



City of Seattle

Department of Construction and Inspections

Nathan Torgelson, Director

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

Application Numbers: 3029047
Applicant Name: Gib Dammann for Seattle Pacific University
Address of Proposal: 336 W Bertona St

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a transitional encampment (Tent City 3) for up to 100 people on the Seattle Pacific University parking lots for up to 6 months.

The following approvals are required:

Temporary Use – to allow a use not otherwise permitted or not meeting development standards in the zone, pursuant to Seattle Municipal Code (SMC) 23.42.040.

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction

BACKGROUND

Site and Vicinity

The Project affects the north-central portion of the Seattle Pacific University (SPU) campus, bounded by W Nickerson street on the north, W Bertona Street on the south, and Third Avenue West on the east. The site is within the boundaries of SPU’s Major Institution Overlay (MIO) zone, with a 50-foot height limit. The underlying zoning is NC2-40: Neighborhood Commercial 2, with a structure height limit of 40 feet. The northerly portion of the site is currently improved with a surface parking lot. The southerly portion is also improved with surface parking and shares the sites with an institutional building in academic use.



Proposal

SPU proposes to host, for a period not to exceed six months (three months is proposed), Tent City 3, an encampment for people who are otherwise homeless operated by a coalition of the Seattle Housing and Resource Effort and the Women's Housing Equality and Enhancement League (together, "SHARE/WHEEL"). Operating in the City of Seattle since 2000, Tent City 3 provides temporary shelter for up to 100 residents at a time at various locations throughout the City. This is the third time SPU has sought to host Tent City 3, the first occurring in the beginning of 2012 and the second in the winter of 2014-2015.

Tent City 3 operated for ten years under a Consent Decree with the City that functioned as a sort of portable temporary use permit, setting forth the terms of temporary occupation at whatever location was willing to act as host. The Consent Decree expired in March 2012; SPU was the last Tent City 3 host under the Consent Decree.

Anticipating the expiration of the Consent Decree, on October 3, 2011, Council adopted Ordinance 123729 authorizing transitional encampments as an accessory use to any religious facility, subject to conditions. *See* SMC 23.42.054. Then, in 2015, Council adopted Ordinance 124747, authorizing up to three transitional encampments as an interim use in property owned by the City, a private party, or an Educational Major Institution. Since interim use permits have been issued for three currently operating encampments, SPU has applied for temporary use authorization to allow it to host Tent City 3.

Public Comments

Notice of the project was published in the Land Use Information Bulletin on October 12th, 2017 and posted around the site. Notice was also mailed to addresses within 300 feet. The required public comment period ended on October 25th, 2017. SDCI received no public comments during the official comment period.

The Land Use Application information is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000¹.

As a Major Institution with an adopted MIMP, the Department of Neighborhoods maintains a Standing Advisory Committee (SAC), organized under SMC 23.69.032.B.1, to periodically review and comment on SPU projects. The SAC membership includes several neighborhood residents otherwise unaffiliated with SPU. SPU staff presented the proposal to host Tent City 3 to the SAC on April 19, 2017. The SAC had no issues with the proposal.

ANALYSIS – TEMPORARY USE

The Director may approve a MUP for a temporary use not meeting development standards for up to six months provided that the use involves no erection of a permanent structure and meets all of the following requirements:

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

¹ <http://www.seattle.gov/dpd/toolsresources/default.htm>

SMC 23.42.040.C and A.I.a. - c. 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. Parking will be temporarily removed to provide for the interim use transitional encampment (SMC 23.54.015, 23.54.016).

Because Tent City 3 does not meet the development standards of the zone, the temporary use authorization is appropriate. The proposal requires no permanent structures; Tent City 3 residents erect their tents on pallets or simple box frames and otherwise rely on existing or portable facilities.

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

The proposal will not be materially detrimental to the public welfare since the intensity of the activity on the site is not higher than the major institutional uses already occurring on the site, and will occur within the areas and hours covered by the city's codes and ordinances.

Furthermore, the proposed use has a positive effect on the public welfare by providing temporary housing for a number of people who are otherwise homeless. SHARE/WHEEL has a long history of successfully operating temporary housing facilities, including encampments such as Tent City 3, and SPU successfully hosted Tent City 3 only a few years ago. As mentioned above, the City has observed no increase in crime or decrease in public civility associated with previous Tent City 3 sitings. Rather, Tent City 3 residents abide by a strict code of conduct, the violation of which can result in expulsion from the community. Among other things, this code prohibits violent behavior as well as drug and alcohol use among residents.

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

The use will not result in substantial injury to property in the vicinity. SPU plans to host Tent City 3 in parking areas, located more than 150 feet away from the nearest residential property (student housing), and separated further from residential use by existing institutional buildings and parking areas. The use will be screened by security fencing, allowing two points of entry from the driveway that separates the northerly and southerly portions of the encampment site. Finally, Tent City 3 has a strong incentive to ensure compliance with its own code of conduct and compatibility with whatever neighborhood hosts it.

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

SMC 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 which are consistent with and implement the City's Comprehensive Plan. Procedures are established to increase citizen awareness of land use activities and their impacts and to coordinate necessary review processes."

The Land Use Code provides for flexible temporary establishment of uses that are not otherwise allowed in a zone, or which don't otherwise meet development standards – all subject to review, public input, and SDCI conditioning. The proposed time limit of three months is well within the time limits imposed by the Code for interim use transitional encampments. Further, based on Tent City 3's Code of Conduct, management plan and internal security standards, the standards for

transitional encampment interim use under Section 23.42.056 of the Land Use Code will be met, with the exception of the City-wide limit of three encampments established by that Code section.

With respect to the displacement of existing parking, which is used by university staff and visitors, the University has supplied a parking utilization study showing that only 33 parking stalls out of a total of 1,407 will be temporarily displaced. The remaining 1,374 parking stalls will continue to exceed the peak parking demand of 1,140 vehicles found to exist in a December 2015 study. In a memorandum by Transpo Group dated August 4, 2017, updating this parking analysis, the conclusion was that general university enrollment levels for 2017 are expected to be similar to the 2015 levels, and thus no off-site or neighborhood impacts are anticipated due to the proposed project and associated loss of parking. As proposed, SDCI recognizes the temporary use to have no likely adverse effect on public health, safety and general welfare. Its temporary establishment occurs through procedures laid out in the Land Use Code, and as such it is consistent with its spirit and purpose.

CONCLUSION – TEMPORARY USE

The proposed temporary activities do not require erection of permanent structures and meet all three criteria associated with temporary uses. The Director concludes that the temporary uses will not be materially detrimental to the public welfare, will not result in substantial injury to properties in the vicinity, and is consistent with the spirit and purpose of the Land Use Code.

DECISION – TEMPORARY USE

Based upon a review of the proposal, the criteria of SMC 23.40.042, the review and comment by the SAC, and staff review of the proposal, the request for a Temporary Use Authorization to allow the proposed development is hereby APPROVED as conditioned below.

CONDITIONS - TEMPORARY USE

(Noted at the end of this document.)

SEPA ANALYSIS

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 8/24/2017. The Seattle Department of Construction and Inspections (SDCI) has reviewed the environmental checklist submitted by the project applicant, as well as the project plans and additional information in the project file submitted by the applicant or agents. 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 encampment at this location include: land use impacts; light and glare impacts, noise impacts; parking impacts; and impacts on the provision of public services. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Land Use

On the north site, the major land use is surface parking. Landscaping is also part of the site. Adjacent land uses include surface parking and campus buildings. On the south site, the major land use is landscaped open space with a limited amount of surface parking. Adjacent land use includes campus buildings. The transitional encampment is developed in accordance with Land Use Code standards for location, maximum number of occupants, and health and safety. Since the use is temporary for up to six months (three months are proposed), and applicable codes address land use standards for the encampment, any impacts are expected to be minimal.

Light and Glare

Any lighting that is implemented at the proposed encampment is expected to be of a similar nature to outdoor lighting associated with single family development. No significant light and glare impacts are anticipated.

Noise

Tent City 3 is not expected to be a source of additional localized noise. Per the Code of Conduct for Tent City 3, residents will be required to adhere to quiet time from 9:00 pm until 8:00 am daily.

Parking

The proposed encampment will not provide any parking. It will temporarily displace approximately 33 surface parking spaces. A parking utilization study was completed by Transpo Group dated August 4, 2017, which concluded that the temporary displacement is expected to increase the campus parking utilization rate to 83 percent. That percentage, however, is still below the campus target parking utilization rate of 85-90 percent. Impacts to transportation services are expected to be minimal from this three-month temporary use.

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 one year with a one-year renewal option.

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 - TEMPORARY USE

For the Life of the Project

SMC 23.42.040 authorizes the Director to impose conditions on temporary uses. In response to the information described above and supplied in support of the application, the encampment operator or applicant shall comply with the following provisions:

1. Allow no more than 100 persons to occupy the encampment site as residents of the encampment.
2. Comply with the following fire safety and health standards: Properly space, hang, and maintain fire extinguishers within the encampment as required by the Fire Department; Provide and maintain a 100-person first-aid kit; Establish and maintain free of all obstructions access aisles as required by the Fire Department. Install appropriate power protection devices at any location where power is provided; Keep the site free of litter and garbage; Observe all health-related requirements made by the Public Health Department of Seattle & King County; and Post and distribute to encampment residents, copies of health or safety information provided by the City of Seattle, King County or any other public agency. Prohibit any open flames except an outdoor heat source approved by the Fire Department.
3. Provide toilets, running water, and garbage collection according to the following standards: Provide and maintain chemical toilets as recommended by the portable toilet service provider or provide access to toilets in an indoor location; Provide running water in an indoor location or alternatively, continuously maintain outdoor running water and discharge the water to a location approved by the City; and Remove garbage frequently enough to prevent overflow.
4. Cooking facilities, if they are provided, may be located in either an indoor location or outdoors according to the following standards: Provide a sink with running water in an indoor location or alternatively, continuously maintain outdoor running water and discharge the water to a location approved by the City; Provide a nonabsorbent and easily-cleanable food preparation

counter; Provide a means to keep perishable food cold; and Provide all products necessary to maintain the cooking facilities in a clean condition.

5. Allow officials of the Public Health Department of Seattle & King County, the Seattle Fire Department, and Seattle Department of Construction and Inspections to inspect areas of the encampment that are located outdoors and plainly visible without prior notice to determine compliance with these standards.

CONDITIONS – SEPA

(None.)

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

Date: November 2, 2017

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.