

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) FINDINGS, CONCLUSIONS,
John and Thelma Hoffman for property) AND DECISION
located at 1321 West 9th Avenue)
) FILE NO. Z2008-35-CUP

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant seeks a conditional use permit to allow a historic structure known as the "Sengfelder-Bungay House" to be used for weddings, formal teas, and entertainment oriented retail sales.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: John and Thelma Hoffman
1321 West 9th Avenue
Spokane, WA 99204

Represented by: Dwight Hume
9101 North Mountain View Lane
Spokane, WA 99218

Property Address: The property address is 1321 West 9th Avenue in the City of Spokane, Washington.

Property Location: The property is located on the southeast corner of the intersection of 9th Avenue and Cedar Street in the City of Spokane.

Legal Description: Lots 4 and 5, Block 4 MacIntosh Addition in the City and County of Spokane, Washington.

Zoning: The property is zoned RMF (Residential Multifamily).

Comprehensive Plan Map Designation: The property is designated "Residential 15-30" in the City's 2001 Comprehensive Plan.

Site Description: The site consists of two City lots and is approximately 13,200 square feet in area. It is fully developed with a 6,415 square foot historic custom designed home

which staff indicates was built in 1907. The site also contains a two-car detached garage, patio area and several trees and other landscaping.

Surrounding Conditions: The surrounding properties are all zoned RMF like the subject parcel. There are a few single family homes in the area but most of the uses are multifamily in nature. Many are large older single family homes that have been converted over the years to multifamily uses. Both 9th Avenue and Cedar Street adjacent to the subject site are designated as Residential Streets in the City's Arterial Street Plan. A block to the west is the Walnut Street/Maple Street north-south one-way couplet and those two streets are designated as Principal Arterials in the City's Arterial Street Plan.

Project Description: The historic home is currently used as a bed and breakfast which is allowed in the RMF zone. The applicant's are proposing to continue this use in addition to hosting special events. They seek a conditional use permit for weddings for up to 150 people. They also desire to hold smaller Victorian tea parties with the sale of associated goods such as teas. The various special events will not overlap. They have indicated that it is necessary to use the house in this way as a way of providing income to help preserve this historic structure. The home was built in 1907 for businessman John Sengfelder. Another Spokane businessman Roy Bungay also lived in the home at one time. It is known on the Spokane Historic Register as the "Sengfelder-Bungay House" and was designed by Spokane architect Kirtland Cutter. Photographs in the record show that it has been restored and is well maintained. There are no plans for off-street, onsite parking but the applicant has been holding similar special events in the house for some time and there apparently have been no problems with on-street parking. In addition, the applicant has entered into a parking agreement with a church, approximately 3 blocks away should a larger event require additional parking.

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: January 15, 2009

Notices: Mailed: February 20th and November 8, 2008
Posted: February 20th and November 26, 2008

Site Visit: January 14, 2009

SEPA: This proposal is categorically exempt under SEPA.

Testimony:

Kathleen Weinand
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Dwight Hume
9101 North Mountain View Lane
Spokane, WA 99218

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General Application
 - 2B Conditional Use Permit
 - 2D Application for Notification Map
 - 2E Site Plan
 - 2F Conditional Use Permit Counter Complete Checklist
3. Pre-development conference notes
4. Building Department comments
5. Fire Department comments
6. Developer Services comments
7. Traffic Engineering comments
8. Historic Preservation comments
9. Spokane City / County Historic Preservation Office comments
10. Avista comments
11. Notice map
12. Title company certification with parcel listing and addresses
13. Notices
14. Affidavit of mailing February 20, and November 8, 2008
15. Affidavit of posting February 20, and November 26, 2008
16. Affidavit of sign removal December 12, 2008
17. Community Meeting sign in sheet and minutes
18. Hearing File Preparation Checklist
19. Letter dated 05-30-08 to Tami Palmquist from Dwight Hume
re: application submittal
20. Letter dated 06-20-08 to Interested Parties from Tami Palmquist
re: request for comments
21. Email dated 06-28-08 to Tirrell Black from Dwight Hume
re: community meeting notice
22. Letter dated 06-29-08 to Dwight Hume from Tirrell Black
re: community meeting instructions
23. Letter dated 07-16-08 to Dwight Hume from Kathleen Weinand
re: Spokane Fire Department comments
24. Letter dated 08-26-08 to the Hoffmans from Plymouth Congregational Church
re: parking agreement

25. Email dated 09-22-08 to Kathleen Weinand from Dwight Hume
re: photos for proposal
26. Letter dated 10-09-08 to Kathleen Weinand from Dwight Hume
re: department comments response
27. Letter dated 10-10-08 to Kathleen Weinand from Dwight Hume
re: parking calculations
28. Email dated 10-10-08 to/from Kathleen Weinand and Dwight Hume
re: floor square footage
29. Letter dated 10-13-08 to Interested Parties from Kathleen Weinand
re: 2nd request for comments
30. Emails dated 11-13-08 to/from Kathleen Weinand, Dwight Hume, Developer
Services
re: request for information
31. Letter dated 11-17-08 to Dwight Hume from Kathleen Weinand
re: notice of application instructions
32. Message dated 12-02-08 from Joanne Moyer
re: parking concerns about the project
33. Memo dated 12-12-08 to Kathleen Weinand from Dwight Hume
re: listing of addressee's who did not receive their mailings
34. Letter dated 12-16-08 to Dwight Hume from Kathleen Weinand
re: notice of public hearing instructions
35. Undated article from Spokesman Review
re: opening of Taste and See

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.

The Hearing Examiner finds this criterion has been met and in so doing hereby adopts and incorporates the findings set forth on this criterion found in the Planning Services staff report Exhibit #1, pages 3 through 7.

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

The Hearing Examiner finds this criterion has been met and in so doing hereby adopts and incorporates the findings set forth on this criterion found in the Planning Services staff report Exhibit #1, page 7.

In addition, the Hearing Examiner finds that the proposal is consistent with the goals and policies set forth in the application for the conditional use permit. Those goals and policies are listed in Exhibit #2B, pages 3, 4 and 5.

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

The application was circulated amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved. This is subject to compliance with the various conditions of approval.

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.

The Hearing Examiner finds that approval of a site plan is not required in this particular case. In addition, the Hearing Examiner hereby adopts and incorporates the findings set forth in the Planning Services staff report on this criterion. They are in the record in Exhibit #1, pages 7 and 8.

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.

As noted in the staff report, many of the uses proposed have been operating at the site already and no complaints have been received from the neighbors. There was one comment made by a neighbor concerning on-street parking if several events in the neighborhood are held at the same time, but that same person did not have complaints about previous activities. Further, the Hearing Examiner will, by condition, reserve the right to review the proposal should complaints arise because of parking, noise or other adverse impacts.

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 "Sengfelder-Bungay House" located at 1321 West 9th Avenue in the City of Spokane. This approval allows the historic house to be used for Victorian teas with related sales and special events, such as weddings substantially in accordance with the application on file and in

the record as Exhibit #2B subject to the additional conditions set forth below.

2. The applicants shall use their best efforts to avoid disruption to the neighborhood. The Hearing Examiner retains the right to rehear this proposal if significant complaints are received by the City of Spokane regarding the methods of operation, parking, traffic congestion, excessive noise or other related nuisance issues. This Conditional Use Permit may be revoked by the Hearing Examiner upon a showing of just cause at a public hearing.
3. Event related outdoor activities shall not extend past the hour of 10:00 PM with guests leaving by 11:00 PM.
4. There shall be no more than eighteen weddings a year. Events shall be limited to no more than 150 guests. Separate events may not be held simultaneously.
5. The applicant is responsible for compliance with the 2006 International Building Code Chapter 11 for Historic Buildings and Section 1105- Change of Occupancy, including the accessibility requirements of section 1105.15.
6. The applicant is responsible for compliance with the 2006 International Fire Code with State and Local amendments to the satisfaction of the City of Spokane Fire Department prior to the issuance of a certificate of occupancy.
7. Prior to the issuance of a certificate of occupancy the applicant shall submit the materials outlined by SMC 17C.230.110 – Joint Use Parking.
8. The applicant is to provide a barrier free parking space 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:

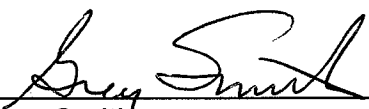
COVENANT

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 28th day of January 2009.



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 28th day of January 2009 **THE DATE OF THE LAST DAY TO APPEAL IS THE 11TH DAY OF FEBRUARY 2009 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.