Interpretation of the Director
Under Seattle Municipal Code Title 23

Regarding the Use of the	
Property at	**DPD Interpretation No. 09-003-A**
1700 East Union Street	**(Project No. 3010278)**
(T.T. Minor School)	

Background

This interpretation was requested on behalf of the Seattle Public Schools, to clarify procedural requirements for occupying a former school in a residential zone with other uses. Similar interpretations have been concurrently requested with respect to seven other school sites in single family and multifamily zones. In particular, the question raised is whether the School Use Advisory Committee ("SUAC") process, described in Chapter 23.78 of the Seattle Land Use Code, is required in order to occupy the building with another use listed as permitted outright in the zone, or specifically listed as a use permitted in a former school.

Findings of Fact

1. The T. T. Minor School is an elementary school, built in approximately 1960 at 1700 East Union Street. It is in a Lowrise-3 (L3) Multifamily Residential zone. The school building is largely situated in the southeast quarter of the property, with a playfield and a children's play area on the west half of the property.

2. Surrounding properties are predominantly in the L3 zone as well, and largely devoted to residential uses. Across an alley to the west is a parking lot for Temple de Hirsch Sinai, and the synagogue is further to the west, across 16th Avenue.

3. Principal uses permitted outright in multifamily zones are listed at Section 23.45.004:

A. The following principal uses are permitted outright in all multifamily zones:

1. Single-family dwelling units;
2. Multifamily structures;
3. Congregate residences;
4. Adult family homes;
5. Nursing homes;
6. Assisted living facilities;
7. Institutions meeting all development standards;
8. Major Institution and Major Institution uses within Major Institution Overlay Districts subject to Chapter 23.69;
9. Public facilities meeting all development standards; and
10. Parks and open space including customary buildings and activities.

B. In Midrise and Highrise zones certain ground-floor business and commercial uses are permitted outright according to the provisions of Section 23.45.110.

C. Uses in existing or former public schools:

1. Child care centers, public or private schools, educational and vocational training for the disabled, adult evening education classes, nonprofit libraries, community centers, community programs for the elderly and similar uses are permitted in existing or former public schools.

2. Other non-school uses may be permitted in existing or former public schools pursuant to procedures established in Chapter 23.78, Establishment of Criteria for Joint Use or Reuse of Schools.

D. Medical service use, meeting the development standards for institutions, are permitted outright on property conveyed by a deed from the City that, at the time of conveyance, restricted the property's use to a health care or health-related facility.

4. The uses listed in Section 23.45.004 C 1, above, are all regulated as institutional uses under the Land Use Code. These uses are defined at Section 23.84A.018. Those definitions are incorporated by reference as findings of fact.

5. General provisions relating to institutions in Multifamily zones are found at SMC Section 23.45.090. Dispersion standards for institutional uses in Multifamily zones are provided at Section 23.45.102. Administrative conditional use criteria for institutions not meeting development standards are found at Section 23.45.122. Code provisions regulating the School Use Advisory Committee process are found in Chapter 23.78. These sections are incorporated by reference as findings of fact.

6. Two adopted Comprehensive Plan policies relate to re-use of public school properties:

   LU23 In order to encourage future school use of public school buildings that are no longer used as schools allow non-residential uses not otherwise permitted in the area to locate in school buildings as long as specific criteria for each such re-use are met.

   LU24 Determine criteria for judging the acceptability of proposed uses of school buildings for each school, which may differ from school to school. Address through the criteria the effects of the uses on students, teachers and residents of the surrounding area, and traffic, parking and other land use impacts. Determine the specific criteria for each school through a process that ensures the participation of the Seattle School District, the City, and the neighborhood involved.

7. Chapter 23.78, including provisions for the SUAC process, was a part of the original installment of Title 23, adopted in 1982 by Ordinance No. 110381.

8. In 1985, an application (Project No. 8500790/Permit No. 622924) was submitted to convert the former Queen Ann High School at 201 Galer Street to residential units. Most of the site is in an L2 (Lowrise-2) multifamily residential zone, with one corner of the property in an SF 5000 (Single Family 5000) zone. No SUAC was convened. The development was permitted through an administrative conditional use, pursuant to a provision allowing uses not otherwise permitted in the zone in landmark structures.

Conclusions

1. SMC Section 23.45.004 C1 lists a number of institutional uses as permitted in existing or former public schools. Paragraph C2 states that *other* non-school uses may be permitted in existing or former public schools pursuant to the procedures in Chapter 23.78, i.e. the SUAC process. Reading these two paragraphs together, it is logical to conclude that the SUAC process is not required in order to establish one of the institutional uses listed in Paragraph C1 in an existing or former public school. If the intent had been to require the SUAC process in order to establish any of the institutional uses listed in Paragraph C1, those uses would be regulated no differently than the uses listed in Paragraph C2, and there would have been no reason to list them separately.

2. A separate question is whether the SUAC process is required in order to devote a former school to one of the uses listed as permitted outright in Section 23.45.004 A. For example, multifamily structures are permitted outright in L3 zones. Would it be necessary to convene a SUAC in order to authorize conversion of a former school to a multifamily structure? We conclude that the language of Section 23.45.004 C2 does not override Section 23.45.004 A: If a use is permitted outright in a zone, without discretionary review or public processes, then that use is permitted on the same basis in an existing or former public school building in that zone. The language of Section 23.45.004 C2 is permissive rather than mandatory: It says that other non-school uses **may be permitted** through the SUAC process, and not that that is the exclusive process for permitting non-school uses in existing or former public schools. Likewise, the chapter describing

3. the SUAC process, SMC Chapter 23.78, does not say that it is the sole process for establishing non-school use in an existing or former public school structure. Instead, it is written permissively: "The Seattle School District or other owner of a public school structure **may** apply for the establishment of criteria for non-school use…."

4. As reflected in Comprehensive Plan Policy LU23, the purpose of the SUAC process is to encourage future school use of public school buildings, which would start with preserving the buildings. The process would provide flexibility by "allow[ing] non-residential uses *not otherwise permitted*" subject to specific criteria. This also reflects an intent that the purpose of the process is to provide a means for allowing uses not otherwise permitted, and that the process is not necessary or intended for authorizing uses that *are* otherwise permitted. It is logical, therefore, to read the applicable Land Use Code regulations to comport with this intent.

5. The reading that the SUAC process is not the exclusive process for establishing non-school uses in former schools is consistent with past practices with respect to similar provisions in the Single Family chapter: In 1985, the former Queen Anne High School building, partially in a Single Family zone was converted to multifamily residential use. Although the SUAC process had been established at that time, it was not deemed necessary to apply that process in order to allow the conversion. Instead, pursuant to another code provision, an administrative conditional use approval was obtained allowing the use not otherwise permitted in the zone on the basis of the landmark status of the structure.

6. Having concluded that the listing of permitted in existing or former public schools, under Subsection C, does not override or limit the operation of Subsection A, we note that "institutions meeting all development standards" are permitted outright under Section 23.45.004 A7, yet most of the institutional uses regulated under the code are also listed as permitted in existing or former public schools, under Section 23.45.004 C1. Paragraph C1 is presumed to have some effect, and not to be merely a redundant listing of use categories already covered under the earlier provision. We conclude that Paragraph C1 must be read as permitting the listed institutional uses outright in an existing or former public school building, even if they would not meet all institutional development standards. Institutions not meeting development standards, such as dispersion requirements, would otherwise require administrative conditional use approval. (See Sections 23.45.090 and 23.45.122.)

7. In the case of the T.T. Minor school site, for example, a new institutional use would normally require a conditional use, as there is another institutional use – the neighboring synagogue – within 600 feet, in a residential zone. However, based on the language of Section 23.45.004 C1, the listed institutional uses could occupy the school structure without conditional use approval, even though certain development standards that would normally apply to them are not met.

Decision

The T.T. Minor School building at 1700 East Union Street may be converted to any of the following institutional uses, regardless of conformity with institutional development standards, without going through the SUAC process: Child care centers, public or private schools, educational and vocational training for the disabled, adult evening education classes, nonprofit libraries, community centers, community programs for the elderly or similar uses. The building also may be converted to any other use permitted outright in the L3 zone, as listed at Seattle Municipal Code Section 23.45.004 A, without going through the SUAC process.

Entered this 25 day of June, 2009.

(signature on file)
Andrew S. McKim
Land Use Planner – Supervisor