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BEFORE THE HEARING EXAMINER
FOR THE CITY OF BREMERTON

BREMERTON-DEPT. OF
COMMUNITY DEVELOPMENT

In the Matter of the Application of) NO. BP04-00417
)
Richard Wright) FINDINGS, CONCLUSIONS,
) AND DECISION
For Approval of a Special Use Permit)

SUMMARY OF DECISION

The request for approval of a Special Use Permit to construct a four-unit multifamily residential structure within a Low Density Residential zoning district at 319 and 321 Willow Street is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request

Richard Wright (Applicant) requests approval of a Special Use Permit (SUP) to construct a four-unit multifamily residential structure within a Low Density Residential zoning district at 319 and 321 Willow Street.

Procedure

The Hearing Examiner held an open record hearing on the application on April 25, 2005.

Testimony

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

Robert Grumbach, City Planner
Richard Wright, Applicant

Exhibits

The following exhibits were admitted into the record:

1. Staff Report
2. SUP application, including payment receipt, site plan, vicinity map, commercial site plan review application, and pre-submittal report
3. Comprehensive Plan Map
4. Determination of Non-Significance, dated April 8, 2005, and environmental checklist
5. January 1, 2005 letter from Robert Grumbach to Richard Wright re: public hearing required
6. Director's Determination for DR Lot Sizes
7. Property Intrusion Easement
8. Geotechnical Reports
9. Legal Notices
10. Staff Comments

11. Public Comments
12. Copies of Staff Presentation Slides
13. Copies of two color photographs of a similar project, offered for illustrative purposes

Based upon the evidence admitted at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions:

FINDINGS

1. The Applicant requests approval of a SUP and Site Plan Review to construct a four-unit multifamily residential structure within a Low Density Residential zoning district. Each 1,360 square foot unit would contain three bedrooms and two bathrooms. The building would be two stories, with a garage on the ground floor. The project site is located at 319 and 321 Willow Street, in Bremerton.¹ *Exhibit 1, page 3; Exhibit 2.*
2. Surrounding land uses include residential duplexes to the north and south, and single-family and duplex residential development to the east and west. *Exhibit 1, page 2.*
3. The subject property and surrounding properties in all directions have a zoning designation of Residential Low Density (DR). *Exhibit 1, pages 1 & 2.* The DR zone is intended to maintain neighborhoods of predominantly single-family and two-unit structures. *Bremerton Municipal Code (BMC) 21.02.120, Figure 120.* Single-family and duplex residential development is allowed outright in the DR zone. Multi-unit structures (containing four units) can be approved in a DR zone by SUP. *BMC 21.02.140, Figure 140.*
4. The application was submitted as a Type II Administrative Special Use Permit. As required, the Applicant notified neighboring property owners within 300 feet. The City received inquiries and comments from several neighbors and decided that the application should be processed as a Type II Non-Administrative SUP through a public hearing process. *Exhibit 1, page 3; Testimony of Mr. Grumbach.*
5. The subject property is 0.39-acres and is undeveloped except for a retaining wall. No wetlands, streams, or regulated drainage areas have been identified on site. However, the property contains slopes up to approximately 28% and is designated as a Geologically Hazardous Area. The Coastal Zone Atlas of Kitsap County, Washington identifies the property as "Stable." No significant historical or cultural resources have been discovered on the property. *Exhibit 1, page 1; Exhibit 4, DNS.*
6. The Soil Survey of Kitsap County Area map identifies three on-site soil types with varying degrees of erosion hazard: Alderwood very gravelly loam, six to 15 percent slopes, has a slight erosion hazard; Dystric Xerorthents soils, 45 to 70 percent slopes, has a high erosion hazard; and, Kapowsin gravelly loam, six to 15 percent slopes, has a moderate erosion hazard. The high erosion hazard soils meet the definition of Erosion

¹ The subject property is known as Assessor Account Number 3965-000-038-0003. *Exhibit 1, page 1.*

Hazard Area and an erosion control plan would be required. *BMC 21.02.100(b)(2); Exhibit 1, page 6.* The proposed building area is located on the stable Alderwood soils. *Exhibit 8, page 3.*

7. The Applicant submitted two geotechnical studies. The first, by Consolidated Engineering, is dated September 22, 2003. It did not contain sufficient information to conclude that the slopes would accommodate the proposed use. A second study, by Alkai Consultants, is dated March 24, 2005. This study sufficiently addressed the specific geotechnical conditions of the site and found that the proposed development would not have adverse impacts on the slope and therefore could be constructed if precautions were taken. Alkai Consultants recommended that the Applicant be required to tightline storm water into the City storm drainage system; provide a ten-foot setback from the descending slopes in the west of the site; and have a geotechnical consultant inspect and approve the building pad after grading. *Exhibit 8, pages 1-3; Exhibit 1, pages 6-7.*
8. The Comprehensive Plan designation of the subject property is Low Density Residential (LDR).² The designation seeks to encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner (Urban Growth Goal #1). Comprehensive Plan policies that are relevant to the proposed development include Urban Growth Goal #2, to reduce sprawl through avoiding the inappropriate conversion of undeveloped land into sprawling low-density development; Urban Growth Supporting Policy #5, to promote development clustering to conserve energy, save land, lower public costs, reduce sprawl, and provide open space; Goal #4 Housing, to encourage the availability of affordable housing to all economic segments of the population and to promote a variety of residential densities and housing types; Goal #4 Supporting Policy #2, to protect neighborhoods from incompatible development, noise, glare, odor, dust, bypass traffic and other intrusions; and, Goal #4 Supporting Policy #4, to promote redevelopment activities that ensure a variety of housing types and costs, and that also preserve the historic, social, and aesthetic qualities of Bremerton neighborhoods. *Exhibit 1, pages 2-3.*
9. As the Comprehensive Plan promotes clustering of development on undeveloped land, the Director determined that the City's public health, safety, and general welfare are better served by using lot sizes rather than base densities to determine the number of dwelling units permitted in the DR zone. The Director determined that four-unit residential structures may be permitted in the DR zone on lots with a minimum area of 12,000 square feet, because duplexes are permitted on 6,000 square foot lots. *Exhibit 6; Exhibit 1, page 3; Testimony of Mr. Grumbach.*
10. Four unit multi-unit residential structures require a minimum of 12,000 square feet in site area. Maximum lot coverage in the DR zone is 40%, and the maximum structure height allowed is 30 feet. The DR zone requires a minimum front yard set back of 15 feet, a

² A Comprehensive Plan amendment changed the land use designation for the site to R-10; however, the application vested under the previous DR zoning designation. *Testimony of Mr. Grumbach.*

rear yard set back of 15 feet, and a side yard setback of five feet. *BMC 21.02.130, Figure 130*. The Applicant submitted an application for technical site plan review in accordance with *BMC 21.02.930(a)*. The 16,988 square foot site satisfies the minimum lot size requirement. The site plan indicates a proposed lot coverage of 24.7 percent and a maximum structure height of 24 feet. Proposed setbacks are 33 feet for the front yard, 48 feet for the rear yard, and a range of seven to 12 feet for the side yards. *Exhibit 1, pages 4-5*.

11. Multi-family units are required to provide two off-street parking spaces for each dwelling with three or more bedrooms. *BMC 21.02.670, Figure 670a*. As proposed, each unit would be provided with a one-car garage and a stacked outdoor parking space not located within the front yard setback. The proposed front yard at 33 feet adequately accommodates both the required 15-foot setback and 18 additional feet for parking. *Exhibit 1, page 5*.
12. Water and sewer service are available to the site. *Exhibit 1, pages 2 and 7*.
13. Developments involving construction of 5,000 square feet or more of new impervious surface must meet storm water requirements set forth in the Bremerton Municipal Code. *BMC Section 15.04.042(c)(2)*. The City Engineer determined that the proposal does not require an engineered storm drainage system and that the proposed tightlining of roof drains to the street is adequate. The City Engineer also concluded that the addition of four new dwelling units would not affect traffic movement in the vicinity and that no traffic impact report is required. *Exhibit 1, page 7*.
14. New or expanded multi-family residential development abutting any single-family or DR zone is required to provide a year-round landscaped sight barrier a minimum of ten feet wide and five feet high, or a fence or berm at least five-feet high plus shrubs and trees a minimum of five feet wide and five feet high. *BMC 21.02.700(a)*. Front yard areas, except for driveways, must be landscaped. *BMC 21.02.700(a)(1)(ii)*. Street trees are required to be planted at the rate of one tree for every 25 feet of street frontage. *BMC 21.02.700(a)(1)(iii)*. The site plan shows fencing and a five-foot wide landscaping area along the north and south property lines, a landscaped front yard, and four street trees along the site's 94.2 feet of frontage. Landscaping is not required along the west boundary because of the existing topography and vegetation. *Exhibit 2, Site plan; Exhibit 1, page 6*.
15. Pursuant to *BMC 21.22.280*, review under the State Environmental Policy Act (SEPA) is required for any residential development on a property that contains an environmentally sensitive area. The City was designated the lead agency for the purpose of conducting review of potential environmental impacts from the proposal. The SEPA Responsible Official issued a Determination of Non-Significance (DNS) on April 8, 2005. No appeal was filed. *Exhibit 4, DNS; Exhibit 1, page 1*.
16. The application materials were routed to the City's Building, Land Use, Engineering,

Fire, Cross Connection, and Traffic Divisions for review and comment. No comments were received that required significant changes to the project as proposed. *Exhibit 10; Exhibit 1, page 8.* The Department of Community Development (DCD) determined that with conditions, the proposal would be consistent with the requirements of the zoning code and the intent of the Comprehensive Plan. DCD recommended approval of the SUP subject to conditions. *Exhibit 1, pages 9 – 10.* The Applicant agreed to the conditions recommended by staff. *Testimony of Mr. Wright.*

17. Notice of the open record hearing was mailed to property owners within 300 feet posted on site on April 8, 2005, published in *The Sun* on April 8, 2005, and posted on site on April 11, 2005. *Exhibit 9.* The City received one public comment letter opposing the development based on concerns that a multi-unit residential structure might adversely impact the value of surrounding single-family residential development. *Exhibit 11, Letter from Mr. Starkey.* At hearing, the Applicant responded to this concern, submitting photographs of a similar project he constructed elsewhere in the City. The developed project is attractive and would enhance the value of properties surrounding it, based on aesthetic qualities alone. *Exhibit 13; Testimony of Mr. Wright.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for Special Use Permits pursuant to Section 21.02.850 of the Bremerton Municipal Code. The decision may be to approve, approve with conditions, or deny the application.

Criteria for Review

To approve a Special Use Permit, the Hearing Examiner must find that the application satisfies the applicable criteria for review; is consistent with the Comprehensive Plan and other adopted plans; and conforms to all applicable City development regulations, minimum standards, and design guidelines. *BMC 21.02.885.* *BMC 21.02.905(d)* provides that a Special Use Permit may be approved if all of the following questions can be answered “yes:”

1. Is the proposal consistent with the City’s Comprehensive Plan and either designated SUP in the Zoning Ordinance, or is being processed as an Unlisted Use?
2. Will the proposal comply with all applicable development standards and requirements, including the availability of all needed utilities and services?
3. Will the proposal, along with any mitigation measures or other conditions of approval, avoid significant adverse environmental consequences?
4. Will the proposal be compatible with adjacent uses and surrounding neighborhood?
5. Does the proposal comply with all other criteria or design guidelines that are applicable to the specific use or type of development?

The Hearing Examiner has authority to impose such conditions as site orientation, fencing, buffering, parking location, lighting, access, or other conditions of SUP approval if needed to prevent adverse impacts and/or ensure compatibility of the surrounding area. *BMC 21.02.905(e).*

Conclusions Based on Findings

1. **With conditions, the proposal satisfies the criteria for approval of a Special Use Permit.**
 - a. **The proposed use is consistent with the City's Comprehensive Plan and is designated SUP in the Zoning Ordinance.** A multi-unit residential structure of up to four-units is identified as an allowed use in the DR zone subject to SUP approval. Construction of four residential units on this site is consistent with Comprehensive Plan policies promoting clustering of new development and provision of affordable and varied housing. *Findings of Fact Nos. 3, 8, and 9.*
 - b. **The use will comply with all applicable development standards and requirements.** With conditions, the multi-family residential structure will comply with all development standards in the DR zoning district. Proposed landscaping will provide the required sight-obscuring buffer. Proposed setbacks, parking, and landscaping satisfy DR zone's requirements. *Findings of Fact Nos. 9, 10, 11, 13, and 14.*
 - c. **The proposal will avoid significant adverse environmental consequences.** The SEPA Responsible Official issued a DNS and no appeal was filed. Geotechnical studies concluded that the project will have no adverse impact on the slope. Conditions of approval will ensure protection of the slopes on site. *Findings of Fact Nos. 5, 6, 7, and 15.*
 - d. **The proposal will be compatible with adjacent uses and surrounding neighborhood.** There will be no impact on traffic or utilities above and beyond what could be expected from development allowed without a permit (such as two duplexes). Sight-obscuring vegetated buffers will screen the multi-family structure from adjacent uses. *Findings of Fact Nos. 1, 2, 3, 9, 13, and 14.*
 - e. **All relevant design criteria have been addressed.** *Findings of Fact Nos. 1 – 17.*

DECISION

Based upon the preceding Findings of Fact and Conclusions, the request for approval of a Special Use Permit to construct a four-unit multifamily residential structure within a Low Density Residential zoning district at 319 and 321 Willow Street, Bremerton, is **GRANTED**, subject to the following conditions:

1. The lot containing the four-unit residential structure shall remain a minimum 12,000 square feet as long as the use remains.
2. The proposal shall comply with all requirements set forth in the *Site Assessment Letter*, dated March 24, 2005, prepared by Alkai Consultants: including but not limited to the following:

- a. Stormwater shall be tightlined from the roof downspouts to Willow Street, into the City stormwater drainage system;
 - b. All development shall be setback at least ten-feet from the top of the descending slopes on the west side of the site; and
 - c. A representative of Alkai Consultants, or another licensed geotechnical engineering firm, shall view the building pad area and slopes once graded.
3. All required street trees shall have at least a 1-½ -inch caliper at the time of planting.
 4. All landscaping and the fence shall be installed or bonded for prior to finalizing building permits. The fence shall require a separate building permit.
 5. All landscaping shall be maintained in a healthy growing condition. Dead or dying vegetation shall be replaced during the first possible spring or fall planting season. The planting area shall be maintained reasonably free of weeds and trash.
 6. Off-street parking and driveway areas used for loading, parking, and maneuvering shall be paved surfaces that are durable and able to withstand all weather conditions. The improvements shall be installed prior to finalizing a building permit.
 7. Any conditions set forth for the issuance of building permits shall be included as conditions for approving the Special Use Permit and site plan.

Decided this 9th day of May 2005.



Theodore Paul Hunter
Hearings Examiner for the City of Bremerton

