

1127 N Garden Street

Service Care Facility

CUP2014-0006 Conditions Compliance Discussion

The CUP issued for the occupancy of the property at 1127 N Garden Street with an expanded Service Care Facility (“halfway house”) included a condition requiring a follow-up hearing five years after a certificate of occupancy was issued for the expansion, to evaluate the occupancy/use for consistency with the CUP criteria and conditions of approval. The Decision included 5 specific conditions, with several sub-conditions. These conditions are copied here (in *italics*) with a discussion of each condition and how the project has maintained compliance.

DECISION

Based upon the preceding findings and conclusions, the requested conditional use permit to expand the existing legally nonconforming service care facility at 1127 N. Garden Street into a new building at 1125 N. Garden Street, Bellingham, Washington is APPROVED subject to the following conditions:

1. Approval of the expanded legally nonconforming use is granted to the proposal as a whole and requires construction of the proposed building with operation of both structures as work release service care facilities. The total number of residents allowed in both structures is 50. If either building is converted to another use at any time, the remaining structure shall be restricted to 25 maximum residents while retained in service care use.

Comment: The second structure contemplated at the time of the CUP approval has been constructed on the property and has been operating as a service care facility since its occupancy. The structure was permitted pursuant to CUP2014-0006 and BLD2015-00116 (along with plumbing, mechanical, electrical, and other associated permits). The current capacity of the two combined structures does not exceed 50 residents and at no point has the combined property operated with greater than 50 residents. Neither building has been converted to another use at any time, nor are there plans to convert either building to another use in the foreseeable future. The service care facility operator (Department of Corrections) recently signed a lease renewal extending through 2027 and plans to operate the facility at least until that date.

2. The Applicant shall submit for and the Hearing Examiner shall conduct a hearing to review this proposal no more than five year after the new 1125 N. Garden Street building receives its certificate of occupancy. At the future proceeding, the Hearing Examiner may amend and add new conditions based on public comments and the conditional use criteria.

Comment: The Applicant has submitted for and is planning to participate in a Hearing with the Hearing Examiner to review the proposal. This Hearing is scheduled for December 13th of 2023.

3. The Applicant and/or operator of the service care facility shall minimize and/or eliminate the effects of this facility on the surrounding area to the greatest extent possible. The goal of these conditions is to ensure compatibility between the full service care facility and the neighborhood:

a. The program operators shall provide an anti-harassment program acceptable to the Planning Division and Police Department that eliminates front porch users' whistling, cat calls, requests for beer, inappropriate banter, or other harassment of passersby. Program participants' noise shall not leave the site.

Comment: Over the course of the 5+ years of operations since the facility expanded, there have been little if any complaints or concerns from neighboring properties or the Planning Division or Police Department, related to the operations. The fears expressed during the initial CUP Hearing by members of the public have not materialized. Residents are advised of the location of the facility within a residential neighborhood upon arrival and must adhere to a strict code of conduct while residing in the facility. Due to the nature of the facility as a halfway house, residents are under 24-hour on-site supervision, and can only enter/exit the facility with approval of the operations manager. To our knowledge there have been no documented occurrences of residents engaging in harassment of passersby from the front porch or any other portion of the property. Noise from the site is limited due to the restrictive hours of activity that residents are allowed; noise from the facility is likely much lower than from regular residential apartments in the vicinity occupied by residents without restrictions on entering/exiting, lifestyle choices, etc...

b. The site managers shall insure compliance with rules of the Bellingham Work Release Orientation Handbook (Attachment G).

Comment: The site manager (Department of Corrections official) ensures that all residents comply with all relevant house rules. There is no copy of Attachment G available online so the Applicant can't confirm that the site manager from DOC is ensuring compliance with these specific rules, however the DOC has their own rules for residents, which are very strict due to the nature of the use, and these rules are enforced uniformly.

c. The site manager shall post a contact telephone number for complaints on permanent signs visible from the alley and from Garden Street.

Comment: A sign has been posted in a prominent location between the two structures, visible from the sidewalk along N Garden Street, with appropriate contact information and explanation that the structures are occupied by a halfway house.

d. The current level of program participant supervision shall be maintained with the expanded use. Identical levels of supervision/ratios of staff to residents shall be provided in the new structure and shall be continued in the existing structure.

Comment: Program participant supervision is provided by the DOC on-site. Staff to resident ratios were increased at the time of occupancy of the 2nd structure and have been maintained since.

e. The total number of residents on site at any one time shall be limited to 50 for both buildings and no more than 25 residents in the new building.

Comment: At no time since occupancy of the 2nd structure has the resident count exceeded 50 total residents or 25 residents in the 2nd structure.

4. Design: In order for these buildings to be compatible with the essential character of the neighborhood:

a. Changes to the exterior of the Dellinger House should meet the National Parks Service Secretary's Standards for Rehabilitation, available at <http://www2.cr.nps.gov/tps/standards/rehabilitation.htm>.

Comment: To date only one minor change to the exterior of the Dellinger House has been made. This included removal of one window on the south facing façade and the installation of two new windows immediately adjacent thereto. The work did not alter the appearance of the south façade in a substantive way and the new windows matched the design of the existing windows. To the Applicant's knowledge this minor change was not in violation of any applicable rehabilitation standards (BLD2017-0426). Any future changes, if made, will comply with the rehabilitation standards referenced in this condition, enforced by the City through the building permit process.

b. If the new building to the south is the subject of a future use change request, it would be required to meet the standards of Residential Multiple Design Review (Bellingham Municipal Code 20.25) and be compatible with the historic design of the Dellinger House to its north.

Comment: This condition is noted but is not yet applicable as the 2nd structure continues to be operated as a service care facility consistent with the issued CUP.

c. Windows in the new building shall not look directly down on and/or directly into the windows of the building to the southwest.

Comment: Compliance with this condition was evaluated during the building permit review for the 2nd structure. At the time of design/construction there was a small single-family residence to the southwest and the windows in the 2nd structure were placed so that they did not look directly down on and/or directly into the windows of the building to the southwest. Since the construction of the 2nd structure occurred, the house on the lot to the southwest has been demolished and a new multi family structure has been constructed. The Applicant could not control the placement of windows in this new off-site structure but assumes that City Staff reviewed window placement as a part of the Design Review Permit analysis for that new off-site structure and were satisfied that the design was acceptable.

d. The project shall provide a minimum of 11 parking spaces along the alley adjacent to both Lots 15 and 16 and shall place a fence along the south property line adjacent to the alley. The landscaped/historic stone wall near Chestnut Street should be preserved.

Comment: The properties provided 11 striped parking stalls along the alley when the 2nd structure was developed. These stalls remain in place today. A fence is currently constructed along the south property line adjacent to the alley, and the historic stone wall along Chestnut Street has been preserved and remains in place today.

e. The historic stone wall along Garden and Chestnut Streets shall be maintained except for an opening for the new building.

Comment: The historic stone wall along Garden and Chestnut Streets has been maintained, except for a small 5' opening for sidewalk access to the 2nd structure.

f. The proposal shall substantially conform to the plans and drawings submitted by the Applicant in support of the proposal unless modified by this decision, building or fire codes, the design review approval, or by the CPTED review required by this decision.

Comment: The 2nd structure was permitted (BLD2015-00116) by the City and at that time was reviewed for consistency with the CUP plans and drawings, conditions, and other codes.

g. If the large evergreen trees on this site cannot be retained due to construction in compliance with the submitted plans, they shall be replaced with a similar species.

Comment: During construction several large evergreen trees needed to be removed. A landscape plan for the project was prepared, which included replacement trees. This plan was reviewed and approved by City Staff as a part of BLD2015-00116. Trees and other landscaping were installed pursuant to this approved plan.

h. Street trees shall be maintained or if lost, replanted at the rate of one street tree for each 50 feet of frontage.

Comment: No street trees on Chestnut or Garden Street were removed during construction of the 2nd structure.

i. The proposed loading and ADA parking abutting 1125 N. Garden Street shall be located in a manner to preserve existing street trees unless the location is deemed unsafe by the Public Works Department. If a street tree must be removed to accommodate the parking area, it shall be replaced through approval of a street tree permit.

Comment: This condition was put in place based on a preliminary plan that contemplated a parallel ADA parking stall along Garden Street in front of the building. At the time of building permit it was determined that this ADA stall was not necessary, and as a result, the plans were amended and this improvement along Garden Street was not made. Therefore, this condition is not applicable.

j. Lighting from this site shall be shielded to minimize glare offsite.

Comment: Lighting was reviewed by City Staff during the building permit process and it was determined that the proposed lighting was appropriate and would not generate significant off-site impacts. The current lighting on the structures and around the site was installed pursuant to the approved building permit plans. To the Applicant's knowledge there have been no complaints regarding lighting impact off-site.

5. Police/CPTED:

a. Prior to building permit issuance, the Applicant shall submit the final building plans to the Bellingham Police Department for a Crime Prevention Through Environmental Design (CPTED) review. The Police Department will review the plans and prepare a recommendation to the Planning and Community Development Department for review and approval. CPTED strategies shall be incorporated into the design of the building and associated parking areas to the greatest extent feasible, as determined by the Director.

Comment: It is the Applicant's understanding that at the time of building permit review City Staff routed the plans to the Police Department for a CPTED analysis. The plans were ultimately approved, and the project was constructed pursuant to the approved plans and permit.

b. The Applicant shall provide a lighting plan that creates a safe glare-free level of lighting on and off site.

Comment: A lighting plan was provided with the building permit plan set and was reviewed and approved by City Staff. All lighting was installed pursuant to the approved plans and permit.

c. The Bellingham Police Department shall be a member of the screening committee for all work release applicants residing at 1125 or 1127 N. Garden Street. Substantial weight shall be given to the police representative recommendation on all applications.

Comment: It is the Applicant's understanding that the Police Department maintains regular communication with the DOC regarding this facility and that when residents are screened for placement a BPD staffer participates in the screening process. This can be confirmed by City Staff.

d. The program shall supply secure bicycle parking at the rate of one bicycle per two residents. Bicycle parking stalls shall be visible from a building and placed along a commonly-used internal walkway.

Comment: Bike storage is provided on a level pad between the two buildings in an area that is well lit and is accessible from the on-site pedestrian walkways.

e. The facilities at 1125 and 1127 N. Garden Street shall receive and maintain ongoing approval by the State of Washington through a license, contract, or other legally binding written approval document. Copies of this approval shall be submitted to the Planning and Community Development Department.

Comment: The facility has been and is currently operating subject to a lease with the Washington State Department of Corrections. This is a direct relationship between the Applicant/property owner and the DOC, without an intermediary contracted to manage the facility (historically, prior to the expansion, the facility had occasionally been managed by a third-party provider under contract with the State). Since the operator is the State of Washington there is no license, contract or other legally binding written approval document between the State and the operator.