



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: 3012289
Applicant Name: Jeffrey Frechette
Address of Proposal: 5514 33rd Avenue Northeast

SUMMARY OF PROPOSED ACTION

Land Use Application to change the use of an 800 square foot portion of an existing single family residence to institution and to allow an expansion from 19 to 22 children (Nurturing Knowledge School). No change to parking.

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

Site & Area Description

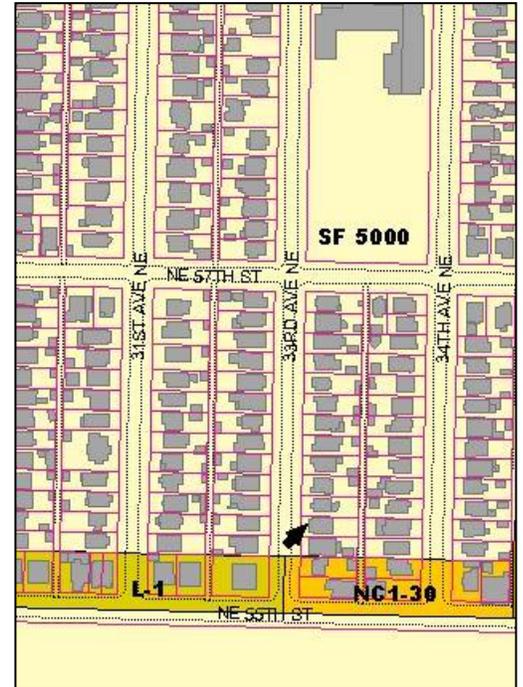
The 4,480 square foot property is located on the east side of 33rd Ave NE, midblock between NE 55th and NE 57th Streets. One single family dwelling exists on the property. The subject property is located in a Single Family zone with a minimum lot size of 5000 sq. ft. (SF 5000), which encompasses the neighborhood to the east, west, and north. To the south and southeast, on the north side of NE 55th St, properties are zoned Neighborhood Commercial 1 with a base height limit of 30' (NC1-30). To the southwest across 33rd Ave NE and to the north of NE 55th St, properties are zoned residential Lowrise 1 (LR1).

The surrounding properties generally reflect their zoning, and are developed primarily with single family homes. To the north and south of the site are single family homes. The former Fire Station #38 (currently vacant) is located less than 100 feet away at the northwest corner of NE 55th and 33rd NE. On the intersection's northeast corner is a mixed use building and a landscaping business. The southern edge of the Bryant Elementary School grounds is located about 500 feet from the site.

The adjacent street is fully improved with sidewalks, curbs, gutters, and paving. Access to the site is by 33rd Ave NE, and a 14 foot alley. There is currently parking for two vehicles.

Proposal

The applicant proposes to change the use of an 800 sq. ft. portion (basement level) of the single family house to an institution. The expanded child care center would serve no more than 22 preschool children during the morning shift and 19 preschool children in the afternoon shift. The outdoor play area is currently located in the rear yard, and no change is proposed to the outdoor play area. As proposed, the expansion within the structure for the larger childcare facility would constitute a change of use to an institutional child care center, allowed in a single family zone as an Administrative Conditional Use. The proposal maintains the previously approved child care center's two shifts, from 9:00 AM to 1:00 PM, and from 1:30 PM to 4:00 PM, Monday through Friday. Since approval of the prior MUP (#2402399), the daycare center has not chosen to operate the second shift. As proposed, the child care operator would occupy most of the ground floor and the basement. The second floor would remain in residential use.



Public Comment

Notice of the proposed project was published on July 21, 2011. The public comment period ended on August 3, 2011. To date, DPD has received six written comments from neighbors. Comments focused on the following issues:

- frustration at existing tendency of some parents to double-park on a single lane roadway (parking allowed on both sides of the street) while dropping off their children;
- traffic generated by the school is already significantly taxing the street and poses a danger to the children who already attend.
- 33rd Street is already congested between 8 AM and 3 to 4 PM;
- objection to the operation of a business, considered inappropriate for this neighborhood and the single family zone;
- safety concerns related to children crossing 33rd without due attention to vehicle traffic;
- often the school has evening meetings for parents, the designation of a school will only increase the number of meetings compounding parking problems;
- Redevelopment of Fire Station #38 will worsen traffic conditions in the neighborhood;

- the parking and traffic impacts on the immediate vicinity, paired with impacts from nearby Bryant Elementary, especially during drop-off and pick-up periods.

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.*

With regard to the above cited sections, the proposed new institutional use is no more nonconforming to standards than the existing single family home.

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 proposed institution encompasses 4,480 sq. ft. There is no physical expansion of the boundary of this institution.

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 approximately 500 feet from the south property line of another institution, Bryant Elementary School. No expansion of the site is proposed.

- 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.*

The proposed child care center is approximately 500 feet from the south property line of another institution, Bryant Elementary School. In order to qualify for this provision, all the above conditions must be met.

The proposed child care center would serve no more than 22 children during the early shift and 19 in the afternoon shift. Any one child may attend no longer than four (4) hours at a time, which is consistent with state preschool licensing guidelines, according to application materials. There would be no overlap between morning and afternoon sessions. DPD has determined that the proposed child care center qualifies to be considered under this provision.

- a. The child care center is proposed to be located within an existing single family home, a structure that fits well within the scale of the existing residential neighborhood.
- b. Neighbors raised several concerns about traffic safety hazards associated with the proposed child care center. As part of an analysis of traffic volumes in the vicinity, the applicant's third-party report briefly states that there are no unusual obstructions in the area that would affect sightlines of passing motorists. A site visit by DPD staff confirmed that the existing roadway is narrow, and that parking on either side of the street effectively confines driving to a single drive aisle. The corridor is further enclosed by a continuous line of street trees, sidewalks, and private yards that generally rise above the street level. These features all help to calm through-traffic. While no mix of vehicles and pedestrians is risk-free, 33rd Avenue NE has many streetscape elements that effectively limit the possibility of safety hazards for children, other pedestrians, or motorists.

- c. The applicant provided an update to the traffic analysis prepared by Jones and Stokes, dated July 2004. The increase of three children and the .48% increase in Bryant Elementary School's enrollment would not change the previous findings of the original Traffic Impact Analysis Report for levels of service at the two nearest intersections 33rd Ave. NE & NE 55th St. and 33rd Ave. NE & NE 57th St. DPD accepts the analysis and concludes that the project would not cause traffic volumes to increase to an extent that would disproportionately affect traffic safety.

Neighbors raised several concerns about parking shortages in the surrounding vicinity. The analysis concludes that the proposal to add three more children in the morning shift only modestly changes the on-street parking demand from the previous study. The update analysis states, "The proposed addition of three students would in a worst case scenario increase the parking demand on 33rd Ave. NE from the current peak of 60% to 62%." This percentage of parking demand remains below the threshold of 85% that the City of Seattle uses to determine a level of significant impact. DPD concurs with these findings.

- d. Neighbor concerns did not focus on increased noise levels resulting from the child care center. During the appeal of the previous application, the Hearing Examiner required the planting of trees and shrubs along the north property line. This landscaping was installed. DPD does not anticipate an increase in noise levels during the week. Apart from increased noise levels when the children are in the play area, the extent of noise generated by the child care center will be a minor increase above that which currently is created by the child care center.

As the proposed child care satisfies all criteria listed in SMC [23.44.022 E2](#), DPD may therefore allow this institution to be located within the 600-foot dispersion otherwise required of new institutions in single family zones.

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.

Yard requirements for institutional uses are discussed in subsection [K2](#). The existing single family structure does not meet the 10' side yard standard otherwise applied to institutional uses. However, considering that the small lot and the existing structure, flexibility provided by this section is warranted in this case. The Director identifies no impacts inherent in the proposal that would be affected by increased side yards. DPD therefore requires no additional mitigating measures in this regard.

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 child care center would continue to use the backyard deck and play structure for the majority of its play space.

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 any further programmatic controls beyond what is already proposed. In comments submitted to DPD, neighbors did not identify odors as a principal concern.

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.

Existing landscaping on the site is typical of single family residential properties in the neighborhood, with ornamental plants in the front yard and a more open landscape of trees, grass, and a low deck in the rear yard. In the previous application, the Hearing Examiner required the installation of trees and shrubs along the north property line. As mentioned earlier, the plantings were installed.

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:***
 - 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 project is within walking distance of public transportation – Metro routes 65 and 74 pass nearby. It is unlikely that the children and accompanying adult would arrive by any other means than single occupancy vehicle, bus and walking.

As discussed above, DPD previously conditioned the project to provide a load/unload space in the adjacent right-of-way, consistent with provisions in Chart A of SMC [23.54.015](#). This was implemented.

The applicant proposes to maintain two on-site parking spaces, accessed from the alley. This complies with SMC [23.44.022 L1c](#) to require two parking spaces.

See the discussion in subsection E.2 above.

Parking required for this project by SMC [23.54.015](#) includes two parking spaces for the child care and a load-unload space. There is no provision for sharing parking accessory to residential and institutional uses. If parking is provided for a new nonresidential use, at least one space must meet standards for barrier-free access, according to the provisions of Seattle Building Code (SBC) [3406.3.4](#).

The applicant states that creation of parking conforming to development standards (SMC [23.54.030](#)) would be to the detriment of the existing rear yard currently used as play area. The existing configuration accommodates two parking space, as well as space for garbage and recycling.

The use of the site as a child care center will provide the public benefit of a conveniently located child care facility in this neighborhood, and modification of the parking quantity standard will preserve valuable open space available for children's outdoor play. Considering the above parking and traffic analysis, DPD concludes that the project would not appreciably contribute to increased traffic volumes or safety hazards. DPD therefore determines that it is appropriate to waive one required parking space and to provide for the load-unload space in the right of way. The remaining barrier-free parking and a single space for the residence will be provided on-site.

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 spaces.

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.***

The applicant provided a traffic report, which is available in the public file. The report adequately informs the transportation analysis. Mitigating measures include the following:

- Attendance at the center will be limited to no more than 22 children during the morning shift and 19 children in the afternoon shift.

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 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 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 **22 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 22 children during the morning shift and 19 children during the afternoon shift.

Permanent for the Life of the Project

2. 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 22 children during the morning shift and 19 during the afternoon shift.

Signature: (signature on file)

Bruce P. Rips, AICP, AAIA
Department of Planning and Development

Date: November 21, 2011