

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit)
Application by Avista Corporation for)
the realignment of North Center Street,)
together with the installation of utilities,)
at 1709 E. Upriver Drive)

FINDINGS, CONCLUSIONS,
AND DECISION

FILE NO. Z1500071-SCUP

SUMMARY OF PROPOSAL AND DECISION

Proposal: Avista Corporation has applied for a shoreline conditional use permit in order to realign North Center Street. As a result of the realignment, the intersection of North Center Street and Upriver Drive will be moved several hundred feet to the northeast of its current location. The new intersection will be located within the 200-foot shoreline jurisdiction of the Spokane River, necessitating a shoreline conditional use permit. Utilities will also be re-routed and installed within the new intersection.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ Robin Bekkedahl
Owner: Avista Corporation
1411 E. Mission Ave.
Spokane, WA 99220

Property Location: The site is located at 1709 E. Upriver Drive, which is Tax Parcel No. 35093.1314. The following tax parcels are also partially included in the proposed realignment: 35093.1201; 35093.1202; 35093.1203; 35093.1204; 35093.1205; 35093.1206; 35093.1207; 35093.1208; 35093.1209; 35093.1210; 35093.1211; 35093.1212; 35093.1106; and 35093.1107. A new bio-infiltration swale will be located on Tax Parcel No. 35093.2103.

Legal Description: The legal description for the site is provided in Exhibit 2A.

Zoning: LI (Light Industrial) and RMF (Residential Multi-Family).

Comprehensive Plan Map Designation: Light Industrial and Residential 15-30.

Shoreline Designations: Urban Conservancy Environment (UCE); 75-foot Shoreline Buffer; Upriver Shoreline District.

Environmental Overlays: Habitat and Species, Riparian Habitat Area 2, FEMA 100 year flood zone.

Site Description: The site is approximately 3.2 acres in size and is located adjacent to the Spokane River. The site is bordered by Upriver Drive, Granite, North Center, and an alley. The site is generally flat. The property consists of open space lawn, industrial storage, and vacant land.

Project Description: The Applicant is proposing to realign North Center Street. The realignment will include the construction of approximately 1,300 linear feet of new roadway. A new public sewer line, waterline, curbs, sidewalks, roadside drainage, driveway approaches, and landscaping will also be constructed as part of the realignment. The realignment will require that the intersection of North Center Street and Upriver Drive be moved several hundred feet northeast of its current location and to a location within the shoreline jurisdiction of the Spokane River.

Surrounding Conditions: The Riverview multi-family residential development is to the northwest and northeast of the project site. The Avista Mission Campus area lies directly to the southwest. Upriver Drive borders the site to the southeast. Mission Park is south of Mission Avenue and to the south of the project site.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (“SMC”) 17E.060, Environmental Standards; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: July 1, 2015
Posted: July 1, 2015

Notice of Application/Public Hearing: Mailed: March 28, 2016
Posted: March 28, 2016

Community Meeting: July 15, 2015

Hearing Date: May 19, 2016

Site Visit: May 18, 2016

SEPA: A Determination of Nonsignificance (“DNS”) was issued by the City on May 6, 2016. The DNS was not appealed.

Testimony:

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

Robin Bekkedahl
Avista Corporation
1411 E. Mission Ave.
Spokane, WA 99220

Mark Aronson
Taylor Engineering
106 W. Mission Avenue
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Shoreline Conditional Use Permit application
 - 2C Shoreline Critical Areas Checklist
 - 2D Notification Map application
 - 2E Site Plan
3. Engineering Services Comments
4. Spokane Tribe of Indian comments
5. Notice map
6. Parcel listing
7. Notice of Community Meeting
8. Notice of Application and Public Hearing
9. Affidavit of mailings
 - 9A Community Meeting dated 07-01-15
 - 9B Application and Public Hearing dated 03-28-16
10. Affidavit of postings:
 - 10A Community Meeting dated 07-01-15
 - 10B Application and Public Hearing dated 03-28-16
11. Affidavit of Sign Removal dated 07-30-15
12. SEPA Determination of Nonsignificance dated 05-06-16
13. Environmental checklist dated 08-28-15
14. Community Meeting sign in sheet
15. Letter dated 06-17-15 to Robin Bekkedahl from Tami Palmquist
re: community meeting instructions
16. Letter dated 09-02-15 to Interested Parties from Ali Brast
re: requesting comments
17. Email from Randy Abrahamson to Robin Bekkedahl
re: clarification of project
18. Email from Robin Bekkedahl to Tami Palmquist
re: extension of time
19. Letter dated 03-17-16 to Robin Bekkedahl from Ali Brast
re: notice of application and notice of hearing instructions
- A. Material received at hearing:
 - A-1 Hardcopy of Staff's PowerPoint presentation
 - A-2 Email from Marcia Davis dated 05-18-16, regarding bike lanes
 - A-3 Replacement of page 2 of the staff report parcel identification

FINDINGS AND CONCLUSIONS

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

1. *The proposal is allowed under the provisions of the land use code.*

The development site is zoned Light Industrial (LI) and Residential Multi-Family¹ (RMF), and lies within the Urban Conservancy Environment (UCE). See Exhibit 1, pp. 1 & 4. To be allowed, the use must be permitted in both the shoreline jurisdiction and in accordance with the zoning applicable to the property. See SMC 17E.060.360(A); see also SMC 17E.060.690(C).

The proposed use is a new road. The Planning Department classifies the road as a Basic Utility, which is described in the Institutional Category under SMC 17C.190.400. See Exhibit 1, p. 4. Basic Utilities are permitted outright in the LI zone. See Table 17C.130-1. Basic Utilities are also permitted outright in the RMF zone. See Table 17C.110-1; see also SMC 17C.110.110(C).

Pursuant to the Shoreline Master Program, a new road is an example of a Non-Water Oriented Use. See SMC 17E.060.360. In the UCE, new construction or the expansion of existing utilities or facilities is classified as a limited/conditional use. See Table 17E.060-04. The Applicant has an additional burden that must be satisfied before such a project may take place in the shoreline jurisdiction. The Staff Report notes as follows:

Pursuant to SMC 17E.060.700(2), new construction or expansion of existing utilities or facilities or any parts of those facilities that are non-water oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible alternative is available. If this can be demonstrated, a shoreline conditional use permit is required.

See Exhibit 1, p. 4; see also SMC 17E.060.700(A)(2).

Curiously, the zoning code does not appear to directly authorize the construction of roads. Under the circumstances, the Hearing Examiner defers to the Planning Department's interpretation that roads should be considered as "Basic Utilities." The Hearing Examiner agrees that roads have similar characteristics to public utilities, and thus the category of "Basic Utility" is the most analogous use identified in the codes.

The Hearing Examiner further determines that the realignment of North Center Street is consistent with the requirements of SMC 17E.060.700(A)(2), for various reasons. The new location for North Center Street is the most reasonable alternative because the new roadway creates an area of separation between the higher intensity industrial uses

¹ The Applicant has submitted an application for a comprehensive plan amendment and zone change to change the RMF property to LI. However, no decision has been made on that application. The Hearing Examiner renders this decision based upon the land use designation and zoning that currently exists.

and the residential areas to the east. *Testimony of A. Brast.* Moving the road to the easterly boundary of the campus also decreases the fragmentation of the Avista campus. *Testimony of R. Bekkedahl.* Together with other strategies, such as vacating streets and erecting a tall fence, the road realignment will help consolidate the campus as well as minimize traffic flows between the industrial and residential areas. *Testimony of R. Bekkedahl.* The realignment also improves safety in terms of traffic flows in and out of the campus, as well as improving line-of-sight along Upriver Drive. *Testimony of M. Aronson.*

Finally, in the Hearing Examiner's view, the Applicant need not demonstrate that there is only one possible location for the new intersection or roadway, at least under the circumstances of this case. There is already an arterial within the shoreline jurisdiction. There is also an existing intersection between North Center Street and Upriver Drive within the shoreline. The project merely relocates the access street and intersection. This is not a project requiring new construction in previously untouched shoreline. The Hearing Examiner believes the purpose of SMC 17E.060.700(A)(2) is to discourage all but the most needed construction projects within the shoreline. However, the objectives underlying the code provision have less relevance to this application. This project really concerns the reconstruction of a portion of existing road, and has only minimal impacts on this developed area of the shoreline.

Under both the zoning and shoreline designations, the proposal is allowed, provided the applicable development standards and requirements are met. Therefore, this criterion is satisfied.

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

The proposed site of the realigned road is largely designated as Light Industrial property. See Exhibit A-1, p. 3. A portion of the property is designated as Residential 15-30. See *id.* In any event, the proposal to construct a road through this property is consistent with the goals and policies of the comprehensive plan.

The first goal of the Capital Facilities element of the comprehensive plan states that adequate public facilities should be provided and maintained, both to protect the public investment and to ensure appropriate levels of service. See CP, Chapter 5, Capital Facilities, CFU 1, p. 10. Similarly, Policy 1.2 of the Land Use element is intended to ensure that public facilities and services are adequate to accommodate proposed development. See CP, Chapter 3, LU 1.12, p. 15. The project is consistent with these objectives. The project includes a new public sewer line, waterline, curb, sidewalks, roadside drainage swales, driveway approaches, and landscaping. See Exhibit 13 (Environmental Checklist ¶ A(11)).

The project is being developed in a manner that protects significant natural features and wildlife habitat. See CP, Chapter 3, LU 5.4, p. 24. The project involves the realignment of a road and the relocation of an intersection. Although the intersection is within the shoreline jurisdiction, the intersection will be part of an existing road, i.e. Upriver Drive. It would seem that there will be minimal additional disturbance of the shoreline area as a result. A bio-infiltration swale is being constructed to ensure that there are no discharges into the Spokane River. There will also be drainage swales and landscaping

along the new roadway, which will control storm water. Most of the road will be constructed outside the shoreline jurisdiction, and within the Avista campus.

The proposal is also consistent with the shoreline policies of the comprehensive plan. The project will result in the relocation of a road. On a net basis, the impact of such a project appears to be relatively small. In addition, only a small portion of development is located within the shoreline jurisdiction. There is no evidence in this record that the project will undermine the ecological function or quality of the nearby shoreline. To the extent that the shoreline is impacted, the effects will be minimal and controlled by appropriate mitigation measures. The project is conditioned upon protecting water quality, controlling erosion, installing drainage systems, and protecting archaeological resources, among other things. These requirements, which derive from the municipal code and state law, ensure compliance with the objectives of SMP 5.4. See CP, Chapter 14, SMP 5.4, p. 28. Moreover, this project is subject to regulations that ensure no net loss of shoreline ecological functions, as required by SMP 1.3. See CP, Chapter 14, SMP 1.3, p. 22.

Because the project is consistent with the designations, goals, and policies of the Comprehensive Plan, the Hearing Examiner finds that his criterion has been satisfied.

3. The proposal meets the concurrency requirements of Chapter 17D.010.

The decision criteria for Type III decisions (such as a shoreline conditional use permit) require that these types of applications satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on March 11, 2016, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 16.

The city received minimal comments regarding the proposal. See e.g. Exhibits 3 & 4. None of the commenting departments or agencies contended that concurrency could not be achieved. See Exhibit 1, p. 5. In addition, there was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the municipal code. Therefore, this criterion for approval of the shoreline 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.

The Hearing Examiner concludes that the property is suitable for the proposed use, given its physical characteristics. The proposal involves realigning a road within the Avista campus. See Exhibit 13 (Environmental Checklist ¶ A(7)(b)). There is nothing about the size or shape of the property that makes this proposal problematic. The site is generally flat, and thus the topography is not challenging. See Exhibit 13 (Environmental Checklist ¶ B(1)(a)). There are no indications of unstable soils. See Exhibit 13 (Environmental Checklist ¶ B(1)(d)).

The project includes appropriate drainage systems to control storm water and prevent impacts on the Spokane River. A new bio-infiltration swale will be installed near Mission Avenue. See Exhibit 13 (Environmental Checklist ¶ A(14)(a)(1)). The swale will allow enough space to filter the storm water and not allow further discharges into the Spokane River. See *id.* Additional swales will be installed along the realigned road, consistent with storm water regulations. See *id.*

No part of the site has been designated as a critical area, although work will be done within the 250-foot critical area buffer. See Exhibit 13 (Environmental Checklist ¶ B(8)(h)). Thus, there are no surface waters or wetlands on the development site itself. In addition, there is no evidence that the project will have any impact on groundwater. A geotechnical test pit shows that there was no groundwater at a depth of 15 feet. See Exhibit 13 (Environmental Checklist ¶ A(14)(b)(1)).

There are no known landmarks or evidence of resources of historic, archaeological, scientific, or cultural importance on or next to the site. See Exhibit 13 (Environmental Checklist ¶ B(13)(b)). The Spokane Tribe of Indians recommended an archaeological survey and sub-surface testing. See Exhibit 4. However, the Spokane Tribe did not provide any specific facts or analysis to explain why such analysis and testing is necessary on this site. See *id.*

That said, it should be noted that there is an unevaluated low density artifacts site east of the proposed Mission swale. See Exhibit 13 (Environmental Checklist ¶ B(13)(a)). To protect that area, the site will be marked before construction starts and an inadvertent discovery protocol will be implemented during construction. See Exhibit 13 (Environmental Checklist ¶ B(13)(c)).

Based upon the foregoing, the Hearing Examiner concludes that this criterion for project 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 or neighboring property or the surrounding area, considering the design and intensity of the proposed use.

The City issued a Determination of Nonsignificance (“DNS”) on May 6, 2016. See Exhibit 12. The comment period on this DNS expired on May 20, 2016. See *id.* No comments in opposition to the DNS were submitted on or before that comment deadline. The DNS was not appealed.

Approximately nine months before the issuance of the DNS, on August 28, 2015, the applicant prepared an environmental checklist for the project.

The checklist supports the conclusion that no significant environmental impacts will arise from this project. For example, although the site is near the Spokane River, there are no wetlands, surface waters, or other limiting features on the development site. See Exhibit 13, Environmental Checklist ¶ B(3)(a)(1). No threatened or endangered species were identified on the site. See Exhibit 13, (Environmental Checklist ¶ B(4)(c) & B(5)(b)). No waste materials will be discharged into ground or surface waters. See Exhibit 13

(Environmental Checklist ¶¶ B(3)(b)(2), B(3)(b)(6) & 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 13 (Environmental Checklist ¶ B(7)(a)). Other than noise and odor generated during construction, the project will result in no significant noise or odor impacts on a long-term basis. See Exhibit 13 (Environmental Checklist ¶¶ B(2)(a) & B(7)(b)(2)). The noise from traffic will merely be shifted from the existing road to the new road alignment.

The project does not involve above-ground structures, and therefore will not impact views. See Exhibit 13 (Environmental Checklist ¶ B(10)(a)-(b)). The only lights are street lights, which will be hooded and shielded downward. See Exhibit 13 (Environmental Checklist ¶ B(11)(a) & (d)). Thus, significant glare is not anticipated. See Exhibit 13 (Environmental Checklist ¶ B(11)(b)).

The applicant will be required to implement on-site controls for storm water and surface drainage generated from the project. See SMC 17D.060.010 et seq. The applicant has recognized this requirement. See e.g. Exhibit 13, Environmental Checklist ¶¶ B(3)(b)(1), B(3)(c)(1), & B(3)(d). The other potential 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 ¶¶ B(1)(h) & 2(c).

There was no substantive evidence that this project should be denied due to environmental concerns. The SEPA process clearly supports the premise that the project will not have significant impacts on the environment. A DNS was issued for the project and no one appealed that determination. 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. For shoreline conditional use permits the following additional criteria apply:

- a. The proposed use is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program;*

As was discussed in Paragraph 2 above, the proposal is consistent with the policies of the Shoreline Master Program. Only a portion of the project is within the shoreline jurisdiction. The portion within the shoreline primarily consists of an intersection with an existing arterial (Upriver Drive) and a bio-infiltration swale. The road realignment does not change the fact that there is an existing arterial. The other areas of the project site have been extensively disturbed or developed over the years. See Exhibit 2B. The natural areas of the shoreline are mostly south of Upriver Drive toward the Spokane River. See id. Creating a new intersection will not affect the natural areas of ecological function of the shoreline. See id. The installation of the bio-infiltration swale will serve to protect the

river. In addition, the project will involve landscaping with native vegetation, which will provide some benefits to the shoreline environment. Ultimately, the Hearing Examiner agrees with Staff's conclusion that this proposal is consistent with the policies of the Shoreline Master Program, and therefore this criterion is satisfied. See Exhibit 1, p. 6.

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

This project does not affect "normal public use" of the shorelines by the public. As the Staff noted: "Existing public access and views of the river will not change as a result of this application. See Exhibit 1, p. 7. Upriver Drive separates the area to the south and along the Spokane River, which is used for recreation, from the Avista campus. See Exhibit 2B. The realignment of North Center Street and the new intersection with Upriver Drive will not impact or interfere with public access to the shoreline of the Spokane River. See *id.* The road realignment is taking place northerly of Upriver Drive, while access to the shoreline and the Centennial Trail is southerly of Upriver Drive. See Exhibit 1, p. 7. Public access to the shoreline will remain the same. See Exhibit 2B. Given these circumstances, the Hearing Examiner concludes that this criterion is met.

- c. The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the Shoreline Master Program;*

There are no other conditional use permits proposed in the vicinity of the project, at least at this time. See Exhibit 2B; *Testimony of A. Brast.* As a result, there is no basis upon which to perform a cumulative impacts analysis. In the past, Avista has received various conditional use permits along Upriver Drive. See Exhibit 1, p. 7. However, in those cases, Avista worked closely with the city to guard against impacts to the shoreline, including the implementation of appropriate mitigation measures. See *id.* Even considering previous permits issued to Avista, staff did not anticipate any cumulative impacts from an approval of the CUP. *Testimony of A. Brast.* The Hearing Examiner concludes that granting this conditional use permit will not result in a cumulative impact that undermines the objectives of the Shoreline Master Program. Therefore, this criterion is met.

- d. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with the uses planned for the area under the comprehensive plan and the Shoreline Master Program;*

The proposed road realignment will take place within the Avista campus. It is not anticipated that moving this road will from one part of the campus to another will result in any new or unique impacts on nearby uses. Roads are allowed in both industrial and residential areas, and thus the use is consistent with land uses in the vicinity. In addition, the development site has very little vegetation. See Exhibit 1, p. 7. What is present is non-native. See *id.* The realigned road will be landscaped with native vegetation, and typical street trees will be installed. See *id.* In this way, the project is an improvement over existing conditions. There was no testimony or other evidence introduced at the hearing suggesting that the project would result in significant impacts on nearby uses, or that the

project was somehow incompatible with neighboring uses. The Hearing Examiner therefore concludes that this criterion is satisfied.

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

The discussion in paragraphs 5 and 6b demonstrates that the proposed use will not have significant adverse effects on the shoreline environment or public access to the shorelines. Whatever impacts that road construction may cause have already occurred in that location. The area is already developed with Upriver Drive, and there is already an intersection between Upriver Drive and North Center Street. The project merely moves North Center Street and its associated intersection to a new location a few hundred feet away. The development work will take place at Upriver Drive and northerly of Upriver Drive. The sensitive areas are located southerly of Upriver Drive, toward the river. The project will not impact views at all. Access to the river, which is southerly of Upriver Drive, will also remain the same. The Hearing Examiner concludes that this project will not result in adverse effects to the public's visual or physical access to the shoreline. This criterion for approval is met.

DECISION

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

Approval is for a Shoreline Conditional Use Permit to allow the Applicant, Avista Corporation, to realign North Center Street, including the construction of approximately 1,300 linear feet of new roadway and the relocation of the intersection of North Center Street and Upriver Drive. The realignment project also includes the construction of a new public sewer line, waterline, curbs, sidewalks, roadside drainage, driveway approaches, and landscaping. The realignment project will be constructed substantially as set forth in the General Application and Shoreline Permit Application submitted and included in the record as Exhibits 2A and 2B, and the Site Plan submitted and included in the record as Exhibit 2E.

1. The site shall be developed in substantial compliance with the plans submitted with the application dated September 2, 2015.
2. The project shall comply with Shoreline Master Program, SMC 17E.060 and SMC 17E.020, which provide that a project shall not result in a net loss of shoreline ecological functions.
3. In response to the comments offered on this project by the Spokane Tribe on September 14, 2015, the Spokane Tribe will monitor the site work, in accordance with the contract between the Spokane Tribe and the Applicant.
4. Bicycle lanes shall be installed on the realigned North Center Street.

5. A flood plain development permit is required to be obtained prior to any earthwork.
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 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.
8. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code including the International Codes (as adopted in this jurisdiction), as well as requirements of City Departments and outside agencies with jurisdiction over land development.
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 2nd day of June, 2016.



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 of the Hearing Examiner regarding shoreline conditional use permits are reviewed by the Washington State Department of Ecology. After review, they may be appealed to the Washington State Shoreline Hearings Board. **All appeals must be filed with the Shoreline Hearings Board within twenty-one (21) calendar days of the date of the Ecology decision.**

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.