

UDC Interpretation	PL20-045	
	<b>Application Review and Approval Procedures 50-24</b>	
	UDC Sections: 50-24	Date of Interpretation: 4/28/2020
Approved by:	Adam Fulton, Land Use Supervisor	

**BACKGROUND:**

The Unified Development Chapter of the City of Duluth Legislative Code (UDC) is the official body of rules and regulations to guide land use and development in the City of Duluth, Minnesota. UDC Sec. 50-10 Interpretation authorizes the Land Use Supervisor to interpret the provisions of this Chapter.

The question posed was as follows: The language for the previously approved special use permit and parking variance for property at 4801 Cooke Street (PL 17-171 & PL 17-172) allowed for no more than 65 students on site at any given time. The operator for the property has inquired about modifying the enrollment at the property. Is a determination that the increase in maximum enrollment capacity from 65 to 100 students will not result in more than 70 students on site at any given time permissible under the original approvals of PL 17-171 and PL 17-172, or is an additional variance required?

**CODE INFORMATION:**

Section 50-24 defines procedural requirements for parking and loading in all zoning districts.

**UDC INTERPRETATION:**

50-24.2 has been reviewed to determine the required parking for this use is 13 cars, but with a reduction for being located near transit, the number of spaces is reduced further to nine. The width of the lot only allows room for five spaces, because there is a need for an accessible space, there are only four additional spaces available. A variance to parking from 9 spaces to 4 was approved by Planning Commission (PL 17-172). This review was based on the initial special use permit application indicating a maximum enrollment capacity of 65 students.

The applicant has proposed an update to the original special use permit in order to increase the maximum capacity from 65 to 100 students while allowing no more than 70 students to be on site at any given time. This update is not intended to increase the facility capacity, but instead to increase the ability to consolidate classrooms and reduce staffing demand when appropriate, especially during the COVID-19 pandemic.

An increase of 5 students would require one additional off-street parking space indicated in Table 50-24.2. However, the approved staff recommendations in PL 17-172 listed the condition, "Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50". The shift to allow for flexible classroom arrangements does not constitute a variance because the operational intent by the operator remains to hold site capacity at levels equivalent to the original approval. Further, the intent by the operator is to more effectively use the site's available capacity, and by staggering pick-up and drop-off times, the operator will reduce parking space demand and commensurate impacts. No future code changes are anticipated.

The proposal is consistent with the Comprehensive Land Use Plan. It reuses previously developed land, encourages a mix of activities, uses and densities, and includes consideration for education systems in land use actions. The proposal is broadly consistent with the Comprehensive Plan's Economic Development chapter, which calls for actions that support workforce participation and support for families in the workplace.