adjacent commercial zone. See Administrative Conditional Use correspondence from David Brown Associates, September 10, 2003 contained in MUP file 2306699.

Inquiries by the owners resulted in only one neighboring property directly to the south willing to consider a verbal but not written shared parking arrangement. Without a written parking agreement this would not satisfy the parking demand for the use.

- e. The proposed parking does not encourage substantial traffic to pass through adjacent residential areas.*

Given the site's mid-block location and the ingress/egress vehicle access points solely from Lake City Way NE to the surface parking areas, it is unlikely that any traffic generated would pass through the adjacent residential areas northeast or east of the site.

2. *If the Director authorizes a surface parking area, the following standards shall be met:*

- a. A minimum of fifteen (15) percent of the surface parking area shall be landscaped. Specific landscaping areas required in the subsection shall count towards the fifteen (15) percent.*

DPD's zoning reviewer concluded this criterion is met.

- b. A landscaped setback of a least ten (10) feet shall be provided along the front property line. A landscape setback of at least five (5) feet in depth shall be provided along all other street property lines.*

This criterion does not apply to the proposal because the street property line is at the westerly edge of the C1-zoned portion of the site.

- c. When abutting a property in a residential zone (including RC zones), six (6) foot high screening and a five (5) foot deep landscaped area inside the screening shall be provided.*

DPD's zoning reviewer concluded this criterion is met.

- d. When across the street from a residential zone (including RC zones), three (3) foot high screening shall be provided between the parking area and the landscaped setback along all street property lines.*

This criterion does not apply to the proposal.

- e. Whenever possible, access to parking shall be from the commercial area.*

Based on the MUP plans, access to almost all of the proposed parking would be provided from Lake City Way NE, which is a commercial area. Proposed parking spaces #S96 and #S97, while located on the Rosellini site in an area zoned L2/RC, can only be accessed through the portion of the Rick's site that was rezoned several years ago and has strict limits on the use of that parking. The City Council has not permitted use of the rezoned Rick's site for access to additional parking on the Rosellini site. Moreover, use of these two spaces for customer parking would compromise ordinance-imposed limitations of parking in the rezone area for site employees. Accordingly, project approval is conditioned on removing spaces #S96 and #S97 from the site plan and installing curbs or other permanent devices to prevent Rick's patrons from parking in that area.

SMC 23.46.006.B provides that for all conditional uses of the proposed type:

1. *The use shall be determined not to be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*
2. *In authorizing a conditional use, adverse impacts may be mitigated by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity, and the public interest. The director shall deny the conditional use if it is determined that adverse impacts cannot be satisfactorily mitigated.*

The proposed parking spaces have been in use for many years. Problems associated with their use resulted in enforcement action, whose resolution depends upon the issuance of this permit. The enforcement action arose from neighborhood concerns about noise and litter impacts from the parking area activities to adjacent residential uses. There have also been more calls for public services than attends the typical commercial use. Based on a past experience it is reasonable to believe that these impacts would continue following legalization of the requested spaces. Therefore, reasonable mitigation of those impacts is warranted.

The first approach to mitigation is physical: the replacement of the wood-slat chain link fence by a solid, sound-attenuating fence. This fence is also warranted to mitigate impacts to the adjacent ECAs. Description of fence specifics are to be found in that section below.

The second approach to mitigation addresses management practices. The City Council determined to limit the impacts of the parking in the area it rezoned several years ago by restricting it to employee use, and requiring there be a parking attendant during business hours after 6:00 p.m. The latter condition, extended and clarified, appears well-suited to mitigate impacts from the presently-proposed spaces. The same personnel used to monitor parking as required by Ordinance 121323 could be used to monitor the proposed parking.

The project is subject to the following conditions:

Prior to issuing the MUP and for the life of the project:

1. On evenings when the Rick's use is in operation, the project owner(s) and/or responsible party(s) shall maintain orderly, safe, and quiet behavior in the parking area from 6:00 p.m. until the last customer departs the parking area. To accomplish this the owner(s) and/or responsible party(s) shall provide a parking attendant who will be constantly present and actively monitor and control behavior in the parking lot area during these hours.
2. The project owner(s) and/or responsible party(s) shall prepare a detailed written parking management plan. The plan will identify:
 - A. A protocol for how the attendant will maintain orderly and quiet behavior in the parking area;
 - B. Communication capabilities that allow the attendant to immediately and reliably communicate the need for back-up to appropriate individuals including the Seattle police, as needed to maintain orderly, safe, and quiet behavior in the parking area;
 - C. A protocol for attendant intervention in problematic situations;

- D. A protocol for maintaining in-house back-up that will be available as needed by attendant to maintain orderly, safe, and quiet behavior in the parking area;
 - E. A protocol for maintaining the parking area and adjoining landscaping areas in a clean condition.
3. The parking management plan shall be incorporated onto a plan page of the MUP and treated as integral to the project plans.
4. The owner(s) and/or responsible party(s) shall maintain the project per plan.

SUMMARY – ACU Analysis

As conditioned above (and restated below), the proposal would comply with all applicable conditional use criteria.

ADMINISTRATIVE CONDITIONAL USE DECISION

The proposal for future construction of surface parking spaces in an L2/RC zone is **CONDITIONALLY GRANTED** as noted below.

ENVIRONMENTALLY CRITICAL AREA ANALYSIS

The site includes steep slope, steep slope buffer, and riparian management areas, portions of which encumber much of Lots 10 and 11. These critical areas have been largely shown on the survey. The wetland and revised wetland reports provide considerable discussion of the riparian corridor and the wetland on the adjacent parcel. The proposal would change very little on the site and have a small impact on the ECAs.

The only physical element of the proposal in or near these critical areas would be a solid-cedar fence, which would replace the existing chain-link fence along the southerly border of parking on Lot 11, and a new solid-cedar fence along the southeasterly border of parking on the Rosellini portion of Lot 10 that would continue to parking space #S115. Installing the fencing will in the judgment of DPD’s habitat and geotechnical experts, adequately mitigate the impacts of the additional circulation and parking activities on the various ECAs. Because consistency with the ECA Ordinance is required for approval of the ACU, this condition is included among the ACU conditions. However, technically, it is a stand-alone requirement of approval.

SEPA ANALYSIS

According to Director’s Rule 23-2000, the State Environmental Policy Act (SEPA) requires analysis for the creation of more than twenty parking spaces. Initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant’s agent and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant, and the experience of DPD with review of similar projects form the basis for this analysis and decision.

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

plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation” subject to some limitations. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); Critical Areas Ordinance (grading, soil erosion and stability); Street Use Ordinance (watering streets to suppress dust, obstruction of the rights-of-way during construction, construction along the street right-of-way, and sidewalk repair); Building Code (construction standards); and Noise Ordinance (construction noise). Compliance with these codes and ordinances will provide for adequate mitigation of potential adverse impacts. Additional SEPA-based is not necessary. Nevertheless, a more detailed discussion of some of these impacts follows:

Short-Term Impacts

The following temporary or construction-related impacts are anticipated: decreased air quality due to increased dust and other suspended air particulates during construction, potential soil erosion during excavation and general site work; increased runoff, tracking of mud onto adjacent streets by construction vehicles, increased demand on traffic and parking from construction equipment and personnel, conflict with normal pedestrian and vehicular movement adjacent to the site, increased noise, and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts they are not considered significant. See SMC 25.05.794.

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.

Long-Term Impacts

Long-term or use-related impacts are also anticipated: noise litter, light, increased demand on public services and utilities, and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope. Except for light, impacts warranting mitigation have been discussed and conditioned by use of ACU conditioning authority and for these impacts there is no need for mitigation under SEPA.

With respect to light, development projects sometimes include lighting and/or reflective surface materials which can adversely affect motorists, pedestrians, and the surrounding area. The City’s Land Use Code addresses the issue of light and glare control associated with commercial and industrial projects. Under SMC 25.05.665, the decision-maker may condition or deny a project to mitigate its adverse impacts due to light and glare. To address light and glare impacts of the surface parking lighting, the proposal shall be conditioned so that existing light features do not cast any spillover light beyond property lines to the east or south.

Because the proposal would not likely increase any existing use on the site, only redistribute cars from other parking areas, or legitimate ones already parking on the Rosellini property, no increased greenhouse gas generation is anticipated. **SUMMARY**

No significant adverse effects on the environment are anticipated as a result of the proposal. Conditions necessary to mitigate impacts not addressed by codes, ordinances, or adopted City policies are identified below.

SEPA DECISION

This threshold determination was made by the responsible official for DPD after reviewing the environmental checklist and other information on file with the department. The determination satisfies the requirements of SEPA, RCW 43.21.C, including the requirement to inform the public of DPD's SEPA determination.

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

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

Prior to issuance of the Master Use Permit

1. Plans shall be revised to show removal of spaces #S96 and #S97 and the installation of curbs or other permanent devices preventing parking use of these parking spaces.
2. Plans shall be revised to show the existing chain-link fence on Lot 11 being removed (not retrofitted), and a solid 6-foot-high cedar fence being constructed from the SE corner of the existing 6-foot-high masonry wall, to the edge of the curb near the corner of Parking Space L110, then south-southwesterly just outside the curb to the southerly edge of Parking Space L114, then continuing to the east edge of the curb at the south edge of Parking Space S116.

Prior to issuance of the Master Use Permit and for the life of the project:

3. On evenings when the Rick's use is in operation, the project owner(s) and/or responsible party(s) shall maintain orderly, safe, and quiet behavior in the parking area from 6:00 p.m. until the last customer departs the parking area. To accomplish this the owner(s) and/or responsible party(s) shall provide a parking attendant who will be constantly present and actively monitor and control behavior in the parking lot area during these hours.
4. The project owner(s) and/or responsible party(s) shall prepare a detailed written parking management plan. The plan will identify:
 - A. A protocol for how the attendant will maintain orderly and quiet behavior in the parking area;
 - B. Communication capabilities that allow the attendant to immediately and reliably communicate the need for back-up to appropriate individuals including the Seattle police, as needed to maintain orderly, safe, and quiet behavior in the parking area;
 - C. A protocol for attendant intervention in problematic situations;

- D. A protocol for maintaining in-house back-up that will be available as needed by attendant to maintain orderly, safe, and quiet behavior in the parking area;
 - E. A protocol for maintaining the parking area and adjoining landscaping areas in a clean condition.
5. The parking management plan shall be incorporated onto a plan page of the MUP and treated as integral to the project plans.

For the life of the project

6. The owner(s) and/or responsible party(s) shall maintain the development per plan.

SEPA CONDITIONS

Prior to the issuance of the MUP

7. Plans shall be revised to show all surface parking lighting, including specification of lighting fixtures and diagrams showing light fall on the property, particularly the ECA areas and the adjacent properties. No substantial light, as determined by DPD, shall fall into the ECA, ECA buffer areas, or across property lines.

For the Life of the Permit

8. Lighting shall be maintained per plan.

Signature: _____ (signature on file) Date: February 09, 2009
Paul Janos, Land Use Planner
Department of Planning and Development

PJ:lc

Janos/doc/decisions other than platting/3006881 Rick's parking on Rosellini janos.doc