

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Conditional Use Permit Application by the ) FINDINGS, CONCLUSIONS,  
City of Spokane Engineering Department ) AND DECISION  
to allow the construction of a Combined )  
Sewer Overflow (CSO) storage tank at )  
2008 N. Pettet Drive ) FILE NO. Z1500086-CUP3

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The City of Spokane Engineering Department seeks a conditional use permit in order to allow the construction of a Combined Sewer Overflow (CSO) storage tank, to be installed underground, in a Residential Single Family Zone.

**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 2008 N. Pettet Drive, in the City of Spokane, Washington. The site is located in the Southwest ¼ of Section 12, Township 22 North, Range 42 East, W.M.

**Legal Description:** An abbreviated legal description of the site 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 Conservation Open Space in the city's Comprehensive Plan.

**Site Description:** The site is a vacant hillside. The site sits between Pettet Drive and the back yards of a row of single-family homes. The western portion of the site is relatively flat. The eastern portion of the site has significant slopes, ranging from 16% to 30% in grade. The homes are easterly from the top of the steep slopes.

**Surrounding Conditions and Uses:** Single Family Residential (RSF) zoning surrounds the project site on all sides. Land uses to the east and south are low density single-family homes. To

the west of the site is the Spokane River and the Centennial Trail. The Centennial Trail is on the west side of Pettet Drive. Land use to the north consists of vacant, single-family lots.

**Project Description:** The City of Spokane Engineering Department is proposing to construct an underground Combined Sewer Overflow (CSO) storage tank with the approximate dimensions of 50 feet in width by 250 feet in length by 13 feet in height. The overall depth of the tank from the surface of the ground to the bottom of the tank will be approximately 25 feet. The tank volume is approximately 700,000 gallons. Although the tank will be installed underground, there will be several access hatches visible at the surface. However, the access hatches will be camouflaged by architectural features and native vegetation. There will be a paved area adjacent to the underground tank. The paved area will be used for parking and maneuvering of sewer trucks that will need to access the tank. The paved area will be gated off to prevent public parking. A future trail/shared use path is proposed near the CSO tank to the east of Pettet Drive, heading north to connect with T.J. Meenach Drive. However, the construction of the trail is dependent on future funding and is not a part of this project.

### PROCEDURAL INFORMATION

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

**Notice of Community Meeting:** Mailed: October 14, 2015  
Posted: October 14, 2015

**Notice of Application/Public Hearing:** Mailed: December 4, 2015  
Posted: December 4, 2015

**Community Meeting:** October 27, 2015

**Public Hearing Date:** January 14, 2016

**Site Visit:** January 13, 2016

**SEPA:** A Determination of Nonsignificance ("DNS") was issued by the City of Spokane Engineering Department on November 13, 2013. The deadline to appeal the DNS expired on November 27, 2013. The DNS was not appealed.

#### **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

Bill Toney  
2111 N. Hemlock St.  
Spokane, WA 99205

Ross Hilderman  
2105 N. Hemlock St.  
Spokane, WA 99205

## Exhibits:

1. Planning Services Staff Report
2. Application, including:
  - 2A General application
  - 2B Conditional Use Permit application
  - 2C Project Overview
  - 2D Notification Map application
  - 2E Site Plan
  - 2F Aerial View of site with tank location shown
3. Spokane Tribe of Indian comments
4. Spokane Transit comments
5. Notice maps and Parcel listings
  - 5A CSO Tank 12
  - 5B CSO Tanks 12 and IO3
6. Address Listing
7. Notice of Community Meeting
8. Notice of Application and Public Hearing
9. Affidavit of mailings
  - 9A Community Meeting dated 10-14-15
  - 9B Application and Public Hearing dated 12-04-15
10. Affidavit of postings:
  - 10A Community Meeting dated 10-14-15
  - 10B Application and Public Hearing dated 12-04-15
11. Affidavit of sign postings: 09-11-15
  - 11A Community Meeting dated 10-16-15
  - 11B Application and Public Hearing dated 12-04-15
12. Affidavit of sign removal dated 09-25-15
13. SEPA Determination of Nonsignificance dated 11-13-13
14. Environmental checklist
15. Community Meeting sign in sheet
16. Community Meeting Summary
17. Community Meeting presentation
18. Letter dated 10-06-15 to Dan Buller from Ali Brast  
re: community meeting instructions
19. Letter dated 11-04-15 to Interested Parties from Ali Brast  
re: requesting comments
20. Letter dated 12-03-15 to Dan Buller 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

## FINDINGS AND CONCLUSIONS

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code sections 17G.060.170 and 17C.320.080(F). The Hearing Examiner has reviewed the proposed conditional use permit and the evidence of record with regard to 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 17C.110.110. The table does not specifically identify a CSO or related infrastructure among the regulated uses. See Table 17C.110-1. However, stormwater facilities and conveyance systems are elsewhere identified as Basic Utilities, an institutional category of use. See Exhibit 1, p. 5.

“Basic Utilities” are infrastructure services that need to be located in or near the area where the service is provided. See 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. See 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.

According to Table 17C.110-1, Basic Utilities are a limited (“L”) use, rather than a conditional use (“CU”). However, the use category for “Basic Utilities” is modified by the bracketed number “[3]”, suggesting that additional terms apply. The footnotes to Table 17C.110-1 state: “Standards that correspond to the bracketed numbers [ ] are stated in SMC 17C.110.110.” See Table 17C.110-1. The pertinent portion of SMC 17C.110.110 confirms that its provisions apply to all parts of the table that have a note [3], and further 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). As a result, the project requires a conditional use permit.

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 Conservation Open Space provisions of the comprehensive plan do not provide guidance regarding the installation of utilities. Nonetheless, there are various provisions of the comprehensive plan support this proposal.

Goal 1 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. Goal 6 of the Land Use element seeks to ensure the distribution of adequate and well-located public facilities throughout the city. See CP, Goal LU 6, Adequate Public Lands and Facilities. Policy 1.12 of the Land Use element recognizes that 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. See CP, Goal CFU 1, Adequate Public Facilities and Services. 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.

The project satisfies the foregoing goals and policies by ensuring that the utility infrastructure is adequate to serve the public need. The project is part of a substantial, ongoing effort to site CSO tanks in appropriate locations throughout the city. The proposed tank is part of a larger system designed to control the overflow of untreated stormwater and sewage into the Spokane River during storm events, consistent with the mandates of the Department of Ecology. *Testimony of D. Buller*. As a result, while the project does have some environmental impact at the development site, from a broader perspective the project serves to protect the environment, in particular the Spokane River. This fulfills the intent of Goal CFU 5 of the Capital Facilities Element, which states as follows:

Minimize impacts to the environment, public health, and safety through the timely and careful siting and use of capital facilities and utilities.

See CP, Goal CFU 5, Environmental Concerns.

The policies underlying this goal also demonstrate that the project fulfills the intent of the comprehensive plan by controlling the impacts of runoff and overflows. Policy CFU 5.3, Stormwater, provides: "Implement a Stormwater Management Plan to reduce impacts from urban runoff." In the discussion of that policy, the following objective is stated: "...the City of Spokane should work continuously toward the reduction of existing combined sewer overflows wherever technically, economically, and environmentally appropriate." See CP, Chapter 5, p. 19.

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 wastewater (sewer and stormwater) must be evaluated for concurrency. See SMC 17D.010.010(I). Accordingly, on November 4, 2015, 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 3 & 4. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1, p. 4. 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).

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 handle wastewater.

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 plan for the project is included in the record as Exhibit 2E. The site plan, along with other documents in the record, describes the location, size, shape, and topography of the property. These documents also include information about the physical characteristics of the site and details about the proposed project. A review of this documentation confirms that the project site is suitable for the proposed use.

The site is an undeveloped hillside situated between Pettet Drive and the back yards of a row of single-family homes. See Exhibit 1, p. 4; see also Exhibit 2E. The western portion of the site is relatively flat. See Exhibit 1, p. 4. The eastern portion of the site is significantly sloped, with the grade ranging from 16% to 30%. See id. However, the proposed tank will be constructed and installed in the flat area of the site. See id. The tank will be installed entirely underground. See id. The facility has been designed to fit the site, given its size, shape, and location. *Testimony of D. Buller.*

Once the tank is installed, except for a small paved access/parking area and the access hatches, the site will be restored with native grasslands, matching the current conditions of the site. See Exhibit 1, p. 4. The site has sufficient soils to permit proper drainage. *Testimony of D. Buller.* Storm water will be retained on the site, per city standards. See Exhibit 1, p. 4.

There is no evidence of surface waters on the project site, although the project is obviously near the Spokane River. *Testimony of D. Buller.* In addition, it is believed that groundwater is greater than 25 feet below the surface. See Exhibit 14 (Environmental Checklist ¶ A(14)(b)(1)). In addition, there "...are no surface indications of unstable soils." See Exhibit 14 (Environmental Checklist ¶ B(1)(d)). However, a geotechnical investigation of the site has not occurred yet. See Exhibit 14 (Environmental Checklist ¶ B(1)(c)). Such an investigation will be undertaken for this project. See Exhibit 14 (Environmental Checklist ¶ A(14)(b)(1)).

There are no known cultural or historic resources on this site. See Exhibit 14 (Environmental Checklist ¶ B(13)(a)-(b)). There are no buildings on the site, and therefore there are no historic structures that could be impacted by the project. The Spokane Tribe of Indians provided a comment on this project, but did not identify any specific reason to believe that

historical, cultural, or archaeological resources are or are likely to be at this site. See Exhibit 3. Under the circumstances, the Hearing Examiner will include the usual condition that if, during excavation, any significant resources are discovered, the appropriate protocol will be followed. That is sufficient given this record, in the Hearing Examiner's opinion.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion 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 November 6, 2013, the City of Spokane prepared a SEPA checklist for this project. 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, although the project is near the Spokane River. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(1)-(2)). The property does not lie within a 100-year or a 500-year floodplain. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters as a result of this project. 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 November 13, 2013, the Department of Engineering Services 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 November 27, 2013. See id. No appeal of the DNS was filed.

It should be acknowledged that site proximity to the Spokane River does warrant some concern. The construction project will involve substantial work on the site. Approximately 4,500 cubic yards of soil will be excavated in order to install the tank. See Exhibit 14 (Environmental Checklist ¶ B(1)(e)). However, the construction site is approximately 900 feet east of the Spokane River. See Exhibit 2B. The distance between the river and the construction work will, to a large degree, eliminate the likelihood of significant impacts to the river. To the extent the construction activity poses any risks, the mitigation measures should address the possible impacts. In addition, the impacts from construction will be temporary. Once the construction is completed, most of the site will be replanted with native grasses. Since the tank is underground, the long-term visual impacts of the project will be minimal. There is no reason to believe that the ordinary mitigation measures for construction projects will not suffice in this case.

There is no substantive evidence that the project should not be permitted due to environmental impacts. The SEPA process clearly supports the premise that the project will not have significant impacts on the environment. No one appealed the DNS. Further, there was no testimony or evidence at the public hearing establishing that there were significant impacts overlooked in the SEPA review. And, ultimately, the CSO project will help reduce sewage emissions into the Spokane River, most likely creating a positive environmental benefit.

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).*

This project will not negatively impact the residential appearance or function of the area. The tank is being installed next to a wide and well-traveled road, on undeveloped city land. The tank will be installed underground. The project does not include any buildings that would detract from the residential character of the neighborhood, or which could be considered disproportionate or incongruous. Other than access hatches, there will be virtually no indication of the presence of the CSO tank. In other words, the utility infrastructure will be almost entirely invisible to neighbors or observers. The nearby homes are situated on top of a steep slope that overlooks the site and the Spokane River to the west. The views from the back of these residences will not be affected by this project at all. It is true that there will be impacts from construction, but those impacts will be temporary and are adequately addressed by project conditions. The small parking/turnaround area will have little, if any, impact on the neighbors, especially since this site is located along Pettet Drive and well below the existing houses. The parking area will be screened from the public right-of-way. The site will also be planted with native grasses to restore its character. 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).*

The CSO tank will be completely buried and thus not visible to neighbors or others near the site. There are no other structures or buildings proposed that could be considered incompatible with nearby residences. "The few components that will project above the ground will be camouflaged with architectural features..." See Exhibit 1, p. 5. The site will be planted with native grasses to match with its current condition. See *id.* In addition, the preceding discussion, demonstrating that the project does not materially impact residential uses, applies here as well. The Hearing Examiner concludes that the project is compatible with surrounding residential developments, and is well designed to mitigate any potential 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).*

The operation of the underground utility, by its nature, will have little to no impact on nearby residents. As stated previously, once the construction work is completed, the site will appear nearly the same as it did before the project.

The tank is underground. There are no above-ground buildings. Operational activity on the site will be of very low intensity. Traffic to the site by city personnel will be de minimis. *Testimony of D. Buller.* No regular late night operations are proposed. *Testimony of D. Buller.* No light or glare will be generated by this project. See Exhibit 14 (Environmental Checklist ¶ B(11)). There are no lights proposed for the project. See Exhibit 1, p. 6. There will be no operations carried on at the site that would result in noise, glare, odors, litter, or similar impacts. See Exhibit 1, p. 6; *Testimony of D. Buller.* No litter or garbage is generated on site. See Exhibit 1, p. 6. There was no testimony or evidence offered at the public hearing to suggest that such impacts were a probable result of this project.

The only apparent source of noise would be by construction activities. See Exhibit 1, p. 6. However, 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.

A concern could be anticipated with respect to odor from a tank that temporarily holds wastewater. However, the proposed CSO tank will have an odor control filter system. *Testimony of D. Buller.* As a result, no odor is anticipated from this project. See Exhibit 1, p. 6; see also Exhibit 14 (Environmental Checklist ¶ B(2)(a) & (c)). There was no testimony or other evidence submitted that odors would emanate from the site. Thus, the Hearing Examiner has no basis to suspect that odors cannot be controlled at this location.

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 CSO tank 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. Almost no traffic is generated from the utility operation. The area transportation system therefore easily accommodates the proposed use.

As discussed above on the issue of concurrency, there are adequate public services to support the proposed use. In fact, with respect to the management of wastewater, 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.

### **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 Wastewater Department to construct an underground tank to be used as a combined sewer overflow tank by the City of Spokane Wastewater Department. The tank will be constructed substantially as set forth in the General Application submitted and included in the record as Exhibit 2A and the Site Plan submitted and included in the record as Exhibit 2E. If changes are sought to the General Application and Site Plan, they shall be submitted to Planning Services for review and approval. If Planning Services finds that the changes are substantial, than they shall be forwarded to the Hearing Examiner for review and approval.
2. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas.
3. All parking and maneuvering areas must be paved per SMC 17C.230.140C. The parking and maneuvering area on the site is not intended for and shall not be used for public parking.
4. The applicant will re-vegetate the site following the construction work, with the intent to restore the site as a natural open space. Any trees removed as a result of the construction process shall be replaced by planting new trees on site so that there is no net loss of trees at the property.
5. The applicant shall submit a landscape plan to the Planning Department for its review and approval. The landscape plan shall include elements that serve at least the following goals: (1) to restore of the site, as much as is practical, to its prior condition as a natural, open space; (2) to screen the parking and maneuvering area; and (3) to include elements or features designed to discourage unauthorized access to the parking and maneuvering area by the public. The applicant and the Planning Department are encouraged to work together to reach an agreement on the elements of the plan, but the final discretion regarding the landscaping requirements that best serve the foregoing goals will be with the Planning Department.
6. All conclusions and recommendations from the final engineering reports—environmental, structural, engineering, stormwater and geotechnical—must be adhered to in accordance with City Standards and regulations.
7. 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.

8. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code including the building codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.

9. 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.

10. A Notice of Construction and Application for Approval shall be submitted and approved by the Spokane Clean Air prior to the construction, installation, or establishment of an air pollution source and Notice of Intent shall be submitted to Spokane Clean Air prior to any demolition project or asbestos project.

11. 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.

12. 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.

13. 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 1<sup>st</sup> day of February, 2016.



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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 February 1, 2016. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS THE 22<sup>nd</sup> DAY OF FEBRUARY 2016 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.