



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: 3004266
Applicant Name: Jenkins Chan, The Dwelling Company
Address of Proposal: 225 14th Avenue

SUMMARY OF PROPOSED ACTION

Master Use Permit to allow portions of two detached garages (for a total of 615 square feet) to be located within the required side setbacks and to allow an unenclosed roof deck (above one detached garage) to be located within the rear and side setbacks.

The following approval is required:

- **Variance** - to allow portion of a 398 square foot detached garage structure to be located within the required side setback (Seattle Municipal Code Section 23.45.014).
- **Variance** - to allow portion of a 217 square foot detached garage structure to be located within the required side setback (Seattle Municipal Code Section 23.45.014).
- **Variance** - to allow a roof deck within the rear and side setbacks (Seattle Municipal Code Section 23.45.014).

SEPA DETERMINATION: Exempt DNS MDNS EIS

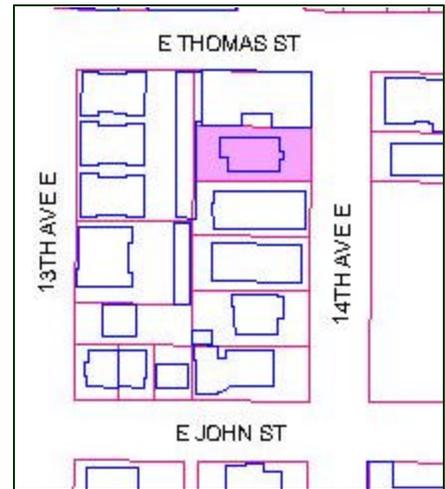
 DNS with conditions

 DNS involving non-exempt grading or demolition, or
 involving another agency with jurisdiction.

BACKGROUND DATA

The site is located in Capitol Hill on 14th Avenue East between East John Street and East Thomas Street. The site is zoned L-3 (Lowrise 3) with a base height limit of 30 feet. Zoning on the adjacent properties to the north, south and west are also zoned L-3. Zoning directly across the street to the east is L-3 with a zone change to NC2-40 (the Safeway site). The site area is approximately 7,680 square feet (60' x 128').

Current adjacent uses do not reflect their current zoning capacity. The structure abutting the subject site to the north is approximately 15-20 feet higher than currently allowed by its zone. That building is also built directly on the shared property line with unprotected openings and employs neither setbacks nor open spaces as is currently required. The apartment building abutting the site to the south is also higher than current zoning allows by approximately 5 - 8 feet, has more lot coverage than is currently allowed and does not include parking for the units. To the west, down-slope (approximately 20 feet lower than 14th Avenue East), and behind the property is a garage and an apartment building. Across 14th Avenue East (to the east) are smaller apartment buildings and the recently renovated Safeway grocery.



There is no alley, driveway, garage or other parking areas on the site. There are two large maple trees between the curb of 14th Ave East and the public sidewalk.

A portion of the site was incorrectly designated as an Environmentally Critical Area for Steep Slopes and the applicant has received an ECA Exemption as the City maps were found to be in error.

The site is currently occupied by a single four-unit apartment building that resembles a larger home. Records indicate that it was designed and built as a duplex. The existing structure has been designated as a historic landmark by the City of Seattle Landmarks Preservation Board. The landmark status prevents the structure from being demolished and limits the alterations that can be made to the building exterior. Redevelopment of this site is limited to the adaptive re-use of the existing structure and the intent is to rehabilitate the existing exterior and alteration of the interior to allow for a three-unit condominium that complies with Landmark status.

Proposal

The proposal is to allow the construction of two detached garages in the required side setbacks. One two-car garage would be located in the northwest corner of the site across from the second one-car garage located in the southwest corner of the site. The two garage structures would face each other and are separated by a 22 foot wide drive aisle. Both garages would be eight feet, one inch high. A deck is proposed on the roof of the two-car garage. The railing of the roofdeck will reach an additional 36 inches above the garage height, bringing the total height, measured at the railings to 11-feet, one inch.

Public Comments

Three comments were received during the comment period which ended on March 1, 2006 and was extended to March 15, 2006. The following comments were offered:

- Object to the proposed structure abutting the existing building, obscuring windows, lowering property values and generating noise of a driveway along the north the property line. [DPD Note: The only driveway proposed is along the southern property line.]
- Support the requested variances in order to protect this house and allow the community to continue to enjoy this landmark Neo-classical structure.
- Object to the increased noise and environmental pollution created by the proposed project along 14th Avenue, which already experiences significant traffic and noise
- Concerned that noise generated by people using the rooftop deck will disturb residences abutting the site to the north.

ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when *all* of the facts and conditions stated in the numbered paragraphs below are found to exist:

- 1. *Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The Lowrise zone, in which the subject site is located, would allow a density of up to ten units, while the proposed work contemplates the re-configuration of the interior into three units. The original proposal for the site was the demolition of the existing building and development of a fee simple townhouse project (under MUP Project #2407727). However, after the property purchase, the exterior of the building and the site was dedicated as a Landmark in 2005 by The City of Seattle's Landmark Preservation Board. The Board was particularly protective of the front (east façade) and maintaining the integrity of this façade was considered an utmost priority. The Board agreed that the exterior of the west façade is the least intact with regard to original construction and has been subjected to significant alterations over the years. As such, the Board expressed willingness to entertain modification and adaptation of this facade. As per the Landmark status, the original structure is required to remain in its original location.

In order to bring the development into closer conformance with the Land Use Code, parking on site is proposed. Unusual conditions, which were not created by the owner, would prevent accessory parking structures to be located in the front setback due to the obstruction of views of the landmark structure and limited space. There is insufficient area in the side setbacks to fit such structures and there is no feasible way to develop parking beneath the existing structure. Therefore, the only remaining space available that could accommodate garages is behind the structure; however, due to the narrow space, this cannot be achieved without extending into the rear and side setbacks. Given that the views of the front exterior of the structure are protected

and the areas on either side of the structure are too narrow, the location of the parking is restricted to the rear of the site. This condition, in conjunction with the access standards prescribed by the Code to ensure maneuverability, pushes the detached garages to the back corners of the site, thereby infringing onto the side setbacks. In general, the requirement that the building stay in its original location nullifies any possibility that a minimal amount of enclosed parking is able to be developed without encroaching into the setbacks.

Covered parking in the form of carports or detached garages is allowed outright within the required rear setbacks, but not in the side setbacks. By shifting the two garages towards the corners, enough distance between garages is created to accommodate the drive aisle. Furthermore, due to the additional space taken by the accessory garages structures rather than below grade parking, common open space for the future owners has been restored on the roof deck above the northern garage.

Thus, the strict application of the Land Use Code under these conditions would prevent the enjoyment of normal land use privileges allowed in the same zone and vicinity.

- 2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Providing one enclosed parking stall for each of the three units within the landmark structure does not go beyond the minimum necessary to afford relief. Most of the parking provided for residential uses in the immediate vicinity is accommodated in enclosed and/or covered structures. A residential development in this area would typically be allowed to provide onsite parking structures, but due to the Landmark status of the existing structure and the resulting spatial limitations of the site, the proposed development would not be able to provide conforming parking structures. Additionally, the original proposal for construction of four garages has been reduced to three garages with a parking pad to minimize impact.

It is also important to note that the eight foot tall proposed garage structures reach the lowest practical height dimension. The Code would allow a six-foot tall solid fence to be built at the property line with an additional two feet of height for a decorative feature. Given that such a fence would be allowed outright along the entire perimeter of the site and have nearly the same, if not greater, height and scale impacts as the proposed garages located at the rear corners of the site, the proposed structures are the minimum necessary to afford relief and do not constitute a special privilege. In summary, no special privilege would be accorded by granting any or all of the variances.

- 3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The proposed location of the garage structures in the rear of the property would not be accessible by any means to the public except by entering the site. There is no room for further site development on any of the neighboring properties, so the construction of the garage structures on

the property line would not be injurious to any properties in the vicinity and would not be detrimental to public welfare. Not only would it not be injurious, it would benefit the general vicinity as on street parking within 800 feet is already difficult to secure as most of the neighboring residential units do not have onsite parking either.

To the north of the development site is a large condo building which sits almost directly on the property line. A large apartment building is located directly to the south. The western edge (rear) of the property falls approximately 10 feet to the top of a concrete structure, which belongs to an apartment complex located approximately 100 feet away from the western property line. The placement of the accessory garage structures on the development site's property lines will not be seen from the property frontage and will only be viewable by a few of the residents in each of the neighboring apartment and condo residents. The abutting building includes a vertical bay of windows located approximately 20 feet, six inches from the rear property line. The northernmost garage, proposed to abut against the existing residential building to the north will be located exactly in the area between the rear property line and the vertical bay of windows. The structure is exactly 20 feet, six inches deep and will therefore not be directly below any windows. The roof deck above the garage will be lower than the lowest window of this vertical bay by at least five feet. The proposed stairwell landing, however, will be situated directly below the lowest window. This landing will be approximately five feet in height from the finished grade, while the closest window will measure approximately 15 feet in height from the finished grade. Therefore, although the proposed deck would be used as common open space for the future owners, it would not be overly exposed to the neighboring residents and avoids infringing on the privacy of abutting units.

Due to the proximity of residential uses, the regulations of the Noise Ordinance are not found to be adequate to mitigate possible noise impacts generated during construction. In addition, the roof deck may elevate the noises typical of residential backyard use closer to the living units of the abutting property to the north. Therefore, the following conditions shall be imposed:

1. The hours of construction activity shall be limited to non-holiday weekdays between the hours of 8:00 a.m. and 6:00 p.m. and 9:00 a.m. to 5:00 p.m. on Saturdays. This condition may be modified by DPD to allow work of an emergency nature or to allow low-noise interior work after the exterior of structure is completely enclosed. This condition may also be modified to permit low-noise exterior work, for example landscaping planting, after approval by DPD.
2. Install a sign on the garage roof top deck that states: "Out of respect for our neighbors, please minimize noise levels while enjoying the roof deck."

The purpose of these conditions is to alleviate noise disturbances to the abutting neighbors during the construction of the detached garage structures, as well as to minimize the noise levels of residential usage of the deck. No detrimental impacts to public welfare are anticipated beyond the construction period and roof deck signage is intended to discourage excessive noise-generating behaviors. The standards of the Noise Ordinance will regulate the noise levels generated by the proposed residential use at this site. As such, no further conditioning is necessary.

The *de minimus* amount of additional building bulk of the one-story detach garage structures or the rooftop deck above one of the garages is not anticipated to be materially detrimental to any adjacent property or improvement.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

After the purchase, the exterior of the building and the site were designated a landmark by the Seattle Landmarks Preservation Board. Parking would be required on any new residential project. The Landmark status of the building affects the redevelopment potential of the land, which was possible at the time of purchase. The ability to construct accessory structures in the rear and side setbacks is crucial to the economic viability of the project. Without the enclosed parking and additional open space (on the proposed rooftop deck) in the setbacks, the projected revenue from the sale of the three units risks being unable to justify the renovation of the Landmark structure.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.*

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the intent and purpose of the Code is to assure compatibility of uses within a zone and preservation of neighborhood character. The spirit and purpose of the rear and side setbacks is to reduce the impact of encroachment on a property's neighbors. In this unique situation, the property is effectively wedged between two high walls of the neighboring multifamily residential buildings. The rear property line is neighbored by the top of a concrete accessory structure and is distant from any residential units. Thus, any encroachment into the setbacks by the accessory garage structures would be negligible. Also, the Land Use code strongly encourages the preservation of Landmarks and the provision of off-street parking for residences.

In granting the landmark status of this structure, the City of Seattle's Landmarks Preservation Board specifically recognized the importance of this building as the embodiment of the distinctive visible characteristics of an architectural style and period. The Board also noted that this structure is the outstanding work of a designer or builder. Of particular importance to this application, the Board emphasized that the prominent of location, siting, age and scale, the Cooper House is an easily identifiable feature of the neighborhood and contributes to the distinctive quality or identity of the Capitol Hill neighborhood. This variance application seeks to reconcile the conflict between preservation of an identified, valuable community resource, the desire to make necessary improvements to a deteriorating structure, increasing conformance with the Land Use Code and alleviating a congested parking condition in the immediate neighborhood. The proposed additions are consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable.

DECISION - VARIANCE

Based on the above findings and analysis all of the facts and conditions stated in the numbered criteria of SMC 23.40.020, *Variances*, are found to exist. Each of the requested variances is **CONDITIONALLY APPROVED**, subject to the following conditions:

CONDITIONS – VARIANCE

During Construction

1. The hours of construction activity shall be limited to non-holiday weekdays between the hours of 8:00 a.m. and 6:00 p.m. and 9:00 a.m. to 5:00 p.m. on Saturdays. This condition may be modified by DPD to allow work of an emergency nature or to allow low-noise interior work after the exterior of structure is completely enclosed. This condition may also be modified to permit low-noise exterior work, for example landscaping planting, after approval by DPD.

Prior to Final Approval of Construction Permits

2. Install a sign on the garage roof top deck that states: “Out of respect for our neighbors, please minimize noise levels while enjoying the roof deck.”

Signature: (signature on file) Date: April 10, 2006

Lisa Rutzick
Land Use Planner