

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Shoreline Substantial Development ) FINDINGS, CONCLUSIONS,  
Conditional Use Permit Application by ) AND DECISION  
SRM Development for property located )  
at 803 West Broadway Avenue )  
 ) FILE NO. Z2008-36-SL

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The applicant, SRM Development, seeks a Shoreline Substantial Development Conditional Use permit to allow the construction of two 14-story condominium buildings with street level retail and associated parking in two phases.

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

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

**Applicant:** SRM Development  
104 South Division Street  
Spokane, WA 99202

**Represented by:** Scott Whitesitt  
ALSC Architects  
203 North Washington, Suite 400  
Spokane, WA 99201

**Property Owner:** YWCA Spokane  
829 West Broadway Avenue  
Spokane, WA 99201

**Property Address:** 803 West Broadway Avenue in the City and County of Spokane, Washington.

**Property Location:** The property is located on the southeast corner of Broadway Avenue and Lincoln Street.

**Legal Description:** A full legal description is in the record attached to Exhibit #2C.

**Zoning:** CBD-6 (Central Business District – North Bank)

**Comprehensive Plan Map Designation:** The Comprehensive Plan designates this area as “Downtown”.

**Site Description:** The site is irregular in shape and contains approximately 2.1 acres in size. It is currently occupied by the YWCA buildings, open space and a two tiered parking lot on the southern portion of the site. The site is reasonably flat along Broadway Avenue and then slopes to the south and southeast. There is a dramatic cliff like slope on the southeast portion of the site down to the Spokane River. The site’s shape and topography are shown on the submitted site plans which are in the record as Exhibit #2D and #2F.

**Surrounding Conditions:** To the east and southeast is the Spokane River and beyond that is Riverfront Park. To the northeast is a condominium building and the historic Flour Mill. To the north, across Broadway Avenue there is a building known as the Hostess Building which used to be a bakery business. To the west there are parking lots and other mixed use office buildings. To the south is Anthony’s Restaurant. The surrounding zoning, like the subject site is CBD-6. Lincoln Street, on the west side of the site is designated as a principal arterial in the City’s Arterial Street Plan. Broadway Avenue is listed as a minor arterial.

**Project Description:** The applicant seeks a shoreline conditional use permit to allow the development of the site in two phases. The first phase would consist of a 14-story condominium building with underground parking, street level parking and also street level retail space at the corner of Lincoln Street and Broadway Avenue. Phase 2 would be the development of a similar tower and parking structure on the south half of the site. In addition, the applicant proposes several enhancements such as a public pathway along the top of the cliff above the river, as well as benches and viewing areas for the public incorporated into the pathways. The applicant also submitted a habitat management plan and will follow the recommendations of the plan which include enhancements along the shoreline to promote habitat restoration. The applicant has also gone through the Design Review process and has agreed to comply with design recommendations, specifically street enhancements as recommended by the Design Review Committee.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code Sections 11.15, 11.15.273, 11.15.380, 11.19, 11.19.194 through 198, and 17G.060.170. See also the Shoreline Master Program Regulations 13.13.023, 13.13.041 and 13.13.042.

**Hearing Date:** November 13, 2008

**Notices:** Mailed: February 25, September 12, 16, and October 23, 2008  
Posted: September 25 and October 29, 2008

**Site Visit:** November 24, 2008

**SEPA:** A Mitigated Determination of Nonsignificance (MDNS) was issued by the City on October 14, 2008.

**Testimony:**

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

Ray Wright, Traffic Engineering  
City of Spokane Engineering Services  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Scott Whitesitt  
ALSC Architects  
203 North Washington, Suite 400  
Spokane, WA 99201

Brian Runberg  
No address provided  
[BrianR@runberg.com](mailto:BrianR@runberg.com)

Glenn Traeger  
820 North Post Street  
Spokane, WA 99201

**Exhibits:**

1. Planning Services Staff Report
2. Application, including:
  - 2A General application
  - 2B Conditional Use Permit application
  - 2C Application for Notification Map
  - 2D Site Plans
  - 2E Obscured View Zone
  - 2F Conceptual drawings, floor plans, topography
  - 2G Conditional Use Permit Counter Complete Checklist
3. Pre-development conference notes
4. Building Department comments
5. Fire Department comments
6. Engineering Services comments
7. Traffic Engineering comments
  - 7A Trip Generation and Distribution letter by USKH, Inc.
8. Design Review comments

9. Washington State Department of Transportation comments
10. Department of Ecology comments
11. Spokane Regional Clean Air comments
12. Spokane Tribe of Indians' comments
13. Avista Comments
14. Notice map, parcel and address listing
15. Notices
16. Affidavit of mailing February 25, September 12, and 16, October 23, 2008
17. Affidavit of posting September 25 and October 29, 2008
18. Affidavit of publication (missing)
19. Mitigated Determination of Nonsignificance (MDNS)
20. Environmental Checklist
21. Geotechnical Engineering Evaluation by All West Engineering
22. Habitat Management Plan by Biology Soil and Water, Inc.
23. Community Meeting Sign-In Sheet and agenda
24. Hearing File Preparation Checklist
25. Letter dated 04-08-08 to Bob Droll from Dave Compton  
re: community meeting instructions
26. Letter dated 03-18-08 to Scott Whitesitt from Leroy Eadie  
re: submittal requirements for Type III Conditional Use Permit
27. Email dated 05-30-08 to Ryan Leong from Scott Whitesitt  
re: Conditional Use Permit fee
28. Emails dated 08-08-08 to/from Scott Whitesitt and Dave Compton  
re: status of application
29. Email dated 08-12-08 to Dave Compton from Scott Whitesitt  
re: responses to staff comments
30. Letter dated 08-22-08 to Scott Whitesitt from Dave Compton  
re: notice of application instructions
31. Letter dated 10-14-08 to Scott Whitesitt from Dave Compton  
re: notice of public hearing instructions
32. Email dated 09-19-08 to Dave Compton from Harry Bright  
re: opposing project
33. Letter dated 09-29-08 to Dave Compton from Terry Snow  
re: opposing the height of the project
34. Letter dated 10-20-08 to Dave Compton from Linda Greene  
re: opposing the project
35. Email Dated 10-23-08 to Planning Department  
re: opposing the project

## 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 codes.

Multifamily residences are a permitted use in the CBD-6 zone. See SMC 11.19.195. Staff has analyzed the zoning standards of that zone in its staff report and its findings show that the proposal complies with the CBD-6 zoning standards. See Exhibit #1 pages 3 and 4.

The Shoreline Master Program (SMP) also allows multifamily residences in this location, but subject to a conditional use permit. See SMP 13.13.023(a). Further, SMP section, 13.13.041 lists certain regulations, which apply to the allowance of residential activities in the shoreline area. Staff has also examined those regulations and this proposal's compliance therewith in Exhibit #1 on pages 4 through 7 and found that the proposal generally complies. The Hearing Examiner agrees and hereby adopts those findings.

Staff has also analyzed the design regulations that apply to residential development, which are set forth in SMP section 13.13.042. While some of those regulations do not apply to this proposal, the ones that do apply are being complied with or will be complied with by the applicant. The Hearing Examiner adopts staff's findings on the regulations found in SMP 13.13.042 as set forth in Exhibit #1 pages 6 and 7.

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

Staff has set forth various Comprehensive Plan policies relating to construction of a condominium building in this location. The Comprehensive Plan encourages downtown housing and also encourages housing near centers, corridors and cultural centers such as downtown. This proposal will provide new condominium units adjacent to Riverfront Park and adjacent to the downtown core. The Comprehensive Plan and the Shoreline Plan also encourages public access points to the shoreline area and the proposal will enhance public access along its shoreline boundary. There was no testimony presented demonstrating that the proposal does not comply with the Comprehensive Plan and the Hearing Examiner hereby adopts staff's findings herein as set forth in Exhibit #1 page 7.

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

The proposal was circulated to various City departments and outside agencies for comment regarding concurrency. Because of the basalt on site, stormwater disposal apparently presents the biggest challenge. A final stormwater plan will have to be submitted to Engineering Services for its review and approval. No other concerns regarding concurrency were expressed by any City departments or other outside agencies.

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 layout of the site is set forth on the site plan which is in the record as Exhibit #2D. It appears that the site can accommodate development as proposed and meet all zoning and shoreline standards. The applicant completed a preliminary geotechnical evaluation of the site and while the basalt bedrock and also the fill that was used to develop the site originally will pose some problems during construction, they appear to be problems that can be overcome and the geotechnical report was accepted by the Engineering Services department. As noted above drainage is also an issue on a site such as this and a final drainage plan will be required. There are no known historical or cultural features on site and no physical characteristics such as water hazards will inhibit development.

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.

A Mitigated Determination of Nonsignificance was issued by the City under SEPA which means that the responsible official determined that with some mitigation this proposal would not impose a significant adverse impact on the environment or surrounding properties. The mitigating measure related to impact fees to alleviate traffic problems offsite. While there were some concerns about additional traffic congestion in the area, the traffic study showed that the use would not generate significant amounts of traffic over and above what the YWCA generates currently. Impact fees paid by the developer will help to alleviate future problems.

There were also letters in the record concerning the height of the buildings and whether it was appropriate. None of the letters came from surrounding property owners. The applicant's proposal complies with the height restrictions of the CBD-6 zone and therefore the proposed height is allowed.

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

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

There will be improved public access to the shoreline developed by the applicant in conjunction with this proposal. The applicant will improve a trail and also establish viewing areas with benches for the public to use. Therefore the public will have increased access to the shoreline.

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;

There are only a few other sites adjacent to the shorelines in this area that could be developed with a similar use. The ones that have developed or are permitted to develop have all maintained public access. Much of the riverbank in this area is within Riverfront Park. Therefore additional condominium buildings such as this would most likely not be built in the area along the riverbank and there was no testimony to show that the cumulative impact of additional conditional use permits such as this will preclude achieving any of the goals of the Shoreline Master Program.

### **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 condition use permit to allow the construction of two 14-story condominium towers on site. The site is to be developed substantially in accordance with the plans and site plan submitted, which are in the record as Exhibits #2D and #2E. The proposal can be developed in two phases. If changes are proposed to the building design or site plan, those changes are to be submitted to Planning Services for review and approval. If Planning Services determines that the proposed changes are substantial then they are to be submitted to the Hearing Examiner for review and approval. The Hearing Examiner may seek a recommendation from the Design Review Committee prior to consideration of any proposed changes.
2. The applicant shall dedicate to the City, right-of-way to accommodate an 8 foot sidewalk and a 5 foot planting strip along the street frontage of the proposed development. The applicant will also dedicate the necessary right-of-way to allow the City some time in the future to provide a 30 foot corner radius on the southeast corner of Broadway Avenue and Lincoln Street. The applicant is not required to construct the 30 foot radiused corner.
3. The applicant will pay a voluntary impact fee of \$30,208.00 toward the City's "Bridge

Avenue-Monroe/Lincoln connector” project as listed in the 6 Year Comprehensive Street Program. If, in the meantime, the City enacts an impact fee ordinance the developer shall comply with that ordinance. Fees are to be paid at the time of building permit application and the fees may be paid for each phase as set forth in the traffic impact analysis report.

4. In the development of this site the applicant must maintain clear views at driveways and intersection locations. All lighting on site is to be down shielded so as to prevent off site glare.
5. The applicant shall use its best efforts to comply with the recommendations of the Design Review Committee as set forth in the record. By way of clarification, the first condition recommended by the Design Review Committee that the applicant return to the committee for review of the Lincoln Street streetscape prior to issuance of the building permit for the second phase tower, the Hearing Examiner notes that the intent of the review is to determine compliance with streetscape requirements in effect at the time of application and is not intended as a re-review of the second tower itself in terms of height, bulk or location as long as it complies with this decision.
6. All development standards as set forth in the North Riverbank Overlay District must be adhered to.
7. The applicant shall construct the trail along the river as shown on the submitted site plan with public access and views on the trail as shown on the plan. The applicant shall also comply with the recommendations and conclusions of the Habitat Management Plan submitted and in the record.
8. The applicant must show compliance with SMC 17D.060 relating to stormwater facilities. A final stormwater plan must be submitted to Engineering Services for review and approval with applications for any building permits.
9. Signage must comply with the City’s sign code.
10. The Fire Department reserves the right to review and approve all access design and water supply locations.
11. 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.
12. 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.
13. 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**

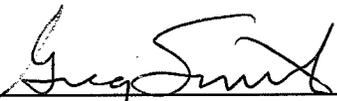
Development of this property is subject to certain conditions on file with the City of Spokane Planning Department and the Office of the City of Spokane

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.

14. 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 26<sup>th</sup> day of November 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 (21) calendar days of the date of the Ecology decision.**