



City of Seattle

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: 3009282
Applicant Name: Slawek Porowski, Interurban Architects
Address of Proposal: 6516 42nd Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to allow an institution (child-care center for 25 children) in an 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 on the east side of 42nd Avenue South near the corner of South Morgan Street. An alley borders the subject property on the north and the property lines of three single family residences adjoin the property to the east and south. The site is zoned Single Family Residential (SF 5000) as are the surrounding properties. Relatively flat, the site lies approximately two blocks to the east of Martin Luther King Jr. Way South. Between S. Morgan St. and South Angel Place, and across 42nd Ave. S. from the subject property, a community P-Patch occupies a portion of the right-of-way.

The property is occupied by a one-story, structure that resembles the single family houses in the general vicinity. An attached garage has been previously converted into habitable space. Access from Martin Luther King Jr. Way S. would occur via S. Morgan St. or S. Warsaw St. to the south. 42nd Ave. S. is not a through street north of the adjacent alley. The alley has gravel and provides for the passage of vehicles for the two structures on either side of it facing 42nd Ave. S. The closest bus stops occur along Martin Luther King Jr. Way S.

Proposal

The applicant proposes to change the use from a single family dwelling to an institution (child care center) for a maximum of 25 children. Currently, the applicant operates a child care center as a home occupation limited to 12 children. The applicant would provide three on-site parking spaces accessed off the alley and a drop-off space. Hours of operation would be from 7:30AM to 6:00 PM.

Public Comment

DPD received three comment letters. Two letters expressed their writers' concerns about the volume of traffic and the amount of noise vehicles make upon entering the alley. A third letter from a neighbor with a shared property line noted that she found four and five year old children in her yard climbing fruit trees. She also observed that children in the back yard of the applicant can make considerable noise.

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.*

The applicant proposes three parking spaces off the alley to the rear of the structure. The proposed parking area complies with land use regulations. A fourth space, to be used for loading, lies within the front yard. Because the space would be used only during brief arrivals and departures within the hours of the allotted hours of the child care center's operation, vehicles would not be parked there for extended durations. Like the other parking spaces, access would occur from the alley and not from the existing driveway curb cut which would be reconstructed to provide a curb and landscaping. The loading space at the front of the structure provides for efficiency of operations by facilitating the quick loading and unloading of children. This meets the intent of the code.

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.*

N/A.

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:*
 - 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 more than 600 feet from both Brighton Elementary School, which is on South Holly Street southeast of the subject property, and Sharples Junior High School on South Graham St. and 42nd Ave. S. The Grace Apostolic Temple at MLK Jr. Way S. and S. Holly St. also lies over 600 feet from the proposed institution. The proposal appears to satisfy 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.*

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.*

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.*

The existing setbacks conform to the Single Family zone requirements and will not be altered. Planting and screen walls will be added to reduce noise and provide a defined outdoor play area for the children.

- 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 in the rear yard adjoins two adjacent properties' rear yards to the east, with a fence and a row of trees along the property line. Additional plantings and fencing will be installed to define the play area. The play area is distant from the two 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 consistent with single family residential use. 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.*

Mature plantings and a fence screen the subject site from the residential neighbors to the east. The applicant proposes additional fencing and plantings to screen the play area. New planting will be added along the 42nd Ave. S. right-of-way.

- 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 expansion of the existing home with regard to bulk and siting. Modifications to the interior would accommodate the added children. 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:
 - 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.*
2. *Parking Design. Parking access and parking shall be designed as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.*
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.*

The proposed site plan shows three parking spaces off the alley at the rear of the house and one loading space in the existing driveway. All of the parking spaces would be accessed from the alley. The three parking spaces exceed the number of spaces required by the Land Use Code.

- 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 an additional twenty (20) or more parking space.*

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. Discussion of the following elements and other factors may be required:

1. *Traffic. Number of staff on site during normal working hours, number of users, guests and others regularly associated with the site, level of vehicular traffic 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.*

N/A.

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.*

N/A.

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.

- 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.

- 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 applicant has added fences and planting to further mitigate noise and provide privacy to define the children's play area.

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 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

Permanent for the Life of the Project

1. 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 25 children at any time.
2. Parking and loading shall be provided per plan.

Signature: _____ (Signature on file)
Bruce P. Rips, Senior Land Use Planner
Department of Planning and Development

Date: July 22, 2010