

## CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

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### BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

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Phil Olbrechts, Hearing Examiner

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RE: Krumova	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</b>
Conditional Use Permit	
(PLN20130012)	

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### INTRODUCTION

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The applicant has applied for a conditional use permit for the conversion of an existing 2,400 square foot building to a daycare center at 24310 – 76th Ave. W. The center will provide daycare and preschool services for up to 40 children with the possibility of a future expansion in services. The proposal is approved with conditions.

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### TESTIMONY

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#### Staff Testimony

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Jen Machuga, Associate Planner, stated that the application is for a conditional use permit for a daycare at 24310 76<sup>th</sup> Ave W. The site is within the community business zone. This zone requires conditional use permits for daycare centers. Although the applicant offers preschool services in addition to daycare, staff feels the application still meets the city's daycare center designation. However, in order to meet fully the daycare center designation requirements, the applicant will have to lower the maximum age for summer camp activities from thirteen to twelve. If this was a proposal for a school, there would be additional requirements which are listed in the community facilities chapter of the Edmonds City Code; however, it is not. Staff

1 feels the application is consistent with the goals and policies of the Comprehensive  
2 Plan, is consistent with the zoning ordinance, and is not detrimental to public health,  
3 safety, or welfare. The applicant has requested that the permit be transferrable. The  
4 RS-8 land across from the site is developed with single-family homes. There is no  
5 on-street parking on 76<sup>th</sup> Ave because of a bike lane. The application provides for  
6 twelve parking spaces on-site. The maximum number of children will be forty. Ms.  
7 Machuga is not aware what the traffic levels will be during drop-off and pick-up  
8 times.

#### 9 Applicant Testimony

10 Rayka Krumova, applicant, testified that she has worked for a daycare as a teacher  
11 since 2007. In her experience, there have never been more than three or four cars  
12 dropping children off at the same time. The busiest drop-off times are between 7:50  
13 and 8:50am, but even then there are no traffic back-ups.

14 Patricia Goffette, owner, stated that there are three ingresses and egresses to the  
15 building which mitigates traffic problems.

## 16 EXHIBITS

17 The staff report and attachments 1-18 identified at page 8 of the staff report was  
18 admitted at hearing as Exhibit 1. An affidavit of publication was admitted as Exhibit  
19 2 during the hearing.

## 20 FINDINGS OF FACT

### 21 Procedural:

- 22 1. Applicant. Rayka Krumova
- 23 2. Owner. Goffette, LLC.
- 24 3. Hearing. The Hearing Examiner conducted a hearing on the subject  
25 application on May 9, 2013 at 3:00 pm in the Council Chambers of the Edmonds  
Public Safety Complex.

### Substantive:

3. Site and Proposal Description. The applicant has applied for a conditional use  
permit for the conversion of an existing 2,400 square foot building to a daycare center  
at 24310 – 76<sup>th</sup> Ave. W. No exterior alterations to the building are proposed at this  
time. The center will provide daycare and preschool services for up to 40 children  
with the possibility of a future expansion in services. Building and site plans for the

1 proposed use are attached to the staff report as attachments 4 and 5. 12 parking stalls  
2 are proposed for the facility.

3 The project site currently has a vacant 2,400 square foot building that was formerly  
4 used as an arts and crafts store. This building will be converted to the proposed day  
5 care center. The lot is 0.31 acres in size. The lot is relatively level and contains  
6 existing landscaping typical of commercial development. The majority of the lot is  
7 covered by the existing building and pavement for the parking and access drives.

8 4. Characteristics of the Area. The adjacent properties to the south of the subject  
9 site are located within the Business Community zone, while the adjacent properties to  
10 the north and west are located within the Neighborhood Business zone. Properties  
11 within the vicinity of the site, including those properties to the east of 76<sup>th</sup> Avenue  
12 West from the subject site are located within the Single-Family Residential, RS-8 and  
13 RSW-12, zones. Surrounding land uses include a church in addition to commercial  
14 and residential uses.

15 5. Adverse Impacts of Proposed Use. There are no significant adverse  
16 associated with the proposal. There are no critical areas on the site. The proposal has  
17 been reviewed by the fire marshal, public works, parks and engineering and no  
18 recommendations were found necessary from those departments. No exterior  
19 changes are proposed at this time so there are no aesthetic issues of concern. The  
20 applicant may propose exterior alterations during building permit review, but  
21 aesthetic impacts at that time would be adequately addressed through design review.  
22 The most significant impact associated with the proposed change in use would  
23 normally relate to traffic and parking. As noted previously the engineering  
24 department has reviewed the proposal and not found any traffic mitigation necessary.  
25 Further, the applicant testified that only a handful of persons drop-off or pick up  
children at any one time so there will not be any daily spikes in traffic generation  
associated with the proposed use. Access to the site will be directly off of 76<sup>th</sup> Ave  
W., so no traffic impacts to neighborhood streets are anticipated. As noted in the staff  
report, as conditioned the proposal will be consistent with the City's parking  
requirements. There do not appear to be any outdoor play areas proposed, so noise  
should not be an issue.

## 21 CONCLUSIONS OF LAW

### 22 Procedural:

23 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the  
24 Hearing Examiner will hold a hearing and issue a final decision on conditional use  
25 permit applications. ECDC 16.50.010(C)(10) requires a conditional use permits for  
day care centers serving as a primary use within the Community Business zone.

### Substantive:

1 2. Zoning Designations. The subject property is zoned Community Business (CB).

2 3. Permit Review Criteria. The criteria for a conditional use permit are  
3 governed by ECDC 20.050.010. All applicable criteria are quoted below and applied  
4 through corresponding conclusions of law.

5 **ECDC 20.050.010:** *No conditional use permit may be approved unless all of the  
6 findings in this section can be made.*

7 A. *That the proposal is consistent with the comprehensive plan.*

8 5. The proposal is consistent with the Comprehensive Plan. The staff report analysis  
9 of the comprehensive plan, located at Section IX, is adopted and incorporated by this  
10 reference as if set forth in full.

11 **ECDC 20.05.010(B):** *Zoning Ordinance. That the proposed use, and its location, is  
12 consistent with the purposes of the zoning ordinance and the purposes of the zone  
13 district in which the use is to be located, and that the proposed use will meet all  
14 applicable requirements of the zoning ordinance.*

15 5. The proposal is consistent with the City's zoning ordinance. The applicant  
16 currently does not propose any exterior alterations or new structures, so compliance  
17 with Zoning Ordinance bulk and dimensional standards should not be an issue unless  
18 the existing building is an illegal nonconforming use. There is nothing in the record  
19 to suggest that is the case. The staff report analysis of Zoning Ordinance compliance,  
20 located at Section X(A) and (B), is adopted and incorporated by this reference as if set  
21 forth in full.

22 **ECDC 20.05.010(C):** *Not Detrimental. That the use, as approved or conditionally  
23 approved, will not be significantly detrimental to the public health, safety and welfare,  
24 and to nearby private property or improvements unless the use is a public necessity.*

25 6. As discussed in Finding of Fact No. 5, there are no significant adverse  
impacts associated with the project. As a consequence, the proposal will not be  
significantly detrimental to the public health, safety and welfare or to nearby  
properties or improvements.

**ECDC 20.05.010(D):** *Transferability. The hearing examiner shall determine whether  
the conditional use permit shall run with the land or shall be personal. If it runs with  
the land and the hearing examiner finds it in the public interest, the hearing examiner  
may require that it be recorded in the form of a covenant with the Snohomish County  
auditor. The hearing examiner may also determine whether the conditional use permit  
may or may not be used by a subsequent user of the same property.*

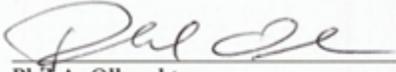
1 7. The conditional use permits shall run with the land, but has to maintain the  
2 proposed design and use.

3 **DECISION**

4 The conditional use permit for the proposed day care center, (PLN20130012) is  
5 approved, subject to the following conditions:

- 6 1. If the daycare is expanded such that more than 40 children and/or more than 4  
7 employees are proposed to be on site at any given time, the additional parking stalls  
8 required by ECDC 17.50, or as amended, must be provided.
- 9 2. The maximum age of children served by the daycare center shall be limited to the  
10 age limit established in the definition of "daycare center" of ECDC 21.20.010.B, or  
11 as amended.
- 12 3. The applicant shall obtain all necessary building permit approvals and inspections  
13 prior to opening the daycare center.
- 14 4. The applicant is responsible for obtaining all local, state, and/or federal permits or  
15 approvals applicable to the proposal.
- 16 5. This application is subject to the applicable requirements contained in the Edmonds  
17 Community Development Code (ECDC) and it is the responsibility of the applicant  
18 to ensure compliance with the various provisions contained in these ordinances.
- 19 6. The conditional use permit shall run with the land, but has to maintain the proposed  
20 design and use.

21 Dated this 23<sup>rd</sup> day of May, 2013.

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23 Phil A. Olbrechts

24 City of Edmonds Hearing Examiner

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### **Appeal Right and Valuation Notices**

This land use decision is final and subject to closed record appeal to the City Council as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the issuance of this decision as required by ECDC 20.07.004(B). Reconsideration may be requested within 10 calendar days of issuance of this decision as required by ECDC 20.06.010.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.