

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Shoreline Conditional Use Permit )  
Application by the City of Spokane )  
Engineering Department to allow the )  
construction of a Combined Sewer )  
Overflow (CSO) storage tank and sewer )  
line in Upriver Drive )

FINDINGS, CONCLUSIONS,  
AND DECISION

FILE NO. Z16-189SCUP

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The City of Spokane Engineering Department seeks a shoreline conditional use permit in order to allow the construction of a Combined Sewer Overflow (CSO) storage tank, the replacement of the existing sewer main, the construction of a lift station, and related work, all within the right-of-way of Upriver Drive.

**Decision:** Approved, with conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant:** City of Spokane Engineering Department  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

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

**Property Location:** The subject property is located on Upriver Drive, just west of Freya Street. The site is designated as Tax Parcel No. 35104.0008.

**Zoning:** The property is zoned Residential Single-Family (RSF).

**Shoreline Designations:** Urban Conservancy Environment; Shoreline Residential Environment; 75-foot and 200-foot Shoreline Buffer; Upriver Shoreline District.

**Environmental Overlays:** Habitat and Species, Riparian Habitat 1

**Comprehensive Plan Map Designation:** The property is designated as Residential 4-10.

**Site Description:** The site is a long strip of land encompassing a part of the right-of-way for Upriver Drive and the adjacent north bank of the Spokane River. There is an existing arterial and sewer line at this property. There is no native or non-native vegetation on the land to be developed under this proposal. The Centennial Trail also traverses through the property, between Upriver Drive and the Spokane River.

**Surrounding Conditions and Uses:** To the immediate south of the site is the Spokane River. The land to the north and northeast is zoned RSF and is fully developed with residential uses. The land to the west and northwest includes an area zoned Residential Two-Family, which is also developed with residential uses.

**Project Description:** The City of Spokane Engineering Department is proposing to construct an underground Combined Sewer Overflow (CSO) storage tank within the right-of-way and under the paved surface of Upriver Drive. The tank will be installed at the Rebecca Street / Upriver Drive intersection. The detention storage will be achieved by installing 600-700 foot length 72" diameter pipe connected with concrete vaults. The CSO facility will have an approximate capacity of 96,000 gallons. The excavation will reach depths of up to 30 feet. At the same time, the City plans to construct approximately 7,300 linear feet of sewer line. The CSO tank will be installed parallel to the new sewer line. The majority of the sewer line will be gravity fed. However, a portion of the line requires the construction of a lift station. The lift station will be a concrete masonry unit structure, approximately 10 feet by 15 feet in size. This project will require the City to replace approximately 15,000 square yards of asphalt, i.e. the paved surface of Upriver Drive. Existing catch basins at Freya Street and Rebecca Street will also be retrofitted.

### **PROCEDURAL INFORMATION**

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

**Notice of Community Meeting:** Mailed: March 9, 2016  
Posted: March 9, 2016

**Notice of Application/Public Hearing:** Mailed: April 15, 2016  
Posted: April 15 & 20, 2016

**Community Meeting:** March 23, 2016

**Public Hearing Date:** June 9, 2016

**Site Visit:** June 14, 2016

**SEPA:** A Determination of Nonsignificance ("DNS") was issued by the City of Spokane Engineering Department on February 21, 2011. No appeal of the DNS was filed.

#### **Testimony:**

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

Cindy Kinzer, P.E.  
City of Spokane, Engineering Services  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

#### **Exhibits:**

1. Planning Services Staff Report  
1A Revised Staff Report dated 06-08-16

2. Application, including:
  - 2A General application
  - 2B Shoreline permit application
  - 2C Shoreline/Critical Areas Checklist
  - 2D Notification Map application
  - 2E Site Plan
  - 2F Project Narrative
  - 2G CSO41 Project Area
  - 2H CSO41 Project Area, Phase 2 Traffic Control
3. Spokane Tribe of Indian comments
  - 3A HRA Cultural Survey, dated 04-10
  - 3B HRA Cultural Survey, dated 04-16
4. Notice map
5. Parcel listing
6. Notice of Community Meeting
7. Notice of Application and Public Hearing
8. Affidavit of mailings
  - 8A Community Meeting dated 03-09-16
  - 8B Application and Public Hearing dated 04-15-16
9. Affidavit of postings:
  - 9A Community Meeting dated 03-09-15
  - 9B Application and Public Hearing dated 04-15-16
10. Affidavit of sign postings: 09-11-15
  - 10A Community Meeting dated 03-09-16
  - 10B Application and Public Hearing dated 04-20-16
11. Affidavit of sign removal dated 03-24-16
12. SEPA Determination of Nonsignificance dated 02-21-11
13. Environmental checklist dated 02-08-11
14. Community Meeting sign in sheet
15. Community Meeting handout
16. Community Meeting presentation
17. Letter dated 02-29-16 to Dan Buller from Ali Brast  
re: community meeting instructions
18. Letter dated 03-25-16 to Interested Parties from Ali Brast  
re: requesting comments
19. Letter dated 04-13-16 to Dan Buller from Ali Brast  
re: notice of application and notice of hearing instructions
20. Email dated 03-23/24-16 to/from Angie Silva and Cindy Kinzer  
re: project follow up
- A. Material received at hearing:
  - A-1 Hardcopy of Staff's PowerPoint presentation

### **FINDINGS AND CONCLUSIONS**

To be approved, the proposed Shoreline Conditional Use Permit ("SCUP") must comply with the criteria set forth in SMC 17G.060.170 and RCW 90.58.020. The Hearing Examiner has reviewed the proposed SCUP and the evidence of record with regard to the application and makes the following findings and conclusions:

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).*

The project site is zoned Residential Single Family ("RSF"), a residential category. The uses allowed in the residential zones are shown on Table 17C.110-1. See SMC 17.110.110. The table does not specifically identify 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 1A, 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 includes a CSO tank as well as a new sewer line and two catch basins. The Hearing Examiner concludes that the project fits the general definition of a Basic Utility, and is included 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 project site is also within the Urban Conservancy Environment ("UCE") and the Shoreline Residential Environment ("SRE") under the shoreline regulations. The proposed CSO tank fits within the definition of a "Non-Water Oriented Use." See Exhibit 1A, p. 4 (citing SMC 17E.060.360). Pursuant to Table 17E.060-04, a "Non-Water Oriented Use" is a Limited or Conditional Use ("L(2)/CU") on property designated as UCE or SRE. See Table 17E.060-04.

In addition, new construction or expansion of existing utilities or facilities that are Non-Water Oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that feasible alternatives are not available. See SMC 17E.060.700(2); see also Exhibit 1A, p. 4. The Hearing Examiner is persuaded that the proposed location is the only feasible option. As the Applicant explained:

*The CSO tank must be constructed in close proximity of the existing sewer interceptor and river overflow. The proposed project location is that location and is the only nearby undeveloped property, all other property being fully developed single family homes. This is a City-owned property and is the best location for a use of this kind.*

Under both the zoning code and the shoreline regulations, this project is permitted, but only as a conditional use. The Hearing Examiner concludes that, provided the requirements for a

shoreline conditional use are satisfied, the project is allowed at this site. Therefore, this criterion for approval is satisfied.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

The project site is designated as Conservation Open Space under the comprehensive plan. While the provisions describing this designation do not directly address utilities, there are various provisions in the comprehensive plan that support the proposed use.

For example, the first goal of the Land Use element of the comprehensive plan memorializes the objective of providing coordinated, efficient, and cost effective public facilities and utility services. See Comprehensive Plan ("CP"), Goal LU 1, Citywide Land Use. Policy 1.12 of the Land Use element recognizes that adequate public facilities and 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.

The Land Use element also contemplates that public facilities will be properly distributed throughout the city. See CP, Goal LU 6, Adequate Public Lands and Facilities. As pertinent here, the City is in the process of installing CSO tanks in multiple locations throughout the city, all as part of a comprehensive effort to protect the Spokane River from overflow events.

The Capital Facilities element calls for the city to provide and maintain adequate public facilities and utility services, as well as to ensure reliable funding is in place to protect the public's investment in this infrastructure. See CP, Goal CFU 1, Adequate Public Facilities and Services (also noting that such investments ensure adequate levels of service). In furtherance of this goal, Policy CFU 1.6 calls for the continuous evaluation of the effect of changes in state and federal regulations, in part to ensure appropriate levels of service. In this case, the project is intended to address Department of Ecology requirements, and thus appears to directly advance this policy.

The project is 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 C. Kinzer*. As a result, while the project does have some environmental impact, from a broader perspective the project serves to protect the environment, in particular the Spokane River. In this fashion, the project protects and preserves a river corridor for the health and enjoyment of the public. See CP, Policy PRS 1.2, River Corridors. This also 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.

Finally, the project, as designed and conditioned, provides adequate provisions to protect water quality, views, and archaeological sites, as well as guarding against erosion, among other things. See SMP 5.4, Provisions for Shoreline Protection. Given the location, the design of the project, and the preexisting use, the project does not create any loss of shoreline ecological functions. See SMP 1.3, No Net Loss of Ecological Functions.

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 shoreline 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 March 25, 2016, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 18.

The city received minimal response to its request for comments. See e.g. Exhibits 3, 3A & 3B. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1A, p. 6. 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. 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 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. See SMC 17G.060.170(C)(4).*

The Hearing Examiner concludes that the property is suitable for the proposed use, given its physical characteristics.

The proposed CSO tank, the new sewer line, and catch basins will be installed in existing right-of-way. There is an arterial in that location with an old sewer line running through it. Thus, the location is already suitable for roads and utilities. Although the shoreline slopes steeply to the river, the road is on top of the bank in a flat area. See Exhibit 13 (Environmental

Checklist ¶ B(1)(a)). The proposed CSO tank was specifically designed to fit the location, and the structure will be entirely underground when the construction is completed. There is nothing about the size or shape of the property that makes this proposal problematic.

There is some indication of unstable soils. See Exhibit 13 (Environmental Checklist ¶ B(1)(d)). However, the erosion hazard potential is considered to be "slight." See *id.* In addition, soil stabilization methods have been implemented along Upriver Drive. See *id.*

Although the project is adjacent to the Spokane River, there are no surface waters on the project site itself. See Exhibit 13 (Environmental Checklist ¶ B(3)(a)(1)). The project will also have no impact on groundwater. Based upon a geotechnical investigation, the groundwater level is anticipated to be deeper than the bottom of the anticipated excavation limits. See Exhibit 13 (Environmental Checklist ¶ A(14)(b)(1)).

Stormwater will not be discharged into the ground. See Exhibit 13 (Environmental Checklist ¶ A(14)(b)(2)). Rather, stormwater from street surfaces in the project vicinity will be collected in the new CSO facility and piped into the city sewer system for treatment. See Exhibit 13 (Environmental Checklist ¶ B(3)(c)). Further, the Applicant has acknowledged that the stormwater regulations must be followed, as is discussed in Paragraph 5 below.

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)). However, given the project's location along the Spokane River, the Spokane Tribe of Indians requested that a cultural survey of the site be completed. See Exhibit 3. Consistent with the Spokane Tribe's request, a cultural survey of this site was undertaken in 2010 and updated in 2016. See Exhibits 3A & 3B. The Applicant has stipulated to a project condition incorporating the recommendations of the cultural survey, including the implementation of an inadvertent discovery plan. *Testimony of C. Kinzer*, see also 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 of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

The City issued a Determination of Nonsignificance ("DNS") on February 21, 2011. See Exhibit 12. The comment period on this DNS expired on or about March 7, 2011. See *id.* The DNS was not appealed. About two weeks before the issuance of the DNS, on February 8, 2011, the Applicant prepared an environmental checklist for the project, detailing the specifics of the project and commenting on the potential impacts.

The checklist supports the conclusion that no significant environmental impacts will arise from this project. For example, although the site is adjacent to the Spokane River, there are no wetlands, surface waters, or other limiting features on the development site itself. 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 as a result of this project. See Exhibit 13

(Environmental Checklist ¶¶ B(3)(b)(2), B(3)(a)(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(7)(b)(2)). Odor control measures will be implemented for the CSO storage facility and lift station. See Exhibit 13 (Environmental Checklist ¶ B(2)(c)).

The only above-ground structures are electrical control cabinets, which are only seven feet high. The rest of the improvements are underground. Thus, the project will not impact views. See Exhibit 13 (Environmental Checklist ¶ B(10)(a)-(b)). The project will not produce any light or glare. See Exhibit 13 (Environmental Checklist ¶ B(11)(a)).

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)(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. *The proposed use is consistent with the policies of RCW 90.58.020 and the shoreline master program. See SMC 17G.060.170(D)(2)(a)(i).*

The site is designated as Urban Conservancy Environment (“UCE”) and Shoreline Residential Environment (“SRE”) under the Shoreline Master Program. See Exhibit 1A, pp. 6-7. The UCE designation is intended to protect and restore ecological functions of open space, flood plains, and other sensitive areas when found in urban areas. See *id.* The designation also allows a variety of uses. See *id.* The SRE designation, meanwhile, is designed to accommodate existing, small-lot residential development and accessory structures. See *id.* The SRE also allows appropriate public access and recreational uses. See *id.*

In this specific case, the development site is being used as for a roadway and utilities. The project will result in a substantial excavation to install a CSO tank, but the property will ultimately be restored to its original use. As the location of a public roadway, the site itself is not a candidate for ecological restoration or residential use. However, the Applicant will be planting native vegetation during site restoration, which will be an improvement from existing conditions. Further, the project will not preclude future water-oriented uses or residential development near the site. See Exhibit 1A, p. 7.

Finally, the Hearing Examiner has already concluded that the proposal is consistent with the goals and policies of the Shoreline Master Program. There are further comments on this issue in Paragraph 2 above.

The project is consistent with the policies of the Shoreline Management Act and the Shoreline Master Program. As a result, this criterion is satisfied.

7. *The proposed use will not unreasonably interfere with the normal use of public shorelines. See SMC 17G.060.170(D)(2)(a)(ii).*

The CSO tank will be installed entirely underground and the site will be returned to its current use, i.e. a roadway. The use of the shoreline by the public will therefore be unaffected by this project. The Hearing Examiner agrees with the Staff: "Existing public access and views of the river will not change as a result of this application." See Exhibit 1A, p. 7. The addition of the tank will not interfere with the re-installation of the road or the Centennial Trail. See *id.* There will be a disruption in the use of the trail during construction, but that disruption will be temporary. Once the project is completed, the trail will be fully restored. The Hearing Examiner concludes that this criterion for approval is satisfied.

8. *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. See SMC 17G.060.170(D)(2)(a)(iii).*

There are no known conditional use permits in the vicinity of the site for the proposed CSO tank. See Exhibit 1A, p. 7. This project actually promotes the long-term health of the Spokane River and the shoreline environment, for reasons discussed elsewhere in this decision. In addition, once the CSO tank is installed and the site is restored to a roadway, the site will be suitable for future recreation and water-oriented uses, if any are planned. See *id.* Given these circumstances, the Hearing Examiner concludes that this criterion for approval has been satisfied.

9. *The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and the shoreline master program. See SMC 17G.060.170(D)(2)(a)(iv).*

The site is currently used for a roadway and utilities. The roadway and utilities serve the uses in the vicinity and beyond. The CSO facility will be completely underground and the roadway will be resurfaced to resume use of the site as a roadway. It is difficult to conceive how this project will conflict with any existing uses, and there are no proposed or planned uses that would be impacted by this project, to the knowledge of the Hearing Examiner. As a result, the Hearing Examiner concludes that this criterion is met.

10. *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 physical and visual access suffers no substantial detrimental effect. See SMC 17G.060.170(D)(2)(a)(v).*

The project will not cause any significant adverse effects on the shoreline environment. The site is currently used as a roadway. There is no vegetation on the site. *Testimony of A. Brast; see also Exhibit 1A, p. 8.* "Since there is no native or non-native vegetation on the site, there will be no impact to the shoreline habitat or loss in ecological function." See *id.* The project is north/landward of the ordinary high water mark, reducing the potential impact on the river. See *id.*

There will be some temporary disruption of the use of the Centennial Trail during construction. See *id.* However, when the project is completed, use of the trail will be fully restored.

The project will not impact views or public use or enjoyment of the shoreline environment. The proposed facility will be completely underground and the site will be returned to use as a roadway. The views of the Spokane River will therefore be unchanged by this project. Public access and enjoyment of the shoreline at this location will be same after the project as before.

Ultimately, this project will result in net benefit to the shoreline environment by helping to lower the number of raw sewage discharges into the Spokane River. See *id.* The Hearing Examiner agrees with Staff that this criterion for approval 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 City of Spokane Engineering Department to construct an underground tank to be used as a combined sewer overflow tank in furtherance of the Department of Ecology's mandated CSO reduction program. This Shoreline Conditional Use Permit also authorizes the replacement of an existing sewer main, the construction of a lift station, and other related work, all as set forth in the application documents.
2. The site shall be developed in substantial conformance with the application and plans that were submitted with the application and considered at the hearing. The General Application is included in the record as Exhibit 2A. The Site Plan is included in the record as Exhibit 2E.
3. 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.
4. An Erosion and Sediment Control plan that satisfies the requirements of SMC 17D.090 "Erosion and Sediment Control" will be required for the proposed work.
5. The project will implement the recommendations of the cultural survey, included in the record as Exhibits 3A and 3B, including the development of an inadvertent discovery plan and archeological monitoring during construction activities.
6. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.
7. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code including the International Codes (as adopted in this jurisdiction), as well as requirements of City Departments and outside agencies with jurisdiction over land development.

8. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.

9. Spokane Municipal Code section 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.

DATED this 15<sup>th</sup> day of June, 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 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.