

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by the) FINDINGS, CONCLUSIONS,
Spokane County Sheriff's Office for a new) AND DECISION
192-bed Community Corrections Center.)
) FILE NO. Z1000064-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The Spokane County Sheriff's Office has requested a conditional use permit for construction of a 192-bed Community Corrections Center (CCC). The CCC will be three stories and approximately 52,785 square feet. They've also requested new construction at the existing County Jail. The jail project includes the expansion of the sally-port, booking transfer and release area totaling approximately 22,850 square feet. There will also be a new pre-classification facility with 128-beds developed within the jail addition.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Lt. Michael Sparber
Spokane County Sheriff's Office
1100 Mallon Avenue
Spokane, WA 99260

Represented by: Jim Kolva
115 South Adams Street, Suite 1
Spokane, WA 99201

Represented by: James Emacio, Spokane County Prosecuting Attorney,
Civil Division
1116 West Broadway Avenue
Spokane, WA 99260

Property Address: 1123 – 1127 West Gardner Avenue and 1100 West Mallon Avenue,
Spokane, Washington

Property Location: The property is located directly behind the current County Jail at 1100 West Mallon Avenue in the City of Spokane, Washington.

Legal Description: A full legal description is in the record attached to the General Application which is in the record as Exhibit #2A.

Zoning: The property is zoned CB-150 (Community Business with a height limit of 150 feet) plus a North River Overlay District and GC-70 (General Commercial with a height limit of 70 feet).

Comprehensive Plan Map Designation: The property is identified as "Institutional" in the City's 2001 Comprehensive Plan.

Site Description: The site is part of the Spokane County campus. A description of the site and the proposal is set forth in the record as Exhibit #B-8. The address is 1123 West Gardner Avenue and the site includes frontage along the south side of Gardner Avenue of about 365 feet and a depth of about 290 feet for an area of about 105,000 square feet. There will also be certain additions to the existing jail. Currently the site is developed with parking and other buildings.

Surrounding Conditions: The site is surrounded by Spokane County government buildings, primarily. Across Gardner Avenue is Spokane Transit's building and bus garage. Virtually all adjacent uses are governmental uses, office uses and parking lots.

Project Description: The applicant seeks approval of a conditional use permit for construction of a new 192-bed community corrections center (CCC). The CCC will be three-stories and about 52,785 square feet. In addition the applicant seeks approval for new construction at the existing County Jail. The jail project includes the expansion of the sally-port, booking, transfer and release area, which totals approximately 22,850 square feet. In addition there will be development of a new pre-classification facility with 128-beds in the jail addition. All buildings will be on the north side of the existing Spokane County Jail between the jail and west Gardner Avenue. A depiction is set forth in the record as Exhibit #B-8. The layout of the buildings is set forth in the project team's statement which is in the record as Exhibit #17. The proposal is also summarized in the conditional use permit application which is Exhibit #2B.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 17C.120, 17C.160, 17C.320, 17G.060 and 17G.060.170.

Hearing Date: The first hearing on this matter was held on April 14, 2011, but the hearing was continued until June 9, 2011, and the record was closed at that time.

Notices: Mailed: November 5, 2010, and March 25, 2011
Posted: November 5, 2010, and March 25, 2011

Site Visit: The Hearing Examiner has been past this site on several occasions and is quite familiar with the site and surrounding properties.

SEPA: A Determination of Nonsignificance was issued by Spokane County on September 6, 2010.

Testimony:

Marla French
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Jim Kolva
115 South Adams Street, Suite 1
Spokane, WA 99201

James Emacio, Spokane County
Prosecuting Attorney, Civil Division
1116 West Broadway Avenue
Spokane, WA 99260

Lt. Michael Sparber
Spokane County Sheriff's Office
1100 Mallon Avenue
Spokane, WA 99260

Kelly Cruz
2112 West Bridge Avenue
Spokane, WA 99201

Martin Sweet
Integrus Architecture
10 South Cedar Street
Spokane, WA 99201

Ken Cruz
1217 West Augusta
Spokane, WA 99205

Karen Mobley
3515 South Lee Street
Spokane, WA 99203

Andrew Rolwes
211 North Wall Street, Ste 300
Spokane, WA 99201

Michael Poulin
2511 South Tekoa Street
Spokane, WA 99203

Victor Frazier
223 West Liberty Avenue
Spokane, WA 99205

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Conditional Use Permit application
 - 2C Notification Map application
 - 2D Site Plan
 - 2E Areal photo of site
3. Fire Department comments
4. Engineering Services comments
5. Traffic Engineering comments
 - 5A Trip Distribution Letter dated 09-03-10
 - 5B Trip Distribution Letter dated 03-01-11
6. Spokane Tribe of Indians comments
7. Northwest Pipeline comments
8. West Central Neighborhood comments
9. Notice map with parcel and address listings
10. Notices
11. Affidavit of mailing November 5, 2010, and 03-25-11

12. Affidavit of posting November 5, 2010, and 03-25-11
13. SEPA Determination of Nonsignificance
14. Environmental Checklist
15. Community Meeting sign in sheet
16. Summary of community and traffic scoping meeting
17. Copy of presentation
18. Detention Services Meeting Reports (11-10 and 11-18-10)
19. Hearing File Preparation Checklist
20. Letter dated 11-12-10 to Dave Compton from Charles Chatburn
re: parking concerns
21. Letter dated 12-08-10 to Lt. Michael Sparber from Jo Anne Wright
re: fees for conditional permit application
22. Letter dated 12-14-10 to Interested Parties from Marla French
re: requesting comments
23. Newspaper article dated 02-10-11
re: jail project
24. Letter dated 03-16-11 to Jim Kolva from Marla French
re: notice of application and notice of public hearing instructions
25. Email dated 04-05-11 to John Pederson from Marla French
re: conditions of approval
- A Exhibits received at hearing;
 - A-1 Letter dated 04-13-11 from West Neighborhood Council regarding parking concerns
 - A-2 Email dated 04-11-11 from Jim Kolva regarding posting of notice
 - A-3 Email dated 04-12-11 from Mike Sparber regarding traffic impact fee and vesting
 - A-4 Letter dated 04-12-11 from the Riverside Neighborhood Council supporting application
 - A-5 Letter dated 04-14-11 from Kelly Cruz regarding parking concerns
- B Applicant's submittals at hearing;
 - B-1 Spokane Jail Parking Summary dated 04-11-11 from Integrus Architecture
 - B-2 Detention Services Meeting Report dated 04-12-11
 - B-3 Spokane County Regional Siting Process For Essential Public Facilities
 - B-4 Email dated 04-14-11 from Judith Gilmore report on neighborhood meeting
 - B-5 Letter dated 04-13-11 from Kelly Cruz regarding parking concerns
 - B-6 Letter dated 04-12-11 from the Riverside Neighborhood Council supporting application
 - B-7 Email dated 04-12-11 from Jim Kolva response to Pete regarding site location
 - B-8 County Campus Modernization drawing
 - B-9 Parking analysis by Integrus Architecture dated 05-25-11, received at the 06-09-11 hearing.

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 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 current zoning of the subject property is General Commercial and Community Business. Those are commercial categories. In SMC Table 17C.120-1, essential public facilities are listed as being allowed in both zones with a conditional use permit. There are additional siting criteria SMC 17C.320.080 which the applicant has to comply with. Both staff and the applicant believe that the facilities can comply with those particular requirements. Therefore the Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings on this criterion set forth in the Planning Services Staff Report Exhibit #1, pages 3 and 4.

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

Both staff in its staff report and the applicant in the conditional use permit application which is in the record as Exhibit #2B have analyzed the projects consistency with the comprehensive plan. The key policies are Policy LU6.11 and LU6.12 that relate to the siting of essential public facilities within the City and within Spokane County. The applicant asserts that the proposal is consistent with those siting policies and staff has agreed. Therefore, the Hearing Examiner finds that this criterion has been met and hereby adopts and incorporates the findings on this criterion set forth in the Planning Services Staff Report Exhibit #1, pages 4 and 5.

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

The proposal was circulated to all City departments and outside agencies to determine whether concurrency has been or can be achieved. The Fire Department responded saying that their comments might change depending on the height of the buildings but it had no objections to the buildings. The Transportation Department is requiring that Spokane County pay an impact fee for traffic mitigation and the County has stated that the fee has been paid or will be paid. All other facilities such as sewer, water and stormwater appear to be adequate for the proposal although the Engineering Services Department does have some recommended conditions of approval to insure that all services are available and adequate. Therefore, the Hearing Examiner finds that this criterion has been met.

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 site appears suitable for the uses in that it is flat, rectangular in shape and adjacent to the existing County Jail. It fronts on the south side of Gardner Avenue. County owned and operated buildings are west, east and south of the site. The site is currently developed with two buildings and various paved parking lots so it has been fully developed and disturbed. There was no evidence presented that the physical characteristics of the property would prohibit this development and there was no evidence submitted of drainage characteristics; ground or surface water; or natural, historic or cultural features on site that would inhibit development. Therefore, the property appears suitable. In addition, the Hearing Examiner adopts the findings

set forth in the Planning Services Staff Report Exhibit #1, pages 6 and 7.

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 of neighboring property or the surrounding area, considering the design and intensity of the proposed use.

Spokane County issued a Determination of Nonsignificance on September 6, 2010. The environmental checklist was circulated to all City departments and agencies with jurisdiction and no departments or agencies noted any significant adverse impacts on the environment based on a checklist review. The testimony at the public hearing focused on a lack of parking in the general area. Some members of the public from the adjacent neighborhood were concerned that too many County employees park on the streets around their residential areas so that there is insufficient parking. A parking plan was developed and submitted as part of the record and while it showed that there is sufficient parking on site for the use, there was concern in the neighborhood regarding on-street parking. The development of new parking is necessary and will be accomplished, but the County will have to monitor to insure that sufficient parking exists on site so that on-street parking in the neighborhoods is minimized.

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 the development of a new 192-bed Community Correction Center to be a maximum of three stories and approximately 52,785 square feet. The approval also allows for expansion of the jail, which includes a sally-port, booking, transfer and release facility totaling approximately 22,850 square feet. The construction of a new pre-classification facility with 128-beds will be in the jail addition. The proposal is to be developed essentially in accordance with the application and plans in the record. If the County proposes changes to those plans they shall be submitted to Planning Services for review and approval. If Planning Services determines that the changes are substantial, they will be forwarded to the Hearing Examiner for review and approval.
2. The applicant shall meet all development standards in SMC 17C.120 relating to this project and also with development standards for the North River Overlay District which are set forth in SMC 17C.160.
3. The applicant shall comply with the requirements of the City's Fire Department as set forth in Exhibit #3:
4. The applicant shall comply with the requirements of the Engineering Services Department for sewer, water and street improvements. Those requirements are set forth in the Engineering Services' comments, which is in the record as Exhibit #4. The applicant shall pay all costs associated with those improvements. The applicant shall comply with SMC 17D.060 "stormwater facilities" for stormwater disposal. Compliance will be reviewed during the permit review process. A drainage submittal including a drainage report and supporting geotechnical

report shall be submitted at the time of building permit application.

5. If design review is required, the applicant shall complete design review prior to building permit application.

6. The applicant must comply with all requirements of the Spokane Regional Clean Air Agency during construction activities.

7. This approval does not waive the applicant's obligation to comply with all of the 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.

8. Spokane Municipal Code section 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.

9. 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.

10. 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 June 2011.



Greg Smith
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits are final. They may be appealed by any party of record by filing a Land Use Petition with the Superior Court of Spokane County. **THE LAND USE PETITION MUST BE FILED AND THE CITY OF SPOKANE MUST BE SERVED WITHIN TWENTY-ONE (21) CALENDAR DAYS OF THE DATE OF THE DECISION SET OUT ABOVE.** The date of the decision is the 28th day of June 2011. **THE DATE OF THE LAST DAY TO APPEAL IS THE 19th DAY OF JULY 2011 AT 5:00 P.M.**

In addition to paying any Court costs 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 Court.

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