CITY OF OAK HARBOR
HEARING EXAMINER

RE: Conditional Use Permit Application for	)	CUP-15-04
Island Vineyard Community *Church*	)	CONCLUSIONS OF LAW, AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant proposes to use an existing 3,400 square foot commercial space as a 40-seat meeting hall for church services and related activities.

Decision: The Hearing Examiner for the City of Oak Harbor hereby grants approval for the requested Conditional Use Permit, subject to the Conditions of Approval recommended by the Development Services Department of the City of Oak Harbor.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

I.

Applicant: Island Vineyard Church

Property Owner: Property Investments Family L.P.

Address of Proposal: 1080 SE Pioneer Way
Oak Harbor, WA 98277

Parcel Number: S7585-00-00024-1

Comprehensive Plan Designation: Central Business District

Zoning Designation: Central Business District [CBD]

Application Presented for Action:
Conditional Use Permit (CUP-15-04), Review Process III

Legal Notices: Published: Notice of Public Hearing, July 25, 2015

Mailed Notice of Public Hearing, Adjacent Property Owners, July 22, 2015

Posted at City Hall and Library: Notice of Public Hearing, July 22, 2015

Hearing Date: August 10, 2015

Parties of Record

Janus Galleger
695 NW 2nd Avenue
Oak Harbor, WA 98277

Ray Lindenburg, Associate Planner
Development Services Department

Exhibits

1 Conditional Use Application and Applicant Narrative
2 Vicinity and Aerial Maps
3 Zoning Map
4 City Department Requirements
5 Public Noticing Documents
6 Public Comments Received
7 Staff Report

II.

The Development Services Department of the City of Oak Harbor recommended approval of the requested Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Department are set forth in a Staff Report, Exhibit No.7, dated August 10, 2015, a copy of which is attached hereto and incorporated herein by this reference.

The Findings of Fact set forth by Staff in the Staff Report are supported by the record as a whole. The Applicant's representative, Pastor Janus Galleger indicated that there were no factual inaccuracies in the Staff Report and indicated no concerns with the recommended Conditions of Approval.

There was no public comment on the proposal at the public hearing. The City did receive one written comment on the application regarding an existing sign located near the proposed building. Staff noted in the Staff Report on page 3 that the sign is located on City property at Smith Park. Because this concern is not related to the Conditional Use, Staff indicated the issue will be addressed separately.

III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

The Hearing Examiner concurs with Staff's review of the Conditional Use Criteria in the Staff Report and with Staff's Recommendation that the Conditional Use Permit Approval is consistent with the Conditional Use Criteria of OHMC 19.67. Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Conditional Use Permit should be granted, subject to conditions.

II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

DECISION

The Hearing Examiner for the City of Oak Harbor hereby grants Conditional Use Permit

Approval to Island Vineyard Church to use an existing 3,400-square foot commercial building as a 74-seat sanctuary for church services, with other spaces used for classrooms, a fellowship room, kitchen, and restrooms. The property is addressed as 1080 SE Pioneer Way, Oak Harbor, WA, parcel S7585-00-00024-1. This Permit Approval is granted, subject to the following Conditions of Approval:

1. The project shall be in general conformance with the narrative and application materials, Exhibit 1 in the Hearing Examiner file, and abide by conditions and requirements set forth within the Staff Report [Exhibit 7], a copy of which is attached hereto.

2. Scheduled church related gatherings and services shall be limited to off-peak business hours such as evenings and Sundays. Unscheduled and infrequent events such as funerals should be timed so as not to create traffic or parking problems.

3. The Applicant shall apply for and receive any required building permits before commencement of construction activity.

4. Traffic Concurrency is required for this project.

5. Water Cross Connection Control Questionnaire is required for this project.

6. The alley serving the north side of the building shall not be blocked at any time. Parking for the church shall be parallel to the alley and not occupy any space to the east of the church entrance. Congregants shall be notified of this requirement through a newsletter of similar correspondence or signage on the building.

7. The Applicant shall comply with Fire Department regulations [see Exhibit 4 in the Hearing Examiner file].

8. The Conditional Use Permit shall not be transferable to a subsequent user unless specifically authorized by the Hearing Examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County Auditor.

9. The Conditional Use Permit must be acted on within one year of the date of granting. Otherwise the Conditional Use Permit shall expire and be null and void.

10. The Conditional Use Permit applies only to the property for which the application is made.

NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for enforcement action pursuant to OHMC 19.100. Complaints regarding a violation of the conditions of this permit should be filed with the City of Oak Harbor Development Services Department.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF

This decision of the Hearing Examiner for the City of Oak Harbor is final ten days after the issuance of this decision unless it is appealed to the Island County Superior Court within ten days of the issuance of this decision, pursuant to 30.70C R.C.W.

DATED this 17th day of August 2015.

Michael Bobbink

Michael Bobbink, Hearing Examiner

EXHIBIT
#7

Island Vineyard Church
Case No. CUP-15-04
Staff Report to Hearing Examiner

APPLICATION:
The Island Vineyard Church proposes to use an existing approximately 3,400-square foot commercial space as a meeting hall for church services and related activities.

PRELIMINARY INFORMATION:

Applicant: Island Vineyard Church, 555 SE Regatta Drive, Oak Harbor, WA 98277

Property Owner: Prosperity Investments Family LP, 1582 Scenic Heights Road, Oak Harbor, WA 98277

Address of proposal: 1080 SE Pioneer Way, Oak Harbor, WA 98277

Parcel Number: S7585-00-00024-1

Comprehensive Plan Designation: Central Business District

Zoning Designation: CBD, Central Business District

Application Presented for Action:
Conditional Use Application (CUP-15-04) - Review Process III

Attachments:

Exhibit 1	Conditional Use Application and Applicant Narrative
Exhibit 2	Vicinity and Aerial Map
Exhibit 3	Zoning Map
Exhibit 4	City Department requirements
Exhibit 5	Public Noticing Documents
Exhibit 6	Public comment received

BACKGROUND and PROJECT DESCRIPTION:
The existing building was previously occupied by Island Cleaners and Crossfit Oak Harbor and has been vacant for a short period of time. The property owner has consented to allow the applicant to pursue a Conditional Use Permit to operate the church in this location. The applicant proposes to occupy the space, using various rooms in the building for church-related activities. A main sanctuary area is proposed for an approximately 1174-square foot space on the west end of the building and other spaces will be used for classrooms, a fellowship room, kitchen and restrooms.

The total square footage is approximately 3400 square feet. Seventy-four seats will be placed in the sanctuary space and twenty will be available in the fellowship room. The sanctuary space and fellowship room would not be used at the same time, meaning the maximum number of people in the building at any given time would be limited by the number of seats available in the sanctuary, not the combined seating of that room and others.

Currently, the congregation typically numbers about 45, with a maximum attendance at a single service of approximately 65. The church anticipates expansion of those numbers and plans to add services to accommodate additional congregants, rather than increasing seating.

There is no requirement for on-site parking for the CBD zone district. The OHMC sets a ratio of one parking space per four seats for churches with on-site parking. The proposed seating capacity of 74 would require 19 parking spaces at maximum usage if on-site parking were required.

The applicant notes there are 14 parking spaces on site in the parking lot to the south of the building. Staff is comfortable with counting 11 of those spaces, as several on the east end are not the full required depth for a parking space and usage of those spaces may block the entrance to the lot. Numerous parking spaces are available on Pioneer Way and on Jensen Street. Parking on site on Sunday should not impact the existing business – a dental office – which operates by appointment.

Parking in the alley to the north of the building should be limited and tightly controlled – apartments that are a part of this mixed-use building use spaces in the alley for tenants and Police Chief Ed Green has advised that the alleyway shall not be blocked at any time.

Conditional Use Permit Application
The subject parcel is currently zoned Central Business District (CBD). The site's proposed use is not specifically listed under OHMC 19.20.315 *Conditional uses permitted*, but a decision issued by the Hearing Examiner in 2006 stated that a church use can be "considered similar to uses permitted or conditionally permitted and normally located in the central business district," as stated within that section.

Following OHMC 18.20.250(2)(b), the review of applications for conditional uses are Review Process III actions. Such actions are subject to an open record public hearing before the Oak Harbor Hearing Examiner, followed by a final decision by the Examiner.

SITE GEOGRAPHY
The subject building is located straddling two parcels immediately south of Smith Park between SE Midway Boulevard and SE Jensen Street. Currently developed with a two-story commercial and paved parking lot, the parcel slopes downward from north to south. Land uses abutting the site include the following:

	Existing Land Use	Zoning
North:	Park	PF, Public Facilities
South:	Commercial	CBD, Central Business District
East:	Residential	R-4, Multiple-Family Residential
West:	Commercial	CBD, Central Business District

SEPA
The proposed project does not meet the threshold for SEPA review.

LEGAL NOTICE:
A Notice of Public Hearing and notice to neighboring property owners were mailed and posted on June 19, 2015. The Notice of Application was advertised on June 20, 2015.

PUBLIC COMMENTS:
The City received one comment on this application regarding an existing sign located near the building. The sign is located on City property at Smith Park and that issue is being followed up on separately as it is not related to the Conditional Use.

CONDITIONAL USE REVIEW
The Oak Harbor Municipal Code 19.67 Conditional Uses, states that a conditional use permit shall be granted if certain criteria are met. The following is an analysis of the conditional use criteria:

1. **All special conditions for the particular use are met.**

   No special conditions are established within the CBD, Central Business District zoning district for churches or similar structures. The Hearing Examiner may establish conditions of approval as provided for by OHMC 19.67.050.

2. **It does not have a significant, adverse environmental impact resulting in excessive noise, light and glare or soil erosion on adjacent property.**

   No negative environmental impacts are expected from the proposed use. Construction activity will be limited to the interior of the building. Beyond construction, the use of the property should not generate excess noise or other environmental impacts. Any noise concerns related to outdoors activities that may occur on the property shall be addressed by Chapter 6.56 of the Oak Harbor Municipal Code.

   The use of the building will be of limited land use impact to neighboring parcels due to the primary usage being on Sundays. Weekday meetings will be generally smaller events such as classes and other group gatherings.

   Significant changes to the exterior of the building or the land itself are not proposed at this time.

3. **It is provided with adequate parking.**

   There are no requirements for on-site parking in the CBD zone district, however, there are currently there are 11 full-sized parking spaces on site for use of the entire property. Using the parking ratio set forth in OHMC 19.44.100, the proposed number of seats would use 19 parking spaces. On-street parking is available in several locations nearby on SE Pioneer Way and SE Jensen Street and the alley to the north of the building.

4. **It is served with adequate public streets, public utilities and facilities.**

   The applicant will be required to apply for a building permit for work on the structure. Transportation Concurrency will be required with the application.

   Existing and proposed fixtures need to be recalculated to determine if existing water service can meet proposed demands. The applicant will be required to complete a cross connection control questionnaire to determine the required backflow prevention measures required.

The Police Department did note that the alley serving the north side of the building shall not be blocked at any time. Further, the alley serves as parking for tenants of the apartment units in the building. Therefore, alley parking for the church shall be limited to the space to the west of the entrance door, in a parallel configuration.

5. **It otherwise meets the purpose of the district in which it is to be placed.**

   The listed purpose of the CBD zone district is to "preserve and enhance the unique harbor location of the city's heritage with the character of the traditional center of social, cultural and retail activity." This use meets that purpose by providing a location for social and cultural activity within the Central Business District.

6. **It meets the goals and policies of the Oak Harbor Comprehensive Plan.**

   The proposed use will generally bring more people to the historic downtown of Oak Harbor and protect undeveloped land by the re-use of an existing commercial building in a developed urban area. Specifically, the project is also consistent with the following Comprehensive Plan Goals and Policies below.

   Land Use Element:

   Goal 1.f – Support revitalization efforts of downtown Oak Harbor and other neighborhoods through implementation of adopted plans and programs.

   Goal 8 – To ensure that the location, situation, configuration, and relationship of the varied land uses within the UGA are consistent and compatible.

   Goal 15 – To establish and maintain sufficient land within the City of Oak Harbor zoned to ensure a wide range of public and quasi public services to meet community needs.

   Goal 19 – To create and maintain a balanced community that mixes residential use and non-residential uses in a way that promotes environmental quality and community aesthetics.

   Transporation Element:

   Goal 4.c – Encourage land use development patterns that reduce the demand for increased capacity on roadways.

RECOMMENDED ACTION:

Staff recommends that the Hearing Examiner conduct the public hearing and approve CUP-15-04 subject to the following conditions:

1. The project shall be in general conformance with the narrative and application materials submitted by the applicant dated June 5, 2015, as attached in Exhibit 1 and abide by conditions and requirements set forth within this report.

2. Scheduled church related gatherings and services shall be limited to off-peak business

hours such as evening and Sundays. Unscheduled and infrequent events such as funerals should be timed so as not to create traffic or parking problems.

3. Applicant shall apply for and receive any required building permits before commencement of construction activity.

4. Traffic Concurrency is required for this project.

5. Water Cross Connection Control Questionnaire is required for this project.

6. The alley serving the north side of the building shall not be blocked at any time. Parking for the church shall be parallel to the alley and not occupy any space to the east of the church entrance. Congregants shall be notified of this requirement through a newsletter or similar correspondence or signage on the building.

7. The applicant shall comply with Fire Department regulations as attached in Exhibit 4.

8. The conditional use shall not be transferable to a subsequent user unless specifically authorized by the hearing examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County auditor.

9. The conditional use permit must be acted on within one year of the date of granting. Otherwise the conditional use permit shall expire and be null and void.

10. The conditional use permit applies only to the property for which the application is made.