

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BREMERTON**

In the Matter of the Application of)	No. BP16-00002
)	
Bremerton Housing Authority)	
)	FINDINGS, CONCLUSIONS,
<u>For a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to remodel three existing group-home cottages into 29 individual units for low-income residents, with associated social services, at the Frances Haddon Morgan Center (FHMC), 3424 Burwell Street, is **APPROVED**. Conditions are necessary to mitigate impacts of the proposed project and ensure compliance with the municipal code.

SUMMARY OF RECORD

Hearing Date:

The City of Bremerton Hearing Examiner held an open record hearing on the request on May 23, 2016.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Garrett Jackson, City Planner
Curt Wiest, Ex. Director, Bremerton Housing Authority
Joe Roszak, CEO, Kitsap Mental Health Services
Robert Bowers

Exhibits:

The following exhibits were admitted into the record:

1. Application for Conditional Use Permit and Project Summary, received January 19, 2016
2. Chapter 20.42 BMC
3. Letter from Ron Easterday to Garrett Jackson, dated March 17, 2016, with attached floor plan, parking data, and site photos
4. Letter of complete application, dated March 31, 2016
5. Application notice
 - a. Notice of Application, dated April 14, 2016
 - b. Declaration of Posting, dated April 19, 2016

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- c. Declaration of Mailing, dated April 14, 2016
- d. Email from Garrett Jackson to various agencies, dated April 14, 2016
- e. Declaration of Mailing, dated April 15, 2016, with mailing addresses
- f. *Kitsap Sun* notification of Notice of Application ad proof for April 19, 2016
- 6. Heartland report, dated November 2003
- 7. List of public contacts, with comment letter from Jill Eckstrom, dated May 3, 2016
- 8. Administrative Plan for the Bremerton Housing Authority Section 8 Housing Choice Voucher Program, 2006
- 9. Hearing Notice
 - a. Notice of Hearing, undated
 - b. Declaration of Posting, dated May 11, 2016
 - c. Declaration of Mailing, dated May 10, 2016
 - d. Email from Garrett Jackson to various agencies, dated May 10, 2016
 - e. Declaration of Mailing, dated May 6, 2016, with mailing address
 - f. *Kitsap Sun* notification of Notice of Hearing ad proof for May 9, 2016
- 10. Staff Report and Recommendations, dated May 12, 2016

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Bremerton Housing Authority (Applicant) requests a conditional use permit (CUP) to remodel three existing group-home cottages into 29 individual units for low-income residents, with associated social services. The property is located at the Frances Haddon Morgan Center (FHMC), 3424 Burwell Street.¹ *Exhibit 1; Exhibit 3; Exhibit 10, Staff Report, page 1.*
2. The City of Bremerton (City) determined the application was complete on March 31, 2016. Between April 14 and 19, 2016, the City provided notice of the application by mailing notice to owners of property within 300 feet of the subject property and emailing to interested agencies, posting notice on-site, and publishing notice in the *Kitsap Sun*. Between May 6 and 11, 2016, the City provided notice of the open record hearing associated with the CUP request by mailing notice to owners of property within 300 feet of the property and emailing to interested agencies, posting notice on-site, and publishing notice in the *Kitsap Sun*. *Exhibit 5; Exhibit 8; Exhibit 9; Exhibit 10, Staff Report, page 8.*

State Environmental Policy Act

¹ The property is identified by tax parcel numbers 152401-4-015-2005 and 152401-4-020-2008. A legal description is included in the staff report. *Exhibit 10, Staff Report, page 1.*

3. The City determined that the proposed project is categorically exempt from environmental review under the State Environmental Policy Act (SEPA).² *BMC 20.04.100(d)(2). Exhibit 10, Staff Report, page 1.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The Comprehensive Plan designates the property as Low Density Residential (LDR). The LDR designation includes density at 5-10 units per acre, structure heights not to exceed three stories, and detached single family housing, unless part of a planned unit development. The Comprehensive Plan provides the following LDR policy direction: “Protect the character of single family neighborhoods by infilling at compatible densities and focusing higher intensity land uses in designated centers and corridors.” *City Comprehensive Plan, page 85 (LU-47).*
5. The City Comprehensive Plan contains goals and policies relevant to the proposed use.³ Land Use Element Policies encourage adoptive reuse and preservation of historic elements, and promote neighborhoods that foster interaction among residents, contribute to well-being of citizenry, and create and sustain a sense of community and personal safety. Housing Element Goals and Policies provide a variety of housing types and densities; promote housing opportunities that respond to the special needs of students, the military, households headed by females, the elderly, and the handicapped; provide for integration of special needs housing within the community; and promote intergovernmental cooperation to achieve City housing goals. Economic Development Element Policies encourage redevelopment of underutilized sites and utilize adaptive reuse of public buildings. *City Comprehensive Plan (adopted December 2004); Exhibit 10, Staff Report, page 3.*
6. The approximately 12.81-acre property, consisting of two tax parcels, is zoned Low Density Residential (R-10). The intent of the R-10 zone is to accommodate single-family housing by infilling at a range of lot sizes consistent with urban growth patterns. Some attached single-family housing may be appropriate when responding to sensitive areas or with innovative design. Residential development at higher densities is encouraged at the edge of designated centers. *Bremerton Municipal Code (BMC) 20.60.010.* The existing cottages, currently vacant, were constructed between 1980 to 1982 for public use by the Washington State Department of Social and Health Services (DSHS) as inpatient group homes through 2011. Adaptive reuse of public and semi-public buildings is a listed conditional use in the R-10 zone, provided the conditions set forth in BMC 20.46.070 are

² City code sets a threshold level for categorical exemption for the construction or location of 60 or fewer multifamily residential units. *BMC 20.04.100(d)(2).*

³ The City identified the following Comprehensive Plan Goals and Policies as particularly relevant to the proposed use: Land Use Element Policies LU1H and LU1K; Housing Goal H3 and Policies H3E, H3G, and H9D; and Economic Development Policy EC1C. *Exhibit 10, Staff Report, pages 2 and 3.*

satisfied. *BMC 20.60.040(f)*. The following uses are among those approved for adaptive reuse: “(1) Residential, no density limit, provided no new floor area is constructed . . . [and] (13) Social services/facilities.” *BMC 20.60.070(b)*. An on-site staff member would assist residents with daily activities and education events. The Applicant does not propose any new floor area or any changes to the cottage exteriors. Surrounding properties are zoned R-10. Properties to the north, west, and south contain buildings for DSHS and the Bremerton School District as part of the FHMC. Forest Ridge Park is located to the east. North Marion Ave is located to the west, and Sixth Street is located to the north. Access to the site is provided from Burwell Street. *Exhibit 1; Exhibit 3; Exhibit 6; Exhibit 10, Staff Report, pages 2 to 7; Testimony of Mr. Jackson.*

Traffic and Parking

7. Traffic from the proposed use is not expected to exceed the traffic on neighborhood streets generated by the prior use of the cottages as group homes. City code requires 1.5 off-street parking spaces per unit or 44 parking spaces for 29 units. *BMC 20.48.060(i)*. The Hearing Examiner may reduce the number of required parking spaces if commute trip reduction methods are employed and the adoptive reuse does not generate an increase in on-street parking demand. *BMC 20.46.070(a)(2)*. The Applicant requests that the Hearing Examiner reduce the number of required parking spaces to 22 (.75 spaces per unit). A Kitsap Transit bus stop is located at the site, as well as other public modes of transportation that are available to residents. These include para-transit, access vans, and voucher subsidized taxis. Existing Lot H (16 spaces) is not used by other occupants and Lot G is under-utilized. One full time employee would be onsite between 9:00 AM and 11:00 PM. Joe Roszak, CEO, Kitsap Mental Health Services, testified that many of the residents to be housed in the cottages do not drive or cannot afford vehicles. *Exhibit 1; Exhibit 3; Exhibit 10, Staff Report, page 6; Testimony of Mr. Roszak.*

Landscaping

8. An adaptive reuse requires that adequate street trees and landscaping be incorporated in a manner that buffers the adaptive reuse from adjacent residential so that it is more compatible with the surrounding neighborhood. *BMC 20.46.070(a)(4)*. The existing cottages are set back from neighboring streets due to other buildings and mature trees. Cottage 1, closest to 6th Street to the north, is set back approximately 280 feet. Cottage 2, closest to North Marion Avenue to the west, is set back approximately 390 feet, with Cottage 3 set back behind Cottage 2. The FHMC provides some formal landscaping, including grassed areas, shrubs, street trees, and several significant trees as defined by *BMC 20.50.050(d)(4)*. Although the City determined that the proposed use is well screened from neighboring residential uses, the City determined that the existing landscaping may not meet the performance standards set out in *BMC 20.50.050*. The City Director of Community Development has waived further landscaping requirements because the remodel of an existing building does not result in the expansion of floor area. *BMC 20.50.030(b)(1)*. *Exhibit 1; Exhibit 3; Exhibit 10, Staff Report, page 5.*

Noise, Light and Glare, Hours of Operation, and Air Quality

9. Noise levels should not exceed City standards for residential zones. *Chapter 6.32 BMC*. Enforcement would be through the City's noise code enforcement provisions. *BMC 6.32.120*. The City would review any on-site lighting request at the time of the building permit application. *BMC 20.44.110*. As a residential use, hours of operation are not required, and inpatient care would not be provided. No air-quality concerns have been identified to date; this would be reviewed again at the time of the building permit application. *Exhibit 10, Staff Report, pages 5 to 7*.

Services

10. The existing site and cottages are served with water and sewer from the City of Bremerton, with electricity from Puget Sound Energy, and with natural gas from Cascade Natural Gas. *Exhibit 6; Exhibit 10, Staff Report, page 7*.

Applicant and Public Comment and Testimony

11. Curt Wiest, Executive Director of the Bremerton Housing Authority, testified that the authority does screening for drug activity (including drug manufacturing) and for sex offenders, which is required by the U.S. Housing and Urban Development Sec. 8 housing choice voucher program. He testified that the agency takes pride in being good neighbors. The proposed use is to remodel the three cottages into independent living units to provide longer term residency for low-income residents. *Exhibit 8; Testimony of Mr. Wiest*.
12. Jill Eckstrom submitted a comment letter, dated May 3, 2016, expressing concerns about the number of "homes" and "alternative schools," as well as litter in the residential neighborhood. Cliff Stevens provided comments about increased traffic and additional noise. Robert Bowers submitted comments and testified that he has lived in the neighborhood most of his life and identified an existing teen shelter, a homeless shelter, and other social services in the area. He requested that the proposed use have a 24-hour staff person. Mr. Wiest responded for the Applicant that, if there were a measurable increase in crime or neighborhood complaints, any individual found committing disturbances would have their residency terminated or staffing would be increased to 24 hours as an additional condition. *Exhibit 7; Exhibit 10, Staff Report, page 8; Testimony of Mr. Bowers; Testimony of Mr. Wiest*.

City Recommendation and Applicant Response

13. City staff determined that the proposed use meets the CUP criteria and recommended approval, with conditions. Mr. Wiest testified that the Applicant agrees with the proposed conditions. *Exhibit 10, Staff Report, page 9; Testimony of Mr. Wiest*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is authorized to hold a hearing on conditional use permit applications; to consider all evidence presented at the hearing; and, based on that evidence, to approve, approve with conditions, or disapprove the conditional use permit. *Bremerton Municipal Code (BMC) 2.13.070; BMC 20.02.040(c); BMC 20.60.040.*

Criteria for Review

The Hearing Examiner may approve a conditional use permit for adaptive reuse of public and semi-public buildings, only upon finding the following:

- (1) The use is consistent with the Comprehensive Plan goals and policies;
- (2) The use complies with all applicable zoning and development standards and requirements;
- (3) The use satisfies all of the conditional use approval criteria specified in the zone in which the use is located;
- (4) The design of the proposal and conditions of approval has mitigated all identifiable adverse impacts;
- (5) The use is compatible with nearby land uses and the surrounding neighborhood in terms of the level of light and glare, noise and parking demand, hours of operation and air quality; and
- (6) Stipulations are made for the availability of adequate water, sewer, storm water, utilities, and urban governmental services.

BMC 20.58.020(d).

In addition, the conditions set forth in BMC 20.46.070 must be satisfied. *BMC 20.60.040(f).*
The adaptive reuse shall meet the following criteria in order to be granted approval:

- (1) New traffic shall be accommodated within the existing levels of service on the surrounding neighborhood streets.
- (2) Provisions for off-street parking are made. The Hearing Examiner may reduce the number of off-street parking spaces if commute trip reduction methods are employed and the adaptive reuse does not generate an increase in on-street parking demand.
- (3) The new use does not generate noise that exceeds City standards for residential zones.
- (4) Adequate street trees and landscaping are incorporated in a manner that buffers the adaptive reuse from adjacent residential uses and makes it more compatible with the surrounding neighborhood.
- (5) Additional conditions may be applied including, but not limited to, limiting hours of operations, density, restrictions for noise attenuation and other conditions deemed necessary to ensure compatibility with surrounding residential uses.
- (6) The subject building must have been constructed for a stated public or semi-public use and operated as such for a minimum of five (5) years. For the purposes of this

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section, "public and semi-public building" shall include public schools, fire stations, libraries, churches, hospitals, post offices, and other public services.

BMC 20.46.070(a).

The criteria for review adopted by the Bremerton City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. With conditions, the proposed use would be consistent with Comprehensive Plan goals and policies.** The Comprehensive Plan encourages adaptive re-use of public buildings. The proposed housing would convert three vacant cottages, previously used as a DSHS inpatient group home, to housing for low-income residents. The proposed adaptive use promotes the Comprehensive Plan Housing goal of providing a variety of housing types and densities, as well as the Economic Development policy of encouraging redevelopment of underutilized sites. The Comprehensive Plan also promotes neighborhoods that create and sustain a sense of community and personal safety. Conditions are necessary to exclude persons with a prior conviction of drug manufacturing or distribution, juveniles, sex offenders, or any persons that the Bremerton Housing Authority or Kitsap Mental Health concludes pose a demonstrable risk to resident or neighborhood safety or property. And, if there is a measurable increase in crime or neighborhood complaints to the Bremerton Housing Authority, the Applicant should terminate residency of any individual causing disturbances or the Bremerton Housing Authority should increase staffing to 24 hours a day. *Findings 1, 2, 4, and 5.*
- 2. With conditions, the proposed use would comply with all applicable zoning and development standards and requirements.** The property is located within the R-10 zone. Adaptive reuse of a public building is allowed in this zone with a conditional use permit. Both residential and social services/facilities uses are allowed for adaptive reuse listed in BMC 20.46.070(b). The Applicant would convert three vacant cottages to 29 independent units and provide an on-site staff member to assist with daily activities and on-site education events. The Applicant does not propose any changes to the cottage exteriors or the site. Therefore, the proposed use is exempt from development standards. The City has waived landscaping requirements because the remodel does not propose any expansion of floor area. With a condition implementing Commute Trip Reduction Methods, the Hearing Examiner has reduced the parking space requirement from 44 to 22 parking spaces because only one staff employee would be on-site, residents would not own many vehicles, and many residents would not have driver's licenses. Conditions are necessary to ensure that Commute Trip Reduction Methods remain in place and that the cottages are occupied by only those capable of independent living. *Findings 1, 2, and 6 to 13.*

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3. **With conditions, the proposed use would satisfy all of the conditional use approval criteria of BMC 20.46.070, specified for the R-10 zone.** The proposed use would comply with the R-10 conditional use approval for adaptive uses. Traffic generated from the site would be accommodated within the existing levels of service because most residents would not have vehicles, and only one staff person would be on-site. Noise levels would not exceed City noise standards. No additional landscaping is required. The existing cottages were operated by DSHS for a public use for over five years. The adaptive use would be for residential and social service uses, consistent with BMC 20.46.070(b). Conditions are necessary to ensure that the Applicant receives an approved building permit before development or occupancy occurs and that the CUP will expire if not acted on within one year from the date the decision becomes final. *Findings 1, 2, and 6 to 13.*
4. **With conditions, the design of the proposal would mitigate all identifiable adverse impacts.** The proposed use is categorically exempt from SEPA. The City provided reasonable opportunity for public comment and testimony. Conditions are necessary to ensure that a sense of community and personal safety for area residents is maintained, that the use does not include inpatient care, and that Commute Trip Reduction Methods remain available on-site. *Findings 1 to 3, and 6 to 13.*
5. **With a condition, the use would be compatible with nearby land uses and the surrounding neighborhood in terms of the level of light and glare, noise and parking demand, hours of operation, and air quality.** Any additional lighting would be reviewed during building permit application, and should only be approved if shielded from neighborhood residences. Noise levels would not exceed City noise standards. Provisions for parking have been made. No air-quality impacts were identified. A condition is necessary to ensure that Commute Trip Reduction Methods remain available on-site. *Findings 1 and 6 to 13.*
6. **Stipulations are made for the availability of adequate water, sewer, storm water, utilities, and urban governmental services.** These services are currently available to the site. *Findings 1 and 10.*


DECISION

Based on the preceding Findings and Conclusions, the request for a conditional use permit to remodel three existing group homes into 29 residencies, with associated social services, located

at the Frances Haddon Morgan Center, 3424 Burwell Street, with a reduction in required parking spaces from 44 to 22, is **APPROVED**, with the following conditions:⁴

1. This site shall not serve persons with a prior conviction of drug manufacturing or distribution, juveniles, sex offenders, or any persons that the Bremerton Housing Authority or Kitsap Mental Health concludes pose a demonstrable risk to resident or neighborhood safety or property.
2. This permit does not include inpatient care. No person shall reside at the proposed location that has been deemed incapable of independent living by a mental health professional.
3. The Applicant is granted a reduction in parking per BMC 20.46.070(2), from 44 required spaces to 22 spaces, provided that Commute Trip Reduction Methods remain available on-site.
4. A building permit shall be received and approved before development and/or occupancy occurs.
5. Per BMC 20.58.020(f), if the CUP is not acted on within one year from the date the decision became final, it shall expire.
6. If there is a measurable increase in crime in the neighborhood, or an increase in verified complaints to the Bremerton Housing Authority, the Applicant shall terminate residency of any individual causing disturbances or the Bremerton Housing Authority shall provide 24 hour staffing.

Decided this 1st day of June 2016.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center

⁴ This decision includes conditions required to reduce project impacts as well as conditions required to meet municipal code standards.