



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: 3008115
Applicant Name: Curtis McGuire
Address of Proposal: 401 N 45th Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a change of use from general retail sales and service (drycleaner) and office to food processing (822 sq. ft. coffee roaster), retail (193 sq. ft.), and office (1,260 sq. ft.).

The following approval is required:

Administrative Conditional Use: - To allow the conversion of a nonconforming use to another use not otherwise permitted in a Multifamily Zone (SMC Chapter 23.42.110).

SEPA DETERMINATION:

- 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 2,600 square foot property is located on the southeast corner of Phinney Avenue North and North 45th Street, in Seattle's Fremont neighborhood. The existing retail building was constructed on the site in 1916 and has been continually occupied since. The adjacent street is a fully improved 60 foot collector arterial, with sidewalks, curbs, gutters, and paving. There is no parking on site and no alley adjacent to the site.

The subject property is located in a multi-family Lowrise zone (L-1), which encompasses properties in the immediate vicinity. The Lowrise zone increases in intensity to L-3 north and east of the site, and to Single Family with a minimum lot area requirement of 5,000 square feet (SF 5000) west beyond Palatine Avenue North. The area is characterized by single and multi-family uses along Phinney Avenue North.

There are residential uses directly adjacent to the site, an upper floor apartment to the east and a townhouse development to the south. There are existing apartments across the street on the southwest and northeast corners and a series of single family houses to the northwest.

Proposal Description

The proposal is to change the use of an existing commercial building from one nonconforming commercial use to another. Under the current L1 zoning commercial uses are not permitted, however SMC Chapter 23.42.110 allows nonconforming uses to change subject to certain criteria. The current uses in the building, a drycleaner (general retail sales and service and office), are proposed to change to a coffee roaster (food processing), coffee sales (retail) and office. The only exterior change proposed is to add a walk-up window for coffee sales and a future awning over the eastern half of the building frontage.

Public Comment

Notice of the proposed project was published December 6, 2007. No comments were received during the required public comment period that ended on December 19, 2007.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

The Seattle Land Use Code allows nonconforming uses to change subject to criteria used to evaluate and/or condition the proposal. The applicable criteria are discussed below.

SMC 23.42.110 Change from one nonconforming use to another nonconforming use.

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.

A. *(Not Applicable)*

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

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

The existing and proposed uses, including general retail sales and services, office and food processing are all first allowed as ground floor conditional uses in the Midrise and Highrise zones. They are all permitted uses in the commercial zones, subject to some size limitations.

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

The applicant has stated that five employees are expected to work in the space and up to 100 retail coffee customers per day are expected. The former dry cleaning business would also have had retail customer traffic.

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

The two businesses would be relatively similar in size and scale of operation. Both would depend on transit or street parking for employee and customer trips. The coffee roasting use is proposed to start at 6 AM and close at 5 PM Monday through Friday and 6:30 AM to 5 PM Saturday. Retail coffee sales are proposed from 6 AM to 8 PM Monday through Friday and 6:30 AM to 8 PM Saturday and Sunday. The prior dry cleaning business operated from 7:30 AM to 6 PM Monday through Friday and 8 AM to 5 PM on Saturday.

The applicant states that employees would arrive at the proposed business at 6 AM to start the coffee roasting process so that fresh roasted beans could be delivered to customers between 10 AM and 1 PM. Pastries for retail sale would be delivered by 6 AM. Raw coffee beans would be delivered once every two weeks between noon and 2 PM. While the dry cleaners must also have had deliveries it is not known when they occurred, though presumably they were during business hours.

No external lights are proposed to be added to the building. The coffee roasting part of the proposed business could have odor impacts. The applicant states that a thermal oxidizer mounted on the roof will be used to control odors and pollution impacts.

C. (Not Applicable)

D. Parking requirements for the proposed use shall be determined by the Director.

According to Chart A the required parking would be:

Office 1,260 sq. ft. at 1/1000 = 1.26 spaces
Food Processing 822 sq. ft. at 1/2000 = .41 spaces
Retail 193 sq. ft. at 1/500 = .39 spaces

Total required = 2 spaces

Additional parking requirements are set out in SMC Chapter 23.54.015:

G. New nonresidential uses in existing structures. Up to twenty (20) required parking spaces are waived for a new nonresidential use established in an existing structure or the expansion of an existing nonresidential use entirely within an existing structure. For purposes of this section, "existing structure" means a structure that was established under permit, or for which a building permit has been granted and has not expired, at least two (2) years prior to the application to establish the new use or expand the use.

This provision would waive the parking requirement for the proposed use since it requires fewer than 20 spaces and is locating in an existing structure.

E. If the new use is permitted, the Director may require mitigation measures, including but not limited to landscaping, sound barriers or fences, mounding or berming, adjustments to yards or parking standards, design modification, or limiting hours of operation.

The proposed use would open significantly earlier than the previous use in an area directly adjacent to residential uses. Retail sales would take place outside the walk up window, rather than interior to the store as with the prior use. Retail sales would likely be clustered more heavily during the morning hours than with the previous business. Deliveries are not likely to have a significant impact on the neighbors since they are planned to occur at mid-day. However, the increase in expected early morning noise impacts requires mitigation. Given the constraints of the site measures such as fences, sound barriers or landscaping are not possible and would not be effective. The only mitigations that would be effective in reducing noise impacts would be limiting the hours of operation and/or moving the retail coffee sales indoors.

A survey of nearby similar retail coffee restaurants shows that most do not open until 6 AM on weekdays and 6:30 to 7 AM on weekends.

Restaurant Name	Address	Weekday Hours	Weekend Hours
Lighthouse Coffee Roasters	400 N 43 rd Street	6 AM to 8 PM	6:30 AM to 8 PM
Fremont Coffee	459 N 36 th Street	6 AM to 9 PM	7 AM to 9 PM
Caffe Ladro	452 N 36 th Street	5:30 AM to 11 PM	5:30 AM to 11 PM
Caffe Vita	4301 Fremont Av N	6 AM to 8 PM	7 AM to 8 PM

In all of the above cases the sales area is enclosed within a building. Because the proposed retail use will take place outside, opening times at the later end of the range are justified.

CONCLUSIONS - ADMINISTRATIVE CONDITIONAL USE

The Land Use Code allows this type of change from one nonconforming use to another so long as the unmitigated impacts to the surrounding properties are not greater than the existing condition. While a business was already established at this location this change of use would increase noise impacts in the early morning hours. No significant impacts are expected due to parking, traffic, light, glare or odor. Without mitigation limiting the hours of operation this proposal would constitute a material detriment to property and residents in the vicinity.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The proposed Administrative Conditional Use to allow the change from one nonconforming use to another is **CONDITIONALLY GRANTED.**

CONDITION

The change of use may be approved with the following condition:

For the Life of the Project:

1. The proposed coffee roasting business may operate from 6 AM to 8 PM on weekdays. Coffee roasting is permitted from 6:30 AM to 5 PM on Saturdays. Retail coffee sales are permitted between 7 AM and 8 PM on weekends and holidays. Neither of these businesses may open to start the coffee roasting operation, receive deliveries or make retail sales before or after these hours.

Signature: _____ (signature on file) Date: February 28, 2008
Nora Gierloff, Land Use Planner
Department of Planning and Development

NG:lc

I:\GierloN\My Documents\CoffeeCUP\3008115Decision.doc