

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE HEARING EXAMINER FOR THE CITY OF LAKEWOOD

RE: Clover Park School District)
Conditional Use Permit Amendment) FINDINGS OF FACT, CONCLUSIONS OF
LU-20-00017) LAW AND FINAL DECISION

Summary

The Applicant has applied for a major amendment to a conditional use permit (LU-18-00085) to allow construction of new portables totaling 7,619sf and six new classrooms at the new Thomas Middle School. The original CUP approval is otherwise unchanged. The conditional use permit is approved subject to conditions.

Testimony

City Testimony

Andrea Bell, City of Lakewood Planner, summarized the staff report. The project will build new portables (7,016sf) for Thomas Middle School. This will provide six new classrooms. A Land Use Modification is required because this is a major modification to the original CUP from 2018. The project is in compliance with all codes, regulations and plans. The staff recommend approval subject to conditions.

In response to the examiner, Ms. Bell stated the review criteria for this use are the CUP review criteria because the application itself does not have its own specific criteria. The code doesn't specify major modification criteria; therefore, the examiner will use the CUP criteria.

1 With respect to stormwater, the analysis will occur during site development. There will be retention
2 on-site. The Public Works Department will look at this new project independently of the prior project
3 scope. Ms. Bell could not speak to the stormwater treatment.

4 With respect to parking, the City determined the new portables will not require additional parking
5 beyond what is already provided. Because this isn't a high school, less parking is considered as no
6 student parking will be required. There are traffic issues but not necessarily parking issues. The old
7 school was 80,000sf. The new middle school will have significantly higher capacity. The site is
8 surrounded by residential development. Mitigation will be required such as frontage improvements.
9 The six classrooms will increase the school capacity from 1,000 to a few hundred more.

10 The greenspace on two sides (northeast) will be fairly site obscuring. Some of the trees were removed
11 due to root damage and a retaining wall. Additional landscaping will be provided.

12 Applicant Testimony

13 Todd Sawin, AHBL, stated stormwater treatment will occur in underground infiltration trenches
14 throughout the site. No water will leave the site. The systems have been sized for the portable
15 buildings.

16 Bill Khune, Clover Park School District, stated there were many neighbors complaining about
17 vibration from the construction of the school. They are working with the neighbors and the insurance
18 companies for mitigation if there is damage to surrounding homes. There may need to be more
19 foundation work compaction for the modulares. This work will be done when the modulares are
20 constructed, around the early part of 2021. This process will take about a week or less.

21 Exhibits

22 Exhibits A-L identified at page 6 of the September 14, 2020 staff report were admitted during the
23 hearing.

24 FINDINGS OF FACT

25 Procedural:

- 26 1. Applicant. Clover Park School District (CPSD).
- 27 2. Hearing. A hearing was held on the subject application on September 14, 2020 at 11:00 am via
28 Zoom.

29 Substantive:

- 30 3. Project Description. The applicant, Clover Park School District (CPSD), requests a major

1 amendment to an existing conditional use permit (LU-18-00085) in order to construct a modular
2 building totaling 7,619sf to provide six new classroom spaces at the newly constructed Thomas Middle
3 School site (11509 Holden Rd SW). The subject amendment will not alter the original scope of work,
4 and includes only the addition of a new 7,619sf modular building to be utilized as portable classrooms.
5 This project does not constitute a change of use.

6 The new middle school (136,100sf) was built to replace the Mann Middle School. The subject
7 site is located in the Public Institutional Zoning District which requires a conditional use permit for
8 approval of this type of educational facility. The currently requested proposal is SEPA exempt.

9 The new modular building will require approval of a site development permit, building permit,
10 mechanical and plumbing permits. Design Review for the new structures will take place in conjunction
11 with building permit review.

12 4. Surrounding Area. Surrounding land uses are primarily single-family residential homes and
13 neighborhoods. Lake Louise Elementary School is one block to the north and Carp Lake sits to the
14 southeast.

15 5. Adverse Impacts. There are no significant adverse impacts associated with the project. Pertinent
16 impacts are addressed as follows:

17 A. Critical Areas. There are no critical areas located at the project site, therefore no critical areas
18 impacts are anticipated.

19 B. Traffic. The proposal should not create any significant traffic impacts. There is an existing
20 agreement in place requiring the school district to conduct a traffic study. This study will include
21 the effects of the modular building. The traffic study will be consistent with the most recent
22 edition of the Trip Generation Manual, published by the Institute of Transportation Engineers.
23 Traffic Impact Analysis shall be reviewed and approved by Public Works Department prior to
24 site development permit issuance. A condition of approval requires the district to implement any
25 recommended mitigation measures from the traffic study. Mitigation measures may include, but
26 are not limited to, roadway improvements, channelization, signage, signalization, and non-
motorized or pedestrian access improvements.

C. Hazardous Conditions. The record reflects no hazardous conditions associated with the proposed
development. No impacts from hazardous conditions are anticipated.

D. Compatibility. The proposal is fully compatible with surrounding uses both on and off the middle
school campus. The middle school replaced an existing middle school. As such, the school
campus itself is already part of the fabric of the neighborhood. The modular building will not
significantly alter the character of the replacement school's appearance or function. The applicant
maintains there is adequate parking in the existing design to accommodate the new modular
building and notes that the increase in staff is minimal. No student parking is required because
this is a middle school with only underage students who do not drive themselves. The required
traffic study may require offsite or frontage improvements, which will mitigate the impacts on
the surrounding neighborhood and ensure safe walking routes to school.

1 E. Adequacy of Utilities. The proposal will be served by adequate utilities. The proposed expansion
2 of middle school will have negligible additional demand on the existing infrastructure serving the
3 campus or the adjacent municipal infrastructure or services (Ex. D). Staff maintains appropriate
4 infrastructure currently exists on-site. Improvements will be made in order to support the
5 proposed improvements and expansions. A condition of approval will require the applicant to
6 submit a Site Development Permit which will address utilities and stormwater, including a
7 Construction Stormwater Pollution Prevention Plan. There is nothing in the record to suggest
8 adequate utilities to serve the new construction are not available.

8 **Conclusions of Law**

9 1. Authority. LMC 18A.20.080 classifies conditional use permits and major modifications to
10 Type III permits as Process III applications subject to hearing examiner review.

11 2. Zoning Designations. Public Institutional (PI).

12 3. Review Criteria. LMC 18A.30.130 governs the criteria for conditional use permit review.
13 Applicable conditional use criteria are quoted below in italics and applied through corresponding
14 conclusions of law.

15 **LMC 18A.30.130(A):** *The granting of the conditional use permit will not:*

16 1. *Adversely affect the established character of the surrounding vicinity. For the purposes of this*
17 *section, character shall mean the distinctive features or attributes of buildings and site design on*
18 *adjacent properties and in the vicinity and as articulated in the comprehensive plan, including but not*
19 *limited to building facade, length, building modulation, building height, roof form, tree cover, types of*
20 *flora, location of landscaping, size and location of signs, setbacks, amount and location of parking,*
21 *fencing type, height and location, and the like;*

22 4. As conditioned, the criterion is met for the reasons identified in Finding of Fact No. 5(D).

23 **LMC 18A.30.130(A)(2):** *Be detrimental to the public health, safety and general welfare; and*

24 5. The criterion is met. As determined in Finding of Fact No. 5, no significant adverse impacts
25 will be created by the proposal, which includes any hazardous conditions. Since the proposal creates
26 no significant adverse impacts, it will not be detrimental to public health, safety and welfare.

27 **LMC 18A.30.130(A)(3):** *Be injurious to the property or improvements adjacent to, and in the vicinity*
28 *of, the site upon which the proposed use is to be located.*

29 6. The criterion is met. As determined in Finding of Fact No. 5(A-D), no significant adverse
30 impacts will be created by the proposal with respect to critical areas, traffic or hazardous materials and
31 the proposal is compatible with surrounding uses. As conditioned in Finding of Fact No. 5(D), the

1 project will not be detrimental to the surrounding residential neighborhoods with respect to noise, light
2 or glare. Consequently, it will not be injurious or adversely affect surrounding uses.

3 **LMC 18A.30.130(B):** *The granting of the proposed conditional use permit is consistent and*
4 *compatible with the goals and policies of the comprehensive plan, and any code, ordinance, regulation*
or standard in effect to implement the plan.

5 7. The criterion is met. As determined in Finding of Fact No. 5(B) and (E), and as conditioned the
6 proposal is served by adequate public facilities and services. City staff have determined the proposal is
7 consistent with the Comprehensive Plan (Ex. 1). As conditioned, the proposal will be compatible with
all codes, ordinances, regulations and standards in effect to implement the plan.

8 **LMC 18A.30.130(C):** *The proposed use is properly located in relation to other land uses,*
9 *transportation and public facilities and services in the vicinity; and further, that the capacity of the*
10 *transportation system and other public facilities and services will adequately serve the proposed use*
without placing an undue burden on such systems, facilities and services.

11 8. The criterion is met. As determined in Finding of Fact No. 5(B), the traffic generated by the
12 proposal is not likely to be significant. However, a condition of approval will require the applicant to
13 submit a traffic study and implement any recommended mitigation measures. As noted in Finding of
14 Fact No. 5(E), as conditioned the site will be served by adequate utilities. The physical characteristics
15 of the site are appropriate for the use considering the use currently exists on site. The site is adequately
sized for the proposed use and all facilities and amenities required by this title and desired by the
applicant.

16 **LMC 18A.30.130(D):** *The intensity (i.e., the nature, types and hours of human activity) and character*
17 *of the proposed use are compatible with the intensity and character of the uses of adjacent property*
and of property in the vicinity.

18 9. The criterion is met. The use is an existing use which has been in place in one form or another
19 for many years. Though the school itself is different in character than the surrounding residential uses,
20 it is long standing existing use. The new modular building development, as conditioned, will likely
have little noticeable effect on the intensity and character of the uses of adjacent properties within the
vicinity.

21 **LMC 18A.30.130(E):** *That the site is of sufficient size to accommodate the proposed use; and further*
22 *that, in the opinion of the City, all yards, open spaces, landscaping, walls and fences, parking, loading,*
23 *and other necessary features are properly provided to assure the proposed use will be compatible with*
adjacent uses and the character of the vicinity.

24 10. The criterion is met. As noted in Conclusion of Law No. 8, the site is of sufficient size to
25 accommodate the proposed use. The PI zone is flexible with respect to bulk and dimensional standards;
26 however, the City staff feel the yards, open spaces, landscaping, walks and fences, parking, loading
and other necessary features are properly addressed. As noted in Finding of Fact No. 5(D), and as
conditioned, the proposal is compatible with adjacent uses and the character of the vicinity.

1
2 **LMC 18A.30.130(F):** *The proposed use will not introduce hazardous conditions at the site that cannot*
3 *be mitigated so as to protect adjacent properties, the vicinity, and the public health, safety and welfare*
4 *of the community from such hazards.*

5 11. The criterion is met. As described in Finding of Fact No. 5(C), no hazardous conditions are
6 anticipated.

7 **LMC 18A.30.130(G):** *The conditions necessary to mitigate the impacts of the proposed conditional*
8 *use are capable of reasonable monitoring and reasonable enforcement.*

9 12. The criterion is met. General development standards in the PI Zoning District are deliberately
10 flexible and are determined by the Community Development Director and City Engineer on a case-by-
11 case basis. The proposed middle school campus improvements appear to comply with appropriate
12 development and performance standards for site, stormwater, building, landscape, and site lighting
13 design. Ultimate compliance will be imposed during site plan and building permit review.

14 **DECISION**

15 The conditional use permit to amend the Conditional Use Permit Major Modification for the Clover
16 Park School District in order to construct new portable buildings is found to comply with all
17 conditional use permit criteria for the reasons identified in the associated conclusions of law above
18 and is approved, subject to the following conditions:

- 19 1. The proposed development of the new CPSD middle school shall be constructed in substantial
20 conformance with the site and landscape plans approved with the associated Design review
21 (LU1800131), Building (BP1800688), and Site Development (PW-1800209) permits that have
22 been approved or are pending review. Minor modifications to the plans will require Community
23 Development and Public Works Departments approval, and major modifications will require a
24 land use modification permit.
- 25 2. The applicant shall abide by all mitigating conditions provided in the SEPA DNS applicable to
26 the proposed school development.
3. The applicant shall abide by all conditions of approval set forth in the Public Works Engineering
Department memorandum dated May 6, 2020 (Exhibit L).
4. Temporary construction fencing and safety signage shall be in place during
construction/demolition in order to protect students on-site.
5. The applicant shall implement any recommended mitigation measures from the required traffic
study. Mitigation measures may include, but are not limited to, roadway improvements,
channelization, signage, signalization, non-motorized or pedestrian access improvements.

- 1 6. The applicant shall submit a Site Development Permit for the modular building. This permit shall
2 demonstrate compliance with all bulk and dimensional standards as well as civil improvements
3 needed for stormwater and utilities.
- 4 7. The applicant shall provide evidence that the previously proposed stormwater infiltration system
5 has sufficient capacity to provide adequate drainage for the new modular building and associated
6 infrastructure.

6 DATED this 29th day of September 2020.

7
8 

9 Phil A. Olbrechts
10 Hearing Examiner for Lakewood

11 **Appeal Right and Valuation Notices**

12 LMC 18A.20.080 provides that the final decision of the Hearing Examiner is subject to appeal to
13 superior court. Appeals of final land use decisions to superior court are governed by the Land Use
14 Petition Act (“LUPA”), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict
15 service requirements. Persons wishing to file LUPA appeals should consult with an attorney to
16 ensure that LUPA appeal requirements are correctly followed.

17 Affected property owners may request a change in valuation for property tax purposes
18 notwithstanding any program of revaluation.
19
20
21
22
23
24
25
26