

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Substantial Development) FINDINGS, CONCLUSIONS,
Conditional Use Permit Application by) AND DECISION
Spokane Portland and Seattle LLC)
and Great Northern LLC for property)
located at 802 East Spokane Falls)
Boulevard) FILE NO. Z1000035-SCUP

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant seeks a shoreline substantial development conditional use permit in order to renovate the historic 103-year-old Taylor Edwards Building to create new office space and the corporate headquarters for McKinstry Inland Northwest. The application also includes an upgrade and utilization of the existing Builders Supply Store on site.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Spokane Portland and Seattle LLC /
Great Northern Spokane LLC
Attn: John Lang
5005 3rd Avenue South
Seattle, WA 98134

Represented by: Tom Reese
The Reese Group
PO Box 76
Spokane, WA 99201

Property Address: 802 East Spokane Falls Boulevard in the City and County of Spokane, Washington

Property Location: The property is located at the southwest corner of Spokane Falls Boulevard and Hamilton Street in the City of Spokane, Washington.

Legal Description: A full legal description is in the record attached to the General Application which is Exhibit #2A.

Zoning: CC1-EC (Centers and Corridors 1, – Employment Center).

Comprehensive Plan Map Designation: CC Core, (Centers and Corridors Core) in the City's Comprehensive Land Use Plan.

Site Description: The site is irregular in shape and contains approximately 3.05 acres in area. It is reasonably flat with a slope down to the Spokane River on the south side. It is currently occupied by two buildings. The 103-year-old Taylor Edwards building is located on the south portion of the site closest to the Spokane River. On the north part of the site is the Habitat for Humanity Builders Surplus Store. There was recently a cleanup action on site adjacent to the Spokane River. The portion of the site adjacent to the Spokane River has vegetation both native and nonnative consisting of trees, shrubs and grasses.

Surrounding Conditions: To the south is the Spokane River and to the west is a Gonzaga University parking lot. The site is bordered by Hamilton Street on the east. Across the street to the north is a hardware supply company and to the west of the hardware supply company is Gonzaga's baseball field.

Project Description: The applicant seeks a Shoreline Conditional Use Permit in order to renovate the historic 103-year-old Taylor Edwards Building to create new office uses and the corporate headquarters for McKinstry Inland Northwest. They also seek to upgrade and utilize the existing Habitat for Humanity Builders Surplus Store for their design-build shop and storage space. Included in the proposal will be access, parking, a new landscape plan for the area along the Spokane River and various decks, gardens and other landscape features on the south side of the renovated historic building. The building has received designation under Federal Law and is now listed on the National Register of Historic Places. A more thorough description of the proposal is set forth in the General Application Exhibit 2A, page 3.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 11.15, 11.15.054, 11.15.190, 11.15.380, 17C.122, 17G.060.170, and Shoreline Master Program Regulations set forth in the 1982 Supplement Chapter 13.05 and 13.12

Hearing Date: September 30, 2010

Notices: Mailed: April 7th, and August 3, 2010
Posted: April 26th, and August 3, 2010

Site Visit: October 12, 2010.

SEPA: A Mitigated Determination of Nonsignificance was issued by the City on September 8, 2010.

Testimony:

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

Tom Reese
The Reese Group LLC
PO Box 76
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Reports
2. Application, including:
 - 2A General application
 - 2B Conditional use application
 - 2C Floodplain Development permit application
 - 2D Notification Map application
 - 2E Joint Aquatic Resources Permit application (JARPA)
 - 2F Site Plans
 - 2G Critical Areas Assessment checklist
 - 2H Counter complete checklist
3. Plan Review Comments
4. Fire Department comments
5. Engineering Services comments
6. Traffic Engineering comments
 - 6A Trip generation & distribution report dated 06-30-10
7. Historic Preservation comments
8. Design Review comments
9. Washington State Department of Transportation comments
10. Washington Department of Fish and Wildlife, Hydraulic Project Approval
11. Department of Ecology comments
12. Northwest Pipeline comments
13. Spokane Tribe of Indians comments
14. Spokane Regional Clean Air Agency comments
15. Existing Vegetation and Tree Inventory
16. Notice map with parcel listing
17. Notices
18. Affidavit of mailing April 7th and August 3, 2010
19. Affidavit of posting April 26th and August 3, 2010
20. Affidavit of sign removal April 26, 2010
21. SEPA Mitigated Determination of Nonsignificance

22. Environmental checklist
23. Community Meeting sign in sheet, agenda and presentation
24. Hearing File Preparation Checklist
25. Email dated 06-09-10 to Tami Palmquist from Jo Anne Wright
re: regarding project
26. Letter dated 06-30-10 to Tami Palmquist from Tom Reese
re: submittals
27. Letter dated 07-08-10 to Interested Parties from Tami Palmquist
re: requesting comments
28. Letter dated 07-10 to Thomas Reese from Tami Palmquist
re: notice of application instructions
29. Letter dated 07-30-10 to Thomas Reese from Tami Palmquist
re: notice of technically complete

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.

Staff has analyzed the proposal's consistency under the provisions of the land use codes and the Shoreline Master Program Regulations and found that the proposal is consistent with those regulations and therefore allowed by the land use codes. The Hearing Examiner agrees and hereby adopts and incorporates the staff's analysis as set forth in the Planning Services Staff report Exhibit #1, Pages 3, 4 and 5.

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, Page 5 and 6.

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

The proposal was circulated amongst all City departments and agencies with jurisdiction over land development. It appears that adequate facilities exist in the area to serve the proposed project. Staff notes that all commenting service providers indicated that there would be no major issues associated with providing services to the site. There may be some traffic mitigations that must be made at the time of issuance of a building

permit for the Habitat Building. Sewer and water is available to serve the site and there are other departmental requirements which will have to be satisfied during the building permit stage, but the applicant has agreed to do so. Therefore, this criterion has been met.

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 the renovated office buildings and associated parking. There is nothing about the size, topography or soils which would limit development and there was no evidence presented of the existence of ground or surface water on site or of any natural, historic or cultural features which would inhibit the redevelopment of the applicant's buildings. If items of cultural significance are found during construction, the Tribes and appropriate agencies must be notified. Therefore, this criterion has been met.

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 was analyzed under the State Environmental Policy Act and no significant adverse impacts were noted. The City issued a Mitigated Determination of Nonsignificance (MDNS) which will require the applicant to maintain and improve the riparian zones along the Spokane River. Other than that, no other significant impacts on the environment or surrounding properties were noted in the 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 the shorelines;

Public access and views of the Spokane River will actually be enhanced as a result of this project. There will be a trail extended from the Gonzaga property to the west which will terminate at the eastern portion of this site. Landscaping between the building and the Spokane River will contain decks and seating areas which will also enhance the public's enjoyment of the Spokane River at this location.

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;

Since this is a renovation of an existing historic structure and since the public access to the Spokane River is being enhanced, conditional use permits such as this are a positive influence on the Spokane River and its environment. The environment along the Spokane River is enhanced by projects such as this. In addition, the applicant, under a prior application, did a substantial cleanup of the area around the site which also had a positive impact on the Spokane River. Therefore granting of this conditional use permit achieves the goals of the Shoreline Master Program for this area.

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 renovation of the 103-year-old historic structure, commonly known as the Taylor Edwards Building, to be used for office uses. It also allows the redevelopment of the Builders Surplus Store immediately to the north. The proposal is to be developed substantially in accordance with the plans and application on file which are in the record as Exhibit #'s 2A through 2G. 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 will be forwarded to the Hearing Examiner for review and approval.
2. The recommendations of the Design Review Board (dated September 17, 2010) shall be considered and the final recommendations shall be made a condition of this decision.
3. Public access to the Spokane River and river views shall be required as part of the Shoreline Masters Program and SMC 11.15. The applicant shall provide access along the Spokane River via a trail connection.
4. All SCAPCA requirements set forth in Exhibit #14 must be met.
5. The applicant shall meet Fire Department requirements as set forth in Exhibit #4.
6. Review and approval of the proposed sewer and water plans shall be done during the Construction Permit Review process.
7. Compliance with SMC 17D.060 "Storm-water Facilities" for storm-water shall be reviewed and approved when the stormwater report is submitted during the Construction Permit Review process.
8. Traffic Engineering will review driveways, parking and maneuver areas once the plans are submitted for construction permit review. The memorandum dated 29 July 2010, from Traffic Engineering, states the areas which will be reviewed during the Construction

Permit Review process. That memorandum is in the record as Exhibit #6.

9. The applicant shall comply with the mitigating measures in the Mitigated Determination of Nonsignificance, dated September 8, 2010. They are:

a. The site shall be developed in substantial compliance with the plans on record and comments received on the project from City Departments and outside agencies with jurisdiction.

b. This project lies within the Riparian Habitat Zone 2 of The Spokane River as defined in Spokane Municipal Code, 17E.020.050. In compliance with Spokane Municipal Code 17E.020.050, Fish and Wildlife Conservation Areas – Regulated Activities, all activities shall be undertaken using best management practices; the applicant shall maintain records documenting compliance with best management practices.

c. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require the replacement of any lost habitat functions that result from the proposal. In compliance with these regulations, a Re-Planting Plan, dated August 19, 2008, was prepared for application Z0900023-SCUP – BNSF Taylor Edwards Remediation. A Revised Habitat Management Plan was issued June 22, 2009. Application Z1000035-SCUP provided a Landscape Plan dated June 2010 and an Existing Vegetation and Tree Inventory on August 28, 2010.

10. The Historic Preservation Office comments and requirements are set forth in Exhibit #7. Those requirements shall be met.

11. Pursuant to comments from WSDOT set forth in Exhibit #9, the applicant shall provide an adequate demarcation to show trail users that the trail does not extend past the end of the subject property at this time. This may be done in a variety of ways, such as signage and/or bollards.

12. The Spokane Tribes of Indians requires that, if any artifacts or human remains are found upon excavation, its office should be immediately notified and the work in the immediate area cease.

13. 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.

14. 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.

15. 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:

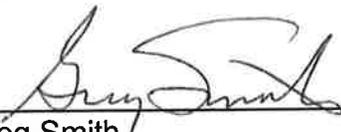
COVENANT

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.

16. 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 14th day of October 2010.



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 twenty-one (21) calendar days of the date of the Ecology decision.**