



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: 3008590

Applicant Name: Tristan Christophilis for Blossoming Buds Preschool

Address of Proposal: 4706 35th Avenue NE

SUMMARY OF PROPOSED ACTION

Land Use Application to change the use of an existing single family residence structure to an institution (Child Care Center). No change in parking.

The following approval is required:

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

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 Development

The subject site is a rectangular parcel located one lot north of the intersection of 35th Avenue NE and NE 47th Street in the Bryant neighborhood. The site contains an existing 2,860 square foot single family residence on a 3,400 square foot lot that has been used as a home occupation child care center per SMC 23.42.050. It is located in a Single Family residential zone with a minimum lot size of 5,000 square feet (SF 5000). The front yard slopes upward several feet from 35th Avenue but otherwise the lot is level. The site is landscaped with trees and shrubs around the house and the rear yard is developed as a children's play area with play structures.



Area Development

The surrounding area is developed with single family housing. 35th Avenue is a moderately busy minor arterial and there are bus stops just south of the site and directly across the street. On-street parking is allowed on both sides of the street during non-peak traffic times.

Proposal Description

The applicant proposes to move out of the house changing the child care center from a home occupation to a stand-alone center through the Administrative Conditional Use process. Additionally, the applicant is seeking a waiver from providing on-site parking and loading areas. The applicant has requested that SDOT create an on-street loading space in front of the house. The pre-school would not be physically expanded and would continue to serve the same number of children from 2.5 to 5 years in age in morning half-day sessions. The applicant has indicated that there are currently up to 25 children on site at a time with a total of 37 enrolled in the three programs (2, 3 and 4 days per week).

Public Comment:

A variety of comments were received during the required public comment period that ended on June 4, 2008. The main concerns expressed were the following:

- The narrow time frame for parents to drop off and pick up their children leads some to park in illegal locations or make unsafe driving maneuvers such as U-turns.
- Adding traffic to the tricky 5 way intersection where NW 45th Place curves into 35th Avenue NE.
- Concern about neighborhood deterioration due to the already high number of absentee owners in the area and the fact that the site would be empty on evenings and weekends.
- Confusion between the ACU and the rezone process, as this application would not result in a change to the underlying single family zoning of the property as some commenters fear.
- The feeling that this facility was not needed in a single family zone, given the number of nearby child care facilities and available commercial space.
- Misapprehension that the ACU would result in an increase in the number of children or hours of operation of the center, when no expansion over current levels is proposed.
- Reports that the current owner has already ceased to live in the home in advance of the ACU approval.
- One neighbor complained about noise from the children using the backyard play area.

There were also several letters in support of the application stating that they had not observed dangerous conditions during pick up or drop off times and that the center was a good neighbor.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT (23.44.022 SMC)

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.***

At 3,400 sq. ft. the lot is non-conforming to the minimum lot size required by the current Single Family 5000 zoning. The house was established in 1927 and so meets the requirements of SMC 23.44.010 B 1 a. Lot coverage is less than the 1,750 sq. ft. allowed by SMC 23.44.010 C. The height of the house was reviewed by DPD at the time building Permit 9802949 was issued to add a second floor. The house meets the yard requirements of SMC 23.44.014. The house has an attached one car garage meeting the standards at SMC 23.44.016.

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.***

N/A.

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.*

The project site has an area of 3,400 square feet.

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.*

N/A.

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:*

The child care center is more than 600 feet away from any other institution.

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:*

N/A.

- 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.*

The existing residential structure will not be demolished nor will its use be changed to provide for parking.

- 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.**

At the south side the existing single family structure has a 5' setback for 9 feet and an approximately 7'6" setback for the remainder of the 39' length of the house. At the north side there is a 5'4" setback along the entire length. The front yard is approximately 20' and the rear is approximately 26'. All required yard minimum standards have been exceeded at the development site. The site has an existing perimeter fence and landscaping which would further mitigate impacts on surrounding properties. Therefore, the proposal meets applicable development standards.

- 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, out-door 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.

The child care center currently operates from 9:00 a.m. to 1:00 p.m. each day Monday to Friday year round. The main noise impact is due to children playing in the rear yard area. Due to the small size of the lot the neighboring houses are quite close and the wooden fence does not provide a significant noise barrier, especially to rooms on the second stories. However only one neighbor mentioned being bothered by the noise, the hours of operation are limited to weekday mornings and any physical noise barrier would have limited effectiveness. As the noise impact is minor no further conditioning for noise impacts is warranted. The site has existing garbage and recycling containers on site. No adverse trash or odor impacts are anticipated.

- 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.

According to the information provided with the application, the only on-site parking spaces will be provided in the existing driveway and garage, therefore no on-site screening related to parking is required. The site will be adequately screened from the adjacent residences abutting the site by a 6-foot fence located along the north, east and south property lines. The site is adequately landscaped with trees, shrubs and flowers. A condition will be imposed to require maintenance of the fence and landscaping in order to integrate the institution with the adjacent residential area.

- 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. Non-reflective surfaces shall be used to help reduce glare.**

No new exterior lighting has been proposed by the applicant and the hours of operation are during daylight hours.

- 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:**

The site is less than one acre in size so these criteria are not applicable to the child care center.

- 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 feet (10') to the side lot line. The Director may permit yards less than ten feet (10') but not less than five feet (5') 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.**

This criterion is addressed under the discussion of the reuse of the existing structure. Please refer to # G above.

- 3. Institutions Located on Lots in More Than One (1) Zone Classification.**

This criterion is not applicable because the site is located in only one zone, SF5000.

- 4. Height Limit. A religious symbol and that portion of the roof supporting it, including but not limited to a belfry or a spire, may extend an additional twenty-five feet (25') above the height limit.**

A religious symbol is not proposed above the existing roof.

5. ***Facade Scale. If any facade of a new or expanding institution exceeds thirty feet (30') 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 facades at the front and the rear are approximately twenty six feet in length. As a reuse of an existing structure, all existing facades are compatible with other houses in the neighborhood therefore no mitigation of bulk will be necessary.

L. Parking 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.***

According to information submitted with the application approximately 25% of the families walk their children to the school and an average of 30% carpool over the course of a week. Metro transit bus stops are located adjacent to the site. The operator encourages employees to use alternative modes of travel.

- b. ***Parking and loading shall be required as provided in Section 23.54.015.***

The applicant has indicated that there are currently up to 25 children on site at a time with a total of 37 enrolled in the three programs (2, 3 and 4 days per week). Four staff members are present, two for each classroom. For a child care center, the Land Use Code requires one space for each 10 children or for each staff member, whichever is greater as well as one loading space for each 20 children. This means that 4 parking spaces and 2 loading spaces are required. One space is available onsite in the garage and the applicant has requested a loading space be signed on the street in front of the house. As discussed above the applicant has requested a waiver from providing on-site parking and loading areas beyond that number.

- 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:***

- i. ***Provide a demonstrable public benefit such as, but not limited to, reduction of traffic on residential streets, preservation of residential structures, and reduction of noise, odor, light and glare; and***

ii. Not cause undue traffic through residential streets nor create a serious safety hazard.

The applicant has submitted a Transportation Plan dated June 2008 containing an analysis of available on-street parking and several measures to mitigate the loading demand created by the pre-school at the start and end of the school day. The applicant performed a survey of available parking spaces within 400 feet of the site at 8:45 am and 12:45 pm on three consecutive days. This showed that the number of open parking spaces was consistently greater than the demand created by a worst case of 25 parents arriving concurrently. In order to minimize the parking demand the applicant has proposed to stagger the start times of the two classrooms, spreading the demand out over a longer time frame. The applicant has proposed a “valet” procedure to maximize use of the loading space with a teacher available to escort children into the center during the drop off period. In addition the applicant proposes to create an informational sheet for the parents listing appropriate parking areas and pick up and drop off procedures.

Providing a convenient loading space on 35th Avenue and maximizing its use through the “valet” procedure will reduce the use of the nearby residential side streets by parents dropping off and picking up their children. This will benefit the neighborhood by focusing the impact of the center on the arterial. Additionally, the use will provide the public benefit of a conveniently located child care facility that is more easily accessed on foot from the adjacent residential area than one in a commercial zone, further reducing traffic.

Based on submitted documents including the Transportation Plan the Director waives the requirement to provide parking beyond the onsite spaces and street loading space. This proposal is expected to marginally add to the traffic volume on the surrounding streets. No harm to the residential integrity and increases safety hazards is anticipated.

2. *Parking Design. Parking access and parking shall be designed as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.*

N/A, no new on-site parking will be provided.

3. *Loading Berths. The quantity and design of loading berths shall be as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.*

Loading berths are not required for a child car center. One load/unload space required pursuant to SMC 23.54 will be provided in the 35th Avenue ROW adjacent to the site. This loading space is made available through an agreement between Blossoming Buds School and SDOT. The applicant requests that DPD modify standards as provided in SMC 23.44.022 L1c to require two load/unload spaces. Based on submitted documents including the Transportation Plan the Director waives the requirement for on-site loading areas.

- M. Transportation Plan. 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 are required to provide additional twenty (20) or more parking spaces.***

The child care center is less than 4,000 square feet therefore a transportation plan will not otherwise be required for this proposal. However, the applicant has requested a waiver to parking and loading berths and submitted a transportation plan for the Director to evaluate the potential impacts of the request. Please refer to #L.1.c above.

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 identifying 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 23.44.006 through 23.44.016.***

The subject proposal meets all of the development standards or allowable exceptions for uses permitted outright.

- 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 the potential negative impacts are substantially 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.***

In order to mitigate the potential adverse impacts of this use the size and hours of operation will be limited to the current levels. An on-street loading zone must be coordinated with SDOT, parents must be made aware of parking and loading issues and a solid fence must be maintained around the site. These conditions combine to provide reasonable mitigation for the proposed child care center and are authorized by this provision.

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. Based on submitted documents including the Transportation Plan the Director waives the requirement to provide parking in excess of the onsite space and loading beyond the on-street loading space. 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 MUP

The owners and/or responsible party(s) shall:

1. Submit verification that SDOT has approved the creation of a loading space on 35th Avenue NE near the property.

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2. A 6' solid perimeter fence must be maintained around the sides and rear of the site to mitigate noise and visual impacts upon neighboring properties.
3. Daily attendance at the center will be limited to no more than 25 children in two classrooms at any time.
4. Hours of operation shall be staggered so that there is at least 15 minutes of difference in both the starting and ending times of the two classrooms in operation on a given day.
5. Normal hours of operation shall be limited to weekdays between 9:00 am and 1:30 pm. In addition an evening or weekend event for children and their families will be allowed once per quarter.

6. Each family of a child attending the pre-school must sign a copy of the Parking Plan and Regulations to apprise them of approved parking and loading procedures.

Signature: (signature on file)
Nora Gierloff, Land Use Planner
Department of Planning and Development

Date: July 17, 2008