

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) FINDINGS, CONCLUSIONS,
the City of Spokane Engineering) AND DECISION
Services Department to allow the)
construction of a Booster Station at)
2403 E. 37th Avenue) FILE NO. Z1400018-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The City of Spokane Wastewater Department seeks a conditional use permit in order to allow the construction of a booster station in a Single-Family Residential Zone on 37th Avenue on the South Hill. The proposed booster station will be approximately 35 feet wide by 50 feet long, for a total of 1,750 square feet, and will be constructed of concrete masonry. The project will also include buried site piping, electrical facilities, and landscape restoration.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ City of Spokane, Engineering Services Department
Owner: 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: 2403 E. 37th Avenue, Spokane, WA

Property Location: The project is located at 2403 E. 37th Avenue, Spokane, Washington.

Legal Description: The legal description is provided in the General Application, included in the record as Exhibit 2A. The tax parcel number for the site is 35331.1901.

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 approximately 2.11 acres. It is currently improved with an existing booster station and a water tank. The existing station will be replaced with the approval of this conditional use permit. The water tank will remain in its current location.

Surrounding Conditions and Uses: The property to the north, south, east and west is all zoned RSF, Residential Single-Family.

Project Description: The proposed project is to replace the Garden Park Booster Station, in order to provide more reliable drinking water and fire suppression to the South Hill of Spokane. The proposed booster station is in the Water Department’s six-year Capital Improvement Program and will be placed just east of the existing booster station, which will be removed. The new building will be approximately 35 feet wide and 50 feet long, with a 16 foot roof peak and 9 foot walls. Work will include interior and exterior piping, installation of water booster pumps and motor control center, and associated excavation, site grading, restoration, and electrical work. At the same time, approximately 300 feet of water main will be replaced in 37th Avenue. The new building will use the existing driveway off 37th Avenue and most work will be completed out of public right-of-way, except for the tie-in to the existing water mains in 37th Avenue, which will require a several-week-long detour of traffic.

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: March 10, 2014
Posted: March 12, 2014

Notice of Application/Public Hearing: Mailed: May 07, 2014
Posted: May 07, 2014

Community Meeting: April 2, 2014

Public Hearing Date: June 5, 2014

Site Visit: June 3, 2014

SEPA: A Determination of Nonsignificance (“DNS”) was issued by the City of Spokane on April 14, 2014.

Testimony:

Ali Brast, Assistant Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Dan Buller, P.E.
City of Spokane Wastewater Department
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General Application
 - 2B Conditional Use Permit Application
 - 2C Notification Map Application
 - 2D Arial view of site
 - 2E Project Map
 - 2F Planting plan
 - 2G Site Piping Plan
 - 2H Demolition Plan
 - 2I Grading Plan
 - 2J Building Elevations
3. Conditional Use Permit Counter Complete Checklist
4. Fire Department comments
5. Engineering Services comments
6. Spokane Regional Clean Air Agency comments
7. Spokane Tribe of Indians comments
8. Notice map
9. Parcel and address listing
10. Notice of Community Meeting
11. Notice Application and Public Hearing
12. Affidavit of mailings:
 - 12A dated 03-10-14
 - 12B dated 05-07-14
13. Affidavit of posting:
 - 13A dated 03-12-14
 - 13Aa sign posting 03-19-14
 - 13B dated 05-07-14
14. SEPA Determination of Nonsignificance dated 04-14-14
15. Environmental Checklist
16. Community Meeting Summary
17. Community Meeting sign in sheet
18. Letter dated 03-06-14 to Dan Buller from Ali Brast
re: community meeting instructions
19. Letter dated 04-21-14 to Interested Parties from Ali Brast
re: requesting comments
20. Letter dated 05-06-14 to Dan Buller from Ali Brast
re: notice of application/public hearing instructions
21. Emails dated 05-06-14 to/from Dan Buller and Ali Brast
re: revised landscape plan
22. Emails dated 05-23-14 between Dan Buller and Ali Brast
re: clarification
23. Emails dated 05-23-14 between Dan Buller, Ali Brast and Julie Neff
re: Design Review clarification
- A-1 Hardcopy of Planning's PowerPoint presentation received at hearing

FINDINGS AND CONCLUSIONS

A. Conditional Use Permit

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 the 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 allowed in the residential zones are shown on Table 17C.110-1. The table does not specifically identify a booster station among the regulated uses. See Table 17C.110-1. However, water and sewer pump stations clearly qualify as Basic Utilities, an institutional category of use. See Exhibit 1, p. 3.

"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 fits the general definition of a Basic Utility, and is explicitly identified in the examples listed in the municipal code.

Basic Utilities are allowed in the RSF zone, provided a conditional use permit is obtained. The pertinent portion of the municipal code states: "**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 staff correctly reached this conclusion and has processed the application accordingly.

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, residential uses and developments certainly require adequate water facilities. There are various provisions in the comprehensive plan that directly support this premise.

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 the adequate public facilities and services systems 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.

Similarly, the Capital Facilities element calls for the city to provide and maintain adequate public facilities and utility services, as well as to ensure reliable funding is in place to protect the public's investment in this infrastructure. See CP, Goal CFU 1, Adequate Public Facilities and Services (also noting that such investments ensure adequate levels of service). Policy CFU 1.2 of the Capital Facilities Element further provides as follows:

Require the development of 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. In addition, CFU 1.3 calls for the maintenance, rehabilitation and renovation of existing facilities. See CP, Policy CFU 1.3, Maintenance.

The project satisfies the foregoing goals and policies by ensuring that the utility infrastructure is adequate to serve the public need. Consistent with such policies, the staff emphasized: "The new pump station is an investment in the existing water service infrastructure already located at this site and will provide a more reliable drinking water and fire suppression supply to Spokane's south hill." See Exhibit 1, p. 3.

The Hearing Examiner finds that the project is consistent with the goals and policies 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).*

The decision criteria for Type III decisions (such as a conditional use permit) mandate that any proposal satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). In addition, under the concurrency standards, facilities for public water must be evaluated for concurrency. See SMC 17D.010.010(B). Accordingly, on April 21, 2014, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 19.

The city received minimal response to its request for comments. See e.g. Exhibits 4-7. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1, p. 3). To the extent that there was a lack of substantive comments from departments and agencies with jurisdiction, the Hearing Examiner must conclude that concurrency standards are satisfied. 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 concurrently is met. See SMC 17D.010.020(B)(1). In addition, 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.

A review of the record confirms that there is no substantive evidence that the project transgresses any concurrency requirements. There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. The proposal, by its nature, does not place substantive demands on public infrastructure. The project does not have any discernible effect on public services such as fire, police, or schools. See Exhibit 15 (Environmental Checklist ¶ B(15)). If anything, the proposal improves public facilities by increasing the city's capacity to supply water for drinking and fire suppression. See id.; see also Exhibit 2B.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the municipal code. Therefore, this criterion for approval of the conditional use permit is 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).*

Aerial photos of the property and the construction site are included in the record as Exhibits 2D and 2E. A packet of plans is also included in the record as Exhibits 2F-2J. The plans in that packet show the location of the proposed building, the planned landscaping, a site piping plan, a plan for the demolition of the existing booster station, a grading plan, and the building elevations. These documents generally show the physical characteristics of the property, how the proposal will be developed and completed, 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 for 50 years or more. See Exhibit 1, p. 3. As shown on the aerial photos, there is a large water tank on near the northern border of the parcel. See e.g. Exhibit 2D. This tank has been there for decades, and was present before surrounding residences were constructed. This can be seen in the 1958 aerial photo included in the staff's presentation materials. See Exhibit A-1. The proposal to replace the booster station at this site is a continuation and logical extension of the preexisting use of the property. The site is approximately 2.11 acres in size, and easily accommodates the proposed structures and facilities. The city proposes to construct the new booster station just east of the existing building, close to the southern border of the parcel. Although the site contains some fairly steep slopes, the more challenging topography is in the northern part of the property. See Exhibit 1, p. 3. The proposed building will be constructed in the relatively flat area in the southern part of the property near 37th Avenue.

The existing and historic use of the site for water infrastructure also lends substantial support to this proposal. There is little reason to suspect that the proposal, once completed, will result in use any more intense than has existed at the site for decades. After all, the existing booster station will be demolished, and a new one constructed as a replacement. Given that the use is not changing, and the intensity of use will be the same, it is hard to envision how this project will have any material impact upon neighboring properties. This is especially true given that the proposed booster station will be roughly the same size (height, footprint, and roof pitch) as adjacent residences. See Exhibit 2B. On the other hand, the project will result in a needed upgrade to the water facilities, creating a higher capacity and more reliable system for drinking water and fire suppression, which clearly is a benefit to the area residents. Presumably, the fact that there were no public comments criticizing or opposing this project shows that the project creates public benefits with few, if any, long-term negative consequences.

There are no indications of surface water on or near this site. See Exhibit 2B. It is acknowledged that the site is located within the Aquifer Critical Area Recharge Zone and must comply with the aquifer protection measures contained in SMC 17E. See Exhibit 1, p. 5. However, there is no basis to conclude that the project will have any impact on groundwater. There is no evidence of groundwater being present near this site. See Exhibit 2B. The proposed site is slightly higher than surrounding properties, so drainage does not present problems in this case. See Exhibit 2B.

There was no evidence that any archaeological, historic, or cultural resources were present on this site or in need of protection. See Exhibit 15, (Environmental Checklist ¶ B(13)(a)-(b)). The Spokane Tribe of Indians was provided the opportunity to comment and did not raise any specific concerns. See Exhibit 7. The Tribe affirmatively stated that the project could proceed as planned. See id. To the extent demolition or excavation work reveals that archaeological, historic, or cultural resources are present, the preservation of such resources would be addressed at that time, in accordance with the conditions of approval stated below.

There was no testimony that the site is not suitable for this particular use. There was testimony explaining the need for a new booster 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, which 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).*

Based upon the evidence in this record, the city's proposal will not have a significant adverse impact on the environment or the surrounding properties. There were no comments, by members of the public or by any commenting agency or department, contending that the project would have environmental impacts.

On or about April 14, 2014, the City issued a DNS under the State Environmental Policy Act (SEPA). See Exhibit 14. 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 April 28, 2014. See id.

Prior to making its threshold determination, on or about April 28, 2011, the Department of Engineering Services prepared a SEPA checklist for this project. See Exhibit 15. 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 15, (Environmental Checklist ¶ B(3)(a)(1)); see also Exhibit 2D. The property does not lie within a 100-year floodplain. See Exhibit 15, (Environmental Checklist ¶ B(3)(a)(5)). The project will result in minimal to no change in the grade of the property. See Exhibit 15, (Environmental Checklist ¶ B(1)(e)). No threatened or endangered species were identified on the site. See Exhibit 15, (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 Exhibit 1, p. 4. However, this project will not involve the disposal or discharge of any fluids below the ground surface. See Exhibit 15, (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 15, (Environmental Checklist ¶ A(14)(a)(4)). As a result, no protective measures are needed to address such concerns. See e.g. Exhibit 15, (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 37th Avenue, which already provides the current access to the site. See Exhibit 1, p. 4; see also Exhibit 2B. No new roads or streets are required by the project. See Exhibit 15, (Environmental Checklist ¶ B(14)(d)). Thus, the project does not place a new burden on residential streets or neighboring properties. See Exhibit 1, p. 4. At present, water maintenance personnel visit each booster station once per day, at most. See Exhibit 15, (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. See id.; see also Exhibit 2B.

The limited impacts of this project are those typical of construction projects, such as dust, vehicle exhaust, and traffic interruption. See Exhibit 15, (Environmental Checklist ¶ B(2)(a)); see also Exhibit 2B (describing a several week detour of traffic during construction). However, mitigation measures imposed at the time of permitting, such as watering for dust control, can control such impacts. See e.g. Exhibit 15, (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, including a booster station and a large water reservoir. The project does not seek to introduce an institutional use into a residential area previously undisturbed by such structures or activities. The Engineering Department merely seeks to replace a booster station that is no longer efficiently operating.

The existing and proposed utility uses are situated on a 2.11 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 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. The site was used for utility purposes before the surrounding residential areas were developed. See Exhibit A-1 (1958 photo). Not only do these facilities serve residents in the area, the use has quietly coexisted with residential neighborhoods for decades. In any event, the city merely proposes to upgrade its infrastructure by replacing one booster station. This proportion of residential to utility uses therefore will not be altered.

The Hearing Examiner concludes that this criterion for approval has been satisfied.

7. *The proposal will be compatible with the adjacent residential developments based on the characteristics such 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).*

As was discussed above, the project is not incongruous, in scale or appearance, with residential uses in the area. The booster pump station is a 1,750 square foot facility, comparable in size to nearby residences. The wall height of the structure is 16 feet at the peak. *Testimony of A. Brast.* The wall height is 9 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.

To the extent that there will be some visual impacts of the project, those impacts will be mitigated. The design of the structure is intended to blend in with the neighborhood, in particular given the limited size and height. The building will be set 35 feet back from the curb at 37th Avenue, to reduce its visual prominence. And, as stated previously, there are design restrictions that must be followed to limit the visual impact of the building. *See* SMC 17C.110.500-575. The proposed landscaping will provide some screening and aesthetic appeal. *See* Exhibit 2F. Even without such mitigation, the overall impact of this proposal is small, in particular given that a relatively small structure is being replaced by another, relatively small structure. The mitigation measures for this project will easily address any residual concerns.

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* Exhibit 1, p. 5. Any noise caused by the pump house will be mitigated by the insulated walls of the new booster station, and by the distance from the booster station to the property lines. *See id.* For security and safety reasons, there will undoubtedly be lighting at the new booster 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 id.* 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 id.* 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. 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 replace an old booster station with a new 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 37th Avenue, an existing arterial. The project will not decrease the level of service of 37th Avenue, or any other nearby roads. See Exhibit 1, p. 6. The site has access to all City of Spokane public services, and will not require any additions to be made in order to fully accommodate the proposed site development. See id. As discussed above on the issue of concurrency, there are adequate public services to support the proposed use. 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. Thus, the proposal is unlikely to generate any substantive impacts on the transportation system.

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 replace the existing booster station located at 2403 E. 37th Avenue, Spokane, Washington, with a 1,750 square foot booster station building, in a manner consistent with the General Application submitted and included in the record as Exhibit 2A and consistent with the Site Plan Documents submitted and included in the record as Exhibits 2F through 2J. If changes are sought to the General Application and Site Plan Documents, the proposed changes 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.
3. Landscaping, for screening purposes, shall be planted between the building and 37th Avenue. Additionally, any trees removed during construction shall be replaced on site, preferably for screening of the water tank on the northern half of the property. Landscaping shall be completed substantially in accordance with the landscaping plan included in the record as Exhibit 2F.
4. All parking and maneuvering areas must be paved per SMC 17C.230.140C from the existing driveway approach up to access to the booster station, including the hammerhead turnaround.
5. The applicant shall comply with the requirements of the Spokane Regional Clean Air Agency as set forth in Exhibit 6.

6. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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 17th day of June, 2014.



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 17th day of June, 2014. **THE DATE OF THE LAST DAY TO APPEAL IS THE 8th DAY OF JULY 2014 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.