

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) Family Promise of Spokane to convert) an existing single-family home into a) Community Service use in the) Residential Single Family zone.)	FINDINGS, CONCLUSIONS, AND DECISION FILE NO. Z21-036CUP3
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SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant, Family Promise of Spokane, is seeking a conditional use permit (CUP) to convert an existing single-family home into a Community Service use. The home will be used for offices to support the services provided by Family Promise. The project includes the construction of play areas and the installation of fencing and additional landscaping. The proposal also includes minor improvements to a parking lot, including the installation of fencing and additional landscaping.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ Family Promise of Spokane
Owner: Mike Sanders
2002 E. Mission Avenue
Spokane, WA 99202

Property Location: The subject properties are located at 2012 E. Mission Avenue, Parcel No. 35162.0102, and 2007 E. Sinto Avenue, Parcel No. 35162.0110. The property is situated in the northwest quarter of Section 16, Township 25 North, Range 43 East, Willamette Meridian, in the City of Spokane, County of Spokane, State of Washington.

Zoning: The properties are zoned Residential Single Family (RSF).

Comprehensive Plan Map Designation: The properties are designated as Residential 4-10 in the City of Spokane Comprehensive Plan (CP).

Site Description: The sites, which are owned by the applicant, Family Promise of Spokane, are located at 2012 E. Mission Avenue and 2007 E. Sinto Avenue, directly to the east and south of their current facility at 2002 E. Mission Avenue. The site at 2012 E. Mission Avenue contains an existing single-family home, and the site at 2007 E. Sinto Avenue contains an existing parking lot that supports the 2002 E. Mission Avenue facility.

Surrounding Conditions and Uses: Properties to the north, south, and east, are all zoned RSF and are improved with single-family residences. The property to the immediate west of the residential lot at 2012 E. Mission is Family Promise of Spokane’s existing facility. This property, and the property further to the west/northwest is zoned Neighborhood Retail (NR-35). The

property directly to the west of the parking lot at 2007 E. Sinto is zoned RSF and is developed with single-family residences.

Project Description: The applicant, Family Promise of Spokane, is proposing to convert the existing single-family home in an RSF zone into a community service use for the expansion and support offices for their existing programs. No additions or structural changes are proposed for the residence. The improvements proposed for the site include the installation of fencing and landscaping and the construction of play areas. The Applicant also proposes to make improvements to its parking lot on Sinto. Those improvements will include minor repairs, re-striping, additional landscaping, and fencing.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (SMC) 17C.110, Residential Zones; SMC 17C.320.080(E), Conditional Uses; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: June 8, 2021
Posted: June 17, 2021

Notice of Application/Public Hearing: Mailed: August 27, 2021
Posted: August 27, 2021

Community Meeting: June 25, 2021

Public Hearing Date: September 29, 2021

Site Visit: September 22, 2021

State Environmental Policy Act (SEPA): This application is categorically exempt under the SEPA.

Testimony:

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

Joe Ader
Family Promise of Spokane
2002 E. Mission Avenue
Spokane, WA 99201

Jen & Alex Crosen
2011 E. Sinto Avenue
Spokane, WA 99202
Jencrosen0326@gmail.com

Nerissa Henderson
2011 E. Sinto Avenue
Spokane, WA 99202

Present but did not testify or submitted comments to the record:

Colleen Gardner
Chief Garry Park Neighborhood Council
chiefgarryparknc@gmail.com

Mike Sanders
Family Promise of Spokane
2002 E. Mission Avenue
Spokane, WA 99201

Exhibits:

Staff Report, dated 09/22/21, including the following exhibits:

1. Application Materials, including:
 - A General Application
 - B CUP Application
 - C Site Plan
2. Community Meeting materials, including:
 - A Community Meeting Instructions
 - B Notice of Community Meeting for June 25, 2021
 - C Noticing Affidavits
 - D Notification Map Application and Map and Parcel List
 - E Meeting Notes
 - F List of Attendees
 - G Meeting Recording
3. Notice of Application & Public Hearing Materials, including:
 - A Notice of Application & Public Hearing Instructions
 - B Notice of Application and Public Hearing
 - C List of Parcels
 - D Noticing Affidavits
4. Request for Agency Comments, including
 - A City of Spokane Engineering
 - B Spokane Fire Department
 - C City of Spokane Street Department
 - D City of Spokane Treasury Department
5. Public Comments
6. Staff Presentation

FINDINGS AND CONCLUSIONS

To be approved, the proposed CUP must comply with the criteria set forth in SMC Sections 17G.060.170 and 17C.320.080(E). The Hearing Examiner has reviewed the proposed CUP 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 project site is zoned RSF, a residential category. The uses allowed in the residential zones are shown on Table 17C.110-1. See SMC 17.110.110. Certain kinds of “institutional” uses are allowed in the RSF zone, including “Community Services.” See Table 17C.110-1. “Community Services are uses of a public, nonprofit or charitable nature generally providing a local service to people of the community.” See SMC 17C.190.420(A). These services are typically provided on an

ongoing basis, rather than being limited to special events. See *id.* The use may also provide special counseling, education, or training of a public, nonprofit, or charitable nature. See *id.* Accessory uses may include offices, meeting areas, food preparation areas, parking, and health and therapy areas. See SMC 17C.190.420(B). A CUP must be obtained in order to authorize a Community Service in the RSF zone. See Table 17C.110-1.

The proposal clearly qualifies as a “Community Service” use. Family Promise operates a 24-hour shelter for the homeless. This is a non-profit, charitable organization that is providing a local service to the community. As an accessory to that use, Family Promise proposes to use an existing residence for office purposes. This is allowed by the municipal code. The Applicant also proposes to add play areas and additional fencing to provide an enclosed, dedicated area for the families and their children to congregate, rather than using the parking lot as a gathering place. These improvements are also consistent with the code, which allows “meeting areas” and “health areas.” The parking lot will be improved, and additional fencing and landscaping will be installed along the border between the parking lot and the neighbors’ property to the east. Parking is one of the allowed, accessory uses. All proposed improvements are related to or directly support the Community Services provided by Family Promise.

The Hearing Examiner finds that the proposed use is allowed in the RSF zone, provided a CUP is obtained and the other development standards are met. Therefore, 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 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 CP are only indirectly applicable to the Applicant’s proposal. The goals and policies that are pertinent, however, generally support the proposed Community Service.

Goal N. 7 (Social Conditions) promotes efforts to provide neighborhoods with social amenities and interaction and a sense of community. Policy N2.1 (Neighborhood Quality of Life) seeks to ensure that neighborhoods include adequate public services. Similarly, Policy N2.2 (Neighborhood Centers) suggests that neighborhoods should enable citizens to receive “essential services within their neighborhood.” The Staff concluded that these policies support the idea of imbedding community-oriented organizations within neighborhoods. See Staff Report, p. 4. Staff further contended that Family Promise’s efforts to assist families experiencing homelessness and to prevent homelessness are consistent with the objectives of the CP. See *id.*

The Hearing Examiner agrees that the proposal is generally consistent with the goals and policies intended to improve neighborhoods and the quality of life in local communities. Therefore, this criterion is satisfied.

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

The decision criteria for Type III decisions (such as a CUP) mandate that all proposals satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on August 4, 2021, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Staff Report, p. 4; see *also* Exhibit 4.

Staff confirmed that there were no departments or agencies reporting that concurrency could not be achieved. See Staff Report, p. 4. In addition, there is no other evidence in this record suggesting that public facilities or infrastructure are insufficient to support the proposed use. As a result, the Hearing Examiner concludes that the project satisfies the concurrency requirements of the SMC.

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 Hearing Examiner concludes that the property is suitable for the proposed use. The proposal includes converting the use of an existing residence to office purposes to support an institutional use. However, no additions or structural changes will be made to the residence. The proposal merely changes the type of activities occurring within the residence. Thus, there is no need to discuss the size, shape, location, topography, soils, etc.

The site south of the Family Promise shelter is already fully developed as a parking lot. Improvements to the parking lot are planned, such as landscaping and fencing, and will require permits to authorize the work. However, the site has already proven itself suitable to use as a parking lot. There are no physical conditions or characteristics that make the site unsuitable as a parking area.

There is no evidence in this record that that natural, historic, or cultural resources exist at the site. No agencies provided substantive comments on this proposal. *Testimony of T. Palmquist; see also Exhibit 4.* Thus, there is no evidence that further analysis of these issues is necessary.

Based on the foregoing, the Hearing Examiner concludes that 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).*

There is no reason to believe that the project will have significant impacts on the environment. The Applicant has not proposed to make any additions or structural alterations to the residence. Fencing and landscaping improvements are planned, both for the residential lot and the parking area. Play areas will also be added to the residential lot. However, only minimal site work is proposed. See Staff Report, p. 5. The use of the parking lot will remain the same. The use of the residence will change, but not its structure or appearance.

The change of use will not result in significant impacts. Staff noted that the proposal satisfies the parking requirements identified in Table 17C.230-2. See *id.* Thus, no additional parking is needed to support the change of use. See *id.* The City also determined that the proposal was categorically exempt from SEPA review. This suggests that the anticipated impacts from this type of use are minimal. In any event, SEPA cannot form the basis for any project conditions, under the circumstances.

The Hearing Examiner acknowledges that some activities and practices at the shelter have had a negative effect on at least one neighbor, specifically the Crosens. The Crosens live in the residence immediately to the west of the parking lot on Sinto. Clients of the shelter have trespassed upon their property. *Testimony of J. & A. Croesen*. For example, homeless families sometimes gather in the Crosens' front yard. *Testimony of A. Croesen*. Clients also congregate near the cargo containers in the parking lot. *Testimony of A. Croesen*. They can frequently be heard fighting, screaming, and disturbing the peace. *Testimony of J. Croesen & N. Henderson*. They are frequently going in and out of the containers to retrieve things, resulting in noise from opening and closing the doors. *Testimony of N. Henderson*. They throw balls or sometimes even rocks over the fence and into the Crosens' backyard. *Testimony of J. Croesen*. The Crosens contend that the parking lot is not supervised or controlled by Family Promise. *Testimony of A. Croesen*. The Crosens can no longer enjoy their backyard because of these nuisances. *Testimony of J. Croesen*.

Family Promise has also directly engaged in some practices that deviated from code requirements and impacted their neighbors. For example, Family Promise allowed clients to reside in RVs placed in the parking lot. *Testimony of J. Croesen*. Staff confirmed that this is prohibited by local code. *Testimony of T. Palmquist*. To support the use of the RVs, Family Promise installed an unsealed sewage tank in the parking lot. *Testimony of J. Croesen*. Offensive odors emanated from the tank and ended up in the Crosens' bedroom. *See id.* Staff pointed out that the installation of a sewage tank also violated applicable codes. *Testimony of T. Palmquist*.

The Hearing Examiner acknowledges that the shelter's operation has had a negative effect on its neighbor. The Hearing Examiner also takes note that the shelter has ignored code requirements, at times, while trying to address emergency conditions created by the pandemic. Despite these experiences, the Hearing Examiner concludes that the proposal will not have a significant impact on the Crosens or other surrounding properties, for the following reasons.

The changes and improvements included in the proposal are all or nearly all to the benefit of the Crosens and the other neighbors. The cargo containers will be removed from the parking lot. *Testimony of J. Ader*. Three will be moved off-site. *See id.* Two will be moved to the back of the residential lot and screened by a new fence along the alley. *See id.* Therefore, shelter clients will not be accessing the cargo containers next to the Croesen residence. Those clients will no longer have an incentive to congregate in the parking lot. Their belongings will be stored in the containers on the residential lot and there will be play areas for their children in front of the converted residence. Family Promise will also be installing a new fence and additional landscaping between the parking lot and the Croesen residence, providing additional screening and buffering. *See id.*

The sewage tank was already removed from the site. *Testimony of J. Ader*. There are no plans to install another tank in the future. *See id.* Therefore, this problem has already been resolved. As of the date of the hearing, there was an RV and a bus in the parking lot. *See id.* However, both of these vehicles will be removed from the site. *See id.* Staff made it clear at the hearing that an RV cannot be used for residential purposes in that location. *Testimony of T. Palmquist*. In addition, a sewage tank cannot be legally placed in the parking lot. *See id.* Any future deviations from code requirements would be a subject for code enforcement. However, now that Family Promise has been advised to refrain from such practices, the Hearing Examiner does not believe that these issues will arise in the future.

Mr. Croesen contended that the proposal will cause clients of the shelter to park their vehicles in the alley. *Testimony of J. Croesen*. He argued that parking in the alley will occur in front of his

garage, cutting off the only access to his shop. See *id.* The Hearing Examiner understands this concern. However, parking in the alley is prohibited. *Testimony of T. Palmquist.* If such parking occurs, this is a matter for code enforcement or the police. See *id.* The Hearing Examiner is not inclined to condition or deny a project based upon a prediction that code violations may occur in the future.

Finally, it should be emphasized that the shelter has not received complaints from any neighbors aside from the Crosens. *Testimony of J. Ader.* There were no written comments submitted by any other residents in the area. No other neighbors appeared to testify at the hearing. Although the Crosens' concerns should be taken seriously, the evidence of impacts to others in the neighborhood is lacking. The proposal has been designed to reduce or eliminate the impacts to the Crosens, as much as possible. The project conditions reinforce that objective.

Subject to the conditions contained in this decision, the Hearing Examiner finds the application will not have a significant impact on the environment or the surrounding properties. Therefore, this criterion is satisfied.

6. *The overall residential appearance and function of the area will not be significantly lessened due to the proposed use. 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).*

The residential appearance and function of the area will not be negatively impacted by this project. There will be no changes to the structure or exterior of the residence. The size of the building will not change and, thus, the structure will not be disproportionate to the residential uses in the neighborhood. Although the house will be used for office purposes, the structure will still be a house. Thus, the change of use, in itself, will not impact the residential character of the neighborhood.

Minimal site work is proposed. The project includes fencing, landscaping, and the addition of some play areas. These improvements tend to make the site more attractive and compatible with its surroundings. For example, the proposed fencing provides additional screening between the shelter activities and neighboring residential uses. The landscaping will improve the appearance of both the parking area and the residential lot. For these reasons, the Hearing Examiner concludes that this criterion for approval is met.

7. *The proposal will be compatible with the adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks and landscaping. The proposal will mitigate the differences in appearance or scale through such means as setbacks, screening, landscaping and other design features. See SMC 17C.320.080(F)(2).*

The proposal is to re-purpose an existing, single-family residence and make some improvements to a parking lot. The changes to the property will not alter the size, building scale and style, or setbacks in any way that will diminish the compatibility of the property with the surrounding neighborhood. The addition of landscaping will increase, rather than diminish, the compatibility of the site with its surroundings. Similarly, the proposed fencing will provide additional screening of the site from surrounding residential uses. Staff notes that the proposal will also be required to adhere to the standards for permitting institutional uses in a residential zone. That requirement has been incorporated into the project conditions. Given the design and features of the proposal, as well as the project conditions, the Hearing Examiner concludes that this criterion is met.

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 proposal will not affect the livability of the surrounding residences. The project does not include elements that may cause unanticipated or undue light, glare, odor, or litter, or give rise to diminished privacy or safety.

No noise is anticipated with the change of use that is inconsistent with the existing use. See Staff Report, p. 6. The only additional lighting will be in the new play areas, but that lighting will be directed downward and, thus, should not create any sources of light or glare for the neighbors. See Exhibit 1, p. 7. Although Family Promise operates a 24-hour shelter, the shelter observes quiet hours and locks down the shelter at night. See *id.* No odors are anticipated from the proposed use. See Staff Report, p. 6. Trash will be picked up on the site regularly, consistent with existing single-family use. See *id.* There is no specific evidence in this record that the proposed use of the residence or the site changes will impinge upon the privacy or safety of the neighborhood.

Under the circumstances, the Hearing Examiner concludes that this criterion for approval has been satisfied.

9. *The proposed use is in conformance with the street designations of the transportation element of the comprehensive plan. The transportation system is capable of supporting the proposed use in addition to existing uses in the area, upon consideration of the evaluation factors provided in the municipal code. See SMC 17C.320.080(F)(4).*

This project does not create any new or unique burdens on the transportation system or on other public facilities. As stated above, no department reported that public facilities were insufficient to support the project. See Paragraph 3 above. The Staff concluded that the project does not decrease the level of service on any adjacent street. See Staff Report, p. 6. Further, the project is exempt from SEPA review. There was no traffic analysis undertaken and none was required. See *id.* Finally, Staff has confirmed site has access to all City of Spokane public services and will not require any additions to be made in order to fully accommodate the proposed change in use. See *id.* The Hearing Examiner finds this criterion met.

DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed CUP subject to the following conditions:

1. 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.
2. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County, Washington State, and any Federal agency.
3. 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.

4. SMC 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.
5. 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 30th day of November, 2021.



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 ISSUANCE OF THE DECISION.** Pursuant to RCW 36.70C.040(4)(a), the date of the issuance of the decision is three days after a written decision is mailed by the local jurisdiction. This decision was mailed on December 2, 2021. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS DECEMBER 20, 2021, 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.