



City of Seattle

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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:** 2408478  
**Applicant Name:** Paul Aiello for Shawna Smits of Cosmopolitan Kids *Childrens's Learning Center*  
**Address of Proposal:** 7003 Mary Ave NW

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to change the use of two existing residential structures (floor area: 1146 sq. ft. and 663 sq. ft.) to a child care center\*.

The following approvals is required:

**Administrative Conditional Use** - Institutions not meeting development standards.  
(Chapter 23.45.122, Seattle Municipal Code)

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

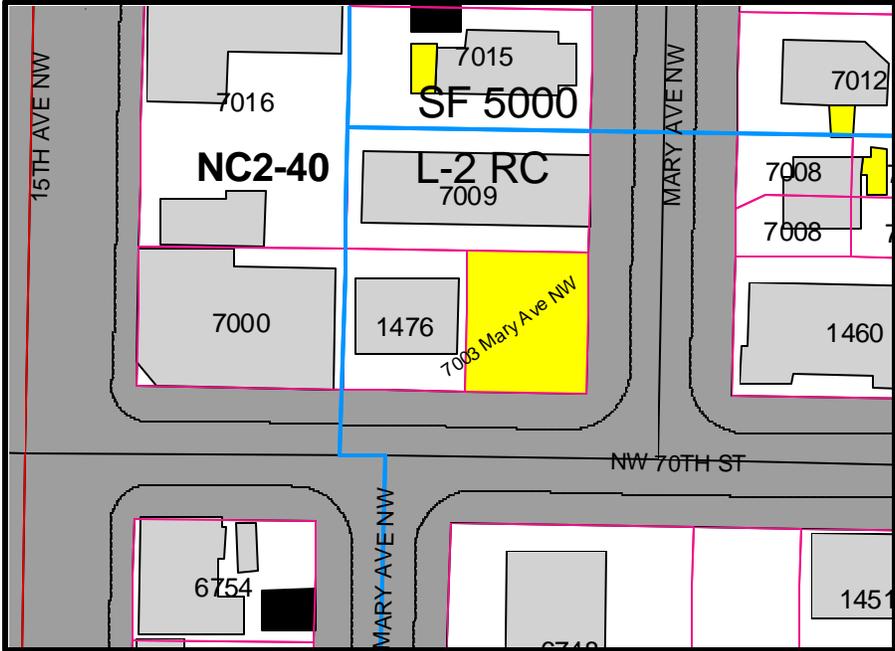
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\* The project was originally noticed proposing five parking spaces by covenant. The five parking spaces were removed from the application as the grantor of the covenant would not sign the document.

**BACKGROUND DATA**

Site and Vicinity Description

The subject corner lot (approximately 2500 sq. ft.) is located at the northwest corner of the intersection of NW 70<sup>th</sup> St and Mary Ave NW within a Lowrise Two Residential Commerical zone (L2-RC) zone. The site abuts two street frontages, NW 70<sup>th</sup> St to the south and Mary Ave NW to the east. Other abutting properties to the north (apartments) and west (apartments) are also zoned L2-RC. 15<sup>th</sup> Ave NW is located one block west of the site and is



designated as a major arterial street. The L2-RC zoning is located on either side of NW 70<sup>th</sup> street spanning a few blocks from 15<sup>th</sup> Ave NW to mid block between Alonzo Ave NW and 14<sup>th</sup> Ave NW. To the north of this L2-RC node is single family zoning (SF 5000). To the south is Lowrise One and Two zoning (L1 & L2). Neighborhood Commercial Two (NC2-40) zoning is to the west. Moving to the east is L1 and SF 5000 zoning.

Proposal Description

The project proposal is to convert two existing residential structures (floor area: 1146 sq. ft. and 663 sq. ft.) to a child care center for a total of 1,809 sq. ft. The proposal is to allow up to twenty (20) children for the childcare center at any one time. Ages of the children are proposed to range from infants through six years of age. Application proposes no on-site or covenant parking. There is one existing load and unload parking space (30 minute load/unload) adjacent to the site off of NW 70<sup>th</sup> St. The applicant is currently working to get a second load unload parking space on Mary Ave NW.

Public Comment

Two comment letters were received during the official public comment period, which ended April 27<sup>th</sup>, 2005. One comment expressed concerned over ample loading spaces, on site parking, and potential vehicle conflicts. One comment expressed support of the business and the project overall.

## **ANALYSIS - ADMINISTRATIVE CONDITIONAL USE**

### **Multi-family Zones**

Section 23.45.090 of the Seattle Municipal Code (SMC) provides that expansion of existing, or new institutions, may be permitted as an administrative conditional use subject to the requirements of Section 23.45.122.

SMC section 23.45.122 provides criteria to be used to evaluate and/or condition this proposal. They are categorized as: A) Bulk and Siting; B) Dispersion Criteria; C) Noise; and D) Transportation Plan. Each of these criteria will be analyzed below:

### ***SMC 23.45.122 Institutions other than schools not meeting development standards***

- A. ***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 for modulation, landscaping, provision of open space and structure width, depth and setbacks. 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.*

The structure(s) to be converted to the childcare center use are existing. Both existing structures (7003 Mary Ave NW – Bldg. #1 & 1472 NW 70<sup>th</sup> St – Bldg. #2) were initially permitted as separate residential structures (See permit # 381408). The heights of the structures at their highest points are as follows: Bldg. #1 = 16'-10" and Bldg. #2 12'-0", which are well below the allowable base height of 25' and the pitched roof height of 35'.

The street south side setback of Bldg #2 is proposed and currently exists at 0'. Due to the low height of the structure (12') and minimum length of the facade facing the street (22') for this structure, the Director here by modifies the south side setback for Bldg. #2 to allow the 0' setback along NW 70<sup>th</sup> St to remain. Further, the reduction of bulk is emphasized by the absence of any building in a 27'-6" x 27' square at the southwest corner of the property. Also, west (one block) of the site is 15<sup>th</sup> Ave NW; a major commercial corridor with many structures with zero setbacks at the street. This setback pattern fits with the surrounding context, zoning and development pattern.

The north side setback of Bldg #1 is proposed and currently exists at 4'-3". The existing pattern of setbacks established throughout the block along Mary Ave NW reads strongly residential in character. The one story structure's architecture is residential with a pitched roof, front porch and as stated, the structure has a low base height of approximately 12' and a pitched roof height of approximately 16'; all of which integrate into the neighborhood well. The two structures were originally designed and permitted as residences. In light of the low height, small footprint and existing residential scale of the structure the required north side setback of Bldg. #1 is here by modified to allow the 4'-3" (existing) setback from the north property line to remain.

The rear setback of Bldg #2 is proposed and currently exists at somewhere between 0' and 6". Due to the low height of the structure (12') and minimum length of the facade facing the rear property line (22') for this structure, the Director here by modifies the rear setback for Bldg. #2 to allow the 0' - 6" setback from the west property line is to remain. Further, the reduction of bulk is emphasized by the reduction in height moving away from NW 70<sup>th</sup> St. Also, Bldg. #2 only covers approximately 33% of the total required rear yard (220sq. ft. / 675 sq. ft.). Bldg. #1 meets rear yard requirements.

- B. *Dispersion. An institution that does not meet the dispersion criterion of SMC 23.45.102 may be permitted upon determination that the institution would not substantially aggravate parking shortages, traffic safety hazards, and noise in the surrounding residential area.*

This institution meets the dispersion criterion of Section 23.45.102. There is a private school located approximately 720' (walking distance, right-of-way travel) south to south east of the project site at 1412 NW 67<sup>th</sup> St. As a result this requirement is satisfied.

- C. *Noise. The Director may condition the permit in order to mitigate potential noise problems. Measures to be used by the Director for this purpose include, but are not limited to the following: landscaping, sound barriers or fences, mounding or berming, adjustments to yards, the location of refuse storage areas, or parking development standards, design modification, and fixing of hours of use of area.*

No noise issues are contemplated with this proposal. The outdoor play area is located at the southeast corner of the site. Any noise resulting from the outdoor area will project towards the rights of way. There is an existing fence which bounds the entire property and provides some level of noise baffling. The hours of the proposed use are from 7 am to 6 pm Monday – Friday. The childcare center will not be open on Saturdays, Sundays and holidays. As a result no conditioning is necessary to mitigate noise impacts.

- D. *Transportation Plan.*

1. *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 required to provide twenty (20) or more parking spaces.*

A transportation plan is required for the proposal and one was submitted by the applicant during the review process July 5<sup>th</sup>, 2005. This was made a requirement as the applicant was not able to legally secure the originally propose five covenant parking spaces as originally proposed. An analysis of the proposed parking, loading and unloading is necessary. There is one existing load/unload space (30 min.) located adjacent to the site.

One additional load/unload space is proposed by the applicant along Mary Ave NW. No on-site or legal covenant parking is proposed for the project. Although the applicant was not able to secure the covenant parking, as the property owner was hesitant to sign the city's parking covenant document, the applicant did obtain a signed notarized letter from the property owner (7016 15<sup>th</sup> Ave NW) stating that, "Cosmopolitan Kids Children Academy has my permission to use five parking spaces during the hours of their

operation.” So, while the spaces cannot be recognized as parking spaces by City standards, the fact the spaces may be used by the childcare center remains.

2. *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. Consideration of the following elements and other similar factors may be required:*
  - a. *Traffic. Number of staff during normal working hours; users, guests and others regularly associated with the institution; level of vehicular traffic generated; traffic peaking characteristics of the institution and the immediate area; likely vehicle use patterns; extent of congestion; types and number of vehicles associated with the use; and mitigating measures to be taken by the applicant;*

The proponent currently owns and operates two other childcare centers, located at 18 and 19 W McGraw Street. The applicant provided information based on the parking and traffic generated by these two existing childcare centers. Three full time employees are to be on site. Of the 17 employees employed by the owner, 4 drive to work on a regular basis. As stated above, the hours of operation for the proposed childcare center would be from 7 am to 6 pm Monday – Friday. The childcare center will not be open on Saturdays, Sundays and holidays. This will coincide with a typical work week, parking and traffic impacts will be non existent during non business hours as the structures will not be used as a dwelling unit.

Of interest, NW 70<sup>th</sup> St. is used as a cut through street for traffic heading west, due to its proximity to 15 Ave NW, the major arterial in the area. The traffic from the use won't create a safety hazard due to the two load/unload spaces at the site. To ensure that the employees and parents are aware of the available parking spaces located @ 7016 15<sup>th</sup> Ave NW, a parking and access plan should be developed to hand out to new employees and new customers. As a result, proper conditioning is warranted to ensure the plan is created for the use of the customers and employees.

Further, the request is for twenty (20) children at any one time during the day resulting in a low number of trips to and from the site. Considering the context, number children, large bus ridership of employees, and the hours of operation, no major impact is expected from the proposal.

Lastly, the proponent offers pre-paid bus passes for all employees to lessen parking impacts on the community. Also, the proponent pays \$50.00 per month to employees who car pool to and from work, further helping to mitigate any parking impacts on the community. This information is given to employees during the hiring process.

- b. *Parking Area. Number of spaces; extent of screening from public or abutting lots; direction of vehicle light glare; direction of lighting; sources of possible vibration; prevailing direction of exhaust fumes; location of driveway and curb cuts; accessibility and convenience of the parking area; and mitigating measures to be taken by the*

*applicant, such as parking space preferences for carpool or vanpool vehicles and provisions for bicycle racks;*

There are no new parking areas on site proposed. The five parking spaces that are permitted to be used by the childcare center located at 7016 15<sup>th</sup> Ave NW are existing and are located on a major commercial street; therefore no mitigating measures are necessary.

- c. *Parking Overflow. Number of vehicles expected to park in the street; percentage of on-street parking supply to be used by the proposed use; opportunities available to share existing parking areas; trends in local area development and mitigating measures to be taken by the applicant;*

See analysis above under subsection D2a.

- d. *Safety. Number of driveways which cross pedestrian walkways; location of passenger loading areas;*

No new driveways are proposed. The two load/unload spaces are located adjacent to the site, one on NW 70<sup>th</sup> St (existing) and one on Mary Ave NW (proposed). The load/unload spaces are in close proximity (adjacent) to the site and would provide a good service for the neighborhood to guide the location appropriate for drop off and pick up of the children.

- e. *Availability of Mass Transportation. Bus route location and frequency of service; private transportation programs, including carpools and vanpools, to be provided by the applicant.*

15<sup>th</sup> Ave NW is located one block west of the site and provides ample bus service going both ways at a high frequency. Also see analysis under subsection D2a for information on the applicant's transportation plan.

3. *The Director may condition a permit to mitigate potential traffic and parking problems. Measures which may be used by the Director for this purpose include, but are not limited to, the following:*

- a. *Implementing the institution's transportation plan to encourage use of public or private mass transit;*

To ensure that the employees and parents are aware of the location of the load/unload spaces and five parking spaces located @ 7016 15<sup>th</sup> Ave NW, a parking and access plan should be developed to hand out to new employees and new customers. As a result, proper conditioning is warranted to ensure the plan is created for the use of the customers and employees.

- b. *Increasing on-site parking or loading space requirements to reduce overflow of vehicles into the on-street parking supply;*

NA

- c. *Changing access and location of parking;*

NA

- d. *Decreasing on-site parking or loading space requirements, if the applicant can demonstrate that less than the required amount of parking is necessary due to the specific features of the institution or the activities and programs it offers. In such cases, the applicant shall enter into an agreement with the Director, specifying the amount of parking required and linking the parking reduction to the features of the institution which justify the reduction. Such parking reductions shall be valid only under the conditions specified, and if those conditions change, the standard requirement shall be satisfied.*

The applicant has demonstrated to the Department that on site parking is not required in order to operate the childcare center in a non-impactful manner. Providing no on site parking is mitigated by the following: providing the two street load/unload spaces, the transportation plan, the available five spaces that can be used by the customers, and providing all this information to all customers and employees. At a minimum, the applicant must maintain the stated hours of operation and the two load/unload spaces in order to justify the waiving of on site parking and be in compliance with this conditional use approval. Also, to be in compliance with the conditional use approval the proponent must not have more than three full time employees working at the site and not serve more than twenty (20) children at any one time. Not meeting these requirements will result in not meeting the conditions for this Administrative Conditional Use Permit.

***SMC 23.45.090 Institutions -- General provisions***

- A. *The establishment of new institutions, such as religious facilities, community centers, private schools and child care centers, which meet the development standards of Sections 23.45.092 through 23.45.102, shall be permitted outright in all multifamily zones. Institutions not meeting all the development standards of these sections may be permitted as administrative conditional uses subject to the requirements of Section 23.45.122.*

The existing structures on site do not meet all required development standards; as a result the proposal cannot be permitted outright. The structures have been found to be non-compliant with some required setbacks. The structure known as 1472 NW 70<sup>th</sup> St does not comply with the rear and side setback requirements of SMC 23.45.096-B&C. The structure known as 7003 Mary Ave NW does not comply with the side setback requirement (subsection B). Table 1 below summarizes the non-compliance of the existing structures with current institution setback requirements.

Table 1: Non Compliance with Required Setbacks (Development Standards)

	North Side Setback	South Side Setback	Rear Setback
<b>7003 Mary Ave NW (Building #1)</b>	Requirement: 10' Existing/Proposed: 4'-3"	NA (meets requirement)	NA (meets requirement)
<b>1472 NW 70th (Building #2)</b>	NA (meets requirement)	Requirement: 10' Existing/Proposed: 0'	Requirement: 10' Existing/Proposed: 0'

Also, the use does not have the required parking pursuant to SMC 23.54 (Quantity and Design Standards for Access and Off-Street Parking). See analysis above (subsection D3d) regarding parking.

**SMC 23.45.116 Administrative Conditional Use -- General provisions**

A. *Only those conditional uses identified in this subchapter as conditional uses may be authorized as conditional uses in multi-family zones. The Master Use Permit process shall be used to authorize these uses.*

Institutions other than public schools which do not meet development standards may be permitted in multi-family zones as administrative conditional uses.

B. *Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Subchapter I.*

This proposal is subject to SMC 23.45.122, institutions other than public schools not meeting development standards.

C. *The Director may approve, condition or deny a conditional use. The Director’s decision shall be 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.*

This decision shall be based on whether the proposed use meets the criteria for establishing a specific conditional use as described in SMC 23.45.122 A through D. The City recognizes the public benefit that institutions, such as the proposed childcare center have made by providing educational and childcare opportunities to their communities. The criteria for establishing this project shall be examined, and the project will be conditioned to prevent any detriment or injury to property in the vicinity.

D. *In authorizing a conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest.*

The criteria described in SMC 23.45.122 A through D is used to evaluate the proposal and condition, if necessary, to protect other properties and the public interest.

E. *The Director shall issue written findings of fact and conclusions to support the Director’s decision.*

This report satisfies the above criterion.

- F. *Any authorized conditional use which has been discontinued shall not be re-established or recommenced except pursuant to a new conditional use permit.*

This is a new use proposed at this site.

### **DECISION - ADMINISTRATIVE CONDITIONAL USE**

MUP # 2408478 located at 7003 Mary Ave NW is **CONDITIONALLY APPROVED** To allow a Childcare center in a Lowrise Two Residential Commercial (L2-RC) zone.

### **CONDITIONS - ADMINISTRATIVE CONDITIONAL USE PERMIT**

#### *Non-Appealable Conditions: Prior to issuance of Master Use Permit*

1. Revise the MUP plans to eliminate references to covenant parking, as none are proposed. Add information to the plans that the five parking spaces permitted to be used @ 7016 15<sup>th</sup> Ave NW are not required parking but are available for use.
2. Revise to the MUP plans to show the proposed load/unload parking space along Mary Ave NW.

#### *Prior to issuance of the Master Use Permit*

3. A clear transportation plan to be given to customers and employees including a site plan showing the available and proximity of the parking spaces located at 7016 15<sup>th</sup> Ave NW, the two available load/unload spaces shall be provided to the Land Use Planner for approval.

#### *Prior to Certificate of Occupancy*

4. Show proof to the Land Use Planner that the second load/unload parking space along Mary Ave NW has been installed and provide the permit from Seattle Department of Transportation.

#### *For the Life of the Project*

5. The transportation plan shall be provided to all new customers and employees.

Signature: (signature on file) Date: July 25, 2005  
Lucas DeHerrera, Land Use Planner  
Department of Planning and Development