



City of Seattle

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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:** 3013439  
**Applicant Name:** Jeffrey Frechette, Frechette Design, for Nurturing Knowledge School  
**Address of Proposal:** 7813 12<sup>th</sup> Avenue Northeast

**SUMMARY OF PROPOSED ACTION**

Land Use Application to change the use of existing office structures (3,741 sq. ft.) to Child Care Center. Parking for six vehicles will be provided on the site.

The following approval is required:

**Administrative Conditional Use Review** - To allow an institution (child care center) not meeting development standards in a Lowrise 2 Residential-Commercial zone (LR2-RC). (Seattle Municipal Code (SMC) 23.45.506 and 570)

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS  
 DNS with conditions  
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND INFORMATION**

Site and Vicinity Description

The subject property is a consolidation of two interior lot tax parcels addressed as 7813 and 7817 12<sup>th</sup> Avenue Northeast and zoned Lowrise 2 Residential-Commercial (LR2-RC). This approximately 9,702 square foot (sq. ft.) site is bounded by 12<sup>th</sup> Avenue Northeast to the east, a 16' wide alley to the west; with private properties along the site's southern and northern perimeters. Development on the site consists of two two-story-with-basement office buildings. Surface parking accessory to the office uses for four vehicles is currently provided on site.

Vehicular access to the surface parking area is via the existing paved alley. 12<sup>th</sup> Avenue Northeast is a non-arterial street, pursuant to SMC 23.53. This one-way directional (heading south) paved street is improved with curbs, sidewalks, gutters and street trees. Also, this street

leads to State Route 522 (Lake City Way Northeast) which is at the southern end of the subject site's block front.

The property south and north of the proposal is also zoned LR2-RC. The remaining surrounding property is zoned Commercial 1 (C1-40) to the east and Single Family Residential (SF 5000) to the west. Uses surrounding the proposal site include townhouse developments to the south; single family residences to the west, east and north; and commercial uses (espresso stand, restaurant, used car sales lot) to the east. A private school (Fairview Christian School) is two blocks west of the subject site.

### Proposal Description

The proposed project involves the conversion of two existing office buildings to child care centers for Nurturing Knowledge Preschool, Inc. Interior alterations are proposed for both buildings and a rear porch with stairs is proposed for the north building. Additional exterior alterations inclusive of a designated bicycle parking area and a parking stall reconfiguration to allow for the parking of six vehicles are proposed. A new fenced-in outdoor play area with playground equipment accessory to the proposed child care center development will be located at the front northeasterly area of the property. This proposal also includes documentation of a request (#156320) to the Seattle Department of Transportation (SDOT) for installation of a dedicated two-stall load/unload zone along the western curb area of 12<sup>th</sup> Avenue Northeast.

According to information provided by the applicant, the child care center development will have a maximum of 44 full-time children and the applicant projects that staffing levels will be four employees-two instructors per program with one additional "float" instructor. The proposed institution's operating hours will begin as early as 9:00 a.m. and conclude by 1:00 p.m., Monday-Friday.

### Additional Information

During the review of this application, SDOT approved the owner requested load/unload zone permit. An SDOT employee confirmed that their staff installed a "40-foot "30 MINUTE LOAD AND UNLOAD ONLY 8 AM - 2 PM EXCEPT SAT-SUN-HOL" zone on the west side of 12<sup>th</sup> Avenue Northeast, approximately 72' north of Lake City Way Northeast (adjacent to #7813)" on July 27, 2012.

### Public Comments

The public comment period for this project ended May 23, 2012. DPD received no written comments regarding this proposal.

## **ANALYSIS -ADMINISTRATIVE CONDITIONAL USE**

### Administrative Conditional Use – General Provisions (SMC 23.42.042)

- A. *Administrative conditional uses and uses requiring Council approval as provided in the respective zones of Subtitle III, Part 2, of this Land Use Code, and applicable provisions of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, may be authorized*

*according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.*

The procedural requirements of SMC Chapter 23.76 have been followed for this proposal.

*B. In authorizing a conditional use, the Director or City Council may impose conditions to mitigate adverse impacts on the public interest and other properties in the zone or vicinity.*

The criteria described in SMC 23.45.504 and 23.45.506 A through C is used to evaluate the proposal and impose conditions, if necessary, to mitigate adverse impacts to the public interest and neighboring properties in vicinity of the proposal.

*C. The Director may deny or recommend denial of a conditional use if the Director determines that adverse impacts cannot be mitigated satisfactorily, or that the proposed use is materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

This decision shall be based on whether the proposed use meets the criteria for establishing a specific conditional use as described in SMC 23.45.506 A through C. The City recognizes the public benefit that institutions, such as child care centers, have made by providing educational and cultural opportunities to their communities. The criteria for establishing this expansion shall be examined, and the project will be conditioned (if necessary) to mitigate any detriment to the public interest or injury to property in the vicinity.

*D. A use that was legally established but that is now permitted only as a conditional use is not a nonconforming use and will be regulated as if a conditional use approval had earlier been granted.*

This criterion is not applicable to this proposal.

*E. Any authorized conditional use that has been discontinued may not be re-established or recommenced except pursuant to a new conditional use permit. The following will constitute conclusive evidence that the conditional use has been discontinued:*

- 1. A permit to change the use of the lot has been issued and the new use has been established; or*
- 2. The lot has not been used for the purpose authorized by the conditional use for more than 24 consecutive months. Lots that are vacant, or that are used only for storage of materials or equipment, will not be considered as being used for the purpose authorized by the conditional use. The expiration or revocation of business or other licenses necessary for the conditional use will suffice as evidence that the lot is not being used as authorized by the conditional use. A conditional use in a multifamily structure or a multi-tenant commercial structure will not be considered discontinued unless all portions of the structure are either vacant or committed to another use.*

This criterion is not applicable to this proposal.

Residential-Commercial Conditional Uses (SMC 23.46.006)

*A. Conditional use provisions of the applicable residential zone shall apply to all noncommercial conditional uses.*

The proposal is to establish a child care center use on the property. Child care centers are considered a type of Institutional use per the Land Use Code (SMC 23.84A.018). Institutions are noncommercial uses. Therefore, the Administrative Conditional Use provisions of the LR2 zoning apply to this proposal.

Administrative Conditional Uses (SMC 23.45.506)

*A. Uses permitted as administrative conditional uses in Section 23.45.504, may be permitted by the Director when the provisions of Section 23.42.042 and this Section 23.45.506 are met.*

Analysis of the applicable criteria used for evaluating and or conditioning the proposal is discussed below.

*B. Unless otherwise specified in this Chapter 23.45, conditional uses shall meet the development standards for uses permitted outright.*

A child care center is classified as an institution. According to SMC 23.45.504 Table A, an institution is permitted outright in the LR2 zone if it meets the development standards set forth in SMC 23.45.570. Institutions not meeting development standards are permitted with the issuance of an Administrative Conditional Use approval pursuant to SMC 23.45.506. The proposed child care center use will be located in two existing buildings which don't comply with the LR2 zone development standards for structure side setbacks. Therefore, the proposed use is required to meet the criteria for an Administrative Conditional Use.

*C. Institutions other than public schools not meeting the development standards of 23.45.570, Institutions, and Major Institution uses as provided in Chapter 23.69, may be permitted subject to the following:*

- 1. Bulk and Siting. In order to accommodate the special needs of the proposed institution, and to better site the facility with respect to its surroundings, the Director may modify the applicable development standards. In determining whether to allow such modifications, the Director shall balance the needs of the institution against the compatibility of the proposed institution with the residential scale and character of the surrounding area.*

Currently, the existing buildings aren't compliant with the required side setback requirement for institutional structures in Lowrise zones. SMC 23.45.570.F.3.a requires that the minimum side setback be 10' from a side lot line that abuts an adjacent residentially zoned lot. The south structure's side setback is 4'6" and the north structure's side setback is 4'. No exterior alterations/additions that would expand these structure's non-compliant side wall facades are planned.

Minor exterior modifications to the property are proposed; however, these modifications don't increase the bulk and scale of the existing structures. The submitted site plans document an

unenclosed rear porch addition to the north building and 6' tall fencing surrounding a proposed play area inclusive of a play structure. These changes are compliant with applicable development standards and aren't expected to impact the bulk and scale of the existing structures.

The existing structures are compatible with the residential scale and character of the neighborhood.

2. *Dispersion Criteria. An institution that does not meet the dispersion criteria of Section 23.45.570 may be permitted by the Director upon determination that it would not substantially worsen parking shortages, traffic safety hazards, and noise in the surrounding residential area.*

*SMC 23.45.570.J Dispersion reads:*

*"The lot line of any new or expanding institution other than child care centers locating in legally established institutions shall be located 600 feet or more from any lot line of any other institution in a residential zone with the following exceptions:*

1. *An institution may expand even though it is within 600 feet of a public school if the public school is constructed on a new site subsequent to December 12, 1985.*
2. *A proposed institution may be located less than 600 feet from a lot line of another institution if the Director determines that the intent of dispersion 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, that provide substantial separation from other institutions."*

The proposed child care center property is located within 600 feet of a private school (Fairview Christian School) which is two blocks west of the subject site (500 feet). Per SMC 23.45.570.J.2, the exception provided for locating within 600 feet of an institution applies in this instance. The private school and proposed child care center are separated by Roosevelt Way Northeast. Roosevelt Way Northeast is a Principal Arterial Street, pursuant to SMC 23.53. Thus, this criterion is met.

3. *Noise. The Director may condition the permit in order to mitigate potential noise problems. Measures the Director may require for this purpose include, but are not limited to the following: landscaping, sound barriers, fences, berms, adjustments to yards or the location of refuse storage areas, location of parking areas and access, structural design modifications, and regulating hours of use.*

The majority of the child care program activities will be held within the existing buildings. The applicant indicates that the proposed outdoor play area would be in use during the weekday mornings. It is during this time period when noise levels are expected to be elevated.

The applicant submitted a noise study conducted by The Greenbusch Group, Inc. that observed typical noise levels generated by a preschool located in an urban environment with conditions similar to the proposal site. This study measured noise levels generated by a group of ten children and one instructor during a typical outdoor play session. It concluded that the noise levels generated by the children were within the permissible noise levels allowed in an LR2 zone.

The applicant states the outdoor playtimes will be conducted in four groups of eleven children and will be scheduled in 30 minute increments (i.e. 9:15-9:45 am, 9:45-10:45 am, 10:15-10:45 am and 10:45-11:15 am). He anticipates the increase in child count will, in turn, increase the noise levels. The following measures are proposed to mitigate this potential noise issue:

- Install of a 6' tall fence constructed of 2 lbs. per sq. ft. (square foot) of solid wood material along the property's south boundary line;
- Install fencing between the south building and the solid wood fence separating the front yard to contain the play area.
- Install wood bark 12" in depth in the playground area.

The DPD Land Use Planner in consultation with the DPD Noise Reviewer has reviewed the aforementioned case noise study/plans and concur that the identified mitigation measures are necessary and appropriate for this site. Therefore, in order to insure that these mitigation measures are installed, a condition will be added to require the applicant to incorporate these measures prior to the final approval of the building permit.

4. *Transportation Plan. A transportation plan is required for proposed new institutions and for those institutions proposing to expand larger than 4,000 square feet of floor area and/or required to provide 20 or more new parking spaces. The Director may condition a permit to mitigate potential traffic and parking impacts pursuant to a Transportation Management Plan or Program as described in directors rules governing such plans or programs. The Director will determine the level of detail to be disclosed in the transportation plan based on the probable impacts and/or scale of the proposed institution.*

The proposal is to create a new institution; therefore, the applicant submitted the following information with regards to transportation and parking:

- There will be a total of five staff members and 33 clients generating vehicle trips during the hours of 8:45 a.m. until 1:15 p.m., Monday-Friday. The applicant estimates that 25% of the student enrollment (44 children maximum) lives within walking distance to the school. No evening traffic is expected because this program ends early afternoon.
- A site plan illustrating five large-stall parking spaces and one barrier-free (ADA) parking stall accessible via the existing paved alley was provided. A bicycle parking area is proposed between the existing buildings. The site plan also documents the inclusion of a 40' (two parking stalls) load/unload zone along the west side of 12<sup>th</sup> Avenue Northeast, recently installed by SDOT.
- Public transportation (King County Metro Bus Routes 66, 67) is available along Roosevelt Way Northeast, within walking distance to the subject site.
- A parking report and parking utilization study and (both prepared by the applicant) documenting on-street parking availability for the following dates/times noted below:

date	3/6/12	3/9/12	5/1/12	5/2/12	6/27/12	6/27/12	6/28/12	6/28/12	8/20/12
time	8:55 a.m.	9:00 a.m.	8:55 a.m.	9:00 a.m.	9:00 a.m.	3:00 p.m.	9:00 a.m.	3:00 p.m.	1:00 p.m.

The documents indicate that on-street parking capacity for 80 vehicles exists within a 400' walking distance from the subject property and 50% of these parking spaces (40) are available during the requested pick-up and drop-off times.

