

CITY OF OAK HARBOR  
HEARING EXAMINER

RE: Conditional Use Permit ) CUP-16-02  
Application for )  
*Church of Christ* ) Findings of Fact,  
 ) CONCLUSIONS OF LAW,  
 ) AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant proposes to use an existing 1,050 square foot commercial space as a meeting hall for church services and related activities. The proposal would accommodate approximately 25 members and includes adult and children's services.

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: Von Torres, Church of Christ

Property Owner: Harborside Village

Address of Proposal: 791 SE Fidalgo Avenue  
Oak Harbor, WA 98277

Parcel Number: R13202-241-2700

Comprehensive Plan Designation: Central Business District

Zoning Designation: Central Business District [CBD]

Application Presented for Action:  
Conditional Use Permit (CUP-16-02), Review Process III

Legal Notices: Published: Notice of Application, May 25, 2016  
Notice of Public Hearing, June 22, 2016

Mailed Notice of Public Hearing, Adjacent Property Owners, June 22, 2016

Posted at City Hall and Library: Notice of Public Hearing, June 22, 2016

Hearing Date: July 11, 2016

Parties of Record

Von Torres  
Church of Christ  
1181 NW Kathleen Drive  
Oak Harbor, WA 98277

Ray Lindenburg, Associate Planner  
Development Services Department

Exhibits

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

**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.1, dated July 11, 2016, 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 Von Torres, 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 either in writing during the comment period or at the public hearing.

**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 The Church of Christ to use an existing approximately 1,050-square foot commercial space as a meeting hall for church services and related activities. The property is addressed as 791 SE Fidalgo Avenue, Oak Harbor, WA, parcel R13202-241-2700. 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 by the Applicant, Exhibit 1-1 in the Hearing Examiner file, and abide by conditions and requirements set forth within the attached Staff Report [Exhibit 1].
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. A Traffic Concurrency may be required if a Building Permit is needed.
4. The Applicant shall provide a fire extinguisher as with any new occupancy. The maximum occupant load for the space is 49 people.
5. 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.
6. 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.
7. 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 12<sup>th</sup> day of July 2016.

A handwritten signature in cursive script that reads "Michael Bobbink".

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Michael Bobbink, Hearing Examiner

**Church of Christ  
Case No. CUP-16-02  
Staff Report to Hearing Examiner**

#1 June 11, 2016

**APPLICATION:**

The Church of Christ proposes to use an existing approximately 1,050-square foot commercial space as a meeting hall for church services and related activities. The proposal would accommodate approximately 25 members and include adult and children's services.

**PRELIMINARY INFORMATION:**

**Applicant:** Von Torres, Church of Christ, 1181 NW Kathleen Drive, Oak Harbor, WA 98277

**Property Owner:** Harborside Village, PO Box 2249, Oak Harbor, WA 98277

**Address of proposal:** 791 SE Fidalgo Ave, Oak Harbor, WA 98277

**Parcel Number:** R13202-241-2700

**Comprehensive Plan Designation:** Central Business District

**Zoning Designation:** CBD, Central Business District

**Application Presented for Action:**

Conditional Use Application (CUP-16-02) - 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

**BACKGROUND and PROJECT DESCRIPTION:**

The existing building is currently occupied by a mix of office and retail uses and is part of the larger Harborside Village complex. 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 approximately 1,050 square foot space, utilizing the area for Adult Worship Services twice per week (Wednesday evening and Sunday morning) and Children's Worship Service on Sundays. There are approximately 25 members of the church at this time. Additional use of the space will include choir practice following the Adult Worship Services and various Bible studies and general organizational meetings.

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 aforementioned church membership would require approximately 7 parking spaces at maximum usage if on-site parking were required. The parking lot located on site should easily be able to accommodate that level of use on evenings and Sundays. Significant on-street parking is available nearby as well.

***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 between SE Pioneer Way and SE Fidalgo Avenue. SE Hathaway Street intersects on the east side. 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
<b>North:</b>	Vacant	CBD-1, Central Business District
<b>South:</b>	Commercial	CBD, Central Business District
<b>East:</b>	Commercial	CBD, Central Business District
<b>West:</b>	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 22, 2016. The Notice of Application was advertised on May 25, 2016.

**PUBLIC COMMENTS:**

The City received no comment on this application.

**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. No construction activity is proposed. The use of the property should not generate excess noise or other environmental impacts. Any noise concerns related to 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 weekday evenings and Sundays.

**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 40 parking spaces on site for use of the Harborside Village complex. Using the parking ratio set forth in OHMC 19.44.100, the proposed number of congregants would use 7 parking spaces. On-street parking is available in several locations nearby on SE Pioneer Way, SE Fidalgo Avenue and SE Hathaway Street.

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

Because the applicant has not indicated a need for a building permit, Transportation Concurrency will not be required with the application. Any future work that requires a building permit may precipitate a need for a concurrency review, however.

**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-16-02 subject to the following conditions:

1. The project shall be in general conformance with the narrative and application materials submitted by the applicant dated May 19, 2016, 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. Traffic Concurrency may be required if a building permit is needed.
4. The applicant shall provide a fire extinguisher as with any new occupancy. The maximum occupant load for the space is 49 people.
5. 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.
6. 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.
7. The conditional use permit applies only to the property for which the application is made.