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8 BEFORE THE HEARING EXAMINER FOR THE CITY OF FIRCREST

9 RE: Aaron Gentile

10 Conditional Use Permit

11 Case No. 20-02

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) FINDINGS OF FACT, CONCLUSIONS OF  
) LAW AND FINAL DECISION  
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14 **Summary**

15 Mr. Gentile has applied for a conditional use permit to convert an existing 600 square foot detached  
16 garage located at 562 Contra Costa Avenue into an accessory dwelling unit (“ADU”) for his mother.  
The application is approved subject to two conditions specified at the end of this decision.

17 **Testimony**

18 Angelie Stahlnecker, Fircrest Planning and Building Administrator, summarized the staff report. In  
19 response to examiner questions, Ms. Stahlnecker responded that the loss of parking spaces by  
20 conversion of the garage and elimination of the second driveway was compensated for by the fact that  
21 two more on-street parking spaces would be available at the former curb cut of the eliminated  
driveway.

22 Aaron Gentile, applicant, stated he had followed all the building and planning department  
23 recommendations. He noted his father had passed away in October and he was building the ADU for  
24 his mother. The currently existing garage was built to be a man-cave or shop for the previous owner  
and he has no use for it.

25 Kim Harlow-Smith, adjoining neighbor on the west side, noted that she came for information and her  
26 questions and concerns were addressed. Specifically, she wanted to know whether Mr. Gentile was  
going to rent out the ADU to any tenant as opposed to family members and she also wanted to know

1 whether any windows would be looking into her adjoining property. She was happy to see that no  
2 windows would be on her side of the property and that Mr. Gentile was building the ADU for his  
3 mother. In response to examiner questions, Ms. Harlow-Smith noted that there are trees separating  
4 her property from Mr. Gentile's, but that the trees don't provide much privacy because they are  
limbed way up. Ms. Harlow-Smith said one of the reasons she was concerned about privacy was  
because the garage was built right up to her property line.

## 5 **Exhibits**

6 The March 3, 2020 staff report along with its two attachments (application and plans/elevations) were  
7 admitted as Exhibit 1 during the hearing.

## 8 **FINDINGS OF FACT**

### 9 **Procedural:**

- 10 1. Applicant. Aaron Gentile, 562 Contra Costa Avenue, Fircrest WA, 98466.
- 11 2. Hearing. A hearing was held on the application at 2:00 pm on March 18, 2019 in the City of  
12 Fircrest Council Chambers.
- 13 3. Project Description. Mr. Gentile has applied for a conditional use permit to convert an  
14 existing 600 square foot detached garage located at 562 Contra Costa Avenue into an accessory  
15 dwelling unit for his mother. The detached garage shares a lot with an existing residence with an  
16 attached double garage. There is a driveway both in front of the attached garage and the detached  
17 garage. A staff recommended condition of approval, adopted by this decision, requires removal of  
18 the driveway in front of the detached garage and extension of sidewalk and curb and gutter across the  
19 former driveway area. Staff recommends this condition at least in part because FMC 22.60.008(e)  
20 prohibits more than one driveway per residence. The ADU's Fircrest utilities will connect to the  
21 principal residence. City staff have determined that the total number of occupants of the ADU plus  
22 the principal residence will not exceed the City's definition of family, which limits occupancy to an  
unlimited number of related individuals or a maximum of six unrelated individuals for purposes of  
the proposed use.
- 23 4. Surrounding Uses. The project site is surrounded by R6 single-family home developed  
24 property on the north, south and west. To the west, across Contra Costa Avenue is property zoned  
Park, Recreation and Open Space developed with recreational and open space use.
- 25 5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. The  
26 proposal is exempt from environmental review pursuant to WAC 197-11-800(2)(e) and 6(e).  
Pertinent impacts are more specifically addressed as follows;
  - A. Compatibility/Parking. The proposal is fully compatible with surrounding residential and  
recreational use. As a conversion of the existing detached garage with only modest  
exterior modifications, the ADU will have similar siding, gables, paint and roof style as

1 the principle residence. The condition requiring the removal of a driveway will enhance  
2 compatibility by providing increased space for landscaping. The absence of windows on  
3 the west side of the building ensures privacy to the abutting residential homeowner.

- 4 **B. Critical Areas and Natural Features.** No critical areas will be adversely affected by the  
5 proposal. There is nothing to suggest from the administrative record, which includes  
6 aerial photographs, that any critical areas are on-site. Further, the only exterior alteration  
7 involved with the proposal is the removal of a driveway and alterations to the exterior  
8 walls, none of which would affect critical areas if present.

### 9 **Conclusions of Law**

10 1. **Authority.** Hearing examiner conditional use permits qualify as Type III-A review pursuant  
11 to FMC 22.05.003 Table A. As outlined in RMC 22.05.003 Table B, the Hearing Examiner is  
12 authorized to hold hearings and issue final decisions on Type III-A applications subject to judicial  
13 appeal

14 2. **Zoning/Comprehensive Plan Designations.** The subject property is within the Low Density  
15 Residential (LDR) Comprehensive Plan land use designation and R-6 zoning designation.

16 3. **Review Criteria/Street and Parking Modification.** FMC 22.58.012b requires a conditional use  
17 permit for detached accessory dwelling units. Conditional use criteria are governed by FMC  
18 22.68.003. Applicable conditional use standards are quoted below in italics and applied through  
19 corresponding conclusions of law.

20 **FMC 22.68.003a:** *Before any conditional use permit may be granted, the hearing examiner shall  
21 adopt written findings showing that the following criteria are met by the proposal:*

22 (a) *The proposed use will not be detrimental to the public health, safety, and welfare; injurious to  
23 property or improvements in the vicinity; or adversely affect the established character of the  
24 surrounding vicinity.*

25 4. The criterion is met. As determined in Finding of Fact No. 5, the proposal will not create any  
26 significant adverse impacts and, therefore, will not be detrimental to public health, safety and welfare  
or injurious to other property or improvements. Further, for the reasons identified in Finding of Fact  
No. 5A, the proposal will not adversely affect the established character of the surrounding vicinity.

**FMC 22.68.003b:** *The proposed use will meet or exceed all applicable development, design and  
performance standards and guidelines required for the specific use, location, or zoning  
classification.*

5. The criterion is met. Compliance with building code requirements is assured during building  
permit review. FMC 22.36.003a authorizes ADUs in the R6 zoning district. Beyond this, as  
identified in the staff report, the proposal only implicates two zoning standards – compliance with

ADU requirements and FMC 22.60.008(e) driveway requirements. As noted previously, FMC 22.60.008(e) only authorizes one driveway per single-family detached dwelling. A condition of approval requires removal of the second driveway of the subject parcel that currently serves the proposed ADU.

ADU requirements are governed by FMC 22.58.012c. These standards require the ADU to comply with applicable development standards; that only one ADU per lot is allowed; that the owner reside in the principal residence or ADU; that the ADU be less than 1,000 square feet in area; that the ADU has similar design to the primary residence; that there be sufficient on-street parking in the area; that the ADU will be connected to the utilities of the principal residence; that the total number of occupants of ADU and principal residence not exceed six unrelated occupants or a larger number as required by the Fair Housing Amendments Act for group homes; and that a registration or similar form be filed as a deed restriction with the Pierce County Auditor to indicate the presence of the ADU and applicable ADU requirements. All of these requirements are met. A condition of approval requires the filing of the registration or similar form. All other requirements are met for the reasons identified in Findings of Fact No. 3 and 5.

**FMC 22.68.003c:** *The proposed use will be consistent and compatible with the goals, objectives and policies of the comprehensive plan.*

6. The criterion is met for the reasons identified at page 4 of the staff report.

**FMC 22.68.003d:** *(d) All conditions necessary to lessen any impacts of the proposed use are measurable and can be monitored and enforced.*


7. The criterion is met. The proposed driveway elimination condition recommended by staff would address the comments provided by the Public Works, Street Department. The condition can be monitored and enforced through the administrative design review and building permit approval process and subsequent site inspections. The condition requiring the recording of ADU deed restrictions can similarly be monitored during building permit review, by requiring proof of recording as a condition of issuance of a certificate of occupancy as specified in the condition.

## DECISION

Mr. Gentile's conditional use permit application is approved subject to the following conditions of approval:

1. Mr. Gentile shall remove the driveway approach on Electron Way and replaced with curb, gutter and sidewalk per Fircrest Public Works specifications.
2. Prior to issuance of a certificate of occupancy, Mr. Gentile shall file a form required by the planning director with the Pierce County Auditor identifying the presence of the ADU and applicable ADU restrictions as required by FMC 22.58.012c13.

1  
2 DATED this 19<sup>th</sup> day of March 2020.

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Phil A. Olbrechts

5 City of Renton Hearing Examiner

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7 **Appeal Right and Valuation Notices**

8 Hearing examiner conditional use permits qualify as Type III-A review pursuant to FMC  
9 22.05.003 Table A. As outlined in RMC 22.05.003 Table B, the Hearing Examiner is authorized  
10 to hold hearings and issue final decisions on Type III-A applications subject to judicial appeal

11 Affected property owners may request a change in valuation for property tax purposes  
12 notwithstanding any program of revaluation.  
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