

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit and) FINDINGS, CONCLUSIONS AND
Variance Application by School) DECISION
District #81 for a new Westview)
Elementary School)
) FILE NO. Z1000062-VAR

SUMMARY OF PROPOSAL AND DECISION

Proposal: School District #81 seeks a Conditional Use Permit and a Variance in order to allow the construction of a new Westview Elementary School and campus. The new school is to be constructed on the same site as the existing school and, when completed, the old school will be torn down. The reason for the variance is that the school is to be somewhat higher than the height allowed in the underlying zone and is to have more parking stalls than permitted.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Greg Brown, representing
School District #81
2815 East Garland Avenue
Spokane, WA 99207

Agent: Ken Murphy & Kris Jeske, representing
ALSC Architects, P.S.
203 North Washington, Suite 400
Spokane, WA 99201

Property Address: 6104 North Moore Street

Property Location: The property is located on the seven acre site surrounded by West Decatur Avenue, North Moore Street, West Bismark Avenue and North Fotheringham Street in the City of Spokane Washington.

Legal Description: The legal description is on the face of the General Application which is in the record as Exhibit #2A.

Zoning: The property is zoned RSF (Residential Single family).

Comprehensive Plan Map Designation: The property is designated as Residential 4-10 in the City's 2001 Comprehensive Plan.

Site Description: The site is rectangular in shape and contains approximately 7 acres in area and is reasonably flat. The current Westview Elementary School is located in the northwest corner of the site with parking to the east of the buildings. There is a paved played area south of the current buildings and open space and a ball field in the eastern portion of the site. Existing stands of Ponderosa Pine occupy the northeast corner of the site.

Surrounding Conditions: The property is surrounded on all sides by RSF Zoning and the surrounding uses are all single family residential in nature. Southeast of the site there is a block of RMF (Residential Multifamily), Office-35 and NR-35 (Neighborhood Retail). The uses on that block include a church, multifamily units, personal services and a faith center.

Project Description: The applicant seeks approval to construct a new two-story 59,000 square foot elementary school to replace the 60 year old Westview Elementary School. The new school will be constructed in the southeast corner of the site and when it is completed, the existing school will be demolished. Once the old school is demolished, the remainder of the site will be developed with playfields, other open space and recreational amenities. The project also includes student loading and drop-off curb pullouts along Moore Street, Bismark Avenue and Decatur Avenue. Schools are ordinarily granted Type II Conditional Use Permits from the Planning Director. In this case, staff determined that a variance is also necessary because of a request for increased height on this school as well as increased parking. The matter came before the Hearing Examiner because a variance is a Type III permit.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 17C.110, Table 17C.110-1, 17C.110.500, 17C.320.080, 17G.060 and 17G.060.170.

Hearing Date: February 24, 2011

Notices: Mailed: November 3, 2010, and February 10, 2011
Posted: November 3, 2010, and February 10, 2011

Site Visit: None made.

SEPA: A Determination of Nonsignificance was issued by School District #81 on October 14, 2010.

Testimony:

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

Patty Kells
City of Spokane Traffic Engineering
808 West Spokane Falls Boulevard
Spokane, WA 99201

Ken Murphy
ALSC Architects, P.S.
203 North Washington, Suite 400
Spokane, WA 99201

Greg Brown
School District #81
2815 East Garland Avenue
Spokane, WA 99207

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Variance application
 - 2C CUP application
 - 2D Notification Map application
 - 2E Site Plans
 - 2F Landscape Planting plan
 - 2G Exterior Elevations
 - 2H Electrical site plan
3. CUP Counter Complete Checklist
4. Pre-Development conference notes
5. Fire Department comments
6. Developer Services comments
7. Traffic Engineering comments
 - 7A Table 3-A and 3-B
 - 7B Trip Generation and Distribution report, by Storhaug Engineering dated 08-23-10
8. Solid Waste comments
9. Design Review comments
10. Spokane Regional Clean Air Agency comments
11. Spokane Tribe of Indians comments
12. Northwest Pipeline comments
13. Notice map with parcel listing
14. Notices
15. Affidavit of mailing 11- 3-10, and 02-10-11
16. Affidavit of posting 11- 3-10, and 02-10-11
17. SEPA Determination of Nonsignificance
18. Environmental Checklist
19. Community Meeting sign in sheet
20. Community Meeting agenda and presentation
21. Hearing File Preparation Checklist
22. Letter dated 12-08-10 to Interested Parties from Marla French
re: requesting comments
23. Emails dated 01-03-11 to/from Gregory Brown & Marla French
re: application process
24. Letter dated 01-06-11 to Kris Jeske from Marla French
re: required changes to meet code requirements
25. Letter dated 01-08-11 to Kris Jeske from Marla French
re: Notice of application and Public Hearing Instructions
26. Letter dated 01-31-11 to Marla French from ALSC Architects
re: response to letter dated 01-06-11

27. Emails to/from Marla French and Staff
re: application being determined technically complete
- A Exhibit received at hearing;
A-1 Hardcopy of Applicant's presentation.

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.

In Table 17C.110-1, relating to Residential Zone categories, it is stated that schools are allowed and are to be processed as a Type II Conditional Use Permit Application. Therefore the proposal is allowed under the provisions of the land use codes.

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

The Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings set forth in the Planning Services Staff Report Exhibit #1, pages 6 and 7.

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

Staff has circulated the application to all applicable City departments and agencies with jurisdiction over concurrency requirements. There were no adverse comments regarding concurrency and therefore the Hearing Examiner finds that concurrency can be achieved with the approval of this permit.

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 applicant's site plans are in the record as Exhibit #2E. There are also landscape plans and elevations in the record as Exhibits #2F, and #2G. Prior to finalizing its plans, the District met with the surrounding property owners and received input on how the school should look and what type of landscaping and other features should be developed. The site is reasonably flat and there was nothing about the location, topography or soils on the site that would prevent this development and no evidence was presented regarding the existence of natural, historic or cultural features which would prohibit or inhibit development. Therefore, the site appears suitable for the proposed use.

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.

As stated, a Determination of Nonsignificance was issued by School District #81 on October 14, 2010. In addition, the school district met with the surrounding community and received input on how to minimize impacts on those uses. Comments included the retention of the Ponderosa Pines and park space in the northeast corner of the site as well as increased landscaping throughout. In addition there are curb cut pullouts along three of the streets for busses and parents to drop off and pick up students. Those pullouts are designed to minimize congestion on the surrounding residential streets. No evidence was presented of any adverse impacts that would be significant or that cannot be mitigated.

6. The proposal meets the additional conditional use criteria listed in SMC 17C.320.080(F) for institutional uses in the RSF zone.

The Hearing Examiner finds that the proposal does in fact comply with the additional conditional use criteria for institutions as set forth in SMC 17C.320.080(F) and in so doing hereby adopts and incorporates the findings set forth in the Planning Services Staff Report Exhibit #1, pages 4, 5 and 6.

Variance

The Hearing Examiner is of the belief that a variance may not be necessary for this type of use. Various institutional uses such as schools, colleges, and churches, are allowed specifically by Type II Permits from the Planning Director in the residential zones. Many of these uses are going to exceed height limitations and certain other site development requirements. That is the purpose of reviewing them under a conditional use format. If any of these uses have a feature that doesn't meet the requirements of the underlying zone, then the Hearing Examiner will end up holding hearings on all of them through the variance process, which is not necessarily what was contemplated in the drafting of the code. See also, SMC 11.19.820, which has not been repealed. For this particular application, however, the Hearing Examiner will accept the analysis of the variance decision criteria as set forth in the Planning Services Staff Report, Exhibit #1, pages 8, 9 and 10. The Hearing Examiner finds that those criteria have been correctly analyzed and finds that the variance for height and parking should in fact be granted.

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 and variance to allow the construction of a new Westview Elementary School on the same site as the current school but in the opposite corner of the site. The variance allows the additional height requested by the school as well as the additional parking as requested. The site is to be developed in accordance with the various site plans which are in the record as Exhibits #2E, 2F, 2G and 2H. Site development is also to comply

with the site plan submitted at the public hearing on this matter which is in the record as Exhibit #A-1 page #3. Any proposed changes to the proposal are to be submitted to Planning Services for review. If Planning Services finds those proposed changes to be substantial, they will be forwarded to the Hearing Examiner for review and approval.

2. Design standards for the project shall meet SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with, and limit the negative impacts on surrounding residential areas.

3. The Hearing Examiner adopts the recommendations from the Design Review Board dated January 18, 2011 as follows:

a. To fully meet the intent of parking lot shading requirements provide several additional tree clusters along the north side of the main lot.

b. Recommend continuing to explore incorporation of street trees along the north, south, and east pull out locations and continue the street trees north of the pull out on North Moore.

c. Maintain concrete sidewalk across driveways at entry locations and provide adjacent landscape buffering.

4. Traffic Engineering requires an impact fee of \$7,137.00 for the Conditional Use Permit and Variance. Certain other mitigation measures may be identified and placed as conditions on approval for the land use permits.

5. All parking areas must be hard surfaced.

6. All broken, heaved, or sunken sidewalk adjacent to this site shall be replaced to City standards whether existing or caused during construction.

7. Fire requirements are stated as follows:

The Fire Department reserves the right to review and approve all access design and water supply locations. This project was reviewed using the 2009 IFC with State and local amendments.

Water Supply:

The proposed building site fire flow will be based on the total floor area. An approximate site fire flow is 2,500 GPM with automatic sprinklers throughout and requires 3 fire hydrants. Fire hydrants shall be no farther than 150 feet from the Fire Department connections for the building. Hydrant spacing shall not be more than 500 feet, within 250' of the property line, and within 600' to all points around the building along an acceptable path of travel.

There are 5 existing fire hydrants in the area that meet the code requirements for this project, but location and applicability of the fire hydrants in relation to the Code will need

to be reviewed once a final location has been determined.

Fire Department Access:

Fire Department access must be provided to within 150 feet of any point around the outside of a building. For fully sprinklered buildings, this is extended to 165'. Dead-end roads longer than 150' need approved fire apparatus turn-arounds. Fire apparatus turning radius is 50' external, 28' internal. Minimum height clearance is 13'-6". Fire lanes will have a maximum slope of 10%. Parking is allowed on both sides of roads with a minimum 36' clear width; on one side only for roads 28' wide up to 36' wide; and access roads with clear widths of less than 28' will not allow parking on either side. Minimum width for fire access roads is 20', unobstructed. Buildings exceeding 30' in height will be required to have a Fire Aerial Access lane of 26' wide along at least one side of each building. Compliance with the Fire Code for fire access will need to be demonstrated.

Fire access will be maintained during construction. The fire lanes will be maintained with an all-weather surface.

Fire Sprinklers/Suppression:

The building will be provided with fire sprinklers.

Alarm:

A fire alarm system is required for the building to include common areas of the building in accordance with the Municipal Code including the provision for "Special Areas to be Protected".

8. Spokane Regional Clean Air Agency requires a Notice of Construction and Application for Approval to be submitted and approved by Spokane Clean Air prior to the construction, installation, or establishment of an air pollution source and Notice of Intent must be submitted to Spokane Clean Air prior to any demolition project or asbestos project.
9. The applicant must comply with SMC 17D.060 for storm-water disposal. Compliance will be reviewed during the permit review process for this development.
10. A detailed landscaping plan showing compliance with SMC 17C.200 shall be approved by the Planning Services Department prior to the issuance of any building permit.
11. Screening of all garbage collection areas and recycling bins, current and proposed, must be completed in compliance with SMC 17C.200, Landscaping and Screening.
12. 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.
13. 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.
14. 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.

15. 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 8th day of March 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 8th day of March 2011. **THE DATE OF THE LAST DAY TO APPEAL IS THE 29th DAY OF MARCH 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.