

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) FINDINGS, CONCLUSIONS,
Christ Clinic to allow a Community) AND DECISION
Service Use in a Residential Single)
Family Zone) FILE NO. Z1300052-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: Christ Clinic seeks a conditional use permit in order to allow it to relocate its administrative offices from the existing facility located at 914 West Carlisle Avenue to a house located at 908 West Carlisle, immediately to the east of the existing facility.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Christ Clinic
Attn: Kristine Ruggles
P.O. Box 28236
Spokane, WA 99228

Owner: Same as Applicant.

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

Property Location: 908 W. Carlisle Avenue, Spokane, WA

Legal Description: The abbreviated legal description of the property is provided in Exhibit 2A. The parcel number of the project site is 35072.5412.

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

Comprehensive Plan Map Designation: The property is designated as R 4-10 (Residential 4-10 Units per acre).

Site Description: The site of the proposed use is a residential lot improved with one, single-family residence. At the time of the application, there was also a garage on the property that the Applicant proposed to demolish to make room for four additional parking spaces. However, a fire caused by lightning damaged the garage and it was therefore removed before the hearing.

Surrounding Conditions and Uses: The land to the west of the site is zoned CC2-DC, a centers and corridors designation, and is currently used for the existing facility of the Christ Clinic. The area generally to the west consists of various commercial uses along Monroe Street. The land to the south is zoned O-35, an office classification, and is currently used for institutional purposes. The land to the north and east is zoned RSF and is a developed residential neighborhood.

Project Description: The applicant has submitted a Conditional Use Permit – Type III application seeking approval to use an existing residence, acquired by Christ Clinic, for its administrative offices. The Christ Clinic’s primary facility is located immediately to the west of the residence. The proposal is to move the administrative offices from the existing facility to the house. This will free up space in the existing facility for operations.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (“SMC”) 17C.110, Residential Zones; SMC 17C.320.080(F), Decision Criteria for Institutional Use in Residential Zones; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: July 8, 2013
Posted: July 8, 2013

Notice of Application/Public Hearing: Mailed: September 5, 2013
Posted: September 5, 2013

Community Meeting: July 23, 2013

Public Hearing Date: September 26, 2013

Site Visit: September 25, 2013

SEPA: Categorically Exempt

Testimony:

Tami Palmquist, Associate Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Donald S. Huddleston, CCIM
Village Square Realty
12309 E. Mirabeau Parkway, Ste. 2
P.O. Box 141449
Spokane Valley, WA 99214-1449

Dwight Hume
Land Use Solutions & Entitlement
9101 N. Mt. View Lane
Spokane, WA 99218

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Conditional Use Permit application
 - 2C Receipt for payment of notification district map
 - 2D Project Description Narrative
 - 2E Narrative
 - 2F Site Plan
3. Conditional Use Permit Counter Complete checklist
4. Fire Department comments
5. Engineering Services comments
6. Traffic Engineering comments
7. Spokane Tribe of Indians comments
8. Spokane Regional Clean Air Agency comments
9. Notice map
10. Parcel listing
11. Notice of community meeting
12. Notice of Application and Public Hearing
13. Affidavit of mailings
 - 13A Community Meeting dated 07-08-13
 - 13B Combined application and hearing dated 09-05-13
14. Affidavit of posting
 - 14A Community Meeting dated 07-08-13
 - 14B Combined application and hearing dated 09-05-13
15. Affidavit of sign removal dated 07-23-13
16. SEPA – categorically exempt
17. Community Meeting sign in sheet
18. Community Meeting minutes
19. Hearing File Preparation Checklists
20. Letter dated 07-05-13 to Dwight Hume from Marla Powers
re: Community Meeting Instructions
21. Letter dated 07-30-13 to Tamara Palmquist from Dwight Hume
re: submittal of complete application
22. Letter dated 08-09-13 to Interested Parties from Tami Palmquist
re: requesting comments
23. Letter dated 09-03-13 to Dwight Hume from Tami Palmquist
re: notice of application and public hearing letter
24. Email dated 09-06-13 to Tamara Palmquist from John Bellefeuille
re: supporting the project.
25. Email dated 09-19-13 to Tamara Palmquist from Cecelia McMullen
re: supporting the project
26. Planning Services' PowerPoint presentation

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 and 17C.320.080. The Hearing Examiner has reviewed the proposed conditional use permit and the evidence of record with regard to the 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 site of the proposed use is zoned Residential Single Family ("RSF"). The uses allowed in the RSF zone are shown on Table 17C.110-1. According to the table, a Community Services use is allowed as a limited/conditional use ("L[4]/CU"). The first question, then, is whether the proposed use qualifies as a Community Services use, as the city staff has concluded. Answering this question requires consideration of the nature of the proposed use, as well as the characteristics of a Community Service use.

The Applicant proposes to use a single family residence for administrative office purposes. These offices will be used to support the community services provided by the Christ Clinic at its existing facility immediately to the west of the residence. The clinic provides services to approximately 500 patients per month. *See* Exhibit 2D. The clinic also operates a kitchen, and therefore the services provided by the facility also include preparation of meals, catering services, and box lunches. *Testimony of D. Huddleston.* Moving the administrative functions to the neighboring house will make room for four additional exam rooms, enabling the clinic to eventually see up to 700 patients per month. *See* Exhibit 2D; *Testimony of D. Hume.*

The proposed use clearly fits within the meaning of a Community Services, an Institutional category of use. Community Services are characterized as including services of a nonprofit or charitable nature, generally providing a local service to people of the community. *See* SMC 17C.190.420(A). Community Service uses provide services on site and have employees at the site on a regular basis. *See id.* The services provided are typically ongoing, and not limited to special events. *See id.* The Christ Clinic has all these characteristics. *Testimony of T. Palmquist.* The clinic is operated on a nonprofit basis providing needed social services. The patients using the clinic are often traveling to the facility by bus and on foot. *Testimony of D. Huddleston.* The services are of immediate benefit to the neighborhood, and are fully supported by the neighborhood. *Testimony of D. Huddleston.* The services are ongoing, and are not limited to special events. The clinic employs a number of individuals who work on site, including 30-35 women who work in the kitchen facilities. *Testimony of D. Huddleston.*

The Hearing Examiner concludes that the proposed use, which is a Community Services use, is allowed in the RSF zone, provided that the Applicant can satisfy the criteria to obtain a conditional use permit. In addition to the CUP standards, Table 17C.110-1 indicates that the Applicant must also satisfy the limited use standards. The relevant provision of SMC 17C.110.110, which specifies the limited use standards applicable to "Community Service Facilities," provides as follows:

This regulation applies to all parts of Table 17C.110-1 that have a note [4]. In the RA, RSF and RTF zones, a one-time addition to an existing community services use is

permitted, provided the addition is less than fifteen hundred square feet and three or less parking stalls located on the same site as the primary use. The addition and parking are subject to the development standards of the base zone and the design standards for institutional uses. New buildings or larger additions require a conditional use permit and are processed as a Type III application. New buildings or additions to existing community services uses are permitted in the RMF and RHD zones.

See SMC 17C.110.110(D). Upon considering these standards, the Hearing Examiner concludes that the limited use standards are not relevant to this proposal. The Applicant is not, for example, proposing a small addition to the existing facility, a large addition to the existing facility, or the construction of a new building. Rather, the Applicant is seeking to change the use of a neighboring house, which is on a separate lot also owned by the Applicant, from residential use to an office/administrative use in support of the adjacent clinic. There are no proposed changes to the residential structure. It does not appear that any of the above-quoted provisions are designed to restrict or regulate the Applicant's proposal. As a result, a decision to approve or deny the application turns on the conditional use criteria, and perhaps other code requirements, rather than the limited use standards.

The Hearing Examiner concludes that this criterion is satisfied. The proposed use is allowed in the underlying zone, provided the Applicant demonstrates that it can meet the requirements to obtain a conditional use permit.

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 Comprehensive Plan ("CP"), although far-reaching in its subject matter, does not appear to squarely address the role of non-profit organizations in providing community services. By the Hearing Examiner's review, the matters covered in the Comprehensive Plan are only indirectly applicable to Christ Clinic's proposal. The goals and policies that are pertinent, albeit somewhat tangentially, support the proposed relocation of office space and associated increase in service capacity. In the Hearing Examiner's view, nothing in the Comprehensive Plan obviously cuts against the proposed use. Stated another way, the proposal is not inconsistent with the Comprehensive Plan, in any respect evident from this record.

The Christ Clinic provides basic medical care to uninsured and underinsured individuals who cannot otherwise obtain or afford such services. The associated Christ Kitchen prepares meals, offers catering services, and provides a box-lunch service. These services are frequently provided to individuals in the neighborhood and immediate vicinity. The clinic and kitchen also provide local employment opportunities. There are a number of policies in the Comprehensive Plan that generally support such activities.

The services and products of the clinic/kitchen are a benefit to the neighborhood and the local economy. These activities are consistent with Policy NE 10.2, "Local Business Support," in that the clinic and kitchen employ local people, use local materials, and sell their products and services locally. See CP, Chapter 9, NE 10.2, p. 17. The emphasis on strengthening the ability of neighborhoods to provide services to meet local needs is also embodied in Policy N 2.1. That policy calls for the development of "...a neighborhood infrastructure that enables citizens to live, work, shop, socialize, and receive other essential services in their own neighborhood." See CP,

Chapter 11, N 2.1, p. 9. The mission and services rendered at the clinic are also in furtherance of social equity, consistent with NE 10.3. See CP, Chapter 9, NE 10.3, p.17.

The social health objectives of the comprehensive plan, although directed at government agency actions, are also generally supportive of the programs conducted at the clinic. For example, SH 5, "Public Benefit Uses," states a goal clearly intended to promote "wellness programs, affordable and accessible health and human services" and other public benefit uses. See CP, Chapter 10, SH 5, p. 20. In addition, Policy 5.2, entitled "Neighborhood-Level Health and Human Services," embodies a public policy to provide financial and other incentives for service providers to increase the number of neighborhood and district centers where health clinics and human services are available. See id., p. 22. The commentary to this policy notes that adequate funding for the Human Services department will enable the government to provide technical assistance to non-profit organizations in their efforts to obtain federal, state or private funding for qualifying services. See id. Further, such services "should specifically focus on projects that support the location of human services in neighborhood and district centers." See id.

The Hearing Examiner concludes that, while the guidance from the Comprehensive Plan is somewhat sparse and frequently indirect in application, the goals, policies and objectives that do have relevance are wholly supportive of the kinds of activities and services provided by the Christ Clinic/Christ Kitchen. As a result, the Hearing Examiner concludes that this criterion is satisfied.

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

The decision criteria for Type III decisions, such as the conditional use permit under review, require that any proposal satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). All development permit applications are subject to a concurrency test, unless expressly exempted. See SMC 17D.010.020(A). A Type III application for a conditional use permit, such as the proposed project, is not exempt from the concurrency requirements. See SMC 17D.010.030(E) (listing the exempt permits).

On August 9, 2013, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 22. The comments received in response to this notice were minimal and raised no concerns about the project. See Exhibits 4-8. A review of the record confirms that there is no substantive evidence that the project transgresses any concurrency requirements. There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. While more patients will ultimately be served, there was no evidence that traffic at the site would materially increase. Many patients visit the clinic on foot or travel to the site by bus. *Testimony of D. Hume.* The city does not anticipate that the proposal will generate any additional demand for city services. *Testimony of T. Palmquist.* Refuse collection from the residence will be shared with the adjacent clinic, so even that service will not require additional resources. *Testimony of T. Palmquist.*

To the extent that there was a lack of substantive comments from departments and agencies with jurisdiction, the Hearing Examiner must conclude that concurrency standards are satisfied. The concurrency provisions of the municipal code state that a lack of response by a

notified facility or service provider shall be construed as a finding that concurrently is met. See SMC 17D.010.020(B)(1). In addition, 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 Exhibit 22.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the municipal code. Therefore, this criterion for approval of the conditional use permit is 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. See SMC 17G.060.170(C)(4).*

As has been stated previously, the proposal is to use an existing residence for office and administration purposes. Although this will require a change of use approval by the Building Department, there will be no material modifications to the structure. "The residence will remain as to its bulk and scale and will have some exterior remodeling to comply with ADA and/or other applicable code requirements." See Exhibit 2B. The site plan shows that the lot is improved with a single family residence and a garage. That was true at the time the plan was prepared. In the meantime, however, the garage was severely damaged in a fire caused by lightning, and was subsequently removed. *Testimony of D. Huddleston*. Thus, the residence is now the only structure on the site.

The lot is approximately 50' x 120', or 6,000 square feet, not including the right-of-way associated with Carlisle Avenue. See Exhibits 2F and 2D. The modifications proposed for the lot itself are minor. The proposed changes, other than the removal of the garage, included the installation of a new 5' wide concrete sidewalk on the west side of the residence and the installation of four parking spaces in the back of the lot. See Exhibit 2F. The lot is flat, and there is no indication of any environmentally sensitive conditions. The Applicant is proposing to do so little to the lot and residence that it is difficult to see how the proposal can have any impact that has not already been experienced from the original construction of the residence and garage.

The "...site area is suitable for development according to all city departments and agencies that commented." See Exhibit 1, p. 5. The project is categorically exempt from SEPA. Even that aside, there was no evidence of any environmental concerns, whether related to drainage, water, slopes, soils, or otherwise. The lot is flat, rectangular, and typical in size for a residential lot. There was nothing about the size, shape, or topography of the site that would make the proposal problematic. There are no "...historical or cultural features are known to exist within the site area." See Exhibit 1, p. 5; see also Exhibit 7.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion is satisfied.

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. See SMC 17G.060.170(C)(5).

The Hearing Examiner finds that the proposal will not have significant impacts on the environment. The proposal is exempt from SEPA requirements. See Exhibit 1, p. 6. As stated above, the changes to the residence and lot are relatively minor. Those changes will not negatively impact the residential look or character of the neighborhood. See id. The additional parking and refuse collection will be in the back of the lot by the alley. See id. There is no evidence in this record to show either environmentally sensitive conditions or significant impacts arising from the project. For these reasons, and the lack of any evidence in the record suggesting a reason for concern, the Hearing Examiner concludes that this criterion for approval of the conditional use permit is satisfied.

6. *The project will not result in the construction of improvements that are disproportionate to the residential household uses in the surrounding area. See SMC 17C.320.080(F)(1).*

The proposal will not create any conditions out of proportion with the residential neighborhoods to the north and east. As noted above, there will be no changes to the bulk, size, or structural elements of the residence. The garage has already been removed, and the only changes to the lot include adding sidewalk and a parking area in the back. Although the house will be used for office and administrative purposes, the structure will still be a house. There will be no impact on the residential character of the area due to this mere change in use. As a result, this criterion for approval is easily satisfied.

7. *The proposal will be compatible with the adjacent residential developments based on the characteristics such as site size, building scale and style, setbacks and landscaping. See SMC 17C.320.080(F)(2).*

The Applicant merely seeks to use an existing house as an office and administrative building. The mere change in use does not change the appearance or character of the structure. The site will still be a 6000 square foot residential lot, improved with a house. The residence is not being increased in size. The proposal still must meet any code requirements applicable to the change in use, minor remodeling, and installation of sidewalk and parking area. The city staff has already concluded that the site is suitable for the proposed use, as confirmed by all commenting departments and agencies. See Exhibit 1, p. 5. There is no evidence in the record to suggest otherwise. The Hearing Examiner therefore concludes that this criterion for approval is satisfied.

8. *The proposal will not have significant adverse impacts on the livability of nearby residential lands due to noise, glare, late-night operations, odors and litter, or privacy and safety issues. See SMC 17C.320.080(F)(3).*

The proposed use of the residence for office and administrative purposes will not negatively affect the livability of the nearby neighborhoods. The minor changes to the structure will not change its residential appearance. The actual use of the house, given its nature, will likely be largely unnoticed by the neighbors. Arguably, the clinic's use of the house for office and administrative purposes has less effect in terms of potential noise, light, etc., than would exist if a family lived in the residence. This is true because the clinic does not operate after 5 p.m. or on weekends, and therefore the property will be typically empty and quiet at those times. If a family lived in the residence, the property would be in use in the evenings and on weekends.

There is no evidence that the proposed office and administrative use will cause noise, odor, light and glare, or any other nuisances. The refuse from the site will be disposed of in a receptacle in the back of the residence, which is shared with the clinic. Further, no concerns about privacy or safety have been raised, and none are anticipated based upon the record in this case. The only comments in the record demonstrate that the clinic has been a very good neighbor. There is no evidence that this will change due to the relocation of administrative and office functions into the adjacent house.

The Hearing Examiner concludes that the proposal will not have adverse impacts on the livability of nearby residences. Therefore, this criterion has been met.

9. *The proposed use is in conformance with the street designations of the transportation element of the comprehensive plan, and the transportation system is capable of supporting the use. See SMC 17C.320.080(F)(4).*

The proposal does not suggest any use or activity that deviates from the policies or objectives of the comprehensive plan. See Part 2 above. More specifically, the Hearing Examiner's review, the proposal is consistent with the transportation element of that plan. The proposed use will not require any additions to the public infrastructure in order to accommodate the proposal. See Exhibit 1, p. 4. In addition, the Applicant has satisfied the concurrency requirement. See Part 3 above. Thus, the transportation system is well capable of handling any needs presented by the proposal. In any event, the demands of this proposal upon the public infrastructure are *de minimis*. There is no evidence in the record that the proposal fails to satisfy this criterion. The Hearing Examiner therefore concludes that this requirement is satisfied.

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 Christ Clinic to relocate its administrative offices from the existing facility, at 914 W. Carlisle Avenue, into the single family residence located on the adjacent residential lot, at 908 W. Carlisle. Any changes to the application must be

submitted to Planning Services for its review and approval. If Planning Services finds the proposed changes to be substantial, then the changes shall be forwarded to the Hearing Examiner for review and approval.

2. The project will be developed in accordance with the site plan that was submitted at the time of application for this Conditional Use Permit. The site plan is included in the record as Exhibit 2F.

3. The project will be developed in substantial conformance with 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.

4. The applicant shall comply with the requirements of Engineering Services as set forth in Exhibit 6.

5. The applicant shall comply with the requirements of the Spokane Regional Clean Air Agency as set forth in Exhibit 8.

6. 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.

7. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.

8. 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.

9. 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.

10. 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.

11. 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 2nd day of October 2013.



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 2nd day of October, 2013. **THE DATE OF THE LAST DAY TO APPEAL IS THE 23rd DAY OF OCTOBER 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.