



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

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

Application Number: 3010882

Application Name: Thurston Muskelly, on behalf of
New Hope Missionary Baptist Church and Nickelsville

Address of Proposal: 124 21st Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a temporary use for an encampment for up to 100 people in an open space located behind the New Hope Missionary Baptist Church. The encampment provides running water, portable toilets and washing facilities, as well as limited electrical service. The duration of the temporary use permit would be for three months.

The following approvals are required:

Temporary Use – to allow a use not otherwise permitted or not meeting development standards in the zone, pursuant to Seattle Municipal Code (SMC) [23.42.040](#).

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

SUMMARY OF PROPOSED ACTION

This Land Use Application would allow a temporary use for an encampment for up to 100 people in an open space owned by the New Hope Missionary Baptist Church. The proposal includes running water, portable toilets and washing facilities, as well as limited electrical service. The applicant has specified duration of up to three months.

A Temporary Use permit is required for an encampment as provided for in Seattle Municipal Code (SMC) [23.42.040 C](#).

BACKGROUND

Site and Vicinity Description: The encampment site is located the Central Area, on the east side of 21st Ave, between E Fir St and E Yesler Way. The site is a grassy open space to the south of the existing church and to the east of two homes, also owned by the church. The site is zoned residential Lowrise 3 (L3). To the east and west of the site is also zoned L3. The block to the south of the site (Odessa Brown Children's Clinic) is zoned Neighborhood Commercial 1. To the southeast across 22nd and Yesler land is zoned residential Lowrise 4 (L4). To the northeast across E Fir Street is zoned residential Lowrise 1 (L1).

The area is occupied primarily by residential apartments, townhouses, and single family homes. Church parking is located across 21st Ave to the west of the site. The Odessa Brown Children's Clinic is located to the south of the site. The church is to the north. Public parks are located to the across from the church to the north (Spruce St mini-park), behind the clinic to the south (Dr Blanche Lavizzo Park), and Pratt Park to the southwest. Other nearby institutions includes the Indochina Chinese Refugee Association (200 21st Ave) and the Central Area Youth Association (119 23rd Ave).

PUBLIC COMMENT

DPD published a [notice of application](#) for the project on November 13, 2009. The comment period ended on December 2. DPD received no comments.

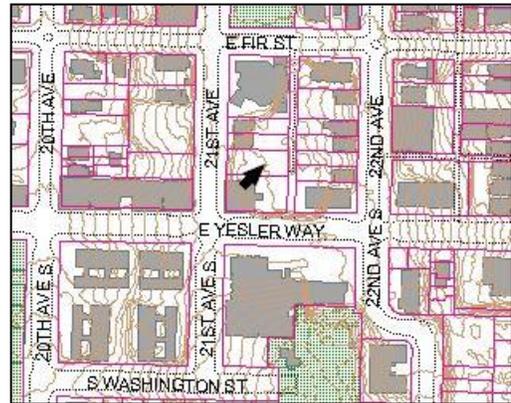


Figure 1. Local topography

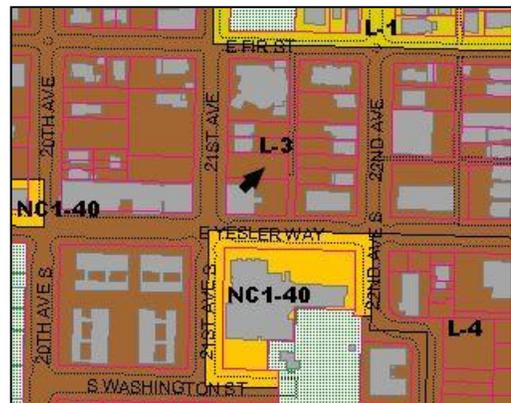


Figure 2. Vicinity zoning



Figure 3. Aerial photos

ANALYSIS

SMC [23.42.040](#) provides that the Director may grant, deny, or condition a temporary use application for uses not permitted or not meeting development standards in the zone where the use is proposed.

SMC [23.42.040 C](#) provides that a Master Use Permit for a period of up to six months may be authorized for any use that does not involve the erection of a permanent structure and that meets the requirements of SMC 23.42.040 A1a-c:

- a. The use shall not be materially detrimental to the public welfare; and
- b. The use shall not result in substantial injury to property in the vicinity; and
- c. The use shall be consistent with the spirit and purpose of the Land Use Code.

A. The use shall not be materially detrimental to the public welfare.

The City's Land Use, Housing & Building Maintenance, and Building Code are intended to protect the public welfare, including matters of health, safety, and order. While such settlements are not explicitly referenced in these Codes, the encampment benefits the welfare of the individuals it serves, and should not be a material detriment to the public welfare of neighboring property owners.

As outlined in a formal agreement between the settlement organizers and the Church, if the settlement organizers provide for necessary security and health services, and the Church regulates illegal conduct and other activities that give rise to public health and safety impacts, the settlement should not involve adverse impacts to the neighborhood. DPD conditions the permit to include the terms of the agreement, including the 30month duration. Conditions address public health and safety impacts that otherwise could be materially detrimental to the public welfare.

Further, the three-month permit allows individuals in the encampment time to find alternative housing and dismantle the encampment in an orderly and safe manner. Dismantling the encampment in this manner benefits the individuals in the encampment and the general public.

B. The use shall not result in substantial injury to the property in the vicinity.

The following factors indicate the encampment will not result in substantial injury to property in the vicinity: First, the settlement has existed in other locations within the City of Seattle, and has established a reputation as an effectively organized and self-regulated community, addressing the primary needs of its occupants and the concerns of nearby residents. The Church and settlement organizers will maintain rules of conduct that are designed to protect neighboring properties from adverse impacts during the proposed three-month stay. These rules address health and safety concerns for individuals in the encampment and the general public. Third, settlement organizers have delivered written notice to neighbors within a two-block radius of the site, including contact information and an invitation to a November community meeting. Finally, the temporary nature of the use limits injury to the property in the vicinity, particularly potential injury to property values. As conditioned below, the proposed use will not result in substantial injury to the property in the vicinity.

C. The use shall be consistent with the spirit and purpose of the Land Use Code.

SMC [23.02.020](#) provides that the purpose of the Land Use Code is to: “*protect and promote public health, safety and general welfare through a set of regulations and procedures for the use of land which are consistent with and implement the City's Comprehensive Plan. Procedures are established to increase citizen awareness of land use activities and their impacts and to coordinate necessary review processes.*” The Land Use Code provides for flexible temporary establishment of uses that are not otherwise allowed in a zone, or which don't otherwise meet development standards – all subject to review, public input, and DPD conditioning. As proposed and conditioned, DPD recognizes the temporary settlement to have no likely adverse effect on public health, safety and general welfare. Its temporary establishment occurs through procedures laid out in the Land Use Code, and as such it is consistent with its spirit and purpose.

CONCLUSION

The proposed encampment meets all three criteria associated with temporary uses. The temporary encampment should not be materially detrimental to the public welfare, it should not result in substantial injury to properties in the vicinity, and it is consistent with the spirit and purpose of the Land Use Code.

DECISION

DPD **CONDITIONALLY GRANTS** the proposed temporary use to allow an encampment on the subject site.

CONDITIONS

DPD grants the temporary use application subject to the following conditions. The applicant shall:

1. Vacate the encampment within three months from November 5, 2009, as outlined in the covenant between New Hope Baptist Church and the encampment organizers.
2. Limit the maximum number of residents to 100.
3. Prohibit any person under the age of 18 from staying at the encampment.
4. Allow inspections of the encampment, without prior notice, by the Public Health Department of Seattle & King County, the Seattle Fire Department, and Seattle Department of Planning and Development.
5. Comply with these fire-safety and health conditions:
 - a. Properly space, hang, and maintain Type 2A10BC fire extinguishers within the encampment as approved by the Fire Department;
 - b. Provide and maintain a 100-person first-aid kit;

