

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Shoreline Substantial Development ) FINDINGS, CONCLUSIONS,  
Conditional Use Permit Application by ) AND DECISION  
Avista Corporation for removal of rocks )  
and accumulated material behind the )  
Monroe Street Dam. )  
FILE NO. Z1100010-SCUP

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** Avista Corporation has applied for a shoreline conditional use permit in order to perform periodic rock removal and relocation of accumulated materials (course grained sands, gravels, and cobbles) in order to prevent the failure of the intake structure and to restore generation capacity of the Monroe Street Dam.

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

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

**Applicant:** Meghan Lunney  
Avista Corporation  
P.O. Box 3727  
Spokane, WA 99220-3727

**Property Address:** Not assigned.

**Property Location:** The Monroe Street Dam is located on the Spokane River between Monroe Street and Post Street. The activities will occur adjacent to the dam. The cobbles will be removed from the upstream area and dumped into the downstream area.

**Legal Description:** Not available.

**Zoning:** The existing zoning is DTG-70 (Downtown General)

**Comprehensive Plan Map Designation:** The property is designated Conservation Open Space in the City's 2001 Comprehensive Plan.

**Site Description:** The project will take place in the Monroe Street Dam forebay within the Spokane River. The Monroe Street Dam is located on the Spokane River east of Monroe Street and west of the Post Street Bridge. The proposed activities will occur off the upstream abutment adjacent to the Monroe Street Dam.

**Surrounding Conditions:** The entire parcel is surrounded by Downtown General (DTG) Zoning on the north, east and south, with CB-150 to the west. The subject property has a height limit of 70 feet. The project is located entirely within the Spokane River just northwest of the Spokane City Hall.

**Project Description:** The applicant seeks approval of a Shoreline Conditional Use Permit to remove accumulated rock (coarse grained sands, gravels and cobbles) from the Monroe Street Dam forebay and relocating it into the Spokane River, downstream of the dam. Periodic removal of the accumulated materials is required to prevent failure of the intake structure and to restore the generation capacity of the Monroe Street Dam. The rock removal and relocation activities will be conducted as necessary and varies year-to-year, dependent upon the amount of material transported and deposited by winter and spring flows. The permit is valid for five years.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code Sections 17E.060, SMC 17G.060, and 17G.060.170.

**Hearing Date:** June 9, 2011

**Notices:** Mailed: February 25 and April 25, 2011  
Posted: March 1 and April 25, 2011

**Site Visit:** The Hearing Examiner has visited this site numerous times including on June 8, 2011.

**SEPA:** A Determination of Nonsignificance (DNS) was issued by the Department of Fish and Wildlife on October 28, 2009.

**Testimony:**

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

Meghan Lunney  
Avista Corporation  
P.O. Box 3727  
Spokane, WA 99220-3727

**Exhibits:**

1. Planning Services Staff Reports
  - 1A Issued on 05-31-11
  - 1B Revised on 06-07-11
2. Application, including:
  - 2A General application
  - 2B Shoreline conditional use permit application
  - 2C Notification Map application
  - 2D Joint Aquatic Resources Permit application (JARPA) with minor modification request.
  - 2E Army Corp 404 Permit and Permit Modifications
  - 2F Site Plan
  - 2G Critical Areas Assessment checklist
3. Engineering Services comments
4. Spokane Tribe of Indians comments
5. Northwest Pipeline comments
6. Notice map with parcel listing
7. Notices
8. Affidavit of mailing 02-25 and 04-25-11
9. Affidavit of posting 03-01 and 04-25-11
10. Affidavit of sign removal 03-17-11
11. SEPA Determination of Nonsignificance
12. Environmental checklist
13. Hydraulic project approval
14. 401 Water quality certification
15. Community Meeting sign in sheet
16. Community Meeting presentation
17. Hearing File Preparation Checklist
18. Letter dated 02-16-11 to Megan Lunney from Tami Palmquist  
re: community meeting instructions
19. Letter dated 03-30-11 to Interested Parties from Tami Palmquist  
re: requesting comments
20. Letter dated 03-25-11 to Tami Palmquist from Meghan Lunney  
re: submittal of paperwork
21. Letter dated 04-20-11 to Meghan Lunney from Tami Palmquist

re: notice of application/public meeting instructions

### **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 City's Environmental Regulations specifically 17E.060 and Table 17E.060-3 list periodic dredging for existing hydroelectric facilities as allowed in the Conservation Urban Zone by Conditional Use Permit from the Hearing Examiner. Therefore, this use is allowed under the land use codes.

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

This project is within the shoreline and is consistent with Chapter 14, which is the Shorelines Chapter of City of Spokane's Comprehensive Plan. The comprehensive plan recognizes that capital facilities, utilities and water dependent uses are important and necessary. The maintenance of these facilities is also important in order to continue services to the public.

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 is not the type of facility that requires a lot of public service support. There are no transportation issues or water/sewer issues, therefore no departments or agencies objected to the proposal based on concurrency requirements.

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.

This dredging operation will occur totally within the Spokane River behind the Monroe Street Dam and there is no site plan required for this application.

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.

There was nothing in the record to indicate that the project will have significant adverse impacts on the environment or surrounding properties. The project is confined to removing accumulated materials from behind the Monroe Street Dam and relocating the material into the Spokane River downstream from the dam. The applicant has obtained a Section 404 permit and HPA permit and all agencies with jurisdiction were allowed to comment on the proposal and no agencies commented that the project would have any significant adverse impacts on the environment. Further, a DNS was issued for the proposal. Therefore, the Hearing Examiner finds that this criterion has been met.

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

a. The proposed use is consistent with the policies of RCW 90.58.020 and 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, Pages 4, 5 and 6.

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

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, 5 and 6.

c. 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, Pages 4, 5 and 6.

d. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with the uses planned for the area under the comprehensive plan and 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, Pages 4, 5 and 6.

e. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located, and the public interest in enjoying the physical and visual access suffers no substantial detrimental effect.

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, 5 and 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 Avista Corporation to perform periodic rock removal and relocation of accumulated material (coarse grain sands, gravels and cobbles) from behind the Monroe Street Dam in order to prevent failure of the intake structure and also to restore generation capacity. The proposal is to be preformed substantially in accordance with the various permits including the 404 permit and other permits obtained by Avista for this project. If changes are sought to this approval, the applicant shall submit those changes to Planning Services for review and approval. If Planning Services finds that the changes are substantial, then they shall be submitted to the Hearing Examiner for review and approval.
2. This project lies within the Riparian Habitat Zone 1 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. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require the replacement of any lost habitat functions that result from the proposal.
3. The Spokane Tribes of Indians made the following comments in an email dated 4/19/11:  

“The Spokane Tribe would like to monitor the samplings from this project. However, if any artifacts or human remains are found upon inadvertent discovery, this office should be immediately notified and the work in the immediate area cease. Should additional information become available our assessment may be revised.”

Based on the Spokane Tribes email, the applicant shall work with the Spokane Tribe of Indians to make sure they are part of the process when samples are evaluated.

4. Avista shall provide to the State Department of Ecology (DOE) sample results of the material to be removed and relocated prior to the first and second dredging activities after issuance of the Federal Energy Regulatory Commission (FERC) license and prior to the mix dredging activity that takes place on or after every 10<sup>th</sup> anniversary of the issuance of that FERC license.
5. 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.
6. This approval is good for a period of five years from the effective date of this approval.

DATED this 21st day of June 2011.

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