



City of Seattle

Mike McGinn, 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: 3014305
Applicant Name: Jacob Weyer and Andrew Mitchell
Address of Proposal: 123 N 85th Street

SUMMARY OF PROPOSED ACTION

Land Use Application to change the use of a 1,150 sq. ft. portion of existing commercial space from general retail sales and services use to a drinking establishment.

The following approvals are required:

Administrative Conditional Use - To allow a drinking establishment in an NC2-40 zone. (Seattle Municipal Code Chapter 23.47A.006)

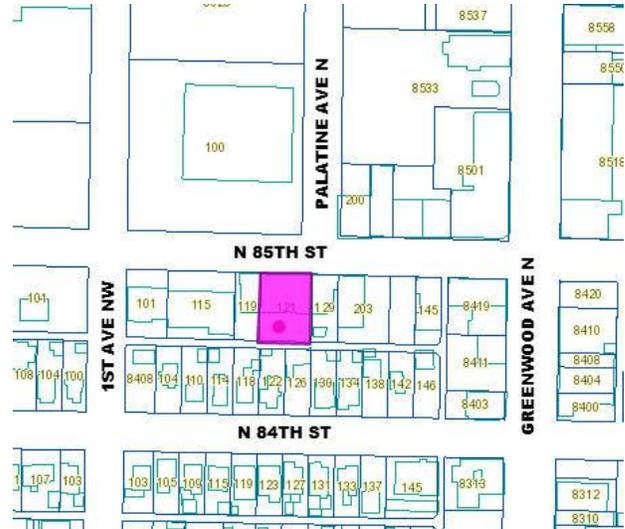
SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

BACKGROUND DATA

Site and Vicinity Description

The subject property is located on the south side of N. 85th Street, between Greenwood Avenue N. and 1st Avenue NW. The 1,150 square-foot space is located within a one-story commercial building, addressed as 121 N. 85th Street, that is divided into a total of 4 equal-in-size commercial spaces. The subject space formerly housed a Kumon Math Learning Center. The overall size of the site is 80 feet in width and 100 feet in depth. The commercial building is evenly divided into four separate commercial spaces and extends the full width of the lot and 60 feet from the front property line. Each of the commercial spaces has a distinct postal address. The proposed use would be located in the space second from the west property line, addressed as 123 N. 85th Street.

The site lies within the Greenwood-Phinney Ridge Residential Urban Village. As noted, the commercial structure on the site extends 60 feet from the front property line, leaving 40 feet between itself and the alley behind, the centerline of which marks the boundary between the NC2P-40 zone and a large area zoned SF 5000 to the south. There is a paved roadway, 11'-6" in width, within the alley right-of way. There is a 2'-6" easement on either side of the paved alleyway. There is an existing concrete retaining wall, approximately 10-feet in height that abuts the alley easement and alley, as well as properties to the east and west. The recessed area, approximately 80 by 40 feet in area, located behind the commercial structure is inaccessible from the alley.



Other commercial tenants of the subject commercial building include a convenience/ tobacco store and a tattoo parlor to the east and a massage studio to the west of the proposed drinking establishment. Each establishment has a separate entry from the sidewalk. N. 85th Street is a fully developed street with ten-foot wide sidewalks, street trees, curbs and gutters.

Along this block on the south side of N. 85th Street are located a variety of small commercial stores, including an antique store, Mexican restaurant, thrift shop, collectible shop, beauty salon, comic book shop, gaming academy and Japanese restaurant. Development in the vicinity consists of mixed residential, commercial and some institutional uses. Directly across N. 85th Street, west of Palatine Avenue N. is a Bartell Drug Store, a Blockbuster Video and a Top Ten Toys. A new Fred Meyer grocery and general store occupies the entire block on NW 85th Street, just to the north and west of the subject site.

Proposal Description

The applicant proposes to convert an existing 1,150 space within 1-story, 4,600 square foot structure previously used as a general retail sales and services space (Kumon Math Learning Center) to a drinking establishment. No parking is required for the use due to its intended size, and none is proposed. A drinking establishment is not permitted outright in the NC2 zone. Therefore, the owner is seeking an administrative conditional use to allow this change of use.

Public Comment

Date of Notice of Application:	December 12, 2012
Date of End of Comment Period:	January 2, 2013
Number of Written Comments:	3

Three comment letters were received regarding the proposal, one from a resident on N. 84th Street, one from the resident/commercial proprietor located directly west of the subject commercial building, and one from a business owner on the north side of N.85th Street. The neighbors' objections regarding this proposal focused on the following issues:

- Concerns regarding the impacts of customers of the proposed establishment on privately leased and maintained lots intended to provide short-term parking for customers of other commercial tenants in the immediate neighborhood;

- Impacts to on-street parking demand;
- Concerns pertaining to loitering, smoking, and questionable activities that create an objectionable atmosphere on the surrounding neighborhood;
- Concerns about livability and safety in the neighborhood, especially the safety of children.

The Department received no comments from citizens expressing support of the proposal.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE (SMC 23.47A.006)

A. The following uses, where identified as administrative conditional uses on Tablet A for 23.47A.004, or other uses identified in this Section 23.47A.006, may be permitted by the Director when the provisions of both Section 23.42.042 and this subsection 23.47A.006. A are met:

1. Drinking establishments. Drinking establishments in NC1 and NC2 zones may be permitted as conditional use subject to the following:

a. The size of the drinking establishment, design of the structure, signing and illumination must be compatible with the character of the commercial area and other structures in the vicinity, particularly in areas where a distinct and definite pattern or style has been established.

The proposal represents a change of use from a retail services use to a drinking establishment of approximately 1,150 square feet within a one-story building abutting the front property line on the south side a commercial street. Although there has been an expected turn-over in tenant businesses and in commercial uses along the south side of N. 85th Street, the existing block has remained relatively unchanged over a number of years, in terms of the number and siting of smaller commercial structures, some with pull-in parking in front of the structures. The north side of the street is characterized with larger, box-shaped stores and large parking lots just off the street. Just recently, the Fred Meyer store, to the north and west of the subject site, has more than doubled the size of its store, while maintaining the pattern of a large swath of parking between the street and the store. The proposed drinking establishment will be tucked into an existing commercial space within a small commercial store-front building, with pedestrian access right off the sidewalk, maintaining an established pattern in the older commercial area centered at the intersection of Greenwood Avenue North and North 85th Street.

b. The location, access and design of parking shall be compatible with adjacent residential zones.

No parking for motorized vehicles is required or proposed for this project. Neighborhood Commercial zones are typically pedestrian oriented and offer a variety of commercial uses and services within easy walking distance of nearby residents. Because of its midblock location on an arterial within a neighborhood commercial zone and across from a commercial zone, those desiring to arrive at the proposal site by private, motorized vehicles would be expected to utilize street parking in the adjacent and nearby commercially-zoned street right-of-ways.

- c. *Special consideration shall be given to the location and design of the doors and windows of drinking establishments to help ensure that noise standards will not be exceeded. The Director may require additional setbacks and/or restrict openings where the drinking establishment is located on a lot that abuts or is across from a residential zone.*

This proposal represents a change of use that will not change the existing structure's siting or the location of exterior doors and window openings. The main windows of the commercial space proposed for the drinking establishment face onto N. 85th Street, as does the front door, the point of ingress and egress from the business. The applicant notes in materials submitted to the Department in support of the application that the businesses currently on either side of the proposed site of the drinking establishment will be shuttered by schedule for the majority of hours the drinking establishment intends to be open.

The structures only other window openings are located at the rear of the commercial space. But these are small and located inside each of the two washrooms. The windows will not be opened during business hours. It is expected that the washrooms will be equipped with low-noise operable exhaust fans. There is also a door located along the rear wall that will provide egress to meet Fire Code. It will not be allowed to be open during business hours. Any noise generated within the confined building shall be within the allowable parameters of the Seattle Noise Ordinance. It is expected that the business management will monitor the ambient noise for compliance with the Code. Seattle's Noise Ordinance establishes maximum permissible dB(A) sound level at property lines. The maximum allowable noise level at the residential property lines is 57dB(A) during the day (see SMC Section 25.08.410), and 47 dB(A) at night, 10 PM to 7 AM on weekdays and 10PM to 9 AM on weekends (see SMC Section 25.08.420).

- d. *Drinking establishments must not generate traffic that creates traffic congestion or further worsens spillover parking on residential streets.*

According to *Trip Generation*, "8th Edition," ITE (Institute of Transportation Engineers, 2008), the peak PM hour trip generation for a "Drinking Place" is 15.49 trips per 1000 square feet of gross floor area. During peak hours for the "drinking establishment" 18 trips are anticipated during the peak hour. It is worth noting that peak hours for drinking establishments do not coincide with peak hours of traffic. In relation, for one hour between 4 and 6 pm, when rush hour normally occurs, *Trip Generation* has determined an average of 11.34 trips per 1000 square feet for this particular "use." As the proposed "drinking establishment" use is for 1,150 square feet, 13 vehicle trips per hour would be the number anticipated between 4 and 6 pm.

The ITE *Trip Generation* samples cited above are derived from settings more suburban in character and where traffic patterns may not reflect those in denser urban centers, such as Seattle. Within the City vehicle trips are generally substantially lower due in part to: proximity of residential uses to employment work centers and retail uses; the availability and location of public transit; and reliance on other modes of travel which make it likely there will be fewer vehicle trips than typical of developments in outlying areas on which the ITE generation equation is based. It is DPD's experience that the above referenced figures do not fully capture available modes of travel options for individuals living in the vicinity.

Neighborhood Commercial zones are typically pedestrian oriented and offer a variety of commercial uses and services within easy walking distance of nearby residents. WALK SCORE® gives a score of 86 ("Very Walkable") for this Greenwood neighborhood location. It

is anticipated that patrons living nearby will not be solely dependent on automobile use. Of note, the subject lot is located near Metro bus routes along both 85th Street (M48) and Greenwood Avenue North (M5). Given these circumstances, traffic impacts will most likely be less than noted by ITE data. The proposal will not generate traffic which creates traffic congestion.

While it is true that recent regional development has decreased the overall number of parking spaces available, the spaces lost have generally been on private lots serving particular businesses. While this may exacerbate the pressures felt in competition for on-street spaces, it cannot be demonstrated that the proposed use would worsen spillover parking on *residential* streets. It should be noted that any change of use or new use (even a use permitted outright) may cause spillover parking onto the streets. For example, a restaurant use could be permitted outright, and is liable to generate a greater parking demand than the proposed use. As a basis of comparison, the previously-mentioned ITE trip generation numbers for the proposed drinking establishment estimated that 15.49 trips/1,000 square feet of gross floor area would occur during the busiest PM peak hour for the use, and 11.34 trips/1,000 square feet of gross floor area would occur during the normally busiest hour, from 4 to 6 PM. In contrast, a typical restaurant would generate 18.8 trips/1,000 square feet of gross floor area during the PM peak hour, and 10.92 trips during the normally busiest hour from 4 to 6 PM. Although all of these numbers are likely high within the urban context, as noted previously, they do show that a restaurant occupying the same space would likely generate as much if not more traffic than the proposed drinking establishment.

Taking into consideration the context of the neighborhood, the proposed use, and the proposed interior layout, it is not anticipated that the proposal will further worsen traffic and parking on neighboring streets in the adjacent residential zones. Traffic is expected to flow to and from the subject site along primary arterials within commercial zones with spillover parking mainly accommodated along nearby commercial streets.

In summary, it is not expected that a drinking establishment as such would cause worse impacts than a use permitted outright, such as a restaurant. The potential exists for some minor spillover parking by some patrons. Nonetheless, this should not worsen the impact to *residential* streets. The Department concludes that the proposed drinking establishment will not aggravate spillover parking based on the size of the proposed use, the location along an arterial street, and variety of other modes of travel to the establishment available to potential patrons.

ANALYSIS – ADMINISTRATIVE CONDITIONAL GENERAL PROVISIONS (SMC 23.47.006)

- A. *All conditional uses shall be subject to the procedures described in Chapter 23.76, and shall meet the following criteria:*
- 1. The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

As described above in the noise standards section, the 1,150 square foot proposed use as conditioned should not be a detriment to the public welfare or injurious to property in the area. The proposed use will be located in an existing commercial, multi-bay structure within the Neighborhood Commercial zone. It sits side by side with other commercial uses and

commercially zoned lots and across from commercially zoned lots and commercial uses along N. 85th Street. Although located across the alley from single-family zoning and single-family structures, the structure proposed to contain the drinking establishment use sits some fifty feet from the south edge of the alley and below the level of the single family houses on N. 84th Avenue.

Interestingly, the public comments received by the Department did not discuss anticipated noises arising from the site as a grave potential problem, perhaps partially because of the physical separation of the use from the residential uses along N.84th Street. Nonetheless, it is important that noise, especially loud music, emanating from the proposed use not adversely impact sleep and repose in late evening and early morning hours for residential neighbors. To ensure that noises not impact the adjoining residential zone, the permit is conditioned to diminish the likelihood of untoward noise impacts. As conditioned, noise emanating from the site and proposed use should not be materially detrimental to the public welfare.

Some of the public comments received by the Department included concerns about smoking, pedestrians loitering and sleeping in public, the unleashing of bad influences on children, and creating an atmosphere that would contribute to a variety of criminal activities in the neighborhood. There has been no direct and compelling evidence presented to suggest that the proposed drinking establishment, its management or its patrons will be instrumental in perpetuating the problems mentioned above. Therefore, the proposed use would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

In authorizing a conditional use, adverse impacts may be mitigated by imposing any conditions needed to protect other properties in the zone or vicinity and to protect the public interest. The Director shall deny or recommend denial of a conditional use if it is determined that adverse impacts cannot be mitigated satisfactorily.

Mitigation of possible noise impacts shall be required as discussed above and will be conditioned as presented below.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The conditional use application is **APPROVED WITH CONDITIONS** as indicated below.

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

The owner(s) and/or responsible party(s) shall:

For Life of the Project

1. Not allow any food/beverage service or any customer occupation or use of the outdoor area south of the building.
2. Keep the exit door located on the south side of the building closed at all times. It shall be used only for emergency egress purposes and shall not be left open during hours of operation.

3. Keep the windows in the washrooms shut during business hours. In lieu of opening the windows for ventilation, install operable low-noise exhaust fans in each of the bathrooms if not currently available.

Signature: _____ (signature on file) Date: March 7, 2013

Michael Dorcy, Senior, Land Use Planner
Department of Planning and Development

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