

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit and Variance) FINDINGS, CONCLUSIONS,
Application by the City of Spokane) AND DECISION
Engineering Services to allow the)
replacement of an existing well pump)
station at 5903 N. Normandie Street.) FILE NO. Z1500052-CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The City of Spokane Engineering Services seeks a conditional use permit and variance in order to allow the replacement of an existing well pump station at the northwest corner of Central Avenue and Normandie Street. The project will include two new buildings, along with pumps, motors, piping, and electrical facilities. Through the variance application, the Applicant is seeking to modify the front yard setback for the northeast well pump station to 0 feet, the side yard setback for the southwest well pump station to 0 feet, and the allowable height for both buildings from 42 inches to 20 feet to the ceiling or approximately 25-26 feet to the peak of the roof.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ City of Spokane Engineering Services
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 Location: The proposed site is located at the northwest corner of Normandie Street and Central Avenue. The site address is 5903 N. Normandie Street.

Legal Description: The legal description is provided in the General Application, included in the record as 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 contains an existing electrical building and transformers. These facilities will be retained. The site is also improved with two existing vaults containing the well pumps and piping which will be replaced through this conditional use permit and variance.

Surrounding Conditions and Uses: Single Family Residential (RSF) zoning and Residential 4-10 property surrounds the proposal on all sides. Consistent with the zoning and land designations, the land uses to the north, south, east and west consist of low-density single family homes. Farther to the east, there are a variety of land uses, including higher density residential, office, and commercial uses.

Project Description: The City of Spokane Engineering Services is proposing to replace the existing well pump station located the corner of Normandie Street and Central Avenue. The existing building housing electrical components will remain. There are two below-ground structures each housing a well head which will be removed and replaced by CMU buildings with approximate dimensions of 26' wide x 32 ' long x 20' high (to the ceiling). These wells supply water to the North Hill, Five Mile and Indian Trail storage tanks. These tanks then in turn supply water to the North Hill System. Upgrading the well stations will result in improved pump efficiency, increased system capacity, energy savings, and lower maintenance and operating costs. The Applicant is also requesting, through the variance application, that the required front and side yard setback be reduced to 0 feet, and that the height allowance in the yards be increased from 3.5 feet to 20 feet, in order to avoid having to move the existing wells that are located 250 feet below grade.

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: May 26, 2015
Posted: May 27, 2015

Notice of Application/Public Hearing: Mailed: July 24, 2015
Posted: July 24, 2015

Community Meeting: June 10, 2015

Public Hearing Date: August 27, 2015

Site Visit: August 26, 2015

SEPA: A Determination of Nonsignificance ("DNS") was issued by the City of Spokane Engineering Department on February 12, 2014.

Testimony:

Donna deBit, 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 Variance application
- 2D Notification Map application
- 2E Site Map
- 3. Spokane Tribe of Indians comments
- 4. Notice map
- 5. Parcel listing
- 6. Address listing
- 7. Notice of Community Meeting
- 8. Notice of Application and Public Hearing
- 9. Affidavit of mailings
 - 9A Community Meeting 05-26-15
 - 9B Combined Application and Hearing dated 07-24-15
- 10. Affidavit of posting
 - 10A Community Meeting dated 05-27-15
 - 10B Combined Application and Hearing dated 07-24-15 with copy of sign
- 11. Affidavit of Public Notice dated 07-24-15
- 12. Affidavit of Removal of Public Sign dated 06-11-15
- 13. SEPA Determination of Nonsignificance "DNS" issued 02-12-15
- 14. Environmental checklist dated 01-31-14
- 15. Community Meeting sign in sheet
- 16. Summary of Central Ave. Well Station Public Meeting dated 06-10-15
- 17. Community Meeting copy of presentation
- 18. Letter dated 05-08-15 to Dan Buller from Donna deBit
re: community meeting instructions
- 19. Letter dated 06-23-15 to Interested Parties from Donna deBit
re: requesting comments
- 20. Letter dated 07-14-15-15 to Dan Buller from Donna deBit
re: Notice of Application and Public Hearing Instructions.
- A Exhibits received at the hearing:
 - A-1 Hardcopy of Planning's PowerPoint presentation

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. See SMC 17.110.110. The table does not specifically identify well pump stations or related infrastructure among the regulated uses. See Table 17C.110-1. However, those uses are elsewhere identified as Basic Utilities, an institutional category of use. See Exhibit 1, p. 3. Examples of Basic Utilities 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. See SMC 17C.190.400(C). SMC 17C.110.110 provides that any new buildings which house a basic utility are required to obtain a conditional use permit which this processed as a Type III application. See Exhibit 1, p. 3; see also SMC 17C.110.110(C).

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 infrastructure for water service. 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 that adequate public facilities and systems must exist to accommodate proposed development, and must be installed 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 providing a more reliable drinking water and fire suppression supply to Spokane’s north side. 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 all proposals satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Under the concurrency standards, facilities for public water must be evaluated for concurrency. See SMC 17D.010.010(B). Accordingly, on June 23, 2015, a Request

for Comments on the application was circulated to all City departments and outside agencies with jurisdiction.

The city received minimal response to its request for comments. See e.g. Exhibit 3. 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. See SMC 17D.010.020(B)(1); see also 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 14 (Environmental Checklist ¶ B(15)). If anything, the proposal improves public facilities by increasing the city's capacity to provide water.

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).*

The site is relatively square and flat. City of Spokane water infrastructure has been housed at this site for approximately 55 years. See Exhibit 1, p. 3. It would seem to be apparent, then, that the size, shape, location, and other physical characteristics of the property are suitable for the use. There was no contrary evidence in this record.

There is no surface water on this site, and there will be no impacts on surface water. See Exhibit 14 (Environmental Checklist ¶ B(3)(a) & (c)(2)). 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. 4. However, no impacts to groundwater are anticipated from this project. See Exhibit 14 (Environmental Checklist ¶ B(3)(b) & (c)(2)).

There are no historic buildings on the site which might be impacted by the project. *Testimony of D. Buller.* There are no known cultural or historic resources on this site that warrant against approval of the proposal. See Exhibit 14 (Environmental Checklist ¶ B(13)(a)-(b)); see also Exhibit 3 (comment by Spokane Tribe of Indians).

The Hearing Examiner agrees with the Staff's conclusion that the "...current suitability of the parcel for the existing well pump station in terms of size, shape, topography, soils, slope, drainage, surface/groundwater and natural/historic/cultural features is not changed by the proposed improvements." See Exhibit 1, p. 3-4. As a result, this criterion for approval is 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).*

The environmental review process, completed pursuant to the State Environmental Policy Act, demonstrates that the project will not have significant environmental impacts. To the extent certain impacts occur or may occur, those impacts can be addressed adequately through appropriate mitigation measures.

On or about January 31, 2014, the City of Spokane prepared an environmental checklist, pursuant to the State Environmental Policy Act, for this project and other tank installations. See Exhibit 14 (Environmental Checklist). The checklist supports the conclusion that this project will not have significant impacts on the environment or the surrounding properties. For example, there are no wetlands or streams on the site. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(1)). The property does not lie within a 100-year floodplain. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters. See Exhibit 14 (Environmental Checklist ¶¶ B(3)(b)(2) & B(3)(c)(2)). No environmental hazards (e.g. exposure to toxic chemicals, risk of fire or explosion, hazardous wastes, etc.) are anticipated to arise due to this project. See Exhibit 14 (Environmental Checklist ¶ B(7)(a)). No threatened or endangered species were identified on the site. See Exhibit 14 (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)).

On February 12, 2014, the Department of Integrated Capital Management of the City of Spokane, as lead agency, issued a Determination of Non-significance ("DNS") for the project. See Exhibit 13. Any appeal of the DNS was due on February 26, 2014. See *id.* No appeal of the DNS was filed.

There was no substantive evidence that environmental impacts made the project unfeasible or materially problematic. The SEPA process clearly supports the premise that the project will not have significant impacts on the environment. No one appealed the DNS. There was no testimony or evidence at the public hearing establishing that there were significant impacts overlooked in the SEPA review.

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment, which cannot be adequately addressed through mitigation. Therefore, this criterion for approval of the conditional use permit is satisfied.

6. *The overall residential appearance and function of the area will not be significantly lessened due to the construction of utilities 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)(1).*

The residential appearance and function of the area will not be significantly impacted by the proposed project. The proposal will result in the construction of two relatively small buildings, being 26' x 32' feet each. The height of these two structures will only be 25 feet (approximately) to the peak of the roof. Such structures will fit the scale of the buildings in the neighborhood. *Testimony of D. Buller.* These structures will be constructed on a corner lot, adjacent to Normandie Street and Central Avenue, respectively. The adjacent streets provide some buffer

between the structures and the residences across the street. The structures will easily fit on the .35 acre site, and thus will not be excessively bulky, disproportionate, or out of place. The city will be hiring an architect to ensure the structures are designed to be complementary to the neighborhood. *Testimony of D. Buller*. The Applicant proposes to submit the project to design review to ensure the architectural features blend in well with the neighborhood. The project is also required to satisfy the criteria for institutional uses in residential areas. As the Applicant explained:

The proposed pump stations will be architecturally designed to fit in with the character of the nearby residences to the maximum extent possible given the size requirements of the proposed pump station buildings as described above.

See Exhibit 2C.

The site has been used for water utilities for several decades. The use has not proven to be any sort detriment to the neighborhood. In the Hearing Examiner's view, the nature and design of this utility project ensures that, upon completion, the site and use will be compatible with nearby residential neighborhoods. The Hearing Examiner concludes that this criterion for approval is met.

- 7. The proposal will be compatible with the adjacent residential developments based on 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 stated above, the proposed buildings are relatively small, both in comparison with the surrounding uses and given the size of the lot. Some care will be taken to ensure that the style of the structures is compatible with the neighborhood, as a result of the design review process and applicable design standards. Given the location of the structures, which is dictated by the current location of the well heads, the Applicant cannot realistically use setbacks as a mitigation measure. Some screening and landscaping may help, but the buildings will ultimately be plainly visible and are industrial in nature. They will also be taller than many of the nearby, single-story residences. That said, the combination of relatively small size, design features and landscaping should be sufficient to minimize the impact to the neighborhood. The Hearing Examiner therefore concludes that the project is compatible with surrounding residential developments, and will be designed to mitigate the most prevalent impacts.

- 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).*

This city has operated water utilities on the site for decades. There is no evidence in the record that these operations have undermined the livability of nearby residential lands, infringed upon anyone's privacy, created safety hazards, or caused impacts like noise, glare, odors, or litter. There is little reason to suspect that these problems will arise from the construction of two utility buildings.

Given the nature of the utilities on the site, there is no reason to anticipate ongoing impacts on neighbors of the site. Operational activity on the site will be of very low intensity. The project will result in a negligible number of vehicle trips to or from the site. *Testimony of D. Buller*. There will be some security lights added to the sight, but those lights will be shielded to protect the

neighbors from fugitive light. See id. Thus, no particularly noticeable light or glare will be generated by this project. See Exhibit 14 (Environmental Checklist ¶ B(11)). No regular night operations are proposed. *Testimony of D. Buller.* There will be no operations carried on at the site that would result in glare, odors, litter, or similar impacts. See id. No litter or garbage is generated on site. See id. There was no testimony or evidence offered at the public hearing to suggest that such impacts were a probable result of this project.

The project will result in the replacement of submersible pumps (situated at the bottom of a 250-foot well) with above-ground pumps. Those pumps will generate sound and could be the source of noise. However, the pumps will be completely enclosed inside the proposed structures, and the buildings will be improved with sound-proofing to mitigate that potential impact. *Testimony of D. Buller.* The only other source of noise would be by construction activities, and perhaps the occasional utility vehicle accessing the site. The construction noise is temporary, and will cease when the project is completed. See Exhibit 14 (Environmental Checklist ¶ B(7)(b)). The vehicle noise is not a material factor, as the traffic to and from the site is too small to create a substantive impact.

The proposal itself does not raise any concerns about privacy or safety, and there was no evidence or testimony suggesting any ways in which the new water pump stations could create such concerns.

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

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 proposal is to construct utility infrastructure. As a result, factors such as connectivity, circulation, and transit availability are not particularly relevant to the proposal or the nature of the use. Traffic generated from the utility operation is minimal. The area transportation system therefore easily accommodates the proposed use. The project does not decrease the level of service of any adjacent street. See Exhibit 1, p. 6. No improvements to the transportation system are necessitated by this proposal. See Exhibit 14 (Environmental Checklist ¶ B(14)(d)).

As discussed above on the issue of concurrency, there are adequate public services to support the proposed use. In fact, with respect to water service, the project is intended to increase the capacity and 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.

B. Variance

1. *A variance or modification of the standard or requirement is not prohibited by the land use codes. See SMC 17G.060.170(E)(1)(a).*

The Applicant seeks approval of a variance to increase the height of the proposed structures from 42 inches to 20 feet to the ceiling or approximately 25-26 feet to the peak of the roof. The Applicant also seeks to reduce the yard setbacks to 0 feet (reduced from 15 feet for

the front yard and 5 feet from the side yard). There is no prohibition against these variance requests in the land use codes. See Exhibit 1, p. 6. As a result, this criterion is satisfied.

2. *No other procedure is provided in the municipal code to vary or modify the standard or requirement, or compliance with such other procedure would be unduly burdensome. See SMC 17G.060.170(E)(1)(b).*

There is no other procedure that the Applicant can pursue to vary the height limitation or eliminate the required setback. See Exhibit 1, p. 6. Since there is no other available procedure, this criterion is fulfilled.

3. *Strict application of the standard or requirement would create an unnecessary hardship. The property cannot be developed to the extent of similarly zoned property in the area because the improvements or uses located on the land do not allow such development. See SMC 17G.060.170(E)(1)(c).*

If the height and setback requirements are strictly applied, this project cannot proceed. This is an unduly harsh outcome under the unique circumstances of this case. Specifically, the site is the location of two wells. The height of the proposed building, as well as the need to encroach into the setbacks, is dictated by the nature of the equipment to be installed and the location of the existing wells. The Staff described the situation as follows:

Each well is approximately 250' deep and cannot be moved. The proposed building must sit atop the wells and due to the required piping, must be offset such that more than half the building is on the street side of the well thereby pushing the building into the required setback area.

See Exhibit 1, p. 7. In addition, the building height is necessitated by the height of the pump/motor to be installed. See id. The new motor will produce about 8,000 gallons per minute. See id. This requires both large diameter piping and a 1,000 horsepower motor. See id. As a result, the motor measures at 15' above ground, requiring a building of sufficient height to enclose. See id.

The Hearing Examiner is convinced that the existing 250' wells are the type of permanent improvement that the variance provisions contemplated. If a variance was only allowed for physical conditions that were "natural," the variance code would not make reference to "improvements" or "uses" that preclude development from occurring. Therefore, while it is technically possible to drill new wells (at tremendous and apparently unnecessary expense), that option certainly qualifies as an undue hardship, justifying the approval of the requested variance. As the Staff explained, the existing wells, and the need for upgraded equipment, dictate the location and height of the proposed buildings. In addition, the proposal varies from the code standards only as much as is necessary to accommodate the development.

The Hearing Examiner concludes that this case is precisely the type of situation contemplated by the variance code. Therefore, this criterion for approval is satisfied.

4. *The following objectives are reasonably satisfied: (1) surrounding properties will not suffer significant adverse effects; (2) the appearance of the property or use will not be inconsistent with the development patterns of the surrounding property; and (3) the ability to develop the property in compliance with other standards will not be adversely affected. See SMC 17G.060.170(E)(1)(d).*

The Hearing Examiner has already concluded that the project will not have significant impacts on the surrounding properties, and that the appearance and use of the property will be compatible with the surrounding neighborhood. See Parts A.5-A.8. There was no evidence in this record that the granting of the variance for height and setbacks would compromise any other design or development standards that might apply. The Hearing Examiner therefore concludes that this criterion for approval of the variance is satisfied.

5. *No variance may be granted to allow or establish a use that is not allowed in the underlying districts as a permitted use; or to modify or vary a standard or requirement of an overlay zone, unless specific provision allow a variance. See SMC 17G.060.170(E)(1)(e).*

As is stated earlier in this decision, the proposed use is permitted under the land use codes. See Part A.1 above. In addition, the land use codes do not include a prohibition against increasing the height or reducing setbacks. See Exhibit 1, p. 7. The proposed variance does not modify or vary a standard or requirement of an overlay zone. See id. Therefore, this criterion for the approval of a variance 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 and variance to allow the City of Spokane Engineering Services to the replacement of an existing well pump station at the northwest corner of Central Avenue and Normandie Street, a project which will include the construction of two new buildings, together with the installation of pumps, motors, piping, and electrical facilities. The project will be constructed substantially as set forth in the plans and application submitted and included in the record. If changes are sought to the plans and application, they shall be submitted to Planning Services for review and approval. If Planning Services finds that the changes are substantial, then 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. The structures proposed will be required to go through Design Review as a public project and to ensure they are compatible with the Institutional Design Standards.
4. 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.

5. 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.

6. 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.

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 1st day of September, 2015.



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 and variances 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 ISSUANCE OF THE DECISION.** Pursuant to RCW 36.70C.040(4)(a), the date of the issuance of the decision is the date the decision is entered into the public record. This decision was entered into the public record on September 1, 2015. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS THE 22nd DAY OF SEPTEMBER 2015 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.