

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application) FINDINGS, CONCLUSIONS,
by Spokane County for a Regional) AND DECISION
Wastewater Treatment Plant to be)
located at 1004 North Freya Street)
) FILE NO. Z2007-11-CUP

SUMMARY OF PROPOSAL AND DECISION

Proposal: A conditional use permit application by Spokane County, to construct a Regional Wastewater Treatment Plant on a vacant industrial site at 1004 North Freya Street.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Spokane County Public Works, Utilities Division
c/o Bruce Rawls
1026 West Broadway Avenue
Spokane, WA 99260

Represented by: Frank Ide
Taylor Engineering
106 West Mission Avenue
Spokane, WA 99201

Property Address: 1004 North Freya Street in the City of Spokane, Washington.

Property Location: The property is located on the east side of Freya Street north of the railroad tracks. It is known as the former Stockyards site.

Legal Description: A full legal description is in the record as Exhibit #2F.

Zoning: The property is zoned "HI" (Heavy Industrial).

Land Use Plan Category: The property is designated "Industrial" in the City's 2001 Comprehensive Plan.

Site Description: The site is irregular in shape and contains approximately 19.9 acres in area. There are 5 acres adjacent on the south side between the site and the railroad tracks which may be purchased and added to the site. The topography is relatively flat and the site is vacant of buildings. It was previously used as an animal stockyards.

Surrounding Conditions: The site is surrounded on all sides by industrial zoning and the uses surrounding it are also industrial in nature. An active railroad line borders the site on the south. The site is on the east side of Freya Street which, at this location, is designated as a Principal Arterial in the City's Arterial Street Plan.

Project Description: Spokane County seeks a conditional use permit to construct a new wastewater treatment plant. The new plant and associated facilities is to provide additional capacity for projected growth in the county and for increased wastewater flows generated by the County's Septic Tank Elimination Program. The County proposes to construct its new treatment plant to initially provide 8 million gallons per day (mgd) of capacity. They expect this treatment plant to be online in 2011. They expect to increase capacity by 2017 to approximately 12-mgd and to approximately 24-mgd by 2025. At completion, the site will have 20-30 structures ranging in size from 450 square feet to 60,000 square feet. The remaining grounds would be landscaped. The project would include a chain link fence topped by barbed wire for security purposes. This conditional use permit does not apply to any discharge into the Spokane River. If discharge is proposed, a Shoreline Conditional Use Permit will be required at a future date.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 11.19, 17C.130, 17C.130.100, 17G.060, and 17G.060.170.

Hearing Date: June 7, 2007

Notices: Mailed: October 18, 2006, April 9, and May 23, 2007
Posted: October 18, 2006, April 9, and May 23, 2007

Site Visit: None made

SEPA: Spokane County, as lead agency issued a Declaration of Significance (DS) in September of 2000, and oversaw the preparation of an Environmental Impact Statement (EIS) in April of 2002. Another DS was issued and a Final Supplemental Environmental Impact Statement (FSEIS) was issued in December of 2002. An addendum to the aforementioned FEIS and FSEIS was issued in December of 2006. All documents are in the record.

Testimony:

Dave Compton
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Mike Britton
City of Spokane Traffic Department
808 West Spokane Falls Boulevard
Spokane, WA 99201

Frank Ide
Taylor Engineering
106 West Mission Avenue
Spokane, WA 99201
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Dave Moss, Water Reclamation Manager
Spokane County
1026 West Broadway Avenue
Spokane, WA 99260
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Michael Whipple
Center for Justice
35 West Main Street
Spokane, WA 99201
mwhipple@lawschool.gonzaga.edu

Exhibits:

1. Staff Report
 - 1A. Original Staff Report
 - 1B. Revised Staff Report dated 06-05-07
2. Application, including:
 - 2A. General application
 - 2B. Conditional use permit and zoning special permit application
 - 2C. Application for notification map
 - 2D. Site plan
 - 2E. Subject property drawn in
 - 2F. Plat Certificate dated 09-25-06
3. Pre-Development Conference notes
4. Fire Department comments
5. Engineering Services Department comments
6. Traffic Engineering Department comments
7. Design Review comments
8. Department of Ecology comments
9. Avista Utilities comments
10. SCAPCA comments
11. Notice map
12. Notification list
13. Notices
14. Affidavits of mailing dated 10-18-06, 04-09 and 05-23-07
15. Affidavits of posting dated 10-18-06, 04-09 and 05-23-07
16. Affidavits of removal of public sign dated 12-21-06 and 05-15-07
17. SEPA Determination
18. Community Meeting Sign-in sheet
19. Hearing file preparation checklist
20. Interlocal Agreement
21. Final Environmental Impact Statement dated February 2002
22. Final Supplemental Environmental Impact Statement dated December 2002
23. Wastewater Facilities Plan Amendment Chapter 3 Chapter 8 pages 1-4 and Appendix D, Volume 1 dated February 2003
24. Issuance of Addendum to SEIS and EIS
25. Taylor Engineering packet submittal dated 02-14-07
26. Letter dated 10-10-06 to Frank Ide from Leroy Eadie
re: community meeting instructions
27. Transmittal dated 12-27-06 to Dave Compton from Spokane County
re: shoreline permit documents
28. Letter dated 02-23-07 to Interested Parties from Dave Compton
re: requesting comments

29. Email dated 02-26-07 to Dave Compton from Frank Ide
re: response to traffic distribution letter
30. Letter dated 03-28-07 to Frank Ide from Dave Compton
re: notice of application instructions
31. Letter dated 04-12-07 to Dave Compton from Annie Sayre, SMK Mechanical LLC
Manager
re: opposing project
32. Letter dated 05-14-07 to Bruce Rawls from Dave Compton
re: instructions for notice of public hearing

FINDINGS AND CONCLUSIONS

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code Section 17G.060.170. The Hearing Examiner has reviewed the proposed conditional use permit application and the evidence of record with regard to this section and makes the following findings and conclusions:

1. The proposal is allowed under the provisions of the land use code.

Essential public facilities are permitted in the Heavy Industrial Zone (HI) by Conditional Use Permit in accordance with SMC Table 17C.130-1, Industrial Zones Primary Uses. Essential public facilities are public facilities and privately owned facilities that are subject to a public service obligation and are typically difficult to site. A wastewater treatment plant to dispose of the regions sewage is an essential public facility. It requires an analysis of sighting criteria under the County wide planning policies. That process was completed and is in the record as Exhibit #23. Therefore, this criterion has been met.

2. The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property.

The Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings set forth in the Planning Services Staff Report Exhibit 1B, pages 3 and 4. In addition, the Hearing Examiner hereby adopts and incorporates the materials set forth in the Applicant's Conditional Use Permit application on page 2.

3. The proposal meets the concurrency requirements of Chapter 17D.010 SMC.

The proposed project was circulated among City departments and outside agencies with jurisdiction over land development and there were no comments received noting that concurrency could not be achieved.

4. If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to: size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water, and the existence of natural, historic, or cultural features.

The site appears suitable for this wastewater treatment plant. It is reasonably flat and devoid of structures. There are no limitations to the site in regards to size, shape, topography or

drainage characteristics which would inhibit the development, and there was no evidence presented as to the existence of natural, historic, or cultural features on site.

5. The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary, conditions can be placed on the proposal to avoid significant effect or interference with the use or neighboring property or the surrounding area, considering the design and intensity of the proposed use.

The proposal has been studied under the State Environmental Policy Act (SEPA) and an EIS, a FSEIS and an addendum have all been prepared evaluating the projects environmental impacts. The EISs' suggest certain mitigation and those mitigations measures will be incorporated into the project. The public was given the opportunity to comment and provide testimony and very few issues were brought up regarding any significant adverse impacts from this project. Therefore, this criterion has been met.

DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed conditional use permit subject to the following conditions:

1. Approval is for a conditional use permit to allow Spokane County to construct a wastewater treatment plant on site. The project will be constructed substantially in accordance with the project description as set forth in the environmental documents and the project application. The site will be developed substantially as shown on the site plan which is in the record as Exhibit #2D. Any changes proposed shall be submitted to Planning Services for review and approval. If Planning Services determines that the proposed changes are substantial, then they shall be forwarded to the Hearing Examiner for review and approval.
2. This approval is not a Shoreline Conditional Use Permit. When the County decides where the outfall portion of the proposal will be located, if it involves a discharge into the Spokane River, it will need a Shoreline Conditional Use Permit.
3. A boundary line adjustment (BLA) must be completed to aggregate all separate parcels within this proposal prior to receiving any building permits.
4. All parking areas must be hard surfaced. All broken heaved, or sunken sidewalk adjacent to this site shall be replaced to City standards whether existing or caused during construction.
5. All surface drainage must be disposed of on site in accordance with the City's Stormwater Ordinance. Any required landscaping must be planted in such a way as to not impede or encroach within the drainage design areas.
6. The project design proposed by the County's Design-Build-Operate (DBO) company shall be submitted to the City's Design Review Committee for its review and recommendations. Those recommendations shall be forwarded to the Hearing Examiner and will become conditions of this approval.
7. The Applicant shall address impacts to the environment with the mitigation set forth in the Final Supplemental Environmental Impact Statement (FSEIS) dated December 2002 as applicable.

8. This project will require additional permits by relevant governing agencies. Conditions placed on the proposal by those agencies will become conditions of this approval also.
9. This approval does not waive the applicant's obligation to comply with all other requirements of the Spokane Municipal Code as well as requirements of City Departments and outside agencies with jurisdiction over land development.
10. Spokane Municipal Code 17G.060.240 regulates the expiration of this approval, and Table 17G.060.3 sets forth the time frame for the expiration of all approvals.
11. Prior to the issuance of any building or occupancy permits, the applicant shall submit evidence to this file that the property owner has signed and caused the following statement to be recorded with the Spokane County Auditor's Office:

COVENANT

Development of this property is subject to certain conditions on file with the City of Spokane Planning Department and the Office of the City of Spokane Hearing Examiner. The property may not be developed except in accordance with these conditions. A copy of these conditions is attached to this Covenant.

This statement shall be identified as a Covenant. The owner's signature shall be notarized.

12. This approval is subject to the above-stated conditions. By accepting this approval the applicant acknowledges that these conditions are reasonable and agrees to comply with them. The filing of the above required covenant constitutes the applicant's written agreement to comply with all conditions of approval. The property may not be developed except in accordance with these conditions and failure to comply with them may result in the revocation of this approval.

DATED this 29th day of June 2007



Greg Smith
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits are final. They may be appealed by any party of record by filing a Land Use Petition with the Superior Court of Spokane County. **THE LAND USE PETITION MUST BE FILED AND THE CITY OF SPOKANE MUST BE SERVED WITHIN TWENTY-ONE (21) CALENDAR DAYS OF THE DATE OF THE DECISION SET OUT ABOVE.** The date of the decision is the 29th day of June 2007. **THE DATE OF THE LAST DAY TO APPEAL IS THE 20TH DAY OF JULY 2007 AT 5:00 P.M.**

In addition to paying any Court costs to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the Court.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.