

**Interpretation of the Director
Under Seattle Municipal Code Title 23**

Regarding the Use of the

Property at

2200 Western Avenue

**DPD Interpretation No. 13-001
(DPD Project No. 3014709)**

Background

This interpretation was requested by attorney Jessica Clawson on behalf of Allegra Properties, the owner of the subject property, which is at the northeast corner of Western Avenue and Blanchard Street in downtown Seattle. Allegra Properties proposes to renovate the building, add a penthouse, and occupy the building largely as offices, with some retail and short-term parking at ground level. The building formerly had a garage door facing the Western Avenue frontage that provided access to parking on that level. The garage entry was eliminated some time ago, but a curb cut remains. The request for interpretation seeks an analysis regarding how the floor area ratio (“FAR”) standards of the Land Use Code would apply to the proposed changes of use and penthouse addition, whether access to parking may again be provided off of Western Avenue, and whether the proposed renovation and penthouse addition would trigger the design review process.

Findings of Fact

1. The property at 2200 Western Avenue is in a DMR/C 85/65 zone (Downtown Mixed Residential/Commercial). It consists of Lots 9 and 12, Block 40, A.A. Denny’s 6th Addition. The lot area is approximately 14,400 square feet. The property has 120 feet of frontage along Western Avenue and 120 feet of frontage along Blanchard Street, and also abuts an improved alley.
2. A four-story building largely fills the site. It was originally built in 1909 as the “Union Stables,” under Seattle Permit No. 81126. The building originally included a penthouse, which was destroyed in a fire in the 1970s. Although a permit (No. 579211) was obtained in 1978 to restore the penthouse, that work never occurred.
3. The Union Stables building was converted in 1942, under Permit No. 351908, to a warehouse for a furniture company. An accessory office space was added within the building in 1944 under Permit No. 360192, and a portion of the first floor was converted to a garage in 1949 under Permit No. 394132. Sprinklers were also added in 1949 for “Joe’s Towing Garage,” suggesting that that portion of the building was used for vehicle repair. A 1968 permit, No. 527741, indicates that the uses in the building included “warehouse, storage, garage, body and fender shop.” Permit No. 680327 was issued in 1995 for interior non-structural alterations to the retail space on the first floor. The same year, Permit No. 681523 was issued to reconfigure the storefront of the retail tenant space. The plans listed the existing use as “furniture store” and showed that that use occupied 13,800 square feet of floor area.

4. The plans associated with Permit No. 681523 reflect that an existing garage door was to be eliminated, and replaced with “new storefront glazing” made of aluminum and glass. Based on site photos, the garage entrance on the Western Avenue side was eliminated. A garage door leading to the second level of the building remains, along the Blanchard Street frontage, near the alley.
5. Under the proposal, the second through fourth levels of the building, with gross floor areas of approximately 13,866 square feet apiece, would be converted to office space. On the ground floor, 3,500 square feet would be occupied as retail space, 7,762 square feet would be devoted to short-term parking, and a 1,604-square-foot office lobby would be provided. In addition, a new penthouse, with an area of 10,800 square feet of office space, is proposed.
6. Under the current Land Use Code, Section 23.84A.036, a furniture store is categorized as “retail sales, major durables, a “heavy commercial sales and service” use.
7. The base Floor Area Ratio (“FAR”) allowed in a DMR/C 85/65 zone is 1.0, and the maximum FAR is 4.0. (SMC Section 23.49.011, Table A.) Short-term parking is exempt from FAR calculations, according to Section 23.49.011.B.1.l. An FAR exemption is also provided, at Section 23.49.011.B.1.b, for street-level uses meeting the requirements of Section 23.49.009, whether or not the property is in an area where street-level uses are required. This exemption is subject to some limitations: The floor-to-floor height must be at least 13 feet, the depth of the structure containing the space must be at least 15 feet, and overhead weather protection satisfying Section 23.49.018 must be provided.
8. General sales and service uses and retail sales of major durables are both among the street-level uses listed in Section 23.49.009. The floor-to-floor height of the first floor of the building is more than 13 feet, and the structure depth is approximately 120 feet. The overhead protection standards in Section 23.49.018 apply to “new development” and it has been DPD’s practice not to require this improvement when existing structures are renovated.
9. No exemption from FAR standards is provided for warehouse or office uses.
10. An exemption is provided at Section 23.49.011.B.1.k for floor area below grade, but according to Section 23.86.007, this would include only areas where the finished floor of the level above is below the abutting grade. Based on photographs, the second level of the building is at approximately the same grade as the abutting alley. Little if any of the first floor may be considered below grade for the purpose of this exemption.
11. When calculating the chargeable FAR of a building, Section 23.49.011.B.2 allows a deduction of 3.5 percent of the area, as an allowance for mechanical equipment.
12. Section 23.49.032 addresses additions of chargeable floor area to lots with existing structures. Under that section additions may be made, up to the maximum FAR allowed, “by qualifying for bonuses or using TDR [transfer of development rights], or both, and by the use of rural development credits if permitted on such lot, subject to the general rules for FAR and use of bonuses, TDR and rural development credits, SMC Sections 23.49.011 through 23.49.014.”
13. Section 23.49.011.A.2.g provides, in DMR zones outside of South Downtown that an applicant may use any types of TDR eligible under Chapter 23.49, in any proportion, and/or bonuses allowed under Sections 23.49.012 and 23.49.013, in order to achieve the additional FAR.
14. Section 23.49.019.H provides standards for access to parking, and Section 23.49.019.H.1 specifically addresses curb cut location. Under that subsection, if a lot abuts an alley, alley access is required unless the Director otherwise determines under subsection 23.49.019.H.1.c. That subsection provides for a discretionary determination, in consultation with the Seattle Department of Transportation.

15. Section 23.54.030.F.6 provides that a curb cut must be removed when no longer needed for access to a lot.
16. Section 23.41.004 governs applicability of Design Review requirements. Under that section Design Review is required for certain proposals for new developments. Although the process has sometimes been required for very substantial additions to existing buildings, no such addition is proposed in this case.

Conclusions

1. Based on the permit history, the established use on the first level is as a furniture store (retail sales of major durables) and the established use on the remaining three levels is storage. The furniture store area is not counted towards the FAR limit. The remaining three floors each have a gross floor area of 13,866 square feet, so their combined gross floor area is 41,598 square feet. In calculating the FAR, 3.5 percent of that area may be deducted as an allowance for mechanical equipment, yielding 40,142 square feet. That amount, divided by the lot area of 14,400, yields the FAR, which is approximately 2.79. This is over the base FAR of 1.0 for the zone, but below the maximum FAR of 4.0. As provided in Section 23.49.032 and 23.49.011.A.2.g, additional chargeable floor area may be added to the building, up to the maximum permitted FAR (4.0) by qualifying for bonuses or using TDR.
2. The proposed uses of the building would include 3,500 square feet of ground-level retail space and 7,762 square feet of short-term parking, both exempt from FAR calculations. In addition, there would be 54,002 square feet of chargeable office space, including the second through fourth floors, the office lobby provided on the first floor, and the proposed new penthouse. Again, the 54,002 square feet may be reduced by the 3.5 percent allowance for mechanical equipment, yielding 52,112 square feet. This, divided by the lot area, yields an FAR of approximately 3.62, which is still under the maximum allowance of 4.0. The additional chargeable floor area would be the difference between 52,115 square feet and 40,142 square feet, or 11,973 square feet. This amount would have to be covered by using TDR or qualifying for bonuses, such as contributing towards housing and child care as provided in Section 23.49.012. (Floor areas used for these calculations were based on numbers provided in the request for interpretation, and are subject to verification in the course of plans review, once a permit application is submitted.)
3. Garage or parking use is no longer a recognized, established use on the first floor of the building. Vehicular access to that area was eliminated under permit in 1995. The curb cut on Western Avenue should have been filled at that time. The fact that it was not does not create or preserve a right to provide new parking in the building and take access to it from Western Avenue. Any new parking area would be subject to the current standards, which require alley access unless access from a street has been approved by DPD in consultation with the Seattle Department of Transportation, in accordance with Section 23.49.019.H.1.c. Whether street access from Western can be approved in this case is beyond the scope of this interpretation, and would have to be considered as a part of our review of the project once an application has been submitted.
4. The proposal, to renovate the building, change uses within the building and add a penthouse, would not require Design Review pursuant to Chapter 23.41.

Decision

It would be possible, within the applicable FAR standards, to renovate the building at 2200 Western Avenue, change the uses within the building to office, retail and short-term parking, and add a 10,800-square-foot office penthouse, up to a maximum chargeable FAR of 4.0. The proposal to provide 3,500 square feet of ground-level retail space, 7,762 square feet of short-term parking and 54,002 square feet of office space, including the penthouse, would be within this allowance. The increase in chargeable FAR can be achieved by qualifying for bonuses or using TDR. The proposed renovation and changes of use do not trigger the Design Review process.

Although uses formerly on the first floor provided vehicular access from Western Avenue, the floor area on that level was converted to other uses not involving vehicles, and the vehicular access was eliminated. Any new parking provided on the property may not take access from Western Avenue unless that is authorized pursuant to Section 23.49.019.H.1.c in the course of project review, in consultation with the Seattle Department of Transportation.

Entered this 28th day of February, 2013.

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