



City of Seattle

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:** 3014578  
**Applicant Name:** Kelly Hogg  
**Address of Proposal:** 5828 Roosevelt Way NE

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow the change of use from office and sales and service general, to eating establishment.

The following approval is required:

**Administrative Conditional Use** - to allow a change of use from one non-conforming use to another in a Lowrise zone, LR2. ([SMC Section 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 INFORMATION**

Site and Vicinity Description

The subject site is located on the east side of Roosevelt Way NE just south of NE Ravenna Boulevard and a block and a half east of I-5. The cross street to the south is NE 56<sup>th</sup> Street. The north and east sides of the lot abut public alleys. The lot has about 10' feet in elevation gain from its low point at the northwest corner to the highest elevation point along the mid south property line. The trapezoidal shaped parcel was originally developed with a single family residence in 1925.

In the early 1940's a one-story commercial structure attached to the existing residence was constructed out to the property line along Roosevelt Way NE. Over the years this space has operated as a grocery store, a mortgage broker and other uses. The upper level of the original

residence continues to function as a residential use. The structure is approximately 4,130 square feet. The lower level is approx. 2,939 sq ft, and the upper residential space is approx. 1,191 square feet. Only the lower level is part of this review as the residential use is permitted outright in the zone.

The predominate zoning along Roosevelt Way NE from NE 75<sup>th</sup> St to the north until the street terminates at the University of Washington campus to the south, is Neighborhood Commercial or Commercial. The site is located at the northern edge of a small Lowrise 2 (LR2) multifamily residential zone that includes the majority of the blockface on the east side of Roosevelt Way NE. The remainder of the block and on the west side of Roosevelt Way NE, the zoning is NC2-40. Directly to the north of the lot, across an alley is a NC2-40 zone. To the east of the lot and across a second alley abutting the subject lot, the zoning is Single Family 5000.

Commercial uses are generally not permitted in Lowrise 2 zones except non conforming uses that have been established by permit. An Administrative Condition Use review allows for changing one non conforming use to another non conforming use.

In 1968 two permits for minor alterations (#33464 and #33647) identifies “store and office” as the use for the commercial storefront space. At this time the zoning of the parcel was BC or Community Business. A permit in 1973 for minor alterations (#46128) also identified the use as store and office located in a BC zone. In either the 1970’s or 1980’s the zoning of the lot was changed to a Lowrise residential zone. At some time in the 1990’s the southern portion of the space was occupied without permit by a restaurant use. The current tenant Café Racer occupied this space starting in 2005. In 2008 it expanded without permit into the northern portion of the space.

This section of Roosevelt Way NE is a busy south bound arterial. Within the lowrise zone on the east side of the street are older single family structures and a couple newer townhouse developments. Across the street and to the north in the NC zone uses are predominately retail and automotive oriented uses.

### Proposal Description

The proposal is to allow the change of use of approximately 2,939 square feet from sales and services, general and office, to eating establishment.

### Public Comments

The public comment period for this project ended April 10, 2013 and one comment letter was received.

### **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. *In single-family and residential small lot zones, a nonconforming multifamily use or structure may not be converted to any nonresidential use not otherwise permitted in the zone.*
- 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 established uses on the site, general sales and services and office, and the proposed use of eating establishment, are permitted outright in all Commercial, Industrial and Downtown zones. In certain Commercial and Industrial zones there are square footage limitations but the size of the subject use are within those limits. These uses would also be permitted in the Residential-Commercial zone, if they were ground floor uses in a structure that contained at least one dwelling unit or live-work unit, requirements which the subject structure meets.

Along this section of Roosevelt Way NE the predominate zoning is Neighborhood Commercial 2 (NC2). The property directly to the north of the subject lot is zoned NC2-40 and contains a retail use. Across the street is a four-story mixed use development with retail at the ground level and a two story structure with an automotive sales and service use.

Given the sites close proximity to zones where the proposed uses would be allowed and the existing commercial uses along Roosevelt Way NE, the use proposed is no more detrimental in the zone or vicinity than the permitted general sales and services and office use.

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

According to information supplied by the owner of the property, the restaurant currently has 18 employees. During the weekday shifts the average number of employees on site is two to three. On weekend shifts the number increases to an average of four. The number of patrons varies depending upon the time and day. It is assumed that the vast majority of customers reside in the vicinity.

The restaurant currently has hours of operation from 9am to 2am daily. Food service is available from 9am to 10pm. There is a bar area where minors are not permitted.

It is reasonable to assume that an eating establishment may generate more activity than a general sales and services and office use at certain times of the day, specifically in the evening. However, given that the property has been partially in use as a restaurant for the past 15 years, it is reasonable to conclude that impacts associated with the proposed uses will not represent an increase in the number of employees and clients.

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

Given the likely use of non-auto modes to reach the site, the project is not expected to generate high levels of parking demand. Parking demand for the restaurant use is expected to be similar to the demand for the existing use; therefore, the likelihood and extent of any spillover parking on local streets is not expected to change. There are currently three on-site parking spaces. On-street parking is available along the street front of Roosevelt Way NE. Per code section SMC23.54.015D3 parking is waived for the first 2,500 sq. ft. of all non residential uses in “all other zones” (in this case meaning zones that are not zoned commercial). The remaining 439 sq. ft. have a parking requirement of two spaces for an eating establishment. This is more restrictive than the current permitted uses. One parking space is required for the residential unit.

In a suburban location, an eating establishment would be expected to generate between 350 and 400 daily vehicle trips, with 30-35 trips in each of the morning and afternoon peak hours. However, the site is located within a dense urban center, with many opportunities for non-auto use. Taking into consideration both opportunities for alternative modes of travel and the removal of trips generated by the permitted existing use, the proposed restaurant use likely will generate fewer than 100 new daily vehicle trips. Fewer than ten new trips are expected in either the morning or the afternoon peak hours. This amount of traffic is likely to have no noticeable impact on the surrounding roadway system.

The space has its entry and all glazing located along the street lot line. Any light or glare created is not expected to impact the current residential uses in the LR2 and nearby Single Family zone.

Noise may be expected to be generated from an eating establishment that at times has musical acts perform. However the entry and all glazing is located along the Roosevelt Way NE street frontage. There are two exit doors one located along the abutting alley to the north and the other at the rear of the structure. These doors are emergency only doors.

Given the small scale of the proposed use, its location along a busy principle arterial and the mix of commercial uses in the vicinity, it is likely that the proposed use would not be detrimental to properties in the zone and vicinity in terms of traffic, parking, and odors.

C. *Regarding caretaker's unit*

Not applicable.

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

As written above, per code section SMC23.54.015D3 parking is waived for the first 2,500 sq. ft. of all non residential uses in “all other zones” (in this case meaning zones that are not zoned commercial). The remaining 439 sq ft have a parking requirement of two spaces for eating establishments. One parking space is required for the residential unit. The parking spaces have their access from the east alley. There are 3 parking spaces currently on the lot meeting the parking requirement.

- 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.*

From research of DPD maps, permits and information supplied by the applicant it appears this structure has been operating as sales and services and office uses for at least sixty years. The restaurant use appears to be more recent, perhaps within the past fifteen to twenty years. During the comment period there were no use related comments received. DPD will, however, impose conditions on the proposed uses in order to assure that impacts do not result from unanticipated changes in operations:

The two emergency doors are not to be used for access or exiting other than during emergencies. They are not to be propped open during business hours.

### **DECISION - ADMINISTRATIVE CONDITIONAL USE**

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

### **ADMINISTRATIVE CONDITIONAL USE CONDITIONS**

For the Life of the Project:

1. The two emergency doors are not to be used for access or exiting other than during emergencies. They are not to be propped open during business hours.

Signature: \_\_\_\_\_ (signature on file) Date: July 11, 2013  
Beth Hartwick, Senior Land Use Planner  
Department of Planning and Development

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