



**PIONEER
SQUARE
COMMUNITY
ASSOCIATION**

working for the betterment of Pioneer Square

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OFFICE OF
HEARING EXAMINER

Hearing Examiner
PO Box 94729
Seattle Municipal Tower
700 5th Ave., Suite 4000
Seattle, WA 998124-4729

Hearing Examiner,

The Pioneer Square Community Association objects to and appeals the decision of the Director of the Seattle Department of Neighborhoods to issue a certificate of approval for a change of use application submitted by Real Change to occupy Suite 100 of the New England Building in Pioneer Square. Enclosed please find the necessary documentation to support our appeal.

We appreciate careful consideration of our arguments by the office of the hearing examiner.

Sincerely,

Leslie G. Smith
Executive Director
Pioneer Square Community Association

cc: Stella Chao, Department of Neighborhoods

Appeal of Department of Neighborhoods Approval PSB 112/10

Overview

Real Change and the Department of neighborhoods (DON) staff presented a change of use application to the Pioneer Square Preservation Board (PSPB) on April 21st, 2010. The application comprised the use of street-level space within the Pioneer Square historic district as described in Map B of SMC 23.66.130. The draft report submitted to the PSPB by DON staff described the applicant's intended use of the street level space as office use, and recommended approval of the application as a permitted use. The PSPB concurred, and the Director of DON issued a certificate of approval for the application on April 29th, 2010.

We appeal the DON's certificate of approval because the change of use is incorrectly described for the actual use intended by the applicant. The applicant's use of the space is not office use, and is in fact principally prohibited uses for street level space in the historic district according to SMC 23.66.130. The intended use violates the objectives and intent of the Pioneer Square Preservation District (SMC chapter 23.66) and the Pioneer Square Neighborhood Plan as approved by the Seattle City Council (Resolution 29814).

Classification of use

The application materials submitted by the applicant do not describe the intended use of the space as "office" in any written submissions. In the Application for Certificate of Approval-façade alteration (Enclosure A), the applicant describes the business as a "...weekly newspaper. We sell the paper to low-income Vendors, who in turn sell it to the community for a profit." This business practice is clearly a wholesale operation according to accepted business practices. See for example "sale at wholesale", as defined in SMC 5.30.050. Appellants infer that it was DON staff that classified the applicant's business use as office, as per the staff report presented to the PSPB.

In oral presentation to the PSPB, applicant indicated that an additional intended use of the space is for a class and training center (Scheme B, plan). According to the applicant's website, the "learning center", "with a computer lab and classes to better support vendor success", will be an important part of the facility (Enclosure B). This use is a vocational use according to standard definitions of the term, including SMC 5.30.060 or 23.84A.018.

The Pioneer Square Preservation District was created to "preserve, protect, and enhance the historic character of the Pioneer Square area" (SMC 23.66.100). In order to accomplish this goal certain areas of the district are subject to development criteria, and defined as permitted, discouraged, or prohibited uses (SMC 23.66.120 through 23.66.130). In order to preserve the retail character of the core district, street level uses are specifically addressed in statute. Among the prohibited street level uses proscribed by statute are wholesaling and vocational uses, principal aspects of the applicant's business. Guidance to understand the scope of business use which is prohibited may be

found in SMC 23.66.122 which states that prohibited uses encompass “principal and accessory uses”.

Classification of the applicant’s business as “office” and thus a permitted use is inaccurate and inappropriate for applicant’s intended use of preservation district street level space. Any business (or even residence) may have office space incorporated therein; however, that does not change the principal nature or purpose of use. Similarly, the statement made by the applicant at the PSPB meeting that they will sell a newspaper to walk-in parties does not make the applicant a retailer, particularly since a retail operation would run counter to applicant’s mission to support their vendors. Thus, the finding in the certificate of approval issued by DON that suggests the applicant is also a retailer is insubstantial.

In summary, the classification of applicant’s use presented by DON to the PSPB and to its own director was incorrect, and the certificate of approval should be revoked to ensure the preservation of codified historic district integrity.

Significance

Pioneer Square faces significant challenges in the current economic cycle. There remains a strong consensus that a healthy business base which attracts a variety of customers and clients, including tourists, to a mix of business and retail shops is critical to the vitality of the Square. The loss of several businesses in the retail core poses significant challenges, as well as opportunities for revitalization in the coming months. The city Office of Economic Development is heading a revitalization project to improve the business health of Pioneer Square. In addition, the Pioneer Square Community Association is planning to implement a Main Street project to revitalize business in the 1st avenue core of Pioneer Square, including the property at 1st and Jackson.

In order for these efforts to be successful, it is critical that DON respect the tenets of the historic district requirements. Recruiting successful new businesses depends on maintaining street fronts that are attractive to customers and tourists.

The combination of vision (revitalization) and structure (SMC adherence) are essential to move Pioneer Square forward, and ensure the health of the historic district.

Conclusion

Failure of the DON to correctly present the applicant’s change of use application to the PSPB resulted in a recommendation by the board to approve the application. It is not the intention of the appellant to prevent the applicant from relocating to Pioneer Square. There are a number of locations in the Square that would be appropriate for the applicant. However, it is the responsibility of the Community Association, the PSPB, and the city (DPD and DON) to protect the integrity of the Preservation District’s statutory requirements. Statements by the applicant that they were not told of city statutes does not absolve them of compliance with those statutes.



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Application for Certificate of Approval -- Façade Alteration **Description of Project Description**

On Feb 22, 2010, Real Change has signed a lease with the New England Building LLC, represented by MaKensay Real Estate Services, to move its operations to 219 1st Avenue. Real Change is, first and foremost, a progressive weekly newspaper. We sell the paper to low-income Vendors, who in turn sell it to the community for a profit. Paper sales generate income for vendors and also provide valuable employment training and experience. In addition to producing the paper and selling it to vendors, we do organizing and advocacy for economic justice.

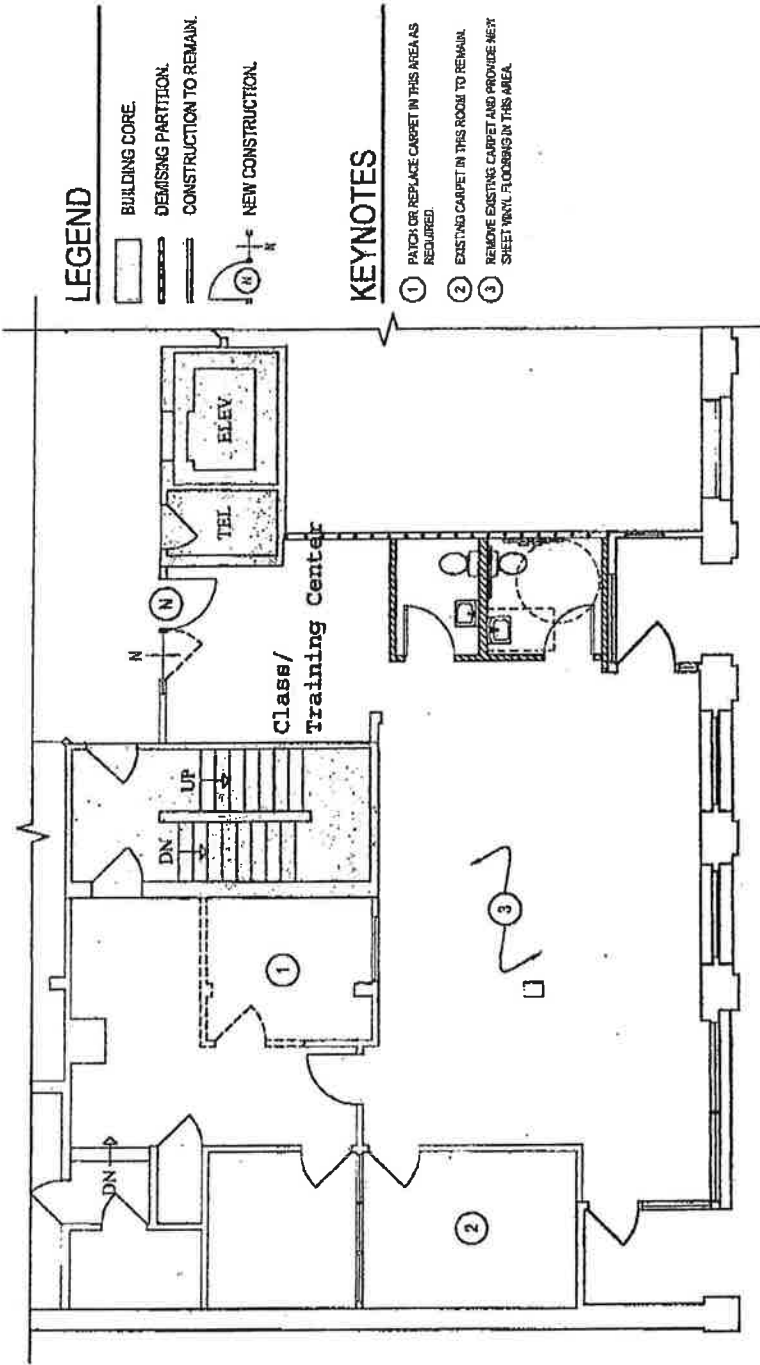
We decided to move from our existing location in Belltown, where we have been based for the last fifteen years, because we have outgrown our current space, faced escalating costs, and wanted better proximity to transit to support our goals for regional expansion.

While the layout of the upstairs suite (#220) worked very well for us, we knew from the start that we would need to make some modifications to the downstairs suite (#100). Most notably, we needed to add two restrooms in the space, given our agreement that vendors would not use the building restrooms. We met with the landlord and contractor to discuss the location of the restrooms. Because of the recent addition of plumbing lines into the space immediately to the east (occupied by Quiznos), it was mutually agreed that the best option would be to locate the bathrooms against the shared wall so that we could tap into the existing plumbing lines. We discussed pushing the bathrooms as far south in the space as possible, butting up against the existing window in the alcove. This would enable us to leave maximum space for wheelchair access and a bank of computers in the area between the double doors and the Northern edge of the bathrooms. The plans were drawn up by an architectural firm, submitted to the landlord and approved by MaKensay Real Estate and the owner, prior to construction.

Before starting the actual construction, we met at the space with the contractor and among other things, discussed how to address the street appearance of the new bathroom. The contractor suggested using reflective film or frosted glass and the landlord's broker said that either was ok. The issue of a Certificate of Approval for Façade Alteration was never mentioned to us, either by the broker or landlord, or by the City when we applied for, and were granted, permits to construct the bathrooms. The contractor ended up using a black film covering, as is seen in the picture. We are hopeful that since the window is recessed off the street and up a series of stairs, that this will not be seen as problematic.

Construction is well underway and the bathrooms are mostly complete. We have asked the contractor to suspend work temporarily while we request this Certificate of Approval, but need them to start again asap so that we can have the work done prior to the May 1, the effective date of our lease.

Scheme B



SCHEME B
1/8" = 1'-0"

Title: NEW ENGLAND BUILDING
Job No. 10011.000
Date: 03/16/10
Job: PROPOSED RESTROOM LAYOUT
Sheet No. 2/2

Marvin Stern Associates, LLC
planning & design
221 Fifth Avenue, Seattle, Washington 98121 (206) 441-1449



Real Change is experiencing a year of simultaneous challenge and possibility. Our circulation is at its highest ever and rising. We are winning prestigious awards and fellowships for our quality journalism. Our organizing is high profile, visionary, ambitious and successful.

We have multiple challenges and opportunities in front of us: we are a key part of a coalition saying no to Tim Burgess' overreaching panhandling ordinance, we are facing opposition to our needed relocation to Pioneer Square and we are excited to be opening significantly better facilities for our vendors, with a computer lab and classes to better support vendor success and transition off the streets. The Michael Garcia Vendor Learning Center in Pioneer Square will open doors for vendors and honor the legacy of a great man, vendor and advocate.

The grassroots donor support that makes up the majority of our operating budget and our earned income from newspaper sales have grown each year. This funding model offers us enormous independence, and with that, a large capacity for fearless advocacy and organizing work for and by homeless and low-income citizens.

We are working hard to create a future for Real Change that takes us thoughtfully and sustainably into the next decade. With your help we are taking our work to the next level.

Recurring Donor?

* indicates required field