



City of Seattle

Greg Nickels, Mayor
Department of Planning and Development
Diane Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3003112
Applicant Name: Jason Roseler
Address of Proposal: 1231 North Allen Place

SUMMARY OF PROPOSED ACTION

Land Use Permit to change of use of a portion of an existing building (280 sq. ft.) from retail to restaurant. Existing surface parking to remain.

The following approvals are required:

Administrative Conditional Use - to allow conversion of one non-conforming use (Personal Household Sales & Service) to another non-conforming use (Restaurant) in a Single Family 5000 zone (SF 5000). (SMC 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 DATA

Site and Vicinity Description

The subject property is located at 1231 North Allen Place fronting on North Allen Place, Stone Way North and North 44th Street; one (1) block south of North 45th Street . The parcel and existing building are within two (2) zones: the west 10'x100'portion of the property is in the Single Family 5000 (SF 5000) zone and the remaining portion of the property and surface parking area is in the Neighborhood Commercial (NC2-40') zone. Development on the subject site consists of a one-story 13,196 square foot (sq. ft.) administrative office/retail building with a partial basement. Surface parking for nineteen (19) vehicles is currently provided on site. A slated chain link fence atop of an existing retaining wall and tall trees partially screen the parking lot from the residential neighbors just west of the parking lot. Recently, DPD issued a Master Use Permit (#752512) for a first floor tenant improvement to convert a portion of the retail space (5,497 sq. ft.) to a restaurant and remove two (2) surface parking stalls to create a fenced trash enclosure area.

Commercial retail stores, administrative offices and a retirement home reside north, south and east of the site. Two legally non-conforming duplexes are located just west of the subject site.

Proposal Description

The applicant proposes to change the use of the retail portion of the first floor (280 sq. ft.) to an eating and drinking use (restaurant). The administrative office use in the basement and on the first floor will remain. Proposed interior alterations are to create an office and storage room accessory to the restaurant. Exterior alterations include removing three (3) windows along the upper southernmost area of the west wall façade and infill those areas to match the existing masonry wall. A surface parking area for seventeen (17) vehicles will remain immediately south of the existing building. Two of the existing 19 spaces will be replaced with enclosed garbage/recycling containers. There are no proposed changes to the existing landscaping.

According to the applicant, the total number of employees for the restaurant operation will be two (2) for the portion of the building subject to this conditional use approval. The proposed hours of operation for the restaurant are anticipated to be between 11:00 a.m. and 10:00 p.m. Monday through Saturday; 3:00 p.m. and 10:00 p.m. Sundays.

Background Information

The first zoning code for the City of Seattle was adopted in 1923. This particular site was zoned “business” at that time and continued as a business zone with the adoption of the 1947 Zoning Code. In 1957, a new Zoning code was adopted and a portion of the property was changed to a single-family residential zone (RS5000). Residential zoning was continued on the site with the adoption of the latest Zoning Code under the zone SF5000. This zone along with Neighborhood Commercial (NC2-40’) continues to this present day on the site.

Department of Planning and Development (DPD) Permit history shows a building permit was issued to construct an office building in 1955. In 1978, a permit was issued to “install a roll-up door in existing office building – no change in existing parking”. The property was recently sold to the current owner. Per the current owner, the building had been previously been used by a book publishing company.

The existing building was built before the residential zone boundaries were adopted; therefore, creating an existing non-conforming use for that portion of building located in the residential zone. Portions of the first floor (1000 sq. ft.) and of the basement (1,400 sq. ft.) are located in the SF 5000 zone. The request to change the use of that portion of retail (280 sq. ft.) to restaurant in the SF 5000 zone has triggered the need for the Administrative Conditional Use.

Nonconforming Status

Nonconforming uses are defined in the Seattle Land Use Code as “a use of land or a structure that was lawful when established and that does not now conform to the use regulations of the zone in which it is located....” Sec. 23.42.104 states that “a nonconforming use that has been discontinued for more than twelve (12) consecutive months shall not be reestablished or recommenced.” Per the applicant the previous business was in operation until the sale was completed to the current owner. With the submittal of the application to change from one nonconforming use to another (the subject of this review), the use shall not be considered discontinued even if the structure is vacant for twelve (12) consecutive months prior to rendering of a decision on this application.

Public Comment

The public comment period for this project ended August 24, 2005. DPD received one (1) written comment regarding this proposal. The neighbor near the subject site expressed concerns regarding the allowance of the current use to another non-conforming use in a single family zone and possible parking impacts.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

Standards for converting from one (1) nonconforming use to another are found in section SMC 23.42.110 of the Seattle Land Use and Zoning Code. Specific criteria applicable to this application can be found in Subsection B. The proposed new use must be no more detrimental to properties in the zone or vicinity than the existing use. This determination shall be based on the following criteria:

1. *The zones in which both the existing use and the proposed new use are allowed;*

Eating and drinking establishments-specifically restaurants-and Personal Household Sales and Services are both permitted in all commercial zones (from residential zones with a residential commercial designation to Commercial 2). They are both permitted in all industrial zones as well as downtown zones. The uses are not regulated differently in any of these zones except for parking which will be discussed below. Therefore, it seems reasonable to assume that the change of use should be approved based on a comparison of the zones in which both uses are allowed.

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

The principal entrance for the restaurant is located along Stone Way North. The dining and kitchen areas are located in that portion of the tenant space that is located within the NC2-40' zone. The remaining 280 sq. ft. of the restaurant tenant space will be utilized as accessory office and storage area for the restaurant. Per the applicant, the number of employees will be a maximum of two (2) employees for the for the portion of the building subject to this conditional use approval. It is predicted that a limited amount of deliveries will occur per week for the restaurant use. Based on the orientation of the restaurant tenant space, the number of employees and the limited deliveries, it is reasonable to assume that impacts associated with the proposed restaurant use will not be substantial enough to require further mitigation.

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

Section 23.54.015, Chart A, of the Seattle Land Use and Zoning Code sets forth the base parking requirement for Restaurant use as one (1) parking space per each 200 sq. ft. of gross floor area and Administrative Office as one (1) parking space per each 1000 sq. ft. of gross floor area. Restaurant uses are also entitled to an additional waiver for the first 2500 sq. ft. of gross floor area per Section 23.54.015E. By utilizing the parking waiver, transit reduction and shared use reduction, the required parking equates to fifteen (15) parking spaces. The existing site has a surface parking area striped for seventeen (17) parking spaces and is entirely located within the NC2-40' zone. The parking area can accommodate employee parking, deliveries and restaurant diners. Any additional spillover parking can be easily accommodated on Stone Way North.

It is anticipated that the limited deliveries for the restaurant use will not adversely impact the traffic flow of the site. Based on the orientation of the entries to the building, deliveries to the restaurant use will occur within that portion of the building that is located within the NC2-40' zone.

There will be no change or addition to the exterior lighting of the building. Therefore, no additional impacts due to lighting are anticipated beyond that which may already be in existence on the site.

Minor interior alterations to create an office and storage room are proposed. No increase in noise or odor is anticipated to be associated with the portion of the restaurant use that is located in the SF 5000 zone.

Initially, some construction noise will occur due to the proposed exterior alterations. It is anticipated that this proposal will not create exterior noise or visual impacts in the future. Signage is limited by the provisions of the Land Use Code; it must be stationary and cannot rotate. No flashing, changing-image board signs are permitted. Applicant will refer to Section 23.55.020E of the Seattle Land Use and Zoning Code for existing business signs for non-conforming business establishments in single family zones. The proposed use is consistent with the existing use.

The proposed new use will be no more detrimental to properties in the zone or vicinity than the existing use. The proposal is to change the use of the existing building from retail to restaurant on the first floor. A minor exterior alteration to infill three (3) windows to match the existing west wall façade is proposed. No signage, parking or parking access is proposed for that portion of the building that is located within the SF5000 zone; these changes including interior alterations will occur to that portion of the building located within the NC2-40' zone. This zone allows for restaurant uses outright.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The request to change the use of a portion of the existing Personal Household Sales and Service Use (retail) to an Eating and Drinking Establishment Use (restaurant) is **GRANTED**.

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

None.

Signature: (signature on file) Date: September 22, 2005
Tamara Garrett, Land Use Planner
Department of Planning and Development
Land Use Services