

Hearing Examiner's Report  
Conditional Use Permit 17-11

**DATE:** January 12, 2017

**APPLICANT NAME:** Jacqueline Thomas

**MAILING ADDRESS:** 653 N. 11<sup>th</sup> Avenue, Pocatello, ID 83201

**PROPERTY OWNER:** Jacqueline Thomas

**LOCATION OF REQUEST:** 916 E. Sublette Street

**LEGAL DESCRIPTION:** Lots 11, 12, 13 and the south 15 feet of Lot 14, Block 169, Pocatello Townsite, Ba County, Idaho

**TYPE OF REQUEST:** Conditional Use Permit

No. \_\_\_\_\_  
 Recorded at request of:  
**CITY OF POCATELLO**  
 Date: 1/17/17 Time: 11:39 a.m.  
 Official Record Book 1011  
 Bannock County Recorder  
 Fee 0 Deputy KD

**I. REQUEST**

John Leith, representing Jacqueline Thomas of Praise Temple of God requests a conditional use permit to allow a supervised group living facility in the existing building at 916 E. Sublette Street. The property is located within a Residential Medium Density Multi-Family (RMM) zoning district with an Original Townsite Overlay (OTO). Municipal Code 17.03.230 allows supervised group living facilities in this zoning district through the conditional use permit process.

**II. FINDINGS OF FACT**

1. The Hearing Examiner disclosed that he visited subject site on prior to the Hearing Date to observe the physical character and relationships to the subject property. No ex-parte communication took place with anyone prior to the public hearing or during the writing of this report beyond information gathered or requested at said public hearing.
2. Public Hearing: A noticed Public Hearing on this request was scheduled on January 12, 2017 at 5:30 PM in the City Council Chambers at Pocatello City Hall.
3. Public Notice: Notice of this application was published in the Idaho State Journal, sent to property owners within a 300 foot radius of the subject site, and a sign was posted on the property giving notice of the hearing.
4. Staff Analysis: Matthew Lewis presented the staff report.
  - a. The property is located at 916 E. Sublette Street, at the intersection of E. Sublette Street and N. 8<sup>th</sup> Avenue.

5-2

- b. The properties to the north, south, and east are mostly residential homes, with KPVI studios one block to the north, Health West clinic two blocks to the north, and SEICAA, St. Anthony Place, and Holy Spirit Church and School to the south. The properties to the west include the Federal Courthouse, Pocatello City Hall and Police Department, and Idaho State University Community Education.
- c. Site Plan Review. The submitted site plan shows the building, parking, and lawn areas. The applicant has proposed no changes to the exterior of the site.
- d. Municipal Code 17.02.130 defines conditional use permits as: “Conditional uses are uses that are allowed within a zoning district provided that certain standards (or “conditions”) are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the City an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses.”
- e. Municipal Code Section 17.01.170(A)(3)(c) outlines the standards by which conditional use permits for expansion of legal non-conforming uses are to be reviewed.

5. Public Input:

- a. Public Comment: Prior to the Public Hearing, four written letters were received by the City. Also, City staff reported that prior to the Public Hearing, many telephone calls were received, some expressing opposition with others asking questions.
- b. Public Hearing:

The Public Hearing was opened at approximately 6:07 PM.

Multiple comments were received in opposition to the application  
A few comments were received and deemed neutral to the application  
Multiple comments were received in favor of the application

The Public Hearing was closed at approximately 7:10 PM.

- 6. Hearing Examiner noted that the decision would be available to public on January 17, 2017 by 12:00 PM.

Idaho Code Section 67-6521 allows the applicant and/or other affected persons who do not agree with the decision of the Hearing Examiner to appeal in writing to the City Council within ten (10) days from the date of the Hearing Examiner’s decision. At that time, additional fees may be required and a new timeline may be established for the City Council consideration of the appeal.

5-3

21700763

CUP17-11: Jacqueline Thomas  
916 E. Sublette Street  
Hearing Date – September 10, 2015  
Page 3 of 5

### III. MUNICIPAL CODE/COMPREHENSIVE PLAN

Municipal Code 17.02.130 defines conditional use permits as: "Conditional uses are uses that are allowed within a zoning district provided that certain standards (or "conditions") are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the City an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses."

Municipal Code Section 17.01.170(A)(3)(c) outlines the standards by which conditional use permits for expansion of legal non-conforming uses are to be reviewed.

### IV. CONDONAL USE PERMIT FINDINGS

Municipal Code 17.02.130(E), "Authority to Grant: The hearing body may approve, approve with conditions, or deny an application for a conditional use permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section 67-6521) to the City Council, using the process outlined in (Municipal Code) Section 17.02.400, Appeals."

Municipal Code 17.02.130(D)(1) Criteria for Review. The hearing body shall review the facts and circumstances of each proposal in terms of the following standards and determine whether there is adequate evidence showing that the requested use at the proposed location:

- 1. The use sought is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the ordinance unless modified through the CUP process.**

*The use sought for a supervised group living facility is conditionally permitted within the subject zoning district. Group Living Facilities are defined as "Living facilities for groups of unrelated individuals which include at least one person residing on the site who is responsible for supervising, managing, care, training or treatment of residents. Group living facilities may also be characterized by monitoring, and/or providing shared facilities for eating, hygiene, and/or recreation. Examples include, but are not limited to, nursing/convalescent homes, residential care or treatment facilities; and convents or monasteries. Tenancy is longer than one month. Does not include detention and postdetention facilities." 17.01.160.B.1.c*

- 2. The use sought is consistent with the goals and policies of the Comprehensive Plan.**

*Goal 7 of Chapter 8 (Public Services, Facilities & Utilities) of the City's Comprehensive Plan states:*

*Health and Welfare Services. Promote the provision of health and welfare services by qualified agencies and entities within the community.*

*Objective 7.1: Support programs that provide for the needs of people within the community during times of distress, including shelter, safety, nourishment and counseling.*

*Policy a.: Provide a compassionate environment for agencies and entities that provide needed services to the community.*

*The proposed use is consistent with the above referenced goals of the City's Comprehensive Plan.*

**3. The use sought is compatible with existing and permitted land uses within the general area.**

*To meet the standards of being a supervised group living facility rather than a shelter, tenancy must be longer than 30 days. Further, longer-term tenancy would lend such a facility a more residential appearance than that of a homeless shelter, making it somewhat more compatible with the existing and permitted land uses in the area.*

**4. The use sought could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police, fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety and welfare.**

*The requested use can be adequately served by public facilities and will not be detrimental to those facilities.*

**5. The use sought would be harmonious in scale, mass, coverage, density and intensity with all adjacent permitted land uses.**

*The proposal, as outlined, will be harmonious in scale, mass, coverage, density, and intensity with the adjacent permitted land uses.*

**6. The use sought would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.**

*The site is an existing building that has housed residential and office uses in the past. It is not anticipated that any greater effect on the environment than had a use permitted outright by the ordinance been established.*

**7. The use sought would not be detrimental to the public interests, health, safety or welfare of the City in its proposed location, size, design and operating characteristics.**

*If operated in accordance with the conditions of this decision, the proposed use would not damage the public health, safety, or general welfare of the neighborhood or community as a whole beyond that typical of said use.*

**V. CONCLUSIONS AND DECISION**

Based on the review of the application, staff analysis, site visit, and public comment, it is the opinion of the Hearing Examiner that the application for a Conditional Use Permit (CUP 17-11) for subject facility meets the requirements as set forth in municipal code and ordinances and is specifically allowed by definition. As Hearing Examiner, I hereby approve the Conditional Use Permit as requested subject to the following conditions:

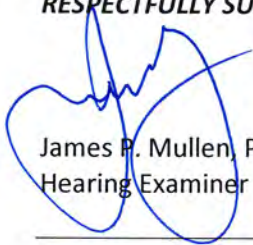
1. All applicable City Code requirements, including but not limited to building and fire codes, must be met prior to occupancy of the structure.
2. No more than 16 persons can be living at the site at any one time.

5-5

21700763

- 3. Tenancy of residents must be at least 30 days, unless moving to a permanent home;
- 4. One parking space must be designated as handicap van accessible;
- 5. Hours of operation for any non-residential activities, such as but not limited to client in/out-take, counseling, classes, etc., shall be no earlier than 6AM nor later than 10PM
- 6. Employees must use the "stacked" parking space on the north side of the parking lot.
- 7. Signs, if any, must meet the standards for Home Occupations.
- 8. The term of the Conditional Use Permit shall not exceed the ownership of property by Jacqueline Thomas.
- 9. Records of tenancy history shall be made available to City Staff upon request. Violation of tenancy requirements may be subject to revocation of Conditional Use Permit.

RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of January 2017,




James P. Mullen, P.E.  
Hearing Examiner

STATE OF IDAHO                                    )  
                                                                  ss:  
County of Bannock                                )

On this 17<sup>th</sup> day of January, 2017, before me, the undersigned, a Notary Public in and for the State, personally appeared James P. Mullen, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly sworn, acknowledged to me that James P. Mullen executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO  
Residing in  
My commission expires: 10-6-2020