

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Substantial Development) FINDINGS, CONCLUSIONS,
Conditional Use Permit Application by) AND DECISION
the City of Spokane Parks Department for)
property located within The Creek at)
Qualchan Golf Course.)
) FILE NO. Z1100003-SCUP

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant seeks a shoreline substantial development conditional use permit in order to allow repair and stabilization of a damaged stream bank at one site within The Creek at Qualchan Golf Course. The proposal includes construction of rock barbs, additional riprap and soft gabions. The project site is located within the Shoreline Environment Designation in the Latah Natural Environment and Urban Conservancy Environment, Zone 6 Riparian Habitat Area (RHA) and the 100-year FEMA Flood Zone.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Pamela McKinzie
City of Spokane Parks and Recreation Department
808 West Spokane Falls Blvd.
Spokane, WA 99201

Property Address: Not assigned.

Property Location: The site is adjacent to Latah Creek within the boundaries of The Creek at Qualchan Golf Course which is located at 301 East Meadowlane Road in Spokane, Washington. Site #3 which is the subject of this permit is described as being located along the 18th green.

Legal Description: The property is located along Latah Creek in the in the NE Quarter of Section 6, Township 24N, Range 43E.W.M. in the City and County of Spokane, Washington.

Zoning: RSF (Residential Single Family).

Comprehensive Plan Map Designation: Open Space in the City's 2001 Comprehensive Land Use Plan.

Site Description: The site is located on the west bank of Latah Creek within the boundaries of The Creek at Qualchan City Golf Course. That is located at 301 East Meadowlane Road. Site #3, which is the stream bank that is the subject of this conditional use permit is located along the 18th green of the golf course. The site is located within the Latah Urban Conservancy designation of the Spokane River. The area is also designated on the City of Spokane Critical Areas Ordinance as Zone 6, A Riparian Habitat Area (RHA), and within the 100-year FEMA Flood Zone.

Surrounding Conditions: As stated, the site is along the 18th green at the golf course and there is open space surrounding the site with golf fairways and greens. The site and surrounding area is all zoned for single family residential development and to the east there is open space that runs up a steep slope with houses on the bluff on St. Andrews Lane. To the west, across US State Highway 195, there are housing developments at Qualchan and Eagle Ridge.

Project Description: This portion of Latah Creek adjacent to the golf course has suffered from severe erosion over the last few years. The City's Parks and Recreation Department has applied for a conditional use permit in order to repair that damaged stream bank by performing stabilization measures with construction of rock barbs, additional riprap and soft gabions. Some of the work has already been done on an emergency basis.

PROCEDURAL INFORMATION

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

Hearing Date: June 23, 2011 (At the hearing on this matter the Planning Services Department and the Parks Department requested additional time in order to submit additional information regarding the expansion of the repair area. Therefore, the matter was continued until August 4, 2011, at which time the record was closed.)

Notices: Mailed: March 15th and April 27, 2011
Posted: March 15th and April 25, 2011

Site Visit: None made.

SEPA: A Mitigated Determination of Nonsignificance (MDNS) was issued by the City on September 3, 2010.

Testimony:

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

Pamela McKinzie
City of Spokane, Parks and Recreation Dept.
808 West Spokane Falls Boulevard
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Conditional use application
 - 2C Notification Map application
 - 2D Joint Aquatic Resources Permit application (JARPA)
 - 2E Site Plans and stabilization plans
 - 2F Critical Areas Assessment checklist
 - 2G Habitat Management plan
 - 2H Hydraulic Project approvals
 - 2I Exemption from Shoreline Development Permit
3. Fire Department comments
4. Engineering Services comments
5. Traffic Department comments
6. Spokane Tribe of Indians comments
7. Northwest Pipeline comments
8. Department of Ecology comments
9. Spokane Regional Clean Air Agency comments
10. Notice map with parcel listing and address listing
11. Notices
12. Affidavit of mailing 03-15 and 04-27-11
13. Affidavit of posting 03-15 and 04-25-11
14. SEPA Mitigated Determination of Nonsignificance (MDNS)
15. Environmental checklist
16. Community Meeting sign in sheet
17. Hearing File Preparation Checklist
18. Letter dated 01-07-11 to Pamela McKinzie from Tami Palmquist
re: community meeting instructions
19. Letter dated 03-25-11 to Interested Parties from Tami Palmquist
re: requesting comments
20. Letter dated 03-29-11 to Pamela McKinzie from Tami Palmquist
re: notice of application/public meeting instructions
21. Memorandum dated 05-16-11 to Pamela McKinzie from URS
re: Qualchan Golf Course stream bank stabilization plan

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.

.As noted in the staff report the City's Shoreline Master Program, specifically SMC 17E.060.400, permits shoreline stabilization such as proposed here for protection of existing primary structures when documented by an engineering/geotechnical analysis performed by a licensed professional. Such a shoreline stabilization proposal must first obtain a conditional use permit. Therefore, this proposal is allowed under the provisions of the land use code. See also Table 17E.060-3. The Hearing Examiner finds that this criterion has been met and in so doing also adopts and incorporates the findings as set forth in the Planning Services Staff report Exhibit #1, Page 3.

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 & 5.

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 application that requires a lot of public service support. There will be very little traffic to the site except for foot traffic from golfers and there will be no structures built on site which would use City water/sewer or have to comply with fire codes. No adverse comments were received by any departments or agencies regarding inadequate services in the area.

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.

There is a site plan in the record as Exhibit #2E. The plan was circulated to departments and agencies and while the applicant will be required to substantially landscape the site, there were no comments demonstrating that the site could not be developed with this particular bank stabilization structure. This area of the golf course will be enhanced because of the stabilization of the Latah Creek bank near the 18th green. The applicant will be required to revegetate the site per the habitat management plan. In addition, this matter was continued for a little over a month because between 12 and 15 feet of area was added to the riparian setback buffer at the top of the slope which will require additional revegetation. The bank area to be stabilized was also expanded. There was nothing about the location, topography, soils, slope or drainage characteristics that would prohibit 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.

The project was evaluated under the State Environmental Policy Act (SEPA) and a Mitigated Determination of Nonsignificance (MDNS) was issued by the City on September 10, 2010. Those mitigating conditions will become conditions of this approval. There was no other evidence submitted to the Hearing Examiner showing that the proposal would have any adverse impact on the environment or surrounding properties.

Additional Criteria that Apply to Shoreline Conditional Use Permits

There are 5 additional criteria that apply to Shoreline Conditional Use Permits. They are:

6. The proposed use is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program;
7. The proposed use will not unreasonably interfere with the normal public use of public shorelines;
8. 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;
9. 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;
10. 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 these five criteria have been met and in so doing hereby adopts the findings on these criteria as set forth on the Planning Services Staff Report Exhibit #1, Pages 6 and 7.

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 bank stabilization measures to be taken along the 18th green at The Creek at Qualchan City Golf Course. The area being stabilized is known as "Site #3" with an addition to be known as "Site #3B" which is approximately 150-foot long running to the west from "Site #3". The bank stabilization will be done in accordance with the plans submitted and with the bank stabilization plan submitted by URS, on behalf of the City's Parks Department which is in the record as Exhibit #21. The site design includes the installation of one rock barb. The rock barb will extend approximately 35-feet out from the ordinary high water mark and about 15-feet out into the secondary stream channel. In addition, the applicant shall place approximately a 25-foot wide vegetative buffer at the top of the bank. The buffer is to provide habitat and discourage the public from approaching and eroding the bank. 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 shall conform to the requirements of the Hydraulic Project Approval issued on September 14, 2010, by the Washington Department of Fish and Wildlife. It shall also conform to any other conditions placed by agencies on required permits.

3. This project lies within the Riparian Habitat Zone 6 of Latah Creek as defined in Spokane Municipal Code, 17E.020.070. In compliance with Spokane Municipal Code 17E.020.070, Fish and Wildlife Conservation Areas – Exemptions, all exempt activities shall be undertaken using best management practices; the applicant shall maintain records documenting compliance with best management practices.

4. The project lies within the 100-Year FEMA Flood Zone and is subject to the provisions of Section 17E.030 – Floodplain Management and 17E.060.190 – Flood Hazard Reduction and Channel Migration Zone.

5. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require no net loss of shoreline ecological functions that could result from the proposal. Pursuant to Section 17E.060.220 the applicant shall engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset the impacts resulting from this proposal. In compliance with these regulations, a Habitat Management Plan was prepared for this proposal and shall be adhered to.

6. Pursuant to Section 17E.060.260, the following standards shall apply for the replacement of removed native vegetation within the shoreline jurisdiction:

a. At least twenty-five percent of existing healthy trees over six-inch caliper as identified in the vegetation replacement plan shall be retained when the site is developed.

b. Removed shoreline vegetation shall be replaced at the ratios shown in Table 17E.060-1.

c. New plantings shall be native plant species or other approved species similar in diversity, type, density, wildlife habitat value, water quality characteristics and slope stabilizing qualities to the original vegetation.

7. The project shall conform to the requirements of the Habitat Management Plan, which includes a proposal for restoring native riparian habitat within the project area following construction. The riparian restoration plan will improve habitat quality by reducing non-native species, increasing native species diversity, and providing cover and forage materials for wildlife species, including those documented within the Priority Habitat mapping layers. To ensure that the restoration is successful, this plan includes performance standards, monitoring instructions, and contingency plans. This stream bank stabilization project is expected to result in a net gain in habitat functions.

8. Public access to the Spokane River and river views shall be required as part of the Shoreline Master Program and SMC 17E.060.


9. All SCAPCA requirements must be met. SCAPCA's comments are listed in Exhibit #9.

10. In compliance with comments offered on this project by the Tribal Historic Preservation Officer (THPO) of the Spokane Tribe of Indians on August 27, 2010, the applicant shall provide a full cultural reconnaissance survey, and tribal monitoring during construction. If any artifacts or human remains are found upon excavation activity the Tribal Office is to be notified and the activity shall cease. See Exhibit #6

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.

DATED this 16th day of August 2011.


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.**