City of Seattle

Greg 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: 3008110

Applicant Name: John Phillips for PJ Ravenna, LLC

Address of Proposal: 559 Northeast 80th Street

SUMMARY OF PROPOSED ACTION

Land Use Application to change the use of an existing 1,008 square foot building from food processing (catering kitchen) to restaurant (coffee shop/café).

The following approvals are required:

Administrative Conditional Use - to allow the conversion of one non-conforming use to another non-conforming use in a Single Family zone (SF 5000) (SMC Chapter 23.42.110).

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

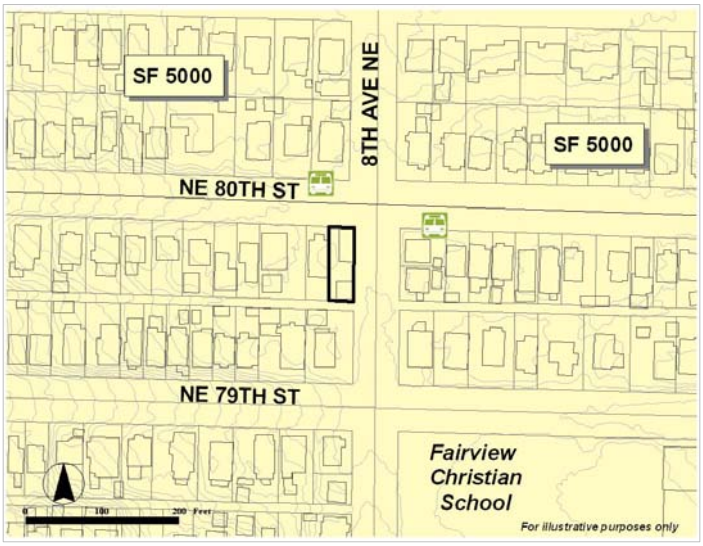
[ ] DNS with conditions

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

BACKGROUND DATA

Site and Vicinity Description

The subject site is a 3,095 square foot corner lot at the intersection of Northeast 80th Street and 8th Avenue Northeast, in Seattle's Maple Leaf neighborhood. The rectangular parcel occupies approximately 32 feet of frontage along Northeast 80th Street and approximately 97 feet of frontage along 8th Avenue Northeast. The site is currently developed with a 1,008 square foot single story structure and a 508 square foot, two-space garage. A 12 foot wide improved alley abuts the lot to the south.



The site is zoned single family with a minimum lot area of 5,000 square feet (SF 5000). The zone extends in all directions within a radius of approximately 1,000 square feet of the subject site. Development in the zone corresponds with the established zoning insofar as surrounding properties are developed with single family renter and owner-occupied structures of varying ages and architectural styles.

Northeast 80th Street is a 60 foot wide fully improved minor arterial, with sidewalks, curbs, gutters, and lighting. This arterial is a major east-west route for the north of Seattle. There are Metro transit stops on the northwest corner of the intersection (servicing west-bound riders) and on the southeast corner (servicing east-bound riders). A total of eight Metro transit stops surround the subject site within a two-block radius. On-street parking exists along North 80th Street on the south side of the arterial.

Eighth Avenue Northeast is a 60 foot wide north-south residential access street. Parking is permitted on both sides of the street, as is the case for each of the surrounding residential access streets. Along the 8th Avenue Northeast frontage there is a 30 foot, 30 minute signed load and unload zone. North of the intersection on 8th Avenue Northeast there is a Seattle School District (northbound) bus stop.

Area landmarks include the Fairview Christian School one block southeast of the subject site and the Maple Leaf Playground approximately four blocks northeast of the subject site. Additionally, the Ramsing House, 540 Northeast 80th Street, located across NE 80th ST and four doors west of the subject site, is a Historic Landmark (Ordinance 113261, 1986).

Current Use and Existing Conditions

The permitted use on the site is nonconforming to development and use standards in the zone (Project No. 2201562 issued July, 2002). Uses on the site have been nonconforming (business/commercial) since approximately 1923. The site is currently in use as a catering business (Madres Kitchen). Prepared items include boxed lunches, breakfast and lunch platters for groups, and dinners. The volume of food production on a typical day is approximately 100 meals.

There is no dining associated with the use, and hours of operation are permitted for 8:00 a.m. to 6:00 p.m. Monday through Friday, and weekends, 9:00 a.m. to 5:00 p.m. The existing facility has four to five employees. There are currently 6 deliveries per week to the site consisting of produce and supplies, plus two Costco deliveries per month. Two on-site parking spaces exist in a detached two-vehicle garage accessed from 8th Avenue Northeast.

DPD's Code Compliance section received a complaint from adjacent property owners of a violation of hours of operation of the current use and number of employees on-site (October, 2007).

Project Proposal

Information provided by the applicant included a complete program of activity, Trip Generation Letter, Parking Utilization Summary, Impact Mitigation Statement, and plan set with site plan and landscaping plan.

The applicant proposes to change the use of the existing catering kitchen (food processing) to a small scale owner-operated coffee shop/café (restaurant). The existing catering business will be maintained as an incidental use within the proposed use. The new use will have internal seating for 18 guests and will employ a maximum of 6 individuals. The nature of the new use is a coffee shop and café providing prepared foods for dining in and take-out. Hours of operation are proposed from 6:30 a.m. to 6:00 p.m., Tuesday through Sunday, closed Mondays. Staff, which is proposed to be no more than six (6) employees at any one time serving the combined proposed use (catering and restaurant), is expected to be on-site from 5:45 a.m. to 6:45 p.m. The conceptual menu consists of breakfast items, lunch items, and dinner take-out entrees provided by the catering kitchen. Access to the restaurant will be from 8th Avenue Northeast.

The two parking spaces will be maintained and available for use for the employees of the development. The applicant proposes no net increase in number of deliveries to the site. Bike racks will be available for customers and employees.

The proposal includes remodeling of the interior space, converting storage and office areas to seating (approximately 530 sq.ft.); the commercial kitchen space is to remain unchanged (approximately 480 sq.ft.). Exterior modifications include new landscaping, fencing, and glazing (windows) along all façades. No increase in height, bulk or scale is proposed.

Landscaping will include over 25% drought tolerant plantings and is proposed to adhere to Director's Rule 13-1992, *Landscape Standards and Compliance with the Land Use Code and SEPA Requirements*. Areas to be landscaped include the interior courtyard area (approximately 800 square feet) and the northwest corner of the lot (approximately 200 square feet). The existing courtyard area is to be replanted and landscaped to increase the aesthetic appeal of the site. No seating is proposed for the outdoor area, nor is it allowed per SMC 23.42.106.

Two advertising signs are proposed, maintaining the currently allowed signage and compliant with Seattle's Sign Code (SMC 23.55). One 6 square foot sign will be located on the north façade containing the name and description of the café, and one 12 square foot sign will be located on the east façade also containing the name and description of the use.

New exterior lighting is proposed for the north, east, and south elevations. Existing light fixtures will be maintained in the commercial kitchen area which occupies the north half of the principal structure. Lighting will be updated in the proposed dining area and windows in the dining area will be enlarged from what currently exists. Lighting is proposed to conform to the lighting and glare standards of the underlying zone, and will be shielded and directed away from adjacent residential uses.

Site Zoning and Uses History

The first zoning code for the City of Seattle was adopted in 1923. This particular site was zoned "business" at that time and continued as a business zone with the adoption of the 1947 Zoning Code. In 1957, a new Zoning code was adopted and the property was changed to a single-family residential zone (RS5000). Residential zoning has continued on the site with the adoption of the most recent Zoning Code (SF5000, 1982).

DPD permit history indicates a building permit was obtained in 1922 to erect a store building. In 1968, a permit was issued "to alter a portion of the existing building and occupy as a professional office (design only) per plan. Formerly a store (grocery)." The application was reviewed by the Superintendent of Buildings for compliance with zoning code standards for nonconforming uses. In 1984, a permit was issued to "repair and replace the detached garage accessory to office building per plans…" Occupants of the administrative office included a combination of a landscape architect, small construction company, and real estate agent. In 2002, a permit was issued to change the use of the building from administrative office to food processing for human consumption (ACU Project No. 2201562). Commercial uses have existed on the site since approximately 1923.

Zoning	
1923	Business
1947	Business
1957	RS5000
1982	SF5000

Uses	
1922	Grocery
1968	Professional Offices
2002	Food Processing

Public Comment

The public comment period for this project ended November 7, 2007. DPD received over 80 written comments regarding this proposal. Also during this public comment period, members of the public filed a written request for a public meeting pursuant to SMC 23.76.015, which was subsequently held at Olympic View Elementary on January 9, 2008. Concerns raised in comment letters and captured at the public meeting included the following:

- Lack of available parking
- Increase in traffic congestion
- Deliveries blocking the alley
- Higher intensity use on-site
- Increase in noise level
- Degradation of property values
- Increase in odors
- Increase in potential for crime
- Increase in lighting intensity
- Change in character of neighborhood

Support for the proposed use included the following:

- The addition of a restaurant within walking distance for neighborhood residents
- Enjoyment of an eating establishment that offers organic locally grown food
- The restaurant as an asset and contribution to the neighborhood (one that reduces the need to use an automobile)
- Support for the nonconforming status of the site (as business oriented)

Comment letters, application reports and supporting documents, and other associated materials may be found in the Land Use Application file, which is available for review at DPD's Public Resource Center (PRC), 700 Fifth Ave, Suite 2000 (http://www.seattle.gov/dpd/PRC/LocationHours/default.asp).

Nonconforming Status

SMC 23.42.102 states "Any use that does not conform to current zoning regulations, but conformed to applicable zoning regulations at any time and has not been discontinued as set forth in Section 23.42.104 is recognized as a nonconforming use or development." A nonconforming use may be converted by an administrative conditional use authorization to another use not otherwise permitted in the zone subject to the following limitations and conditions (SMC 23.42.110, Director's Analysis below). A structure occupied by a nonconforming nonresidential use may be maintained, repaired, renovated or structurally altered but shall not be expanded or extended except as otherwise required by law, as necessary to improve access for the elderly or disabled or as specifically permitted elsewhere in this Code (SMC 23.42.106).

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

Standards for converting from one nonconforming use to another nonconforming use are found in section **SMC 23.42.110** of the Seattle Land Use and Zoning Code. Specific criteria applicable to this application can be found in Subsection B.

B. The proposed new use must be no more detrimental to properties in the zone or vicinity than the existing use. This determination shall be based on the following criteria:

1. The zones in which both the existing use and the proposed new use are allowed;
2. The number of employees and clients associated or expected with the proposed use;
3. The relative parking, traffic, light, glare, noise, odor and similar impacts of the two uses and how these impacts could be mitigated.

Terms

"Food processing and craft work" means a commercial use in which food items and craft work are produced without the use of a mechanized assembly line and includes, but is not limited to the following:

"Food processing" means a food processing and craft work use in which food for human consumption in its final form, such as candy, baked goods, seafood, sausage, tofu, pasta, etc., is produced, when the food is distributed to retailers or wholesalers for resale off the premises. Food or beverage processing using mechanized assembly line production of canned or bottled goods is not included in this definition, but shall be considered to be light manufacturing." (SMC 23.84A.012)

"Restaurant." See "Eating and drinking establishment." (SMC 23.84A.032)

"Eating and drinking establishment" means a use in which food and/or beverages are prepared and sold at retail for immediate consumption. Eating and drinking establishments include restaurants and drinking establishments."

"Restaurant" means a use in which food and/or beverage preparation and service is provided for individual consumption either on-or off-premise, and in which any service of alcoholic beverages is accessory to the service of food." (SMC 23.84.010)

1. ***The zones in which both the existing use and the proposed new use are allowed;***

The intent of the first standard is to compare the intensity of the proposed new use with the current use by comparing the zones in which both uses are allowed. Food processing and restaurants are both permitted in all commercial zones, from residential zones with a residential commercial designation to areas entirely zoned commercial (RC, NC1, NC2, NC3, C1 and C2). Both uses are permitted in all industrial zones, as well as downtown. The uses are not regulated differently in any of these zones except for parking which will be discussed in more detail below. The proposed use does not include the sale of alcoholic beverages. Given these findings, the proposal meets this standard.

2. ***The number of employees and clients associated or expected with the proposed use;***

The applicant has stated in submitted documents that the current use includes four to five employees servicing the catering business at any given time. The applicant proposes an increase in service staff of 2 individuals. Current hours of operation are permitted from 8:00 a.m. to 6:00 p.m., Monday through Friday, 9:00 a.m. to 5:00 p.m. on weekends; the proposed hours of operation are from 6:30 a.m. to 6:00 p.m., Tuesday through Sunday. There is currently no in-door seating. The proposed use, as mentioned above, is for a restaurant that proposes to seat 18 people; approximately 530 sq.ft. in area, four tables plus counter seating. The commercial kitchen is approximately 480 sq.ft. in area. Guests are anticipated at approximately 20 per hour at morning peak demand time (7:00 a.m. to 8:30 a.m.), with a "worst-case" scenario of approximately 200 guests per day.

The increase in site users and hours of operation suggests that conditioning to minimize adverse impacts on residential properties in the zone is needed. DPD will condition the use to limit the number of employees on-site and to limit the hours of operation (refer to CONDITIONS).

3. The relative parking, traffic, light, glare, noise, odor and similar impacts of the two uses and how these impacts could be mitigated.

<u>Parking and Traffic</u>

Two parking spaces exist on-site and are located in the covered garage south of the principal structure. The applicant has stated that these spaces will continue to be available to employees of the restaurant. A 30 minute signed load and unload zone is provided immediately east of the site on 8th Avenue Northeast. This zone is intended for site deliveries and short term parking.

Section 23.54.015 of the Seattle Municipal Code (SMC) sets forth the base parking requirement for both food processing (catering; 1 space for each 2,000 square feet) and eating and drinking establishments (restaurant; 1 space per 250 square feet). However, pursuant to SMC 23.54.015.D.3, no parking is required for the first two thousand five hundred (2,500) square feet of gross floor area for nonresidential uses in this zone; parking requirements are waived for this use. Parking requirements are therefore unchanged from the current use to the proposed use.

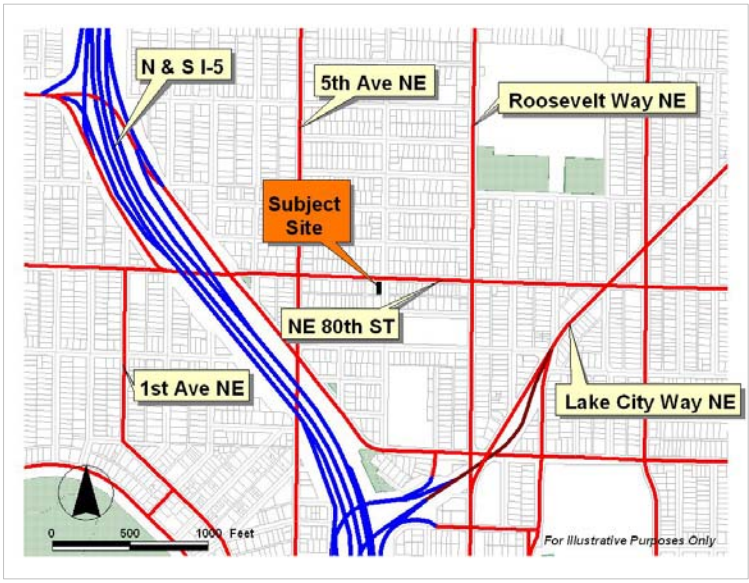
On-street parking exists along the south side of Northeast 80th Street, and along both sides of surrounding residential access streets. The applicant conducted and provided DPD with a Parking Utilization Summary. The study was conducted pursuant to DPD Client Assistance Memo (CAM) 217, which sets out procedures for conducting a parking utilization and supply analysis. The study was conducted over the course of 5 days, and included parking data for three separate times of day. The

range of parking utilization within 400 feet of the subject site was found to be between 31.6 percent and 46.9 percent of parking utilization. On-street parking is considered to be at capacity when the utilization rate is 75 percent or higher.[1]

Parking Utilization Rates[2]			
Date	Time		
	6:30-7:00 a.m.	9:30-10:00 a.m.	4:30-5:00 p.m.
1/8/2008 - Tue		45.70%	
1/9/2008 - Wed			
2/5/2008 - Tue			31.60%
2/6/2008 - Wed	46.90%		
2/7/2008 - Thu			

The applicant's traffic engineer conducted a trip generation review for the proposed coffee shop using data on coffee shops from the Institute of Transportation Engineers (ITE), Trip Generation, Seventh Edition, 2003, and a Traffic Impact Analysis study of five Starbucks locations in the Puget Sound Area (accounting for the size differential between a typical Starbucks and the proposed project).

The applicant estimates that the peak parking demand for the proposed use will be between the hours of 7:00 a.m. to 8:30 a.m. According to the Trip Generation Letter submitted by the applicant's traffic engineer, during the AM peak hour the project could add 31 net new trips to the site and during the PM peak hour 22 new trips would be added. Existing site traffic, including employees, deliveries, and garbage/recycling pickup generated from the catering business is figured into the overall net traffic increase.



The subject site is surrounded by the following street network:

- Roosevelt Way NE - Principal Arterial
- 5th Avenue Northeast - Minor Arterial
- Northeast 80th Street - Minor Arterial
- 8th Avenue Northeast - Residential Access

The Department's Senior Transportation Analyst confirms that the Trip Generation Letter adequately documents the likely increase in traffic from the proposed use and the parking utilization study reasonably identifies parking availability within 400 feet of the project site. Indicators show that

[1] DPD Client Assistance Memo (CAM) 117. *Parking Waivers for Accessory Dwelling Units*. Updated September, 2006.
[2] Data provided by the applicant in the *Parking Utilization Summary*. Conducted by John Phillips, Custom Design. March 19, 2008.

adequate parking exists in the immediate vicinity to support a maximum of 20 automobiles during the peak morning hours of operation, as well as during regular business hours.[3] No conditioning for traffic and parking is warranted, however conditioning of the proposal is needed to prevent parking in the alley, prevent vehicle lingering in the load and unload zone, and prevent parking in the garage access area (refer to CONDITIONS).

Light/Glare

The hours of operation are proposed to be from 6:30 a.m. to 6:00 p.m., Tuesday through Sunday. Employees are expected to use the site from 5:45 a.m. to 6:45 p.m. As further conditioning of this land use application, all business lighting shall be extinguished after hours of operation. Exterior lighting will only be in use during non-daylight hours of operation - early mornings from 5:45 a.m. and winter evenings until 6:45 p.m. Business signage shall be extinguished after business operating hours.

Additional conditioning is needed to minimize noise, light, and privacy impacts on adjacent residential properties. All glazing and façade treatments along the west side of the principal structure shall be opaque in nature, insofar as to allow natural lighting in for on-site users, and protect the privacy of adjacent residential properties (examples include glass block, colored, tinted or etched glass, etc.). Glazing shall be of durable, quality materials, and should present a style that is in conformance with surrounding architectural features.

Mature street trees located along both rights-of-way will aide in buffering light emitted from the site (during spring through autumn) to residential uses along the east side of 8th Avenue Northeast and residences across Northeast 80th Street to the north, during non-daylight hours.

Noise

The proposed use, as in the case of the current use, will exist predominantly within the structure. No exterior seating is proposed. No changes are proposed for interior commercial machinery and/or equipment. Window placement will be primarily along the south, east, and north sides of the principal structure away from the adjacent residential structure west of the site. The courtyard area will be used only for employees when placing garbage from the facility in receptacles along the alley, and when tending and gathering herbs from the small herbs garden located in the courtyard area. Primary entry into the establishment will be along 8th Avenue Northeast.

Typical noise levels associated with a kitchen hood fan are 65 decibels at a distance of 5’0” from the noise source. The existing fan penetrates the roof structure at approximately 13’0” above sidewalk grade (Project No. 2201562). The fan is approximately 36 inches high and is located behind the existing roof parapet on the east side of the roof along 8th Avenue Northeast. The closest single family residence is located approximately 35’0” to the west of the fan. The noise associated with the fan meets the Seattle Noise Ordinance level for residential zoning during the following daytime hours: 7:00 a.m. to 10:00 p.m. on weekdays and 9:00 a.m. to 5:00 p.m. on weekends. Business hours of operation will be conditioned to fall within these timeframes. [4]

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[3] Applicant correction item response dated April 25, 2008, and “Maple Leaf Coffee Shop Trip Generation Letter”, JTE, Inc., March 2, 2008.
[4] Director’s decision, MUP 2201562. Cheryl Mosteller, Senior Land Use Planner. June 20, 2002.

Additionally, to further reduce noise impacts on adjacent residential properties, the applicant shall designate an outdoor area for employee visiting or smoking that is away from residential properties west of the subject site.

Odor

Onsite ventilating mechanisms and system(s) will not be increased or changed to support the new use. The existing roof mounted hood ventilation fan will remain along the east side of the roof along 8th Avenue Northeast. The fan currently directs odors upward. Residential properties to the east of the subject site are presented a 60 foot buffer between sites due to the existing roadway (8th Avenue Northeast), and adjacent properties west of the site are located approximately 35 feet from the source of ventilation, odors, and noise levels generated from commercial equipment.

DPD will condition the proposal to ensure that garbage receptacles are large enough to manage refuse from the proposed use, are kept secure 24 hours a day, and do not increase in frequency of scheduled pick-up.

Signage

There is no net change in signage proposed for the subject site. Two externally illuminated signs will be advertising the proposed use. The signs will be illuminated as needed during operational hours by surface-mounted lighting directed down and upon the signage, and shall be extinguished after business operating hours (SMC 23.44.008).

Summary

The applicant's proposal meets the conditional use criteria of SMC 23.42.110. DPD interprets the term *detrimental* as harmful or injurious to people and properties. Merriam-Webster's Dictionary, defines the term *detrimental* as "damaging; causing harm or injury". It is reasonable to expect that there will be an increase in the amount of outdoor activity, on-site noise, and an increase in site traffic. The Department recognizes that the site would intensify in use, and with additional mitigation (proposal conditioning) concludes that the proposed use would not be detrimental to properties in the zone or vicinity.

The applicant has offered that the intent of the café is to provide an owner-operated small community gathering place that serves the immediate neighborhood healthful foods, offers an aesthetically pleasing atmosphere, and encourages pedestrian traffic – "a step toward further developing a walkable city". External improvements to the structure, coupled with proposed landscaping, shows a program design that is an improvement over the appearance of the current business, and presents no significant change in the character of the surrounding community.

The subject site is located in a residential neighborhood and consists of a parcel of land that has carried commercial uses since Seattle's first zoning ordinance. DPD has received and listened carefully to public concerns regarding the proposal, but has not received specific or substantial evidence that demonstrates proven harm to residents or properties in the surrounding area. The Department's Code Compliance section received its first complaints pertaining to this site and use from residents *after* the current proposal was submitted to the Department (October, 2007). Complaints, as well as the majority of public input, pertain in large part to the current use.

The Department weighed input from numerous sources and analyzed the impacts of the proposal based on impacts of the current use (SMC 23.42.110). With reasonable conditions placed on the application, the Department feels that existing infrastructure would support the proposed use, that the use could continue as an internally operated food services operation, and that the new use would present an appropriate business use in the zone. The intent of conditioning the use to less than that which is proposed (limiting adverse impacts), is to optimize suitability of the proposed use with the surrounding community, maintain a use on the site that draws from the local community and offers a service and benefit, while supporting commercially viable development.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The request to change the use of an existing 1,008 square foot building from food processing for human consumption (catering kitchen) to restaurant (coffee shop/café) is **CONDITIONALLY GRANTED.**

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE PERMIT

Prior to Recording

1. Weekday hours of operation shall be from 7:00 a.m. to 6:00 p.m. Employees may be on-site forty-five (45) minutes prior to business opening, and forty-five (45) minutes after close of business.

Prior to Building Permit Issuance

2. Weekend hours of operation are limited to 9:00 a.m. to 5:00 p.m. Employees may be on-site forty-five (45) minutes prior to business opening, and forty-five (45) minutes after close of business.

3. The number of staff shall not exceed six employees.

4. Employees shall have an area designated for smoking, visiting, etc., outdoors that is located away from residential uses to the west of the site.

5. Garage parking access is to be kept clear of vehicles at all times (curbcut and sidewalk area).

For the Life of the Project

6. The applicant shall post signage sufficient in number and prominence to prevent illegal parking (short or long-term) in the alley abutting the property, illegal parking in the load and unload zone, and for the general safety and welfare of site users and pedestrians.

7. Business vehicles (catering or restaurant) are not to use the load/unload zone for general purpose parking.

8. Vehicle engines shall be turned off while loading and unloading to minimize noise and exhaust emissions.

9. For Code Enforcement purposes, the applicant shall obtain from SDOT the exact location of the 30 minute load and unload zone (located along 8th Avenue Northeast just southwest of the intersection of the two rights-of-way) and clearly mark (repaint) the zone. Markings shall be maintained and visible at all times throughout the year.

10. Exterior lighting shall be shielded and directed away (down) from adjacent residential lots. All lighting shall be extinguished after hours of operation, including that of signage advertising the business use.

11. The applicant will limit lighting on the west side of the structure to the doorway/alcove emergency egress door/service door.

12. All glazing (window and other openings) along the west side of the structure shall be opaque in nature to protect the privacy of adjacent residential uses, while allowing sufficient natural light to penetrate the building. This might be in the form of glass blocks, etched or painted windows, etc. Glazing shall be of durable, quality materials, and should present a style that is in conformance with surrounding architectural features.

13. Business garbage, recycling, and compost receptacles will be of sufficient size to accommodate and fully contain site refuse (2-3 cu. yd. capacity container(s) is strongly recommended). The receptacles shall be secured from urban animals at all times. Garbage, recycling, and compost pick up will not increase in frequency of collection (pick-up will continue to be no more than one time per week).

14. Sidewalk cafes or outdoor seating shall be prohibited on this site.

15. Plan set documents shall be updated to read seating for "18 customers", rather than the listed "15 customers", sheet A1.0.

Signature: (signature on file) Date: November 06, 2008
Catherine McCoy, Land Use Planner
Department of Planning and Development
Land Use Services

CRM:lc

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