

CITY OF SPOKANE VALLEY HEARING EXAMINER

RE: Conditional Use Permit for Indoor)
Entertainment/Recreation Facilities, in the)
Heavy Industrial (I-2) Zoning District;)
Applicant: It's a Soccer Life! Inc.)
File No. CUP-01-12)
_____)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION**

I. SUMMARY OF DECISION

Summary of Hearing Matter: Application for a conditional use permit for indoor entertainment/recreation facilities (indoor soccer center).

Summary of Decision: Approve application, subject to revised conditions.

II. FINDINGS OF FACT

1. The application requests a conditional use permit for indoor entertainment/recreation facilities in the Heavy Industrial (I-2) zoning district, on approximately 3.2 acres of land; for the development of an indoor soccer center and associated accessory uses, within an existing building.
2. The site is located at the northeast corner of Sullivan Road and Marietta Avenue; in Spokane Valley, Washington.
3. The site is currently referenced as County Assessor's tax parcel nos. 45122.9121, 45122.9122, 45122.9123 and 45122.9144.
4. The applicant is "It's a Soccer Life! Inc."; at a mailing address of c/o Greg Moore, 2818 N. Sullivan Road, Building #3, Spokane Valley, WA 99216. The site owner is 2818 N. Sullivan Road, LLC; at a mailing address of 1260 N. Dutton Avenue, Suite 270, Santa Rosa, CA 95401-4673.
5. On September 4, 2012, the applicant submitted a complete application for the project.
6. On October 5, 2012, the City of Spokane Valley ("City") Community Development Department issued a Determination of Nonsignificance (DNS) for the application. The DNS was not appealed.
7. On November 15, 2012, the Hearing Examiner conducted a public hearing on the application. The notice requirements for the public hearing were met. The Hearing Examiner conducted a site visit on November 9, 2012.
8. The Hearing Examiner heard the application pursuant to SVMC 18.20; and the Hearing Examiner Scheduling Rules and Rules of Conduct, as codified in Appendix B of the Uniform Development Code (UDC), a part of the SVMC.

9. The following persons testified at the public hearing:

Christina Janssen, Assistant Planner
City Community Development Department
11707 E. Sprague Avenue
Spokane Valley, WA 99206

Greg Moore
18609 E. Turtle Creek Lane
Spokane Valley, WA 99016

Dave Schmitt
16314 E. 9th Lane
Spokane Valley, WA 99037

Cindy Schmitt
16314 E. 9th Lane
Spokane Valley, WA 99037

10. The site is approximately 21.5 acres in size, and consists of four (4) parcels in a binding site plan. The site is fully developed with large industrial buildings, paved parking lots and landscaping; and is the site of the former Itron light industrial use. The site is situated within the greater boundaries of the Spokane Industrial Park.

11. The site is relatively flat in topography, and abuts a private road (Fairview Lane) along its north boundary. The primary access to the site is from Marietta Lane; with secondary access being provided from Fairview Lane, and no access being available from Sullivan Road.

12. The site plan consists of a 1995 survey of the site, with bold markings drawn around “Bldg. S-12” on the site to show the location of the proposed indoor soccer facility. The building consists of an empty industrial building of approximately 25,000 square feet. There would be no changes to the exterior of the buildings or landscaping. The applicant is a lessee of the property.

13. The proposed use is described in a summary attached to the application. The building housing the indoor soccer facility would include a futsal field in conjunction with a turf field, a small soccer retail shop, a concession area featuring coffee products and pre-packaged snacks, a lounge, and large locker rooms with shower facilities. The facility would provide field space for rent, camps, tournaments and soccer clinics; and would cater to both youth and adult teams. Business hours would generally be from 10 a.m. to 10:00 p.m., M-F; and from 8:00 a.m. to 10:00 p.m. on weekends.

14. The environmental checklist submitted for the project indicates that approximately five (5) people would work on site, and would generate approximately 30 cars per hour during peak volumes. Peak volumes would be experienced between 5 p.m. to 10 p.m., M-F; and during the weekend operating hours. The use would be served by existing utilities.

15. The site, and neighboring land, is designated in the Heavy Industry category of the Comprehensive Plan, zoned I-2 and developed primarily with industrial uses. See p. 2 of Staff Report.

16. The City Arterial Street Plan designates Sullivan Road as a Principal Arterial, and Marietta Avenue as a proposed Collector.

17. Neighboring property owners did not comment on the proposed conditional use permit. Support for the project was voiced at the hearing by the applicant, and a soccer coach and his wife who may be involved in the business.

18. The Heavy Industry category of the Comprehensive Plan is characterized by intense industrial activities; and may have significant noise, odor or aesthetic impacts to surrounding areas. Commercial, residential and most recreational uses are not recommended in areas designated for small-scale ancillary uses serving the industrial area. The category recommends that the conversion of designated industrial lands to other uses be strictly limited to ensure an adequate supply. See p. 19 of Comprehensive Plan; and policies LUP-10.1 through LUP-12.3.

19. Policies PRP-1.1 and PRP-3.1 of the Comprehensive Plan cited in the Staff Report may have some application to the proposal, to the extent they are not in conflict with the policies of the Heavy Industrial category as they relate to recreational uses.

20. The I-2 zone has a similar purpose and intent as stated for the Heavy Industry category of the Comprehensive Plan, and expressly implements such category. Indoor entertainment/recreation facilities are permitted in the I-2 zone subject to the review and approval of a conditional use permit.

21. SVMC 19.150.030 sets forth specific conditions and requirements that may be imposed on the approval of a conditional use; and authorizes the imposition of *"...other reasonable restrictions, or safeguards that will uphold the spirit and intent of the SVMC and the Comprehensive Plan and mitigate any adverse impact upon the adjacent properties by reason of use, extension, construction or alteration allowed.*

22. SVMC 19.150.010 provides that a request for a conditional use permit may be denied where it cannot be clearly demonstrated that the requested use will be compatible with other permitted uses in the vicinity of the proposed conditional use.

23. The downturn in the economy over the past few years has likely made it more difficult to locate industrial uses in the Spokane Industrial Park, and on the site. The proposed use of the site for indoor recreational facilities is not an ancillary use that primarily serves the industrial area in the park. However, the use will serve the recreational needs of the surrounding population, and may serve some of the employees in the Industrial Park and on surrounding industrial land.

24. The proposed use is a beneficial use of the site that may serve as an interim use, pending the recovery of the local economy and a stronger demand for industrial uses. Since there will be no exterior alteration of the building housing the proposed indoor soccer center, the future use of the building for industrial purposes use is not precluded.

25. The site has good access to the major transportation corridors; being located along a Principal Arterial, and having direct access to a Proposed Collector that is located a short distance from the Principal Arterial. The relatively light volumes of traffic generated by the proposed use, and its close proximity to Sullivan Road, minimizes traffic conflicts between the proposed use and neighboring industrial uses.

26. Because the use will be enclosed within an existing industrial building, the adverse impacts from neighboring industrial uses on the users of the indoor soccer center are minimized.
27. The project will be served by existing public sewer and water facilities, and is expected to place a lower demand on such services than the previous Itron use. The application meets the sewer, water and transportation requirements set forth in SVMC Chapter 22.30.
28. Public transit is located at Fairview Lane and Sullivan Road. The comments from the Spokane Transit Authority (STA) indicate that such transit stop is located nearly 1,000 feet from the proposed use; but the site plan suggests a distance of approximately 750 feet to the building that would house the indoor soccer center, via Fairview Lane.
29. The comments from STA state that users of the indoor soccer center are likely to use public transit, and recommend the installation of sidewalk along Fairview Lane. However, Fairview Lane is a private road, there is no evidence that the proposed use will increase the volume of pedestrian traffic accessing the site compared to the previous industrial use, and City Traffic Engineering did not recommend the installation of sidewalk along Fairview.
30. The Staff Report on page 3-4 properly analyzes the conditions and requirements for the proposed conditional use under the criteria referenced in SVMC 19.150.030, and such analysis is adopted by referenced herein. The conditions of approval recommended on p. 5 of the Staff Report are appropriate for the project.
31. The application complies with the environmental regulations set forth in SVMC Chapter 21.20.

Based on the above Findings of Fact, the Hearing Examiner enters the following:

III. CONCLUSIONS OF LAW

1. Pursuant to SVMC Chapter 19.150, and RCW 36.70B.030 and 36.70B.040, the application must be approved if it complies with the criteria specified in SVMC 19.150.010 for approving a conditional use permit for indoor entertainment/recreational facilities in the I-2 zone, and the general development standards of the I-2 zone.
2. A comprehensive plan is considered as a general blueprint for land use regulation. See *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 873 (1997); and *Cathcart v. Snohomish County*, 96 Wn.2d 201, 211-12 (1981).
3. Where a comprehensive plan conflicts with zoning regulations, the zoning regulations will be generally be construed to prevail. See *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 43 (1994). This includes the approval of conditional use permits. See *Hansen v. Chelan County*, 81 Wn. App 133, 138 (1996); and *Pease Hill v. County of Spokane County*, 62 Wn. App. 800, 808-809 (1991).

4. The effect that a conditional use will have on neighboring land will generally not support the denial of the permit, standing alone, unless the effect is greater than the effect of uses permitted outright in the applicable zone. See *Hansen v. Chelan County, supra*.
5. The application, as conditioned, meets the concurrency requirements of SVMC Chapter 22.30, and complies with other relevant development regulations.
6. Adequate conditions and restrictions on the conditional use have been placed to ensure that it will be compatible with other permitted uses in the vicinity; and will not be materially detrimental to the public health, safety or general welfare. Certain minor additions should be made to the conditions of approval for compliance purposes, as set forth in the conditions set forth below.
7. The application, as conditioned, reasonably mitigates any adverse impacts on adjacent properties by reason of use, extension, construction or alteration allowed with respect to the conditional use.
8. The application, as conditioned, is generally consistent with the Comprehensive Plan, and will be compatible with other permitted uses in the vicinity.
9. The application, as conditioned, complies with the criteria specified in SVMC 19.150.010 for approving a conditional use permit for indoor recreational/entertainment facilities in the I-2 zone, and the general development standards of the I-2 zone.
10. Any conclusion of law above that is a finding of fact is hereby deemed such.
11. The approval of the conditional use permit is appropriate under SVMC Chapter 18.20 (Hearing Examiner).

IV. DECISION

Based on the above Findings of Fact and Conclusions of Law, the application for a conditional use permit for indoor entertainment/recreational facilities in the I-2 zone is hereby *approved*, subject to the conditions of approval specified below.

Any public agency conditions that have been significantly altered or added to are *italicized*.

Failure to comply with the conditions of this approval may result in revocation or suspension of this approval by the Hearing Examiner. This approval does not waive the applicant's obligation to comply with all other requirements of other agencies with jurisdiction over land development.

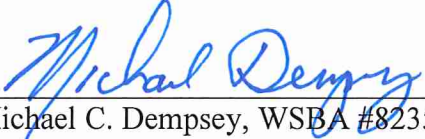
SPOKANE VALLEY COMMUNITY DEVELOPMENT DEPARTMENT:

1. *All conditions imposed by the Hearing Examiner shall be binding on the "Applicant", which term shall include the owner and developer of the property and their heirs, assigns and successors.*

2. *This approval applies to the site currently referenced as County Assessor's tax parcel nos. 45122.9121, 45122.9122, 45122.9123 and 45122.9144.*
3. *The proposal shall be developed in general conformance with the site plan of record submitted on August 31, 2012.*
4. When permanent structures *or alterations* are planned, the appropriate permits shall be obtained.
5. The existing landscaping must be maintained in healthy conditions.
6. *A title notice should be recorded for the approval of the conditional use permit.*

DATED this 3rd day of December, 2012

SPOKANE VALLEY HEARING EXAMINER


Michael C. Dempsey, WSBA #8235

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 17.90 of the Spokane Valley Municipal Code (SVMC), and RCW Chapter 36.70C, the decision of the Hearing Examiner on an application for a conditional use permit is final and conclusive unless within twenty-one (21) calendar days from the date of issuance of the Examiner's decision, a party with standing files a land use petition in Superior Court pursuant to RCW Chapter 36.70C. Pursuant to RCW Chapter 36.70C, the date of issuance of the Hearing Examiner's decision is three (3) days after it is mailed.

This decision was mailed by regular mail to the Applicant, and to all government agencies and persons entitled to notice under SVMC 17.80.130(4), on December 3, 2012. The date of issuance of the Hearing Examiner's decision is therefore December 6, 2012. **THE APPEAL CLOSING DATE IS DECEMBER 27, 2012**, counting to the next business day when the last day for appeal falls on a holiday.

The complete record in this matter is on file during the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building, 1026 W. Broadway Avenue, Spokane, Washington, 99260-0245; and may be inspected by contacting Kristine Chase at (509) 477-7490. The file may be inspected during normal working hours, listed as Monday-Friday of each week, except holidays, between the hours of 8:00 a.m. and 4:30 p.m. After the appeal period, the file may be inspected at the City of Spokane Valley Community Development Department-Planning Division, 11707 E. Sprague Avenue, Spokane Valley,

WA, 99206; by contacting Christina Janssen at (509) 921-1000. Copies of the documents in the record will be made available at the cost set by the City of Spokane Valley.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.