

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF PORT ORCHARD**

In the Matter of the Application of	)	No. LU16-CUP-04
	)	
	)	DCL Mini-Storage
<b>Rodney Bauch, on behalf of</b>	)	
<b>RBA Design</b>	)	
	)	FINDINGS, CONCLUSIONS,
<u>For a Conditional Use Permit</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit to remodel an existing commercial building to support a self-storage facility at 2505 SE Mile Hill Drive, Suite 201, is **GRANTED**. A condition is necessary to mitigate specific impacts of the project.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on December 13, 2016.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Stephanie Andrews, City Associate Planner  
Mark Dorsey, City Public Works Director  
Brad Wiggins, Deputy Fire Marshal, South Kitsap Fire & Rescue  
Rodney Bauch, Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Application submittal
  - A. Conditional Use Permit Application, received August 30, 2016
  - B. Property Owners List Verification, dated August 25, 2016, with mailing list
  - C. Property Owners Map, dated August 15, 2016
  - D. Project Narrative, dated August 15, 2016
  - E. Site Map, dated August 15, 2016
  - F. Vicinity Map, dated August 15, 2016
  - G. Floor Plan, dated August 15, 2016
  - H. Site Plan, dated August 15, 2016
  - I. Site Plan / Floor Plan, dated August 15, 2016
2. Parcel report and map, dated August 31, 2016
3. Application Transmittal – Request for Review, dated August 31, 2016

*Findings, Conclusions, and Decision  
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DCL Mini-Storage CUP, No. LU16-CUP-04*

4. Email from John Robinson, City Building Inspector, to Stephanie Andrews, dated September 1, 2016
5. Memo from Brad Wiggins, Deputy Fire Marshal, to Stephanie Andrews, dated September 12, 2016
6. Email from Doug Price to Stephanie Andrews, dated September 12, 2016
7. Determination of Incomplete Application, dated September 21, 2016
8. Capacity Reservation Certificate Application, received October 5, 2016
9. Determination of Complete Application, dated October 19, 2016
10. Notice of Application, dated October 28, 2016, with photo
11. Affidavit of Mailing, Notice of Hearing (sic), dated October 28, 2016
12. Affidavit of Publication, Notice of Application, and *Port Orchard Independent* ad copy, dated October 28, 2016
13. Affidavit of Posting, Notice of Application, dated November 2, 2016, and photo 11/2/16
14. Notice of Public Hearing, issued December 2, 2016
15. Affidavit of Mailing, Notice of Hearing, dated December 2, 2016
16. Affidavit of Publication, Notice of Hearing, dated December 2, 2016
17. Affidavit of Posting, Notice of Hearing, dated December 1, 2016, and two photos
18. Staff Report
19. Certification of Public Notice

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

### **FINDINGS**

#### Application and Notice

1. Rodney Bauch,<sup>1</sup> on behalf of RBA Design (Applicant), requests a conditional use permit (CUP) to remodel an existing commercial building to support a self-storage facility. The property is located at 2505 SE Mile Hill Drive, Suite 201.<sup>2</sup> *Exhibits 1.A and 1.E to 1.I; Exhibit 18, Staff Report, page 1.*
2. The City of Port Orchard (City) determined that the CUP application was complete on October 19, 2016. The City mailed notice of the application to the Applicant, Applicant Representative, and property owners within 300 of the property and published notice in the *Port Orchard Independent* on October 28, 2016. The City posted notice on the property on November 2, 2016. The City received no comments. The City posted notice of the open record hearing on the property on December 1, 2016, and, the next day, mailed notice to the Applicant, Applicant Representative, and property owners within

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<sup>1</sup> Rodney Bauch, on behalf of RBA Design is authorized to act as agent for the property owner, EPO Commerce Center. *Exhibit 1.A.*

<sup>2</sup> The property is identified by tax parcel number 252401-4-068-2009. *Exhibit 1.E; Exhibit 18, Staff Report, page 1.* A legal description of the property is provided in Exhibit 1.E.

300 of the property and published notice in the *Port Orchard Independent*. Exhibits 9 through 17; Exhibit 18, Staff Report, pages 1 and 7; Exhibit 19.

#### State Environmental Policy Act

3. The City acted as lead agency as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The City determined that the proposed change in use is exempt from SEPA requirements because the authorized activities would be conducted within an existing building or facility qualifying for exemption under Washington Administrative Code (WAC) 197-11-800(1) and (2), and the activities would not change the character of the building or facility in a way that would remove it from an exempt class. *WAC 197-11-800(6)(b)(ii)*. Exhibit 18, Staff Report, page 4.

#### Comprehensive Plan and Zoning

4. The property is designated Commercial by the City Comprehensive Plan (Comprehensive Plan). Surrounding property to the east, south, and west are also designated Commercial. Property to the north is designated Public and Community Spaces. The City staff determined that the proposal would further the implementation of Comprehensive Plan Goal 7, to encourage the development of active, vibrant, and active destinations throughout the community, and Goal 8, to connect new and existing neighborhoods to each other, to commercial and employment centers, and to public facilities, as relevant.<sup>3</sup> The property is located within an area (Lower Mile Hill) identified by the Comprehensive Plan as a Center of Local Importance (Center). A sub-area plan for this area is in development. City staff identified the following broad guidance, applicable to all Centers, as applicable to the proposal: Policy CN-2, to focus future growth in designated higher intensity areas in an effort to encourage the preservation of open space and maintain surrounding neighborhood character, and Policy CN-4, to provide commercial services that serve the population of the Center, surrounding neighborhoods, the city, and the region (dependent on the suitability of the scale of each Center). Exhibit 18, Staff Report, pages 1 through 3.
5. The City has zoned the property Commercial retail and office (Co). The purpose of the Co zone is to provide for the broadest mix of retail, service, office, and commercial recreation/cultural uses serving the Port Orchard and surrounding market areas and to offer significant employment opportunities. *POMC 16.13.150(1)*. Self-service storage is a conditional use within the Co zone. *POMC 16.30.030, Table 16.30.030*. The City has not adopted commercial development design criteria. City Planner Stephanie Andrews testified that the building to be repurposed meets existing code requirements for the Co zone. Properties to the north and east are also zoned Co and have commercial uses. Property to the south is zoned Community Facilities and has commercial uses. Property to the west is also zoned Community Facilities and includes the South Kitsap High

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<sup>3</sup> City staff identified the following Comprehensive Plan polices as relevant to the proposed use: Policy LU-25 and LU-26. Exhibit 18, Staff Report, pages 2 and 3.

School baseball field. *Exhibit 1.E; Exhibit 18, Staff Report, pages 1, 2, and 5; Testimony of Ms. Andrews.*

#### Proposed Use

6. The 2.03-acre parcel is relatively flat and contains three buildings with parking areas. Rodney Bauch, Applicant Representative, testified that the buildings were likely constructed in the 1970s. Ms. Andrews testified that the existing buildings include a variety of commercial uses, including offices, physical therapy, and a restaurant. The Applicant would convert the first story of the northwest building (Suite 201), containing 1,258 square feet of unused retail and office space, to mini-storage rental space. Ms. Andrews testified that 16 mini-storage units would be constructed and that the facility would be unstaffed. New interior non-structural partitions would be installed. No exterior changes are proposed. The Applicant submitted a Capacity Reservation Certificate showing no proposed water or sewer use. The Applicant would remove existing plumbing fixtures and cap existing plumbing lines. Mr. Bauch testified that the mini-storage proposal was designed to meet the needs of the existing tenants for storage. He explained that the land slopes with offices on the second story and the proposed mini-storage facility space on the first story accessed from below. He testified that the first story space has been difficult to rent and not been used for about five years. *Exhibit 1.A; Exhibit 8; Exhibit 14; Exhibit 15; Exhibit 18, Staff Report, page 6; Testimony of Ms. Andrews; Testimony of Mr. Bauch.*

#### Traffic and Parking

7. SE Mile Hill Drive runs east/west along the south property line and provides site access from the south. City staff reviewed traffic impacts from the proposal. City Public Works Director Mark Dorsey testified that the Institute of Transportation Engineers (ITE) Trip Generation Manual (9<sup>th</sup> Edition) trip generation rate for the current use of “General Office” is 1.49 per 1,000 square feet. The ITE category of “Mini Warehouse” has an associated trip generation rate of .26 per 1,000 square feet. The City determined that the proposal would have a significantly lower traffic impact rate and would not be expected to impact circulation of the site or surrounding area. The site plan depicts at least 70 parking spaces on-site. Ms. Andrews testified that she reviewed the existing on-site parking and determined that it was adequate. Therefore, no additional parking spaces would be required for the proposed mini-storage use. She testified that exterior lighting would not be an issue because the surrounding uses are all commercial. *Exhibit 1.I; Exhibit 18, Staff Report, page 6; Testimony of Mr. Dorsey; Testimony of Ms. Andrews.*

#### Fire Safety

8. City Building Inspector John Robinson inspected the building and recommended in a September 1, 2016, email to the City that a minimum of 2-hour fire walls and ceiling be required. Deputy Fire Marshal Brad Wiggins provided written comments on September 12, 2016, and had no immediate concerns with the project at that time. Mr. Wiggins testified at the hearing that fire sprinklers are not required because the facility is less than

10,000 square feet, but that fire-resistant walls and ceiling would be needed. Mr. Bauch testified that the proposed mini-storage would include fire walls and ceiling as recommended by the City. *Exhibit 4; Exhibit 5; Testimony of Mr. Wiggins; Testimony of Mr. Bauch.*

#### Staff Recommendation and Applicant Response

9. City staff determined that the proposal would be consistent with the Comprehensive Plan, the municipal code, and other applicable City and state regulations, and recommended approval. *Exhibit 18, Staff Report, page 7.*

### **CONCLUSIONS**

#### Jurisdiction

The City of Port Orchard Hearing Examiner is authorized to hold a hearing on the conditional use permit application. Based on the evidence in the record, the Hearing Examiner may grant, grant with conditions, or deny the application. *Port Orchard Municipal Code (POMC) 2.76.080; POMC 2.76.100; POMC 2.76.110; POMC 16.01.021(3).*

#### Criteria for Review

A conditional use permit shall be granted only if the applicant demonstrates that the proposed use:

- (a) Will be designed in a manner which is compatible with the character and appearance with the existing, or proposed development in the vicinity of the subject property;
- (b) Will not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties due to the location, size, and height of buildings, structures, walls and fences, and screening vegetation of the proposed use;
- (c) Will be designed in a manner that is compatible with the physical characteristics of the subject property;
- (d) Will mitigate impacts in a manner equal to or greater than the standards of this code;
- (e) Will not conflict with the health and safety of the community;
- (f) Will not create pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
- (g) Will provide adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

*POMC 16.35.010(3).*

The criteria for review adopted by the Port Orchard City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW

36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

### Conclusions

1. **The proposed use would be designed in a manner compatible with the character and appearance of the existing development in the vicinity of the subject property.** The property is zoned Co, where self-service storage is allowed as a conditional use. The proposed use would result in conversion of an existing office building space to mini-storage. Several commercial uses are located in the immediate vicinity. Although the City has not adopted commercial development design criteria for this area, the proposed use would not result in any external changes to the building. *Findings 1, 3-9.*
2. **The proposed project would not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties.** The City reviewed the CUP application and determined that the proposed use is exempt from SEPA review. City staff reviewed the proposed use and determined that traffic generated by a mini warehouse would be less than for a general office use. Several commercial uses are located in the immediate vicinity. No neighboring commercial property owners submitted comments on the CUP application. *Findings 1, 3-9.*
3. **The design would be compatible with the physical characteristics of the subject property.** The Applicant does not propose any external changes to the building where the mini-storage use would be located. The physical characteristics of the property would remain. *Findings 1, 3-9.*
4. **With a condition, impacts would be mitigated in a manner equal to or greater than the standards of the City code.** The Deputy Fire Marshal testified that a minimum of engineered 2-hour fire-resistant-rated walls and ceiling be installed. A condition is necessary to ensure the Applicant complies with this requirement. *Findings 1 and 8.*
5. **With a condition, there would be no conflict with the health and safety of the community.** The City provided reasonable notice of the application and open-record hearing. The City did not receive any public comments on the application. The City reviewed the CUP application and determined that the proposed use was exempt from SEPA review. The Deputy Fire Marshal testified that a minimum of engineered two hour fire walls and ceiling be installed. A condition is necessary to ensure the Applicant complies with this requirement. *Findings 1-9.*
6. **There would be no pedestrian and vehicular traffic that would be hazardous or conflict with existing and anticipated traffic in the neighborhood.** Adequate parking is available on-site. The mini-storage facility would take access from SE Mile Hill Drive. The proposed use would generate less traffic than a use as office space, which is what is presently located in the building. *Findings 1, 7, and 9.*

7. **The proposed project would provide adequate public facilities or services and would not adversely affect public services to the surrounding area.** The proposed mini-storage use would provide self-service storage units for customers. No adverse impacts to commercial public services in the surrounding area were identified. *Findings 1, 3-9.*

### DECISION

Based on the above Findings and Conclusions, a conditional use permit to repurpose an existing commercial building to support a self-storage facility at 2505 SE Mile Hill Drive, Suite 201, is **GRANTED**, with the following condition:

The Applicant shall install a minimum of engineered 2-hour fire-resistant-rated walls and ceiling consistent with the recommendation of the City Building Inspector.

Decided this 26<sup>th</sup> day of December 2016.



THEODORE PAUL HUNTER

Hearing Examiner  
Sound Law Center