

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Conditional Use Permit Application by ) FINDINGS, CONCLUSIONS,  
The Lighthouse for the Blind to allow the ) AND DECISION  
construction of a 41,492 square foot )  
addition to an existing warehouse on )  
property located at 6405 N. Addison )  
Street, Spokane, Washington. ) FILE NO. Z1200054-CUP3

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The Lighthouse for the Blind seeks a conditional use permit in order to allow the construction of a 41,492 square foot addition to an existing 49,677 square foot warehouse and production operation.

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

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

**Applicant:** The Lighthouse for the Blind, Incorporated d/b/a Inland Northwest  
Lighthouse  
6405 North Addison Street  
Spokane, WA 99208

**Owner:** The Lighthouse for the Blind, Incorporated d/b/a Inland Northwest  
Lighthouse  
c/o Patrick O'Hara, VP of Operations  
P.O. Box 14959  
Seattle, WA 98114-0959

**Agent:** Dwight Hume  
Land Use Solutions & Entitlement  
9101 North Mt. View Lane  
Spokane, WA 99218

**Property Address:** 6405 N. Addison Street, in the city of Spokane, Washington.

**Property Location:** The project is located south of Lyons Avenue, west of Addison Street, and north of and adjacent to the Eagles Ice Arena.

**Legal Description:** The legal description is in the record and is included in the documents attached as Exhibit #25. The tax parcel number of the property is 36293.2121.

**Zoning:** The property is zoned GC-70 (General Commercial – 70' height limit)

**Comprehensive Plan Map Designation:** The property is designated as Commercial in the city's Comprehensive Plan.

**Site Description:** The site is located at 6405 N. Addison Street and is approximately 6.1 acres in size. The Lighthouse for the Blind owns and operates a facility on this site. Those operations commenced in 2008. The building was previously used as a grocery store. The main floor of the existing building is approximately 49,677 square feet (1.14 acres) and the paved area is approximately 200,000 square feet (4.6 acres). The remaining area is used for landscaping and storm water retention. The site is located in the Nevada/Lidgerwood Neighborhood. It has street frontage on Lyons Avenue to the north and Addison Street to the east. The topography is relatively flat.

**Zoning History:** The site has been zoned GC-70 since July 2005. Prior to that, i.e. from 1975 until the zone change in 2005, it was zoned C1-1L.

**Project Description:** The proposal is to construct a 41,492 square foot addition to an existing warehouse and production building that will allow indoor assembly of office equipment and supplies. Employment of blind and/or blind-deaf will increase, over time, from 40 to 90, and support staff will gradually increase from 10 to 25.

**Surrounding Zoning:** The properties to the west and south of the site are zoned GC-70 (General Commercial – 70' height limit). The properties to east of the south half (approximately) of the site are also zoned GC-70. The properties to the east of the northern half (approximately) of the site are zoned Residential Multi-Family (RMF). The properties to the north and across Lyons Avenue from the easterly two thirds (approximately) of the site are also zoned RMF. The properties to the north and across Lyons Avenue from the westerly one third (approximately) of the site is zoned GC-70.

**Adjacent Land Use:** The Eagles Ice Arena is adjacent and south of the site. To the east of the southern half (approximately) of the site is the now closed Fred Meyer supermarket store. Apartments and senior housing are to the north, east, and northeast of the site, in the RMF zone described above. The land adjacent to and west of site is vacant commercial property.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code ("SMC") 17C.120, Commercial Zones, and SMC 17G.060.170, Decision Criteria.

**Notice of Community Meeting:** Mailed: October 1, 2012  
Posted: October 1, 2012

**Notice of Application/Public Hearing:** Mailed: January 16, 2013  
Posted: January 16, 2013

**Community/Traffic Scoping Meeting:** October 16, 2012

**Public Hearing Date:** February 14, 2013

**Site Visit:** February 13, 2013

**SEPA:** A Determination of Nonsignificance (“DNS”) was issued by the City of Spokane on January 2, 2013.

**Testimony:**

Dave Compton, City Planner  
City of Spokane Planning & Development  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Dwight Hume  
Land Use Planning Services  
9101 North Mt. View Lane  
Spokane, WA 99218

Charles Zandbergen  
1015 North Calispel Street  
Spokane, WA 99201

Patrick O'Hara  
5803 225<sup>th</sup> Place S.W.  
Mt. Lake Terrace, WA 98043

Marv Smilden  
6405 North Addison Street  
Spokane, WA 99208

**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 CUP Counter Complete checklist
3. Engineering Services comments
4. Traffic Engineering comments
5. Solid Waste Department comments
6. Spokane Tribe of Indians comments
7. Spokane Regional Clean Air comments
8. Notice map with parcel listing
9. Notices
10. Affidavit of mailing 10-01-12 and 01-16-13
11. Affidavit of posting 10-01-12 and 01-16-13
- 11a Affidavit of sign removal 10-26-12
12. Determination of Nonsignificance pursuant to SEPA
13. Environmental Checklist
14. Community Meeting notes
15. Community Meeting sign in sheet

16. Hearing File Preparation checklist
17. Email dated 09-26-12 to Dave Compton from Dwight Hume  
re: community meeting and pre-dev timing
18. Letter dated 09-26-12 to Dwight Hume from Dave Compton  
re: community/traffic scope meeting instructions
19. Letter dated 10-15-12-12 to Dwight Hume from Scott Chesney  
re: parking requirement determination
20. Letter dated 12-06-12 to Interested Parties from Dave Compton  
re: requesting comments
21. Letter dated 01-07-13 to Dwight Hume from Dave Compton  
re: notice of application/public hearing instructions
22. Email dated 01-23-13 to Dave Compton from Laurie Farnsworth  
re: public information request from Lane Schwartzberg
23. Hard copy of Planning's PowerPoint presentation
24. Email dated 02-20-13 to Hearing Examiner from Dave Compton  
re: truck easement
25. Subdivision Guarantee issued by First American Title Insurance Company

### **FINDINGS AND CONCLUSIONS**

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

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).*

The project site is zoned GC-70, a commercial category. The uses permitted, not permitted, limited or conditioned in the commercial zones are shown on Table 17C.120-1. See SMC 17.120.100. The site is used (and upon expansion will continue to be used) as a warehouse and production facility for the indoor assembly of office equipment and supplies. This particular activity is not specifically identified among the uses that are permitted outright in the commercial categories of the GC zone. However, certain Industrial uses, more broadly identified, are allowed in the GC zone, including "Manufacturing and Production" and "Warehouse and Freight Movement." The table designates these uses as "L/CU[8, 10]", which means these uses are allowed as "limited" and "conditional uses," subject to additional terms contained in the footnotes to the table.

Section 17C.120.110 includes this clarification: "The paragraphs listed below contain the limitations and correspond with the bracketed [ ] footnote numbers from Table 17C.120-1." Thus, based upon the table, footnotes 8 and 10 of subsection 110 apply to the applicant's project. Those provisions state, in pertinent part, as follows:

8. Industrial Size Limitation.

**This regulation applies to all parts of Table 17C.120-1 that have a [8].** These types of uses are limited in size to assure that they will not dominate the commercial area and to limit their potential impacts on residential and commercial uses. In addition, if the planning director determines that the proposed use will not be able to comply with the off-site impact standards of chapter 17C.220 SMC, the planning director may require documentation that the development will be modified to conform with the standards.

...

**c. Individual uses in the GC zone that exceed fifty thousand square feet of floor area per site exclusive of parking area are a conditional use. ...**

10. Outdoor Activity Limitation.

This regulation applies to all parts of Table 17C.120-1 that have a [10]. Outdoor display, storage or use of industrial equipment, such as tools, equipment, vehicles, products, materials or other objects that are part of or used for the business operation is prohibited.

See SMC 17C.120.110(8) & (10) (emphasis added).

The applicant proposes to expand its warehouse and production facility. The expansion will result in a warehouse that is 91,169 square feet in size. Upon expansion, the facility will continue to be used for warehouse and production operations, uses that generally fit under the Industrial Categories of "Manufacturing and Production" and "Warehouse and Freight Movement." As such, the project must satisfy the design requirements of a "Limited" use. And because the facility, as expanded, exceeds 50,000 square feet, the project requires a Type III Conditional Use Permit.

The applicant's project is allowed in the GC zone as a limited and conditional use, so long as the project otherwise satisfies the criteria for a conditional use and the other development standards in the municipal code. Therefore, the proposal is allowed under the applicable land use codes. The Hearing Examiner finds that this criterion is satisfied.

*2. The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

The project site is designated as General Commercial under the comprehensive plan. The proposed use of the site is as a warehouse, including a dry assembly operation. Policy LU 1.8 provides that "warehousing" is allowed on property with a General Commercial designation. See Comprehensive Plan ("CP"), LU 1.8, General Commercial Uses; see also CP, Section 3.5, Description of Land Use Designations. Therefore, the proposal is consistent with the comprehensive plan designation for the property.

The proposal is also consistent with comprehensive plan goals, objectives, and policies for the property. The project includes significant additional landscaping, both to enhance the site and to assist with making the site more compatible with neighboring properties, including the residences to the north. The proposal reduces the parking from approximately 280 to 53,

and replaces much of that parking area with grass and trees. The reduction of parking to this degree required the applicant to seek approval of a parking area that provides less than the minimum parking given the size the expanded facility. This request was a function of the unique nature of the use and the workforce. The proposal, in this regard, is consistent with the intent of Goal LU 2, which seeks to encourage the enhancement of the public realm. More specifically, the proposal incorporates some unique design features in a way that fulfills Policy LU 2.2 of the comprehensive plan, which provides as follows: "Employ performance and design standards with sufficient flexibility and appropriate incentives to ensure that development is compatible with surrounding land uses." See CP, LU 2.2, Performance Standards.

The proposal furthers the economic development goals of the comprehensive plan. Goal ED 4 of the Comprehensive Plan seeks to enhance "the economic future of the community by encouraging the creation of jobs that increase the average livable wage and reduce income disparity." See CP, Goal ED 4, Income and Employment Opportunity. In this case, the applicant is "providing livable wages to approximately 25% of the blind and/or deaf-blind employees who heretofore were underemployed or unemployable." See Exhibit 2B, CUP Application. The project seeks to expand the facility, so it can accommodate the addition of approximately 50 production workers and 15 support staff. Once the project is completed, and the additional employees are hired, the facility will employ about 90 production workers and 25 support staff, for a total of approximately 125 employees. Of the employees hired to work at the facility, a minimum of 70% of those workers will be legally blind. See Exhibit 19. Thus, at capacity, the facility will provide employment for approximately 88 sight-impaired individuals, who may otherwise be unable to find work. See id.

The project fulfills the economic development policies of the comprehensive plan, including Policy ED 4.1 and Policy ED 4.3. Policy ED 4.1 is intended to combat underemployment by encouraging the recruitment of businesses that pay wages at least commensurate with the cost of living and that provide health and retirement benefits. See CP, Policy ED 4.1, Livable Wage. Policy ED 4.3 seeks to address the disparities in income and employment opportunities faced by disadvantaged members of the community. This can be done, in part, by encouraging employment opportunities for disadvantaged groups, who have fewer and poorer employment options. See CP, Policy ED 4.3, Income Equity. The testimony at the hearing was that this project provides employment to a relatively large number of sight-impaired individuals, who otherwise have few employment opportunities.

The Hearing Examiner concludes that the project is consistent with the comprehensive plan, and therefore this criterion is satisfied.

*3. The proposal meets the concurrency requirements of Chapter 17D.010SMC. See SMC 17G.060.170(C)(3).*

All development applications are subject to a concurrency test, unless exempt under the development code. See SMC 17D.010.020(B). The following facilities and services must be evaluated for concurrency: transportation, public water, fire protection, police protection, parks and recreation, library, solid waste disposal and recycling, schools, and public wastewater (sewer and stormwater). See SMC 17D.010.010. The planning department coordinates the concurrency

determination, and commences that process by providing notice of all pertinent development applications to the various facility and service providers. See SMC 17D.010.020(B).

On December 6, 2012, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 20. The Request for Comments advises that a lack of comment by any referral agency will be considered acceptance of the application as technically complete and meeting concurrency requirements. See id. The concurrency provisions of the municipal code similarly state that a lack of response by a notified facility or service provider shall be construed as a finding that concurrency is met. See SMC 17D.010.020(B)(1).

Agency comments regarding concurrency were made by two city departments, i.e. Solid Waste and Engineering Services. The solid waste department certified that the project passed its concurrency test. See Exhibit 5. The comments of Engineering Services, as relevant to the concurrency issue, were as follows:

The site plan for this application has enough information to ensure that concurrency requirements can be met for sanitary sewer, water and storm water improvements necessary to serve the proposed project. Specific comments for these items will be made when construction plans are received for review and acceptance.

See Exhibit 3, Memorandum, Department of Engineering Services. Thus, the only comments received confirmed that the project passed the concurrency test. Since no other facility and service providers responded to the Request for Comments, concurrency is deemed satisfied with respect to the remaining public facilities and services, such as transportation, fire protection, library, parks, and schools. See SMC 17D.010.020(B)(1).

The production at the facility is limited to dry assembly. The operation does not create extraordinary demand for power, police, fire protection, water, sewer or waste disposal. See Exhibit 2B, CUP Application. While some additional traffic will result from the facility expansion, the additional traffic is relatively minimal, and will be far less than the previous use of the site as a supermarket. The relatively small need to accommodate vehicles is shown by the site plan, which reduces the parking from approximately 280 spaces to 53 spaces. In addition, since a minimum of 70% of the employees are legally blind, the workers at the facility take public transportation to go to work. See e.g. Exhibit 2B & Exhibit 19. There are three transit stops near the site, which will accommodate these employees well. See Exhibit 2B, CUP Application. As for other public services, there is no evidence that the proposed use places any burden on such services (e.g. library, schools).

The Hearing Examiner concludes that the project satisfies the concurrency requirement.

*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. See SMC 17G.060.170(C)(4).*

The site was previously used as a Tidyman's supermarket, which operated twenty-four hours a day, seven days a week. Thus, the site is already fully improved with a 49,677 square foot commercial building, a large asphalt parking lot with 280 vehicle spaces, and perimeter landscaping. The Tidyman's was in business for over a decade before closing in 2005.

In 2008, the applicant commenced operations at the property, without fundamentally changing the physical facility or grounds. However, the applicant converted the use to a warehouse and production operation. The applicant seeks to construct a 41,492 square foot addition to the existing building, in order to expand its operations.

A site plan for the project is included in the record as Exhibit 2D. The site plan is very well designed, and includes a number of features evidencing that care was taken to ensure that the new addition fit the site, accounted for the unique nature of the use and the needs of the employees, and blended in with the surrounding properties.

As shown on the site plan, the parking spaces are reduced from approximately 280 to 53. The parking reduction makes sense given the applicant's operations; most of the employees are legally blind and therefore do not drive to work. The reduction in area dedicated to parking leaves space for other improvements. For example, substantial additional landscaping will be installed in the north/northeast portion of the site, which is the part of the property closest to the nearby multifamily uses. There is also a sensory garden next to the new addition, an amenity for employees with sight-impairment, and another visual improvement to the site. The existing perimeter landscaping will be preserved as well.

The addition changes the building into an L-shape, adding some architectural interest to a property that is currently visually dominated by a large expanse of asphalt. The site design locates the truck traffic to the southern and western borders of the site, effectively keeping that traffic adjacent to the adjacent uses with commercial uses or zoning. This design also shields the truck traffic from view, to a material degree, from pedestrians using the sidewalks along Addison and Lyons and the multifamily residents to the north, east, and northeast of the site. The building addition includes an indoor loading area, so that truck loading is not in view. The additional storage space in the new addition will allow the applicant to eliminate the outside storage as well. These changes will help mitigate against both visual impacts and noise that can arise from such activities.

There are no wetlands, streams, or bodies of water on the site. There is no evidence in the record that this site has encountered any problems with surface drainage or groundwater. The site is flat, and thus there are no discernible slopes to contend with, nor are there any noteworthy topographical features. See Exhibit 13, Environmental Checklist ¶ B(1).

The site is rectangular and approximately 6.1 acres in size. The east boundary of the site is Addison Street. The north boundary of the site is Lyons Avenue. Thus, the site has frontage on and direct access to city roads. The site is well suited to the proposed warehouse and production activities, both currently and as expanded under the proposal. This is not surprising, given that the site was previously used for an intense, commercial purpose. And that previous use surely involved much greater traffic than the proposed facility.



It is not anticipated that any natural, historic or cultural features will be discovered on the site during the construction of the addition—the site has already been fully developed. In addition, the Spokane Tribe of Indians has confirmed that there are no cultural resources known to exist on the project site. See Exhibit 6.

The Hearing Examiner concludes that the property is suitable for the proposed use and site plan, given the facts and circumstances of this case, and therefore the project satisfies this criterion.

*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 effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

The City issued a Determination of Nonsignificance (“DNS”) on January 2, 2013. See Exhibit 12. The comment period on this DNS expired on January 16, 2013. See id. No comments in opposition to the DNS were submitted on or before that comment deadline. The DNS was not appealed.

Approximately one month prior to the issuance of the DNS, on December 4, 2012, the applicant prepared an environmental checklist for the project. The checklist supports the conclusion that no significant environmental impacts will arise from this project. For example, the site is flat with stable soils. See Exhibit 13, Environmental Checklist ¶ B(1)(a)-(d). There are no wetlands, surface waters, or other limiting features. See Exhibit 13, Environmental Checklist ¶ B(3)(a)(1). The property does not lie within a 100-year floodplain. See Exhibit 13, Environmental Checklist ¶ B(3)(a)(5). The project will result in minimal to no change in the grade of the property. See Exhibit 13, Environmental Checklist ¶ B(1)(e). No threatened or endangered species were identified on the site. See Exhibit 13, Environmental Checklist ¶ B(4)(c) & B(5)(b).

The site is located within the Aquifer Sensitive Area and the Aquifer Critical Area Recharge Zone, and therefore is subject to the requirements of SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection. See Exhibit 13, Environmental Checklist ¶ A(13). However, this project will not involve the disposal or discharge of any fluids below the ground surface. See Exhibit 13, Environmental Checklist ¶ A(14)(a)(1). No critical materials will be stored, handled, or used on site where a spill or leak may result in surface or groundwater pollution. See Exhibit 13, Environmental Checklist ¶ A(14)(a)(4). As a result, no protective measures are needed to address such concerns. See e.g. Exhibit 13, Environmental Checklist ¶ A(14)(a)(3). If project conditions were necessary for aquifer protection, those conditions should have been included as part of the threshold determination. See SMC 17E.010.010(F)(3). However, as discussed above, the lead agency issued an unqualified DNS for this project, which was not appealed. There was no testimony presented or evidence submitted at the hearing or made part of the record suggesting that the project poses a risk of pollution to the aquifer.

The project will not require any new roads, or improvements to existing roads and streets. See Exhibit 13, Environmental Checklist ¶ B(14)(d). The site has direct access to Lyons

and Addison, which previously served the Tidyman's, a much more intensive use in traffic terms. The applicant is proposing to reduce the parking spaces on site by 227 spaces, primarily because the parking is unnecessary under the circumstances. See Exhibit 13, Environmental Checklist ¶ B(14)(c). The applicant contended that there was no need for any traffic mitigation measures, and the city imposed none in making the threshold determination. See Exhibit 13, Environmental Checklist ¶ B(14)(g); see also Exhibit 12.

There are no significant impacts anticipated from noise or odor. The dry assembly or office supplies and equipment does not generate air emissions. See Exhibit 13, Environmental Checklist ¶ B(2)(a). Therefore, no odors are anticipated from the operation. There will be some noise generated from the truck traffic. See Exhibit 13, Environmental Checklist ¶ B(7)(b)(2). However, loading operations will be carried on indoors, and should not result in noise that impacts to the surrounding area. In addition, upon completion of the addition, the applicant will be able to eliminate outdoor storage, moving those activities and any resulting noise indoors. See e.g. Testimony of M. Smilden.

The applicant will be required to implement on-site controls for stormwater and surface drainage generated from the new addition. See SMC 17D.060.010 et seq. The applicant has recognized this requirement. See Exhibit 13, Environmental Checklist ¶ B(3)(c)(1)(a). The specific design of drainage control measures will be reviewed at the time of permitting. The other potential impacts of this project are those typical of construction projects, such as dust and vehicle exhaust. See Exhibit 13, Environmental Checklist ¶ B(2)(a). However, mitigation measures imposed at the time of permitting, such as watering for dust control, can control such impacts. See e.g. Exhibit 13, Environmental Checklist ¶¶ B(1)(h) & 2(c).

Finally, the limited effect of the proposed operation on surrounding properties is further mitigated by the limited hours of operation. The facility typically operates from approximately 7:00 a.m. to 3:30 p.m. See Testimony of P. O'Hara.

Based upon the foregoing, the Hearing Examiner concludes that the proposal will not have a significant adverse impact on the environment or the surrounding properties, and therefore this criterion for approval has been met.

*6. Under the unique circumstances of this case, the municipal code authorized the planning director to grant the applicant's request to reduce the parking requirements to 53 spaces, which is substantially less than the minimum parking requirements that would otherwise apply to the proposal.*

All parking areas in the General Commercial zone must satisfy the requirements of Chapter 17C.230 of the municipal code. See SMC 17C.230.100(A). Property located in a General Commercial zone must provide the minimum number of parking spaces pursuant to Table 17C.230-2. "The number of parking spaces is computed based on the uses on the site." See SMC 17C.230.100(C)(2). When there are multiple uses, the parking requirement is the sum of the required parking for the individual uses. See id.

The proposed use includes office space, warehouse facilities, and production activities. The minimum parking for office use is 1 parking space per 500 feet of floor area. See Table

17C.230-2. For production use, the minimum parking is 1 space per 1,000 square feet of floor area. See id. The minimum parking requirement for warehouse use is 1 parking space per 1,000 square feet of floor area for the first 3,000 square feet of floor area, and 1 parking space per 3,500 square feet of floor area after the first 3,000 square feet of floor area. See id.

Applying these standards to its proposal, the applicant calculated the minimum parking requirements for this project as follows:

Based on our latest floor plan, the areas are broken up as follows:

- Office: 8,000 sf/500 = 16 stalls
- Warehouse: 22,700sf 1/1000 up to 3,000sf then 1/3500 = 9 stalls
- Production: 58,000 sf/1000 = 58 stalls

Total parking required: 83 stalls

See Exhibit 19. Thus, by applicant's own calculations, which the city did not apparently question, the minimum parking for this project (as configured on the date of the hearing) is 83 spaces. Nonetheless, based upon the unique nature of the use, the applicant requested that the minimum parking be reduced to 53 spaces, as shown on the proposed site plan. See Exhibit 2D. A threshold question, then, is whether the code permits an applicant to develop a project with less than the minimum required parking.

Under fairly narrow circumstances, the municipal code allows the planning director to authorize less than the usual minimum of parking spaces for a project. As pertinent to this case, the code provides as follows:

**In the case of a use not specifically mentioned in Table 17C.230-2, the requirements for off-street parking shall be determined by the planning director.** If there is/are comparable uses, the planning director's determination shall be based on the requirements for the most comparable use(s). **Where, in the judgment of the planning director, none of the uses in Table 17C.230-2 are comparable, the planning director may base his or her determination as to the amount of parking required for the proposed use on detailed information provided by the applicant.** The information required may include, but not be limited to, description of the physical structure(s), identification of potential users, and analysis of likely parking demand.

See SMC 17C.230.110(6) (emphasis added). Based upon this provision, the planning director determined that a 53-space minimum was appropriate. See Exhibit 19. This decision is supported by the record, giving due deference to the planning director's interpretation of the land use codes.

As the planning director concluded, this project is very unique. See Exhibit 19. Although generic categories of use (e.g. "production") are stated on Table 17C.230-2, a dry-assembly operation primarily employing the sight-impaired, or its equivalent, is not "specifically mentioned." There would presumably be little or no relief from the minimum parking requirements for the specifically referenced uses, such as "school" or "vehicle repair." The nature of this particular application, however, is not called out with particularity in Table 17C.230-2. As a result, the

planning director has a certain amount of discretion to establish the minimum parking requirements. See SMC 17C.230.110(6).

There are no directly comparable uses shown on Table 17C.230-2, such that the planning director's discretion would be restricted to applying the standards applicable to such comparable uses. Rather, the planning director should look to other factors, such as the identity of the potential users and the likely parking demand. In this case, the users of the facility are quite atypical. A minimum of 70% of the employees at the facility will be visually impaired. See Exhibit 19. These folks take public transportation to the site, and therefore have no need for parking at work. Following the expansion, the facility will eventually provide a workplace for approximately 125 people, including about 90 blind individuals and 35 staff who are not sight-impaired and therefore are capable of driving to work. See Exhibit 19. The operation is to assemble office supplies and equipment for subsequent shipment, and does not cater to the public, as contrasted to a retail use such as the previously existing supermarket. As a result, the minimum of 53 spaces would appear adequate to meet the need given the unique use and anticipated demand. In addition, the site is designed with extra landscaping where parking would otherwise exist. The applicant provided testimony that, if needed for some future use, some landscaped areas unique to the proposed use could be converted back to parking to meet the minimums. In the meantime, however, the additional landscaping is a welcome amenity.

The Hearing Examiner concludes, consistent with the decision of the planning director, that the applicant's proposal to provide 53 parking stalls is proper under the applicable codes, given the unique circumstances of this case.

*7. The propriety of this application is bolstered by the fact that there were no objections to the project by any third parties.*

It is noteworthy that there were no negative comments or concerns raised regarding this project by any neighboring property owner, nearby business, concerned citizen, or any other third party. No member of the public attended the community meeting. See Exhibits 14-15. The city received no written comments on the proposal in advance of the hearing on the conditional use permit. No member of the public attended the hearing or submitted written comments on the date of the hearing. The only parties offering testimony or evidence for this record were the applicant and its representatives, and city departments.

### **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. All stormwater and surface drainage generated from the new addition shall be disposed of on-site in accordance with the recommendations of SMC 17D.060 Stormwater Facilities, the Regional Stormwater Manual, City Design Standards, and the Project Engineer's recommendations based on drainage plans accepted for the conditional use permit. All drywells, existing and proposed, must be shown on the plans and must be registered with the Washington State Department of Ecology in accordance with underground injection control requirements.

2. Addison Street, adjacent to the project, was improved (new pavement) less than three years ago. Thus, any street cuts required for the new utility connections must be done in Lyons Avenue in accordance with the City's Regional Pavement Cut Policy.

3. The City shall collect impact fees, calculated pursuant to the schedules in SMC 17D.075.180, or in the alternative, based upon an independent fee calculation pursuant to SMC 17D.075.050. In the event the impact fee is calculated pursuant to SMC 17D.075.180, the impact fee will be assessed for Warehouse/Storage use (LU 150) in the Northeast Service Area at  $\$0.68/\text{sf} = 41,500 \times \$0.68 = \$28,220.00 + \$846.60$  (administrative fee) =  $\$29,066.60$ .

4. Any new or modified driveway access locations must be reviewed and approved by Traffic Engineering prior to permit issuance. Any unused driveway approaches need to be removed and replaced with City Standard curb and sidewalk.

5. The project must provide adequate turning movements for fire and emergency vehicles, in compliance with City Standards.

6. The site shall be developed in substantial conformance to the proposed plan on file.

7. All parking areas must be hard surfaced and otherwise satisfy the requirements of SMC 17C.230.010 *et seq.* as applicable to parking areas in the General Commercial zone, with the conditional exception of the approved installation of 53 parking spaces as described below.

8. The proposal to install 53 parking spaces, which is below the normally applicable minimum parking for the described use, is approved; however, this approval is only granted under the unique circumstances presented and given the unusual characteristics of the applicant's project. The approval is strictly limited to the conditional use permit at issue. In the event there is a change in use or a material change to the operations, the matter must be reviewed by the Hearing Examiner for approval, which may result in a change to the parking requirements for the site. Any future use of the property must be consistent with the minimum parking and other requirements of the Spokane Municipal Code.

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

10. Any signage must adhere to SMC 17C.240 – Signs.

11. The applicant shall comply with the requirements of the Spokane Regional Clean Air Agency as set forth in Exhibit 7.

12. In the event any archeological resources are discovered during excavation or construction related to this project, the Spokane Tribe of Indians shall be notified immediately, and all excavation and construction shall cease.

13. 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.

14. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.

15. The applicant shall comply with the requirements of the Department of Engineering Services as set forth in Exhibit 3.

16. 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.

17. 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.

18. 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 22<sup>nd</sup> day of February 2013.



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Brian T. McGinn  
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 21st day of February, 2013. **THE DATE OF THE LAST DAY TO APPEAL IS THE 15<sup>th</sup> DAY OF MARCH 2013 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.