

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Shoreline Substantial Development ) FINDINGS, CONCLUSIONS,  
Conditional Use Permit Application by ) AND DECISION  
Avista Utilities for property located at )  
1709 East Upriver Drive )  
) FILE NO. Z2008-19-SL

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The applicant seeks a shoreline substantial development conditional use permit in order to allow the construction of a three story, 36,000 square foot professional office building with associated landscaping and parking.

**Decision:** Approval, subject to conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant:** Avista Corporation  
c/o Clarice Garcia  
P.O. Box 3727 MSC-21  
Spokane, WA 99220

**Property Address:** 1709 East Upriver Drive in the City and County of Spokane, Washington

**Property Location:** The property is located on the north side of Upriver Drive between North Center Street and Granite Street.

**Legal Description:** ROSS PARK ADD HOLES & WALKER'S SUBS LTS 13-24 BLK 13 HOLES SUB AND LTS 1-12 BLK 12 OF WALKER'S SUB OF S1/2 BLK 12 in the City and County of Spokane.

**Zoning:** O-35 (Office – 35 foot height limit)

**Comprehensive Plan Map Designation:** The Comprehensive Plan designates this property as appropriate for office uses.

**Site Description:** The site is rectangular in shape and contains approximately 3.3 acres in size. It is reasonably flat and contains no structures. There were residential structures on site in the past but all have been removed. There is a community garden in the northeast portion of the site. The site is surrounded by roads on all four sides, specifically: Ross Court; Granite Street; Upriver Drive and North Center Street.

**Surrounding Conditions:** To the west the zoning is light industrial and the site is developed with Avista's headquarters building. To the east is the Riverview Retirement Community and to the north there are single family and multifamily uses. The properties to the north and east are zoned RMF (Residential Multifamily). To the south across Upriver Drive is the Centennial Trail and the Spokane River. Upriver Drive is designated as a Parkway in the City's Arterial Street Plan.

**Project Description:** The applicant seeks approval of a Shoreline Conditional Use Permit to allow the construction of a three story, 36,000 square foot professional building with approximately 143 parking stalls. A site plan, showing how the office building will be located on site as well as the parking, sidewalk, landscaping and other site features is set forth in the record as Exhibit #2E. A conditional use permit is necessary because the site lies within the 200 foot shoreline boundary.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code Sections 17C.120.030, 17G.060-3, 17G.060.170, and Shoreline Master Program Regulations 13.05, 13.12, 13.13.023, and SMC 11.15.273.

**Hearing Date:** June 3, 2008

**Notices:** Mailed: December 14, 2007 and April 28, 2008  
Posted: December 18, 2007 and April 28, 2008

**Site Visit:** None made.

**SEPA:** A Determination of Nonsignificance was issued by the City on May 14, 2008.

#### **Testimony:**

Tami Palmquist  
City of Spokane, Current Planning  
808 West Spokane Boulevard  
Spokane, WA 99201

Clarice Garcia  
Avista Corporation  
P.O. Box 3727 MSC-21  
Spokane, WA 99220

Laura Dale  
1703 East Ross Court  
Spokane, WA 99207

Mike Allen  
1613 East Ross Court  
Spokane, WA 99207

Patrick O'Neill  
Riverview Retirement Community  
1801 East Upriver Drive  
Spokane, WA 99207

**Exhibits:**

1. Planning Services Staff Report
2. Applications, including:
  - 2A. General application
  - 2B. Conditional Use Permit application
  - 2C. Washington State Joint Aquatic Resources Permit
  - 2D. Notification Map application
  - 2E. Site plans
  - 2Er Revised site plans
  - 2F. Conditional Use Permit counter complete checklist
3. Pre-development conference notes
4. Fire Department comments
5. Engineering Services comments
6. Traffic Engineering comments with Trip Distribution Letter
7. Solid Waste comments
8. Design Review comments
9. Spokane Regional Clean Air Agency comments
10. Department of Ecology comments
11. Spokane Tribe of Indians comments
12. Notice map
13. Notice parcel and address listing
14. Notices
15. Affidavits of Mailing dated 12-14-07 and 04-28-08
16. Affidavits of Posting dated 12-18-07 and 04-28-08
17. Affidavit of Sign Removal dated 01-17-08
18. SEPA Determination of Nonsignificance
19. Environmental checklist
20. Community meeting minutes and meeting handouts
21. Community meeting sign in sheet
22. Hearing File Preparation Checklist
23. Letter dated 11-09-07 to Clarice Garcia from Angela Raymond  
re: community meeting instructions
24. Email dated 11-16-07 to Current Planning Staff from Pat Hall

- re: Avista addressee notification
- 25. Letter dated 03-31-08 to Tami Palmquist from Avista  
re: submittal information
- 26. Letter dated 04-02-08 to Interested Parties from Tami Palmquist  
re: request for comment
- 27. Email dated 04-14-08 to Ann Winkler from Raymond Wright  
re: request to proceed with the TIA
- 28. Letter dated 04-22-08 to Clarice Garcia from Tami Palmquist  
re: notice of application and public hearing instructions
- 29. Letter dated 05-13-08 to Tami Palmquist from Clarice Garcia  
re: submittal of revised site plans and response to Spokane Tribe of  
Indians comments

### **FINDINGS AND CONCLUSIONS**

To be approved, the proposed shoreline 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.

The Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings as set forth in the Planning Services Staff report Exhibit #1, Pages 3 and 4.

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 as set forth in the Planning Services Staff report Exhibit #1, Pages 4 and 5.

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

The Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings as set forth in the Planning Services Staff report Exhibit #1, Page 5.

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 Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings as set forth in the Planning Services Staff report Exhibit #1, Pages 5 and 6.

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.

Staff issued a Determination of Nonsignificance (DNS) for this proposal on May 14, 2008. That means that after studying and circulating the proposal, staff determined that the proposal would not have significant adverse impacts on the environment or surrounding properties. A traffic study was also submitted by the applicant and the results of the traffic study showed minimal impacts related to traffic.

The main objections to the proposal from the neighborhood have been addressed by Avista through design changes. For example, a solid fence was replaced by a wrought iron one so views would not be blocked. The one change which the City mandated but the neighborhood objects to is having the employee driveway access Granite Street rather than Upriver Drive. The neighborhood is concerned that having an access on Granite Street will cause more traffic to pass through the neighborhood, whereas having it on Upriver Drive will minimize that. The City's Transportation Department will have the final say as to where that driveway is ultimately placed. No other significant adverse impacts were identified in public testimony or in the written record.

6. For shoreline conditional use permits the following additional criteria apply:

a. The proposed use will not interfere with the normal public use of public shorelines;

The Centennial Trail runs adjacent to the Spokane River on the south side of Upriver Drive, across the street from this proposal. The use of that trail by the public will not be adversely affected by this proposal. In addition, the applicant will allow its parking lot to be used by trail users during the evenings and weekend hours and will also develop crosswalks from its property across Upriver Drive for pedestrian access to the Centennial Trail. Therefore this criteria has been met.

b. The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the Shoreline Master Program;

The Hearing Examiner finds that this criterion has been met and in so doing hereby adopts and incorporates the findings as set forth in the Planning Services Staff report Exhibit #1, Page 6.

### **DECISION**

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

1. Approval is for a shoreline substantial development conditional use permit to allow the construction of a three story, 36,000 square foot office building for Avista. The proposal is to be developed substantially in accordance with the plans on file and in the record as Exhibit #2Er (as revised). Any proposed changes to the plans are to be submitted to Planning Services for review and approval. If Planning Services determines those proposed changes to be substantial, then they are to be forwarded to the Hearing Examiner for review and approval.
2. The recommendations of the Design Review Committee (dated March 28, 2008) shall be considered and the final recommendations are hereby made conditions of this decision.
  - a. Add additional street trees on the southwest corner (along Upriver Drive);
  - b. Large species trees are encouraged where possible;
  - c. Locating the parking entrance off of Upriver Drive should be considered after traffic studies have been completed;
  - d. Opportunities for additional interpretive signage and educational opportunities are encouraged;
  - e. Consider opportunities for alternate paving materials on the crosswalks, other than simply painted lines, to designate a connection between this facility, the Spokane River, and the Centennial Trail;
  - f. If the employee parking entrance will be located on Upriver Drive, consider changing the paving material at the driveway entrance to call attention to the pedestrian crossing (and increase pedestrian safety).
3. Public access to the Spokane River and river views shall be maintained as required by the Shoreline Masters Program and SMC 11.15. The applicant shall take measures to enhance access across Upriver Drive to the Centennial Trail.
4. The placement of the driveway to access the parking lots for this development shall receive final approval by the City's Engineering Services, Developer Services, Traffic Planning department.

5. All SCAPCA requirements must be met.
6. The access to the refuse enclosure must be approved by the Solid Waste Department.
7. The Fire Department shall review and approve all access design and water supply locations.
8. An overall water plan must be submitted to Engineering Services – Developer Services (coordinate with Department of Water & Hydroelectric Services) for review during the permit process.
9. Compliance with SMC 17D.060 “Storm-water Facilities” for storm-water is required and will be reviewed during the Construction Permit process by Engineering Services. A Drainage Report with supporting geotechnical information will be required. Vegetation, other than approved grasses, in the area of infiltration deviates from City Standards and can only be approved through a “request-for-deviation” process. A “request-for-deviation” can be submitted during the permit review process.
10. Spokane Tribes recommends that a cultural survey be completed on the Area of Potential Effect (APE) and staging areas. The applicant noted that a cultural survey was done by the Centennial Trail organizers which included the river side of Upriver Drive. Also, in November of 2005, Avista had a cultural resource inventory report documented as part of the FERC relicensing portion for Avista owned Spokane River projects. Avista shall work with the Tribes to make sure that this work is adequate. However, if any artifacts or human remains are found upon excavation activities, the Tribes shall be notified and the immediate area closed for further activities until assessed.
11. Any signage must comply with SMC 11.17 – Sign Code.
12. 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.
13. 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.
14. 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:

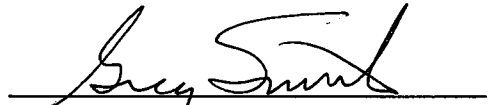
## COVENANT

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.

15. 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 10th day of June 2008.

  
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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 of the Hearing Examiner regarding shoreline conditional use permits are reviewed by the Washington State Department of Ecology. After review, they may be appealed to the Washington State Shoreline Hearings Board. **All appeals must be filed with the Shoreline Hearings Board within thirty (30) calendar days of the date of the Ecology decision.**