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**CITY OF PORTLAND**  
**Office of the City Auditor**  
**1221 SW Fourth Avenue, Room 130**  
**Portland, OR 97204-1900**

I hereby certify this Land Use Document No. LU 18-190331 CU – Order of Council to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on May 29, 2019.

**MARY HULL CABALLERO**  
**Auditor of the City Of Portland**  
By *Meghan Davis*  
**Deputy**

**RETURN TO CITY AUDITOR**  
**131/130/Auditor's Office**

**CONSIDER THE APPEAL OF ELLIOTT MANTELL AGAINST HEARINGS OFFICER'S  
DECISION OF DENIAL FOR A CONDITIONAL USE REVIEW FOR THE EVERETT HOUSE  
COMMUNITY HEALING CENTER, IN THE FORMER HOMES AT 2917 AND 2927 NE  
EVERETT STREET AND 2926 NE FLANDERS STREET (HEARING; LU 18-190331 CU)**

**Applicant:** Peter Finley Fry  
303 NW Upton Terrace #1B  
Portland, OR 97210

**Owner's Agent:** Elliott Mantell  
Everett House Community Healing Center  
2927 NE Everett Street  
Portland, OR 97232

**Property Owners:** Elliott Mantell (owner at 2917 NE Everett)  
2917 NE Everett Street  
Portland, OR 97232

E2 Healing Center LLC (owner at 2927 NE Everett)  
2927 NE Everett Street  
Portland, OR 97232-3248

Flanders House LLC (owner at 2926 NE Flanders)  
2926 NE Flanders Street  
Portland, OR 97232

**Site Address:** 2917 and 2927 NE Everett, 2926 NE Flanders Street

**Legal Description:** BLOCK 10 E 10' OF LOT 2 LOT 3, HAWTHORNES 1ST ADD;  
BLOCK 10 LOT 10, HAWTHORNES 1ST ADD; BLOCK 10 LOT 11,  
HAWTHORNES 1ST ADD

**Zoning:** **R5** (Single-Dwelling Residential 5,000 base zone)

**Land Use Review:** Type III, CU – Conditional Use Review

**BDS Staff Description of the Applicant's Current Proposal:** The City Council quotes the BDS Staff Report (Exhibit H.2, pages 2 and 3) titled "Proposal" in its entirety below:

*The Everett House Community Healing Center ("Everett House") operates in three converted homes in the Kerns Neighborhood of Northeast Portland, and has operated under the same conditional use permit since 1982. A non-profit Community Service use, Everett House requires a conditional use to operate in the single-dwelling R5 base zone. Among other conditions of approval, the 1982 conditional use review (case file CU 26-82) imposed a requirement in condition B that reads "a total of at least 30 off-street parking spaces shall be provided within 300 feet of the site for the exclusive use of this club, as evidenced by a written lease or another document in a form acceptable to the City Attorney's office".*

*Until recent years, although the applicant suggests it was rarely used, the site maintained access via lease to a 30-space parking lot nearby on NE 28<sup>th</sup> Avenue at a medical clinic site. That former medical clinic and the associated parking have now been demolished, and a redevelopment project with 118 apartments and ground floor retail is now under construction at the former parking lot site (2821 NE Everett). After neighborhood complaints about parking impacts and the loss of the parking lot were made to the city several years ago, the site has been under Code Compliance enforcement efforts due to the loss of the required off-site parking for 30 cars (15-169146 CC).*

*To remedy the violation created by the loss of off-site parking spaces, the applicant has proposed elimination of condition B from CU 26-82, eliminating any vehicle parking requirements for this use. No changes to the hours of operation, community services, or staffing and guest levels are proposed at this time. No on-site parking is proposed, but the site does maintain a single residential driveway that is approximately 8'-0" wide by 80'-0" deep for the former house at 2926 NE Flanders, as shown on the submitted site plan.*

*The applicant has also requested changes to condition I regarding on-site construction. Existing and proposed construction language is as follows:*

- *(Existing) I. No new exterior construction shall take place; and*
- *(Proposed) I. No new exterior construction shall take place that would require a commercial building permit or increase the footprint of our buildings for commercial purposes.*

*Staff suggested during the Pre-Application Conference that the applicant also consider changes to condition of approval A which has no clear or enforceable limit on the number of guests and employees at the facility. Staff also suggested the applicant request deletion of condition G which requires State licenses for massage therapists, as this condition is redundant of state-level requirements and is not properly regulated or policed via City of Portland land use procedures. The applicant has not proposed any changes to conditions A or G, but these and other items may be considered by staff during the analysis as "clean-up" measures.*

*Community Service uses in the R5 zone require a conditional use review. Modification of prior conditions of approval requires re-consideration through the same procedure of land use review that was used to impose the conditions in the first place. Since the original 1982 conditional use approval under CU 26-82 occurred through the Type III procedure, and modifications to resulting conditions of approval are proposed, the applicant has requested this Type III Conditional Use Review.*

The City Council appeal hearing was opened in the Council Chambers, 1221 SW 4<sup>th</sup> Avenue on March 20, 2019 at approximately 2:00 p.m. After hearing public testimony and considering the evidence in the record, Council voted 3-1 to tentatively grant the appeal and overturn the Hearing Officer's recommendation and grant approval of previously-approved uses from CU 26-82 (sauna, hot tub, massage therapy, relaxation and health counseling, tea house feed service), with conditions. The City Council directed staff to prepare findings for May 1, 2019 at 11:00 a.m. On May 1, 2019 at approximately 11:00 a.m., Council rescheduled the hearing to May 15, 2019 at 10:45 a.m. On May 15, 2019 at approximately 10:45 a.m. Council voted 3-2 to adopting findings

granting the appeal and overturning the Hearings Officer's decision with additional approval language and conditions approving a Conditional Use review for the Everett House Community Healing Center at 2917 and 2927 NE Everett, 2926 NE Flanders Street.

## **DECISION**

Based on evidence in the record and adoption of the Council's Findings and Decision in **Case File LU 18-190331 CU** and by this reference made a part of this Order, **it is the decision of Council to grant the appeal, overturning the Hearings Officer Decision with the following approval language and conditions:**

**Approval of a Conditional Use Review** to allow continued operation of a Community Service use in the R5 zone, more specifically for the Everett House Community Healing Center (hereinafter "Everett House") in the former homes at 2917 & 2927 NE Everett Street and 2926 NE Flanders Street.

This approval is granted based on the approved site plan and floor plans for the facility, Exhibits C.1 through C.8, and is subject to the following conditions:

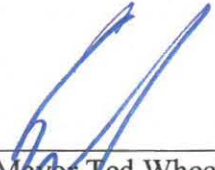
- A. As part of the building permit application submittal, the following development-related conditions (B through G) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 18-190331 CU."
- B. Two temporary structures located beside and behind the former home at 2917 NE Everett Street must be removed, including the tarp-covered, carport-like structure identified as "maintenance/storage" and a garden gazebo structure identified as "meditation area" on the site plan (Exhibits C.1 & C.5). The approximately 7-foot high detached structure labeled "storage 5 x 9 foot" on the site plan (Exhibits C.1 & C.5) may remain in place, provided it does not increase in size or height and remains detached from the main building.
- C. Maintenance and repair of existing structures on the site is allowed, except those two structures identified for removal in condition B, above. Instead of the floor area and exterior improvement triggers in Chapter 33.815, Conditional Uses, new floor area or expansions of exterior improvements in the future must receive prior approval through a Type II conditional use review if the increase in either is equal to or less than a 10% increase over existing amounts of each element. Increases in floor area or exterior improvements that exceed 10% of existing amounts of each element require a Type III conditional use review.
- D. Everett House may not create noise impacts in violation of City of Portland Title 18, Noise Control. Noise complaints during weekday office hours may be directed to the City of Portland Noise Control hotline at (503) 823-7350, and at other times to the non-emergency Portland Police hotline at (503) 823-3333. Title 18 prohibits the following:
  - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
  - Operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. to be plainly audible within any dwelling unit which is not the source of sound.

- E. Prior conditions of approval from CU 26-82 are deleted, replaced, or still in effect as noted specifically below:
- A. **Deleted** and replaced by conditions D and G of LU 18-190331 CU.
  - B. **Deleted**
  - C. **Still in effect:** Hours of operation shall be limited to 8:00 a.m. through 11:00 p.m.
  - D. **Still in effect:** All property shall remain in a residential character at all times so that it may revert to complete residential use without major remodeling.
  - E. **Deleted** (city and state codes apply regardless of this decision).
  - F. **Still in effect:** Applicant's shall pay one-half the cost of monthly bus passes for all employees who take the bus to or from this facility on a regular basis. Transit and parking information shall be provided to all users at the reception area.
  - G. **Deleted** (state requirements for massage therapist licensure apply regardless of this decision).
  - H. **Still in effect:** At least 10 secure bicycle parking spaces shall be provided on site.
  - I. **Deleted** and replaced by conditions B and C of LU 18-190331 CU, above.
  - J. **Deleted** (occupancy permits to change structures from residential to community service were obtained following 1982 decision, this condition previously met).
- F. Chiropractic services and acupuncture services are prohibited at the site. Allowed activities at the site include sauna and hot tub services, including hydrotherapy and flotation tank services. Allowed activities also include massage therapy services, a "tea house" food service, and relaxation and health counseling services, including related classes, seminars and workshops and yoga offerings.
- G. The maximum number of members and guests allowed at the site at any one time is 65 people. The maximum number of members and guests that are allowed at any one class, seminar, workshop, or event is 20 people. This condition does not permit occupancy in any one building at the site to exceed the maximum occupancy established by the fire code or any other applicable federal, state, or local building code.

**IT IS SO ORDERED:**

**MAY 21, 2019**

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mayor Ted Wheeler  
Presiding Officer at Hearing of  
May 15, 2019  
9:30 a.m. Session