

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit Application by City of Spokane Parks and Recreation Department for the installation of a skating pond, skating ribbon, and recreational building in Riverfront Park)))))))	FINDINGS, CONCLUSIONS, AND DECISION FILE NO. Z16-149SCUP
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SUMMARY OF PROPOSAL AND DECISION

Proposal: City of Spokane Parks and Recreation Department (the "Parks Department") has applied for a shoreline conditional use permit for a skating ribbon/pond and a recreational building to be constructed in Riverfront Park. The Parks Department also proposes to make temporary site improvements to the Central Meadow to accommodate vendors during park events.

Decision: Approval, subject to conditions.

**FINDINGS OF FACT
BACKGROUND INFORMATION**

**Applicant/
Owner:** City of Spokane Parks and Recreation Department
808 West Spokane Falls Boulevard
Spokane, WA 99201

Property Location: The site is located at 610 W. Spokane Falls Boulevard, which is Tax Parcel No. 35185.0041.

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

Zoning: DTG-150 (Downtown General).

Comprehensive Plan Map Designation: Open Space

Shoreline Designations: Intensive Urban Environment (IUE); 50-foot buffer; Downtown Design District.

Environmental Overlays: Fish & Wildlife Habitat Area (RHA-2)

Site Description: The project site is located adjacent to the Spokane River. The entire project area is landward of the Ordinary High Water Mark (OHWM). A portion of the property is located within the 100-year floodplain.

Project Description: The requested shoreline conditional use permit would authorize the construction of a 14,500 square foot skating ribbon which includes a 3,500 skating pond. A new recreational building, up to 7,500 square feet in size, will also be constructed. The recreational building will house rentals, sales, restrooms, concession/food service, rental rooms, storage room, the ice ribbon controls, and maintenance, operational and mechanical equipment, among other things. The existing Skyride ticket booth, control station, and queuing area will be removed with the ride and controls remaining. The existing public restroom north of the Skyride will also be removed. The power and control station for the Skyride will be relocated to the new recreational building. The Parks Department will also make temporary site improvements to the Central Meadow, an open area of approximately 60,000 square feet immediately south and southwest of the IMAX Theatre. The project will include the removal of the existing turf, re-grading the site, upgrading the irrigation system, removing trees, and replacing the turf, among other things. The temporary site improvements will provide vendors with an area to use during park events.

Surrounding Conditions and Zoning: The site for the skating ribbon/pond and recreational building is the southwest corner of Riverfront Park. That site is bounded by Post Street to the west and Spokane Falls Boulevard to the south. West of the site is City Hall. South of the site is River Park Square. To the north and east of this part of the proposal is park land. The Central Meadow, as the name suggesting is, more or less, in the middle of Riverfront Park. Riverfront Park is zoned Downtown General-150, a designation that allows a wide range of uses, including recreational parks. The land to the south is zoned Downtown Central-100. The area immediately to the west is zoned Downtown General-70. Farther to west is an area zoned Community Business-150. To the north is zoned Downtown General. To the east and southeast is an area zoned Downtown General-100.

PROCEDURAL INFORMATION

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

Notice of Community Meeting: Mailed: December 30, 2015
Posted: January 5, 2016

Notice of Application/Public Hearing: Mailed: March 31, 2016
Posted: April 6, 2016

Community Meeting: January 20, 2016

Hearing Date: May 26, 2016

Site Visit: May 25, 2016

SEPA: A Determination of Nonsignificance (“DNS”) was issued by the City on May 9, 2016. The DNS was not appealed.

Testimony:

Tami Palmquist, Associate Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Berry Ellison
City of Spokane Parks and Recreation
Department
808 West Spokane Falls Boulevard
Spokane, WA 99201

Exhibits: Z16-149SCUP – Riverfront Park Recreational Rink, Skyride and Central Meadow

1. Planning Services Staff Report
2. Application, for Recreational Rink, Skyride and Central Meadow Event Location including:
 - 2A General application
 - 2B Shoreline Conditional Use Permit application
 - 2C Legal Description parcel 35185.0041 – Recreational Rink & Skyride
 - 2D Shoreline Critical Areas Checklist
 - 2E Notification Map application
 - 2F Vicinity Map with site outlined
 - 2G Location Map
 - 2H 5 Photos of existing southwest corner of Riverfront Park
 - 2I Riverfront Park Redevelopment Shoreline Vegetation Inventory
 - 2J Existing conditions & Demolition – Recreational Rink & Skyride
 - 2K Stormwater & Utilities Plan – Recreational Rink & Skyride
 - 2L Grading Plan – Recreational Rink & Skyride
 - 2M Building Layout – Recreational Rink & Skyride
 - 2N Landscape Plan - Recreational Rink & Skyride
 - 2O 4 Photos of existing Central Meadow
 - 2P Grading Plan – Central Meadow
 - 2Q Shoreline Permit Counter Complete Checklist
3. Pre-Development Conference Notes
4. Development Services comments
5. Design Review comments dated:
 - 5A 12-30-15
 - 5B 01-13-16
 - 5C 04-18-16
 - 5D 04-28-16
6. Spokane Tribe of Indian comments dated:
 - 6A 02-10-16
 - 6B 03-28-16
7. Department of Ecology comments
8. Notice map
9. Parcel listing
10. Address listing
11. Notice of Community Meeting
12. Notice of Application, SEPA Review and Public Hearing
13. Affidavit of mailings

- 13A Community Meeting dated 12-30-15
- 13B Application and Public Hearing dated 03-31-16
- 14. Affidavit of postings:
 - 14A Community Meeting dated 01-05-16
 - 14B Application and Public Hearing dated 04-06-16
- 15. Affidavit of Sign Removal dated 01-22-16
- 16. SEPA Determination of Nonsignificance dated 05-09-16
- 17. Environmental checklist dated 03-03-16
- 18. Riverfront Park Development IPaC Trust Resource Report dated 01-19-16
- 19. Riverfront Park Master Plan Traffic Impact Analysis & Design Study dated 08-31-15
- 20. Community Meeting notes
- 21. Community Meeting sign in sheet
- 22. Letter dated 12-22-15 to Berry Ellison from Tami Palmquist
re: community meeting instructions
- 23. Letter dated 03-03-16 to Tami Palmquist from Berry Ellison
re: submittal of materials
- 24. Letter dated 03-11-16 to Interested Parties from Tami Palmquist
re: requesting comments
- 25. Letter dated 03-29-16 to Berry Ellison from Tami Palmquist
re: notice of application and notice of hearing instructions
- 26. Draft Soil Management Plan
- 27. Hardcopy of Staff's PowerPoint presentation
- A. Material received at hearing:
 - A-1 Applicants PowerPoint presentation

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.*

To be allowed, a 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 development site is zoned Downtown General (DTG), and lies within the Intensive Urban Environment (IUE). See Exhibit 1, pp. 1 & 4.

The proposed project includes a skating pond and ribbon along with a recreational facility that will house the various services and mechanical equipment, as well as controls for the nearby Skyride, to name a few things. The Planning Department categorized these aspects of the project as Retail Sales and Service, as described under SMC 17C.190.270. See Exhibit 1, p. 4. The project also involves making temporary site improvements to the Central Meadow, an open area of approximately 60,000 square feet. See Exhibit 1, p. 1. These improvements will provide a temporary green space that will be used to

accommodate vendors during park events. See *id.* The Planning Department characterized this proposed use as Parks and Open Space. See Exhibit 1, p. 4.

The proposed uses, as classified by the Planning Department, are authorized by the zoning code. Retail and Service is permitted as a limited (“L”) use in the DTG zone. See Table 17C.124-1. SMC 17C.124.110 sets forth additional standards applicable to “limited” uses. However, none of those standards are germane to this application. Parks and Open Space uses, meanwhile, are permitted outright in the DTG zone. See Table 17C.124-1. Thus, both components of the proposal, i.e. the skating pond/ribbon and recreational building, and the improvements to the Central Meadow, are permitted under the zoning code. See Exhibit 1, p. 4. The next question, then, is whether the proposed uses are authorized within the shoreline jurisdiction.

The use of property as a “park” is considered a “water-enjoyment use” under the shoreline regulations. See SMC 17E.060.360(D); see *also* Exhibit 1, p. 4. A project that qualifies as either Water Enjoyment Recreation or Water Enjoyment Commercial is allowed as a conditional use on IUE-designated property. See Table 17E.060-04. The proposed uses fit these classifications. See Exhibit 1, p. 4. Thus, the proposed uses are allowed, provided a shoreline conditional use permit is obtained. See SMC 17E.060.310; see *id.*

Under both the zoning and shoreline designations, the proposal is allowed, provided the application satisfies the development standards and, when applicable, the standards for conditional uses. Therefore, this criterion is satisfied.

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

The Comprehensive Plan designates Riverfront Park as Open Space. See Exhibit 1, p. 5. Open Space specifically includes major parks and open space areas. See *id.* The Applicant seeks to make improvements to the park, which is clearly consistent with a myriad of comprehensive plan policies and objectives listed in the Staff Report. See *id.* There is no need to review every policy identified by the Planning Department. However, there are a few examples that should be mentioned, to elucidate the conclusion reached in this decision.

The project seeks to develop urban open space amenities that enhance the local economy. See CP, Chapter 12, Parks, Policy PRS 2.3, p. 9. The project improves the appearance of the park, enhancing the surrounding natural and urban environment, while also encouraging social interaction. See CP, Chapter 3, Land Use, Goal LU 2 and Policy LU 2.1, p. 16. The project is well designed to complete the construction in a manner that is sensitive to the significant natural features. See CP, Chapter 3, Land Use, Policy LU 5.4, p. 24.

The project also includes measures to ensure that there is no net loss of shoreline ecological functions. See CP, Chapter 14, Shorelines, Policy SMP 1.3, p. 22. The ecological impacts of the project have been analyzed by visual inspection and mapping of the project site. See Exhibit 2B, ¶ 9. The Applicant will seek to minimize removal of vegetation that serves important ecological functions in the park. See *id.* The application

will also restore areas with vegetation and implement mitigation measures when possible. *See id.* The vegetation mitigation will comply with the parks Habitat Management Plan. *See id.* It should be acknowledged, in particular, that the project will involve the removal of approximately 100 trees. *See id.* However, the Applicant proposes to replace trees on a 2:1 ratio, although some trees may have to be planted in other parks. *See id.* The Applicant also noted: "Plantings will be designed to enhance the available habitat, increase shade, and stabilize soils to improve water quality while still allowing shoreline access and views appropriate for the shoreline designation." *See id.*

For these reasons, and based upon other policies set forth in the Staff Report, the Hearing Examiner concludes that this criterion is 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 24.

The city received minimal comments regarding the proposal. *See e.g.* Exhibits 6A, 6B, & 7. The comments of responding entities, such as the Spokane Tribe of Indians and the Department of Ecology, were addressed in the proposed conditions of approval. *See* Exhibit 1, p. 6. In any event, none of the commenting departments or agencies contended that concurrency could not be achieved. *See id.* Finally, there was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. The Hearing Examiner concludes that the project satisfies the concurrency requirements of the municipal code.

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 site plans for the project is included in the record as Exhibits 2G & 2J-2N. These documents generally show the location, size, and shape of the property. They also include information about the physical characteristics of the site and extensive details about the proposed project.

The plans demonstrate that the proposed improvements are well designed to fit the site. The area of the park proposed for the development is suitable in terms of size, shape, topography, and location, for example. However, there are some development challenges at this site, above and beyond protecting the shoreline ecology and the natural features of the park. Specifically, geotechnical investigations have revealed that contaminants exist at the site. *See* Exhibit 1, p. 6; *see also* Exhibit 26. As a result, the Planning Department emphasized that the project will need to comply with the requirements of the Model Toxics Control Act. *See* Exhibit 1, p. 7. This recommendation will be incorporated as a condition of the project, per the Staff's suggestion.

There was no evidence introduced at the hearing, or apparent in the record, suggesting that the soils or drainage characteristics were problematic. In any case, the project will be required to install stormwater facilities that satisfy the standards outlined in SMC 17D.060. See Exhibit 1, p. 7. Further, Staff noted:

The project is required to meet the standards outlined in SMC Section 17E.060.810 Standards and Guidelines Specific to the Downtown, Campus, and Great Gorge Districts and SMC 17E.060.820 Standards and Guidelines Specific to the Downtown District, specifically as these relate to stormwater management, [Low Impact Development], and the requirement for the use of impervious surfaces.

See Exhibit 1, p. 7

On the record developed thus far, the project will not impact groundwater. There are no wetlands or surface waters on the land to be developed, although the project is being undertaken within the shoreline of the Spokane River. With the exception of one part of the proposed skating pond/ribbon, the construction work will be carried on outside the shoreline buffer. The one part of the project that encroaches upon the buffer is allowed because the construction is limited to surface work. *Testimony of T. Palmquist.*

In accordance with SMC 17E.060.200, the project must be developed in a manner that results in no net loss of shoreline ecological functions. See Exhibit 1, p. 7. The Applicant will achieve this objective, in part, by employing low impact development techniques, including site assessment, planning and design, vegetation conservation, site preparation, retrofitting, and management techniques. See *id*; see also Paragraph 2 above. In addition, the “no net loss” requirement is incorporated as a condition of approval for the project.

The project was designed in order to enhance the park while also preserving its natural features as much as possible, as is discussed previously. With respect to historic or cultural resources, the Spokane Tribe of Indians raised some concerns. See Exhibit 6A & 6B. However, the Spokane Tribe will be working with the City of Spokane to monitor the project on an ongoing basis, to ensure that any such resources, if discovered, are preserved. In addition, the usual protocols under State law apply to this project, as is reflected in the conditions of approval.

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 9, 2016. See Exhibit 16. The deadline to appeal the DNS expired on May 23, 2016. See *id*. The DNS was not appealed.

Approximately two months before the issuance of the DNS, on March 3, 2016, 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 17, Environmental Checklist ¶ B(3)(a)(1). The Central Meadow is outside the 100-year floodplain. See Exhibit 17, Environmental Checklist ¶ B(3)(a)(5). The majority of the skating ribbon/pond project is outside the 100-year floodplain, although some minor construction activities related to the ice pond and site landscaping may be within the 100-year floodplain. See *id.*

There are no state-listed priority species of plants or animals at the project site. See Exhibit 17, Environmental Checklist ¶ B(4)(c) & B(5)(b). However, there is one federally-listed plant species in the area. See Exhibit 17, Environmental Checklist ¶ B(4)(c). There are also bull trout, yellow-billed cuckoo, gray wolf, and Canada lynx in the vicinity, according to the federal listing. See Exhibit 17, Environmental Checklist ¶ B(5)(b). However, there is no evidence that these species are present on the land proposed for development. Further, Applicant is taking steps to mitigate potential impacts to wildlife, including using best management practices during construction, avoiding tree removal during nesting season, and replacement of vegetation to ensure no net loss of ecological function. See Exhibit 17, Environmental Checklist ¶ B(4)(d) & B(5)(d).

The project is not anticipated to create any significant noise, other than the demolition of the Skyride ticket booth and typical construction noise. See Exhibit 17 Environmental Checklist ¶ B(7)(b)(2). However, the hours for construction activity will be limited to 7 AM to 5 PM, Monday through Friday. See *id.* In addition, the impacts from construction will be temporary.

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 17, 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 17, 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 17, Environmental Checklist ¶¶ B(1)(h) & 2(c).

As noted in Paragraph 4 above, evidence of contamination at the site was discovered. As a result, the Applicant will need to demonstrate that construction activities are in accordance with the Model Toxics Control Act. See Exhibit 1, p. 7. There was no evidence that such compliance could not be achieved.

There was no substantive evidence that environmental impacts make the project infeasible 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. *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;*

The Hearing Examiner agrees with Staff's conclusion that this proposal is consistent with the policies of the Shoreline Master Program. See Exhibit 1, p. 8. In particular, the Staff noted as follows:

This proposal recognizes the interest of the public while enhancing the natural character of the shoreline, results in long term benefit, increase public access both visual and physical to the shoreline, and increases passive recreational opportunities for the public in the shoreline.

See Exhibit 1, p. 8. In addition, the proposal is consistent with the adopted shoreline policies, as is discussed in some detail in Paragraph 2 above.

The site is designated in the Shoreline Master Program as Intensive Urban Environment and as part of the Downtown Design District. The "intensive urban" environment is intended to support a variety of uses, including high-intensity water-oriented urban, residential, commercial, office, and industrial land uses. See Exhibit 1, p. 8. The density and intensity of these uses is balanced with a mix of open space and recreational and cultural facilities. See *id.* The proposed use fits well within that mix.

The project will provide new recreational opportunities in the park. See Exhibit 2B ¶ 8. The project will also enhance public access to the park's interior by providing bike/pedestrian pathways that connect to primary park circulation routes. See *id.* The project creates new recreational areas that encourage a variety of recreational activities year-round. See *id.* These benefits are also in furtherance of the goals and policies of the Shoreline Master Program.

The Hearing Examiner concludes that the project is consistent with the policies of state law and the Shoreline Master Program. Therefore, this criterion for approval is satisfied.

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

The Hearing Examiner concludes that this project does not affect "normal public use" of the shorelines by the public. Existing public access and views will not substantially change as a result of this project. See Exhibit 1, p. 8. The only structure being proposed which affects views is the recreational facility. That facility is in the southwest corner of the park and will not materially impact views of the shorelines, in the Hearing Examiner's opinion. In addition, the proposed projects are part of the Riverfront Park Master Plan and are designed to enhance existing features, views and access to the shoreline, as well as park amenities, in order to draw more people to the park. See Exhibit 2B ¶ 7. The projects

enhance aesthetic enjoyment of the park and create a variety of recreational opportunities. See *id.* Overall access to the Spokane River will be enhanced by the myriad of improvements planned for the park. See Exhibit 1, p. 8. 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 three other conditional use permits in the general vicinity of the project. See Exhibit 1, p. 9. Avista added in-water weirs to the Spokane River as part of an aesthetic spill project. See *id.* Huntington Park was renovated and a gathering place was added outside City Hall. See *id.* And the Convention Center completed a major expansion and shoreline restoration along the Centennial Trail. See *id.* The Staff concluded that all of these projects work together to improve the Spokane River shoreline experience and implement the goals and policies of the Shoreline Master Program. See *id.* The Hearing Examiner has no reason to conclude otherwise. The various projects serve differing purposes and all appear to be beneficial to the shoreline environment. There is no evidence that the proposed project, when considered in light of other permits granted in recent times, will result in cumulative impacts. On the contrary, the project appears to be another enhancement to the park and associated shoreline. As a result, the Hearing Examiner concludes that this criterion for approval is satisfied.

- 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 project is part of a broader plan to make significant improvements to Riverfront Park. As one piece of a well-planned puzzle, the project is clearly compatible with the intended uses of Riverfront Park. The park has been used for skating and community events for many years. The upgrades to the park will continue and expand these uses as well as providing opportunities for other uses. There is nothing about the project that strikes the Hearing Examiner as incompatible with surrounding uses. To conclude otherwise would be to suggest that the park itself is an incompatible use. Riverfront Park is a community gathering place in the center of the city. The proposed improvements will enhance the park experience and encourage greater public use and enjoyment of the resource. Finally, the Hearing Examiner has already concluded that the project is consistent with the policies of the Comprehensive Plan and Shoreline Master Program. See Paragraph 2 above. The Hearing Examiner 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. With respect to visual access, the height of the proposed structures will not exceed the limitations stated in the Shoreline Master Program. See Exhibit 1, p. 10. The recreational facility will be situated in an open field, and will not block views to the Spokane

River in a direct or material way. See Exhibit 2B ¶ 6. The new facility will affect views from City Hall, but the overall impact is expected to be small. See Exhibit 1, p. 10. The project will also result in the removal of the restroom next to the Skyride, which will open up views to some degree. See *id.* In addition, the new recreational facility will provide "...new park and river viewpoints, while maintaining open views to the north, northeast, and east, in addition to maintaining open views for most observers from City Hall." See Exhibit 2B ¶ 6; see also Exhibit 1, p. 10. The Hearing Examiner concludes that this criterion is satisfied.

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:

1. Approval is for a Shoreline Conditional Use Permit to allow the Applicant, City of Spokane Parks and Recreation Department, to construct a skating pond/ribbon, recreational facility, and a temporary event location, all in Riverfront Park, consistent with the application materials and plans submitted and included in the record, and subject to the terms and conditions stated below.
2. The Shoreline Conditional Use Permit is subject to the compliance of this proposal with all applicable codes and requirements including shoreline regulations, public access, building height, bulk, setbacks, and site coverage.
3. The site shall be developed in substantial compliance with the plans submitted with the application and dated March 3, 2016, as well as comments received on the project from City Departments and outside agencies with jurisdiction.
4. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require no net loss of shoreline ecological functions that could result from the proposal. Pursuant to Section 17E.060.220, the Applicant shall engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset the impacts resulting from this proposal.
5. The contractor is required to have a Construction Stormwater Pollution Prevent Plan (SWPPP) in place prior to and during construction in order to prevent sediment laden stormwater run-off or other pollutants from entering the Spokane River.
6. The Applicant is required to work with the appropriate departments and agencies to demonstrate construction activities are in accordance with the Model Toxics Control Act (MTCA). A Draft Soil Management Plan was prepared by Geo Engineers on May 6, 2016 for City of Spokane Parks and Recreation. Stockpiling activities may only take place in locations outside of the Shoreline Buffer, as indicated in the construction plan.
7. A Draft Habitat Management Plan (HMP) was prepared by Geo Engineers for the Spokane Parks and Recreation in 2015. A Habitat Management Plan and Vegetation Replacement Plan are required to be reviewed and approved prior to any activity being permitted on the project site. As the entire redevelopment of Riverfront Park will be a multi-year phased project, it was been agreed upon in advance that addendums to the

Draft HMP will be prepared on a phased basis to be reviewed and approved by agencies with jurisdiction.

8. Per the recommendation of the Design Review Board on April 27, 2016, the Applicant shall:

a. Neighborhood

- i. Continue conversations with Berger and BWA to look at opportunities for coordinated elements between Wall Street, the park, and adjacent public spaces, to avoid a break in design language.

b. Building

- i. Explore additional options of creating more expansive glazing areas on the south side of the seating area within the rotunda.
- ii. Further develop the west and north elevations to meet expectations for a building without a backside.
- iii. Explore additional options of creating an overhanging canopy or roof to cover outdoor seating on the south side of the rotunda, and break up the similarities with the carrousel building.

9. The Spokane Tribe will be responsible for conducting archaeological reviews, surveys, monitoring, evaluations and reports for all subsurface activities as part of the Riverfront Park Redevelopment project.

10. 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.

11. 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. The project shall conform to the requirements of any additional agency permits.

12. 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.

13. 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.

14. 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.

15. 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 9th 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.