



City of Seattle

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

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

**Application Number:** 3006856

**Applicant Name:** Jeffrey Frechette for Joyce Maudslein,  
Nurturing Knowledge Preschool

**Address of Proposal:** 4418 Phinney Avenue North

**SUMMARY OF PROPOSED ACTION**

Land Use Application to change the use of a single family residence to an institution (Nurturing Knowledge Child Care Center). The center will have two employees and will care for approximately 20 children.

The following approval is required:

**Administrative Conditional Use Permit** - to allow a child care center in a multi-family residential zone, Seattle Municipal Code (SMC) 23.45.116.

**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 & Vicinity Description

The 4500 square foot property is located on the east side of Phinney Avenue North, midblock between North 44<sup>th</sup> Street and North 45<sup>th</sup> Street, in Seattle's Fremont neighborhood. One single family dwelling exists on the property. The adjacent street is a fully improved 60 foot collector arterial, with sidewalks, curbs, gutters, and paving. The site is accessed via a shared 13 foot driveway along the north property line. There is no alley adjacent to the site.

The site is currently in use as a Family Child Day Care Home, with 12 children, under authority from the Washington State Department of Early Learning (DEL).

The subject property is located in a multi-family Lowrise zone (L-1), which encompasses properties in the immediate vicinity. The Lowrise zone increases in intensity to L-3 further north and east of the site, and to Single Family with a minimum lot area requirement of 5,000 square feet (SF 5000) west beyond Palatine Avenue North. The area is characterized by single and multi-family uses along Phinney Avenue North.

Seven Metro bus stops exist within two blocks of the site, providing service to and from downtown, most major urban centers, and major transportation routes.

### Proposal

The applicant proposes to change the use of a single family residence to an institution (Nurturing Knowledge Child Care Center). Institutions, such as daycares, are a use permitted outright in multi-family zones per SMC 23.45.090, if all development standards are met. If the institution does not meet development standards, as is the case here, then approval of an administrative conditional use is required per SMC 23.45.122.

The proposed daycare meets all development standards, except for one. Child care centers are required to have one parking space for each 10 children or one parking space for each staff member, whichever is greater; plus one loading and unloading space for each 20 children (SMC 23.54.015 Chart C). The parking shall be located on the same site as the principal use (SMC 23.45.018). Nurturing Knowledge Day Care Center has no available off-street parking, and will have one loading and unloading on-street parking space. The Seattle Department of Transportation (SDOT) intends to install one twenty foot



curbside parking space in front of 4418 Phinney Avenue North for use as a 30 minute load and unload parking space, from 7:00 a.m. until 6:00 p.m., Monday through Friday.

The center will provide day care to a maximum of 20 children, and will be staffed by two full time teachers. The hours of operation are expected to be from 8:00 a.m. to 4:00 p.m., Monday through Friday. Two sessions will be offered; half day care from 8:30 to 12:00 p.m. (20 children until 12:00 p.m.), and full day care from 8:45 to 2:45 p.m. (10 children from 12:00 to 3:00 p.m.). There will be a total of three drop-off and pick-up times during the day, all of which are expected to end by 3:00 p.m. daily.

There are two points at which children and teachers access the building; one in front along Phinney Avenue North, and an access point at the rear of the building. The outdoor play area is proposed to be in the rear yard, east of the existing structure, and along the southern property line, comprising a total exterior play area of approximately 750 square feet. The maximum number of children playing outside at one time is proposed to be 10.

The existing single family residence is a two-story structure with a full basement, formerly in use as a rental unit. The ground level will be comprised of three classrooms, an art room, kitchen, bathroom, and storage areas. The second story will contain two staff offices, a bathroom, and storage areas. The basement will be used for laundry, mechanical equipment, and storage. There are no proposed changes to the existing building.

#### Public Comment

Notice of the proposed project was published March 29, 2007. The extended public comment period ended on April 26, 2007. DPD received written comments from four individuals expressing objections to the application based on potential impacts of the proposal primarily in the form of increased noise and traffic generated. Comment letters, along with associated documents and reviews, can be found in the Land Use Application file. The file is available for review at the Seattle DPD Public Resource Center, 700 Fifth Avenue, Suite 2000 (<http://www.seattle.gov/dpd/PRC/Overview> ).

#### **ADMINISTRATIVE CONDITONAL 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 child care centers as a use permitted outright if the proposal meets all development standards (SMC 23.45.004 A7). When a child care center 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 1.*

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 of 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. The City recognizes the public benefit that institutions, such as child care centers, have made by providing important educational and social opportunities to their communities. The criteria for establishing this institution shall be examined, and the project will be conditioned to mitigate identified detriment or injury to property in the vicinity.

*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 are 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 proposed use is not a discontinued or reestablished use, therefore this provision does not apply.

### **ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT**

Seattle Municipal Code (SMC) 23.45.090 sets forth the general provisions for institutions in multi-family zones, and states: "The establishment of new institutions, such as religious facilities, community centers, private schools and child care centers, which meet the development standards of Sections 23.45.092 through 23.45.102, shall be permitted outright in all multifamily zones. Institutions not meeting all the development standards of these sections may be permitted as administrative conditional uses subject to the requirements of the Section 23.45.122."

The following criteria shall be used to evaluate and/or condition the proposal:

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 proposed amount of off-street parking spaces is less than the Seattle Municipal Code requires. 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.

With regard to modulation, landscaping, provision of open space, and structure width, depth, and setbacks, no modifications to applicable development standards are needed for this application. Minor alterations to the bulk and siting of the structure include removal of the existing shed adjacent to the east property line, and removal of portions of the existing rear deck to accommodate increased landscaping and outdoor play area in the rear of the property. These alterations are exempt from permit requirements, pursuant to the Seattle Residential Code, R105.2.

- 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 proposed institutional use meets the dispersion criteria of Section 23.45.102; no other institutions exist within 600 feet of the subject site.

- 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 area, or parking development standards, design modification, and fixing of hours for use of areas.

Child care facilities necessarily generate noise, largely the result of children's outdoor play. DPD recognizes that the noise associated with the child care center's outdoor play area is perhaps the most important impact of the child care use on the site. The Director asked that the applicant submit a detailed activity program, as well as a comprehensive noise study to better assess the impacts of noise on the surrounding residents.

The applicant submitted an activity program that details the general schedule of daily activities. School hours of operation will be from 8:00 a.m. to 4:00 p.m., Monday through Friday, and will include two general sessions; one half day session from 8:30 to 12:00 p.m., and one full day session from 8:45 to 2:45 p.m.

Twenty (20) children will utilize the facility from 8:30 to 12:00 p.m., and 10 children from 12:00 p.m. to 2:45 p.m. The proposal states that, at any given outside play period, no more than 10 children, plus one staff member, will use the outdoor play areas (which will not result in more children playing outside at any one time than is the case currently). Indoor activities will continue with the remaining 10 children and one staff member. During the course of the day, children will be playing in the rear and side yards for a total of three 30 minute periods, all prior to 12:30 p.m. (Table 1).

Time	Activity	Users (+2 Staff)	Outside Play (+1 Staff)
8:00	Teachers arrive	2	
8:00 - 8:30	Teachers prep classrooms	2	
<b>8:30 - 8:45</b>	Greet 1/2 day children (10)	12	
<b>8:45 - 9:00</b>	Greet full day children (10)	<b>22</b>	
9:00 - 9:20	Large group circle time	<b>22</b>	
<b>9:20 - 9:50</b>	Pre K small group	<b>22</b>	
	Preschool <b>outside play</b>	<b>22</b>	<b>11</b>
<b>10:00 - 10:30</b>	Preschool small group	<b>22</b>	
	Pre K <b>outside play</b>	<b>22</b>	<b>11</b>
10:30 - 11:30	Free choice activity	<b>22</b>	
11:30 - 12:00	Literacy group	<b>22</b>	
<b>12:00</b>	Dismissal half day program	12	
<b>12:00 - 12:30</b>	Art work or <b>outdoor play</b>	12	<b>11</b>
12:30 - 1:00	Lunch	12	
1:00 - 1:30	Quiet time/Independent work	12	
1:30 - 2:30	Project work, free choice	12	
2:30 - 2:45	Closing circle	12	
2:45	Dismissal full day program	2	
2:45 - 4:00	Teacher prep/clean up	2	
4:00	Teachers leave	0	

**Table 1.** Nurturing Knowledge Program Schedule

The applicant submitted a noise study, “Noise Study: Nurturing Knowledge School, Phinney-Fremont Campus”, prepared by The Greenbusch Group, Inc., to assess the impacts of 20 children on the surrounding area. The study provided information related to the following:

- Measurement of current noise levels on-site (4418 Phinney Avenue North) **without** daycare activities underway, at eight points along the perimeter of the property;
- Measurements of an **active** day care facility, including noise level measurements of children outside in play areas, vehicular noise during drop-off and pick-up times, and noise levels of children indoors;
- The studies were conducted on a weekday, between the hours of 8:30 a.m. and 4:00 p.m.;
- Findings were presented in a comprehensive report and were related to noise standards prescribed in the Seattle Noise Ordinance regulations with particular regard to residential zones (SMC 25.08).

The report was reviewed by the DPD Land Use Planner, and DPD’s Noise Control Program Specialist. The document is available for public review in the project file. The acoustic consultant’s report indicated that “sound exposure limits due to the activity from the proposed facility are predicted to comply with sound exposure limits as defined in SMC 25.08.” The report shows that maximum permissible sound exposure levels in residential zones are 55 dBA (SMC 25.08.410). For sound levels of short duration, the code is modified to increase the levels as follows:

- 5 dBA → 15 minutes; few complaints if gradual increase
- 10 dBA → 5 minutes; more complaints, especially during sleeping hours
- 15 dBA → 1.5 minutes; substantial number of complaints<sup>1</sup>

The proposed child care center is approximately 15 feet from the adjacent multifamily structure to the south, and includes a 10 foot wide play area between the buildings. The neighbor has concerns that noise levels during drop-off time, the three outdoor play times, and pick-up times will exceed “normal” residential noise limits. The resident has indicated that even the existing use of the property as a child care facility for up to 12 children has resulted in disturbing and distracting noise levels. Children dropped off in the morning and picked up later in the day pass between the proposed child care facility and the residence to the south. Foot traffic between the two structures coupled with the outside play periods, further impact the adjacent resident.

To mitigate noise impacts from outdoor activities, the applicant intends to add several dense, quick growing Arborvitae evergreen trees and Italian Cypress trees along the south and east property lines. Recycled rubber bark will be used as a noise absorbing play ground material, and the applicant has installed six foot cedar fencing around the entire play area.

The day care center has implemented limited hours of operation and staggered drop-off and pick-up times in order to address the impact of outdoor activities on the neighbors. Hours of operation, when children are reasonably expected to be on-site, are from 8:00 a.m. to 4:00 p.m. Parents have been notified that pick up and drop-off times will be at the following times:

- 8:15 a.m. to 8:45 a.m.;
- 11:45 a.m. to 12:15 p.m.;
- 2:30 p.m. to 3:00 p.m.

Based on consultation with DPD’s Noise Control Program Specialist, the Director has determined that additional mitigation efforts are warranted. The child care center has installed 6 foot cedar fencing around the perimeter of the outside play area. Cedar fencing has been found to shrink, crack, and generate gaps in planking over time, enabling noise to penetrate to adjacent residences. A more effective barrier to noise (from at-grade to a level of six feet in height) would be installation of a 2-layer, ¾-inch plywood fence, at 4 pounds per square inch. A 4 inch to 6 inch hardy-board foundation at the base of the fencing, completely sealed between the ground and the lower edge of the plywood slabs, will ensure that moisture does not erode and deteriorate the plywood. Installation of a plywood acoustical fence, with these specifications, along both south and east property lines will be a condition of this project to be maintained for the life of the project.

#### *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.*

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<sup>1</sup> Noise Study: Nurturing Knowledge School, Phinney-Fremont Campus. The Greenbusch Group, Inc. July 2, 2007.

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.*
3. *The Director may condition a permit to mitigate potential traffic and parking problems.*

**Parking** The proposed day care does not meet development standards for parking quantity as established in Section 23.45.098. Childcare centers, pursuant to SMC 23.54.015, are required to have one off-street parking space for each 10 children or one off-street parking space for each staff member, whichever is greater; plus one loading and unloading parking space for each 20 children. SDOT has approved Nurturing Knowledge Day Care Center installation of one 30 minute loading and unloading parking space, from 7:00 a.m. to 6:00 p.m. The Center has no available off-street parking spaces, and therefore has applied for this Administrative Conditional Use permit application.

To assess the likely impacts of the day care center having no available off-street parking spaces, the Director requested that the applicant conduct a parking study. The objective of the parking study is to determine both the amount of on-street parking available in the immediate vicinity, and the rate of parking utilization during either the morning or afternoon hours when parents might be expected to visit the site. The document is available for public review in the permanent application file.

The applicant's study showed the number of available parking spaces surrounding the site within 400 walking feet from the site, as well as parking spaces available at several times throughout the day on days of normal hours of operation (including drop-off and pick-up times). The study demonstrated that that parking availability surrounding the site would be adequate to support a worst-case scenario of a morning convergence of 20 children and their parents in individual vehicles, each occupying a parking space for a maximum of approximately 20 minutes.

Currently, one staff member lives on-site, and the remaining staff member utilizes public transportation to the site (there are seven Metro bus routes within a two-block radius of the site). The applicant has determined that the majority of parents will be driving their children to the site and will therefore either use the SDOT load and unload parking space, or will use surrounding on-street parking.

The neighborhood is primarily residential, so peak demand for on-street parking occurs evenings, nights, and weekends. Peak parking demand generated by the proposed child care center is likely to be during the early morning drop-off time of 8:00 a.m. and 9:00 a.m., while lower demands would occur midday, and again from 2:30 p.m. and 3:00 a.m. These pulses in parking demand would occur outside of the hours of peak demand by most neighbors.

Phinney Avenue North is a 60 foot wide collector arterial with a roadway of 40 feet. Parking is allowed on both the west and east sides of the street, leaving sufficient room for two-way traffic. Surrounding streets are narrower (primarily 25 foot roadway widths), but allow parking on both sides of the street.

Two teachers are expected to arrive on-site prior to 8:00 a.m., followed by ten "half-day children" and ten "full day children". By 9:00 a.m. all 20 children are expected to be on-site. Parents and staff will be directed to approach the site from the south along Phinney Avenue North (as determined by Nurturing Knowledge Day Care Center to be a more efficient direction from which to approach the loading and unloading space), and will be encouraged to use all available opportunities for carpooling and public transportation (*Parent Transportation Plan*). A site plan, along with public transportation routes and suggested parking areas will be included in staff and parent orientation materials.

The Director has determined, based on the parking study and demonstrated methods for informing parents and visitors of available parking surrounding the site, that the load and unload area and the available on-street parking would meet the expected parking demand from the proposal.

**Traffic** The Institute of Traffic Engineers (ITE) 2003 Trip Generation Manual indicates that a day care center generates, on average, 0.82 vehicle trips per student during the morning peak hour, and 0.85 vehicle trips per student during afternoon peak hour. Using those ratios, the proposed day care would be expected to generate approximately 17 vehicle trips during the morning and afternoon peak hours.

The Director has determined that the addition of 17 vehicle trips per day would not significantly alter traffic patterns or traffic safety surrounding the site, and does not require further conditioning of this project relative to traffic.

### **CONCLUSIONS**

Based on the foregoing analysis and review, the proposed action satisfies all the relevant requirements of SMC 23.45.116 and 23.45.122 governing administrative conditional uses in multi-family zones. It is the Director's determination that the proposal as conditioned would not be materially detrimental to the public welfare nor injurious to property in the zone or vicinity in which the child care center will be located, and should therefore be conditionally granted.

### **DECISION – ADMINISTRATIVE CONDITIONAL USE PERMIT**

The application for an administrative conditional use is **CONDITIONALLY GRANTED**.

### **CONDITIONS – ADMINISTRATIVE CONDITIONAL USE PERMIT**

#### *Prior to Issuance of the Master Use Permit*

The owner(s) and/or responsible party(ies) shall:

1. Update plans to state that attendance at the center will be limited to no more than 20 children at any time.
2. The applicant shall be required to adhere to the program schedule submitted (and consistent) with this application, including anticipated outdoor play times, and staggered drop-off and pick-up times.
3. In accordance with Land Use Code standards, the applicant shall show on plans and obtain necessary permits from Seattle Department of Transportation (SDOT), to establish a load and unload space in front of the proposed child care. The space shall have appropriate signage, and shall be clearly and visibly identified so that it can be easily detected by parents and traffic along Phinney Avenue North.

4. Amend the plans to show location and details of a noise-barrier fence, six feet in height, along the south and east property lines built to the following specifications: 2 layers of ¾-inch plywood fencing, for a total 4 pounds per square inch, with 4 inch by 4 inch posts and a 4 inch to 6 inch hardy-board foundation at the base of the fencing – completing a seal between the ground and the lower edge of the plywood slabs. Contact DPD’s Noise Control Program Specialist, 684-7843, for further clarification if needed.
5. Update the *Parent Transportation Plan* to show the arrow on the vicinity map pointing **north** (rather than south) so that parents and visitors are not confused in terms of the best way in which to approach the site.

Prior to Certificate of Occupancy

6. The owner(s) and/or responsible party(s) shall maintain and replace all on-site landscaping as shown on the plans approved by the Land Use Planner. The landscaping shall be installed with the full variety of plants listed in the MUP plans.

Permanent for the Life of the Project

7. Nurturing Knowledge Care Center staff and Director shall include in parent orientation meetings and materials all requirements and procedures regarding drop-off and pick-up of children as well as notification of available on-street parking spaces.
8. In accordance with the terms of the Master Use Permit, the owner(s) or responsible party(ies) shall limit attendance at the center to no more than 20 children at any time.
9. The above-mentioned noise-barrier fence shall be kept in good condition for the life of the project.

Signature: \_\_\_\_\_ (signature on file) Date: October 22, 2007

Catherine McCoy, Land Use Planner  
Department of Planning and Development

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