



**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Number: 3030888-LU
Applicant Name: Ralph Neis
Address of Proposal: 1601 15th Ave W

SUMMARY OF PROPOSAL

Land Use Application to allow a transitional encampment interim use for up to 80 people. The proposal includes tiny houses, tent spaces, portable toilets, a kitchen, and related accessory facilities for up to 6 months. Parking for 4 - 6 vehicles proposed.

The following approval(s) are required:

Temporary Use Permit to allow a transitional encampment for up to six months.

SEPA - Environmental Determination - (Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION:

Determination of Non-Significance

- ☒ No mitigating conditions of approval are imposed.
- ☐ Pursuant to SEPA substantive authority provided in SMC 25.05.660, the proposal has been conditioned to mitigate environmental impacts

BACKGROUND

The application is to establish an interim use transitional encampment. Interim use transitional encampments are allowed pursuant to Seattle Municipal Code (SMC) Section 23.42.056. However, the encampment at the subject property does not meet all standards of Section 23.42.056, as the site is located on property not owned by the City of Seattle or a private party, and the subject encampment is not one of the maximum of three transitional interim use encampments authorized by Section 23.42.056.F.



Under these circumstances, a temporary use permit for a period of up to six months is proposed for a use not otherwise permitted or not meeting development standards in the zone, pursuant to Section 23.42.040.C. The applicant anticipates it will apply to renew the temporary

use permit for an additional six months. The encampment's duration at the site could be extended as allowed by subsequent permits and lease amendments. The proposal includes spaces for tents, wooden tents ("tiny houses"), portable toilets, a kitchen, and related accessory facilities.

The applicant Low Income Housing Institute is operating the encampment and will continue to operate it on behalf of the City of Seattle's Human Services Department. The applicant is sub-contracting with Share/WHEEL, a consortium of two local nonprofit organizations to handle the encampment's day-to-day operations. The City of Seattle is leasing the property from the Port of Seattle under an amended lease dated September 29, 2017 (the "**Lease**"). The Lease is for one year. Note that the premises under the Lease encompass 11,300 square feet, the size of the existing, 60-person encampment. After a six-month temporary-use permit is issued for the proposed 80-person encampment, the City will pursue an amendment to the Lease where the premises would be enlarged to 18,000 square feet. Because of the expansion, in addition to the temporary use permit, SEPA review is required because the use is regulated as a non-residential use and the area of use exceeds the threshold of 12,000 square feet for environmental review in the zone in which the property is located.

All structures will be temporary. Structures will include thirty approximately 100-square-foot wood structures, classified as wooden tents, each sleeping two people. In addition, the encampment will include four 240-square-foot dorm-style tents, and six 120-square-foot two-person tents. The project will include a common kitchen (440 square feet), a hygiene building with toilets, sinks, and showers, and a series of eight structures (each approximately 100-square feet) to house offices and various types of services and storage.

All structures will be temporary and will have no foundation. There will be little or no disturbance of the site and its soils during the installation of the remainder of the encampment.

Except for three portable toilets, all plumbing fixtures will drain to the public sanitary sewer system. The source of water is the public water system. The encampment will also offer limited, temporary electrical service. The encampment's day-to-day operator will be the applicant's sub-contractor - Share/WHEEL. Share/WHEEL will operate the encampment pursuant to a series of City-approved guidelines (e.g., a code of conduct where the encampment is drug and alcohol free).

SITE AND VICINITY

Site Zone: IG2 U/45: Industrial General 2, with an unlimited height for most structures and a structure height limit of 45 feet for structures containing the uses listed in Section 23.50.022.B.

Vicinity Zoning: North: IG2 U/45
East: IC-45
South: IG2 U/45

West: IG1 U/45

Environmental Critical Areas: Liquefaction-prone areas

Site Description: According to the project site plan and the City's Geographic Information Services (GIS) land use map, the property is a rectangle approximately 97 feet wide by 316 feet deep, with a total area of about 32,360 square feet.

PUBLIC COMMENT:

The public comment period ended on April 30, 2018. Comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to environmental health (soils, noise), parking, traffic, public services and public safety, utilities (hygiene and water service). Comments were also received that are beyond the scope of this review and analysis.

I. ANALYSIS – TEMPORARY USE

SMC 23.42.040 provides that the Director may grant, deny, or condition a temporary use application for uses not permitted or not meeting development standards in the zone where the use is proposed.

The following development standards will not be met for the proposed temporary change of use:

1. The proposed encampment will exceed the maximum number of three interim use transitional encampments allowed within the City of Seattle.
2. The encampment is located on property that is not owned by the City of Seattle, a private party, or an educational Major Institution.

SMC 23.42.040 Subsection C provides that a Master Use Permit for a period of up to six months may be authorized for any use that does not involve the erection of a permanent structure and that meets the requirements of SMC 23.42.040 A.1.a-c:

- a. The use shall not be materially detrimental to the public welfare; and
- b. The use shall not result in substantial injury to property in the vicinity; and
- c. The use shall be consistent with the spirit and purpose of the Land Use Code.

The proposal is to expand an existing encampment from 11,300 square feet (serving about 60 people) to 18,000 square feet (serving about 80 people). The expansion will be accomplished in part through installing a series of temporary structures, including wooden and fabric tents. None of these structures will have a foundation. Their installation will entail little or no disturbance of the site and its soils. Thus, the expansion does not involve the erection of any permanent structures as required by Section 23.42.040.C.

A. The use shall not be materially detrimental to the public welfare.

The City's Land Use, Housing & Building Maintenance, and Building Code are intended to protect the public welfare, including matters of health, safety, and order. The transitional encampment benefits the welfare of the individuals it serves. Numerous aspects of the proposal should mitigate its impact on the public welfare. The proposal calls for installing a temporary cyclone fencing along the encampment's perimeter. Because few encampment residents have access to a personal motor vehicle, the proposal should generate very few vehicular trips. The expanded encampment will provide expanded hygiene facilities (e.g., hot showers) to encampment residents. It will be operated under a code of conduct: drugs, alcohol and weapons are prohibited. Twice-a-month visits to the encampment by the Seattle-King County Public Health Mobile Medical van will mitigate the unhoused community's lack of access to health care. It follows that for these and other reasons the proposal is not materially detrimental to the public welfare.

The encampment will also be required to meet the health and safety requirements of Section 23.42.054 and the operational and location requirement of Section 23.42.056 except as noted above. Compliance with the Code requirements addresses public health and safety impacts that may otherwise be materially detrimental to the public welfare. The use is not likely to be materially detrimental to the neighboring property owners or the general public.

Because the temporary use permit may be granted for a maximum of 6 months, continuance of the encampment will be subject to further processing of 6-month temporary use permits, and the continued compliance of the encampment with operational requirements and any impacts will be subject to periodic evaluation.

B. The use shall not result in substantial injury to the property in the vicinity.

The encampment is situated in the Interbay industrial area, near the south end of Burlington Northern/Santa Fe's Balmer railyard and approximately 500 feet northeast of Piers 90/91 and Smith Cove. It is approximately 500 feet from the closest single-family residential neighborhood on the southwest slope of Queen Anne Hill and approximately one mile from the closest school. Uses adjacent to the encampment include the Magnolia Bridge and its right-of-way to the immediate south, military vehicle storage to the immediate west, an industrial building and vehicle storage approximately forty feet to the north, and 15th Avenue West, a major arterial, approximately 150 feet to the east.

Several factors ensure that the encampment will not result in substantial injury to property in the vicinity: Nearby uses are predominantly industrial and adjacent property is either lightly-used industrial property or rights-of-way. The site is contiguous to 15th Avenue West to the east and is also adjacent to the Magnolia Bridge overpass to the south. The operator maintains rules of conduct designed to protect neighboring properties from any adverse impacts that might occur. The rules address health and safety concerns for individuals in the encampment and the general public. The temporary nature of the use further limits injury to the property in the vicinity, particularly potential injury to property values. The proposed expansion of the encampment will not result in substantial injury to the property in the vicinity.

C. The use shall be consistent with the spirit and purpose of the Land Use Code.

SMC Section 23.02.020 provides that the purpose of the Land Use Code is to: "protect and promote public health, safety and general welfare through a set of regulations and procedures for

the use of land....” Recognizing that the Land Use Code authorizes the temporary use of property for encampments and for encampments operated by religious organizations, the proposed temporary use is consistent with the spirit and purpose of the Land Use Code. The proposal for an enlarged encampment on a temporary basis at this location is consistent with the Land Use Code’s aspirations to promote public health, safety and general welfare. The encampment’s temporary nature is appropriate given that it is not otherwise permitted in the Interbay industrial zone, and the Code requires that any extension of the 6-month time limit be reviewed through a new application for temporary use and SEPA review. Further, all required health and safety standards under Section 23.42.054, and all standards for the transitional encampment interim use under Section 23.42.056 are met except for location on land not owned by the City of Seattle, an educational Major Institution, or a private party, and except for exceeding the maximum number of three interim use encampments.

II. ANALYSIS – SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 12/15/2017. The Seattle Department of Construction and Inspections (SDCI) annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted by the applicant or agents; and any pertinent comments which may have been received regarding this proposed action have been considered. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short Term Impacts

No construction is proposed and therefore short-term impacts are expected to be minimal. Anticipated impacts that could result from the presence of the interim use encampment at this location include: environmental health; land use impacts; noise impacts; traffic and parking impacts; impacts on the provision of public services; and impacts on utilities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Environmental Health

Environmental investigations of the property have included borings, collecting surface soils and installing monitoring wells. Samples collected from these activities were analyzed for volatile organic compounds (“VOC”), total petroleum hydrocarbons (“TPH”) and metals. Concentrations of VOC, TPH and metals were either not detectable, or below MTCA (Model Toxics Control Act) Method A cleanup levels. It follows that the property meets MCTA -A standards for unrestricted use for encampment purposes. The applicant submitted studies regarding existing contamination on site: *“Phase I Environmental Site Assessment Update, Tsubota South Property, 15th Avenue West,”* for Ms. Marilyn Guthrie, Port of Seattle, dated October 31, 2005 by Hart Crowser *“Supplemental Environmental Assessment, Tsubota South Property, 15th Avenue West,”* for Ms. Marilyn Guthrie, Port of Seattle, dated October 31, 2005 by Hart Crowser.

If not properly handled, existing contamination could have an adverse impact on environmental health if excavation occurred. However, no excavation is proposed. Possible danger from surface contamination to encampment occupants can be mitigated by covering lot areas and walkways with gravel and quarry spall, and covering other areas with wood chips. The remainder of the encampment will be covered by the temporary structures. These proposed strategies are expected to adequately mitigate potential adverse environmental impacts from the proposed development and no further mitigation is warranted for impacts to environmental health per SMC 25.05.675.F.

Land Use

Before the November 2017 installation of the 60-person encampment, the site was undeveloped and vacant. The encampment will not displace any other use at this location. The current use of adjacent properties includes industrial buildings and vehicle storage, City right-of-way; and military vehicle storage. The transitional encampment is developed in accordance with Land Use Code standards for location (except as otherwise indicated in this decision), maximum number of occupants, and health and safety. Since the use is interim for 6 months with the ability to reapply for additional 6-month permits, and applicable codes address land use standards for the encampment, any impacts are expected to be minimal.

Noise

Installation and set-up of the expanded encampment is expected to produce noise from the operation of motor vehicles and construction equipment, and from the use of power tools. Noise will be confined to permitted hours of construction. It is expected that the encampment will generate little if any noise once it becomes fully operational. While it is possible that noise impacts of the transitional encampment on surrounding uses may negatively affect those uses, it is unlikely as they are non-residential. The Seattle Noise Ordinance specifically addresses permissible noise levels at residential receptors, in the day and at night. The Noise Ordinance also addresses potential noise impacts on the occupants of the encampment from traffic and other noise sources. Noise exists in the area from traffic noise on 15th Avenue West approximately 150 feet to the east of the encampment, and noise from a nearby rail-line/railyard. The standards in the ordinance appear to assure no significant negative impact from noise. Noise was within acceptable levels when a site visit was conducted at 9:30 a.m. on Tuesday May 8.

Transportation

The property is adjacent to 15th Avenue West, which is served by King County/METRO Transit routes 24 and 33, and King County/METRO's D-line. Encampment occupants are low-income and do not have access to a private vehicle. Thus, the project is expected to generate very few vehicle trips per day. Trips by volunteers, donors, utility services (i.e., garbage pick-up and portable toilet service) and the public health agency are expected to generate on average approximately twenty vehicle trips per day. Off-street parking is provided in the load/unload maintenance and turnaround zone adjacent to the encampment. It is expected that between three and five vehicles will be parked on the site at any one time. Impacts to transportation services and parking are expected to be minimal.

Public Services

Public services are being provided to residents of the interim use encampment, but there is no information that this effort is taxing the capacity of organizations including police, fire, public transit, or health care. The oversight that comes from the two non-profit organizations operating the encampment on a day-to-day basis, with the regulating aspect of the self-governing model employed by the operator, will mitigate the need for increased public services. In the case of health care services, twice-a-month visits to the encampment by the Seattle-King County Public Health Mobile Medical van will address the need for additional health services.

Utilities

Utilities available at the site include electricity and refuse service. The applicant expects to bring domestic water and sanitary sewer connections to the property by a connection to existing domestic water/sanitary sewer connections on adjoining property to the north of the site, addressed as 1625 15th Avenue West. Rights to these two connections will be memorialized in an agreement by the Port of Seattle (owner of this neighboring property), the Port's tenant, and the Low Income Housing Institute.

Long Term Impacts

Significant long-term or use-related impacts are not anticipated as a result of approval of this proposal because the use is an interim use limited to six-month terms that may be re-authorized through a new Type II temporary use permit process.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- ☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

CONDITIONS – SEPA

None.

William K. Mills, Land Use Planner Supervisor
Seattle Department of Construction and Inspections

Date: July 5, 2018

WKM:drm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the three-year life of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by SDCI within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a two-year life. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.