



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: 3006981
Applicant Name: Marshall Jones
Address of Proposal: 3003 SW Roxbury Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow an institution (child-care center for 20 children) in existing single family residence.

The following approval is required:

Administrative Conditional Use Permit - to allow a child care center in a single family residential zone, Seattle Municipal Code (SMC) 23.44.022.

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

BACKGROUND DATA

The subject site is located at the southwest corner of the intersection of SW Roxbury Street and 30th Avenue SW. It is the most easterly City property along 30th Avenue SW, the City limit being the centerline of the street. It is zoned SF 5000, and it is developed with a one-story single family residence. Properties to the west along Roxbury are similarly developed. Properties to the south, while vastly different in configuration, also are developed with single family residences on the City side. At the southeast corner of the intersection of 30th Avenue SW and

Roxbury, there is a gas station property. South of that is a veterinary center, after which going south are single family residences. Other commercial uses prevail to the east on the south side of Roxbury. Roxhill Elementary School is kitty-corner to the northeast. Adjacent to the school to the east is Roxhill Park.

30th Avenue SW is not fully improved. It does have an asphalt roadway, a small portion of which is located on City property, and most of which appears to lay to the east of the center line of the street, outside of the City. A substantial portion of the City right-of-way is graveled and used for angle-in parking. There is a sidewalk on the south side of Roxbury. There is an eastbound Metro bus stop on Roxbury, adjacent to the subject property, quite near the intersection. The principal route of pedestrians dropped by the bus is east, across 30th Avenue SW, toward the school and the commercial zone.

Access to site parking comes from 30th Avenue SW, and wraps around the back of the site on private property. There is a gate admitting to at least two parking spaces, which were observed to be in use on both site visits. The access, while on private property, appears to be long-established, and likely qualifies as a prescriptive easement. There is also a parking space, also observed to be in use on both site visits, accessible both from the private property and directly from 30th Avenue SW as well. This area is shown as “existing grass.” However, it was observed to be in parking and circulation use on one site visit; it appears to be partially graveled at least.

Proposal

The applicant proposes to establish a day care use to serve up to 20 children. Hours of operation would be from 6 a.m. to 6 p.m. Two on-site parking spaces are proposed at the SE corner of the property, historically accessed across the separate property to the south. It is proposed to move the fence so that it would be possible to access this parking from the right of way. Parallel parking is also proposed to be in the street right-of-way, together with a loading area. Outdoor play will be located at the SW corner of the property. Small landscaping strips are proposed.

Public Comment

None.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT (SMC 23.44.022)

SMC Section 23.44.022 sets forth the types of institutions that may be permitted as conditional uses in single family zones, which includes child care centers.

D. General Provisions.

- 1. New or expanding institutions in single-family zones shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016 unless modified elsewhere in this subsection or in a Major Institution master plan.*

See discussion of parking below. The proposal otherwise satisfies all requirements of the SF zone.

2. *The establishment of a child care center in a legally established institution devoted to the care or instruction of children which does not violate any condition of approval of the existing institutional use and does not require structural expansion shall not be considered a new use or an expansion of the institutional use.*

NA.

3. *Institutions seeking to establish or expand on property which is developed with residential structures may expand their campus up to a maximum of two and one-half (2 1/2) acres. An institution campus may be established or expanded beyond two and one-half (2 1/2) acres if the property proposed for the expansion is substantially vacant land.*

NA

4. *An institution which finds that the development standards of the single-family zone classification are inadequate to its development needs may apply for reclassification to Major Institution status.*

NA

E. Dispersion.

1. *The lot line of any proposed new or expanding institution, other than child care centers locating in legally established institutions, shall be located six hundred (600) feet or more from any lot line of any other institution in a residential zone, with the following exceptions:*
 - a. *An institution may expand even though it is within six hundred (600) feet of a public school if the public school is constructed on a new site subsequent to December 12, 1985.*
 - b. *A proposed institution may be located less than six hundred (600) feet from a lot line of another institution if the Director determines that the intent of the dispersion criteria is achieved due to the presence of physical elements such as bodies of water, large open spaces or topographical breaks or other elements such as arterials, freeways or nonresidential uses, which provide substantial separation from other institutions.*

The proposed child care center is less than 600 feet from the Roxhill Elementary School, which is kitty-corner across Roxbury and 30th Avenue SW. There is some potential for demand for parking adjacent to the subject site to serve Roxhill Elementary, because parking on 30th Avenue SW north of Roxbury is at capacity during the morning hours at least. During a site visit, one car not associated with the day care operation parked in the angle-in spot nearest Roxbury, and crossed the street heading east. The car remained there for the entire site visit at least. Nonetheless, spillover demand from Roxhill Elementary is not likely to be pressing, because Roxbury is a very busy street, and the general inclination of people dropping off or picking up

children will likely be to park as far north on 30th as need be to find a space rather than parking south of Roxbury. Because of Roxbury, it seems reasonable to conclude that the proposal satisfies the dispersion requirement.

2. *A proposed child-care center serving not more than twenty-five (25) children which does not meet the criteria of subsection E1 of this section may be permitted to locate less than six hundred (600) feet from a lot line of another institution if the Director determines that, together with the nearby institution(s), the proposed child care center would not:*
 - a. *Create physical scale and bulk incompatible with the surrounding neighborhood;*
 - b. *Create traffic safety hazards;*
 - c. *Create or significantly increase identified parking shortages; or*
 - d. *Significantly increase noise levels to the detriment of surrounding residents.*

NA

F. *Demolition of Residential Structures. No residential structure shall be demolished nor shall its use be changed to provide for parking. This prohibition may be waived if the demolition or change of use proposed is necessary to meet the parking requirements of this Land Use Code and if alternative locations would have greater noise, odor, light and glare or traffic impacts on surrounding property in residential use. If the demolition or change of use is proposed for required parking, the Director may consider waiver of parking requirements in order to preserve the residential structure and/or use. The waiver may include, but is not limited to, a reduction in the number of required parking spaces and a waiver of parking development standards such as location or screening.*

N/A.

G. *Reuse of Existing Structures. Existing structures may be converted to institution use if the yard requirements for institutions are met. Existing structures which do not meet these yard requirements may be permitted to convert to institution use, provided that the Director may require additional mitigating measures to reduce impacts of the proposed use on surrounding properties.*

NA

H. *Noise and Odors. For the purpose of reducing potential noise and odor impacts, the Director shall consider the location on the lot of the proposed institution, on-site parking, outdoor recreational areas, trash and refuse storage areas, ventilating mechanisms, sports facilities and other noise-generating and odor-generating equipment, fixtures or facilities. The institution shall be designed and operated in compliance with the Noise Ordinance, Chapter 25.08.*

In order to mitigate identified noise and/or odor impacts, the Director may require measures such as landscaping, sound barriers or fences, mounding or berming, adjustments to yard or parking development standards, design modifications, setting hours of operation for facilities or other similar measures.

Child care facilities necessarily generate noise, largely the result of children's outdoor play. The proposed play area is located 3 feet from the adjacent property line to the west, with virtually no buffer between. However, this area is rather far from the adjacent house. It does not appear likely that the play area, even when used, would adversely impact the adjacent property.

Odors generated by the child care facility would likely be limited to those associated with any cooking and refuse disposal. Neither activity is likely to generate odors that would warrant conditioning.

- I. Landscaping. Landscaping shall be required to integrate the institution with adjacent areas, reduce the potential for erosion or extensive stormwater runoff, reduce the coverage of the site by impervious surfaces, screen parking from adjacent residentially zoned lots or streets or to reduce the appearance of bulk of the institution. Landscaping plant materials shall be species compatible with surrounding flora. Existing plant material may be required to be retained. Maintenance of landscaped areas shall be the continuing responsibility of the owner.*

Site landscaping consists largely of grass and a large tree in the back yard near the play area that appears to have been topped many years ago. None of the factors warranting imposition of landscaping conditions appear to exist.

- J. Light and Glare. Exterior lighting shall be shielded or directed away from adjacent residentially zoned lots. The Director may also require that the area and intensity of illumination, the location or angle of illumination be limited. Nonreflective surfaces shall be used to help reduce glare.*

The proposal involves no changes from the existing home with regard to light and glare.

- K. Bulk and Siting.*
- 1. Lot Area. If the proposed site is more than one (1) acre in size, the Director may require the following and similar development standards:*
 - a. For lots with unusual configuration or uneven boundaries, the proposed principal structures be located so that changes in potential and existing development patterns on the block or blocks within which the institution is located are kept to a minimum;*
 - b. For lots with large street frontage in relationship to their size, the proposed institution reflect design and architectural features associated with adjacent residentially zoned block faces in order to provide continuity of the block front and to integrate the proposed structures with residential structures and uses in the immediate area.*

2. *Yards. Yards of institutions shall be as required for uses permitted outright in Section 23.44.008, provided that no structure other than freestanding walls, fences, bulkheads or similar structures shall be closer than ten (10) feet to the side lot line. The Director may permit yards less than ten (10) feet but not less than five (5) feet after finding that the reduced setback will not significantly increase impacts, including but not limited to noise, odor and comparative scale, to adjacent lots zoned residential and there will be a demonstrable public benefit.*
3. *Institutions Located on Lots in More Than One (1) Zone Classification. For lots which include more than one (1) zone classification, single-family zone provisions shall apply only to the single-family-zoned lot area involved.*
4. *Height Limit.*
 - a. *Religious symbols for religious institutions may extend an additional twenty-five (25) feet above the height limit.*
 - b. *For gymnasiums and auditoriums that are accessory to an institution the maximum height shall be thirty-five (35) feet if portions of the structure above thirty-five (35) feet are set back at least twenty (20) feet from all property lines. Pitched roofs on a gymnasium or auditorium which have a slope of not less than three to twelve (3:12) may extend ten (10) feet above the thirty-five (35) foot height limit. No portion of a shed roof on a gymnasium or an auditorium shall be permitted to extend beyond the thirty-five (35) foot height limit under this provision.*
5. *Facade Scale. If any facade of a new or expanding institution exceeds thirty (30) feet in length, the Director may require that facades adjacent to the street or a residentially zoned lot be developed with design features intended to minimize the appearance of bulk. Design features which may be required include, but are not limited to, modulation, architectural features, landscaping or increased yards.*

The proposal involves no changes from the existing home with regard to bulk and siting. Most of the above development standards apply to new institutional structures of a considerably different scale than their surrounding neighborhoods. This proposal involves no such transition in scale, and most of the limits discussed above do not apply. Given the residential scale of the existing structure, the Director finds in accordance with subsections G and K2 that the existing residential side setbacks are appropriate for the child care center as proposed.

L. Parking and Loading Berth Requirements.

1. *Quantity and Location of Off-street Parking.*
 - a. *Use of transportation modes such as public transit, vanpools, carpools and bicycles to reduce the use of single-occupancy vehicles shall be encouraged.*
 - b. *Parking and loading shall be required as provided in Section 23.54.015.*
 - c. *The Director may modify the parking and loading requirements of Section 23.54.015, Required parking, and the requirements of Section 23.44.016, Parking location and access, on a case-by-case basis using the information contained in the transportation plan prepared pursuant to subsection M of this section. The modification shall be based on adopted City policies and shall:*

generated, traffic peaking characteristics of the institution and in the immediate area, likely vehicle use patterns, extent of traffic congestion, types and numbers of vehicles associated with the institution and mitigating measures to be taken by the applicant;

2. *Parking. Number of spaces, the extent of screening from the street or abutting residentially zoned lots, direction of vehicle light glare, direction of lighting, sources of possible vibration, prevailing direction of exhaust fumes, location of parking access and curb cuts, accessibility or convenience of parking and measures to be taken by the applicant such as preference given some parking spaces for carpool and vanpool vehicles and provision of bicycle racks;*
3. *Parking Overflow. Number of vehicles expected to park on neighboring streets, percentage of on-street parking supply to be removed or used by the proposed project, opportunities for sharing existing parking, trends in local area development and mitigating measures to be taken by the applicant;*
4. *Safety. Measures to be taken by the applicant to ensure safe vehicular and pedestrian travel in the vicinity;*
5. *Availability of Public or Private Mass Transportation Systems. Route location and frequency of service, private mass transportation programs including carpools and vanpools, to be provided by the applicant.*

NA

N. Development Standards for Existing Institutes for Advanced Study.

1. *The institute shall be located on a lot of not less than fifteen (15) acres.*
2. *The lot coverage for all structures shall not exceed twenty (20) percent of the total lot area.*
3. *Structures shall be set back a minimum of twenty-five (25) feet from any lot line.*
4. *Parking areas shall be set back a minimum of ten (10) feet from any lot line.*
5. *In the event of expansion, parking shall be required as provided for "existing institutes for advanced study" in Section 23.54.015, required parking.*
6. *Landscaping shall be provided between a lot line and any structure and shall be maintained for the duration of the use.*

NA

Administrative Conditional Use General Provisions (SMC 23.44.018)

- A. *Only those conditional uses identified in this subchapter as conditional uses may be authorized as conditional uses in single family zones. The Master Use Permit process set forth in Chapter 23-76, Procedures for Master Use Permits and Council Land Use Decisions, shall be used to authorize conditional uses.*

The Department recognizes the public benefit achieved by accommodating institutions such as child care centers in single family zones. The Land Use Code, as an enunciation of City policy, allows these institutions in single family zones, but establishes the administrative conditional use process as the mechanism for screening and mitigating impacts related to the uses. The proposed

facility, as conditioned by the Department, is identified as a conditional use which can be authorized in a single family zone.

B. Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016.

The subject proposal meets all of the development standards except for parking, which has been conditioned below.

C. A conditional use may be approved, conditioned or denied 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.

The proposal, as discussed under the specific criteria (SMC 23.44.022), meets the criteria for establishing a specific conditional use and has been conditioned such that potential negative impacts are mitigated.

D. In authorizing a conditional use, the Director or Council may mitigate adverse negative impacts by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

The Director conditions the project to limit attendance at the center to no more than 20 children at any time, to provide for two conforming parking spaces on site, and to establish a load/unload space in front of the proposed child care.

Conclusion

Based on the foregoing analysis and review, the proposed action satisfies all the relevant requirements of 23.44.018 and 23.44.022 governing administrative conditional uses in single 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 be 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 modify plans to show that access to parking can be provided from both 30th Avenue SW and the adjacent property to the south. A note shall be added to plans, "In the event that the property owner to the south closes access to the subject site, the 30th Avenue SW access to parking shall be improved to code standards."

Prior to issuance of any Certificate of Occupancy

3. Relocation of the fence to accommodate access from 30th Avenue SW shall be confirmed by the undersigned planner.

Permanent for the Life of the Project

4. 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.
5. Parking and loading shall be provided per plan.

Signature: _____ (signature on file) Date: August 18, 2008
Paul Janos, Land Use Planner
Department of Planning and Development

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