

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) FINDINGS, CONCLUSIONS,
the City of Spokane Engineering) AND DECISION
Services to allow the construction of a)
Combined Sewer Overflow (CSO))
prevention tank number 33-1 adjacent)
to I-90 and the Hamilton St.)
Interchange) FILE NO. Z16-464CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: City of Spokane Engineering Services seeks a conditional use permit in order to allow the construction of a Combined Sewer Overflow (CSO) prevention tank number 33-1 and associated piping, to be installed underground, in a Residential Single Family Zone. The project also includes two gravel access roads, which will be constructed on top of the underground tank.

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. and Duane Studer, P.E.
City of Spokane, Engineering Design
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Property Location: The proposed site is located south of 3rd Avenue at the I-90/Hamilton Street interchange, in the City of Spokane, Washington. The site is located in the Northwest 1/4 of Section 20, Township 25 North, Range 43 East, W.M.

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

Comprehensive Plan Map Designation: The property is designated as Open Space.

Site Description: The site is split by I-90 and the Hamilton Street Interchange. One part of the site is north of the freeway and one part of the site is south of the freeway. The site is approximately 18.1 acres in size, with the available open space being approximately 3.9 acres. The tank construction area is approximately 1.1 acre. The tank will be installed in a fairly flat area of the parcel located directly adjacent to 3rd Avenue.

Surrounding Conditions and Uses: The site itself and the properties to the north, south, east, and west are all zoned Residential Single-Family. Southeast of the site is property which is zoned Residential Multi-Family zoning. The properties to the south are developed with single-family residences. Vacant and city-owned parcels are located to the east of the site. To the west and the north of the site is the I-90/Hamilton Street Interchange.

Project Description: City of Spokane Engineering Services is proposing to construct an underground Combined Sewer Overflow (CSO) storage tank with the approximate dimensions of 125 feet in width by 290 feet in length, along with associated piping and equipment. The tank volume is approximately 2.2 million gallons. The tank will be installed partially on City property and partially in DOT right-of-way. Overall excavation depth is expected to be 20-25 feet. Piping will connect the CSO tank to two locations in 5th Avenue. New pipe will be constructed in 5th Avenue and the northern slope to connect to the control facility.

PROCEDURAL INFORMATION

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

Notice of Community Meeting: Mailed: May 25, 2016
Posted: May 25, 2016

Notice of Application/Public Hearing: Mailed: June 30, 2016
Posted: July 5, 2016

Community Meeting: June 8, 2016

Public Hearing Date: August 4, 2016

Site Visit: August 3, 2016

SEPA: A Determination of Nonsignificance (“DNS”) was issued by the City of Spokane Engineering Department on April 20, 2016. The deadline to appeal the DNS expired on May 4, 2016. The DNS was not appealed.

Testimony:

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

Duane Studer, P.E.
City of Spokane Engineering Services
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Conditional Use Permit application
 - 2C Notification Map application
 - 2D Construction Project Area
 - 2E Site Plan
 - 2E-1 Tank details with proposed access roads
 - 2E-2 Tank details with utility routes
 - 2F Cultural Resources Assessment dated 06-15
 - 2F-1 Plan and Procedures for the Unanticipated Discovery of Cultural Resources and Human Skeletal Remains
 - 2G Landscape Planting Plan
3. Washington State Department of Ecology comments dated 06-23-16
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 05-25-16
 - 8B Application and Public Hearing dated 06-30-16
9. Affidavit of postings:
 - 9A Community Meeting dated 05-25-16
 - 9B Application and Public Hearing dated 06-30-16
10. Affidavit of sign postings:
 - 10A Community Meeting dated 05-25-16
 - 10B Application and Public Hearing dated 07-05-16
11. Affidavit of sign removal dated 06-09-16
12. Washington State Department of Transportation Local Agency Environmental Classification Summary dated 08-12-16
13. SEPA Determination of Nonsignificance dated 04-20-15
14. Environmental checklist dated 04-14-15
15. Open House Meeting held on 05-18-16
 - 15A Open House flyer
 - 15B Open House posting
 - 15C Open House sign in sheet
 - 15D Open House Community Meeting summary
16. Community Meeting sign in sheet
17. Community Meeting summary
18. Community Meeting presentation
19. Letter dated 03-22-16 to Dan Buller from Ali Brast
re: community meeting instructions
20. Letter dated 06-10-16 to Interested Parties from Ali Brast

- re: requesting comments
- 21. Letter dated 06-28-16 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, storm water facilities and conveyance systems are elsewhere identified as Basic Utilities, an institutional category of use. See Exhibit 1, p. 3.

"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 storm water 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).*

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. 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 June 10, 2016, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 20.

The city received minimal response to its request for comments. See *e.g.* Exhibit 3. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1, p. 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. 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 Exhibits 2E, 2E-1 & 2E-2. 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 and unused area west of Liberty Park, separated from the park by a large outcropping. See Exhibit 1, p. 4. The southern portion of the site has steep slopes, some exceeding 30%, and is significantly higher than the area where the tank will be installed. See *id.* The proposed location for the tank is gently sloping, with grades at less than 10%. See *id.*

The soils at the site are mostly fill. *See id.* However, there are no surface indications of unstable soils. See Exhibit 14 (Environmental Checklist ¶ B(1)(d)). The drainage at the site flows naturally to the west, and this project is not expected to alter the drainage pattern. *See id.* The proposed access roads will be gravel, which will facilitate drainage. The site will also be landscaped in accordance with a landscape plan, which will further facilitate drainage. See Exhibit 2G; *Testimony of D. Studer.* “Because there will be essentially no impervious surfaces created as part of the project, essentially no drainage from the tank site will leave the tank site.” See Exhibit 2B, § 4(c).

A cultural resources assessment was completed for this site. See Exhibit 2F. The consultant found “a small historic refuse scatter” and “several discontinuous segments of basalt retaining walls.” *See id.* The consultant concluded that these items do not qualify for listing on the National Register of Historic Places, although the DAHP will make the final determination on the issue. *See id.* Nonetheless, there were recommendations to take some steps to protect the retaining walls, adopt an inadvertent discovery plan, and to employ a professional archaeologist to monitor ground-disturbing activities. *See id.* There was no suggestion that the project be modified or halted. *See id.*

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. Any concerns raised can be adequately addressed through project conditions. 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 April 14, 2015, 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. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(1)-(2)). The property does not lie within a 100-year floodplain. See Exhibit 14 (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters 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 April 20, 2016, the Department of Integrated Capital Management of the City of Spokane, as lead agency, issued a Determination of Non-significance (“DNS”) for the

project. See Exhibit 13. Any appeal of the DNS was due on May 4, 2016. See *id.* No appeal of the DNS was filed.

There will inevitably be some impacts due to construction activities. However, to the extent the construction activity poses any risks, the mitigation measures should address those concerns. In addition, the impacts from construction will be temporary. Once the construction is completed, most of the site will be replanted with native grasses and a drip irrigation system will be installed. See Exhibit 1, p. 5. Following construction, the area will "look essentially identical" to how it looks today, "except for the addition of a modest amount of drip irrigated landscaping." See Exhibit 2B, § 5. 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. There will be virtually no indication of the presence of the CSO tank. The tank will be installed entirely underground. See Exhibit 1, p. 6. 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. In addition, the site will be replanted with native grasses and trees to restore its character. When the project is completed, the site will appear essentially the same as it did prior to the development. See Exhibit 2B, § 5.

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. See Exhibit 1, p. 6. Except during construction, the project will likely be unnoticed by area residents. See Exhibit 2B, § 5. There are no structures or buildings proposed that could be considered incompatible with nearby residences. See *id.* Following construction, the site will be restored in accordance with the Landscape Planting Plan. See Exhibit 2G. 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 uses, 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. Operational activity on the site will be of very low intensity, and traffic to this type of utility is typically de minimis. See Exhibit 14 (Environmental Checklist ¶ B(14)); *Testimony of D. Studer.* As stated previously, once the construction work is completed, the site will appear nearly the same as it did before the project. 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.

The tank is underground. There will be some vents and equipment vaults, but the visual impact of those facilities are minimal. *Testimony of D. Studer.* There are no negative visual impacts anticipated from this project. See Exhibit 14 (Environmental Checklist ¶ B(10)). There is no plan to install lighting at this facility. *Testimony of D. Studer.* Thus, no light or glare will be generated by this project. See Exhibit 14 (Environmental Checklist ¶ B(11)).

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 CSO tank will be equipped with an activated carbon filter system to control odor. *Testimony of D. Studer.* This will be sufficient to preclude odors from becoming a nuisance. See *id.* There have been no odor control problems, of a significant nature, at other CSO facilities that have been operating in the city. See *id.*

The operation itself will not generate litter or debris. There is no testimony or evidence in this record to suggest that such problems are likely to arise from this project. In addition, the site will be gated to discourage homeless encampments and illegal

dumping. See Exhibit 2B, § 4(a). Periodic site visits by sewer department personnel should also help reduce illegal camping. See *id.* 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 this utility operation. See Exhibit 14 (Environmental Checklist ¶ B(14)); *Testimony of D. Studer*. 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 to construct an underground tank at Tax Parcel No. 35201.0001, to be used as a combined sewer overflow prevention tank. The tank will be constructed substantially as set forth in the application and plans included in the record.
2. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas.
3. The project must adhere to proper erosion and sediment control practices to prevent upland sediments from entering surface water, per the comments of the Department of Ecology.
4. Per the Department of Ecology, the operator of a site that disturbs one acre or more of total land area, and which has or will have a discharge of storm water to a surface water or to a storm sewer, must apply for coverage under the Department of Ecology's Baseline General Permit for Stormwater Discharges Associated with Construction Activities.

5. The applicant will implement the recommendations of the cultural survey, included in the record as Exhibit 2F.

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 building codes, 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. A Notice of Construction and Application for Approval shall be submitted and approved by the Spokane Regional Clean Air Agency 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.

10. 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.

11. This approval is subject to the above-stated conditions. By accepting this approval the applicant acknowledges that these conditions are reasonable and agrees to comply with them. The filing of the above required covenant constitutes the applicant's written agreement to comply with all conditions of approval. The property may not be developed except in accordance with these conditions and failure to comply with them may result in the revocation of this approval.

DATED this 8th day of August, 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 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 August 8, 2016. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS THE 29th DAY OF AUGUST 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.