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Reply to: Seattle Office

October 24, 2019

Nathan Torgelson, Director
Seattle Department of Construction & Inspections
Code Interpretation and Implementation Section
700 Fifth Avenue
Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Request for Land Use Code Interpretation, Project No. 3018037, 1903 Fifth Avenue

Dear Mr. Torgelson:

I am writing to request that you issue in writing a Land Use Code Interpretation relating to Project No. 3018037, which is located at 1903 Fifth Avenue, Seattle, Washington. I have combined this request with an appeal of your interpretation to the Hearing Examiner pursuant to SMC 23.88.020. Please find enclosed a Statement of Financial Responsibility/Agent Authorization.

I am submitting this request on the grounds that the SDCI's construction and application of provisions in SMC 23.54.035 to the Altitude Proposal is in error for two reasons.

First, SDCI should have required that all three loading berths for the low and medium demand uses of the Altitude Proposal be a minimum of 35 feet in length as is required by SMC 23.54.035.C.2. The loading berth requirements in SMC 23.54.035 set forth the standards for loading berths and requisite quantity of loading spaces for this proposal. The number and length of loading berths are determined by the extent that the proposal will have low, medium, or high demand uses. The Code states:

- b. Low- and Medium-demand Uses. Each loading berth for low- and medium-demand uses, except those uses identified in subsection C2d, shall be a minimum of thirty-five (35) feet in length unless reduced by determination of the Director as provided at subsection C2c.
- c. Exceptions to Loading Berth Length. Where the Director finds, after consultation with the property user, that site design and

use of the property will not result in vehicles extending beyond the property line, loading berth lengths may be reduced to not less than the following:

...

- (ii) Low- and Medium-demand Uses. Twenty-five (25) feet.

SMC 23.54.035.C.2.

As the most recent plan set for the Altitude Proposal shows, the developer has calculated a total of 202,434 square feet of low-demand and a total of 8,723 square feet of medium-demand for the proposal. According to the code, each loading berth for these uses must be a minimum of 35 feet in length. SDCI may reduce that to 25 feet only if the evidence shows that site design and use of the property will not result in vehicles extending beyond the property line.

In this case, the evidence shows that the site design and use of the property will result in vehicles extending beyond the property line if the loading berths are only 25 feet in length. This project faces serious deficiencies in its design of the alley and loading berths and the plan to limit trucks to 26 feet or less in size is not a viable or credible plan. The reality is that the truck sizes, truck maneuvering, the inadequacy of the loading space, the narrowness of the alley, and the inadequacy of the dock management plan altogether result in a situation where vehicles that are using the loading berth or meant to use the loading berth will extend beyond the property line. For more details on this issue, please see the attached memo from Ross Tilghman to John Shaw (Sept. 12, 2019); letter from Megan Kruse to Shelley Bolser (May 18, 2018); and letter from Megan Kruse to Crystal Torres (Apr. 8, 2019).

Second, SDCI has erred in its interpretation and application of SMC 23.54.035.A, which addresses the quantity of loading spaces that are required for this proposal. That provision indicates that the minimum number of off-street loading berths required for specific uses is set forth in Table A for SMC 23.54.035. Table A indicates that a loading berth is required when medium-demand uses exceed 10,000 square feet of aggregate gross floor area. Restaurants, bars, and retail are all medium demand uses. As is demonstrated in the attached letter from Megan Kruse to Crystal Torres (Apr. 8, 2019) and attachments thereto, the calculations for square feet of aggregate gross floor area for medium demand uses in the Altitude Proposal is incorrect. SDCI erred when it concluded that the medium uses being proposed by the Altitude Proposal are less than 10,000 square feet. When you look at the plans, it is evident that there will be over 10,000 square feet of aggregate gross floor area for medium demand uses with this project. As a result, a fourth loading berth must be required for this project.

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In conclusion, I respectfully request that you issue a formal Land Use Code Interpretation consistent with the above analysis.

Very truly yours,

BRICKLIN & NEWMAN, LLP

A handwritten signature in black ink, appearing to read 'C. Newman', written over the firm name.

Claudia M. Newman

CMN:psc

Attachment

cc: Escala Owners Association