



The City of Seattle

Pike Place Market Historical Commission

Mailing Address: PO Box 94649 Seattle WA 98124-4649
Street Address: 700 5th Ave Suite 1700

MINUTES

MHC 128/09

Wednesday, June 24, 2009

4:30 p.m.

PDA Meeting Room, 85 Pike Street, Room 500

COMMISSIONERS

Karin Link

Valerie Bystrom

Joanne Herron

Spencer Howard

Sara Patton

Sharon Shinbo

Allyn Stellmacher

Susan Zuege

STAFF

Heather McAuliffe

Melinda Bloom

ABSENT

4:30 p.m. Chair Sara Patton called the meeting to order. She requested that Commissioners report any ex parte contact they had with applicants.

062409.1 APPLICATIONS FOR CERTIFICATES OF USE

062409.11 Seattle Parks Department – Victor Steinbrueck Park programming
Victoria Schoenburg

Application: Temporary use application for artistic performances and/or temporary installations from **June 28 through October 31, 2009**.

Staff Report: Ms. McAuliffe explained the temporary use application for artistic performances and/or temporary installations from **June 28 through October 31, 2009**. Specific schedule and art forms will be determined in the future. Most events will be small performances or community functions. Examples of the kinds of events or displays that could be implemented include, but are not limited to:

- Dance performances
- Theatrical performances

- Poetry readings
- Public workshops for story-writing or movement
- Musical performances (including buskers)
- Interactive installations (a string of note cards where people can participate in writing a story, a temporary sculpture constructed to wash away in the rain over the course of several days, etc.)

Ms. McAuliffe explained the start date is June 25. Events include formal & informal performances. A 10' x 10' or 10' x 15' canopy may be provided for the artists but will not be set up for longer than 8 hours, once a week. If bad weather requires that sides be added to the canopy, they would be attached only during the performance. Destination events (75 people or more) will not be scheduled during times that the park is already crowded. Views will be blocked for 3-8 hours maximum. No music after 6 p.m. Musical performances limited to 3 hours. Individual Parks Use Permits will not be issued for small/impromptu events. Individual Parks Use Permits will be issued for any and all events with amplified music, stages, more than 50 chairs, or tents, or that are expected to attract audiences greater than 50. Permits will be issued to Center City Parks Activation Program, with copies provided to the curator and to Commission staff. The Parks Department does not issue a document specifically called a "variance". Dictionary definition of "variance": "authorization to do something contrary to the usual restriction." The Parks Department issues such specified authorization when issuing a Parks Use Permit – the permit specifies whether or not amplified sound is allowed for that permitted event. If the Commission approves electronic amplification equipment in the park as part of this proposal, the approval must require the applicant to submit a variance from the Parks Department. Exhibits reviewed included a site plan, supplemental written information from the applicant and Hearing Examiner Decision R-09-002. Guidelines that applied to this application included 1.4 and 2.11.

URC Report: Ms. McAuliffe said that the Committee cited guidelines 1.4 and 2.11 and recommended discussion by the full Commission.

Ms. Zuege commented that aside from the amplification issue the URC also needed more clarification about schedule.

Applicant Comment:

Victoria Schoenburg, Parks Department, said she has worked closely with the Park Ranger Program. She said there would not be regular evening concerts and any music would end at 6:00 p.m. She noted three uses of amplification: people speaking to a group (Tilth gardening, story tellers) who would use a clip microphone; buskers, most of which are softer instruments and amplification would occur once a week maximum; and concerts, none of which are scheduled. She said it is an effective way to bring people to the park and the concert type would be nothing close to the "Out To Lunch" or "Centennial" concerts. They propose concerts that would attract 50 – 100 people max. There are three risers if

a stage is used at all and music selected would be appropriate for a small venue. She said they are mindful of the concerns of residents and the park is noisy already. She encouraged residents to alert Parks if something is going on that shouldn't be and they can deal with it.

Brock Milliern, Parks Ranger, said the buskers are part of a comprehensive plan to revitalize the park. He said buskers communicate regularly with rangers and are good as "eyes on the park".

Public Comment:

Ms. Patton stated for the record that written comments were received from John Wilcox, Fred Kay, Cara Bailey, Virginia Cain, Jane Van Galen, Tony Woo, May and Michael Stan, Kristina Mason, Phil Frederick and Katy Chaney, Roger Cayce, Dave Jacobs, John Mason, Linda Gray and Marlene McIntosh.

Paul Dunn, a Market resident, showed a brochure that Parks had sent out regarding the activities and said Victor Steinbrueck Park was mentioned twice with gardening and story telling. He said there is a clear prohibition of amplification in the park.

Margaret Cleveland, a nearby resident, said that any amplification is loud. Downtown is noisy and amplification would make it worse.

Dave Martin, a district property owner, had no problem with daylight amplification. He expressed concern with graffiti and said projects using chalk would encourage graffiti and said if chalk is used it should be spray washed afterward.

Philip Kraft, a busker, spoke of the positive aspects of the busker program in the park. He said it is good for children and families.

John Robbins, a nearby resident, thanked Parks for the proposal and said it is a good idea but he was worried about amplification because he works out of his home. He noted how bad the bagpipes were.

Bob Bradley, a nearby resident, said the noise from previous performances was too noisy so he put in triple pane windows and it was still too noisy. He said the noise level exceeds 90 decibels. He said the residents are supporters of the Market and that outside people come just for concert or drugs. He expressed concern that the area is not cleaned up after events.

Kris Mason, a nearby resident, said she sometimes works from home and that after a concert there is usually more rowdiness, people hang out there longer and trash is worse. She said there are a lot of people/families there already. She noted that noise drifts up, even the noise from buskers.

John Mercer, a nearby resident, said he loves the Market and the buskers and accepts some noise. He did not support amplification and said that once in a while is okay but not every day for three hours.

Elizabeth Kier, a nearby resident, was pleased with the plans but wondered if it would really have any effect. She asked for evidence that it actually has an effect. She works from home, has no air conditioning and it is impossible to work with amplification. She said the park is not empty now and she asked about the relative cost of adding Park Rangers.

Karen Koonings, a nearby resident, spoke of safety and security issues and noted the activities, lighting and Park Rangers. She said Victor Steinbrueck Park is a little paradise in the crazy, bustling Market plan and she was not sure that it is the right venue for “reactivation”. She spoke against amplification.

Brendan Egan, a nearby resident, cited park designer Richard Haag’s vision of the park as a restful place where one can harbor one’s soul. He said he is not an opponent of the buskers but is opposed to the variances and asked how to control amplification. He supported simple concerts with no amplification.

John Mason, a nearby resident, stated he is a prosecutor with the City Attorney’s Office but was representing himself. He said the park is not in need of rescue and while there are problems, there are fewer reports now. He provided photos of Victor Steinbrueck Park in the early afternoon and said it is a perfect little park with families and kids and is that way most of the time. He said that Victor Steinbrueck Park is a healthy park that doesn’t need music and said amplification is unnecessary. He said the first busker had no amplification and was heard fine. He said when amplification is used it is turned up too loud. He suggested limiting music to once a week.

Sergeant Ibuki from the Seattle Police Department cited other parks that have music and said if it is the right kind of music it brings in good people. If it is too loud it brings the wrong type. He said non-amplified music is good and used the violin as an example.

Mr. Egan noted a 9th District Court appeals decision that was issued today concerning the First Amendment rights of buskers. He said if it is the right type of music – how you would say no to an artist who wants amplification.

Ms. Patton said the guidelines specifically exempt First Amendment events from review.

Commission Discussion:

Ms. Herron asked how to determine if sound level is appropriate.

Victoria Schoenberg said that no concerts have been held in the park yet; they have not been affiliated with the Out To Lunch or Centennial concerts. She noted the need to identify an acceptable decibel level.

Brock Milliern explained that Parks staff now have access to decibel meters.

Ms. Patton clarified that applications for concerts previously approved by the Commission were not Parks programs; one series was put on by the Downtown Seattle Association and another concert was a Market Centennial Concert put on by the Pike Place Market PDA.

Ms. Schoenberg stated what would be done at Victor Steinbrueck Park would be nowhere near what those concerts were. She said that the concerts planned in Victor Steinbrueck Park by the Downtown Seattle Association were approved last year but because of the appeal they were canceled.

Ms. Schoenberg explained that the first year Parks worked with Friends of Victor Steinbrueck Park and that they usually work with a community group to use as a liaison and that no negative comments were received. She said the second year they did a survey.

Heather McAuliffe provided the 2007 Downtown Seattle Association's approval of a lunchtime concert series for review by the Commission. A discussion ensued about these concerts.

Ms. Zuege said she did not have a good sense of the schedule or frequency of the proposed events.

Ms. Schoenberg explained that her proposal is an experimental program. Curators have been hired by the Parks Department to schedule the programming. Different curators will have different activities and noted one proposed Victor Steinbrueck Park activity is the "Creation Station" – a table with art materials. She said that buskers would be there every day at lunch.

Ms. Shinbo stated that given the inability to control noise she preferred no amplification except for a speaker.

Mr. Rolluda agreed.

Commissioners discussed entertaining temporary approval to see how it goes and to provide one attempt at amplification and to also test un-amplified sound to see how it would play out. Commission members noted the inability to control noise and the preference for no amplification except for a speaker. Non-amplification would allow a chance to measure noise level.

Ms. Patton went over last year's approval and said the proposal to have music greater than three hours and extend beyond 6:00 p.m. She said the Commission

approved it because it was temporary but the Hearing Examiner overturned that because “temporary” does not allow something that wouldn’t otherwise be allowed (2.11.5). She noted the question of getting a variance and said that the variance procedure was no longer part of the Parks Department’s procedures. She noted in the Staff Report where it said that the Parks Department would instead issue a use permit that allows amplification.

Ms. Schoenberg explained that each performance would be individually permitted.

Ms. Patton went over the three levels of amplification: 1) mild amplification for speakers teaching a class or telling a story; 2) mild amplification for buskers – there might be a number of buskers; suggest that only one per week for 90 minutes with amplification allowed; 3) amplification for a concert, which is in addition to buskers at no more than one per week; the concert should be appropriate to the small park in terms of scale.

Mr. Howard thought that no amplification for music should be allowed and that it should be used as a test run; he cited 1.3 and 1.4 (balancing impacts). He said it would address the concerns of the Market neighbors. He thought that amplification for speakers was acceptable.

Ms. Bystrom agreed and suggested that the Commission consider drafting a specific guideline about decibel level. She said it is difficult to approval any level because there is no idea what that means.

Ms. Schoenberg said that amplification for a speaker in a small group is pretty clear.

Mr. Milliern said that there is a good set of laws that govern what is allowed.

Ms. Patton asked Commission members if they wanted to split the decision to “everything but amplification”.

Commission members determined that the motion would be “as presented” for all except amplification.

Ms. Shinbo asked for a condition that an end of season report be submitted.

Mr. Stellmacher made a motion to adopt a resolution to approve the application as submitted with exception to elements regarding amplification and with the condition that the applicant would submit a report at the end of the season.

MM/SC/AS/KL

9:0:0 Motion carried.

Ms. McAuliffe stated the applicant needed to be asked if she would amend the application regarding the specifics on amplification.

Ms. Schoenberg stated she would amend the application and looked to the Commission for guidance on an acceptable level of amplification.

Commission members discussed how to define acceptable limits of amplification and the difficulty of defining noise levels which would be described as “too loud” by one person and “just fine” by another. It was determined that a motion be made to allow mild amplification, as defined by amplification need for a speaker to be heard by 15 – 20 people.

Mr. Stellmacher made a motion to adopt a resolution to approve mild amplification as defined as assisting an individual to be heard by 15 – 20 individuals.

062409.2 APPLICATIONS FOR CERTIFICATES OF USE/DESIGN APPROVAL

062409.21 Hotdog Joe's
Joe Jeannot
Victor Steinbrueck Park

Use: Temporary use application for a business specializing in the sale of hot dogs to operate in the park from June 28, 2008 through December 31, 2009. **Design:** Approval for design of vending cart, umbrella and signage.

Staff Report, Use: Temporary use application for a business specializing in the sale of hot dogs to operate in the park from June 28, 2008 through December 31, 2009. She said the start date will be June 25, 2009. The space is Zone 3, street level, all uses permitted. New use would be Food f (fast food). Proposed ownership structure: sole proprietorship. Applicant's financial affiliations: Part owner of a barbecue restaurant located in South Lake Union. He is a silent partner and does not operate the business. Operates four hot dog carts in the Belltown neighborhood. These carts are set up from 10 p.m. to 3 a.m., 7 days a week. Applicant's role in the business operation:

- Applicant will be onsite operating the business most days.
- Hours will be 11:00 a.m. to 6:00 p.m., 7 days a week.
- Potential locations are in south end of park, around the pergola.
- Business operator will pick up litter generated from business. Area will be power washed early in the morning.

Exhibits reviewed included written supplemental information from applicant, menu, photos, aerial view site map marked with potential site locations and aerial view site map of potential locations approved for Corn Roaster per MHC 06/09. Guidelines that applied to this application included 2.1, 2.4, 2.5, 2.6, 2.7, 2.9, 2.11 and 5.0.

URC Report: Ms. McAuliffe said that the Committee determined that the application complied with Guidelines 2.1.3, 2.4, 2.5.1 (f), 2.6.1, 2.6.2, 2.6.3, 2.6.4, 2.6.5, 2.11.5 and 5.4, but that the Commission should discuss its conformance to 2.6.6 and 2.6.8. The Committee recommended discussion by full Commission and suggested that approval should be conditioned upon design approval.

Applicant Comment:

Joe Jeannot said his carts in Belltown are part of a theme but are more geared to the night time crowd and that this cart has a different theme. He said it would be a great addition to Victor Steinbrueck Park.

Public Comment:

Paul Dunn, a Market resident, said if an applicant were applying for tenancy in the Market he would be expected to have a lease and be there seven days a week from 11 – 6. He said he didn't think applicant would be there every day.

Mr. Jeannot explained the temporary use would be for three months.

Ms. McAuliffe clarified the use would be through December 31.

Mr. Dunn continued that he thought the park would be commercialized and said there is already a hotdog vendor nearby. He said Richard Haag, designer of Victor Steinbrueck Park, designed the park to be a place of respite and calm and that "all this stuff" is not needed. He did not support the application and said approval would be endorsing incremental commercialization of Victor Steinbrueck Park.

Dave Martin questioned the oversight of the current vendor in the park who, he said, was there only on weekends, holidays – busy days. He said the "eyes on the park" concept was not working. He cited 2.11.5 which states that concessions are prohibited and also expressed concern about franchising as this applicant has multiple carts already. He said the park doesn't need food vendors and said the corn roaster shows up occasionally.

Commission Discussion:

Ms. Bystrom said the Use Review Committee was concerned about the franchise issue. She said the Commission has granted that others – who only have a truck at farmers' markets – can have 5 farmers' market trucks.

Ms. McAuliffe cited former applicants approved by the Commission that operated at multiple farmers' markets: the pasta seller in the Main Arcade and Belle's Buns.

Ms. Bystrom said she is not clear if that is the same as having different carts.

Mr. Howard said a franchise sells out rights to another and this is a single owner who owns all carts so it is not a franchise.

Ms. Bystrom noted it is still an expansion.

Ms. Shinbo said she was concerned about the four carts the vendor had in the nearby Belltown area.

Ms. Zuege spoke to the issue of commercialization of the park and what Richard Haag meant the park to be; she asked at what point do we say “no”?

Mr. Stellmacher said the corn roaster was approved for one more season and is viewed as temporary. He said parks are diverse with lot of things going on; it is a temporary use that he will support.

Ms. Zuege cited 2.7.1 b and said while she loved the idea of street food, once you bring in one stand several others will follow. She noted across the street a hot dog stand already exists in the Market and wondered about a concentration of uses.

Ms. Patton noted that 2.7.1 b “concentration of uses in the Market” refers to the district, not in a specific part of the district.

Ms. McAuliffe cited 2.2.2 and reminded the Commission that it cannot prevent a business from entering the Market solely because of competition with an existing business.

Mr. Howard supported the application but agreed with Ms. Zuege’s citing of 2.7.1 b and c and 2.6.8. He said as temporary uses continue there will be more conflicts with existing business owners and the Commission needs to start to reconcile what is appropriate.

Mr. Stellmacher made a motion to adopt a resolution to approve the application as submitted.

MM/SC/AS/JH

6:3:0 Motion carried. Mmes. Bystrom, Shinbo and Zuege opposed.

Staff Report, Design: Ms. McAuliffe explained the request for approval for design of vending cart, umbrella and signage. Exhibits reviewed included aerial view site map marked with potential site locations, photos and renderings. Guidelines that applied to this application included 2.11, 3.6, and 3.8.

DRC Report: Ms. McAuliffe said that the Committee cited guidelines 2.11.5, 3.6.1, 3.6.2, 3.6.5, 3.8.6 and 3.8.7 and recommended that Commission should discuss

circulation space and whether or not the cart will block views. Applicant will provide additional photos.

Applicant Comment:

Joe Jeannot provided photos of the cart in three different locations in the park and said none are in the same location as the corn roaster.

Public Comment:

Paul Dunn said anecdotal data is not adequate. He said the carts are “in the view” rather than obstructing it and said it is getting out of hand.

Commission Discussion:

Mr. Rolluda said the photos of the proposed locations are different from what the drawings show.

Mr. Jeannot said the location was chosen for where the power is.

When asked for a site plan Mr. Jeannot stated that DRC asked for three different sites and he explained he prefers Photo 1 with the walkway. He marked it on the aerial photo and said there is less view blockage there.

Ms. Link noted one couldn't tell from the photo whether or not there was view blockage.

Ms. McAuliffe said the Commission can impose a condition that the applicant meet with the Design Review Committee next week to be sure that the proposed location does not block views.

Ms. Link, Mr. Rolluda and Ms. Zuege thought it might block views. A discussion ensued about views and it was determined that applicant would come back to DRC with the cart.

Mr. Rolluda made a motion to adopt a resolution to approve the application with the condition that the DRC approves the location as it conforms to Guideline 3.8.7.

MM/SC/AR/SH 6:2:1 Motion approved. Mmes. Shinbo and Zuege opposed. Ms. Link abstained.

062409.22

PDA- Rummage Hall expansion

Amanda Goodsell

Use: Establish use at 1530 Post Alley #10 (formerly La-Lan Ta) as a secondary space for Rummage Hall, currently located adjacent. Renters will sell only used goods, as allowed by Rummage Hall Rules and Regulations. **Design:** Install tables; exterior sign over entrance and off-premise signs.

Staff Report, Use: Establish use at 1530 Post Alley #10 (formerly La-Lan Ta) as a secondary space for Rummage Hall, currently located adjacent. Renters will sell only used goods, as allowed by Rummage Hall Rules and Regulations. The space is Zone 2, street level, Food a-e and Retail a-d uses permitted. Former use was Retail d (specialty furniture). New use would be Retail a. Space is 760 square feet. Existing rummage space is adjacent, in the Sanitary Market. It is less than 500 sq. feet. PDA will manage vendors according to Rummage Hall Rules and Regulations. Renters will book ahead and reserve space. One or both spaces will be rented. Exhibits reviewed included site plan, use application information from PDA and rummage hall regulations. Guidelines that applied to this application included 2.1, 2.4, 2.5, 2.6 and 2.7.

URC Report: Ms. McAuliffe said that the Committee cited guidelines 2.1.3, 2.1.4, 2.4, 2.5.4 a, 2.6.1, 2.6.2, 2.6.3, 2.6.4, 2.6.5, 2.6.6, 2.6.9, 2.6.10 and 2.7.1 and recommended approval.

Applicant Comment:

Cecilia Hall, PDA explained the current Rummage Hall is successful and they want to put a second one in a vacant space that has been problematic. In Phase II of the renovation the restrooms will go in the current Rummage Hall location.

Public Comment:

Paul Dunn asked for clarification on the ownership and use of the space.

Ms. Goodsell explained that different vendors would be in the additional space.

Commission Discussion: Commissioners determined they had enough information to make a decision.

MM/SC/VB/AR

9:0:0 Motion carried.

Staff Report, Design: Ms. McAuliffe explained the application to install tables; exterior sign over entrance and off-premise signs. Exhibits reviewed included photos, floor plan, drawings, and renderings. Guidelines that applied to this application included 3.1, 3.4 and 3.6.

DRC Report: Ms. McAuliffe said that the Committee cited guidelines 3.1, 3.4.3 a & e, 3.6.1, 3.6.2, 3.6.3, 3.6.6 a (2) and recommended approval.

Amanda Goodsell provided images and said the same tables, colors, and materials as the current space would be used. The sign will be the same font and colors.

Public Comment: There was no public comment.

Commission Discussion: Alex Rolluda noted that DRC thought it was straightforward.

MM/SC/AS/KL

9:0:0 Motion carried.

062409.3

APPLICATIONS FOR CERTIFICATES OF DESIGN APPROVAL

062409.31

PDA – pole banners

Erin Struck

Design for pole banners approved per Commission street use approval MHC 72/09.

Staff Report: Ms. McAuliffe explained the application for design for pole banners approved per Commission street use approval MHC 72/09. Exhibits reviewed included an approved map of banner locations, written information from the PDA and renderings. Guidelines that applied to this application included 3.6.

DRC Report: Ms. McAuliffe said that the Committee cited guidelines 3.6.1 and 3.6.2 and recommended approval.

Applicant Comment:

James Haydu said the application for seasonal barriers was straightforward.

Public Comment:

Paul Dunn said the banners were already up.

Mr. Haydu said the banners did go up on First Avenue but have not gone up on Pike; he said that problem had been addressed.

Mr. Dunn said they should have been taken down.

Commission Discussion:

Ms. Patton said making changes before approval is inappropriate. She noted the need to determine how to deal with this during the guidelines revision process.

Mr. Haydu said he didn't want this to reflect poorly on the PDA.

Ms. McAuliffe said the banners on First were handled independently from those on Pike and it appeared to be a miscommunication.

Mr. Haydu explained the ad agency does communicate and thought it was just an overall mistake. Responding to a question of whether or not he obtained SDOT approval Mr. Haydu said he did.

Ms. Herron noted the banners went up a week ago and Ms. Link noted that Supergraphics had been working with SDOT.

Ms. McAuliffe said SDOT permits are conditioned on approval from the Historical Commission.

Mr. Rolluda said the application was straightforward.

Ms. Herron made a motion to adopt a resolution to approve the application as submitted.

MM/SC/JH/VB 9:0:0 Motion carried.

062409.4 APPROVAL OF MINUTES:

June 10, 2009 meeting

MM/SC/KL/JH 8:0:1 Minutes approve. Mr. Rolluda abstained.

062409.5 REPORT OF THE CHAIR: There was no report.

062409.6 REPORT OF STANDING COMMITTEES: There were no reports.

062409.7 STAFF REPORT: There was no report.

062409.8 NEW BUSINESS

Ms. Patton explained the PDA briefing was postponed. She noted the Guidelines Review Committee meeting had been scheduled for June 29, 2009; the Committee is comprised of Mmes. Shinbo, Zuege, Bystrom, and Patton. She said proposals will come back to the full Commission before it goes to public comment.

Ms. Shinbo suggested that new Commission members be invited to hear the Open Public Meetings Act presentation by the City Attorney's Office at the July 8 meeting. Ms. McAuliffe said she planned to invite them. Ms. Shinbo asked if there would be a briefing on the PDA's final design application at the next DRC meeting. Ms. McAuliffe confirmed that there would be. Ms. Shinbo suggested that Commission members attend the DRC meeting.

062409.81 PDA briefing – Fairley/Leland west façade windows application
Joe Paar

PDA response to Commission questions about the application. (Postponed from June 10, 2009) **Postponed.**

7:15 p.m. Mr. Stellmacher made a motion to adjourn the meeting.

MM/SC.AS/AR 9:0:0 Meeting adjourned.

Respectfully submitted,

Heather McAuliffe, Commission Coordinator