

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

In the Matter of the Application of)	No. PRJ-169236/LUP-84556
)	
)	
Clark County Internal Services)	Clark County Jail Expansion
)	
)	
For Site Plan Approval and a)	FINDINGS, CONCLUSIONS, AND
Conditional Use Permit)	DECISIONS
_____)	

SUMMARY OF DECISIONS

The request for site plan approval and a conditional use permit to construct a 64-bed, medium-security detention facility and associated improvements at 5197 NW Lower River Road is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Clark County Internal Services requested site plan approval and a conditional use permit to construct a 64-bed, medium-security detention facility and associated site improvements at the site of the existing Clark County Jail Work Center. The detention facility would be approximately 12,500 square feet in area. The subject property is located at 5197 NW Lower River Road, Vancouver, Washington.

Hearing:

The City of Vancouver Hearing Examiner conducted a virtual record hearing on the request on January 21, 2025. The record was held open through January 23, 2025 to allow any members of the public having difficulty accessing the virtual hearing to submit written comments, with time scheduled for responses by the parties. No post-hearing public comment was received, and the record closed on January 23, 2025.

No in-person site visit was conducted, but the Examiner viewed the subject property and surroundings on Google Maps.

Testimony:

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

Mark Person, Senior Planner, City of Vancouver

Michael Chen, Senior Land Use Planner, Mackenzie

Chad Lawrence, Civil Engineer, Mackenzie

Michelle Schuster, Clark County Director of Internal Services

Exhibits:

The following exhibits were admitted in the record through the virtual hearing process:

1. Staff Report, dated January 7, 2025
 - A. Application, submitted September 25, 2024
 - B. Applicant Narrative
 - C. Development Plans
 - D. SEPA Checklist
 - E. Notice of Application and Optional Determination of Non-Significance, dated December 9, 2024
 - F. Clark County Development Review Letter, dated October 8, 2024
 - G. Environmental Analysis by Department of Ecology, dated June 2015
 - H. Noise Study by Wilson Ihrig & Associates, dated April 20, 2011
 - I. Acoustical Report by the Greenbusch Group, Inc., dated April 9, 2024
 - J. Trip Generation and Distribution Report by Mackenzie, dated September 3, 2024
 - K. Trip Calculations Worksheet, dated December 9, 2024
 - L. Addressing Notice
 - M. Stormwater Report by Mackenzie, dated September 4, 2024
 - N. Geotechnical Report by Columbia West, dated April 3, 2024
 - O. Essential Public Facility 90-day notice
 - P. Certified Mailing List
 - Q. Final Determination of Non-Significance
 - R. Port of Vancouver Letter, dated December 6, 2024
 - S. Notice of Application, Remote Public Hearing, and Optional SEPA Determination of Non-Significance (DNS), dated November 6, 2024
2. Applicant PowerPoint Presentation
3. City PowerPoint Presentation

Based on the record developed through the open record hearing process, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

1. Clark County Internal Services (Applicant) requested site plan approval and a conditional use permit to construct a 64-bed, medium-security detention facility and associated site improvements at the site of the existing Clark County Jail Work Center. The detention

facility would be approximately 12,500 square feet in area. The subject property is located at 5197 NW Lower River Road, Vancouver, Washington. *Exhibits 1, 1.A, 1.B, and 1.C.*

2. The subject property is 11.19 acres in area and is developed with three buildings generally located in the western portion of the property and associated parking. Northwest Gateway Avenue borders the subject property to the west and NW Harborside Drive borders the subject property to the south. Existing facilities at the subject site, which is known as the Jail Work Center (JWC), include medium-security detention for inmates, laundry and kitchen services that serve the main jail and the JWC, a warehouse building used for County logistics, and a crisis center (operated by a contractor) that serves as a County detox facility. Since covid, the work release building has been used as office and training space for various County programs; however, it is expected to transition back to work release at some time. *Exhibits 1, 1.B, and 1.C; Testimony of Michael Chen and Michelle Schuster.*
3. The subject property is zoned Heavy Industrial (IH). Detention and post-detention facilities are allowed in the IH zone with conditional use permit review and approval. *Exhibits 1 and 3.* Although the proposed use is classified as an essential public facility, the Applicant argued - and City Planning Staff concurred - that an alternatives analysis is not required per Vancouver Municipal Code (VMC) 20.855.020.B(5) because the use is already established on the site. *Exhibits 1 and 1.B.*
4. Surrounding properties are zoned IH and are developed with industrial land uses largely operated by the Port of Vancouver. There are no residences or schools in the vicinity. *Exhibits 1, 1.B, and 3.*
5. In the IH zone, there is no minimum lot size, lot width, or lot depth. The maximum lot coverage is 100%, and there are no minimum building setbacks from nonresidential properties other than those required to meet the buffering and screening standards of VMC 20.925.030. There is no maximum building height. *VMC Table 20.440.040-1; Exhibits 1 and 1.B.*
6. The proposed building would be constructed in the southeast portion of the property. The building would be approximately 24 feet in height, would be set back approximately 88 feet from the nearest property line, and would cover less than three percent of the lot. The total impervious surface coverage on site after the proposed development is complete, including existing buildings and parking, would be approximately 41%. The facility would be enclosed by eight-foot tall security fencing. *Exhibits 1, 1.B, and 1.C.*
7. The proposed building would provide 32 beds in double rooms, 32 beds in quad rooms, and three day rooms. Indoor exercise, counseling, and support services would be provided on site. *Michelle Schuster Testimony.*
8. The landscaping requirements applicable to proposal include a five-foot L1 buffer to the east of the project area and a 10-foot L2 buffer to the south of the project area. In

addition, 10% of the parking areas must be landscaped, and solid waste storage facilities must be screened with vegetation, fencing, or walls. The Applicant's landscaping plan depicts that there are already numerous trees along the subject property's NW Harborside Drive frontage that would be retained. Shrubs would be added along the new emergency access driveway from Harborside Drive and between the perimeter fencing and the road. New trees and shrubs would be planted to the east of the project area, around the stormwater facilities, and within the new parking areas. Planning Staff submitted that, with recommended conditions, the perimeter buffering and other landscape standards would be satisfied. The recommended conditions require solid waste enclosure screening to be shown and shade trees to be provided within parking lot landscape islands. *Exhibits 1 and 1.C.*

9. The minimum number of parking stalls required for a detention facility is one space per three beds. For the proposed 64-bed facility, 21 stalls are required. The Applicant proposes 41 new parking stalls on site, including two ADA stalls and 39 standard stalls. *Exhibits 1.B and 1.C.*
10. The project is subject to the electric vehicle (EV) charging infrastructure requirements of Washington Administrative Code (WAC) 51-50-0429. Although the Applicant did not propose to provide such infrastructure due to expected low EV usage, the requirement is based on building occupancy type and does not exempt specific uses. Consequently, Staff recommended as a condition of approval that the Applicant update the site plan to show the location of required equipment and parking spaces. Based on Staff's analysis, five EV charging stations, five EV-ready parking spaces, and five EV-capable parking spaces are required. *Exhibits 1 and 1.B; Testimony of Mark Person and Michael Chen.*
11. Primary access to the new building would be from the existing site access from NW Gateway Avenue. A new fire lane is proposed along the south side of the building, which would connect to NW Harborside Drive. There would be a 20-foot wide gate through the perimeter security fencing for fire access, with a Knox box. *Exhibits 1.B and 1.C.*
12. Both NW Gateway Avenue and NW Harborside Drive are private roads that are owned by the Port of Vancouver. In its comments on the application, the Port noted that the Applicant does not have an easement to establish a new access onto Harborside Drive. Planning Staff recommended that the Applicant be required to demonstrate legal access to Harborside Drive prior to civil plan approval. *Exhibits 1 and 1.R.*
13. Based on the rates contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (11th Edition), the proposed detention facility is expected to generate 63 average daily trips, including 16 PM peak hour trips. *Exhibit 1.J.* City Transportation Staff do not consider the anticipated traffic generation to trigger a requirement for mass transit service per VMC 20.855.020.B.2. *Exhibit 1.*
14. The subject property is located within the No. 1531 Transportation Analysis Zone and would contribute new PM peak hour trips to two Transportation Management Zones, including the Mill Plain Blvd and Fourth Plain corridors. To address this impact, the

- Applicant would be required to pay concurrency modeling fees of \$897 prior to civil plan approval. *Exhibits 1 and 1.K.*
15. The project is subject to payment of transportation impact fees pursuant to VMC 20.915, which would be calculated at the time of building permit application. Based on the fee schedule currently in effect, the estimated fee amount is \$12,852. *Exhibits 1 and 1.K.*
 16. Public water and sewer utilities are available to the site. Based on Staff's review, the Applicant's plans demonstrate that the applicable water and sewer requirements can be satisfied. *Exhibits 1 and 1.C.*
 17. Stormwater runoff would be managed on site in accordance with City standards. The stormwater system would include bioretention facilities designed to achieve enhanced treatment of runoff and an infiltration pond. All stormwater runoff would be infiltrated on site. The Applicant's stormwater plans have already been through the civil review process and Staff did not identify any conditions of approval needed to ensure compliance with the relevant standards. *Exhibits 1 and 1.M.*
 18. The Applicant has submitted erosion control plans that have already been through the civil review process. City Staff did not identify any conditions of approval needed to ensure compliance with the relevant standards. *Exhibit 1.*
 19. Based on the standards of VMC 20.970.030, the minimum solid waste storage for the proposed and existing buildings on site is 351 square feet. *Exhibit 1.* There is an existing solid waste storage area on site that exceeds this requirement. The storage area is located near the main site entrance in an area that is accessible to collection vehicles. *Exhibits 1, 1.B, and 1.C.*
 20. The northeast corner of the subject property is within the 100-year floodplain, a regulated critical area. However, the proposed building would be in the southeast corner of the subject property and no development activities are proposed within the floodplain. *Exhibits 1.B and 1.C.*
 21. The project area is generally flat. Although the subject property is mapped as having geologic hazards, this is due to steep slopes that are associated with the Gateway Avenue overpass to the west of the project area. No development is proposed within or adjacent to slopes onsite. *Exhibits 1 and 1.C.*
 22. The City's tree conservation ordinance (VMC 20.770) requires a minimum tree density of 30 tree units per acre of site disturbance and requires that trees be retained where feasible. In this case, the area of site disturbance would be 2.32 acres, requiring 70 tree units of trees. To meet the minimum tree density requirement, the Applicant proposes to

retain 10 trees¹ totaling 15 tree units and plant 59 new trees, for a total of 74 tree units. At least 75% of the trees would be evergreens. *Exhibits 1, 1.B and 1.C.*

23. The subject property is within an area with high probability of discovery of archaeological resources. An archaeological predetermination report was prepared for the project pursuant to VMC 20.710.070. The conclusion of the report was that an archaeological survey is not required. However, Planning Staff recommended a stop work/notification condition of approval to address unanticipated discovery of archaeological deposits during construction, consistent with VMC Chapter 20.710. *Exhibits 1 and 1.B.*
24. Consistent with the early notice requirements applicable to essential public facilities (VMC 20.855.020.B.1), a notice of intent to submit the CUP application was published in *The Columbian* on March 12, 2024. *Exhibit 1.O.* The application was filed on September 25, 2024 and deemed complete on October 23, 2024. *Exhibit 1.S.*
25. The City of Vancouver acted as lead agency for review of environmental impacts caused by the proposal pursuant to the State Environmental Policy Act (SEPA). After review of the Applicant's environmental checklist and application materials, the SEPA Responsible Official issued a notice of application, remote public hearing, and optional SEPA determination of non-significance (DNS) on November 6, 2024. This notice was mailed to the owners of properties within 500 feet of the site. *Exhibits 1.S, 1.D, and 1.P; Mark Person Testimony.* The Port of Vancouver submitted written comments in response to the notice, which included concerns relating to soil contamination of the site, stormwater management, security, traffic, and access. *Exhibit 1.R.* The City issued a final DNS on December 9, 2024, which was not appealed. *Exhibits 1 and 1.Q; Mark Person Testimony.*
26. Subsequent to the SEPA process, the Applicant met with Port representatives to discuss the issues of concern, with the primary remaining issue being the emergency access from Harborside Drive. *Michael Chen Testimony.* In its comments, the Port described Harborside Drive as the major east-west thoroughfare through the port property, carrying a high volume of heavy trucks and cargo shipments. *Exhibit 1.R.* To address the Port's concerns, the Applicant agreed to obtain an easement for emergency access only, as required by the City's recommended conditions of approval, and to relocate the proposed construction entrance, which was originally planned to be from Harborside Drive at the proposed emergency access. In addition, the Applicant proposes to modify the gate location to prevent vehicle staging in front of the gate. *Testimony Michael Chen and Chad Lawrence.* The Port received notice of the public hearing and did not submit further concerns. *Exhibits 1.P and 1.S; Mark Person Testimony.*

¹ It should be noted that substantially more than 10 trees would be retained on the subject property in the project vicinity. It is not clear which 10 trees were credited as retained trees for purposes of the tree density calculation. *Exhibit 1.C.*

27. The City of Vancouver recommended approval of the CUP and site plan, subject to the conditions listed in the Staff Report. *Exhibit 1; Mark Person Testimony*. Applicant representatives waived objection to the recommended conditions of approval. *Michael Chen Testimony*.

CONCLUSIONS

Jurisdiction:

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

The Hearing Examiner has jurisdiction to hear and decide Type II site plan reviews pursuant to VMC 20.210.020.D, which specifies that when more than one permit is required for a given proposal, all applications are consolidated into a single review subject to the highest type of procedure that applies to any of the applications.

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. 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.

Site Plan Criteria for Review:

Pursuant to VMC 20.270.050 Site Plan Approval Criteria, a site plan shall be approved when the following criteria are satisfied:

- A. Compliance with applicable standards. The proposed development shall comply with all applicable design and development standards contained in this Title and other applicable regulations.
- B. Adequacy of public facilities. The applicant shall demonstrate availability of adequate public services, e.g., roads, sanitary and storm sewer and water, available to serve the site at the time development is to occur, unless otherwise provided for by the applicable regulations.

Conclusions Based on Findings:

1. As conditioned, the criteria for approval of a conditional use permit are satisfied.
 - a. The site size and dimensions are adequate for the use, as evidenced by the project's compliance with applicable landscaping, tree conservation, and parking standards, the relatively large setbacks proposed, and the relatively low overall impervious surface coverage proposed. No variance from any standards was requested to accommodate the use. *Findings 2, 5, 6, 8, 9, and 22.*
 - b. With conditions, the impacts of the proposed use can be accommodated considering size, shape, location, topography, and natural features. The proposed use would be compatible with the existing/historic use of the site. No development is proposed on or adjacent to steep slopes on site, and no other natural features that would prevent the development as proposed have been identified. The use would be screened by existing buildings, existing trees along the street frontage, and proposed landscaping. All surrounding properties are zoned for industrial development. Impacts associated with the property's private road access are addressed through a condition requiring the Applicant to obtain an easement from the Port. *Findings 2, 3, 4, 6, 8, 11, 12, 20, 21, 26, and 27.*
 - c. Existing public facilities have capacity to serve the project. *Finding 16.*
 - d. As conditioned, the proposal satisfies applicable development regulations. There are few bulk standards applicable to the IH zone. Sufficient tree density, landscape buffers, parking, and solid waste storage would be provided. Conditions are needed to ensure that EV charging infrastructure requirements and parking lot landscaping requirements are satisfied and that concurrency and impact fees are paid. *Findings 5, 6, 8, 9, 10, 14, 15, 19, 22, and 27.*
 - e. As conditioned, identified impacts have been adequately mitigated. The proposed landscape buffers would meet or exceed ordinance requirements. The traffic generated by the use would not be significant and would be mitigated through payment of impact fees. The access to Harborside Drive would be limited to emergency access only, and the Applicant is working with the Port of Vancouver to minimize the potential for conflict with other Port traffic. Stormwater would be treated to enhanced standards and infiltrated on site. The conditions of approval address protection of archaeological resources during construction. The project was reviewed pursuant to SEPA, and a DNS was issued. *Findings 4, 6, 8, 11, 12, 13, 14, 15, 17, 18, 23, 25, 26, and 27.*
2. As conditioned, the criteria for site plan approval are satisfied.
 - a. As described in Conclusion 1.d, the project would comply with applicable development standards. *Findings 5, 6, 8, 9, 10, 14, 15, 19, 22, and 27.*
 - b. The Applicant has demonstrated adequacy of public facilities through connection to the public water and sewer system and treatment and infiltration of stormwater on site. A condition of approval would ensure that a new emergency access would be legally

established to the site and traffic impact fees would be paid. *Findings 11, 15, 16, 17, 26, and 27.*

DECISIONS

Based on the preceding findings and conclusions, the request for a conditional use permit and site plan approval to construct a medium-security detention facility at 5197 NW Lower River Road is **GRANTED** subject to the following conditions.

Prior to Civil Plan Approval

1. Upload the civil plan review set showing all the revisions requested as well as all necessary reports (geotechnical, hydrology, traffic analysis, road modification, etc.). Include a detailed site plan in the civil plan review set. For questions on these requirements please contact 360-487-7804.
2. Grading plan review fees will be due upon submittal of civil plans for review. Contact Permit Center staff at 360-487-7802 to obtain a fee quote.
3. Place the following note on the grading plan, "If any archaeological deposits are discovered during site work, work must stop, and the City of Vancouver and State Department of Archaeology and Historic Preservation must be notified."
4. Demonstrate legal access to Port of Vancouver's Harborside Drive for the emergency access road.
5. Show solid waste enclosures in compliance with screening standards.
6. Update photometric plan to show lighting levels at the two accessible spaces north of the proposed building in compliance with lighting standards.
7. At least one shade tree is required in landscape islands within parking areas. Due to sewer and gas, plant the two shade trees in larger landscape island that separates the parking areas.
8. Pay concurrency modeling fees totaling \$897.
9. Complete the sanitary sewer design on the civil drawings. Prepare according to Vancouver's current General Requirements and Details for Design and Construction. Address redline comments. Show, note, and specify a short on-site public sanitary sewer easement. Confirm heavy maintenance vehicle access. Submit the final design for civil plan approval.
10. New and existing fire hydrant locations related to this project shall be shown.
11. Fire department connections shall be shown to be located within 150 feet hose lay of a hydrant.

12. A note shall be included on the water utility pages, “Underground fire sprinkler supply mains shall be installed only by contractors in compliance with WAC 212-80 and endorsed in accordance with VMC 16.04.095 under separate permit.”
13. An approved fire response plan shall be included in both the civil plans and the architectural plans.
14. Show location of electrical vehicle supply equipment including EV chargers, EV-ready stalls including EV accessible parking stalls per 1107.2 and 429.4. Also show location of EV-capable stalls. Provide this additional information in the parking table and indicate locations on the site plan.
15. Clearly identify the accessible route and demonstrate that EV charger locations do not impede accessibility.

Prior to or during construction

16. Construct the new service lateral as shown on the approved civil plans. Satisfy construction services inspection and testing requirements and secure construction acceptance. Satisfy submittal and other requirements itemized in the Notifications of Civil Plan Approval and secure final civil project acceptance.
17. All fire hydrants for emergency use shall be established and maintained clear for emergency use.
18. Fire apparatus access roads shall be established.
19. Temporary address signage shall be visible and legible from the street fronting the property for emergency response during construction.
20. Fire hydrants shall not be obstructed in any manner.
21. Fire apparatus access roads shall be maintained clear for emergency response.
22. FDC/Standpipes shall be provided and accessible during construction, if applicable.
23. Fire extinguishers and no smoking signs shall be provided during construction.

Prior to Issuance of Building Permits

24. Pay all applicable fees, including impact fees.

Prior to Issuance of Certificate of Occupancy

25. Pay application fees and system development charges and secure a sewer connection permit. Connect building sewer to the new service lateral according to the plumbing code and satisfy inspections.

26. Provide a certificate from a licensed landscape architect stating that the landscaping indicated on the final landscape plan has been installed.

Ongoing

27. If at any time the proposal is out of compliance with the off-site impact regulations of VMC 20.935, the property owner must make revisions to bring the site into compliance.
28. Parking shall be made available for the use it serves at time of occupancy and shall not be used for storage of vehicles or materials.

Decided February 7, 2025.



Sharon A. Rice
Vancouver Hearing Examiner

Note:

The hearing examiner's decision may be appealed to the Vancouver City Council within 14 calendar days after the date the examiner's decision is distributed. Appeals must be made in writing and be received within this time period. The letter of appeal shall state the case number designated by the city and the name of the applicant, name and signature of each petitioner, a statement showing that each petitioner is entitled to file the appeal under VMC Chapter 20.210.130.B, the specific aspect(s) of the decision being appealed, the reasons each aspect is in error as a matter of fact or law, and the evidence relied upon to prove the error (VMC 20.210.130.A).

A fee of \$2,468.00 must accompany the appeal. However, if the aggrieved party is a recognized neighborhood association, the fee assessed is \$186.00. The association must demonstrate at the time of appeal submittal that the decision to appeal was made pursuant to association bylaws.

Due to the limited days the permit center is open for walk-in assistance, the appeal request shall be emailed to eplans@cityofvancouver.us as well as to the case manager's e-mail address below and the appeal fee electronically paid to the City of Vancouver.

For questions or additional information, you may contact the case manager by telephone at 360-487-7885, or by e-mail at mark.person@cityofvancouver.us .