

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by J. Thomas Sawyer to change the use of the Turner House, which is located in a Single-Family Residential Zone, from a former senior living facility to private offices.) FINDINGS, CONCLUSIONS, AND DECISION)
FILE NO. Z1400038-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: J. Thomas Sawyer seeks approval of a conditional use permit to allow a change of use of Turner House, a historic structure located at 1521 E. Illinois Avenue. Mr. Sawyer intends to change the use of the building from a former senior living facility to private office uses.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ Owner: J. Thomas Sawyer
13212 N. Howard Lane
Spokane, WA 99208

Property Location: 1521 E. Illinois 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 35902.5505.

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 consists of approximately 19,602 square feet (.45 acres) in area. The property has street frontage on three sides: Illinois Avenue, Carlisle Avenue, and Madelia Street. The property is developed with a large single-family residence, constructed in 1916 which was converted into a senior living facility in the 1940s. That use ceased in the 1990s, when the senior living facility was closed. The property has been upgraded recently to comply with current ADA standards.

Project Description: The applicant seeks to use the large residential structure for office purposes. In general, the proposal is to utilize the existing spaces within the residence as offices. Those spaces were created when the house was converted from a single family residence into a senior living facility. The existing spaces will be converted for use as 10-15 office spaces that range from 150 to 750 square feet each.

Surrounding Conditions and Uses: The land to the north, east and west is zoned Residential Single-Family (RSF). The property immediately to the west is improved with a large facility used as a nursing home. However, the other property in the immediate vicinity is predominantly developed with single-family residences. The land to the south and across Illinois Avenue is zoned Residential Multi-Family (RMF). However, the land to the south is also improved with single family residences.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (“SMC”) 17C.110, Residential Zones; SMC 17C.335.110(C), Historic Structures—Change of Use, Development Standards; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: July 25, 2014
Posted: July 25, 2014

Notice of Application/Public Hearing: Mailed: October 8, 2014
Posted: October 8, 2014

Community Meeting: August 7, 2014

Public Hearing Date: October 30, 2014

Site Visit: September 9, 2014

SEPA: Categorically Exempt

Testimony:

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

Kay Bell
1601 E. Illinois Ave.
Spokane, WA 99207

Tom Sawyer
13212 N. Howard Ln.
Spokane, WA 99208

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Exhibits:

1. Planning Services Staff Report
 2. Application, including:
 - 2A General Application
 - 2B Conditional Use Permit Application
 - 2C Notification Map Application
 - 2D Application for Certificate of Appropriateness
 - 2E Photo of Turner House
 - 2F Ordinance placing the Luther P and Jane Marie Turner House on the Register of Historic Places
 - 2G Spokane Register of Historic Places Nomination Form for the Turner House
 - 2H Official letter listing the Turner House in the Washington Heritage Register
 - 2I Official letter listing the Turner House in the National Register of Historic Places
 - 2J Site Plan
 - 2K Asphalt area map
 - 2L ADA sign requirements
 3. Conditional Use Permit Counter Complete Checklist
 4. Pre-Development Conference notes
 5. Engineering Services comments
 6. Avista Comments
 7. Williams Pipeline comments
 8. Notice map
 9. Parcel listing
 10. Notice of Community Meeting
 11. Notice of Application and Public Hearing
 12. Affidavit of mailings:
 - 12A dated 07-25-14
 - 12B dated 10-08-14
 13. Affidavit of posting:
 - 13A dated 07-25-14
 - 13B dated 10-08-14
 14. Affidavit of sign removal dated 08-08-14
 15. Email dated 10-22-13 to Kristen Griffin from Jerry Shogan
re: ADA accessibility
 - 15A Email to/from Lee Ann Reid and Dave Kokot
re: clarification of 10-22-13 email.
 16. Letter dated 05-12-14 to J. Thomas Sawyer from Tami Palmquist
re: community meeting instructions
 17. Email dated 08-12-14 to Dave Compton from Tami Palmquist
re: procedures
 18. Letter dated 08-04-14 to Interested Parties from Dave Compton
re: requesting comments
 19. Email dated 09-09-14 to Dave Compton from Thomas Sawyer
re: setting hearing date
 20. Letter dated 09-26-14 to Thomas Sawyer from Dave Compton
re: notice of application/public hearing instructions
- A Exhibits received at hearing
- A-1 Planning's 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. In addition, the change of use of the historic structure must comply with the criteria set forth in section 17C.110.335(C). The Hearing Examiner has reviewed the proposed conditional use permit and application for change of use, and after considering the evidence of record, 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 Residential Single Family (“RSF”), a residential category. The uses allowed in the residential zones are shown on Table 17C.110-1. See SMC 17C.110.110. According to the table, an office use is generally not permitted in an RSF zone. However, the proposed office use is nonetheless permitted, provided a change of use application is approved. Pursuant to the land use standards for historic structures, a “...**change in the use of an historic structure to any use other than a use listed as permitted in the base zoning district may be allowed by Type III permit** from the hearing examiner...” See SMC 17C.335.110(C) (emphasis added). In other words, the requested office use is allowed under the land use codes, so long as the applicant satisfies the change-of-use requirements. This criterion for approval of the conditional use permit is therefore 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 Staff determined that the proposal is consistent with the goals and policies of the Comprehensive Plan (“CP”), as described by the Applicant. See Exhibit 1, p. 4; see also Exhibit 2B. The Hearing Examiner agrees.

Chapter 8 of the Comprehensive Plan, entitled “Urban Design and Historic Preservation,” recognizes the social value of preserving historic buildings, the historic fabric, and the cultural heritage of Spokane. See CP, Chapter 8, § 8.3, p. 8. Goal 4 of the Urban Design and Historic Preservation chapter includes an objective to “[p]reserve and protect Spokane’s significant historic structures, neighborhoods, and sites.” See CP, Chapter 8, DP 4, p. 17. Under that goal, Policy DP 4.8 provides that land use regulations should encourage adaptive reuse of existing, underutilized buildings. That policy also encourages the use of the conditional use permit process to promote the use and re-use of historic buildings. Policy DP 4.9 provides that the city should assist owners of historic buildings to best utilize their property, while nonetheless preserving historic features. See CP, Chapter 8, DP 4.9, p. 18. Further, Policy LU 7.3, specifically calls for allowing compatible commercial and residential uses of historic properties when necessary to promote the preservation of such resources. See CP, Chapter 7, LU 7.3, p. 29.

The forgoing goals and policies, among others, clearly support the approval of the proposed use of the Turner House. Granting the conditional use permit for the Turner House will allow the owner to put the property to a low-impact commercial use, thereby maintaining the

utility of the structure, while also preserving its historic features. The Hearing Examiner concludes that this criterion for CUP approval 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 28, 2014, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 18. None of the commenting agencies or departments raised any concerns regarding concurrency or suggested that concurrency could not be achieved. See e.g. Exhibits 5, 6, and 7. 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. See SMC 17D.010.020(B)(1).

There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. In addition, as the Applicant pointed out, the project is simply to re-purpose an existing facility. See Exhibit 2B. The property is already connected to city sewer and water. Storm water is absorbed by the landscaping. See *id.* Solid waste will be picked up on a residential schedule. See *id.* Very little weekend traffic will be generated. See *id.* Thus, there is no reason to suspect that this proposal will place any strain on public infrastructure or service capacity.

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).*

This criterion has little relevance to this project, given that the proposal is merely to change the use of an existing building, not to develop or redevelop the site. The site plan appropriately addresses the owner's plans for the property, including the internal use of the existing structure, as well as the parking, access, sidewalk, and landscaping. "All applicable city departments and agencies reviewed the site plan with no significant adverse comments." See Exhibit 1, p. 4. Further, the site is suitable for the proposed use according to all agencies and departments that commented. See *id.* There is no evidence in the record that the property is not suitable due to the size, shape, location, topography, soils, slope, drainage characteristics, or the like. This is not surprising since the historic home was used for many years as a nursing home without any such concerns being evident, at least on this record. Finally, the proposed use of the site preserves historic and cultural features, rather than detracts from them. Given the circumstances, the Hearing Examiner concludes that the property is suitable for the

proposed use. 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 categorically exempt from SEPA requirements. See Exhibit 1, p. 4. There was no evidence presented at the hearing or included in the record suggesting that the proposed use of the structure will have any substantive environmental impacts, whether due to traffic, noise, or some other cause. To the extent any impacts could arise, those potential impacts will be adequately addressed through the permit process and pursuant to the conditions of this approval. Further, any future changes to the structure will be governed by the regulations applicable to historic structures as well as by the recorded covenant affecting the property. The changes that are being made to the property, such as the installation of sidewalks and parking, are more likely to have a positive environmental effect than a negative one. See Exhibit 2B; see also Exhibit 1, p. 4. For these reasons, and due to 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 Applicant has satisfied the criteria of SMC 17C.335.110(C), which govern the approval of a change of use for an historic structure.*

Pursuant to SMC 17C.335.110(C), a change to any use other than a use allowed under the base zoning may be allowed through a Type III permit approved by the Hearing Examiner. The criteria for approval of a change of use are discussed below.

- a. *The structure is listed on the Spokane Register or the National Register of Historic Places. See SMC 17C.335.110(C)(1).*

The Turner House was placed on the Spokane Register of Historic Places on November 10, 2003. See Exhibit 1, p. 5. The property was listed on the National Register of Historic Places on December 23, 2003. See id. Therefore, this criterion for approval of the change of use is satisfied.

- b. *All proposed changes to the structure have been approved by the landmarks commission as being compatible with the historical designation of the property, the form of approval being specified in the rules of procedure of the hearing examiner. See SMC 17C.335.110(C)(2).*

The proposal does not call for changes to the structure of the Turner House. There has been no major interior restoration work on the house since it was converted for use as a nursing home in 1943. See Exhibit 1, p. 5. The changes that have been made are few. The prior owner removed the fire escape. See id. The current owner then installed some new sidewalks on Carlisle Avenue. See Exhibit 1, p. 4. He also added a new handicap ramp and parking stall to meet ADA requirements. See id. An interior restroom was also upgraded, again to satisfy ADA requirements. See id. The owner applied for the necessary authorization to complete this work

given the historic designation of the property. See Exhibit 2D. These minor changes were completed with the appropriate permits and approvals. No other alterations or additions are anticipated for this property. See id. The proposed offices will utilize the same demising walls that were created for the nursing home. See Exhibit 1, p. 2. To the extent any significant changes are requested in the future, the appropriate approvals must be obtained. The Hearing Examiner concludes that this criterion for a change of use is met.

- c. The change in use is demonstrated as necessary to ensure that the structure will be preserved, considering all uses allowed in the underlying zone. See SMC 17C.335.110(C)(3).*

The Turner House was converted from a single-family residence into a nursing home in the 1940s. See Exhibit 2B. The property was returned to use as a single-family residence after the previous owner purchased the property in the 1990s. See Exhibit 1, p. 5. The current owner testified at the hearing that the highest and best use of the property, given this history, was for office purposes. *Testimony of T. Sawyer.* The Staff apparently agreed with this conclusion. See Exhibit 1, p. 5. The Hearing Examiner is not aware of a better use of the property under the land use codes, in particular given the policy of preserving historic sites. If the home were converted back into a nursing home, extensive life, safety, and health improvements would be necessary to satisfy current codes and requirements. See id. Making substantial changes to the premises, in the Hearing Examiner's view, is not consistent with the intent to protect or restore the historic features of the home. In addition, the funds for that project that likely would be better expended on preserving and enhancing the existing facilities. See id. Ultimately, the current owner is making a significant financial investment consistent with this idea. See id.

The Hearing Examiner concludes that the Applicant has demonstrated that change in use is necessary to ensure the long-term preservation of the historic structure. As a result, this criterion for change of use is satisfied.

- d. The benefits to the public arising out of preserving the structure are greater than the harm to the public resulting from allowing the proposed use of the structure, considering the factors listed in the municipal code. See SMC 17C.335.110(C)(4).*

The Turner House is significant as an example of the Neo-Classical architectural style. See Exhibit 2B. It may be the only high style Neo-Classical home on the north side of the Spokane River within city limits. See id. While Spokane has several homes of this style, the Turner House is one of the better examples of this architectural type. See id. The Turner House is also associated with a colorful local history. See id.

As the Staff concluded, preserving the Turner House "...would maintain one of the only homes in the surrounding Logan neighborhood that exhibit the classic elements of the Neo-Classical architectural style." See Exhibit 1, p. 6. The public certainly benefits by preserving historical and cultural structures that give Spokane its unique character. Allowing the proposed use puts this historic building to productive and beneficial use, in the highest and best manner available under the circumstances, and with the least impact to the surrounding neighborhood. The benefits realized from the project outweigh countervailing considerations. On this record, there are few, if any, disadvantages to allowing this project. And there are no genuine concerns that the project will result in substantive off-site impacts due to traffic, noise, or other causes.

The Hearing Examiner concludes that the project, on balance, is substantially beneficial to the public. This criterion for change of use is therefore fulfilled.

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 Applicant, J. Thomas Sawyer, to change the use of an existing, historic residence, located at 1521 E. Illinois Avenue, from a former senior living facility to offices. 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 property will be used and the improvements will be made in substantial conformance with the plans that were submitted at the time of application for this Conditional Use Permit. The plans are included in the record as Exhibits 2J and 2K.
3. The Applicant shall complete frontage improvements to Carlisle Avenue, including the installation of a sidewalk, plant strip, street trees, and the proposed driveway approach, all in accordance with city standards.
4. All storm water and surface drainage generated on this site must be disposed of in accordance with SMC 17D.060.140, "Storm Water Facilities," as per the Project Engineer's recommendations.
5. All parking and maneuvering areas shall be paved as shown on the site plan submitted and all required parking must be onsite and not in the right of way. In accordance with comments made by City Engineering, credit will be given for on-street parking with stalls measuring 8'x 20' with a distance of 15' from an intersection and 5' on each side of all driveways.
6. The Applicant shall provide the location of the accessible barrier free parking space complying with the City of Spokane Standard Plan G-54 & B-80A and accessible routes of travel connecting to the primary entrances and connect to the public sidewalk with a marked accessible route of travel. Currently perpendicular parking to the building is being used and this will not be allowed with the required sidewalk to be constructed.
7. The dimensions of the existing parking stalls, accessible stalls and access aisles, travel lanes and driveway approaches shall be shown on the site plan. The Applicant shall update the site plan in accordance with this condition.
8. Parking calculations based on the existing and proposed uses must be noted for the conditional use permit and on the overall site plan.
9. 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.

10. 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.

11. 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.

12. 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.

13. 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 4th day of November 2014.



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 4th day of November, 2014. **THE DATE OF THE LAST DAY TO APPEAL IS THE 25th DAY OF NOVEMBER 2014 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.