



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3005148
Applicant Name: Melody McCutcheon, Attorney for The Bertschi School
Address of Proposal: 2227 10th Avenue

SUMMARY OF PROPOSED ACTION

Land Use Permit to expand an existing institution by increasing playground netting height by and additional eight (8) feet. The net is already installed at the Bertschi School.

The following approvals are required:

Administrative Conditional Use - To expand an institution in a Lowrise 2 (L2) zone.
(Seattle Municipal Code Chapter 23.45.116 and 122)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition, or
involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The subject property is located at 2227 10th Avenue East within a Multi-family Lowrise 2 zone (L2). The block north is zoned L3 and is L2 across 10th Avenue. The remainder of the block abutting the proposal is Single Family (SF5000). There is no alley in this block. There are existing buildings and playgrounds on the site which house the current Bertschi School. The site is on an arterial street, 10th Avenue East. Zoning along 10th Avenue is L2 and L3 zoning to the north and east, and Single Family (SF5000) zoning to the south for several blocks. The site is at the north end of Capitol Hill one and one half blocks east of the I-5 freeway and one and one-

half blocks south of SR-520. The area is characterized by commercial and multifamily uses along 10th Avenue East as well as single family homes along 10th Avenue East. Single family zones extend to the east and west one-half block off of 10th Avenue East. The site slopes down to the north with the grade of 10th Avenue East. The site also slopes down to the east.

Proposal Description

The Bertschi School is a private school with kindergarten through fifth grades. The project proposal is to allow the existing netting attached to the existing fence around the northern playground at the Bertschi School. Under project number 9400127 (building permit number 675302) the netting attached to the playground fence along 10th Avenue East, East Lynn Street, and the western edge of the northern playground was described as being five feet in height, and thus was approved at that height. However, in order to keep playground balls from bouncing into the streets, this five foot high net was replaced with a net that is eight feet taller than the approved net, for a total netting height of 13 feet above the existing wood fence. At the same time, the support poles for the net were replaced with taller poles for the attached netting. Those poles also extend 13 feet above the existing wood fence. Thus, the proposal requires an ACU review of an additional eight feet of netting and poles. The netting is black, transparent nylon mesh, and the poles are standard galvanized metal poles.

Public Comment

Comment letters were received during the official public comment period, which ended July 19, 2006. Some comment letters focused on traffic and parking in the neighborhood, permit processing, and issues that relate to previous permits. Some comments ask that the taller net not be allowed. One letter noted that the taller net to keep basketballs in their existing play courts is not objectionable.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE GENERAL PROVISIONS **(SMC 23.45.116)**

A. Only those uses identified in this subchapter as conditional uses may be authorized as conditional uses in multifamily zones. The master use permit process shall be used to authorize these uses.

The Land Use Code allows schools as a use permitted outright if the proposal meets all development standards. (SMC 23.45.004A7) When the school does not meet all development standards then it is allowed through the Administrative Conditional Use approval process.

B. Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Subchapter I.

This proposal is subject to development standards SMC 23.45.002 through 23.45.018.

C. The Director may approve, condition or deny a conditional use. The Director's decision shall be based on a determination whether the proposed use meets the criteria for establishing a specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

This decision shall be based on whether the proposed use meets the development criteria and conditional use criteria as described in SMC 23.45.122 A through D. A school has operated at the neighboring location since 1976. The City recognizes the public benefit that institutions, such as these have made by providing educational and cultural opportunities to their communities. The criteria for establishing this expansion shall be examined, and the project will be conditioned to attempt to mitigate any detriment or injury to property in the vicinity. The existing use is already approved under project number 9400127. The additional eight (8) feet of netting is under consideration in this application.

D. In authorizing a conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

The criteria described in SMC 23.45.122 A through D is used to evaluate the proposal and condition, if necessary, to protect other properties and the public interest.

E. The Director shall issue written findings of fact and conclusions to support the Director's decision.

Findings and conclusions are enumerated in the following analysis.

F. Any authorized conditional use which has been discontinued shall not be reestablished or recommenced except pursuant to a new conditional use permit. The following shall constitute conclusive evidence that the conditional use has been discontinued:

- 1. A permit to change the use of the property has been issued and the new use has been established; or*
- 2. The property has not been devoted to the authorized conditional use for more than twenty-four (24) consecutive months.*

The use remains the same at this site and has not been discontinued.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE (SMC 23.45.122)

The Seattle Land Use Code (SMC 23.45.122) provides that institutions such as schools may be permitted as conditional uses in Lowrise zones. Sections 23.45.122 A through D set forth criteria to be used to evaluate and/or condition the proposal. The applicable criteria are discussed below.

SMC 23.45.122 Institutions other than public schools not meeting development standards.

Institutions other than public schools which do not meet development standards established in Section 23.45.090 may be permitted in multifamily zones as administrative conditional uses. The following criteria shall be used to evaluate and/or condition the proposals:

Institutions meeting all development standards are allowed in the Lowrise zones. This proposal does not meet all development standards and so must be reviewed under SMC 23.45.122. The

playground netting is higher than code allowed within the required setback. The Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary.

A. Bulk and Siting. In order to accommodate the special needs of the proposed institution, and to better site the facility with respect to its surroundings, the Director may modify the applicable development standards for modulation, landscaping, provision of open space, and structure width, depth and setbacks. In determining whether to allow such modifications, the Director shall balance the needs of the institution against the compatibility of the proposed institution with the residential scale and character of the surrounding area.

Under project number 9400127 (building permit number 675302) the netting attached to the playground fence along 10th Avenue East, East Lynn Street, and the western edge of the northern playground was described as being five feet in height, and thus was approved at that height. However, in order to keep playground balls from bouncing into the streets, this five foot high net was replaced with a net that is eight feet taller than the approved net, for a total netting height of 13 feet above the existing wood fence. At the same time, the support poles for the net were replaced with taller poles. Those poles also extend 13 feet above the existing wood fence.

The location of the net is due to the existing ball court and siting the higher net is due to the ball court and its use. The additional net height creates a see-through structure. The net is fairly transparent. The additional eight (8) feet of net and support poles will not interfere with the residential scale and character of the surrounding area. A site visit confirms that the transparent net mitigates the additional height at this location. The dark net and poles help to reduce the sense of bulk while allowing views through the netting. The increased safety for the surrounding uses is an important consideration for the public. No landscaping will be reduced or altered with this proposal

B. Dispersion Criteria. An institution which does not meet the dispersion criteria of Section 23.45.102 may be permitted by the Director upon determination that it would not substantially aggravate parking shortages, traffic safety hazards, and noise in the surrounding residential area.

The proposal meets the dispersion criteria.

C. Noise. The Director may condition the permit in order to mitigate potential noise problems. Measures to be used by the Director for this purpose include, but are not limited to the following: landscaping, sound barriers or fences, mounding or berming, adjustments to yards or the location of refuse storage areas, or parking development standards, design modification and fixing of hours for use of areas.

The proposal will not increase noise at this location.

D. Transportation Plan.

1. A transportation plan shall be required for proposed new institutions and for those institutions proposing expansions which are larger than four thousand (4,000) square feet of structure area and/or required to provide twenty (20) or more parking spaces.

A transportation plan is not required for this proposal.

2. The Director shall determine the level of detail to be disclosed in the transportation plan based on the probable impacts and/or scale of the proposed institution. Consideration of the following elements and other similar factors may be required:

a. Traffic. Number of staff during normal working hours; users, guests and others regularly associated with the institution; level of vehicular traffic generated; traffic peaking characteristics of the institution and the immediate area; likely vehicle use patterns; extent of congestion; types and number of vehicles associated with the use; and mitigating measures to be taken by the applicant;

Traffic and parking analysis is not required for this net extension proposal.

b. Parking Area. Number of spaces; extent of screening from public or abutting lots; direction of vehicle light glare; direction of lighting; sources of possible vibration; prevailing direction of exhaust fumes; location of driveway and curb cuts; accessibility and convenience of the parking area; and mitigating measures to be taken by the applicant, such as parking space preferences for carpool or vanpool vehicles and provisions for bicycle racks;

Traffic and parking analysis is not required for this net extension proposal.

c. Parking Overflow. Number of vehicles expected to park in the street; percentage of on-street parking supply to be used by the proposed use; opportunities available to share existing parking areas; trends in local area development and mitigating measures to be taken by the applicant;

d. Safety. Number of driveways which cross pedestrian walkways; location of passenger loading areas;

Balls entering the streets and sidewalks in this location can startle or hurt passers-by and interrupt traffic or at worst cause an accident. The additional eight (8) feet of net and support poles will increase the public safety in the area. The taller height of the netting appears to be an appropriate solution for the safety of passers by and for traffic in the adjoining streets.

e. Availability of Mass Transportation. Bus route location and frequency of service; private transportation programs, including carpools and vanpools, to be provided by the applicant.

Metro Bus route 7 serves this site. Bus service headways are approximately every half hour to every 10 minutes during peak hour trip times.

3. The Director may condition a permit to mitigate potential traffic and parking problems. Measures which may be used by the Director for this purpose include, but are not limited to, the following:

a. Implementing the institution's transportation plan to encourage use of public or private mass transit;

b. Increasing on-site parking or loading space requirements to reduce overflow of vehicles into the on-street parking supply;

c. Changing access and location of parking;

d. Decreasing on-site parking or loading space requirements, if the applicant can demonstrate that less than the required amount of parking is necessary due to the specific features of the institution or the activities and programs it offers. In such cases, the applicant shall enter into an agreement with the Director, specifying the amount of parking required and linking the parking reduction to the features of the institution which justify the reduction. Such parking reductions shall be valid only under the conditions specified, and if those conditions change, the standard requirement shall be satisfied.

No additional mitigation is contemplated for this net extension proposal.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The conditional use application is **APPROVED** as indicated at the end of this document.

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

For the Life of the Project

1. The ball court netting and poles shall be maintained in good condition and retain the current level of transparency and color.

Signature: (signature on file) Date: October 5, 2006
Holly J. Godard, Land Use Planner
Department of Planning and Development