



## Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36  
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### OFFICE OF THE HEARING EXAMINER

#### KITSAP COUNTY

#### REPORT AND DECISION

**CASE NO.:**

080724-062  
DISCOVERY DEPOT CHILDCARE ENROLLMENT  
EXPANSION, CONDITIONAL USE PERMIT

**APPLICANTS/  
OWNERS:**

Norman and Constance Falconer  
15201 Central Valley Road NW  
Poulsbo, WA 98370

**ENGINEER**

David Bannon, P.E.  
23789 Brixton Place NW  
Poulsbo, WA 98370

**SUMMARY OF REQUEST:**

The owners and operators of an existing day-care center are proposing to increase the total occupancy of the center from 39 total occupancy, to 72 total occupancy. The Discovery Depot is a day-care Montessori school for children older than 2.0 years.

**PROJECT LOCATION:**

The existing day-care is located at 7333 Tracyton Boulevard, which is four hundred feet south of the intersection of Fairgrounds Road in Central Kitsap County. The subject parcel is situated in Section 28, Township 25 North, Range 1 East of Willamette Meridian in Commissioner's District No. 3.

**SUMMARY OF DECISION:**

Request granted, subject to conditions.

**PUBLIC HEARING:**

After reviewing Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was conducted in the chambers of the Kitsap County Board of Commissioners on **July 24, 2008**.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Capacity Reservation Certificate	5/28/02	3/27/08
2	Staff Report	6/19/02	N/A
3	Site Plan	4/24/02	3/27/08
4	Building Elevation	11/3/03	3/27/08
5	KCHD Record of Sewage Disposal System	2/20/04	3/27/08
6	Kitsap County Code for Conditional Use Permit	2/12/07	N/A
7	KC Assessor's Map	12/21/07	N/A
8	Pre-Application Meeting Request	No Date	2/21/08
9	Pre-Application Site Plan	2/20/08	3/27/08
10	Pre-Application Conference Confirmation Letter	2/22/08	N/A
11	KC Assessor's Property Report	2/22/08	N/A
12	GIS Critical Areas Aerial Photo	2/22/08	N/A
13	GIS Critical Areas Topo Map	2/22/08	N/A
14	GIS Building Limitations Map	2/22/08	N/A
15	GIS Zoning Map	2/22/08	N/A
16	KC Fire Marshal Review comments/Conditions	2/25/08	N/A
17	E-mail from Jackie Blackwood	2/29/08	2/29/08
18	E-mail from David Greetham	3/4/08	3/4/08
19	KCHD Building Site Application	No Date	3/15/08
20	Conditional Use Permit Application	3/18/08	3/27/08
21	Stormwater Calculations for Pervious Pavement	3/18/08	No Rec'd Date
22	Pre-Application Meeting Summary	3/21/08	N/A
23	Environmental (SEPA) Checklist	3/25/08	3/27/08
24	Conditional Water Availability Letter – City of	3/25/08	3/27/08

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
	Bremerton		
25	Textual Requirements	No Date	3/27/08
26	Administrative/Conditional Use Permit Triage & Technical Review	3/27/08	N/A
27	Environmental Review Checklist	3/27/08	4/1/08
28	Notice of Complete Application	4/23/08	N/A
29	Memo from Nathan D Holburn KCHD	5/8/08	N/A
30	Notice of Application	6/23/08	N/A
31	Affidavit of Mailing – NOA	6/25/08	N/A
32	LIS Notes	6/16/08	N/A
33	Notice of Public Hearing	7/8/08	N/A
34	Affidavit of Mailing – NPH	7/8/08	N/A
35	Affidavit of Posting	7/2/08	N/A
36	Staff Report	7/16/08	N/A
37	Memorandum From Shawn Alire	7/16/08	N/A
38	Powerpoint Presentation	7/24/08	N/A

RICK McNICHOLAS appeared, presented the Department of Community Development Staff Report, and introduced Exhibits “1” through “38” which included his powerpoint presentation. The applicant requests the conditional use permit to allow expansion of the daycare Montessori school from 39 to 63 children plus staff for a total of 72. The applicant proposes no change to the school building and the only changes that will occur are additional parking spaces and landscaping. The topography slopes downward from east to west, and a wetland delineated at the time of the original approval in 2002 will maintain its 50 foot wide buffer. The site is still located in the Urban Restricted (UR) zone classification. The site plan shows two additional parking spaces in the front of the building and six along the road. The code requires 21 spaces and the applicant has provided 22 which includes two, ADA spaces. The applicant is installing irrigation at the front of the parcel and has had a landscape plan prepared by a nursery which will be much more successful than the previous effort. The 1.94 acre site is well over the 10,000 square foot minimum required by the code and the play area measures 4,725 square feet. The increased use does not require further SEPA review. The applicant will place slats in the existing chain link fence and will make it sight obscuring on the north boundary.

SHAWN ALIRE, development engineer, appeared and testified that he has reviewed the project and finds that it meets the preliminary design requirements. The County did not require a TIA for the two existing approaches. No upgrades are required and staff recommends approval.

CONSTANCE FALCONER, applicant, appeared and testified that they need to expand the facility as they have a fall waiting list despite having no signs or other advertising. The waiting list is the reason for the expansion. She agrees with the staff report. They hired a construction company which has already expanded the septic system and installed irrigation.

MR. McNICHOLAS then reappeared and recommended deletion of the second sentence of Condition No. 5.

No one spoke further in this matter and so the Examiner took the request under advisement.

**NOTE:** A complete record of this hearing is available in the office of Kitsap County Department of Community Development.

### **FINDINGS, CONCLUSIONS AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, previously viewed the property, heard testimony, and taken this matter under advisement.
2. Appropriate notice was provided pursuant to the Kitsap County Code.
3. The original construction and operation of the Discovery Depot Childcare Center was subject to a full SEPA review in 2002, and a Determination of Nonsignificance was signed by the Responsible Official on June 11, 2002. No appeals were filed.
4. The applicant has a possessory ownership interest in a generally rectangular, 1.94 acre parcel of property abutting the west side of Tracyton Boulevard NW approximately one-quarter mile west of its intersection with Fairgrounds Road in the Tracyton area of unincorporated Kitsap County. The parcel abuts Tracyton Boulevard for 198 feet and measures approximately 552 feet in depth. The applicant previously received approval of a conditional use permit which allowed improvement of the site with the Discovery Depot Daycare Montessori School. Conditions of approval limited the size of the school to a total of 39 children and employees. The applicant has requested a conditional use permit to expand the school to 63 children and nine staff for a total of 72 occupants.
5. To accommodate the expansion the applicant will provide eight additional parking spaces for a total of 22 to include two, ADA compliant spaces. Six of the spaces will abut the easement road extending across the parcel from southeast to northwest, and two spaces will be located in the present loading area at the front of the building. The applicant will make no changes to the existing building, but will install

slats within the chain link fence surrounding the playground area.

6. The parcel remains within the Urban Restricted (UR) zone classification of the Kitsap County Code (KCC). Section 17.381.040(A) KCC authorizes a “day-care center” subject to a conditional use permit in the UR zone classification. Said section also requires a daycare center to meet the requirements set forth in Footnote 14. Findings on the requirements set forth in Footnote 14 are hereby made as follows:
  - A. The footnote requires that daycare centers have a minimum lot size of 10,000 square feet. The applicant’s lot size greatly exceeds said minimum as it contains 1.94 acres.
  - B. The daycare center must maintain an outdoor play area with a minimum area of 75 square feet per child, calculated at total capacity. The applicant proposes a maximum of 63 students and therefore needs a play area of 4,725 square feet. The outdoor play area currently measures almost 10,000 square feet.
  - C. The footnote requires a site obscuring fence at least four feet in height separating the play area from abutting lots. The applicant will install slats within the existing four foot high, chain link fence surrounding the play area.
  - D. The footnote requires the facility to provide adequate off-street parking and loading spaces. The applicant will provide 22 parking spaces, one more than the 21 spaces required by the KCC.

The project therefore complies with all requirements of Footnote 14.

7. Prior to obtaining a conditional use permit the applicant must show that the request satisfies the criteria set forth in KCC 17.421.030(A). Findings on each criteria are hereby made as follows:
  - A. The expanded daycare facility maintains its consistency with the Kitsap County Comprehensive Plan. The plan supports limited intensity uses in the UR zone classification due to the presence of critical areas. The daycare facility does not impact either the wetland or its buffer and uses approximately one-third of the site. The balance of the site is maintained in a forested area consistent with the UR designation.
  - B. The expanded daycare complies with applicable requirements for said use as set forth in the KCC. As previously found, the use is allowed in the UR classification subject to meeting the criteria for a conditional use permit and the criteria set forth in Footnote 14.
  - C. The expanded daycare will not materially detrimentally impact uses or

property in the immediate vicinity. The applicant proposes no increases in the size of the building and will provide six additional parking spaces along the driveway. The additional traffic should not impact Tracyton Boulevard as Development Engineering and the Public Works Department did not require a Traffic Impact Analysis. The applicant will meet all Health District and County Department requirements. The applicant has operated the daycare for over four years, and no neighbors expressed opposition to the expansion.

- D. The expanded daycare facility responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate area. The applicant has constructed an attractive building and has relandscaped the frontage along Tracyton Boulevard and provided irrigation. Furthermore, even though the Discovery Depot Daycare has operated at the site for only four years, it has developed an extensive waiting list and is located in an area developing with increasing urban densities. Daycare facilities are appropriate uses in residential neighborhoods as children can remain in their neighborhood during hours of operation.

### **CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a conditional use permit to expand the existing Discovery Depot Montessori Daycare School for children older than two years satisfies all criteria of the Kitsap County Code and is consistent with the Kitsap County Comprehensive Plan. Therefore, the conditional use permit should be approved subject to the following conditions:
  1. The Site Plan dated "Received March 27, 2008" is the site plan approved by the Department for this proposal. The applicant will be allowed to increase the enrollment of the day-care to a maximum of 63 children.
  2. The existing landscaping does not meet the letter or the intent of the Kitsap County Code Chapter 17.385. The applicant shall submit to the Department a final landscape plan completed by a Licensed Landscape Designer, or a Landscape Architect.
    - a. The landscape plan shall include an irrigation system design.
    - b. The Department shall review and revise or approve the landscaping as appropriate.
    - c. The landscaping and irrigation system shall be installed as planned, prior to any other site development.

3. A Building Site Application - alteration (BSA memo: #202091) has been approved by the Health District for this project on 4/7/2008. The BSA alteration design will need to be installed with a Sewage Disposal Permit and approved by Health, prior to final approval/occupancy of this project.
4. The applicant shall install the 4-foot high sight-obscuring fence around the play area as described by the applicant.
5. The Conditional Use Permit shall be valid for a period of three years after the date of the Notice of Decision. If after a period of three years, the applicant has not completed the new parking installation, the CUP approval shall become automatically invalid.
6. Following land use approval, an abbreviated Site Development Activity Permit (SDAP) for grading will be required prior to construction activities. The guidelines for submitting an abbreviated SDAP can be found in Chapter 2 of the Kitsap County Stormwater Design Manual. Pervious pavement requirements per the Kitsap County Stormwater Management Ordinance and Design Manual, specifically Appendix 5B.2.1 shall be addressed within the submittal.
7. The proposed parking stalls shall not encroach into the existing access easement. Please revise the site plan to show and label the access easement on section details for B and D on sheet C-2.
8. Please provide a note on sheet C-1, stating that a licensed surveyor shall delineate the access easement in the field to ensure that construction of the parking spaces will be outside the easement boundary.
9. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form is how you reserve road capacity for your project.
10. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
11. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws,

regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for a conditional use permit to allow expansion of the Discovery Depot Montessori School Daycare to a total occupancy of 63 students and nine staff for a total occupancy of 72 at a site located at 7333 Tracyton Boulevard is hereby granted subject to the conditions contained in the conclusions above.

**ORDERED** this 7<sup>th</sup> day of August, 2008.

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**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

**TRANSMITTED** this \_\_\_\_ day of August, 2008, to the following:

**APPLICANTS/  
OWNERS:**

Norman and Constance Falconer  
15201 Central Valley Road NW  
Poulsbo, WA 98370

**ENGINEER**

David Bannon, P.E.  
23789 Brixton Place NW  
Poulsbo, WA 98370

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Kitsap County Board of Commissioners  
Kitsap County Department of Community Development  
Kitsap County Department of Public Works  
Kitsap County Prosecutor – Civil Division  
Kitsap County Health District  
The Sun Newspaper

Pursuant to Kitsap County Code Section 21.04.120 and the Land Use Hearing Examiner Rules of Procedure, an OBJECTION to the Examiner's Decision may be filed, in this matter, in writing, with the Clerk of the Board of County Commissioners, on or before \_\_\_\_\_, 2008. Prior to the filing of an Objection, the objector shall pay the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) to the Department of Community Development.