



City of Seattle

Gregory J. Nickels, 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: 2303015

Applicant Name: Michael Hoffman for the Chocolate Company

Address of Proposal: 400 North 34th Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to change the use of a portion of an existing two story building to 4,240 square feet restaurant and 1,470 feet of retail. Project includes future interior and exterior alternations and a 160 square foot patio addition. Proposal was revised during MUP review.

The following approval is required:

- **Substantial Shoreline Development Permit** - pursuant to SMC 23.60
- **Special Exception** - Chapter 23.54.020, Seattle Municipal Code-to allow less than the required parking in a landmark structure in an industrial zone.

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 Description

The project, located at the northeast corner of North 34th Street and Phinney Avenue North, once housed the former Redhook Brewery and Trolleyman's Pub. The existing one and two story historic landmark occupies most of the 31,700 square foot site. Approximately the southern-most third of the site possesses the Shoreline zoning overlay designation of Urban General (UG) environment. The entire site lies within the General Industrial Two zone with an unlimited/65 foot height limit (IG2 U/65). The Lake Washington Ship Canal lies within roughly 135 feet of the property's southwest corner. Due to applicant's proposal to place a restaurant use in the shoreline, the city requires a Substantial Shoreline Development Permit.

Based on the limited amount of parking on site, the applicant has requested a Special Exception to allow less than the required amount of parking in a landmark structure in an industrial zone.

Public Comments

DPD received two comment letters. One email letter supported the proposal. The other memo noted parking problems in the area and inquired where employee and customer parking would occur. The writer opposed the grant of a special exception for parking. In addition, the author described parking shortages and circulation problems during the Fremont Sunday Market which permits the closure of N. 34th St. between Phinney and Evanston Avenues North.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The subject property is located partially within the Urban General, (UG) Shoreline Overlay. As confirmed by the survey and site plan in the MUP application, the applicants have delineated the portion of the site that falls within this designation. Due to the overlay on this site and the scope of the proposed development, a Substantial Shoreline Development Permit is required, per SMC 23.60.020.

Substantial Development Permit Required

Section 23.60.020, Seattle Shoreline Master Program (SSMP), requires that a shoreline substantial development permit be obtained prior to the undertaking of any substantial development within a shoreline environment. Section 23.60.030, SMC includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

A. Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act. It is the policy of the state to provide for the management of its shorelines by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, as much as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to act primarily in a supportive and review capacity, with an emphasis on insuring compliance with the policies and provisions of the Act. As a result of this Act, the city of Seattle and other jurisdictions with shorelines adopted a local

shoreline master program, codified in the Seattle Municipal Code, Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. Regulations of Chapter 23.60: Shoreline District

Chapter 23.60 of the Seattle Municipal Code implements the City's Shoreline Master Program. In evaluating requests for substantial shoreline development permits, a proposed use must meet the approval criteria set forth in SMC 23.60.030 (cited above), and be consistent with the shoreline policies established in SMC 23.60.004. Development standards of the shoreline environment and underlying zone must be considered and a determination made of any special requirements. Required mitigation measures, if any, must be identified.

SMC 23.60.064 provides authority for issuance of Shoreline Substantial Development permits as necessary to carry out the spirit and purpose of and assure compliance with SMC 23.60 and RCW 90.58. The regulations of Section 23.60.064 require that the proposed use:

- 1) be permitted in the shoreline environment and the underlying zoning district
- 2) conform to all applicable development standards of both the shoreline environment and underlying zoning; and
- 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

The proposed building at this site requires a shoreline substantial development permit. In evaluating an application for development, the Director may attach to the permit any conditions necessary to carry out the spirit and purpose of, and assure compliance with, this chapter and the RCW regulations (Section 23.60.064 E).

As referenced, the site is located in the Urban General Shoreline Overlay. Accordingly, the following development standards are applicable to the project:

SMC 23.60.788 – Permitted uses on upland lots in the UG Environment

This section permits the outright use of an eating and drinking establishment and personal and household retail sales within the Urban General environment. The underlying zoning for the portion of the facility in the Shoreline is in the IG2-U/65 zone. The use is permitted in this zone, per SMC 23.49.

SMC 23.60.812 – Height Requirements

While the underlying industrial zoning allows for an unlimited or a 65-foot height limit at this site, the portion of the site within the Shoreline Zone must comply with the 35-foot height limit pursuant to subsection (A). The determination of height is also governed by shoreline height measurements in SMC 23.60.952. The applicant has documented in the plan submitted, dated July 29, 2003, that the height of the structure within the Shoreline Overlay will not exceed the 35 foot height limit in this zone.

SMC 23.60.814 – Lot coverage in the UG Environment

The project is located on an upland lot. Per subsection A, the cumulative total of the proposed structure and the existing ones may occupy 100 percent of the lot area.

C. The Provisions of Chapter 173-27 WAC

Chapter WAC 173-14 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

In conclusion, the proposed reuse of the structure within the Urban General (UG) Shoreline Environment will be consistent with Chapter 23.60 SMC, also known as the Seattle Shoreline Master Program and conforms to the specific standards for development in the UG shoreline environment. Conditions to minimize the project impacts pursuant to the Director's authority to impose conditions (SSMP 23.60.064E) under Seattle's Shoreline Management Program are not required because adverse impacts to the shoreline are not anticipated to occur.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit for a change of use is **GRANTED**.

ANALYSIS - SPECIAL EXCEPTION

Parking Exception for Landmark Structures (SMC 23.54.020C). The Director may waive or reduce the minimum accessory off-street parking requirements for the use permitted in a Landmark structure as a special exception, Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

- 1. In making any such reduction, or waiver, the Director shall assess area parking needs. The Director may require a survey of on- and off-street parking availability. The Director may take into account the level of transit service in the immediate area; the probability and relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.*

The Chocolate Company is seeking a special exception to reduce its required off-street parking quantity by five spaces. The Code required amount of off-street parking for its future total operations is 46 spaces (this includes operations already permitted), and the project will provide 22 spaces on the east side of the building. The structure has a legal previously existing deficit of 13 spaces. The project qualifies for a total reduction of six spaces based on shared parking and transit reductions in industrial zones, leaving five spaces required for which the applicant requests a parking exception for a landmark structure.

The applicant has provided two off-street parking survey studies to support the waiver request. The parking utilization studies, dated December 2005 and January 2006, provide information related to available on-street parking.

The operations located in the structure are divided among several uses: food processing use (17,500 square feet) and administrative office (1,370 sq. ft.) have already been approved and are functioning within the structure; restaurant (4,240 sq. ft.), retail (1,370) are proposed in this application; and drinking establishment (1,675) may be added at a future date. Administrative office represents a separate business from the Chocolate Co. Employees of the food processing and the administrative offices work between 7:30 a.m. and 5:00 p.m. The retail and restaurant hours extend from 10:00 a.m. to 11:00 p.m. on weekdays and 11:00 a.m. to 2:00 a.m. on weekends. The hours resemble those of the previous tenant, the Redhook Brewery and the Trolleyman's Pub.

Parking demand for the food processing business, the restaurant and the drinking establishment represent the largest share of required parking. The operations of these uses would coincide approximately seven hours of the total work day. An increase in the amount of available parking for the restaurant/retail operation would occur after 5:00 p.m. due to the end of the work day for the food processing use. In the evenings and weekends, the contiguous 18 space lot on the west side of the Burke Building would accommodate any potential overflow parking based on reciprocal access and utilities easements.

The applicants surveyed parking utilization on December 19-20th, 2005 (Monday and Tuesday), January 23-24th, 2006 (Monday and Tuesday) and March 6-7th, 2006 (Monday and Tuesday). The study area is defined as a 400 foot walking distance in all directions from the building entrance point. The 400 feet represents a typical distance used in evaluating other types of parking waivers reviewed by DPD. The first study occurred at 4 p.m., the January 2006 study at 2:00 p.m. and the March 2006 study at noon. The second and third set of dates in January and March 2006 were added due to the change in on-street parking regulations reducing the amount of time from unregulated parking to two hour parking near the structure. In addition, the third date in March was conducted during a typical lunch hour. The change shows a slight increase in parking use from 70 to 73 and 78 percent; however, during this period the average shows more parking spaces becoming available in front of the building along Phinney Ave. N. An approximate average of 50 on-street parking spaces within 400 feet of the building are available during hours of overlapping operations (10:00 a.m. to 5 p.m. weekdays) of both the food processing and the restaurant/retail uses.

The site is located on the edge of an active commercial and residential center. Thus, it is convenient to park a vehicle in one location and perform multiple tasks or activities without moving the vehicle. In light of that, it is difficult to estimate how many parked vehicles would utilize street parking solely to use the restaurant or retail outlet. There is a high likelihood that people will visit various establishments in the neighborhood; thus parking demand cannot be solely attributed to visiting the Chocolate Co.

The City closes portions of 34th Street for the Fremont Sunday Market. This creates inconveniences for drivers of vehicles looking for on-street parking or access to parking lots. Not all businesses are equally affected by the street closure; nevertheless, this DPD decision cannot redress a city policy managed by the Seattle Department of Transportation.

The site is served well by transit in that there are four METRO bus routes operating within a 2 to 3 block radius. This includes routes 26, 28, 31, and 74. Additionally, Route 46 has limited service. At the N. 34th St and Fremont Ave. N. bus stop, transit headways are 15 minutes or less.

In this light, the proposed parking waiver to enable the Chocolate Company to reduce its number of required parking spaces complies with criterion #1.

2. *The Director may also consider the types and scale of uses proposed or practical in the Landmark structure, and the controls imposed by the Landmark designation.*

The uses have not significantly changed. The building will continue to house an eating and drinking establishment and food processing and craft work, similar to the previous Redhook operations which was designated a light industrial use but also had a pub. The proposed location of the restaurant has been changed within the structure.

3. *For conversion of structures to residential use, the Director shall also determine that there is no feasible way to meet parking requirements on the lot.*

The criterion does not apply due to the lack of a residential use proposed for the site.

DECISION- SPECIAL EXCEPTION

The reduction of five Code required parking spaces for uses within a landmark structure is granted.

Signature: (signature on file)
Bruce Philip Rips, AICP, Senior Land Use Planner
Department of Planning and Development
Land Use Services

Date: June 1, 2006