

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit) FINDINGS, CONCLUSIONS,
Application by the City of Spokane) AND DECISION
Engineering Department to allow the)
construction of a Combined Sewer)
Overflow (CSO) storage tank at 218)
N. Monroe) FILE NO. Z16-654SCUP

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, to be installed partially underground, on the hillside just north of and partially within Spokane Falls Boulevard, directly north of the downtown library.

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
808 West Spokane Falls Boulevard
Spokane, WA 99201

Agent: Dan Buller, P.E.
City of Spokane, Engineering Design
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Property Location: The main part of the proposed site is located at 218 N. Monroe and involves the following parcels: 35183.0037; 35183.0036; and 35183.1508. The proposed site is located just north of Spokane Falls Boulevard and east of Monroe.

Zoning: The property is zoned DTG-70 (Downtown General, height limit 70 feet).

Shoreline Designations: Shoreline Limited Urban Environmental Designation; 50-foot shoreline buffer; Downtown Shoreline District.

Environmental Overlays: Habitat and Species, Riparian Habitat Area 2.

Comprehensive Plan Map Designation: The property is designated as Conservation Open Space in the city's Comprehensive Plan.

Site Description: The site consists of two irregularly shaped parcels along the south shore of the Spokane River. The site is approximately 2.5 acres in size. The site is characterized by steep slopes which lead down to the Spokane River. The site is undeveloped.

Surrounding Conditions and Uses: The project site is adjacent to the Spokane River. South of the site is Spokane Falls Boulevard, the downtown library and Riverpark Square. North of the site is the Spokane River. Westerly of the site is the Monroe Street Bridge. Easterly of the site is Spokane City Hall. The properties to the north, east, and west of the site are zoned Downtown General (DTG). The properties to the south and southeast of the site are zoned Downtown Central (DTC). Northwest of the site, on the opposite side of Monroe, there is an area zoned Community Business (CB).

Project Description: The City of Spokane Engineering Department is proposing to construct an underground Combined Sewer Overflow (CSO) storage tank with the dimensions of 75 feet in width by 350 feet in length by 30 feet in depth. The tank volume is approximately 2.2 million gallons, and is being proposed as part of the Department of Ecology's mandated CSO reduction program. The project will also include the design and construction of a plaza, partially atop Spokane Falls Boulevard and partially projecting over the existing hillside to the north. The design for the plaza was not complete at the time of the hearing, but the plaza will be a part of the project once the tank is constructed. The project will also include a new trail along the south bank of the Spokane River. The project will result in the construction of the initial segment of that trail.

PROCEDURAL INFORMATION

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

Notice of Community Meeting: Mailed: July 6, 2016
Posted: July 6 & 13, 2016

Notice of Application/Public Hearing: Mailed: September 16, 2016
Posted: September 16, 2016

Community Meeting: July 26, 2016

Public Hearing Date: October 27, 2016

Site Visit: October 26, 2016

SEPA: A Determination of Nonsignificance ("DNS") was issued by the City of Spokane Engineering Department on July 11, 2016. 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

Dan Buller, P.E.
City of Spokane Wastewater Department
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Speed Fitzhugh
1411 E. Mission Ave.
Spokane, WA 99220

Dave Steele, Real Estate Manager
City of Spokane Asset Management
808 W. Spokane Falls Blvd.
Spokane, WA 99201

David Reeves
Spokane Club
1002 W. Riverside Ave.
Spokane, WA 99202

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General application
 - 2B Shoreline permit application
 - 2C Shoreline/Critical Areas Checklist
 - 2D Notification Map application
 - 2E Site Plan and proposed layout
 - 2F Restoration Plan
 - 2G Plaza Concept Plan
 - 2H Character Sketch
 - 2I Vegetation Restoration Plan
 - 2J Cultural Resources Plan
3. Design Review comments
4. Department of Ecology comments
5. Spokane Tribe of Indian comments
6. Department of Archaeology & Historic Preservation comments
7. Environmental Public Health Division of Spokane Regional Health District comments
8. Spokane Transit comments
9. Notice map
10. Parcel listing
11. Notice of Community Meeting
12. Notice of Application and Public Hearing
13. Affidavit of mailings
 - 13A Community Meeting dated 07-06-16
 - 13B Application and Public Hearing dated 09-16-16
14. Affidavit of postings:
 - 14A Community Meeting dated 07-06-15
 - 14B Application and Public Hearing dated 09-16-16
15. Affidavit of sign postings:

- 15A Community Meeting dated 07-13-16
- 15B Application and Public Hearing dated 09-16-16
- 16. SEPA Determination of Nonsignificance dated 07-25-16
- 17. Environmental checklist dated 07-07-16
- 18. Community Meeting sign in sheet
- 19. Community Meeting summary
- 20. Community Meeting handout
- 21. Letter dated 05-27-16 to Dan Buller from Ali Brast
re: community meeting instructions
- 22. Letter dated 08-24-16 to Interested Parties from Ali Brast
re: requesting comments
- 23. Letter dated 09-13-16 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 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 Downtown General ("DTG"), a downtown zoning category. The uses allowed in the downtown zones are shown on Table 17C.124-1. The table does not specifically identify a CSO among the regulated uses. See Table 17C.124-1. However, the table does show that "Basic Utilities" are permitted in the DTG zone. See *id.* "Basic Utilities" 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 is properly characterized as a Basic Utility, and therefore is outright permitted in the DTG zone.

The project site is also designated as a Limited Urban Environment ("LUE") under the shoreline regulations. The proposed CSO tank fits within the definition of a "Non-Water Oriented Use." See Exhibit 1, p. 4 (citing SMC 17E.060.360). Pursuant to Table 17E.060-04, new construction or expansion of existing utilities or facilities is a Limited or Conditional Use ("L(2)/CU") on LUE-designated property. 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). If that can be demonstrated, a shoreline conditional use permit is required. See *id.*

Although this project is permitted outright in the underlying zone, the shoreline regulations also apply. Pursuant to those regulations, the Applicant is required to obtain a

Shoreline Conditional Use Permit for this project. So long as the requirements for the shoreline conditional use and the other criteria are satisfied, the project is allowed at this site.

As a result, the Hearing Examiner concludes that this criterion for approval is met.

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 specifically support the proposed utility.

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 the 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 D. Buller*. 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 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 August 24, 2016, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction.

The city received comments various agencies and departments about the project. See e.g. Exhibits 3-8. However, city staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1, p. 5.

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 or services. See Exhibit 17 (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 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 "site plan" for the project is included in the record as Exhibits 2E-2G. 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. See Exhibits 2E-2G; see also Exhibit 1, p. 5.

There are no known cultural or historic resources on this site that warrant against approval of the proposal. See Exhibit 17 (Environmental Checklist ¶ B(13)(b)). The Applicant contracted for the preparation of a Cultural Resources Report regarding the site. See Exhibit 2J. That report revealed that there are remnants of historic structures on the site, but those features are incomplete or significantly deteriorated. See *id.* The report also noted that significant ground-disturbing activity has occurred at the site in the past. See *id.* The preliminary conclusion was that the site was not eligible for listing as an historic site. See *id.* The Washington State Department of Archaeology & Historic Preservation agreed with this conclusion, stating in relevant part as follows:

We concur with the report and recommendation that 45SP507 is not eligible for listing in the Washington Heritage Register (WHR) and/or the National Register of Historic Places (NRHP) and no further documentation or DAHP permits are required. We also concur with the recommendation for the development of an archaeological monitoring of excavation in order to identify and document additional archaeological resources.

See Exhibit 6.

City departments and other agencies reviewed the environmental checklist for the physical characteristics of the property. See Exhibit 1, p. 5. None reported that the site was not suitable for the proposed utility.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion is satisfied.

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

The City issued a Determination of Nonsignificance ("DNS") on July 11, 2016. See Exhibit 16. The comment period on this DNS expired on or about July 25, 2016.

See *id.* The DNS was not appealed. Just prior to the issuance of the DNS, on July 7, 2016, the City 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 17, Environmental Checklist ¶¶ B(3)(a)(1). No threatened or endangered species were identified on the site. See Exhibit 17, (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)). 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 17 (Environmental Checklist ¶¶ B(7)(b)(2)). Odor control measures will be implemented for the CSO storage facility and lift station. See Exhibit 17 (Environmental Checklist ¶¶ B(2)(c)).

The only above-ground structures that may affect views are a railing and possibly some art structures. See Exhibit 17 (Environmental Checklist ¶¶ B(10)(a)). Thus, the project will not impact views. See Exhibit 17 (Environmental Checklist ¶¶ B(10)(b)). In addition, the project will not produce any light or glare. See Exhibit 17 (Environmental Checklist ¶¶ B(11)(a)-(b)).

The applicant will be required to implement on-site controls for storm water and surface drainage generated from the project. See SMC 17D.060.010 *et seq.* The applicant has recognized this requirement. See e.g. Exhibit 17, 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 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).

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 proposed CSO tank is consistent with the policies of the Shoreline Management Act and the Shoreline Master Program.

The CSO tank will be partially buried into a hillside above the Spokane River. The project includes a plaza over the top of the tank, creating a new area for the public to enjoy the environment and views along the Spokane River. The project also includes an improved trail along the river, further enhancing public access to the river. Although there will be significant excavation for this project, the proposal takes into account the sensitive nature of the shoreline. Further, the CSO tank program is intended to substantially reduce the discharge of wastewater into the Spokane River. This tank will become part of a system designed to reduce pollution of the Spokane River and its associated shorelines. These characteristics of the proposal are consistent with, and in furtherance of, the policies of the Shoreline Management Act. See RCW 90.58.020.

Pursuant to the Shoreline Master Program, the site is designated as a "Limited Urban Environment" or "LUE." The Staff noted that areas with this designation have certain characteristics:

The "limited urban" environment is assigned to shoreline areas that are intended to accommodate further urban growth and infill development and that are appropriate for a mix of water-oriented residential, institutional, and limited commercial uses. Water-dependent utility and industrial uses may be accommodated. This environment may include a range and mix of uses similar to those found in the intensive urban environment, but at a significantly lower scale of intensity.

See Exhibit 1, p. 7. There is no evidence in this record, to the Hearing Examiner's knowledge, suggesting that this project will preclude the future use of the shoreline in a manner contemplated by its LUE designation. In fact, the Staff insisted that the installation of this CSO tank "...will not inhibit future development near the site for a potential mix of more water-oriented uses consistent with this environmental designation." See Exhibit 1, p. 6. In addition, the project is consistent with various policies in the Shoreline Master Program, as discussed in Paragraph 2 above.

The construction of the CSO tank in this location is also consistent with SMC 17E.060.700(2), which precludes utilities from being installed in the shoreline unless there are no feasible alternatives. Finding appropriate locations for CSO tanks is very challenging because the tanks must be situated near a connection to the collection system and close to where an existing river overflow is located. *Testimony of D. Buller*. The tanks generally take up an area the size of a football field. See *id.* Undeveloped sites that meet such criteria are relatively rare. See *id.* The only other site that was appropriate for this tank was privately owned and the city was unable to reach agreement with that owner to acquire the site. See *id.* Thus, the proposed site is the only feasible alternative for this utility, despite the obvious development challenges that are presented by this type of property. See *id.*

Based upon the foregoing and the record in this case, the Hearing Examiner concludes 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).*

Access to this location is relatively limited currently. The partially buried CSO tank will provide a platform for a new public plaza. The project also includes the development of a trail along the south bank of the river. The Hearing Examiner agrees with the Staff's conclusion that the inclusion of a trail and the public plaza will together provide "increased access and viewing opportunities for the public." See Exhibit 1, p. 6. Thus, this project will actually increase, rather than diminish, public use of the shorelines. See *id.* As a result, 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 is only one other conditional use permit in the vicinity of the site for the proposed CSO tank. See Exhibit 1, p. 7. Specifically, a CUP was approved for another CSO tank on the other side of the river on property known as the Bosch lot. See *id.* The Hearing Examiner agrees with the Staff, however, that the cumulative effect of the two CSO tank projects does not undermine the Shoreline Master Program. On the contrary, "these two applications work together as part of the larger CSO system, so the cumulative impact is actually positive..." See *id.* Under the 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).*

There is no evidence in this record that the project will be incompatible with other authorized uses in the area or with uses planned for the area. See Exhibit 1, p. 7; see also Paragraph 5 above. The proposed CSO tank will be partially buried. The exposed portion will support a new public plaza, but that improvement will be at street level and extending out and along the hillside. The design fits well into the site and does not have any features that would apparently interfere with any adjoining properties or uses. There was no testimony or evidence introduced at the hearing to suggest that the proposed use would be incompatible with surrounding uses. 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, for various reasons. The project is landward of the ordinary high water mark. See Exhibit 1, p. 7. There will be vegetation removal along the hillside, but the proposal includes a vegetation restoration plan that will ensure that there is no net loss of shoreline habitat or ecological function. See *id.* Certainly, there will be some impact from construction, but those impacts will be temporary and will be mitigated. Moreover, the

project will ultimately result in improvement to the shoreline environment by helping to lower the number of raw sewage discharges into the Spokane River. See Exhibit 1, p. 7.

The project will not undermine physical or visual access of the shoreline environment. The proposed facility will be partially underground. The top of the proposed facility will be approximately at street level. A public plaza will be developed to provide a new venue for the public to enjoy the views of the shoreline environment. A trail along the south shore will also be improved, enhancing public access to the shoreline.

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 a combined sewer overflow tank in furtherance of the Department of Ecology's mandated CSO reduction program.
2. The site shall be developed in substantial compliance with the plans and application on file as of the date of this decision.
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. The Applicant shall adhere to Department of Ecology water quality regulations, as identified in the Department of Ecology's memorandum dated September 6, 2016 and included in the record as Exhibit 4.
5. The project shall adhere to the recommendations of the cultural resources report included in the record as Exhibit 2J, which provides for the implementation of an inadvertent discovery plan and archaeological monitoring during all ground-disturbing construction activities.
6. The Applicant will ensure that Avista retains 24-7 access, over the existing access road, to the Avista powerhouse during the construction of the project.
7. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.

8. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code including the International Codes (as adopted in this jurisdiction), as well as requirements of City Departments and outside agencies with jurisdiction over land development.

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

10. 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. 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.

12. 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 November, 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.