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Conditional Use/PUD and Variance Application

17.09.115 Conditional use/planned unit development (PUD).

A. A permit to allow a conditional use or a planned unit development (PUD) may be approved when:

1. The use proposed in the application is not listed on the zoning use chart, CMC [17.78.020](#), or any special or environmental district use criteria (Divisions III and IV of this title) as a prohibited use in the zone or district in which the proposed use would be located; and
2. The procedures set forth in CMC [17.09.130](#), notice, have been followed; and
3. The examiner or planning commission has found that the proposed use is consistent with the objectives and purposes of this title and with the comprehensive plan; and
4. The examiner or planning commission has found that the proposed use is compatible with surrounding land uses and with the general character of the district in which it would be located; and
5. In the case of a conditional use permit allowing the continuance or reestablishment of a nonconforming use:
 - a. The nonconforming use possessed substantial value at the time of discontinuance; and
 - b. The owner can demonstrate substantial hardship if the conditional use is denied; and
 - c. No violations of this title nor any public nuisance would be created by the proposal if approved; and
 - d. The overall community will not be materially damaged by grant of the permit.

B. In considering an application for a conditional use permit or a PUD:

1. If the proposed use is identified in the zoning use chart, CMC [17.78.020](#); the shoreline master program (SMP) (Chapter [17.18](#) CMC and Appendix Chapter R); or any special district (Division IV of this title) as a listed conditional use, the burden to demonstrate that the proposal should be denied rests with the public;
2. If the proposed use is not identified in any use chart in this title as a listed conditional use, the burden to demonstrate that the proposal should be approved rests with the applicant.

C. In considering an application for a conditional use or PUD, the examiner or planning commission may impose modifications or conditions on the application necessary to ensure compliance with this title and the comprehensive plan. Such modifications or conditions may relate to the following:

1. Size and location of the site;
2. Street and road capacities in the area;
3. Ingress and egress to adjoining public streets;
4. Location and amount of off-street parking;
5. Internal traffic circulation system;
6. Fencing, screening, and landscaped buffer areas;
7. Building bulk and location;
8. Usable open space;
9. Signs and lighting;
10. Drainage of storm water;
11. Noise, vibration, air pollution and other environmental influences; and
12. Other pertinent factors.

D. All approved site plans relating to conditional uses and PUDs, including modifications and conditions, shall be made a part of the permanent address file and any development permit for the property.

E. No approved conditional use permit or PUD may be modified, enlarged, or expanded in ground area unless the site plan is amended and approved in accordance with any variance procedures applicable to such proposal.

F. A conditional use permit approved by the examiner and issued by the administrator shall expire 90 days from the date of issuance if no substantial activity has occurred to implement the approved proposal. A PUD approved by the planning commission shall expire 180 days from the date of approval if no substantial activity has occurred to implement the approved proposal. [Ord. 720B § 1, 2002.]

17.09.120 Variance.

A. Where unnecessary hardships or practical difficulties resulting from peculiarities of a specific property render it difficult or inequitable to carry out all provisions of this title, the examiner shall have the authority to grant a variance if all the following conditions are met:

1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon development of other properties in the vicinity and zone in which subject property is located; and
2. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with development rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; provided, that such unusual circumstances or conditions have not been created by action or acquiescence of the applicant; and
3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and
4. The granting of such a variance will not be inconsistent with the comprehensive plan; and
5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of any adjacent property.

B. An application for a variance shall be accompanied by a written statement as to how the request is consistent with subsection (A) of this section and the burden of demonstrating such consistency lies with the applicant. In authorizing a variance, the examiner or planning commission may attach thereto such conditions regarding the location, character, or other features of the proposed structures or uses as it may deem necessary to carry out the intent of this title.

C. Unless another time limit is established during the approval process, a variance so authorized shall become void after 90 days if no substantial construction has taken place in accordance with the plans for which the variance was authorized. [Ord. 720B § 1, 2002.]

THE APPLICANT OR A REPRESENTATIVE MUST ATTEND THE PUBLIC HEARING.

A **DIMENSIONED** SITE PLAN MUST BE ATTACHED TO THIS APPLICATION SHOWING ALL OF THE FOLLOWING ITEMS:

1. Size and location of the parcel.
2. Streets, roads and external traffic flow routes in the area.
3. Ingress and egress routes.
4. Location and amount of both on-street and on-site parking spaces.
5. Internal traffic flow routes.
6. Fencing, screening and landscaped buffer areas.
7. All existing and proposed buildings.
8. Usable open space.
9. Signs and lighting.
10. Drainage flow of storm water.
11. Noise, air pollution and other environmentally sensitive sources/areas.
12. Directional arrow (north)
13. Any other pertinent factors.

A FLOOR PLAN OF ALL STRUCTURES IS ALSO REQUIRED FOR ANY NEW DEVELOPMENT OR CHANGE OF USE/OCCUPANCY.

APPLICATION FEE –

- **Pass through fee for either Conditional Use or Variance: Submittal fee \$200**
The applicant is responsible for Hearings Examiner fees over \$200 not to exceed \$500
- **Fee for Planned Unit Development is \$300**
- **SEPA fee is \$200.**

(NOTE: A conditional use for non-residential development and/or PUD application will require a SEPA checklist and the SEPA fee. Typically, no SEPA is required for Variances)

Receipt # _____ Date received: _____ Project #: _____

THE PUBLIC HEARING FOR THIS APPLICATION WILL BE held in the Council Chambers located at Chehalis City Hall, 350 N Market Blvd., Chehalis, WA 98532

The proposed project is a substance abuse disorder facility to be located at 135 West Main Street. The property is located adjacent to West Main Street, at mid-block. The building is a former church that was constructed in 1950, and now used as an outpatient facility for substance abuse disorder treatment by Cascade Community Healthcare. We are currently proceeding with the City of Chehalis Conditional Use Permit process for the project.

The facility is funded by the Washington State Department of Commerce.

This facility is classified by the State of Washington as an Essential Public Facility per WAC 365-196-550 and RCW 36.70A.200.

Because we are providing a new residential occupancy within the existing building, we are required to install an automatic fire sprinkler system. This requires a new connection to a water main. There is a water main located within the West Main Street right-of-way directly adjacent to the building. The connection would require approximately 25 feet of new below grade piping in the right-of-way. We have a bid for the design and construction of this work - \$85,000.

The referenced code pertaining to work within the right-of-way is the following:

CMC 12.04.280 Streets.

P. Pavement Restoration. Trench cuts in roadways greatly degrade the condition of the pavement, as well as reduce its design life. The most significant damage can be seen in newer pavements. Pavement restoration should result in the pavement being as good as, or better than, the pre-trench cut condition. This can be achieved by the prevention of trench cuts, thorough utility coordination, and high-quality pavement restoration.

1. Trench Cuts in New Pavements. Trench cuts are not permitted in pavements that have been constructed or rehabilitated within five years. "Rehabilitation" includes all surface treatments such as chip seal, slurry seal, and asphalt overlay.

If there is no other option but to cut into new pavement, prior approval will be obtained from the director of public works. Pavement must then be restored in accordance with the standards of subsection (P)(3) of this section.

Because of the 5-year moratorium on development within the right-of-way of any newly paved streets, the City of Chehalis Public Works Department initially indicated the project would not be approved. We were instead directed to connect to the water main located within SW Cascade Avenue, accessing the building with a new line within the alley between West Main Street and SW Alfred Street. Because of the distance to the building from SW Cascade Avenue the connection is required to be a loop connection which means the new line has to have a second connection to a water main. The Public Works Department has indicated this could be a connection from SW Cascade Avenue to either North Market Blvd. or to Saunders Avenue and then south to SW Alfred Street. This results in either 800 or 600 feet, respectively, of new water line and street repair work. The bid received for this water line work is \$600,000.

The entire construction budget for the project is \$700,500. The imposition of the \$600K costs would result in the cancellation of the project. There is no other feasible option but to cut into the new pavement to install the required water line.

During a meeting conducted by the office of the City Attorney regarding the project on 2/7/22, the City expressed the concern that if the connection is allowed, the City would potentially be impacting its standing in the grant process of the Washington State Transportation Improvement Board (TIB) for future grant applications. The City provided our office with the contact information for the TIB. The TIB, through a communication provided by Chris Langhoff, has stated that the proposed improvements required for the project will not impact the City of Chehalis standing for future grants.

Per directions provided by the City of Chehalis, we are therefore requesting a Variance from requirements of CMC 12.04.280 (P)(1).

ANSWER ALL OF THE FOLLOWING QUESTIONS IN COMPLETE DETAIL:

1. WHAT IS THE USAGE OF OTHER SURROUNDING PROPERTIES IN THE VICINITY OF THIS PROPOSAL?

Commercial and Residential

2. IS THERE A UNIQUE CIRCUMSTANCE RELATIVE TO YOUR PROPERTY, BUT NOT THE REST OF THE NEIGHBORHOOD, THAT MAKES THE CONDITIONAL USE OR VARIANCE NECESSARY? Such as, size, shape, topography, location, surroundings, etc.

Exterior of the building will not change.

3. WILL THIS PROPOSAL, IF GRANTED, AFFECT ANY OTHER ADJACENT PRIVATE OR PUBLIC PROPERTY IN ANY PHYSICAL MANNER OR BE MATERIALLY DETRIMENTAL? _____

No.

4. WILL THIS PROPOSAL, IF GRANTED, AFFECT THE VISUAL CHARACTERISTICS OF THE NEIGHBORHOOD? _____

No, exterior building will not change.

5. WILL THIS PROPOSAL, IF GRANTED, AFFECT THE COMPREHENSIVE PLAN FOR THE ZONE, VICINITY, OR NEIGHBORHOOD? _____

No.

6. IS THIS PROPOSAL A CONTINUANCE OR RE-ESTABLISHMENT OF A PRE-EXISTING NONCONFORMING USE? PLEASE EXPLAIN: _____

No.

7. WILL A SUBSTANTIAL HARDSHIP BE CREATED IF THIS PROPOSAL IS DENIED? _____

The proposed facility will provide essential public services for both substance abuse services and transitional housing. A denial of the proposal would preclude the ability to provide these services, and would not be in conformance with RCW 35A.21.430.

8. WILL THIS PROPOSAL, IF GRANTED, CREATE A VIOLATION OF THE CHEHALIS MUNICIPAL CODE OR A PUBLIC NUISANCE AS DEFINED BY TITLE 7? _____

No.

ADDITIONAL COMMENTS: _____

_ This application includes Underground Fire Sprinkler Supply _____
_ Drawings and Conditional Approval from Chris Langhoff, _____
_ Washington State Transportation Improvement Board. _____
_ _____

The city may require additional information to explain the nature and scope of the proposal and its impact on the vicinity or neighborhood in sufficient detail to perform the required analysis.