

CITY OF SPOKANE HEARING EXAMINER

Re:	Conditional Use Permit Application by)	FINDINGS, CONCLUSIONS, AND DECISION
	Excelsior Youth Center to expand)	
	Community Service use to abutting)	
	parcels in the Residential Single Family)	
	zone.)	FILE NO. Z21-301CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant, Excelsior Youth Center (“Excelsior”), is seeking a conditional use permit (CUP) to expand its Community Service use to two abutting parcels that were recently acquired. The Applicant also seeks to include another parcel that it owns within the conditional use, to ensure that the CUP covers its entire campus. The Applicant proposes to construct a new administrative services building (7,900 square feet [sq. ft.]), a five-bedroom home (3,700 sq. ft.) for transitional age youth, and a maintenance and storage facility (7,200 sq. ft.). The Applicant will also make other improvements, including adding landscaping, reducing the fire risk on all of its property, and making improvements to the existing arboretum.

Decision: Approved, with conditions.

FINDINGS OF FACT **BACKGROUND INFORMATION**

Applicant/ Excelsior Youth Center
Owner: c/o Lynn Suksdorf
3754 W Indian Trail Road
Spokane, WA 99016

Property Location: The Excelsior campus is located at 3754 W Indian Trail Road. The site of the proposed expansion is adjacent and to the north/west of the existing campus.

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: Excelsior recently acquired two new parcels (26262.0018 and 26262.0010) that abut the existing site. The new property is currently vacant, fronts on West Indian Trail Road and is approximately 5.2 acres in size. Adding these two new parcels brings the campus total to approximately 32 acres.

Surrounding Conditions and Uses: Properties in all directions surrounding the site are all zoned RSF, designated Residential 4-10, and the majority of surrounding land is improved with single-family residences.

Project Description: The applicant is proposing to add three parcels to its conditional use: the two recently acquired parcels (26262.0018 and 26262.0010) northwesterly of the existing campus, and one parcel (26265.0048) forming the southeasterly part of the campus, which was not identified/included in prior conditional use permits. Plans for the coming three-year period include continuing all existing programs and activities permitted under the most recent CUP (Z17-001CUP3); designing and building a new administrative services building to house administrative functions (7,900 sq. ft.); building a five-bedroom home (3,700 sq. ft.) on one of the new parcels for transitional age youth returning to work and life in the community; improving the site by continuing to improve the grounds and landscape while reducing fire risk on all of the property; adding to the public experience and plant information to improve the certified arboretum; and designing and building an improved maintenance and storage facility (7,200 sq. ft.) for the care and maintenance of Excelsior vehicles, equipment, and facilities.

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: August 6, 2021
Posted: August 9, 2021

Notice of Application/Public Hearing: Mailed: December 20, 2021
Posted: December 17 & 20, 2021

Community Meeting: August 25, 2021

Public Hearing Date: January 5, 2022

Site Visit: January 4, 2022

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

Testimony:

Donna deBit, Assistant Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Lynn Suksdorf
Excelsior Youth Center
3754 West Indian Trails Road
Spokane, WA 99016

Rebecca Stephens
South Henry Studios, LLC
3421 S. Henry Road
Spokane Valley, WA 99016
rstephens@southhenry.com

Exhibits:

Staff Report, dated 12/30/21, including the following exhibits:

1. Application Materials, including:
 - General Application
 - Notification Map Application
 - CUP Application
 - CUP Attachment Pages
 - Site Plan
2. Notice of Application & Public Hearing Materials, including:
 - Notice of Application & Public Hearing Instructions
 - Notice of Application and Public Hearing
 - Noticing Map and Parcel List
 - Noticing Affidavits
3. Request for Agency Comments, including
 - Washington State Department of Archaeology and Historic Preservation
 - Washington State Department of Ecology
 - City of Spokane Engineering
 - Spokane Tribe of Indians
4. Community Meeting materials, including:
 - Community Meeting Instructions
 - Notice of Community Meeting for August 25, 2021
 - Meeting Agenda
 - List of Attendees
 - Meeting Recording
5. 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.

“Group Living,” which is a residential category of use, is permitted in the RSF zone as a Limited/Conditional Use. See Table 17C.110-1; see also Staff Report, p. 2. In the Group Living setting, the residents may receive any combination of care, training or treatment, as long as they also reside at the site. See SMC 17C.190.100(A). Residential care for adults or youth is specifically referenced as an example of Group Living. See SMC 17C.190.100(C).

Certain kinds of “Institutional” uses are also 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 community service is allowed in the RSF zone, provided a conditional use permit is obtained. See Table 17C.110-1.

The proposed expansion of the Excelsior campus fits the foregoing categories of use. See Staff Report, p. 3. Excelsior operates a comprehensive community service program for students and families. This is a non-profit, charitable organization that is providing a local service to the community. As an expansion to that use, Excelsior proposes to use add an administrative services building, add a five-bedroom home, improve grounds and landscaping, expand public experience within its onsite certified arboretum, and build an improved maintenance and storage facility. All proposed improvements are related to or directly support the Community Services provided by Excelsior. In addition, the proposal to construct a five-bedroom home for transitional housing qualifies as Group Housing under the code.

The Hearing Examiner concludes that, provided the criteria for conditional uses are satisfied, and assuming the other developments standards are adhered to, the proposed use is allowed in the RSF zone. As a result, this criterion for approval is met.

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 Hearing Examiner concludes the proposal is consistent with the goals and policies of the CP.

Goal SH 2, concerning “Facilities for Special Needs Populations,” is intended to “encourage development patterns and uses of public and private property that are responsive to the facility requirements of special needs populations.” See CP, Chapter 10, Goal SH 2, p. 10-8. The CP encourages the distribution of social services throughout the city. See CP, Chapter 10, Policy SH 2.1 & SH 2.2, pp. 10-8, 10-9. The CP also contemplates that such uses will be designed to blend with the visual character of the surrounding neighborhood. See CP, Chapter 10, Policy SH 2.3, p. 10-9. As conditioned, the project is consistent with all of these objectives.

The proposal also more generally promotes development in a manner that is attractive, complementary, and compatible with other land uses, as suggested by the Staff. See CP, Chapter 3, Goal LU 5, p. 23; see *also* Staff Report, p. 3 (also citing to Policy LU 5.1 and LU Policy 5.5). The Applicant intends to preserve the existing trees and vegetation as much as possible. See Staff Report, p. 3. The new buildings will be located close to the existing buildings and away from neighboring property lines. See *id.*, p. 4. Thus, there will be a substantial natural buffer between the new structures and the nearby residential areas, as well as the continuation of a park-like atmosphere. See *id.*; see *also* Exhibit 1 (CUP Application). The new maintenance building will facilitate placing vehicles and equipment inside a storage building and out of public view. See *id.*, p. 2. All these features improve the compatibility of the project with its surroundings.

The Hearing Examiner concludes that 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 November 23, 2021, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Staff Report, p. 3; see also Exhibit 3. Staff confirmed that there were no departments or agencies reporting that concurrency could not be achieved. See Staff Report, p. 3. 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 given its physical characteristics. The property has more than enough area to support the existing and proposed uses. The shape of the property is very irregular, but again there is plenty of space to accommodate the proposed structures. In addition, the developed areas are located along an existing arterial, with open space and natural landscaping that buffers the use from the surrounding area. There are some steep slopes along the easterly boundary of the site. However, the proposed building sites are generally flat or gently sloped. *Testimony of L. Suksdorf.* The Applicant is not proposing any buildings on the hillside.

The soils throughout the site are sandy loam. *Testimony of L. Suksdorf.* There is no reason to suspect that the site will not drain well. This site is located within the Aquifer Sensitive Area and the Aquifer Critical Area Recharge Zone. See Staff Report, p. 4. As a result, the project must comply with SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection. See *id.* Compliance with these regulations will ensure that storm drainage is properly handled.

There is a designated wetland on site on the east side of the property. See *id.* There is currently a delineated 75-foot critical area buffer surrounding the wetland, plus a 10-foot setback from that buffer (SMC 17E.070.110). See *id.* However, no structures are proposed adjacent to or near the buffer/setback around the existing wetland. *Testimony of D. deBit.* The proposed construction will be officially reviewed when plans are submitted to the Development Services Center. See *id.* In addition, if the proposal is modified in any way that may impact the buffer, the wetland will need to be delineated in order to determine if additional restrictions or project conditions are needed. This requirement has been included in the project conditions. See Condition 4.

The Washington State Department of Archaeology and Historic Preservation (WSDHAP) and the Spokane Tribe of Indians advised that there is a high probability of the existence of archaeological or cultural resources on the site. See Exhibit 3. In fact, an archaeological site (petroglyphs) is located within a previously surveyed portion of the campus. See *id.* Having said that, a cultural resources survey was previously conducted for the Excelsior campus. WSDAHP

and the Tribe confirmed that the previously prepared cultural survey of the site remains valid. *Testimony of D. deBit*; see also Exhibit 3. WSDAHP and the Tribe concluded that additional survey work was not needed at this time. See *id.* To protect any resources that might be discovered, WSDAHP and the Tribe recommended that an inadvertent discovery plan be prepared. See Exhibit 3. This recommendation has been incorporated into the project conditions. See Condition No. 2.

The site is suitable for development according to all City departments and agencies that commented on the site plan provided with this application. See Staff Report, p. 4. When more detailed construction plans are submitted at the time of plan review, City departments will conduct a more specific plan review to verify that the proposal meets all development standards. See *id.*

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).*

The Hearing Examiner finds that the proposal will not have significant impacts on the environment. There was no evidence presented at the hearing or included in the record suggesting that the proposed use of the structures will have any substantive environmental impacts.

No development activity will take place near the wetland or within any steep slopes. See Paragraph 4. The construction being proposed is centrally located and close to the existing structures on site. See Staff Report, p. 4. The structures will not be situated near neighboring property lines. See *id.* It is not anticipated that any neighboring properties or surrounding areas will be affected because there are such large buffers. See *id.* In addition, the project will also be required to satisfy the standards for conditional uses in residential areas, providing some additional assurance that the project design will be compatible with the neighborhood. See SMC 17C.110.500 *et seq.*

The proposal is also categorically exempt from SEPA requirements. See Staff Report, pp. 1 & 4. The proposed structures do not exceed the size thresholds necessary to trigger SEPA review. *Testimony of D. deBit.* The Planning Department's determination that the project is exempt from SEPA is final and not subject to administrative review. See SMC 17E.050.090(A). Exempt developments are not subject to any of the procedural requirements of the environmental ordinance. See *id.* For example, an environmental checklist is not required for such proposals. See *id.* In short, the policymakers have determined that the projects of this scope and nature have only a *de minimis* effect on the environment. As a result, detailed environmental review is deemed unnecessary.

The Hearing Examiner concludes that the project will not have significant impacts on the environment or the surrounding properties and, 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. Excelsior has been providing community services in this location for decades. The addition of the proposed improvements will not markedly change the overall appearance of the site or the surrounding properties.

The Applicant proposes to construct a new administrative services building, a maintenance and storage facility, and a five-bedroom home. The administrative and maintenance buildings are both less than 8,000 square feet in size, and the proposed residence will be less than 4,000 square feet in size. These buildings are not disproportionate with the campus or incongruous with the surrounding area. All these structures will be located near the other buildings and improvements within the campus, which is concentrated along the adjacent arterial. The height limitations of the zone still apply, as do the institutional design standards. This should ensure that any impacts to the residential character of the area are minimized. In addition, there is significant open space on the Excelsior property. There will still be large amounts of open space on the property even after the project is completed.

The appearance of the campus will be consistent with the historic use of the site and is not radically different than the school properties in the neighborhood, although the use is not the same. The project does not displace any residential uses and is of an appropriate scale for the area. 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 proposed improvements are proportionate to the neighborhood and appropriate given the characteristics of the site, as already discussed above. A predominant characteristic of the site is its large amount of open space. That open space creates a park-like atmosphere that also results in substantial buffers between the new construction and the surrounding properties. See Staff Report, p. 5. These buffers are more than sufficient to protect surrounding properties from potential impacts. See *id.*

The proposed structures will be required to satisfy the applicable development standards, which will be reviewed at the building permit stage. For example, the structures cannot exceed the height limitations of the RSF zone. In addition, the applicant must adhere to the institutional design standards for construction in a residential zone. See SMC 17C.110.500 *et seq.* These standards are intended to ensure that institutional uses remain compatible with surrounding residential neighborhoods. On this record, there is no reason to believe the proposed buildings will have any greater impact on the neighborhood than the existing campus.

Given the requirements and standards applicable to this project, 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 noise, glare, odor, or litter. See Staff Report, p. 6; *Testimony of L. Suksdorf*. The light from any overhead lighting must be contained onsite, pursuant to SMC 17C.110.520. See Staff Report, p. 6. No odor is anticipated from the proposed use. See *id.*; *Testimony of L. Suksdorf*. Refuse will continue to be picked up each week. See Staff Report, p. 6. There will be some noise during the construction phase. See *id.* However, no additional noise is anticipated once the project is completed. 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 appear to create any new or unique burdens on the transportation system or on other public facilities. The nature and intensity of the use is not materially changing as a result of this project. The proposal does not decrease the level of service on any adjacent street. See Staff Report, p. 6. "The 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 site development." See *id.*; see also Paragraph 3 above. Moreover, there was no evidence introduced at the hearing suggesting that this project would cause any genuine stress on the transportation system. The Hearing Examiner concludes that this criterion is satisfied.

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. The project team shall prepare an Inadvertent Discovery Plan (IDP) prior to any ground disturbing activities.
3. If any artifacts or human remains are found upon excavation, WSDAHP, the Spokane Tribe of Indians, and the Planning & Development Department should be immediately notified and the work in the immediate area cease. Pursuant to Revised Code of Washington (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 WSDAHP before excavating, removing or altering Native American human remains or archaeological resources in Washington.

4. In the instance that the site layout changes and the proposal increases the likelihood of impacts to the designated wetland on site, a wetland delineation will be required.
5. 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.
6. This project shall conform to the requirements of any additional agency permits.
7. 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.

8. 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.
9. 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.

SIGNED this 11th day of January 2022.



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 January 11, 2022. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS FEBRUARY 4, 2022, 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.