

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

In the Matter of:

The Application of Lewis County for Conditional Use Permit for Group Care/Drug Court Transitional Housing at 1258 Washington Avenue SE

CU-22-004

**Lewis County Group Care/Drug Court Transitional Housing Conditional Use Permit**

**FINDINGS OF FACT  
AND CONCLUSIONS  
OF LAW**

**SUMMARY OF DECISION**

The balance of evidence in the record submitted supports the position that the proposed use for 1258 Washington Avenue SE meets the applicable conditional use criteria and site plan criteria contained in City of Chehalis code. The application for a Conditional Use Permit submitted by Lewis County is **GRANTED** subject to conditions. The Applicant's request for approval of a Site Plan Permit is **GRANTED**.

**SUMMARY OF RECORD**

Request:

Eric Eisenberg, on behalf of Lewis County (Applicant), submitted a request for a conditional use permit to use an existing single-family residence as a shared residence for transitional housing for Drug Court and Family Recovery Court participants. The subject property is located at 1258 Washington Avenue SE, in Chehalis, Washington.

City of Chehalis Community Development Department reviewed the proposed Conditional Use Permit for compliance with the requirements of the Chehalis Municipal Code and state law and recommended granting the requested Conditional Use Permit on or about February 2, 2023.

Hearing Date:

The City of Chehalis Hearing Examiner conducted an open record public hearing on the Conditional Use Permit request on March 1, 2023. At the conclusion of the proceedings, the official record was kept open for the submittal of any additional evidence for or against the Conditional Use Permit until 5:00 p.m. on Wednesday, March 8, 2023.

Testimony:

At the open record public hearing, the following individuals presented testimony under oath.

Tammy Baraconi, Building and Planning Manager for City of Chehalis;  
Benjamin Spellman, Chehalis resident;  
Eric Eisenberg, Housing and Infrastructure Specialist for Lewis County (Applicant);  
Stephanie Miller, Drug Court Manager for the Lewis County Superior Court;  
Corrections Deputy David Albright, Officer for Drug Court program;  
Steven Fisher, Chehalis resident;  
Barbara Russell, Attorney in Lewis County Prosecutor's Office, but not appearing in any official capacity;  
Derek Shaughnessy, Graduate of Drug Court Program.

Exhibits:

Exhibit A: Staff Report prepared by City of Chehalis Community Development dated February 2, 2023.

Exhibit B: Aerial and ground level photos and G.I.S. map of subject property and surrounding area.

Exhibit C: Cover letter dated March 7, 2023, with seven attachments submitted by Benjamin Spellman.

Exhibit D: Affidavit of Publication dated February 14, 2023, for Public Hearing held on March 1, 2023.

Based upon the record developed at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions.

**FINDINGS**

Proposal, Description of Site, and Surroundings:

1. Eric Eisenberg, on behalf of Lewis County (Applicant), requested approval of a conditional use permit to utilize an existing residence as a shared residence for transitional housing for Drug Court and Family Recovery Court participants. The subject property address is 1258 Washington Avenue SE, Chehalis, WA 98532. The property is zoned R1, Single-Family, Low Density Residential. *Ex. A p. 1 of 6.*

2. The home built on the subject property is a single-family, split-level home with a footprint of approximately 2,800 sq. ft. At some point the home was converted to be used as group housing, with a male and female designated side. Each side has a separate entrance. The property has room for six designated on-site parking spots. *Ex. A p. 1-6.*

3. The subject property has access to public transit via the Twin Transit Red Line with several bus stops located in the vicinity. In addition, the Red Line allows residents service throughout Chehalis, with available connections to Fords Prairie, Centralia, Ground Mound, and Thurston County. *Ex. A p. 1 of 6.*

4. Applicant purchased the subject property on or about December 30, 2022. The subject property has been used as transitional housing for Drug Court and Family Recovery Court participants for approximately the last three years. Prior to this use no conditional use permit was granted, or even applied for. *Ex. A p. 1 of 6.*

5. Zoning categories and land uses immediately adjacent to the property include:

- a. MRC; Mixed Residential/Commercial: Undeveloped land and single-family residences;
- b. R1; Single-Family, Low Density: single family residences;
- c. MRC; Mixed Residential/Commercial: Chehalis Professional Bldg. and Oak Terrace Apartments;
- d. CG; General Commercial: Safeway grocery store across the street.

Procedural Background:

6. Eric Eisenberg, on behalf of the Applicant, filed for a Conditional Use Permit on or about December 21, 2022.

7. The proposal for the Conditional Use Permit was reviewed by Nicholas Swanson, City Planner for City of Chehalis, and on December 30, 2022, notice was provided to Applicant that the application was “complete” and the matter would be set for public hearing on February 9, 2023.

8. Notice for the February 9, 2023, public hearing was published per Chehalis Municipal Code 17.09.155 on January 26, 2023, in the *Lewis County Chronicle*. The February 9, 2023, public hearing did not occur on said date due to the unexpected unavailability of the Hearing Examiner.

9. The matter was reset for public hearing on March 1, 2023. Notice was published in the *Lewis County Chronicle* on February 14, 2023. Notice of Application and Notice of Hearing were properly given to the public.

10. The public hearing was held on March 1, 2023. At said hearing, exhibits were entered into evidence and testimony from individuals and entities for and against the proposed Conditional Use Permit was taken. The record was kept open until 5:00 p.m. on March 8, 2023, for any individuals to submit additional information for the record.

Conditional Use Permit Findings:

11. Tammy Baraconi, City Planner for City of Chehalis, on behalf of the City of Chehalis Community Development submitted as Exhibit A the report of its review of the Conditional Use Application and Site Plan submitted by Applicant. Community Development recommended approval of the Conditional Use Application and Site Plan for use of the subject property as a Group Care Facility/Drug Court and Family Recovery Court Transitional Housing Facility, subject to the following conditions:

- Fire Department annual inspections required. Smoke alarms and fire extinguishers required;
- Change of Occupancy permit required to confirm required means of egress;
- Switch utility billing designations to commercial;
- Side sewer lateral to be upgraded to meet code requirements.

After review of Exhibit A, this Hearing Examiner incorporates the findings of the City of Chehalis Community Development Department in this decision.

12. Applicant representative Eric Eisenberg offered testimony at the public hearing indicating that Lewis County did not have any objections to the conditions required by the City of Chehalis for approval of the Conditional Use Permit.

13. At hearing Benjamin Spellman testified regarding concerns he had regarding police contact with the subject property. He provided testimony of reports relating to trespass, warrants, drug violence, and suspicious activity. Prior to closing of the hearing, Mr. Spellman submitted emails he had sent to the Chehalis Police Department requesting information about police response to the subject property. In response, Mr. Spellman received an email listing the calls received regarding the subject property over the last three years. *See Exhibit C*. According to the records there were eleven (11) documented calls received by the Chehalis Police Department over the past three years. Based on the information provided, it is difficult to determine what did or did not happen or result from each call. The “nature” of the calls range from trespass to drug violation to fraud.

Finally, Mr. Spellman testified regarding concerns due to lack of 24/7 supervision at the subject property.

14. Steven Fisher testified at the public hearing regarding concerns about the number of persons at the facility and the fact that the residents will not be under supervision 24/7. Mr. Fisher requested 24/7 supervision.

15. Barbara Russell, an attorney in the Lewis County Prosecutor’s Office, testified and expressed her support for the transitional housing.

16. Derek Shaughnessy, a graduate of the drug court program and past resident in the transitional housing, offered support for the program and requested approval of the Conditional Use Application.

17. Daniel Miller, current resident at the subject property testified regarding the supervision residents are subjected to at the subject property. This supervision included intensive outpatient treatment and ring cameras installed for monitoring purposes. In addition, Mr. Miller testified that due to requirements of the program, participants come and go from the property often. It was also offered that residents were not allowed to have visitors come into the home.

18. Stephanie Miller, Drug Court Manager for the Lewis County Superior Court, testified that as part of the program the staff try to do random checks. If a resident tests positive for drugs or alcohol during their residency, sanctions may include jail time. She testified the average time a resident stays in transitional housing is six to nine months.

19. Corrections Deputy David Albright testified that he is the primary officer for the drug court program. He indicated he checks on the home multiple times a day. He indicated it is common for people to come and go often for work and treatment purposes. When he is unavailable, other law enforcement are asked to assist.

## **CONCLUSIONS**

### **Jurisdiction:**

An application for a Conditional Use Permit triggers what is classified as a “Type 3 Review” under Chehalis Municipal Code (CMC) 17.09.030. Site Plan reviews are reviewed based on criteria contained in CMC 17.09.130. Conditional Use Permit reviews are reviewed based on the criteria contained in CMC 17.09.185. The Hearing Examiner has jurisdiction to decide this Conditional Use Permit Application and Site Plan Application under CMC 17.09.030 and 17.09.070.

### **Criteria and Standards for Review:**

CMC 17.09.070 dictates certain procedures a Hearing Examiner must follow when deciding on an application for a Conditional Use Permit and Site Plan Permit review. These procedures include conducting an open record public hearing, reviewing of the entire record presented at said hearing, and issuance of a decision. The decision of the Hearing Examiner is subject to appeal to the superior court.

CMC 17.09.130 dictates the requirements necessary for a site plan review involving a single-family home. Single-family homes must submit a site plan consistent with 17.09.130(B). The City may approve a proposed site plan in whole or in part, with or without conditions, if all of the findings of fact listed in 17.09.130(C) can be made in an affirmative manner.

CMC 17.09.185 lists the criteria necessary for approval of a Conditional Use Permit. The City’s policy is to mitigate the impacts of conditional uses through special conditions of approval. Where impacts cannot be mitigated effectively, the review authority shall deny the application. A conditional use may be approved or modified only when all of the criteria contained in CMC 17.09.185 are met.

## Conclusions Based on Findings:

### **A. Site Plan**

1. The project at issues involves the use of an existing single-family home as transitional housing for Drug Court and Family Recovery Court participant. The Chehalis Comprehensive Plan and the Chehalis Municipal Code strive to encourage a diversity of housing types and opportunities to meet the needs of all economic segments and special needs of the community. An additional stated intent is to preserve, maintain, and improve the City's housing stock. The proposed use meets the criteria contained in CMC 17.09.130(C)(1).

2. The evidence presented at hearing supports the conclusion that physical location, size, and placement of the subject property, and the proposed use, will not significantly impact any critical resource or floodplain area, and the proposed use is compatible with the character of the surrounding properties. CMC 17.09.130(C)(2).

3. Subject to the requirement that the Applicant switch the water supply and utilities billings to "commercial," there are adequate provisions for public utilities and the proposed project will not be detrimental to public health and safety. CMC 17.09.130(C)(3).

4. Public access and access to public transportation are adequate for the site. CMC 17.09.130(C)(4).

5. Adequate setbacks and buffers are provided for per CMC 17.42.020.

6. The physical location, size, and placement of the structure on site and its proposed use is compatible with the surrounding area and properties. CMC 17.09.130(C)(6).

7. The evidence presented in the record supports the premise that the site plan and intended use of the subject property will not be detrimental to the public interest, health, safety, or general welfare. CMC 17.09.130(C)(8).

### **B. Conditional Use Permit**

Findings for approval or denial of a Conditional Use Permit are contained in CMC 17.09.185. The City's policy is to mitigate the impacts of conditional uses through special conditions of approval. Where impacts cannot be mitigated effectively, the review authority shall deny the application.

1. In this case, the conditional use proposed by the Applicant falls under the category of a "Group Care Facility" (Use Code 144) in an R1 zone, thus the conditional use permit process is appropriate. CMC 17.09.185(A)(1).

2. The size, shape, location, topography, existence of improvements and natural features make the subject property suitable for its intended use. CMC 17.09.185 (A)(2).

3. Considering the adequacy of available transportation systems, public facilities and services for the current and future use, the proposed use is timely. CMC 17.09.185(A)(3).

4. The location, size, and functional characteristics of the proposed use are reasonably compatible with, and will have minimal impact on the livability and development opportunities in the surrounding area. CMC 17.09.185(A)(4).

5. The proposed use is consistent with the applicable goals and policies of the Chehalis comprehensive plan, the general purpose of the R1 zone. CMC 17.09.185(A)(5).

6. The proposed use complies with all applicable site plan review requirements. CMC 17.09.185(A)(6).

7. The proposed use will not have significant environmental consequences when compared to other permitted uses in the underlying zone. While the use is not for a “typical” single-family home, the proposed use of the subject property as transitional housing may be mitigated through conditions of approval. CMC 17.09.185(A)(7).

8. Even though the subject property does not meet the listed requirements for one designated parking spot per resident (*see CMC 17.78 Use Code 144*), the nature of the circumstances of the residents utilizing the transitional housing supports a conclusion that this requirement may be reasonably waived and not required for approval of the conditional use application.

9. The City of Chehalis Community Development Department, after review of the site plan and conditional use application, recommends approval of the site plan and conditional use application with the following conditions:

- Fire Department annual inspections required. Smoke alarms and fire extinguishers required;
- Change of Occupancy permit required to confirm required means of egress;
- Switch utility billing designations to commercial;
- Side sewer lateral to be upgraded to meet code requirements.

### **DECISION**

Based on the foregoing Findings of Fact and Conclusions of Law, the Site Plan application and Conditional Use Permit application (CU-22-004) are APPROVED subject to the following conditions:

- Fire Department annual inspections required. Smoke alarms and fire extinguishers required;
- Change of Occupancy permit required to confirm required means of egress;
- Switch utility billing designations to commercial;
- Side sewer lateral to be upgraded to meet code requirements.

DECIDED this 17th day of March, 2023.

A handwritten signature in black ink, appearing to read 'CJ Coker', written over a horizontal line.

Christopher John Coker  
City of Chehalis Hearing Examiner