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**BEFORE THE HEARING EXAMINER FOR OAK HARBOR**

Phil Olbrechts, Hearing Examiner

RE: Bilingual Nature Academy  Conditional Use  File No. 2503-0009	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.</b>
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**INTRODUCTION**

Carmen Guerrero has applied for a Conditional Use Permit for the use of an existing commercial building for a child day care and learning activity facility located at 910 SE Pioneer Way. The proposal is approved subject to conditions.

**ORAL TESTIMONY**

A computer-generated transcript of the hearing has been prepared to provide an overview of the hearing testimony. The transcript is not intended to provide a precisely accurate rendition of testimony but generally identifies the subjects addressed during the hearing. The transcript is provided for informational purposes only as Appendix A.

**EXHIBITS**

Exhibits 1-4 listed on page 1 of the staff report, were admitted into the record at the June 5, 2025, public hearing.

**FINDINGS OF FACT**

**Procedural:**

1. Applicant. Carmen Guerrero, 575 SE Regatta Drive, Oak Harbor, WA 98277.
2. Hearing. The Hearing Examiner conducted a virtual hearing on the application at 2:00 pm on June 5, 2025.

**Substantive:**

3. Site/Proposal Description. Carmen Guerrero requests a Conditional Use permit for the use of an existing commercial building for a child day care and learning activity facility located at 910 SE Pioneer Way. The space is 1,088sf located on an approximately 0.14-acre parcel (Ex. 2). The building will be remodeled to satisfy the needs of the proposed use. The final student capacity will be based on state standards related to square footage and staffing. The City of Oak Harbor defers to state standards and inspection.

The subject parcel is zoned Central Business District (CBD). The existing building sits on the front property line and consists of window storefront and a glass door. Typical public improvements including curb, gutter and sidewalk line the public street. There is angled street parking adjacent to the site. No additional parking is required. All adjacent streets are one-way. All necessary utilities are publicly provided to the site.

4. Characteristics of the Area.

	Existing Land Use	Zoning
<b>North:</b>	Church	Central Business District
<b>South:</b>	Commercial Office and	Central Business District
<b>East:</b>	Restaurant	Central Business District
<b>West:</b>	Commercial Retail Space	Central Business District

5. Adverse Impacts. No adverse impacts are anticipated from the proposal. Parking is provided and adequate. Utilities and transportation facilities are already provided to the existing building and are adequate to serve the proposed use. No physical changes to the site are expected to create any significant impact.

**CONCLUSIONS OF LAW**

**Procedural:**

1. Authority of Hearing Examiner. OHMC 19.67.030 authorizes the hearing examiner to issue decisions on applications for conditional use permits.

**Substantive:**

2. Zoning/Comprehensive Plan Designation. The property is zoned Central Business District (CBD). The property also has a CBD designation in the Comprehensive Plan

3. Review Criteria. OHMC 19.20.1050 requires a conditional use permit for child daycare centers in the CBD zone. OHMC 19.67.03 sets the criteria for conditional use permit applications. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

**OHMC 19.67.030:** *No conditional use shall be granted unless it meets the following criteria:*

*(1) All special conditions for the particular use are met;*

4. Criterion met. The criterion is met. The current Oak Harbor Municipal Code 19.08.676 standard for day care centers is “an establishment for the care and education of children in compliance with the standards set forth by the State of Washington for such use.”

The applicant is seeking the approval of a Conditional Use permit to allow for the use of the site as a day care and learning activity facility. The standards for capacity on such facilities are based on state requirements which will be addressed by the Washington State Department of Children, Youth and Families (DCYF).

A condition of approval requires that the applicant the state standards. Further conditions of approval of this CUP will address the use itself, while the DCYF will determine total number of students permitted based on their standards according to WAC 110-300-0354.

**OHMC 19.67.030(2):** *It does not have a significant, adverse environmental impact resulting in excessive noise, light and glare or soil erosion on adjacent property;*

5. Criterion met. The criterion is met. No physical changes to the site are anticipated to create any additional impacts to noise, light, glare or soil erosion. A condition of approval requires the applicant to notify customers of the parking locations on the paved areas adjacent to the proposed use, which will also prohibit the day care customers’ parking at the neighboring office use. This should ensure neighborhood compatibility. During permitting for the remodel, the use will be required to comply with all applicable standards of the OHMC.

**OHMC 19.67.030(3):** *It is provided with adequate parking;*

1 6. Criterion met. The criterion is met. There are no parking standards in the  
2 CBD zone. Existing angled parking is adjacent to the use and down the street. Staff feel  
parking will be adequate to accommodate student pick up and drop off.

3 **OHMC 19.67.030(4):** *It is served with adequate public streets, public utilities and*  
4 *facilities;*

5 7. Criterion met. The criterion is met. All public utilities and street access are  
connected to the site at levels adequate to serve the use.

6 **OHMC 19.67.030(5):** *It otherwise meets the purpose of the district in which it is to be*  
7 *placed;*

8 8. Criterion met. The criterion is met. The designated purpose of the CBD  
9 district is to provide for areas appropriate for mixed-use developments, retail, and  
10 visitor-oriented activities with the appearance of active facades at the street level on  
11 Pioneer Way. The proposed use is permitted within the zone. Active facades include  
transparent windows and doors allowing pedestrian view into the space. The existing  
12 storefront windows and glass door will be retained and allow for pedestrian passers-by  
to see within the space.

13 **OHMC 19.67.030(6):** It meets the goals and policies of the Oak Harbor comprehensive  
14 plan.

15 9. Criterion met. The criterion is met for the reasons identified in the staff  
16 report.

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**DECISION**

As conditioned below, the proposed Conditional Use Permit conforms to all required criteria for approval of the Child Day Care Facility for the reasons detailed in the Conclusions of Law above. The conditions necessary to assure compliance and required by this Decision are as follows:

1. The child day care center is limited to the number of children based on the standards of the State of Washington’s Department of Children, Youth and Families. Should the standard change during the subsequent operation of the business, the applicant shall be required to comply with state standards.
2. Any physical expansion to the facility or increase in number of students may be subject to a revised conditional use permit. The applicant shall notify city staff of any proposed expansion to determine the proper process for approval.
3. Customers be notified of parking locations on paved areas adjacent to the business and that parking at the adjacent office is not permitted.
4. That all requirements for building and fire codes be met for the building prior to occupancy.
5. All State licensing requirements shall be met prior to commencement of the day care facility.
6. The conditional use permit applies only to the property for which the application is made.

Dated this 20<sup>th</sup> day of June 2025.

*Phil Olbrechts*  
\_\_\_\_\_  
Phil Olbrechts,  
City of Oak Harbor Hearing Examiner

**Appeal Right and Valuation Notices**

Pursuant to OHMC 19.67.060, this conditional use permit decision is a final land use decision of Oak Harbor and may be appealed to superior court within 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C RCW.

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

## Appendix A

June 5, 2025, Hearing Transcript

### CUP for Day Care Facility

Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available from the City should anyone need an accurate rendition of the hearing testimony

Speaker 1 ([00:15](#)):

Okay. Alright. For the record, it is June 5th, 3:00 PM I'm Phil Albergs, hearing examiner for City of Oak Harbor here holding a hearing on an application for a conditional use permit for use of an existing building for a child daycare facility. We've had a few of these over the last year. This is case number 2 5 0 3 dash 0 0 0 9. As always, in these hearings, staff will start off the hearing by giving us a summary of what the project is about. Once they're finished, we'll move on to applicant comments, presumably to speak in favor of their application. And that's not required. If the applicants don't want to say anything, that's fine too. Just that's their choice. After that, we'll move on to public comments. If there are any members of the public out there, we'll make sure you have an opportunity to speak. That's whether you're in the meeting room or attending virtually.

([01:06](#)):

We'll get all of you in there and give you an opportunity to share your opinions, your concerns, whatever you have there. After public input, then we'll move back to staff to answer any questions that were raised and supplement the record as they find necessary. Then applicant gets final word, a final chance to present evidence in response to what's been presented before. After that, I get 10 business days, which is a couple of weeks usually to issue a final decision. And that final decision is appealable to superior court. Now, by state law, I'm not allowed to consider any evidence except that's what is shared today in the record. That way everyone has equal access to the information that's used to make a final decision. And staff does give me a staff report ahead of the hearing, which identifies how the project meets the city's permit criteria.

([01:57](#)):

A lot of times there's a substantial amount of work that goes into these things. This is a fairly simple project, so not like others, but there is the staff report. We have exhibit two as application materials. Exhibit three is a zoning and vicinity map, and exhibit four is the public noticing documents. At this point, I just want to ask if anyone out there needs to see any of those documents or has any objection to their entry in the record. If you do, just raise your hand and say, I object or say you object. And I'm kind of, let's see. Kind of lost my screen here. Hold on a minute. Sarah, can you still hear me out there?

Speaker 2 ([02:36](#)):

Yes, you are still here. Chris, I'm to see you.

Speaker 1 ([02:39](#)):

Oh, that's very strange. Okay. I can't find my window out there, but, okay, so hearing no objection, we'll go ahead and admit the staff report in exhibits one through four in total. And at this point then who's going to be our staff lead on this one? Is that Mr. Lindgren?

Speaker 2 ([02:54](#)):

That is correct.

Speaker 1 ([02:55](#)):

Okay. Mr. Linn, oh, let me swear in. Just raise your right hand. Do you swear affirm to tell the truth and nothing but the truth in this proceeding?

Speaker 3 ([03:02](#)):

I do.

Speaker 1 ([03:02](#)):

Okay, great. Go ahead.

Speaker 3 ([03:05](#)):

Okay, so this is an application for conditional use for a property located at nine 10 Southeast Pioneer Way. The proposed use is a child daycare. There are some additional kind of criteria or portions to the daycare that we included as part of our review of this. Typically a daycare type facility would kind of struggle to meet our active facade criteria for businesses that are located on the street frontage of Pioneer Way. However, the applicant has given us more information that shows that she will be operating multiple days a week and is more of a kind of learning center that will be available more to the public than a typical daycare facility might be. So based on that, our review shows that there is a way that we can consider this to be meeting our active facade requirements through the clear glass and the activity within.

([04:09](#)):

We do caution against approving more of these type uses because they are not retail or restaurant and therefore have an effect on the street that might be negative in that there isn't as much retail and kind of visitor activity going on. However, this one I think we've decided is fine based on the active facade requirements. So the other requirements based for 19, excuse me, 18, 22 50. We found that the conditional use review, it meets all of the requirements of that. There are no special conditions that need to be met. It does not have a significant adverse environmental impact or light glare or anything like that on neighboring properties is provided with adequate parking. In the situation that we have here, parking is not required for commercial uses in the central business district area. We apply that same thought process to this particular business. There's adequate street parking, significant street parking located nearby, and the ability of folks who are dropping off to utilize other businesses as well.

([05:25](#)):

So we're not concerned about parking for that situation. It is also served with public streets, public utilities and facilities that will not be an issue and it otherwise meets the purpose of the district, which is to preserve and enhance the unique urban location of the city's heritage with the character of a traditional center of social, cultural and retail activity. The active facade provision that I mentioned is kind of outlined in your staff report there. And like I said, we feel that the application does meet that standard and it does meet the goals of the comprehensive plan as well by promoting a healthy mix of

uses and encouraging lane use patterns that promote health and safety. So based on that, the result of a conditional use of approval, the applicant can move forward if any building permits or interior design things that they need to complete and then make sure that they meet all of the state standards and requirements. As you probably remember from previous daycare facility, we had changed our code to allow for the total number of students to be based on the state requirements for square footage, not the city requirements. So that streamlines the process a little bit and it allows them to go through that process and get the approval from the state as well. So based on that, we recommend approval and if you have any questions, I am available to answer those.

Speaker 1 ([06:47](#)):

Okay. Just a couple of quick ones. I was kind of curious about the traffic. You said this is maybe more like a learning center than a daycare center because my understanding of daycare centers is that they do have kind of a pretty busy morning drop off period and an afternoon pickup period, which happens to often coincide with the am and peak PM peak rush hours. Do you not see that happening in this case? Because it seems like if that would happen, that could be a problem on one of your downtown business streets?

Speaker 3 ([07:20](#)):

Yeah, so I'll let the applicant discuss their schedule, but for the early drop off, if you've been in downtown Oak Harbor, a lot of the businesses don't open until 10 or 11. They're mostly retail, so drop off for a daycare. We're not concerned about evening time. I don't think it's going to be an issue either. That's rarely a situation where there's not parking available. There's many parking facilities available in the area on the street. There's a public parking lot adjacent to the block, just around the corner essentially. So we don't see that being a problem. To be perfectly honest, the lack of parking in a downtown area is kind of the expected and a sign of a healthy business district.

Speaker 1 ([08:04](#)):

Okay. And I mean, do you have a public works look at this for traffic issues and that kind of stuff? Or is it just planning review? How does that work at Oak Harbor?

Speaker 3 ([08:12](#)):

Yeah, public Works. All the departments look at these applications just as if it were a site plan review. They didn't have any comments for us. So

Speaker 1 ([08:19](#)):

We

Speaker 3 ([08:20](#)):

Generally only talked about it as staff and don't have any issues with that.

Speaker 1 ([08:24](#)):

Perfect. Alright, thanks Mr. Lineer. Alright, well let's move on to applicants. Like I said, not required, but if you want add something, that'd be great. And yeah, maybe I'll clarify a little bit on the traffic issue in the morning. Well, I guess it's more of an afternoon issue it sounds like for Oak Harbor. So,

Speaker 4 ([08:55](#)):

Hello Mr. Is this a good spot?

Speaker 1 ([08:58](#)):

Yeah, it's a good spot. Lemme swear you in. Lemme swear you in real quick.

Speaker 4 ([09:03](#)):

Okay,

Speaker 2 ([09:03](#)):

Sure.

Speaker 1 ([09:03](#)):

Yeah, just do you swear for him to tell the truth? Nothing but the truth in this proceeding?

Speaker 4 ([09:08](#)):

Yes.

Speaker 1 ([09:08](#)):

Oh, perfect. Okay. And what's your name for the record?

Speaker 4 ([09:11](#)):

I'm Christina Elliot. I'm the attorney of, not the attorney of record, but for attorney and proceeding in this matter.

Speaker 2 ([09:17](#)):

Okay,

Speaker 4 ([09:17](#)):

Great. Thanks. So as far as your questions regarding the drop off and pickup schedule, as Mr. Denberg stated, the drop off, we don't anticipate that being an issue. The pickup, they would be staggered, so that would also contribute to a lack of a buildup of traffic. The other thing that's exciting is there is a coffee shop. I'm not sure how familiar with downtown Oak Harbor you are, but there is a coffee shop that's nearby. There's a lot of local businesses that would benefit and would be really excited to see the parents who are dropping off, picking up patronizing those local establishments. So overall we are excited about this coming to Oak Harbor and we think this would contribute to the local character and the businesses that are available in the area as well.

Speaker 1 ([10:04](#)):

Okay, sounds great. Thank you. That's very helpful. Oh yeah, and I've been through Oak Harbor many, many times. Alright. Okay, well was there something else you wanted to say or

Speaker 4 ([10:19](#)):

No? My understanding is that you have a copy of the letters of recommendation that were submitted in advance of this hearing.

Speaker 1 ([10:31](#)):

Yeah, no, I don't think I, Mr. Linken, did you send that to me? Like I said, I had the staff report and the exhibits that were attached to it. I don't recall any letters of recommendation. I mean we certainly put that in the record, that's not a problem. But like I said, I just don't recall getting that.

Speaker 3 ([10:52](#)):

Sorry, it is an exhibit two towards the end of the exhibit two packet or the information in exhibit two. If you scroll past the floor plans and the photographs of the front of the building, there are several letters of support that were attached to that. So you have an exhibit two, if you've got exhibit two, you should have that information.

Speaker 1 ([11:15](#)):

Oh, okay. Yeah, I'm sorry, I didn't see that in the application materials. Alright, sorry. Yeah, that's usually kind of a separate item as public comment, but Okay, that makes sense. I'll certainly take a look at that then. Yeah. Okay. Alright. At this point just ask, is there anyone in the meeting room that wants to say anything on this one? Any other takers?

Speaker 4 ([11:35](#)):

Yes,

Speaker 2 ([11:36](#)):

I believe there is further comment.

Speaker 1 ([11:38](#)):

Okay, great. Yeah. Alright. And Mr. Linker, do you have a signer sheet? You can call 'em up in order, maybe starters,

Speaker 3 ([11:48](#)):

We just have one, so I will let her come up and speak.

Speaker 1 ([11:51](#)):

Okay. Alright. And yeah, anyone who speaks, just need to get your name first and then I'll swear you in and go ahead and make your comment. So ma'am, what's your name for the record?

Speaker 5 ([11:59](#)):

My name is Amina Ze.

Speaker 1 ([12:01](#)):

Okay, Ms. Cozy, lemme swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 5 ([12:07](#)):

I do.

Speaker 1 ([12:07](#)):

Okay, great. Go ahead.

Speaker 5 ([12:10](#)):

So I own Wild Ophelia, it's a boutique downtown. I'm also on the board of directors for the Main Street Association downtown. I'm here in support of Carmen and opening up her preschool. I've seen firsthand how dedicated she is to providing something meaningful for our community. And I truly believe that she'll be a positive force downtown with us, not only for our youth, but also on behalf of small businesses like myself. I wholeheartedly support her vision.

Speaker 1 ([12:40](#)):

Okay, great. Thank you Ms. Zy. Alright, anyone else in the meeting room? Just raise your hand and we'll get you up on the podium. Otherwise we'll move on to the virtual ones. No other takers. Okay. So I know we have at least one person that wanted to speak virtually, so Ms. Gram, maybe you can bring 'em up and we'll get 'em in.

Speaker 4 ([13:06](#)):

We do have somebody who's logged into the remote meeting. Ms. Maria, if you would like to unmute your mic, if you're having trouble, I'll try to do that for you. Hi there, I can hear name? Yes.

Speaker 1 ([13:20](#)):

Okay,

Speaker 6 ([13:21](#)):

Excellent.

Speaker 1 ([13:22](#)):

And I didn't quite hear your name. What was your name ma'am? For the record?

Speaker 2 ([13:25](#)):

Maria

Speaker 6 ([13:26](#)):

Yaki.

Speaker 1 ([13:27](#)):

Oh, okay. Ms. Yaki, let me swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 6 ([13:34](#)):

I do.

Speaker 1 ([13:35](#)):

Okay. And for the record, just for our transcripts, your last name is spelled Y-A-S-L-I-N-S-K-I-Y, is that correct?

Speaker 6 ([13:43](#)):

That is correct.

Speaker 1 ([13:44](#)):

Okay. And just to let you know, your video isn't on, that's not a big deal, but in case you wanted it to be on, we don't see it. We just see an NY in that. That's perfectly fine. So go ahead. Yeah,

Speaker 6 ([13:57](#)):

Video is not on purpose.

Speaker 1 ([13:59](#)):

Okay. Yeah, that that's perfectly. Okay.

Speaker 6 ([14:01](#)):

Excellent. So I just wanted to come on here and express my strong support for this bilingual academy. I believe that it's an investment in both our academic excellence and holistic child development for Carver, the bilingual natural based academy. It's a very innovative educational model that is much needed. It's a step toward preparing our children for a diverse, interconnected and environmental conscious future. I know with the naval base around and everything, there is some diversity, I believe, with an academy that is bilingual is just going to really take us to the next level. The curriculum not only enhances students' cognitive development and communication skills, but also it promotes cultural inclusivity and global awareness. Again, just another bonus for Oak Harbor that is going into the right direction. The multicultural world is just, these are skills that are invaluable. The natural based approach, integrating the outdoors into learning experience, it really helps foster, I have three young children and I know that as myself being bilingual, it's just one of those things that it really opens up a whole new world for young children. It's towards physical and emotional wellbeing and allows students to learn in a dynamic hands-on experience with it being outdoors and it really improves engagements and retention. Yep. And that is it.

Speaker 1 ([15:34](#)):

Okay. Thanks Ms. Lesinski. Alright, anyone else who's in there virtually, just click on the raise hand button. It's going to be kind of at the top right of your screen if you're participating virtually. Don't see any takers there. And again, last call for people in the meeting room, no takers there. So I think Mr. Lindberg, it's back to you at this point. If you have any additional comments to make,

Speaker 3 ([16:01](#)):

I don't have anything additional.

Speaker 1 ([16:02](#)):

Okay. Alright. And applicant's, any final comments? Again, not required. Probably not necessary, but up to you, I'm not seeing any takers there. Yeah, this is pretty simple and a straightforward application. I'll

go ahead and close the hearing. And yeah, I mean the land use hearings don't get much more simple or and straightforward than when you're kind of replacing one use with another in an existing building. And it looks like staff has looked at all the impacts, traffic, of course, for this kind of use being the most important and doesn't appear there are any problems at all. And it's great to see so many uses being proposed in the community for children, that kind of thing. Obviously that you can't get enough of that. So should be able to approve this pretty quick. We'll get that approval out in the next couple of weeks. I thank you all for coming out this afternoon, beautiful afternoon and spending some of your time on this and supporting this project. So look forward to writing that decision and we're adjourned for the afternoon. Everyone have a really great day.