

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by CHAS Health for a Community Service Use in a Residential Single Family Zone.))))	FINDINGS, CONCLUSIONS, AND DECISION FILE NO. Z23-250CUP3
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I. SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant, Community Health Association of Spokane (CHAS Health), is seeking a conditional use permit (CUP) to convert an existing school health clinic, currently operating in Shiloh Hills Elementary School and only serving school students, into a school-based medical and behavioral health clinic (the "Wellness Center") which will be open to school students, members of students' families, and members of the public who reside in the Shiloh Hills neighborhood. This type of use requires a Conditional Use Permit which is processed as a Type III permit and requires a public hearing before the City Hearing Examiner.

Decision: The application is approved, with conditions.

II. FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Community Health Association of Spokane
d/b/a CHAS Health
Attn: Cheryl Cervantes
611 N. Iron Bridge Way
Spokane, WA 99202

Owner: Mead School District
Attn: Ned Wendle
12828 N. Newport Hwy
Mead, WA 99021

Property Location: Shiloh Hills Elementary School is located at 505 E. Stonewall Avenue (Parcel No. 36203.2412), on the northeast side of the E. Stonewall Avenue and N. Antietam Drive intersection.

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

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

Site Description: The site is located at 505 E Stonewall Avenue and is currently owned by Mead School District. The site is the location of Shiloh Hills Elementary School. Thus, the site is fully developed, including the school building, paved parking, landscaping and school grounds. The location of the proposed Wellness Center will be in the southern end of the existing school

building using an existing, separate entrance. The parking lot for the school will also be used for the Wellness Center.

Surrounding Conditions and Uses: The surrounding land is zoned Residential Single Family (RSF), with the exception of an area to the immediate northeast which is zoned Residential Multifamily. The surrounding land is a developed residential neighborhood. The land use designation of the land in all directions is Residential 4-10 units, with the exception of the area to the immediate northeast which is designated as Residential 15-30.

Project Description: The Applicant, CHAS Health, is a Washington State non-profit corporation and federally qualified health center providing primary medical, dental, and behavioral health care services in the Spokane and surrounding areas. CHAS Health has already established a school-based clinic at the Shiloh Hills Elementary School with grant funding. The clinic currently serves only students/children. CHAS Health seeks a CUP to allow the clinic to also see patients of all ages who also reside in the neighborhood and members of students' families. The proposed use will be located entirely inside the existing school building. No exterior site work is proposed. The building permits necessary for the tenant improvements will be the subject of separate applications by CHAS Health.

III. 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: April 12, 2023
Posted: April 12, 2023

Notice of Application/Public Hearing: Mailed: September 19, 2023
Posted: September 19, 2023

Community Meeting: April 27, 2023

Public Hearing Date: October 11, 2023

Site Visit: October 23, 2023

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

Testimony:

Tavis Schmidt, Assistant Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Cheryl Cervantes
ccervantes@chas.org

Janine Wilkes
jwilkes@chas.org
CHAS Health
611 N. Iron Bridge Way
Spokane, WA 99202

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

Exhibits:

Staff Report, dated 1/31/23, including the following exhibits:

1. Application Materials, including:
 - General Application, pp. 1-2
 - CUP Counter Checklist, p. 3
 - CUP Application Analysis (in lieu of formal application), pp. 4-6
2. Notice of Application & Public Hearing Materials, including:
 - Notice of Application & Public Hearing Instructions, pp. 1-2
 - Notice of Application and Public Hearing, pp. 3-4
 - Noticing Affidavits, pp. 4-5
 - Receipt of Fees, p. 6
3. Floor Plan and Site Aerial, 2 pp.
4. Request for Agency Comments, pp. 1-3, including:
 - City of Spokane Parking Services, p. 4
 - Washington State Department of Ecology (SEPA Exception), p. 5
 - Shiloh Hills Neighborhood Council, p. 6
 - City of Spokane Treasury Department, p. 7
 - Spokane Regional Health District, p. 8
 - Spokane Integrated Capital Management Department, p. 9
 - Spokane Tribe of Indians, p. 10
 - Avista, p. 11
 - Spokane Engineering Department, pp. 12-14
5. Community Meeting materials, including:
 - Community Meeting Instructions, pp. 1-2
 - Notice of Community Meeting for April 27, 2023, pp. 3-5
 - Notification Map Application/Map, pp. 6-8
 - Noticing Affidavits, pp. 9-10
 - Meeting Attendance, pp. 11-13
 - Meeting Video
6. Staff Presentation

IV. 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. A Community Service is allowed in the RSF zone, provided a CUP is obtained. 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, and health and therapy areas, among other things. See SMC 17C.190.420(B).

The proposed Wellness Center qualifies as a "Community Service" under the zoning code. CHAS Health is a charitable, nonprofit organization, providing services at reduced cost to those who qualify. *Testimony of J. Wilkes.* The Wellness Center is intended to provide primary medical care and behavior health services. See *id.* CHAS Health provides these services on a regular, ongoing basis. For example, CHAS Health currently operates a health clinic for students in the school. *Testimony of T. Schmidt & J. Wilkes.* A CUP is necessary in this case because the Applicant proposes to serve patients other than students of the school. *Testimony of T. Schmidt.* Specifically, the clinic will serve, in addition to students, members of the students' families as well as members of the public, of all ages, who live in the neighborhood. *Testimony of T. Schmidt & J. Wilkes.*

Pursuant to the foregoing authorities, the proposed Wellness Center is allowed as a Community Service, so long the CUP requirements are satisfied. The Hearing Examiner concludes that this criterion 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 Wellness Center will offer medical and behavioral health services to students, children, and adults within the neighborhood. See Staff Report, p. 4. For several reasons, this proposal is consistent with various goals and policies of the CP. See Staff Report, pp. 3-4.

The Wellness Center will operate in an addition to an elementary school. The school has served the Shiloh Hills Neighborhood for many years, likely for decades. Placing the clinic in this location will promote access to neighborhood facilities and community-based programs. See Staff Report, pp. 3-4. Notably, the CP provides that facilities should be sufficient to enable all citizens to obtain health care and human services at the neighborhood level, preferably within walking distance. See CP, p. 10-15 (discussing Policy SH 5.2, Neighborhood Level Health and Human Services).

The proposal is consistent with Policy SH 4.1, which seeks to ensure that neighborhood facilities and programs are universally accessible. See CP, p. 10-13. The proposal is also consistent with Policy N 2.2, which encourages the provision of essential services within a neighborhood, as well as Goal SH 2, and Policy SH 2.1, calling for facilities to serve special needs populations and the distribution of services throughout the city. See CP, pp. 10-8, 10-9.

The CP encourages uses that are complementary to residential neighborhoods, including schools and medical uses. See CP, p. 3-8 (discussing Policy LU 1.3, Lower Intensity Residential Areas). The joint use of the school building for both education and medical/behavioral services clearly fits this objective. In addition, the joint use of the school building reduces the impact of having to develop additional uses within the neighborhood. See Staff Report, p. 4. This is consistent with Policy 2.6, which encourages the development of joint use facilities that combine services such as health care, human services, schools, and educational programs. See CP, p. 10-10.

The Hearing Examiner agrees with the Staff that the proposed use serves all these goals and policies, and therefore is in the public interest. 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 June 14, 2023, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See 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 given its current use for such services in a more limited capacity. That aside, criterion only applies "if approval of a site plan is required." See SMC 17G.060.170(C)(4). Because the proposed use is located entirely within an existing building with no exterior modifications, no site plan was required for this proposal. See Staff Report, p. 4. As a result, this criterion is not applicable. 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).*

This application is categorically exempt from SEPA review per SMC 17E.050.080. As a matter of policy judgment, then, this type of use is not considered to have significant impacts on the environment. In addition, there is no evidence in this record suggesting that the proposal will have substantial impacts on the environment or neighboring properties.

The proposed Community Service use has not been determined to increase any impacts that might arise from the current operation. See Staff Report, p. 4. Similarly, there is no evidence

that the proposed use will have significant adverse impacts on the environment. See *id.* Because no exterior modifications or additions have been proposed, the applicant will not be required to meet the standards set out in SMC 17C.110.500 through SMC 17C.110.575, Institutional Design Standards in Residential Zones. See *id.* The Hearing Examiner has already concluded that the proposed use is complementary to the residential neighborhood, consistent with various policies of the comprehensive plan. See Paragraph IV.2. Since the proposal puts an existing building to additional use, it also potentially reduces the overall impact by eliminating the need to develop additional land in order to provide these services. See *id.*

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. The school has been operating in that location for many years. This proposal does not alter, change, or add to the existing elementary school building. See Staff Report, p. 5. No exterior modifications to the building or site have been proposed. See *id.* Thus, the approval of the CUP will have no discernable effect on the residential appearance or function of the area. In addition, because no exterior changes are proposed, there will be no improvements that could be considered "disproportionate to the residential household uses in the surrounding area." The Hearing Examiner, therefore, 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 Wellness Center will operate inside a portion of an existing school. As previously discussed, the Applicant is not proposing to make any changes to the physical site or the building. See Staff Report, p. 5. Therefore, the proposed use will not create any incompatibilities with adjacent residences based on site size, building scale or style, setbacks, or landscaping. There will be no differences in appearance or scale as a result of approval of the CUP. Therefore, no mitigation measures to address such concerns are appropriate or necessary. Not surprisingly, under the circumstances, none of the commenting agencies suggested any mitigation measures to ensure physical compatibility. See *id.* 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. For example, no noise is anticipated from the proposed use since the services will take place entirely indoors. See Staff Report, p. 5. Nothing in this record suggests that the clinic includes any process or activity that would result in odors. There may be some light or glare from existing building or parking lot lights. See *id.* However, the Applicant is not proposing any exterior lighting, and none is required. See *id.* The Applicant does not anticipate that this proposal will result in impacts from noise, odor, light,

glare, or litter. *Testimony of J. Wilkes*. There is no reason to question this conclusion, based on this record.

No late-night operations are allowed or proposed. See Staff Report, p. 5. The Wellness Center will maintain regular business hours. See *id*. Specifically, the Wellness Center will be open from 7:30 a.m. to 5:00 p.m., Monday through Friday. *Testimony of J. Wilkes*.

No concerns about privacy have been raised. Based on the record before the Hearing Examiner, there is no reason to expect that the clinic's operations will result in privacy-related impacts. The clinic will provide services inside the school, and thus the operation has no apparent effect on the private lives of the neighboring residents. With respect to patients of the clinic, their privacy interests are protected by state and federal laws. The clinic is well-versed in the privacy laws and regulations that apply to a medical and behavioral health provider. *Testimony of J. Wilkes*. The Wellness Center will continue to honor those rules as it expands its clientele pursuant to the CUP. See *id*.

One could object that operating a health clinic in an elementary school raises inherent safety or security issues. While this is a reasonable concern, the Wellness Center operates independently from the school. *Testimony of J. Wilkes*. There is a doorway between the school and the Wellness Center. See *id*. However, that doorway is always locked to maintain separation between the clinic and the school. See *id*. There is a clear, separate, main entrance to the Wellness Center. See *id*. Staff and patrons of the center will access the center through that main entrance. See *id*. The center is disconnected from the school in this manner in order to maintain safety and security. See *id*. The Hearing Examiner concludes that the project design properly addresses the safety and security concerns. No evidence was presented at the hearing to suggest otherwise.

The Hearing Examiner concludes that the proposed clinic will have no material impact on the livability of the surrounding residential neighborhood. As a result, this criterion for CUP approval is 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. Existing public services are also capable of serving the proposed 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 Paragraph IV.2. No evidence was introduced at the hearing or into the record to suggest that the proposal was not consistent with the transportation element of the comprehensive plan.

Shiloh Elementary School has been operating in this location for a long time. There is no reason to suspect that the neighboring streets are insufficient to support this continuing use. The Wellness Center will operate in one part of the school building, and will utilize the same parking lot and access the same streets. The proposal results in no changes to the school grounds and no changes to the exterior of the school building. The proposal is categorically exempt from SEPA review. See Paragraph IV.5. No traffic study was required or undertaken for this proposal. See Staff Report, p. 6. Even so, the City opined that the proposal would have no impact on the level of service for the adjacent streets. See *id*. Thus, the transportation system is well capable of handling any needs presented by the proposal.

Public services (water supply, sanitary waste disposal, police and fire protection, etc.) are capable of supporting the proposed use. 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 use. See Staff Report, p. 6. No City department or agency identified limitations or deficiencies in public infrastructure currently serving the site. See *id.* In other words, as previously discussed, the proposal has satisfied the concurrency requirements of the municipal code. See Paragraph IV.3. In any event, the demands of this proposal upon the public infrastructure appear to be nominal.

The Hearing Examiner concludes that the transportation system and other public facilities and services are sufficient to support the proposed use. Therefore, this criterion is satisfied.

V. 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. If any exterior improvements are proposed as part of the tenant improvements, the exterior improvements will be made 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 interior tenant improvement shall be developed in substantial compliance with the plans submitted with the application, as well as comments received on the project from City Departments and outside agencies that reviewed the project for concurrency.
3. Adhere to any additional performance and development standards documented in comments or required by City of Spokane, Spokane County, Washington State, and any Federal agency.
4. 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.

5. 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.
6. 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 24th day of October, 2023.



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 October 25, 2023. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS NOVEMBER 20, 2023, 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.