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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

Phil Olbrechts, Hearing Examiner

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RE: Sprouts Preschool and Daycare Conditional Use Permit PLN20150026	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
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INTRODUCTION

The applicant has applied for a conditional use permit to increase the number of children authorized for a day care center located at 20919 76th Avenue West by a previous conditional use permit. The conditional use permit application is approved subject to conditions.

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TESTIMONY

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Sean Conrad, associate planner, summarized the proposal.

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The applicant, Jennifer Gifford, noted that she did not at this time have any plans to have more than 40 students but that she would like to have the option to expand in the future.

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Alvin Rutledge testified that a sex offender had moved into the vicinity of the project site. Ms. Gifford noted that no one can go on the day care site without permission from the adult supervisors and that her facility is licensed and employees are trained to keep children safe from persons who may be a danger to them.

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EXHIBITS

The staff report and attachments 1-11 identified at page 9 of the staff report were admitted at hearing as Exhibit 1. The staff power point was admitted as Exhibit 2. Alvin Rutledge’s speaking notes were admitted as Exhibit 3.

FINDINGS OF FACT

Procedural:

- 1. Applicant and Owner. Sprouts, LLC.
- 2. Hearing. The Hearing Examiner conducted a hearing on the subject application on July 23, 2015 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 to increase the number of children authorized for a day care center by a previous conditional use permit. The day care center is located at 20919 76th Avenue West on a 15,249 square foot parcel. The current preschool and daycare center, The Trike Stop, received a conditional use permit in 1984 (CU-2-84). As part of the Hearing Examiner’s decision, the daycare center at the time was limited to 30 children. The daycare center is changing ownership and the new owner would like to increase the number of children allowed, with an initial increase to 40 children, and the ability to add more children depending on future building expansion and parking requirements.
- 4. Characteristics of the Area. Properties to the north, south and east of the subject site are within the RM-1.5 zoning district. These properties are developed with multifamily residences in the form of apartment buildings. West of the project site, across 76th Avenue West, is a slightly lower density Multi Family Residential zoning district, RM-2.4. The properties west of the project site are developed with one and two story apartment buildings.
- 5. Adverse Impacts of Proposed Use. There are no significant adverse associated with the proposal. No critical areas are located on or adjacent to the project site. The proposal will provide for adequate parking and interior vehicle circulation. The applicant has submitted a parking and circulation plan that is under review by City engineering staff for compliance with applicable public works and parking standards. The parking and circulation plan will be subject to City approval during building permit review. Similarly, the applicant will be required to comply with City landscaping standards during building permit review as well, which incorporates standards for aesthetic buffering to adjoining uses. As the City’s parking, landscaping

1 and engineering standards are adequate with the recommended staff conditions to
2 address all project parking, aesthetic and interior circulation impacts, no further
mitigation is necessary for the proposal under the conditional use permit process.

3 As to off-site traffic generation, the staff report concludes that 76th Avenue West, as a
4 minor arterial, has capacity to accommodate the additional traffic. There being no
5 evidence to the contrary, the staff's findings, based on the engineering department's
traffic expertise, are determinative on off-site traffic impacts.

6 Noise generated by the additional students also does not appear to be a significant
7 impact, since the staff report notes that 76th Ave W. is a busy thoroughfare.
8 Consequently, the added noise of children playing should not create any appreciable
increase in noise levels.

9 The residency of a sex offender in the neighborhood is of debatable relevance to a
10 land use proceeding (especially given that the residency of sex offenders can change
at any time), but in any event the applicant has been apprised of the presence and the
11 applicant's duty to protect the children on its property is regulated by the state.

12 CONCLUSIONS OF LAW

13 Procedural:

14 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the
Hearing Examiner will hold a hearing and issue a final decision on conditional use
15 permit applications.

16 Substantive:

17 2. Zoning Designations. The subject property is zoned Multi-family
business, RM-1.5.

18 3. Permit Review Criteria. A conditional use permit is required for the
19 proposed day care expansion because ECDC 16.30.010(C)(3) requires a conditional
use permit for day care in the RM 1.5 zone. The criteria for a conditional use permit
20 are governed by ECDC 20.050.010. All applicable criteria are quoted below and
21 applied through corresponding conclusions of law.

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

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

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

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

5 5. The staff report analysis of Zoning Ordinance compliance, located at
6 Section X, is adopted and incorporated by this reference as if set forth in full.

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

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

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

20 7. The conditional use permit shall run with the land. The impacts of the
21 proposal are not dependent upon the owner.

22 **DECISION**

23 The conditional use permit is approved, subject to the following conditions:

24 A. The permit shall be transferable to other future daycare ownership at the
25 property.

B. If the daycare is expanded such that more than 40 children and/or more
than 5 employees are proposed to be on site at any given time, the additional
parking stalls required by ECDC 17.50, or as amended, must be provided.

C. The maximum age of children served by the daycare center shall be
limited to the age limit established in the definition of “daycare center” of
ECDC 21.20.010.B, or as amended.

D. The applicant shall obtain all necessary building permit approvals and
inspections prior to increasing the number of children at the daycare center.

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E. The applicant is responsible for obtaining all local, state, and/or federal permits or approvals applicable to the proposal.

F. Compliance with Engineering codes, construction standards and parking requirements will be reviewed with the building permit application for development of the site. Applicant is encouraged, wherever feasible, to incorporate pervious pavements, rain gardens and/or other low impact development techniques into the project design.

G. Approval of the conditional use permit does not constitute approval of the improvements as shown on the submitted plans.

H. If the Douglas fir tree is removed to permit the required off-street parking then, prior to issuance of a building permit, a landscaping plan shall be reviewed and approved subject to the following:

1. A landscaping area shall be reestablished near the western edge of the parcel. To facilitate vehicular access, it may be sited further towards the western property line and may be semi-circular or otherwise. If desired, this area may be designed as a rain garden to capture storm water runoff from the pavement on the western portion of the site. Otherwise, the area shall be planted with Type IV landscaping (ECDC 20.13.030.D).

2. The applicant shall obtain a right-of-way construction permit prior to any work within the right-of-way.

I. This application is subject to the applicable requirements contained in the Edmonds Community Development Code (ECDC) and it is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances.

Dated this 6th day of August 2015.



Phil A. Olbrechts

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.