



HEARING EXAMINER  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3333  
(509) 625-6010  
FAX (509) 625-6059

GREG SMITH

November 28, 2011

Mary Moltke  
dba E. J. Roberts' Mansion  
1923 W 1<sup>st</sup> Ave  
Spokane WA 99201

Re: Request for Amendment to your Conditional Use Permit  
Hearing Examiner File No. Z2007-24-CUP

Dear Ms. Moltke:

I am in receipt of your letter of October 4, 2011, wherein you request changes to your conditional use permit, specifically as it applies to the property known as the Guse House. That property is located at 1928 West Pacific Avenue in Browne's Addition. Your requested changes are set forth in an attachment to your letter and they include a request regarding the number of occupants allowed in the house, the hours that the restaurant is allowed to operate, and also the use of the second floor of the house. Your original conditional use permit allowed the second floor to be residential and you wish to change that to commercial, the same as the main floor.

I know through conversations that you have met with City staff in order to address their concerns and we have received comments from City staff regarding your proposal. Most recently we received a Certificate of Appropriateness from Historic Preservation allowing you to install a free standing black metal fire escape on the east wall of the building. Other City staff had comments, but were supportive of your request.

By this letter, I will grant the requested changes and modifications to your conditional use permit. You must, of course, comply with the building and fire codes as administered by the Building and Fire departments. Also, you will have to meet the requirements of Traffic Engineering, specifically regarding an accessible parking place in an appropriate location. Finally, you must comply with the City/County Historic Landmarks Commission Certificate of Appropriateness as issued on November 9, 2011. With those qualifications your request is approved.

Sincerely,

Greg Smith  
City of Spokane Hearing Examiner

- c. Ken Pelton, Current Planning
- Patty Kells, Traffic Engineering
- Dave Kokot, Fire Department
- Kristen Griffin, Historic Preservation



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GREG SMITH

September 22, 2011

Mary Moltke  
dba E. J. Roberts' Mansion  
1923 W 1<sup>st</sup> Ave  
Spokane WA 99201

Re: Proposed Changes to your Conditional Use Permit  
Hearing Examiner File No. Z2007-24-CUP

Dear Ms. Moltke:

I am in receipt of your letter of August 19, 2011, regarding an extension of time for the conditional use permit granted to you on August 23, 2007. By this letter I will approve your request for a one year extension until August 23, 2012. I cannot at this time, however, approve your other requests to change certain aspects of the conditional use permit.

I have circulated your request to City staff and have received replies from most of the staff. There seems to be some issues that need to be resolved between you and the staff before any changes to your conditional use permit can be approved. I would ask you to try and meet with the staff, specifically Ken Pelton from the Planning Department, Dave Kokot from the Fire Department, Patty Kells from the Traffic Engineering and Kristen Griffin from Historic Preservation. These staff all voiced their concern over the proposed changes to the Guse House and whether or not you could meet current regulations or whether you will have to apply for a new conditional use permit. I am enclosing copies of the emails we received from some of those staff members and I would encourage you to meet with those staff members and negotiate potential changes to your conditional use permit with them.

Therefore, your request for a year's extension until August 23, 2012, is granted, but the changes proposed for the conditional use permit are not granted at this time.

Sincerely,

  
\_\_\_\_\_  
Greg Smith  
City of Spokane Hearing Examiner

- c. Ken Pelton, Current Planning
- Patty Kells, Traffic Engineering
- Dave Kokot, Fire Department
- Kristen Griffin, Historic Preservation

Encl (3)



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808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3333  
(509) 625-6010  
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GREG SMITH

April 7, 2010

Mary Moltke  
dba E. J. Roberts' Mansion  
1923 W 1<sup>st</sup> Ave  
Spokane WA 99204

Re: Request for Extension, Hearing Examiner File No. Z2007-24-CUP

Dear Ms. Moltke:

I have received your March 29, 2010, letter requesting a one year extension on the conditional use permit which was approved in the above referenced file on August 23, 2007, and which is to expire on August 23, 2010. I have reviewed your request and determined that a 12 month extension should be granted.

When the City's Zoning Regulations were amended some years ago, the provision allowing extensions of time for conditional use permits was removed. Therefore, I no longer have the authority to grant extensions on conditional use permits. However, your conditional use permit contains several elements. It was not only for a change in use at the Roberts' Mansion to allow weddings and other large gatherings, but it also included various uses of the Guse House at 1928 West Pacific Avenue as well as the use of a walled garden behind the structure at 1924 West Pacific Avenue. The decision also referenced the possible removal of the duplex at 105 South Cannon Street and I understand that building has been removed.

Since your conditional use permit contains several elements and since you have implemented the permit as to some of those elements, I believe your permit will not now expire and an extension is probably not necessary. If the Guse House cannot be used as planned, however, an amendment to the conditional use permit may become necessary. For the record, therefore, I will grant a 12 month extension until August 23, 2011, in hopes that within that time, the Guse House can become a functional part of your overall plan.

If you have questions, please call.

Sincerely,

  
\_\_\_\_\_  
Greg Smith  
City of Spokane Hearing Examiner

c. Ken Pelton, Current Planning

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Conditional Use Permit Application by ) FINDINGS, CONCLUSIONS,  
Mary Moltke for properties located ) AND DECISION  
at: 1923 West 1<sup>st</sup> Avenue, 1924 West )  
Pacific Avenue, 1928 West Pacific Ave )  
and 105 South Cannon Street )  
 ) FILE NO. Z2007-24-CUP

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** A Conditional Use Permit application by Mary Moltke, to allow the E. J. Roberts' Mansion (Roberts' Mansion) at 1923 West 1<sup>st</sup> Avenue to be used for large special events, such as weddings, for up to 130 guests; to use a duplex at 105 South Cannon Street as an indoor facility for special events connected to the Roberts' Mansion; to use the residential structure at 1928 West Pacific Avenue for a restaurant for up to 32 patrons inside and 50 patrons dining outside during summer months; to install a commercial kitchen in the residential structure at 1928 West Pacific Avenue to serve special events associated with the Roberts' Mansion; and to use the so called "Secret Garden" in the back of the residential structure at 1924 West Pacific Avenue for outdoor dining associated with special events at the Roberts' Mansion or use by the proposed restaurant.

**Decision:** Approval, subject to conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant:** Mary Moltke  
1923 West 1<sup>st</sup> Avenue  
Spokane, WA 99201

**Represented by:** Jim Kolva  
115 South Adams Street  
Spokane, WA 99201

Tyler Tornabere  
1923 West 1<sup>st</sup> Avenue  
Spokane, WA 99201

**Property Address:** The properties involved in this conditional use permit application are located at: 1923 West 1<sup>st</sup> Avenue, 1924 West Pacific Avenue, 1928 West Pacific Avenue and

105 South Cannon Street all in the City of Spokane, Washington.

**Property Location:** The property is roughly the western half of the block bounded by 1<sup>st</sup> Avenue, Cannon Street, Pacific Avenue and Elm Street in the City of Spokane.

**Legal Description:** Lots 3 through 8, Block 9 Browne's Addition in the City and County of Spokane, Washington.

**Zoning:** The property is all zoned RHD (Residential High Density).

**Comprehensive Plan Map Designation:** The property is designated "Residential 15+" in the City's 2001 Comprehensive Plan.

**Site Description:** The entire site is "L" shaped and contains approximately 32,100 square feet in area. The Roberts' Mansion, its grounds and carriage house occupy the largest parcel along 1<sup>st</sup> Avenue. To the west of the mansion there is a duplex. The other two lots which are a part of this application are on the northeast corner of Cannon Street and Pacific Avenue. One is occupied by a historic house with a garage in the rear of the lot; the second one also has a historic residential structure and a walled backyard which has been called the "Secret Garden" area.

**Surrounding Conditions:** The property surrounding is all zoned for high density multifamily uses, the same as the subject site. The properties are fully developed with apartments and multifamily uses of varying densities. Across Pacific Avenue on the southeast and southwest corners of Pacific and Cannon there are restaurant uses.

**Project Description:** The applicant, Mary Moltke, has requested a Conditional Use Permit (CUP) to allow the conversion of certain historic buildings to other uses. The applicant was granted a Special Use Permit in 1992, for the Roberts' Mansion, which allowed tours, meetings and teas for up to 24 persons, and also allowed a bed and breakfast in the Roberts' Mansion. The applicant has since acquired three other properties and wishes to change the use of them in different ways. The applicant also seeks to expand the use at the Roberts' Mansion.

The primary request relates to the Roberts' Mansion at 1923 West 1<sup>st</sup> Avenue, which was the subject of the 1992 special permit. The applicant seeks to have approval for larger events such as weddings for up to 130 guests. Those events would take place primarily in the late spring, summer and early fall when many of the guests could be outside in the yard. There is also a request for special events for up to 49 guests indoors within the mansion. The small duplex at 105 South Cannon Street is proposed as some type of indoor facility for special events connected to the Roberts' Mansion property. As an alternative, the applicant stated that the duplex might be removed and that property, which originally was part of the mansion property, would be landscaped and incorporated back into the mansion grounds and also used for special events.

Two other properties on West Pacific are also the subject of this request. The "Guse House" at 1928 West Pacific Avenue, would have a commercial kitchen installed on the first floor to assist in Roberts' Mansion events and would also have the first floor converted to a restaurant. The restaurant could serve a maximum of 32 patrons inside with 50 patrons being served outside in an outdoor patio arrangement during seasonable weather. The upstairs of that structure will still be used for apartments. Next door, to the east, at 1924 West Pacific Avenue, the house, known as the "Domke-Guse House" is currently used for apartment uses and it will remain as such. The applicant desires, however, to incorporate a walled garden to the rear of that structure into mansion events and possibility events at the proposed restaurant. The walled "Secret Garden" would accommodate a maximum of 20 patrons.

No on-street parking is proposed but the applicant has entered into parking agreements with two nearby buildings to allow people who attend events at the mansion to park off street. One of the off street sites is the Northwest Museum of Arts and Culture, which is located at 2216 West 1<sup>st</sup> Avenue and the second, is the office of Christensen Architects at 1636 West 1<sup>st</sup> Avenue. Three of the four residential structures in the application, the Roberts' Mansion, and the two houses on West Pacific Avenue are both on the National Historic Register and the Spokane Historic Register.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code Sections 17C.110, 17C.110.030, 17C.335, 17C.335.110.C.1-4, 17G.060, and 17G.060.170.

**Hearing Date:** August 2, 2007

**Notices:** Mailed: February 16<sup>th</sup> and July 16, 2007  
Posted: February 17<sup>th</sup> and July 17, 2007

**Site Visit:** August 8, 2007

**SEPA:** A Determination of Nonsignificance (DNS) was issued by the City on July 12, 2007. On July 27, 2007 an appeal was filed of the DNS by Nancy Martin (Appellant). The appeal period, however, ended on July 26, 2007, so the appeal was filed one day late. See: SMC 11.10.170 (8). The Hearing Examiner lacks authority to ignore or extend the appeal period and accordingly, the Appellant's appeal is hereby dismissed. The appeal filed by the Appellant primarily addressed the issues of noise and parking. Those issues will be addressed in the main body of this decision.

**Testimony:**

Steve Haynes  
City of Spokane Planning Services  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Mary Moltke  
1924 W 1<sup>st</sup> Ave  
Spokane, WA 99201

Jim Kolva  
115 S Adams Street  
Spokane, WA 99201

Chris De Forest  
940 E 18<sup>th</sup> Ave  
Spokane, WA 99203

Marilyn McConaghy  
1121 W 6<sup>th</sup> Ave  
Spokane, WA 99204

MaryLou Sproul  
174 S Coeur d'Alene St #H-304  
Spokane, WA 99201

William Gilmour  
827 Oakland St  
Cheney, WA 99004

Susan Bresnahan  
2103 W 4<sup>th</sup> Ave  
Spokane, WA 99201

Col Eugene Roberts  
10406 N Middleton #19  
Spokane, WA 99202

John Woodhead  
No address given

Tyler Tornabere  
1924 W 1<sup>st</sup> Ave  
Spokane, WA 99201

Heather Moltke  
620 N Prospect St  
Tacoma, WA 98406

Molly Hannan  
2915 E Foxwood Dr  
Spokane, WA 99223

Brian Boughten  
2306 W Pacific Ave #D  
Spokane, WA 99201

Stephanie Boyer  
1922 W 1<sup>st</sup> Ave #10  
Spokane, WA 99201

Jennifer Mayer  
1922 W 1<sup>st</sup> Ave #3  
Spokane, WA 99204

James Cornwall  
2306 W Pacific Ave, Unit C  
Spokane, WA 99201

Dean Lynch  
144 S Oak St  
Spokane, WA 99204

Patricia Sampson  
1623 W 1<sup>st</sup> Ave  
Spokane, WA 99201

David Roberts  
2210 E South Altamont Blvd  
Spokane, WA 99202

Bill Kaiserman  
P.O. Box 40264  
Spokane, WA 99220

Nancy Martin  
1922 W 1<sup>st</sup> Ave #9  
Spokane, WA 99201

**Exhibits:**

1. Planning Services Staff Report
2. Application, including:
  - 2A. General application
  - 2B. Conditional Use Permit application
  - 2C. Application for notification map
  - 2D. Site plan
  - 2E. Application for Special Uses Temporary Permit
3. Predevelopment Conference Notes
4. Engineering Services comments
5. Traffic Engineering comments
6. Sunburst Engineering Trip Distribution Letter
7. Sunburst Engineering addendum to Trip Distribution Letter
8. Notice map
9. Notice parcel listing with addresses
10. Notices
11. Affidavit of Mailing dated 02-16 and 07-16-07
12. Affidavits of Posting dated 02-17 and 07-17-07
13. SEPA Determination of Nonsignificance
  - 13A. Original with incorrect appeal date
  - 13B. Revised with date corrected
14. Environmental Checklist
15. Community Meeting Sign in sheet
16. Letter dated 02-05-07 to Jim Kolva from Leroy Eadie  
re: community meeting instructions
17. Letter dated 02-28-07 to Mary Moltke from Bruce Eldredge  
re: agreement for overflow parking at the MAC
18. Letter dated 03-01-07 to Mary Moltke from Denny Christenson  
re: agreement for overflow parking at 1636 West 1<sup>st</sup> Ave.
19. Emails dated 03-23-07 to/from City staff and Mike Piccolo  
re: complaints regarding operations at Roberts' Mansion
20. Emails dated 03-28-07 to/from City staff and John Pilcher  
re: requesting single point of contact on the Roberts' Mansion
21. Letter dated 04-05-07 to Mary Moltke from John Henry  
re: complaint alleging violations
22. Email dated 04-18-07 to City staff from Heather Trautman  
re: meeting with Mary Moltke and Jim Kolva
23. Email dated 04-23-07 to/from Mary Moltke and Heather Trautman  
re: information on other like properties
24. Letter dated 05-21-07 to Interested Parties from Steve Haynes

- re: requesting comments
- 25. Letter dated 05-24-07 to neighborhood property owners from Steve Haynes  
re: notification of issuance of Temporary Use Permit
- 26. Amended Letter dated 05-24-07 to Mary Moltke from Leroy Eadie  
re: issuance of Temporary Use Permit Conditions of Approval
- 27. Emails dated 05-31-07 to/from Mary Moltke and Steve Haynes  
re: noise and traffic plan
- 28. Letter dated 06-25-07 to Mary Moltke from Bruce Eldredge  
re: agreement for overflow parking at the MAC
- 29. Letter dated 06-25-07 to Mary Moltke from Denny Christenson  
re: agreement for overflow parking at 1636 West 1<sup>st</sup> Ave.
- 30. Letter dated 06-27-07 to Steve Haynes from Mary Moltke  
re: clarifying parking arrangements
- 31. Letter dated 07-12-07 to Jim Kolva from Steve Haynes  
re: public notice information
- 32. Email dated 07-30-07 to Hearing Examiner from Heather Trautman  
re: comments on the project
- 33. Public correspondence and petitions received
  - 33A Letter dated 04-12-07 from Bill Kaiserman  
re: supporting project
  - 33B Letter dated 04-20-07 from Kristen Yarsord  
re: supporting project
  - 33C Letters dated 05-07 and 07-09-07 from William Roberts  
re: supporting project
  - 33D Letter dated 05-07-07 from Edward Hamacher  
re: opposing project
  - 33E Letters dated 05-07 and 07-22-07 from Karl Fleming  
re: opposing project
  - 33F Email dated 05-08-07 from James Cornwall  
re: opposing project
  - 33G Email dated 05-09-07 from Marilyn McConaghy  
re: (no referenced letter attachment to the email)
  - 33H Letter dated 05-12-07 from Kelley Dupuis  
re: supporting project
  - 33I Letter dated 05-23-07 from Nancy Martin  
re: opposing project
  - 33J Letter dated 05-29-07 from Mary Anne Brown  
re: supporting project
  - 33K Letter dated 05-31-07 from MaryLou Sproul  
re: supporting project
  - 33L Letters dated 06-05 and 06-13-07 from Christopher DeForest  
re: supporting project
  - 33M Letter dated 06-11-07 from John Woodhead  
re: supporting project
  - 33N Letter dated 06-15-07 from Andrew Tom

- re: supporting project
  - 33O Letter dated 06-19-07 from Greenbriar Inn
  - re: supporting project
  - 33P Letter dated 06-24-07 from Dean Lynch
  - re: supporting project
  - 33Q Letter dated 06-25-07 from Vern Arneson
  - re: supporting project
  - 33R Letter dated 06-25-07 from Virda Nunn
  - re: supporting project
  - 33S Letter dated 06-27-07 from Mark Wylie
  - re: supporting project
  - 33T Letter dated 07-05-07 from Bill Kaiserman
  - re: supporting project
  - 33U Letter dated 07-16-07 from William Gilmour
  - re: supporting project
  - 33V Letter dated 07-19-07 from Bruce Vonada
  - re: opposing project
  - 33W Letter dated 07-27-07 from Sue Ann Roberts
  - re: supporting project
  - 33X Undated letter from Hazel Reedy
  - re: supporting project
  - 33Y Petitions
  - re: noise/parking issues at Mansion
- A. Exhibits received at Hearing:
- A-1 Packet from Applicant
  - A-2 Letter dated 07-30-07 from Caroline Evans
  - A-3 Letter dated 08-01-07 from Mark & Nancy Westbrook
  - A-4 Undated letter from Anthony Vaughn
  - A-5 Packet from Nancy Martin

### **FINDINGS AND CONCLUSIONS**

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code Section 17G.060.170. The Hearing Examiner has reviewed the proposed conditional use permit application and the evidence of record with regard to this section and makes the following findings and conclusions:

1. The proposal is allowed under the provisions of the land use codes.

Two sections of the City Code allow this application to move forward. In Table 17C.110-1, "Major Event Entertainment" is listed as a use allowed in the RHD Zone by Conditional Use Permit. The Applicant's request, at least for the Roberts' Mansion, would qualify as a major event entertainment.

In addition, Chapter 17C.335 addresses changes in use of historic structures. Three out of the four structures involved in this application are historic structures. SMC 17C.335.110C lists the criteria that the Hearing Examiner must find to be met to allow a change in use of a historic structure. They are:

*1. The structure is listed on the Spokane Register or National Register of Historic Places.*

The two homes on West Pacific and the Roberts' Mansion are all listed on both the National and Spokane Registers. The more modern duplex at 105 S. Cannon Street, however, is not so listed. If it is not removed, it will have to continue to be used for residential purposes in compliance with the RHD Zone. The Applicant did state that the duplex may be removed. In that case, the lot on which it is located can be reincorporated into the Roberts' Mansion property and used in conjunction with the mansion and its activities. The evidence showed that lot had been part of the mansion property prior to it being divided off and used for the placement of the duplex.

*2. All proposed changes to the structure have been approved by the Landmarks Commission as being compatible with the historical designation of the property, the form of approval being specified in the rules of procedure of the Hearing Examiner.*

Staff states that the Landmarks Commission only becomes involved if the change in use includes modification to the exterior of the building. In this case, the exteriors will not be modified except as maintenance may require.

*3. The change in use is demonstrated as necessary to insure that the structure will be preserved, considering all uses allowed in the underlying zone.*

The underlying RHD Zone does not permit many uses outright. "Residential Household Living" is permitted at the City's highest allowed densities and certain other uses such as colleges, churches and schools are also permitted. A small number of commercial and institutional uses are also allowed by Conditional Use Permit.

The evidence supporting this criterion is somewhat thin. The written statement of the Applicant argues that the changes are necessary in order to preserve all three of the historic structures. In addition, the Applicant has submitted a monthly expense report for the mansion. It lists expenses, which admittedly are high but no corresponding income statements are included. No income or expense sheets were submitted for the two houses

on West Pacific. In addition, the Applicant has submitted letters from two developer/builders, stating that the best use of the property would be for condominiums. Those letters state that much more income could be derived from condominium development than by preserving these historic properties. The question, however, is not what generates the most income but whether or not the change is necessary to preserve the historic structures.

The Hearing Examiner will accept the argument by the Applicant that the change is necessary to protect the mansion based upon the yearly expenses of the mansion which total almost \$42,000.00. The Applicant states that the changes taken together are necessary in order to preserve all structures. With a commercial kitchen and a restaurant on the first floor of the "Guse House" and the use of the walled garden at 1924 West Pacific Avenue those uses will generate additional income to meet mansion expenses as well as the expenses of the other two historic structures. The Hearing Examiner will accept the conclusory statements of the Applicant that the change is in fact necessary to protect these structures based primarily on the very costly yearly expenses of the mansion and based also on the fact that there was no evidence presented to contradict this evidence. Therefore, this criteria has been met.

*4. The benefits to the public arising out of preserving the structure are greater than the harm to the public resulting from allowing the proposed use of the structure, considering such factors as public access to the structure provided by the proposed use, the distinctive character of the proposed use, the need for the proposed use in the neighborhood in which the building is located or in the city, the amount of traffic, noise and other offsite impacts anticipated to be caused by the use and the means available to mitigate any potential offsite impacts.*

One of the more compelling arguments for the approval of this CUP was the resulting public access to the structure. The Applicant has done an extraordinary job in preserving this historic mansion as evidenced by photographs submitted at the hearing and also as evidenced by the fact that the mansion has been featured in national historic preservation magazines which are also in the record. The City has very few historic mansions that have been preserved with such care and a fewer number that are open to the public. There also appears to be a need for the proposed use within the City as the Applicant has stated that demand is high for the events proposed, mostly weddings.

There was considerable evidence presented regarding parking problems in the neighborhood as well as noise and other offsite impacts. There was testimony at the hearing from some that noise levels are

excessive, but there was also testimony from many nearby residents that noise levels are not excessive and are acceptable. The noise issue is only relevant to the larger wedding gatherings at the mansion where many of the guests are outside so that issue will only arise during the summer months. There was no testimony with regard to the activities which are held inside the mansion causing excess noise. The Applicant has proposed various noise mitigation measures relating to the loudness of the music, a prohibition on live bands, and discouraging some wedding traditions which cause excessive noise. In addition, the mansion activities must be concluded by 9:30 p.m. with everyone off premises by 10:00 p.m. at night. The larger events will be limited and only allowed on weekends. The Applicant has also made a "complaint line" available to neighbors so if they believe that the noise is becoming excessive they can call and complain. Everyone is affected differently by noise levels but it appears from the testimony and evidence presented that the noise levels are not significantly adverse as long as the mitigation is enforced.

Parking and traffic have been addressed by the Applicant through the use of offsite parking facilities. While those parking agreements have a thirty day cancellation provision, a condition of approval will be that the Applicant notify the City immediately if either of those two agreements are cancelled and also that the applicant develop a proposal addressing the parking issue should a termination of either agreement occur. This should reduce traffic in the neighborhood as well as reduce on-street parking impacts from mansion activities. Very little of the traffic will be during peak hours.

The Hearing Examiner also finds that the "Guse House" should not create excessive noise in the neighborhood. It is at the main commercial intersection in Browne's Addition and there are three other restaurants located on two corners of that intersection. Having a third restaurant in that area should not increase noise levels appreciably.

The Hearing Examiner finds that this criterion can be met with the imposition of mitigating conditions of approval. Many of these mitigating conditions have already been addressed by the Applicant but they will also become conditions of this approval.

2. The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property.

Chapter 8 of the City's 2001 Comprehensive Plan addresses urban design and historic preservation. Under Goal DP4 the policies for historic preservation are set forth. Two of the key policies are DP4.8 and 4.9 which address zoning and the rehabilitation of historic properties. Those policies favor zoning regulations that assist

owners of historic properties in preserving them to the greatest degree possible. This is especially encouraged when the property will be available for public use. In addition, DP4-10 addresses historic districts and neighborhoods and their preservation and conservation. Clearly Browne's Addition is such a neighborhood and the Roberts' Mansion is a structure within that neighborhood that should be preserved.

Staff also notes that the restaurant proposed for the corner of Pacific and Cannon, is within the Browne's Addition local center for neighborhood activity and increases the variety of services available to local residents. The Comprehensive Plan envisions such centers in higher density areas throughout the City such as this, to serve the residents in a way that encourages walking or biking rather than traveling by private automobile. Therefore, the Hearing Examiner finds that the proposal is consistent with the Comprehensive Plan. No evidence was presented to show that the proposal is not consistent with the Comprehensive Plan.

3. The proposal meets the concurrency requirements of Chapter 17D.010.

The application was circulated amongst all City departments and there were no departments that reported that concurrency could not be achieved. The Hearing Examiner also adopts the Applicant's discussion on this matter set forth in Exhibit # 2B, pages 2 and 3.

4. If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to: size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water, and the existence of natural, historic, or cultural features.

Approval of a site plan is not required as the properties that are the subject of this application are fully developed with historic structures. The exception to this is the duplex at 105 South Cannon Street. If it remains, it will have to continue as a residential use because it does not qualify as a historic structure and would not be subject to Conditional Use Permit approval. If it is removed, however, the lot on which it sits, which was formerly part of the Roberts' Mansion grounds, may be incorporated back into the mansion property and used in conjunction with mansion events.

5. The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary, conditions can be placed on the proposal to avoid significant effect or interference with the use or neighboring property or the surrounding area, considering the design and intensity of the proposed use.

See findings under criteria 1-4 above. In addition, the Hearing Examiner finds that the mitigating conditions which will be applied to this approval should be sufficient to avoid any significant interference with the use of neighboring properties or the surrounding area.

## DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed conditional use permit subject to the following conditions:

1. Approval is for a conditional use permit to allow a change of use for the Roberts' Mansion at 1923 West 1<sup>st</sup> Avenue; the residential structure at 1928 West Pacific Avenue and the walled garden behind the structure at 1924 West Pacific Avenue.
2. The Roberts' Mansion may have up to one large event, such as a wedding, with up to 130 patrons one time per week, on the weekend, from May through September. These events are to conclude by 9:30-9:45 p.m. so that all guests will be off the grounds by 10:00 p.m. Indoor events, inside the mansion for up to 49 patrons may be held three times per week, with the same hours.
3. The Applicant must maintain offsite parking for patrons. If either parking agreement now in existence is terminated for any reason, the applicant shall notify the City's Transportation Department with a plan to restore offsite parking. Failure to maintain offsite parking may result in the suspension of this permit.
4. The Applicant shall institute noise mitigation measures which prohibit live music and which reduce noise levels consistent with the City's Noise Regulations.
5. The duplex at 105 South Cannon Street is to be used only for residential purposes. If it is removed from the grounds, that property may be added to the Roberts' Mansion property and used for events.
6. The first floor of the "Guse House" at 1928 West Pacific Avenue may be converted to a restaurant for up to 32 patrons, with a commercial kitchen to serve special events associated with the Roberts' Mansion. The upper floor will be used only for residential purposes. In addition, the yard and porch area of that structure may be used by the restaurant for seating of up to 50 patrons during seasonable weather. The hours of operation shall not exceed 11:00 a.m. to 11:00 p.m. during the week and 11:00 a.m. to 12:00 a.m. (midnight) on Friday and Saturday evenings. No live music will be allowed.
7. The walled garden behind 1924 West Pacific Avenue may be used for outdoor dining in conjunction with mansion events. It may also be used by the adjoining restaurant, but it shall be vacated by 10:00 p.m.
8. The Applicant is to provide a barrier free parking space for both the mansion and the restaurant unless that requirement is waived by the City's Transportation Department.

9. Any dumpster located on any of these properties will be screened in accordance with the requirements of the Spokane Municipal Code.

10. This approval does not waive the applicant's obligation to comply with all other requirements of the Spokane Municipal Code, including the Uniform Codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.

11. Spokane Municipal Code 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.

12. Prior to the issuance of any building or occupancy permits, the applicant shall submit evidence to this file that the property owner has signed and caused the following statement to be recorded with the Spokane County Auditor's Office:

**COVENANT**

Development of this property is subject to certain conditions on file with the City of Spokane Planning Department and the Office of the City of Spokane Hearing Examiner. The property may not be developed except in accordance with these conditions. A copy of these conditions is attached to this Covenant.

This statement shall be identified as a Covenant. The owner's signature shall be notarized.

13. This approval is subject to the above-stated conditions. By accepting this approval the applicant acknowledges that these conditions are reasonable and agrees to comply with them. The filing of the above required covenant constitutes the applicant's written agreement to comply with all conditions of approval. The property may not be developed except in accordance with these conditions and failure to comply with them may result in the revocation of this approval.

DATED this 23<sup>rd</sup> day of August 2007.

  
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Greg Smith  
City of Spokane Hearing Examiner

## **NOTICE OF RIGHT TO APPEAL**

Appeals of this decision by the Hearing Examiner are governed by Spokane Municipal Code 17C.335.

Decisions by the Hearing Examiner regarding this type of conditional use permits are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 23rd day of August 2007 **THE DATE OF THE LAST DAY TO APPEAL IS THE 6TH DAY OF SEPTEMBER 2007 AT 5:00 P.M.**

In addition to paying the appeal fee to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the City Council.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.