

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by the) FINDINGS, CONCLUSIONS,
City of Spokane Water Department to) AND DECISION
allow the construction of a water booster)
station building and associated)
improvements on property located north)
of Thornton Murphy Park.) FILE NO. Z1200058-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The City of Spokane Water Department seeks a conditional use permit in order to allow the construction of a 3,200 square foot booster station building, a 270 square foot valve building, and approximately 800 linear feet of 42" diameter site piping installed underground.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: City of Spokane Water Department
808 West Spokane Falls Boulevard
Spokane, WA 99201

Agent: Dan Buller, P.E.
City of Spokane, Engineering Design
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Property Address: 2312 S. Ray Street, Spokane, WA

Property Location: The project is in an area to the north of Thornton Murphy Park and west of Ray Street in the City of Spokane, Washington.

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

Zoning: The property is zoned RSF (Residential Single-family).

Comprehensive Plan Map Designation: The property is designated as Residential 4-10 in the city's Comprehensive Plan.

Site Description: The site is irregular in shape and contains approximately 11.4-acres in area. The tax parcel number of the property is 35273.0003. To the south of the site is Thornton Murphy Park and the Southside Senior Community Center. The site is bounded on the east by Ray Street.

north and west of the site is unimproved property, owned by Spokane Methodist Homes. To the west of the site is a large basalt cliff outcropping, on part of the property owned by Spokane Methodist Homes.

The property has been used for water infrastructure serving the City of Spokane since at least 1909. There is an existing, historic pump station, which was constructed in 1911. The historic pump station will be functionally abandoned as a result of the proposed project. There are two large water reservoirs on the site. The proposed booster station building and other improvements will be installed to the north of the existing water reservoirs on the site.

Surrounding Conditions: The site is largely surrounded by property that is zoned RSF. However, there is an area, adjacent to the southwest portion of the site, that is zoned CC2-DC and designated as General Commercial under the Comprehensive Plan. The property to the north and westerly of the site is unimproved property, owned by Spokane Methodist Homes. The area to the east of the site is improved with single family residences. The property to the south of the site includes Thornton Murphy Park and the Southside Senior Community Center. The neighborhood of the site is residential in nature.

Project Description: The City of Spokane Water Department is proposing to construct a 3,200 square foot water booster station and a 270 square foot valve building. The booster station will house water booster pumps and a motor control center. The booster station and valve building will be constructed with concrete masonry. Both structures will contain interior and exterior piping. The City also proposes to install approximately 800 linear feet of water piping, 42" in diameter. That water piping will be installed underground. The project will require excavation, site-grading, electrical work, and restoration.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code ("SMC") 17C.110, Residential Zones; SMC 17C.320.080(F), Conditional Use Criteria, and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: October 5, 2012
Posted: October 3, 2012

Notice of Application/Public Hearing: Mailed: January 9, 2013
Posted: January 9, 2013

Community Meeting: October 23, 2012

Public Hearing Date: February 7, 2013

Site Visit: February 12, 2013

SEPA: A Determination of Nonsignificance ("DNS") was issued by the City of Spokane on May 6, 2011.

Testimony:

Tirrell Black, City Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

James Sakamoto, P.E.
City of Spokane Water Department
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Proposed Project Narrative
 - 2C Site Plan with vault, utility, building elevation and mechanical plans
 - 2D Water Type Modification form
 - 2E Forest Practice Water Type map
 - 2F Site visit photo
3. Engineering Services comments
4. Planning comments
5. Spokane Tribe of Indians comments
6. Avista comments
7. Notice map with parcel and address listing
8. Notices of Community Meeting, Application and Public Hearing
9. Affidavit of mailing 10-05-12 and 01-09-13
10. Affidavit of posting 10-13-12 and 01-09-13
11. Affidavit of sign removal 10-18-13
12. SEPA Determination of Nonsignificance
13. Environmental Checklist
14. Community Meeting sign in sheet
15. Planning application summary sheet
16. Letter dated 04-28-11 to Dan Buller from Tami Palmquist
re: community meeting instructions
17. Email dated 12-14-12 to Dan Buller from Tirrell Black
re: joint community meeting Ray Street Water Booster Station and CSO34-3
18. Email dated 12-17-12 to Dan Buller from Tirrell Black
re: public notice and hearing date
19. Letter dated 12-18-12 to Interested Parties from Tirrell Black
re: requesting comments
20. Letter dated 01-04-13 to Dan Buller from Tirrell Black
re: notice of application/public hearing instructions
21. Emails dated 01-23 through 01-24-13 to/from Dan Buller and Kristen Griffin
re: brick structure located on site
22. Emails dated 01-22-13 and 01-24-13 between Dan Buller, Tirrell Black, and James Sakamoto
re: citizen inquiry

FINDINGS AND CONCLUSIONS

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code sections 17G.060.170 and 17C.320.080(F). The Hearing Examiner has reviewed the proposed conditional use permit and the evidence of record with regard to this application and makes the following findings and conclusions:

1. The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).

The project site is zoned Residential Single Family (“RSF”), a residential category. The uses permitted, not permitted, limited or conditioned in the residential zones are shown on Table 17C.110-1. See SMC 17.110.110. The table does not specifically identify a water booster station or related infrastructure among the regulated uses. See Table 17C.110-1. However, as the Staff Report notes, the table does identify “Basic Utilities” as a regulated use. See id.; see also Staff Report, p. 1.

“Basic Utilities” are infrastructure services that need to be located in or near the area where the service is provided. SMC 17C.190.400(A). Examples include water and sewer pump stations, sewage disposal and conveyance systems, water towers and reservoirs, water quality and flow control facilities, water conveyance systems, and stormwater facilities and conveyance systems. SMC 17C.190.400(C). The proposed project is a water booster station building and associated improvements. The project squarely fits the meaning of a “Basic Utilities,” under both the general definition and as verified by the examples provided in the municipal code. In fact, a water pump station is specifically identified as one of the examples of a Basic Utility.

According to Table 17C.110-1, Basic Utilities are a limited (“L”) use, rather than a conditional use (“CU”). However, the use category for “Basic Utilities” is modified by the bracketed number “[3]”, suggesting that additional terms apply. The footnotes to Table 17C.110-1 include this clarification:

Standards that correspond to the bracketed numbers [] are stated in SMC 17C.110.110.

See Table 17C.110-1. The pertinent portion of SMC 17C.110.110 provides as follows:

This regulation applies to all parts of Table 17C.110-1 that have a note [3]. Basic utilities that serve a development site are accessory uses to the primary use being served. In the RA, RSF and RTF zones, a one-time addition to an existing base utility use is permitted, provided the addition is less than fifteen hundred square feet and five or less parking stalls located on the same site as the primary use. The addition and parking are subject to the development standards of the base zone and the design standards for institutional uses. **New buildings or larger additions require a conditional use permit and are processed as a Type III application. ...**

See SMC 17C.110.110(A)(3) (emphasis added).

The project includes new buildings and an underground pipeline, rather than a relatively small addition to an existing facility. As a result, the project requires a conditional use permit which is processed as a Type III application. See id.

The land use codes permit Basic Utilities, such as the proposed project, to be constructed in the RSF zone, so long as the project satisfies the criteria for a conditional use and the other development standards in the municipal code. The Hearing Examiner finds that this criterion is satisfied.

2. The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).

The project site has a Residential 4-10 designation under the comprehensive plan. While the provisions describing this land use designation do not directly address utilities, it necessarily follows that residential uses and developments require adequate water facilities and infrastructure. There are various provisions in the comprehensive plan that directly support this notion. For example, the first goal of the Land Use element of the comprehensive plan memorializes the objective of providing coordinated, efficient, and cost effective public facilities and utility services. See Comprehensive Plan ("CP"), Goal LU 1, Citywide Land Use. Policy 1.12 of the Land Use element recognizes that adequate public facilities and services must exist to accommodate proposed development, and must exist before development is permitted to occur. See CP, Policy LU 1.12, Public Facilities and Services.

These general objectives are bolstered by the more specific provisions of the Capital Facilities element. Goal CFU 1 of the Capital Facilities element of the comprehensive plan states as follows:

Provide and maintain adequate public facilities and utility services and reliable funding in order to protect investment in existing facilities and ensure appropriate levels of service.

See CP, Goal CFU 1, Adequate Public Facilities and Services. The policies underlying this goal promote the objective of constructing and maintaining adequate infrastructure. For example, one policy calls for capital improvement projects that either improve the city's operational efficiency or reduce costs by increasing the capacity, use and/or life expectancy of existing facilities. See CP, Policy CFU 1.2, Operational Efficiency. Another policy is designed to ensure the maintenance, rehabilitation, and renovation of existing capital facilities. See CP, Policy CFU 1.3, Maintenance.

The proposed booster station upgrades are being constructed to provide a more reliable drinking water and fire suppression supply to Spokane's south hill. See Testimony of J. Sakamoto; see also Exhibit 2B. The existing pump station was originally built in 1911, and was updated in the 1950s and 1960s. However, the station is operating very inefficiently, having problems with suction and pressure. See Testimony of J. Sakamoto. The project will result in more pumping capacity, more efficient pumps, and a new pump station. See id. Maintaining and updating these facilities is an important objective. The facilities at this site are a vital link of the water system serving this area. See id.; see also Testimony of T. Black.

The Hearing Examiner finds that the project is consistent with the letter and intent of the comprehensive plan, and therefore this criterion is satisfied.

3. The proposal meets the concurrency requirements of Chapter 17D.010SMC. See SMC 17G.060.170(C)(3).

On December 18, 2012, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Staff Report, p. 4; see also Exhibit 19. The Request for Comments advises that a lack of comment by any referral agency will be considered acceptance of the application as technically complete and meeting concurrency requirements. See Exhibit 19. In addition, the concurrency provisions of the municipal code state that a lack of response by a notified facility or service provider shall be construed as a finding that concurrency is met. See SMC 17D.010.020(B)(1).

On January 3, 2013, Eldon Brown, P.E., of the Department of Engineering Services, submitted a memorandum commenting on the project. Among other matters, Mr. Brown stated as follows: "Concurrency for the CUP is certified for sanitary sewer, stormwater, water, and transportation." See Exhibit 3. Other than Mr. Brown's comments, no other department or agency responded to the Request for Comments on this project. No department or agency has commented that concurrency could not be achieved. See Staff Report, p. 4.

This is not the type of use that needs the support of substantial public services. On the contrary, the new infrastructure will improve the city's ability to provide water services to the area. See Exhibit 2B. The only comment in this record certifies that concurrency is satisfied. 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. See SMC 17G.060.170(C)(4).

A packet of plans is included in the record as Exhibit 2C. That packet includes an aerial photo marked to show the location of the proposed buildings, a utility plan, the building elevations, a booster station mechanical plan, and a valve vault mechanical plan. These documents show the physical characteristics of the property, including the topography of the land which will be the site of the development, as well as the location of the proposed buildings in relationship to the existing features and improvements.

The site has been used for water infrastructure since at least 1909. See Staff Report, p. 5. There are two large water reservoirs already on the property, along with a well house and two other buildings. The addition of the booster station, valve building, and additional pipeline is a continuation and logical extension of the preexisting use of the property. The site is 11.4 acres in size, and easily accommodates the proposed structures and facilities.

The existing and historic use of the site for water infrastructure suggests that there will

be minimal impact on surrounding properties. There are no residences adjacent to the construction site for this project. The land to the north and west of the site, while zoned RSF, is undeveloped. Ray Street traverses along the eastern border of the site; the presence of an arterial on this border of the site, creates additional separation between the city land and the residential neighborhood to the east. The view to the proposed booster station and valve building are substantially blocked from Ray Street by the existing buildings on the site. In addition, the "existing water reservoirs located to the south are tall and uphill of the proposed booster station so this creates a visual barrier for the pump station." See Staff Report, p. 5. Much of the property to the south is park land, and so can be characterized as open space. Westerly of the site is a basalt cliff, which creates another visual barrier to the proposed pump station. See Staff Report, p. 5. These features, combined with the irregular shape of the site, create a buffer between the proposed buildings and the surrounding properties. In addition, the valve building is relatively small, at only 270 square feet in size, while the proposed piping will be installed underground. Neither of these improvements, once completed, will have a substantive impact upon neighboring properties, under the circumstances here.

The proposed booster station and valve building will be located on relatively flat ground. See Exhibits 2B, 2C and 2F. A small number of trees (approximately ten) will need to be removed to accommodate these buildings. See Exhibit 2B. However, landscaping conditions will mitigate against the potential impact of tree removal.

The site previously had a Type F stream running through it, at least according to the stream mapping of the Washington Department of Natural Resources ("DNR"). See Staff Report, p. 5; see also Exhibit 2E. However, in 2011, the city submitted to DNR an application for a water type modification. See Exhibit 2D. On May 26, 2011, the water type modification was approved by DNR. See id. That approval confirmed that there was no stream on the site. See id.

On December 27, 2012, Mr. Randy Abrahamson, the Tribal Historic Preservation Officer for the Spokane Tribe of Indians, expressed the Spokane Tribe's concerns about excavation activity on the site. See Exhibit 5. In order to preserve the cultural resources that may be uncovered during excavation work, Mr. Abrahamson recommended that the city conduct subsurface testing and monitoring of all ground disturbing activity. See Exhibit 5. City planning recognized the need to be sensitive to this concern, and has confirmed that this issue will need to be addressed. See Staff Report, p. 5. The cultural features of the site are being reviewed by Mr. Steve Dampf, of the Historical Research Associations, under contract with City of Spokane Engineering. See Staff Report, p. 5. Staff has recommended a condition of approval to address the concerns about cultural resources on the site. See Staff Report, p. 5.

The existing pump station on the site was constructed in 1911. See Staff Report, p. 5. However, this building is not listed on a historic register, but may be eligible for such listing. See id. The city has no apparent plans for use of the building after the new booster station is completed. Accordingly, the Staff Report confirms that the existing pump station will be functionally abandoned as a result of this project. See id.

There was no testimony that the site is not suitable for this particular use. There was testimony explaining the need for a new pump station, in particular to increase the efficiency of the water utility. The project carries out the objective of improving utility services, while adhering

to a design, as reflected in the packet of plans, that will have minimal impact on surrounding properties. The proposal is appropriate in both location and scale. The Hearing Examiner finds that this criterion has been satisfied.

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 of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).

As discussed above, the project will not negatively impact the neighboring properties or surrounding area. The nature of the project, the topography, shape and other characteristics of the property, and other factors discussed above, all cut against such a conclusion. No member of the public made a comment or offered testimony claiming that the project would negatively affect adjacent properties specifically, or the neighborhood generally. In addition, there are no facts in the record suggesting that the project will have a significant impact upon the environment. There were no comments, by members of the public or by any commenting agency or department, contending that the project would have adverse environmental consequences.

On or about May 6, 2011, the City issued a DNS under the State Environmental Policy Act (SEPA). See Exhibit 12. Thus, the Department of Engineering Services, as the lead agency, concluded that the project created no significant impacts to the environment. The DNS was not appealed. The deadline to appeal was May 20, 2011. See id.

Approximately 3½ months prior to the threshold determination, on or about April 28, 2011, the city prepared an environmental checklist, pursuant to the State Environmental Policy Act, for this project and other anticipated work. See Exhibit 13, Environmental Checklist. The checklist supports the conclusion that no significant environmental impacts will arise from this project. To review some examples, there are no wetlands or streams on or near the site, which could be affected by the proposed construction. See Exhibit 13, Environmental Checklist ¶ B(3)(a)(1); see also Exhibit 2D. The property does not lie within a 100-year floodplain. See Exhibit 13, Environmental Checklist ¶ B(3)(a)(5). A portion of the site is within a 500-year flood zone, as evidenced by the flood plain maps of the Federal Emergency Management Agency ("FEMA"). See Staff Report, p. 5. However, there are no specific development standards or restrictions in the municipal code with respect to a FEMA 500-year flood zone. See Staff Report, p. 5; see also SMC 17E.030.010 et seq. The project will result in minimal to no change in the grade of the property. See Exhibit 13, Environmental Checklist ¶ B(1)(e). No threatened or endangered species were identified on the site. See Exhibit 13, Environmental Checklist ¶ B(4)(c) & B(5)(b).

The site is located within the Aquifer Sensitive Area and the Aquifer Critical Area Recharge Zone, and therefore is subject to the requirements of SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection. See Staff Report, p. 5. However, this project will not involve the disposal or discharge of any fluids below the ground surface. See Exhibit 13, Environmental Checklist ¶ A(14)(a)(1). No critical materials will be stored, handled, or used on site where a spill or leak may result in surface or groundwater pollution. See Exhibit 13,

Environmental Checklist ¶ A(14)(a)(4). As a result, no protective measures are needed to address such concerns. See e.g. Exhibit 13, Environmental Checklist ¶ A(14)(a)(3). If project conditions were necessary for aquifer protection, those conditions should have been included as part of the threshold determination. See SMC 17E.010.010(F)(3). However, as discussed above, the lead agency issued an unqualified DNS for this project, which was not appealed. There was no testimony presented or evidence submitted at the hearing or made part of the record suggesting that the project poses a risk of pollution to the aquifer.

Access to the property is from Ray Street, which already provides the current access to the site. See Staff Report p. 6; see also Exhibit 2C. No new roads or streets are required by the project. See Exhibit 13, Environmental Checklist ¶ B(14)(d). Thus, the project does not place a new burden on residential streets or neighboring properties. See Staff Report, p. 6. There is no public access to the property. See Exhibit 13, Environmental Checklist ¶ B(14)(b). At present, water maintenance personnel visit each booster station once per day, at most. See Exhibit 13, Environmental Checklist ¶ B(14)(f). This will not change following the construction of the new booster station. See id. As a result, the traffic to and from the site will remain the same after the project is completed.

The limited impacts of this project are those typical of construction projects, such as dust and vehicle exhaust. See Exhibit 13, Environmental Checklist ¶ B(2)(a). However, mitigation measures imposed at the time of permitting, such as watering for dust control, can control such impacts. See e.g. Exhibit 13, Environmental Checklist ¶¶ 1(f), (h) & 2(c).

Based upon the foregoing, the Hearing Examiner concludes that the proposal will not have a significant adverse impact on the environment or the surrounding properties, and therefore this criterion for approval has been met.

6. The overall residential appearance and function of the area will not be significantly lessened due to the construction of utility buildings and infrastructure. The project will not result in the construction of improvements that are disproportionate to the residential household uses in the surrounding area. See SMC 17C.320.080(F).

The site has historically been used for water infrastructure. The project does not seek to introduce an institutional use into a residential area previously undisturbed by such structures or activities. The City Water Department seeks to add a booster station, 3,200 square feet in size, a small accessory building, and underground water lines to a large parcel that has been used for such purpose since at least 1909. Although the project does expand or intensify the utility uses somewhat, the change is not of a great degree. The new booster station, for example, will effectively replace the existing pump station, which will be functionally abandoned upon completion of the proposed structures.

The existing and proposed utility uses are situated on an 11.4 acre site that is owned by the City and which will continue to be used for utility purposes. The project will not occupy property that would otherwise be available to increase the land available in the area for residential occupancy. The proposed structures are to the north of the two large water reservoirs, and to the west of existing utility buildings, including the historic pump station, the "weights and measures" building, and one other building. The new booster station is set back a substantial distance from

Ray Street. The existing pump house will partially screen the new pump station from view. The proposed booster station will satisfy the height restrictions in the residential zone (i.e. 35 feet maximum height). Additional design restrictions will be in place to lessen the visual impact of the utility building, pursuant to design requirements for institutional uses in residential areas. See e.g. SMC 17C.110.500-575. As a result, the overall residential appearance and function of the area will not be significantly affected by this project.

The proportion of non-residential to residential uses in the area will not be materially altered by the project. To south of the water tanks, and along Ray Street, is the Southside Senior Community Center. As noted above, there are some commercial uses to the south of the southwest corner of the site. That commercial area includes uses such as Stanek's Nursery. To the northeast of the site, and on the east side of Ray Street, is Lincoln Heights Elementary School. The land immediately adjacent and surrounding the site is zoned RSF, although the actual uses essentially create a buffer between the site and developed residential neighborhoods. The addition of utility buildings and underground pipeline to an 11.4 acre site historically used for utility purposes does not change the character of the area, or even the proportion of uses as between residential and non-residential. The proposed buildings and infrastructure can be reasonably characterized as an internal change to a relatively large institutional site.

7. The proposal will be compatible with the adjacent residential developments based on the characteristics as the site size, building scale and style, setbacks and landscaping. The proposal will mitigate the differences in appearance or scale through such means as setbacks, screening, landscaping and other design features. See SMC 17C.320.080(F)(2).

The project is not incongruous, in scale or appearance, with residential uses in the area. The booster pump station is a 3,200 square foot facility. The wall height of the structure is 23 feet 4 inches. See Exhibit 2C. The total height of the structure is not stated on the elevation plans, but can be estimated based on those plans to be approximately 31 feet. See id. Thus, the structure appears to satisfy the height restrictions in the RSF zone, which limit wall height to 25 feet and roof height to 35 feet. See Table 17C.110.215-1. This is not a disproportionately large building. The valve building is a relatively small accessory building, being only 270 square feet in size, and approximately 9 feet in height. See Exhibit 2C. That building will be situated a greater distance from Ray Street than the proposed pump station, and close to the large water reservoirs, and in a more central location on the 11.4 acre site. The underground piping will obviously not be visible at all, once installed.

The new booster station will not be situated immediately adjacent to houses or other residential structures. To the east of the building site are existing utility buildings, which will partially shield the new building from view. To the south are the large water reservoirs. And to the north and west is undeveloped land and the basalt outcropping. The new booster station will be substantially set back from Ray Street and the residential neighborhood on the east side of that arterial. The booster station will be situated on a large parcel, which is already used for water-related infrastructure. Given these facts, there will be no material change in the appearance of the neighborhood.

To the extent that there will be some visual impacts of the project, those impacts will be mitigated. For example, the construction of the new booster station will require the removal of approximately

six ponderosa pines. See Exhibit 13, Environmental Checklist ¶ B(4)(b). However, trees will be planted to replace the ones that are removed, with the location to be determined at the time of issuance of the building permit. See Exhibit 4. A landscape plan will also be required at that time. See id. With respect to the booster station, the original design depicts blank walls and fails to include the design features required of industrial buildings proposed to be constructed in residential zones. See Exhibit 2C. At the hearing on this matter and in the staff report, the city stated that the design would be modified to satisfy the requirements of SMC 17C.110, and that such design modifications should be made a condition of issuance of a building permit. See Staff Report, p. 7; see also Testimony of T. Black; see also Exhibit 4.

8. The proposal will not have significant adverse impacts on the livability of nearby residential lands due to noise, glare, late-night operations, odors and litter, or privacy and safety issues. See SMC 17C.320.080(F)(3).

The project will not have a substantial negative impact on the livability of neighboring residential properties. There is no testimony or other evidence in the record to suggest that there will significant and detrimental impacts from this project due to noise, light or glare, odor, or other nuisances. Similarly, there is no indication that the institutional use of the site has created such concerns in the past. And there is no testimony or evidence in the record that this proposal has any impact on safety or privacy.

While the pumps will generate some noise, it is anticipated that there will be no noise impacts off-site. See Staff Report, p. 7. Any noise caused by the pump house will be mitigated by the insulated walls of the new pump station, and by the distance from the pump house to the property lines. See id. For security and safety reasons, there will undoubtedly be lighting at the new pump station. However, light and glare will be mitigated. Overhead lighting is required to be contained in the site pursuant to SMC 17C.110.520. In the ordinary course, activity on the site will take place during regular business hours. See Staff Report, p. 7. There is no testimony or evidence in the record that late-night operations are planned or could cause impacts to the surrounding properties. The proposed use does not generate litter or garbage, so no odors are anticipated as a result of this project. See Staff Report, p. 7. No concerns about privacy or safety have been raised, and none are anticipated based upon the record in this case.

9. The proposed use is in conformance with the street designations of the transportation element of the comprehensive plan. The transportation system is capable of supporting the proposed use in addition to existing uses in the area, upon consideration of the evaluation factors provided in the municipal code. See SMC 17C.320.080(F)(4).

The site is used for utility infrastructure which is not open to the public. Access to the site is restricted. As a result, factors such as connectivity, circulation, and transit availability are not as relevant to the proposal or the nature of the use. Traffic to and from the site is minimal, and it is not anticipated that the traffic will materially change after the project is completed, in particular given that the primary change will be to shift the functions of an older building to a newer one. There is more than sufficient space on site for the periodic parking of vehicles, and thus there will be no on-street parking impacts.

The project will not require the construction of any new roads. Access to the site is directly to Ray Street, an existing arterial. The project will not decrease the level of service of Ray Street, or any other nearby roads. See Staff Report, p. 7. As a result, and given the nature of the proposal, it is not anticipated that the project will negatively impact pedestrian, bicycle, or transit circulation, or raise concerns about safety. There is no testimony or evidence in the record suggesting that such impacts may occur. No traffic study was required or undertaken for this proposal. See Staff Report, p. 7. Thus, the proposal is unlikely to generate any substantive impacts on the transportation system. Nonetheless, some street frontage improvements will be undertaken to satisfy design standards for institutional uses in residential zones. See SMC 17C.200.040.

As discussed above on the issue of concurrency, there are adequate public services to support the proposed use. This has been confirmed by the Department of Engineering Services. See Exhibit 3. The site has access to all City of Spokane public services, and will not require any additions to be made in order to full accommodate the proposed site development. See Staff Report, p. 7. In fact, with respect to the delivery of potable water, the project is intended to increase the performance of public services.

The proposal is consistent with the transportation element of the comprehensive plan, and therefore this criterion to approve a conditional use is satisfied.

DECISION

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

1. Approval is for a conditional use permit to allow the City of Spokane Water Department to construct a 3,200 square foot booster station building, a 270 square foot valve building, and approximately 800 linear feet of 42" diameter site piping installed underground, in a manner consistent with the General Application submitted and included in the record as Exhibit 2A and the Site Plan documents submitted and included in the record as Exhibit 2C. If changes are sought to the General Application and Site Plan Documents, they shall be submitted to Planning Services for review and approval. If Planning Services finds that the changes are substantial, than they shall be forwarded to the Hearing Examiner for review and approval.
2. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas. This will include street frontage improvements along Ray Street between 23rd and 24th Avenues in compliance with SMC Section 17C.200.040 Site Planting Standards and requirements for the softening of blank walls through design features as specified in SMC 17C.110.550.
3. In the event any archeological resources are discovered during excavation or construction related to this project, the Spokane Tribe of Indians shall be notified immediately, and all excavation and construction shall cease.
4. This approval does not waive the applicant's obligation to comply with all of the

requirements of the Spokane Municipal Code including the Uniform Codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.

5. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.

6. The applicant shall comply with the requirements of Engineering Services as set forth in Exhibit 3.

7. Spokane Municipal Code section 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.

8. 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.

9. 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 13th day of February, 2013.



Brian T. McGinn
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 by the Hearing Examiner regarding conditional use permits are final. They may be appealed by any party of record by filing a Land Use Petition with the Superior Court of Spokane County. **THE LAND USE PETITION MUST BE FILED AND THE CITY OF SPOKANE MUST BE SERVED WITHIN TWENTY-ONE (21) CALENDAR DAYS OF THE DATE OF THE DECISION SET OUT ABOVE.** The date of the decision is the 13th day of February, 2013. **THE DATE OF THE LAST DAY TO APPEAL IS THE 6th DAY OF MARCH 2013 AT 5:00 P.M.**

In addition to paying any Court costs to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the Court.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.