

has been fully developed for many years with the Ferris High School campus. That includes parking, classroom buildings, a theater, a gym and various playfields. Also, on the east side of Regal Street in the middle of the site is the KSPS radio studio with existing parking. The site slopes downward from the northwest to the southeast.

Surrounding Conditions: There are a variety of land uses that surround the site. Across 37th Avenue to the north is Adams Elementary School on the corner of 37th Avenue and Regal Street and along 37th Avenue there is a mix of single family and multifamily uses. Across the street to the west there are also multifamily and single family uses. To the south there is open space and a broadcasting station owned by King Broadcasting Company. There is other open space owned by the City of Spokane. The open space owned by the City of Spokane is vacant and encompasses the Hazel's Creek Regional Drainage and Conservation Area. East of the site there are single family developments and the proposed Ray Street connector that will connect Ray Street at 37th Avenue to Freya Street to the south and east of this project. Both 37th Avenue and Regal Street at this location are designated as Minor Arterials in the City's Arterial Street Plan.

Project Description: The proposed project is a phased rebuilding of the existing Ferris High School campus. Phase 1 completes site work in the eastern portion of the site, revises a driveway from a 37th Avenue parking lot in the northeast corner and does utility work and detention pond work in the southeast corner. Phase 2 continues work in the eastern portion of the site, includes expansion of the parking lot and construction of the new commons plus a two-story classroom building. The classroom building will link to the north end of the recently constructed gymnasium/fitness center. This phase will occupy the site of the former gymnasium which has been demolished with wings extending westerly. Phase 3 involves the vacation and removal of modular buildings in the south central portion of the campus, the demolition of the following buildings: Cafeteria and Mechanical Room, Building 100 Administration, Building 200 Library, and Building 700 FACSE & Special Services. Also, the remaining classroom buildings and library will be completed. During Phase 3 the auditorium will be retained at its current location but would be extensively remodeled by removal and reconstruction of walls, the elevating of the roof, and cutting of the floor to accommodate an arbor pit. Phase 3 site work also includes the reconfiguration of the westerly parking lot into the staff lot and the development of eight tennis courts, along with the reconfiguration and construction of the parking lots in the north central portion of the site. There will also be the revision of driveways from 37th Avenue and Regal Street. Phase 4 includes the demolition of buildings 300, 400, and 500, completion of the site work in the campus commons and in the southwest quadrant, completion of the soccer and baseball fields, improvement of driveway access and construction of the main parking lot. Schools are ordinarily granted Type II Conditional Use Permits from the Planning Director. All phases are expected to be completed by the summer of 2014.

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: March 24, 2011

Notices: Mailed: November 30, 2010, and February 14, 2011

Posted: December 1, 2010, and February 17, 2011

Site Visit: None made.

SEPA: A Determination of Nonsignificance was issued by School District #81 on September 30, 2010.

Testimony:

Dave Compton
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Kris Becker
City of Spokane Engineering Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Dana Harbaugh
NAC Architecture
1203 West Riverside Ave
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 Design Review application
 - 2F Site Plan
 - 2G Landscape Planting plan
 - 2H Elevation plan
 - 2I Grading site plans
 - 2J Design Development Rendering
3. Pre-Development conference notes
4. Fire Department comments
5. Developer Services comments
 - 5A Geotechnical engineering report by Budinger & Associates dated 09-28-10
6. Traffic Engineering comments
7. Solid Waste comments
8. Design Review comments
9. Spokane Regional Clean Air Agency comments
10. Department of Ecology comments
11. Spokane Tribe of Indians comments
12. Avista comments
13. Notice map with parcel listing
14. Notices
15. Affidavit of mailing 11-30-10, and 02-14-11
16. Affidavit of posting 12-01-10, and 02-17-11

17. SEPA Determination of Nonsignificance
18. Environmental Checklist
19. Community Meeting sign in sheet
20. Community Meeting agenda
21. Hearing File Preparation Checklist
22. Email dated 07-26-10 to David Beaudine from Kevin Morrison
re: parcel information
23. Letter dated 08-30-10 to David Beaudine from Dave Compton
re: community/traffic scoping meeting instructions
24. Email dated 12-21-10 to Dave Compton from Randy Wilson
re: Ferris HS prints
25. Email dated 12-22-10 to Dave Compton from David Beaudine
re: project size
26. Emails to/from Dave Compton and David Beaudine
re: fees project size
27. Letter dated 01-10-11 to Interested Parties from Dave Compton
re: requesting comments
28. Letter dated 02-08-11 to David Beaudine from Dave Compton
re: notice of application and public hearing instructions
- A Exhibit received at hearing;
 - A-1 Hardcopy of Applicant's presentation.
 - A-2 Letter received on 03-24-11 to Dave Compton from Gregory Brown
re: Ray Street crossover ROW alignment

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, of the Spokane Municipal Code, 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 site is designated as Institutional in the Comprehensive Plan and schools are considered an institutional use. This school has been in existence for many years at this site. Staff has cited some land use goals and policies that also support the proposed redevelopment and the Hearing Examiner hereby adopts and incorporates those into this decision. They are in the record in the Planning Services Staff Report Exhibit #1, page 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 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 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 of neighboring property or the surrounding area, considering the design and intensity of the proposed use.

School District #81 issued a Determination of Nonsignificance under the State Environmental Policy Act on September 30, 2010. There were no significant adverse impacts noted in the SEPA documents or comments from agencies. Certain conditions of this approval will be added in order to further alleviate any impacts on the site or surrounding properties. There were no adverse public comments on this application.

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 3, 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 should in fact be granted.

Other support for the necessity for the variance is set forth in the school district's application for a variance and in the presentation made by the applicant's agent at the public hearing on this matter which is also in the record as Exhibit #A-1.

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 phased remodel with new additions of Ferris High School on the same site as the current school. The variance allows the additional height requested by the school. The site is to be developed in accordance with the various site plans which are in the record as Exhibits #2F through 2J and the presentation made by the applicant at the public hearing, which is in the record as Exhibit #A-1. 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 pages 1 through 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 November 20, 2010, as follows:
 - a. the applicant is to examine the visitor parking lot along 37th Avenue for setbacks and pedestrian circulation from the drop off;
 - b. the applicant shall reexamine the proposed bike parking racks at the staff parking lot in order to insure that they are close enough to the performing arts entry;
 - c. the applicant shall examine opportunities to use drought tolerant grass species; and
 - d. the applicant shall continue to explore Hazel's Creek connection to the overall campus plan.
4. The applicant must comply with SMC 17D.060 for stormwater disposal. Compliance will be reviewed during the permit review process for this development.
5. The applicant shall insure by way of agreement with the City, that the student/event parking in the area adjacent to the presently deeded Ray Street crossover right-of-way is of the proper depth. The agreement appears to be that the 20-foot setback currently proposed from the current right-of-way line is sufficient but that future acquisitions for additional right-of-way may reduce this particular setback.
6. All parking areas must be hard surfaced and located no less than 20-feet from the edge of

the public right-of-way.

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

8. The applicant must comply with the requirements of the City's Fire Department set forth in its memorandum of January 24, 2011, which is in the record as Exhibit #4.

9. 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.

10. Screening of all garbage collection areas and recycling bins, current and proposed, must be completed in compliance with SMC 17C.200, Landscaping and Screening.

11. 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.

12. 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.

13. 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.

14. 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 14th day of April 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 14th day of April 2011. **THE DATE OF THE LAST DAY TO APPEAL IS THE 5th DAY OF MAY 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.