

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

In the Matter of the Application of)	NO. PRJ-162386/LUP-82686
)	
Ginn Group, LLC)	
)	onetwentyUp
For approval of a Conditional Use Permit)	
_____)	

SUMMARY OF DECISIONS

The request for a conditional use permit to use 1,230 square feet of previously approved commercial space for three extended stay rooms is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Ginn Group, LLC (Applicant) requested a conditional use permit (CUP) to use 1,230 square feet of previously approved commercial space for three extended stay rooms. The subject property is located at 333 SE 120th Avenue in Vancouver, Washington.

Hearing Date:

The Vancouver Hearing Examiner conducted a virtual open record hearing on the application on November 15, 2022. In an abundance of caution, the record was held open two business days to allow for written public comment from members of the public who may have had technology or access barriers to joining the virtual hearing, with additional time arranged for responses by the parties. No post-hearing public comment was submitted, and the record closed on November 17, 2022. No in-person site visit was conducted, the site was viewed on Google Maps.

Testimony:

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

Jayson Taylor, Applicant Representative
Kristian Corbin, Senior Planner, City of Vancouver

Exhibits:

At the open record hearing the following exhibits were admitted into the record:

- Exhibit 1 Staff Report, dated November 1, 2022
 - A. Application
 - B. Applicant Narrative
 - C. Notice of Application and Virtual Hearing, issued August 25, 2022
 - D. Reduced Plans

- E. Traffic Addendum for Conditional Use Permit by Lancaster Mobley, dated August 8, 2022
- F. City of Vancouver Traffic Impact Calculation Worksheet, dated October 11, 2022
- G. Applicant Response Letter to Public Comment
- H. LUP-77553 Mill Plains Commons Staff Report
- I. LUP-82419 One-Twenty Up (formally Mill Plain Commons) Post Decision Review
- J. Public Comment

Exhibit 2 Applicant PowerPoint Presentation

Exhibit 3 City PowerPoint Presentation

After considering the testimony and exhibits admitted in the record, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. Ginn Group, LLC (Applicant) requested a conditional use permit (CUP) to use 1,230 square feet of previously approved commercial space for three extended stay rooms. The subject property is located at 333 SE 120th Avenue in Vancouver, Washington.¹ *Exhibits 1, 1.A, 1.B, and 2.*
2. The proposed extended stay units would occupy a portion of the Mill Plain Commons (now known as “onetwentyUp”) mixed-use project, the site plan for which was administratively approved on April 16, 2020. The 2020 approval authorized a four-story, 155-unit apartment building, including four live/work units, 2,126 square feet of commercial space, and parking for 243 vehicles. On June 21, 2022, the Applicant received administrative approval to increase the building footprint, reduce the number of dwelling units from 155 to 143, reduce the area of commercial space from 2,126 square feet to 1,230 square feet, and to reduce the parking by 16 spaces. In the current proposal, the Applicant proposes to use the 1,230 square feet of commercial space for three extended stay units. The three units would be located at the southwest corner of the previously approved building. Each unit would have its own entrance facing the street. There would be no change to the approved building footprint. *Exhibits 1, 1.G, 1.H, 1.I, and 3.*
3. The subject property is 2.73 acres in area and is currently vacant. Surrounding land uses include a bank to the north, multi-family dwelling units to the south, a daycare center and other commercial uses to the west, and retail uses to the east. *Exhibits 1 and 3.*
4. The subject property and parcels to the north, east, and west are zoned Community Commercial (CC). Parcels to the south are zoned Higher Density Residential (R-22). *Exhibits 1 and 3.* “Commercial and Transient Lodging” is allowed in the CC zone with

¹ The legal description of the subject property is a portion of the NW Quarter, Section 34, Township 2 North, Range 2 East of the Willamette Meridian; also known as Parcel number 114340005. *Exhibit 1.*

approval of a CUP. *Vancouver Municipal Code (VMC) Table 20.430.030-1*. The VMC defines Commercial and Transient Lodging as follows:

Residential facilities such as hotels, motels, rooming houses, bed-and-breakfast establishments, and homeless shelters where tenancy is typically less than one month. May include accessory meeting, convention facilities, and food preparation and service.

VMC 20.160.020.C.1. The proposed extended stay units would be furnished and functionally equivalent to hotel rooms. The Applicant submitted that the use would be similar to the Marriott development approximately 600 feet east of the subject property. *Jayson Taylor Testimony; Exhibits 1, 1.G, and 2*.

5. The most recent site plan approval determined that the minimum parking required for the mixed use is 223 spaces, with four of those spaces allocated to the 1,230 square feet of commercial space (one space per 400 square feet). The parking requirement for Commercial and Transient Lodging is one space per unit, or three spaces for the three units proposed, which is one parking stall less than was required for the original commercial space. The current site plan depicts a total of 226 parking spaces. *Exhibits 1.I and 1.D*.
6. Public facilities including water and sewer were evaluated at the time of site plan review. No additional public facilities are needed for the change from commercial space to extended stay units. *Exhibits 1, 1.H, and 1.I*.
7. The proposal does not require the provision of solid waste storage space that is separate from that which is needed for the multi-family portion of the development. The plans provide for trash receptacles that would be accessible to the commercial tenants. However, Planning Staff recommended conditions to ensure that the plans depict the correct number of carts in each trash room, and to ensure that certain features are depicted in the Level 1 trash rooms. *Exhibit 1; Kristian Corbin Testimony*.
8. The conversion of commercial space to extended stay units would not change the proposed access to the site. No additional street improvements are needed. *Exhibit 1*.
9. The application materials included trip generation and distribution analysis prepared by a transportation engineer on August 8, 2022. Project trip generation rates were based on the Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition) land-use code 311 – All Suites Hotel. The traffic consultant determined that the three rooms would generate 14 new average daily trips, including one AM peak hour trip and one PM peak hour trip. This reflects an increase of two average daily trips but a reduction of one AM peak hour trip as compared to the original project traffic analysis (assuming 2,430 square feet of general office space instead of 1,200 square feet of general office space and three rooms). There would be no change in PM peak hour trips. *Exhibit 1.E*. The City determined that the submitted traffic analysis meets the City's requirements for concurrency analysis. Mitigation of traffic impacts would be through payment of traffic impact fees pursuant to VMC 20.915. *Exhibit 1*.

10. Because no changes to the footprint of the building are proposed, no changes are needed to the approved stormwater engineering plans. *Exhibit 1.*
11. The Fire Department has reviewed the proposal and determined that the requirements of the VMC Title 16 can be met, with conditions as indicated in the Staff Report, which address temporary and permanent street and address signage, fire safety during construction, fire hydrants, and fire apparatus access. *Exhibit 1.*
12. A State Environmental Policy Act (SEPA) determination of non-significance (DNS) was issued in conjunction with the original Mill Plain Commons project, and the City appropriately retained the DNS for the proposed conditional use. *Exhibit 1.*
13. Notice of application and of the virtual public hearing was issued on August 25, 2022. *Exhibit 1.C.* Public comment on the proposal submitted prior to the hearing reflected concern that the project would be used for transitional housing or as a homeless shelter, based on the proposed use category of “commercial and transient lodging” per VMC Table 20.430.030-1. Once it was clarified that “transient lodging” is defined in the VMC as including hotels and other establishments where tenancy is typically less than one month (VMC 20.160.020), and that the proposed units were intended to function as hotel units and not as transitional housing or as a homeless shelter, there was no opposition to the project. Planning Staff recommended that the CUP be conditioned to prohibit a homeless shelter use to ensure that the extended stay units are used as intended and to address concerns raised by the public. *Exhibits 1.G and 1.J; Kristian Corbin Testimony.* There was no further public comment at the hearing.²
14. At the conclusion of all testimony and having reviewed all submitted materials, Planning Staff maintained their recommendation of approval subject to the conditions stated in the staff report. *Kristian Corbin Testimony.* The Applicant representative waived objection to the recommended conditions. *Jayson Taylor Testimony.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner has jurisdiction to conduct an open record hearing and decide applications for conditional use permit pursuant to Vancouver Municipal Code 20.210.060 and 20.210.020-1.

Conditional Use Criteria for Review:

Pursuant to VMC 20.245.040.A, the Hearing Examiner shall approve, approve with conditions, or deny an application for a conditional use based on findings of fact with respect to each of the following criteria:

1. The site size and dimensions provide adequate area for the needs of the proposed use;

² One member of the public who had previously submitted written comments attended the hearing, but during the public comment period, David Nutter indicated he was only present to observe.

2. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features;
3. All required public facilities have adequate capacity to serve the proposed development;
4. The applicable requirements of the zoning district, and other applicable documents are met except as amended by the conditional use permit or variances requested pursuant to Chapter 20.290 VMC; and
5. Identified impacts on adjacent properties, surrounding uses, and public facilities have been adequately mitigated.

Conclusions Based on Findings:

1. The site size and dimensions are adequate for the proposed use. The extended stay units would be located within a previously approved building. No change in building footprint is proposed or required for the use. *Findings 1, 2, and 3.*
2. As conditioned, all impacts of the proposed use can be accommodated considering size, shape, location, topography, and natural features. The extended stay units would be located within a previously approved building. The approved site plan provides sufficient parking for the extended stay units. *Findings 2 and 5.*
3. All required public facilities have adequate capacity to serve the proposed development. *Finding 6.*
4. Applicable zoning requirements are met in that Commercial and Transient Lodging is allowed in the CC zone with CUP approval. Setbacks, open space, and landscaping were evaluated as part of the earlier site plan approval and no change in building footprint is proposed. The conditions of approval would ensure that code requirements on solid waste disposal and fire protection are satisfied. *Findings 2, 4, 7, and 11.*
5. With conditions of approval, impacts to adjacent properties, surrounding uses, and public facilities have been adequately mitigated. The change from commercial space to extended stay units would have a minimal impact on the project's traffic generation. No PM peak hour trips would be added to the local street system. The change in use would not affect stormwater runoff. A condition is needed to ensure that the approved "commercial and transient lodging" use does not include a homeless shelter. While a homeless shelter is an example of commercial and transient lodging that may be conditionally approved in the CC zone, this review process was limited in scope to the proposal for extended stay units. A homeless shelter has potentially different impacts that were not evaluated and further review would be required before the units could be used for homeless housing. *Findings 9, 10, 13, and 14.*

DECISION

Based on the preceding findings and conclusions, the requested CUP to use 1,230 square feet of previously approved commercial space for three extended stay rooms at 333 SE 120th Avenue is **GRANTED** subject to the following conditions:

Prior to Civil Plan Approval

1. All conditions of the June 21, 2022 post decision review and April 16, 2020 preliminary approval remain in effect.
2. Adhere to the approved construction drawings depicted in ENG-77554.

Prior to Commencing Public Improvement Construction

3. Fire hydrants for emergency use shall be established and maintained.
4. Fire apparatus access roads shall be established and maintained.
5. Site security measures shall be installed to prevent unauthorized access.

During Public Improvement Construction

6. Satisfy submittal and other requirements itemized in the Notification of Civil Plan Approval and secure final civil project acceptance.
7. Temporary street and building address signage shall be visible and legible from the street fronting the property for emergency response during construction.
8. All fire safety provisions of the International Fire Code shall be adhered to.
9. No smoking signage shall be posted throughout the site except in designated smoking areas.
10. Site security shall be maintained to prevent unauthorized access.
11. Consideration for emergency vehicle access shall be taken when staging materials for construction.

Prior to Issuance of any Building/Development Permits

12. Pay all impact fees.
13. Revise the residential trash room plans for Levels 2-4 to provide space for two mixed recycling carts and one glass cart (total of three carts) in each room.
14. Revise plans to show Level 1 North and South Trash Rooms:
 - Service access doors with a minimum open width of eight feet As designed, 4-yard wheeled dumpsters (mixed recycling) will not fit through the doorways.
 - Receptacle locations must show dumpsters with the long end accessible to the user.

Dumpsters must be reoriented to accommodate current methods of local collection and pedestrian access between containers.

Prior to Issuance of Certificate of Occupancy

15. Register all underground injection control (UICs) with the Department of Ecology UIC program.
16. Street and address signage shall be visible and legible from the street fronting the property for emergency response. If applicable, individual suite numbers shall be posted at the suite doors. Where applicable, apartment building designations shall be visible and legible from all potential fire lane approaches.
17. Required fire lane signage shall be installed.
18. Any fire protection features identified as being required during the construction permit review shall be installed and approved prior to occupancy.
19. If a fire department Knox-Box was identified as a requirement during the construction permit review, it shall be installed at an approved location and locked with the required content.
20. Permanent vehicle gates crossing required fire lanes shall remain unlocked or open until approved by the fire department.
21. Conditions identified in the construction permit shall be met.
22. All requirements of the applicable fire and building codes and their referenced standards shall be met notwithstanding approved construction plans.
23. A final summary letter by the geotechnical engineer of record shall be prepared and submitted to the City of Vancouver that states the project soils were prepared in accordance with the governing geotechnical report and construction documents.
24. The specific commercial and transient lodging use authorized by this decision is hotel-type extended stay units. This decision does not authorize a homeless shelter. A change to a homeless shelter use would require separate conditional use approval.

Decided December 2, 2022.

By:



Sharon A. Rice
City of Vancouver Hearing Examiner