



Department of Planning and Development
Diane M. Sugimura, Director

**CITY OF SEATTLE
DETERMINATION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3015511 (related to issued MUP 2400400/3006928)
Council File Number: 313339
Applicant Name: Meredith Messmer, Lorig and Associates
Address of Proposal: 419 NE 71st Street

SUMMARY OF PROPOSED ACTIONS

Request to amend a Property Use and Development Agreement (PUDA) that was required as a condition to an amendment of the Official Land Use Map and approved under Ordinance 121961.

The following approvals are required:

Director's Determination of Minor Amendment—SMC 23.76.058.C.4
Council Approval of minor amendment, by ordinance

BACKGROUND

On October 10, 2013, the Department of Planning and Development received from Vitamilk South LLC, a request to amend the Property Use and Development Agreement (PUDA) between Teel Vander Pol and Teel, L.P.; Teel Investment Company; Teel & Madden, G.P.; Darrel Vander Pol; E. Gerald Teel; and Charles B. Teel (“the Owners”) and the City of Seattle, passed as part of Ordinance 121961 on October 17, 2005, and recorded with the King County Department of Elections and Records, as provided for in SMC 23.76.058 B2. The approved MUP has three application numbers (#2400398, #2400399, and #2400400), and applies to properties at 427 NE 72nd Street, 420 NE 72nd Street, and 466 NE 70th Street. The parcels were rezoned from C1-40 and NC2-40 to NC2-65-P1 (Neighborhood Commercial with a 65-foot height limit and a P-1 Pedestrian Overlay) and NC2-40-P1 (Neighborhood Commercial with a 40-foot height limit and a P-1 Pedestrian Overlay).

Several conditions were attached to the PUDA approved with the 2005 rezone. Among these conditions, the PUDA prohibits a number of specific uses as part of any redevelopment of the property, including principal-use parking. Other conditions limited development above the commercial base of structures to residential use, placed various size limits on commercial development, prohibited lodging uses other than bed & breakfasts, noted that the final project design would include a mid-block, through-block pedestrian access on the middle parcel and that the applicant shall make a good faith effort to design a mid-block, through-block pedestrian crossing on the south parcel, established a minimum percentage of area to be developed as publicly-accessible open space, and required parking to be provided on-site in an amount adequate to meet all project-generated demand.

Notice and Public Comments

Notice of the revised project and request to amend the PUDA was published on October 31, 2013. The comment period ran through November 14, 2013. One comment letter was received, which expressed concern that the proposal would increase traffic and auto/vehicle conflicts, and also would reduce land available for residential purposes and increase car usage.

Proposed Revisions and Rationale

The site currently is being used as a temporary construction staging area for the Green Lake Village project; it is expected to be vacated by April, 2014. The proposed offsite accessory parking lot would serve Puget Consumers Coop (PCC), currently under construction immediately across NE 71st Street from the subject site. The PCC grocery store would also be served by an underground parking lot that provides the minimum parking required by the Land Use Code. The intent is for this accessory lot to be an interim use; the application for the PUDA amendment states that “it is anticipated that the South Parcel, including the Accessory Parking Area, will be redeveloped within the next few years with a mixed-use project consistent with the PUDA. As such, the proposed accessory parking lot would be an interim use until that redevelopment occurs”.

The grocery store currently being built is an allowed use under the terms of the PUDA, as would be any parking accessory to the grocery store. However, SMC 23.54.025 A, the Land Use Code subsection regulating off-site parking, states that “if parking and parking access, including the proposed off-site parking, are or will be the sole uses of a lot, or if surface parking outside of structures will comprise more than half of the lot area, or if parking will occupy more than half of the gross floor area of all structures on the lot, then a permit to establish off-site parking may be granted only if principal use parking is a permitted use for such lot”. Parking and parking access would be the sole use of the lot, and surface parking would comprise more than half of the lot area; therefore accessory parking is not allowed on this site, as principal-use parking is not a permitted use under the terms of the PUDA.

The proposed amendment to the PUDA is limited in scope to allow only the development of a proposed accessory parking lot on the subject site. The amendment would strike “principle use parking” from Section 2.b, the list of uses prohibited as part of redevelopment of the property, and would add a new section k to read as follows: “*Principle use parking is a prohibited use*

except on Parcel 9528101790 and the north sixty-eight feet of the west twenty feet of Parcel 9528101810 where principle use parking is a permitted use but only to allow offsite parking accessory to an established grocery store use constructed on the Middle Parcel in order to satisfy SMC 23.54.025 A.” No other changes to the PUDA are being proposed.

Amendment of Property Use and Development Agreements

SMC 23.76.058.C.4.a (Rules for specific Council Land Use Decisions, Amendment of PUDAs for Title 23 zones) sets forth the procedures and general criteria for the Director to make a determination that a requested amendment is a minor rather than a major amendment:

1. The request is within the spirit and general purpose of the prior decision of the Council:

The general purpose of the prior decision was to allow redevelopment of a multi-block area within the Green Lake Urban Village, while providing public amenities and mitigating potential impacts of the redevelopment project. Allowing accessory parking on the subject site supports a portion of the redevelopment effort, while the interim nature of this use will ensure that the accessory parking does not ultimately displace other uses that were contemplated for the site. Given the limited area within which principle-use parking technically would be allowed, the actual use of such parking as accessory to a use permitted under the PUDA, and the temporary nature of such parking, this request is within the spirit and general purpose of the prior decision of the Council.

2. The request is generally consistent with the uses and development standards approved in the prior decision of the Council:

The prior decision established a variety of uses as being permissible throughout the area covered by the contract rezone, and did not prohibit uses that typically would be accessory to such permitted uses (such as accessory parking). Although accessory parking was not contemplated on this site in the original PUDA, modifying the PUDA to allow this accessory use on this site is generally consistent with the uses approved in the prior decision. The proposed PUDA amendment does not modify any development standards applicable to the site; relevant development standards, such as landscaping and open space, will need to be met by the proposal prior to final permit issuance.

3. The request would not result in significant adverse impacts that were not anticipated in the prior decision of the Council:

The request would result in potential new adverse impacts; however, these would not be significant. An accessory parking lot will add traffic at the location of the driveways at NE 71st Street that was not anticipated in the previous transportation analysis or in the prior decision of the Council. However, the volumes of traffic utilizing the parking lot will be relatively small, as the lot will contain only about 38 spaces. It is not expected that the additional turning movements onto and off of NE 71st Street at the accessory lot driveway will result in more than a modest impact, and no mitigation for these additional traffic volumes is necessary. Impacts away from the driveway intersections with NE 71st Street would be similar to those analyzed in the SEPA decision at the time of the contract rezone and PUDA.

The proposed accessory lot may lead to additional pedestrian traffic crossing NE 71st Street midblock, as shoppers at the grocery store might take the most direct path from their parking space to the store entrance, which would be located directly across the street from the accessory lot. Such midblock crossings could lead to both congestion and safety impacts that were not anticipated in the prior transportation analysis for the contract rezone and PUDA. Although not significant, these impacts would be adverse, and warrant mitigation. Prior to final approval of any permit to allow use of the accessory parking lot, one of the following mitigation measures must be installed:

- a. A midblock crossing of NE 71st Street, approved by the Seattle Department of Transportation and paid for by the applicant;
 - b. A fence, landscaping, or other barrier, approximately 4' in height, to discourage midblock crossings. Signage shall direct pedestrians leaving the parking lot to the crossing at NE 71st Street and 5th Avenue NE.
4. *The request does not seek any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council:*

There were no requests for additional waivers or changes in the waivers of bulk or off-street parking and loading requirements as part of the prior decision of the Council. There are no requests for waivers as part of this request for an amendment to the PUDA.

SEPA Threshold Determination

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated November 18, 2004. The information in the checklist, supplemental information provided by the applicant, comments from members of the community, and the experience of DPD as lead agency with review of similar projects formed the basis of the analysis and decision. A DNS (Determination of Non-significance) was issued by the Department of Planning and Development as lead agency on August 11, 2005.

There are no changes to the threshold determination of *DNS* (an EIS is not required) issued by the Department on August 11, 2005. Further, SMC 25.05.390.C provides that, *regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decision making unless subsequently changed, reversed or withdrawn*. The DNS for this proposal, issued on August 11, 2005, has not been changed, reversed or withdrawn.

Recommendation

Modifications to the issued PUDA are within the original scope of the approved project. After reviewing the request and the general criteria set forth in SMC 23.76.058.C.4, ***the Director has determined that the amendment sought is a minor amendment***. The determination that this amendment is a minor one and within the spirit and general purpose of the prior decision of the Council is a Type I, non-appealable decision.

The Director's recommendation to Council is that the existing PUDA be amended to allow the proposed accessory parking lot, subject to the following conditions:

1. Prior to final approval of any permit to allow use of the accessory parking lot, one of the following mitigation measures must be installed:
 - a. A midblock crossing of NE 71st Street, approved by the Seattle Department of Transportation and paid for by the applicant;
 - b. A fence, landscaping, or other barrier, approximately 4' in height, to discourage midblock crossings. Signage shall direct pedestrians leaving the parking lot to the crossing at NE 71st Street and 5th Avenue NE.
2. The removal of the prohibition on principal-use parking shall be limited to allowing only accessory parking, and only on the subject property; the prohibition on principal use parking in the PUDA shall continue to apply to the rest of the area covered by the PUDA.
3. As the proposed accessory parking lot is intended to be an interim use, this removal of the prohibition on principal-use parking on this site shall be effective for a maximum of three years from the date on which use of the site as an accessory parking lot commences. Following this three-year period, the prohibition on principle-use parking shall again apply to this site, and no further surface parking is to occur.

Having made the determination that the proposed amendment is a minor amendment, the Director recommends that the Council amend the Property Use and Development Agreement (PUDA) and hereby transmits to Council the request to amend, with the recommended conditions listed above.

John Shaw, Senior Transportation Planner,
for the Director

Date