

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit) Application by AHBL, Inc. on behalf of) the City of Spokane to construct a) public use boat launch for non-) motorized boats at Glover Park in the) Peaceful Valley Neighborhood)	FINDINGS, CONCLUSIONS, AND DECISION FILE NO. Z18-256SCUP
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SUMMARY OF PROPOSAL AND DECISION

Proposal: On behalf of the City of Spokane, AHBL, Inc. has applied for a shoreline conditional use permit in order to construct a public use boat launch for non-motorized boats. The proposed boat launch would be constructed on the south shore of the Spokane River, at Glover Park in the Peaceful Valley Neighborhood. The proposed launch will accommodate drift boats, whitewater rafts, canoes, kayaks, and other similar boats. The existing parking lot will also be improved to better accommodate the usage of the proposed boat launch and park.

Decision: Approval, subject to conditions.

**FINDINGS OF FACT
BACKGROUND INFORMATION**

Applicant: AHBL, Inc.
Craig Anderson, PLA
827 W. First Avenue, Suite 220
Spokane, WA 99201

Property Owner: City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201

Property Location: The site is on the south bank of the Spokane River and is located in the northwest quadrant of Glover Park in the Peaceful Valley Neighborhood. The site is near the intersection of West Water Avenue and North Cedar Street, in the City of Spokane.

Legal Description: The legal description of the project site is included in Exhibit 2A.

Parcel Nos.: 35183.2101 and 35134.3402.

Zoning: The existing zoning is RSF (Residential Single Family).

Shoreline Designations: Shoreline Urban Conservancy Environment Designation; 150-foot buffer; Great Gorge Park District.

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

Comprehensive Plan Map Designation: The property is designated Institutional.

Site Description: The subject property is adjacent to the Spokane River. The proposed boat launch will be constructed in Glover Park, on the south shoreline of the river. The area to be developed is approximately 10,000 square feet in size and is currently improved with asphalt and concrete walking surfaces, a chain-link fence, and a playground. The park is relatively flat, but the slopes increase significantly toward the Spokane River. Near the river, there are slopes as steep as 45%.

Project Description: The project generally consists of two elements; (1) parking area improvements and (2) the construction of a boat launch. The parking lot will be improved with the addition of new landscaping. The parking lot will be reconfigured to improve the flow of traffic given that Cedar is now a one-way street. The improved parking area will also accommodate use of the new boat launch and relieve some of the street parking on Water Street. The boat launch system will include a gravel pathway from the parking lot for trailer access; a set of three steel tube rails which will be used to slide boats down to the river's edge; and metal stairs on either side of the boat rails. Structural footings will be installed, consisting of cast-in-place and pre-cast concrete blocks. The boat launch will provide a put-in/take-out point for non-motorized boat access (drift boats, whitewater rafts, canoes, and kayaks).

Surrounding Conditions: To the north of the site is the bed of the Spokane River. The site is located in the Peaceful Valley Neighborhood. The property is zoned Residential Single Family (RSF). The land to the west is zoned RSF and Residential Multi-Family (RMF) and contains residences. The land to the east and south is zoned Downtown General (DTG).

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 17C.110, 17E.060, 17G.060, and 17G.060.170.

Notice of Community Meeting: Mailed: January 29, 2018
Posted: January 29, 2018

Notice of Application/Public Hearing: Mailed: March 22, 2018
Posted: March 23, 2018

Community Meeting: February 12, 2018

Hearing Date: May 3, 2018

Site Visit: The Hearing Examiner visited the site on May 15, 2018.

SEPA: A Determination of Nonsignificance (DNS) was issued by City of Spokane Planning on April 16, 2018. No appeal of the DNS was filed.

Testimony:

Donna deBit, Associate Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Eric Lester, Associate Engineer
City of Spokane Integrated Capital Mgmt.
808 West Spokane Falls Boulevard
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Reports
2. Application, including:
 - 2A General Application
 - 2B Shoreline Permit Application
 - 2C Shoreline Conditional Use Permit Submittal
 - 2D Application for Floodplain Development Permit
 - 2E Notification Map Application
 - 2F Overall Site Plan
 - 2G Enlarged Site Plan
 - 2H Boat Launch Sections
 - 2I Shoreline/Critical Areas checklist
3. Design Review comments
4. Department of Ecology comments
5. State of Washington Department of Archaeology & Historic Preservation (DAHP) comment
6.
 - 6A DAHP Alteration & Excavation Permit
 - 6B Emails to/from city staff and Steven Dampf regarding archeological probes
 - 6C Emails to/from city staff and Craig Anderson regarding HRA
7. Washington State Department of Fish and Wildlife Hydraulic Project Approval
8. Spokane Tribe of Indians comments
9. Avista comments
10. Notice map with parcel and address listing
11. Notice of Community Meeting
12. Notice of Application, SEPA Review and Public Hearing
13. Affidavit of mailings
 - 13A Community Meeting dated 01-29-18
 - 13B Combined application and hearing dated 03-22-18
14. Affidavit of postings:
 - 13A Community Meeting dated 01-29-18
 - 13B Combined application SEPA review and hearing dated 03-23-18
15. SEPA Determination of Nonsignificance dated 04-16-18
16. Environmental checklist dated 02-23-18
17. Habitat Management Plan by JUB Engineering dated 06-30-15
18. Community Meeting sign in sheet and Summary

19. Letter dated 01-17-18 to Craig Andersen from Donna deBit
re: community meeting instructions
 20. Letter dated 03-01-18 to Interested Parties from Donna deBit
re: requesting comments
 21. Letter dated 03-30-18 to Craig Anderson from Donna deBit
re: notice of application/SEPS review/public meeting instructions
 22. Email from Steve Berde, supporting the project
re: notice of application/SEPS review/public meeting 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 must comply with the criteria set forth in Spokane Municipal Code Section 17G.060.170. The Hearing Examiner has reviewed the proposed shoreline conditional use permit application and the evidence of record with regard to this section and makes the following findings and conclusions:

1. *The proposal is allowed under the provisions of the land use code.*

To be allowed in the shoreline jurisdiction, a use must be a permitted use under the applicable shoreline designation and the zoning of the property. See SMC 17E.060.690(C).

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 use of a property as a park, i.e. providing recreational activities to the public without cost, is considered "Parks and Open Space." See Exhibit 1, p. 4 Parks and Open Space uses are permitted outright in the RSF zone. See SMC 17C.110-1, Residential Zone Primary Uses. Thus, this project is a permitted use under the zoning code.

The project site also lies within the Urban Conservancy Environment ("UCE"), per the shoreline regulations. See Exhibit 1, p. 4. The uses allowed in the shoreline jurisdiction are identified in SMC 17E.060.360, Primary Permitted Uses. See *id.* The proposed use is a boat launch for recreational purposes and associated parking improvements in the park. See *id.* A recreational use or other use that facilitates public access to the shoreline and provides for the recreational use of the shoreline is considered a Water-enjoyment Use.¹ See SMC 17E.060.360(D)(3)(a). Examples of water-enjoyment uses include "boat ramps for recreation." See SMC 17E.060.360(D)(3)(b).

¹ The Staff Report states that "recreational uses such as a boat ramp are listed as an example of a Water-dependent Use." See Exhibit 1, p. 4. The Hearing Examiner believes this is incorrect. Examples of Water-dependent Uses include "boat ramps for rescue watercraft, seaplane docks, hydroelectric generating plants, and sewage treatment outfalls." See SMC 17E.060.360(D)(1)(b). Water-enjoyment Uses, by comparison, include "boat ramps for recreation," fishing areas, river and stream swimming beaches, and similar uses. See SMC 17E.060.360(D)(3)(b).

Table 17E.060-04 sets forth the shoreline primary uses. Pursuant to that table, a use classified as "Water-enjoyment recreation" is a conditional use in the UCE. See SMC 17E.060.690 (Table 17E.060-04). As a result, a shoreline conditional use permit is required for the proposed development. See Exhibit 1, p. 4. Provided the criteria for a shoreline conditional use can be satisfied, the proposed use is allowed under the shoreline regulations.

The Hearing Examiner concludes that the project is permitted under both the underlying zoning of the property and within the shoreline jurisdiction, provided the conditional use criteria are satisfied. As a result, the proposal is allowed under the land use codes.

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

This City is proposing to construct a public boat launch for non-motorized water craft, such as kayaks, canoes, and rafts. The project will make improvements that will facilitate access to the river at a location which is the furthest up-river location below the Spokane Falls. See Exhibit 2B.

The project will provide an additional opportunity for recreational use and enjoyment of the shoreline and waters of the Spokane River. This proposal fulfills the overriding goals and policies of the Shorelines chapter of the Comprehensive Plan ("CP"). Goal SMP 1 seeks to enhance the shorelines by implementing goals and policies that promote a mixture of reasonable and appropriate uses of the shoreline. See CP, SMP 1, p. 14-23. A low-impact project which also provides an excellent opportunity for public use and enjoyment of the shoreline is obviously consistent with this objective.

Policy SMP 1.6 states a preference for shoreline activities that fulfill long range Comprehensive Plan goals and policies. See CP, Policy SMP 1.6, p. 14.23. In discussing the significance of this policy, the Comprehensive Plan lists certain priorities for shoreline projects and specifically references the legislative intent to:

Increase public access to publicly owned areas of the shorelines.

Increase recreational opportunities for the public on the shoreline.

See CP, Policy SMP 1.6, p. 14-25.

The project is being undertaken on publicly owned land, i.e. Glover Park, and the proposed facilities will enhance public access to the shorelines as well as increases the opportunities for recreation along the river. Moreover, the boat launch and parking improvements are part of a larger project to develop the Peaceful Valley Trail. See Exhibit 17 (Habitat Management Plan, p. 1). In that regard, the commentary to SMP 1.6 states:

Priority should be given to developing pathways and trails to shoreline areas, promoting linear access along the shorelines and to connect existing publicly owned parks, conservation areas, natural areas and golf courses, and encouraging upland parking.

See CP, SMP 1.6, p. 14-25. The proposed boat ramp and parking improvements appear to meet nearly all of these objectives.

The Comprehensive Plan policies related to access and recreation contain similar imperatives. For example, Goal SMP 8 seeks to assure and develop appropriate and inviting physical and visual public access to and along the Spokane River. See CP, SMP 8, p. 14-34. Similarly Policy 8.1 embodies an intent to improve access to publicly owned areas of the shorelines. Goal SMP 9 endeavors to expand, diversify, and improve sites and facilities for recreational opportunities along the shorelines. See CP, Goal SMP 9, p. 14-35. Policy SMP 9.1 seeks to assure that “shoreline recreational development is given priority and is primarily related to shoreline access and enjoyment and use of the water.” See CP, Policy SMP 9.1, p. 14-35. Similarly, Policy SMP 9.3 promotes the creation of recreational opportunities for all members the public. See CP, Policy SMP 9.3, p. 14-35.

The project will provide improved parking, landscaping, and access to a specialized boat launch facility for non-motorized boats. This creates a gathering place, in an existing park, for people to access and enjoy the Spokane River. The project creates a unique recreational opportunity, in furtherance of the goals and policies that place a premium on public use and enjoyment of the shorelines and water.

There is no evidence suggesting that the proposed improvements will result in a net loss of shoreline ecological functions. See e.g. Comprehensive Plan, SMP 1.3 & 8.2. The project is well designed to minimize its impacts, while also creating a significant public amenity that will enhance the shoreline.

There are several other goals and policies which support this project. The Hearing Examiner agrees with the analysis of Staff and the applicant in this regard. See Exhibits 1 and 2B. The Hearing Examiner hereby incorporates those comments as further support for the conclusion that the proposal is consistent with the Comprehensive Plan. The Hearing Examiner concludes that this criterion for the approval of the SCUP is satisfied.

3. The proposal meets the concurrency requirements of Chapter 17D.010.

The decision criteria for Type III decisions, such as the shoreline conditional use permit under review, require that any proposal satisfy the concurrency standards under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on March 1, 2018, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 20.

The city received various comments on the project. See e.g. Exhibits 4-9. However, “...there were no departments or agencies that reported that concurrency could not be achieved.” See Exhibit 1, p. 6. A review of the record confirms that there is no substantive evidence that the project transgresses any concurrency requirements. In addition, there was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. Finally, the proposal, by its nature, does not place any substantive demands on public infrastructure. See Exhibit 16 (Environmental Checklist ¶ B(15)(a)).

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.*

The record establishes that the property is suitable for a recreational boat launch, new parking area, and related improvements. The proposed improvements will be made to an area of approximately 10,000 square feet within the park. The reconfigured parking lot, gravel path, and boat launch are well designed to fit the park. See Exhibits 2F-2H. The park has plenty of space to accommodate the proposed use. The park is roughly rectangular in shape, and consists primarily of flat area, sloping more severely as the water is approached. That said, there is nothing about the size, shape, topography, or location of the property that makes the proposal problematic. There are steep slopes on the site. This raises concerns regarding erosion, but overall the presence of steep slopes does not make this project unsuitable to the site. On the contrary, the project is intended to assist the public to access the Spokane River through the steep terrain leading down to the water.

There are no surface waters or wetlands on the site. However, the property is adjacent to the Spokane River and has susceptibility to erosion given the presence of steep slopes. To address this concern, the contractor will employ Best Management Practices to contain and minimize sediment and prevent sediment from entering into the Spokane River. Environmental Checklist ¶¶ B(3)(d)). Those measures include strategies such as silt fences, grading to capture stormwater for infiltration, and performing work during periods when the river flow is low. See *id.* The proposed parking lot work will collect stormwater for bio swale ground discharge. See Exhibit 16 (Environmental Checklist ¶ A(14)(b)(2)). It is not anticipated that the project will alter drainage patterns in the vicinity of the site. Environmental Checklist ¶¶ B(3)(c)(3)).

There are no buildings, structures or sites located on or near the project site that are listed in or eligible for listing on the historic preservation listings. See Exhibit 16 (Environmental Checklist ¶ B(13)). The Department of Archaeology & Historic Preservation commented on the project. See Exhibit 5. The DAHP noted that a professional archaeologist would need to investigate the site for the potential presence of historic, cultural or archaeological sites. See *id.* The City enlisted Historical Research Associates, Inc. ("HRA") to perform this role. See Exhibits 6A & 6B. On April 20, 2018, HRA completed its fieldwork at the site. See Exhibit 6B. Although the full report of HRA was not complete or available at the time of the hearing, the preliminary results suggest that nothing of significance was discovered at the site by HRA. See *id.* (E-mail of E. Lester 4-24-18, 6:10 AM); see *also* Exhibit 1, p. 6. To guard against inadvertent impacts on such resources, cultural monitors will be present when work is undertaken in the most sensitive areas. See Exhibit 16 (Environmental Checklist ¶ B(13)(d)); see *also* Exhibit 8.

Based upon the foregoing, the Hearing Examiner concludes that the site is suitable for the proposed use. As a result, this criterion for project approval is satisfied.

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

There is some reason for concern about the potential environmental impacts of this project. Approximately 80% of the project will be within 200 feet of the Spokane River. See Exhibit 16 (Environmental Checklist ¶ B(3)(a)(2)). Approximately 50% of the planned work area lies within the 100 year floodplain. See Exhibit 16 (Environmental Checklist ¶ B(3)(a)(5)).

The project will involve work on a slope embankment above the Spokane River between 20 feet above the river surface and slightly below the Ordinary High Water Mark. See Exhibit 16 (Environmental Checklist ¶ A(14)(b)). The project will include excavation for ramp footings at various locations at the top of the embankment and along the slope. See Exhibit 16 (Environmental Checklist ¶ B(1)(e)). Approximately 115 square feet of the boat ramp improvements will be below the OHWM. See Exhibit 17 (Habitat Management Plan Addendum). Approximately 8 cubic yards of material will be excavated from below the Ordinary High Water Mark ("OHWM"). Environmental Checklist ¶ B(3)(a)(3)). The project will also include the placement of approximately 10 cubic yards of rock below the OHWM. See Exhibit 17 (Habitat Management Plan Addendum).

There will be some removal of trees and vegetation during this project. For example, up to three trees will be removed. See Exhibit 16 (Environmental Checklist ¶ B(4)(b)). Various native vegetation will also be removed on the slope at the location of the new boat ramp. See *id.*

Although the potential for environmental impacts exists, the Hearing Examiner concludes that this project does not create significant impacts which cannot be mitigated. The Hearing Examiner reaches this conclusion for various reasons.

As the Staff notes, the proposal was routed for review by applicable departments and agencies. See Exhibit 1, p. 7. None of those entities identified significant environmental impacts that would arise from the project. To the extent those department and agencies made any recommendations, those recommendations were generally incorporated into the conditions of approval for the project. See *id.* Based upon a review of the checklist prepared for the project, and other information, the City of Spokane, as lead agency, issued a Determination of Nonsignificance ("DNS") for the proposal. See Exhibit 15. That determination was not appealed. This is understandable, given that the checklist did not identify significant impacts that the applicant could not address through fairly typical mitigation measures. In addition, there was no testimony or evidence at the public hearing establishing that there were significant impacts overlooked in the SEPA review.

Although the project is being undertaken in or near an environmentally sensitive area, there is little reason to believe the impacts will be significant. The boat ramp facilities will occupy a relatively small area. The footings are concrete and the rails and stairs are steel. The overall footprint is limited and the materials do not pose a threat to the

environment. The stairs and rails provide a means to accessing the water, for both a person and his or her watercraft, that will minimize the impact on the slopes and will help guard against erosion of the slopes caused by walking and carrying boats to and from the water on the slopes. The boat ramp is for non-motorized craft. Therefore, the site will not become a place for the accumulation of oil and gas. Most the work on the project is further upland, on the flat areas, and involves paving the reconfigured parking area and the placement of sod. However, the potential impacts of these activities are limited.

Given the nature of the project, erosion and drainage are primary concerns. However, as is discussed in Paragraph 4 above, best management practices will be employed to make sure that sediment does not enter the river. Stormwater will also be captured for infiltration and disposal into the ground. These are typical measures to combat erosion and handle drainage at a site.

The applicant will also be taking steps to address the impacts to native plants and vegetation. The landscaping for the project will include replacement plantings in accordance with the Habitat Management Plan. See Exhibit 16 (Environmental Checklist ¶ B(4)(d)). The site will be re-vegetated with native grasses and trees. See Exhibit 16 (Environmental Checklist ¶ B(5)(d)).

The limited impacts of this project are those typical of construction projects, such as dust and vehicle exhaust. However, mitigation measures imposed at the time of permitting can control such impacts. Further, the impacts of construction are temporary, and will be eliminated when the project is completed.

The project is relatively low intensity, being limited to some site improvements to improve access and aesthetics, a parking lot reconfiguration, the installation of a gravel access trail, and small boat launch. The impacts are relatively low because the site is relatively modest in size and the scope of the project is fairly narrow. Once the project is completed, the use itself is also low-intensity. As a result, the Hearing Examiner concludes that the project does not create any material impacts to nearby properties.

The Hearing Examiner finds that this criterion has been met.

6. For shoreline conditional use permits the following additional criteria apply:

a. The proposed use is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program;

The property is designated as Urban Conservation Environment ("UCE") pursuant under the Shoreline Master Program. See Exhibit 1, pp. 1 & 8. The purpose of the UCE designation is to protect and restore ecological functions of open space, flood plains, and other sensitive lands, while also allowing a variety of compatible uses. See SMC 17E.060.650(C)(2)(a). The proposal is consistent with this designation. The proposal is a low-intensity project intended to improve public access and enjoyment of the shoreline and waters. UCE properties are considered suitable for water-related or water-enjoyment uses, such as a recreational boat ramp. See SMC 17E.060.650(C)(2)(b)(i). Based upon the Hearing Examiner's review of this record, there is nothing about this project that

threatens ecological functions of the shoreline or could interfere with future efforts at ecological restoration. See SMC 17E.060.650(C)(2)(b)(iii)-(v).

The proposed use is also consistent with the policies expressed in RCW 90.58.020. The project increases public access to the shorelines. See RCW 90.58.020. The proposal creates recreational opportunities for the public. See *id.* The project does result in alterations to the shoreline as well, but those alterations are accomplished in a manner that is consistent with the applicable policies. The Shoreline Management Act grants preference to alterations that increase recreational opportunities, enhance public access, and otherwise provide greater opportunities for the public to enjoy the shorelines of the state. See *id.* In addition, the proposal is consistent with the adopted shoreline policies, as is discussed in some detail in Paragraph 2 above.

Given the foregoing, the Hearing Examiner agrees with Staff's conclusions regarding this project's consistency with the shoreline policies and regulations:

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

See Exhibit 1, p. 8.

For the foregoing reasons, the Hearing Examiner concludes that this criterion for approval is satisfied.

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

As the Staff Report notes, existing public access and views of the shoreline will not be diminished by this project. See Exhibit 1, p. 8. On the contrary, this project will improve public access and create new recreational opportunities. See *id.* The reconfigured and improved parking area provides easy access to the shoreline and future trail. There will also be a new recreational boat ramp, providing an easy and safe way to launch canoes, kayaks or rafts. There will be disruptions due to the construction work. See *id.* However, that kind of interference is not unreasonable and will be for a limited period of time. The Hearing Examiner concludes that this criterion is met.

c. The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the Shoreline Master Program;

There have been some other conditional use permits approved in the general vicinity of the site. Most notably, on June 22, 2017, a shoreline conditional use permit was granted for the construction of water, sewer, and storm water mains, a Combined Sewer Overflow tank, and a new trail in Peaceful Valley. On November 15, 2016, a shoreline conditional use permit was granted for the redevelopment of Riverfront Park. In addition, two shoreline conditional use permits were granted to expand the City's Combined Sewer Overflow system. CSO tanks were authorized on the Bosch lot, north of City Hall on the

north bank of the Spokane River and at Spokane Falls Boulevard, just west of City Hall on the south bank of the Spokane River. However, as the Staff concluded, these projects all work together to improve the Spokane River shoreline experience and to implement the goals and policies outlined in the Shoreline Master Program. See Exhibit 1, p. 8. For example, park redevelopment and trail construction enhance access to and enjoyment of the shoreline. CSO projects, meanwhile, are designed to reduce the discharges of untreated wastewater into the Spokane River, and thereby improve the health of the river and the surrounding environment.

There is no evidence that the proposed project, when considered in light of other permits granted in recent times, will result in cumulative impacts that undermine the goals of the Shoreline Master Program. As a result, the Hearing Examiner concludes that this criterion for approval is satisfied.

d. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with the uses planned for the area under the comprehensive plan and the Shoreline Master Program;

The Hearing Examiner has already concluded that the proposal is consistent with the comprehensive plan and the Shoreline Master Program. See Paragraph 5 above. In addition, the proposal has been through the Design Review Process. See Exhibit 1, p. 9. It was determined that the improvements will be visually compatible with the existing uses in the immediate vicinity. See *id.* This is not surprising. The proposal involves parking lot improvements, landscaping, and a relatively low-profile boat access within an existing park. It is difficult to see how the adjacent property or the neighborhood would be negatively affected by such a proposal. In any case, the applicant will be required to use best management practices during construction and will be required to restore and enhance the shoreline environment to offset any impacts resulting from the project. See *id.* The Hearing Examiner concludes that this criterion is met.

e. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located, and the public interest in enjoying the physical and visual access suffers no substantial detrimental effect.

The discussion in paragraphs 5 and 6b demonstrates that the proposed use will not have significant adverse effects on the shoreline environment or public access to the shorelines. On the contrary, the project will open up a new way for the public to access and enjoy the Spokane River. See Exhibit 1, p. 9. The boat ramp is relatively low-profile and will be installed on the slopes leading down to the water. No material visual impact is anticipated from this improvement. While it is true that construction will create impacts on access and views, those impacts will be temporary. See *id.* The Hearing Examiner agrees with the 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 shoreline conditional use permit, subject to the following conditions:

1. Approval is for a shoreline conditional use permit for the Glover Field Non-Motorized Boat Launch Addition and parking lot improvements. The project shall be completed substantially in accordance with the plans submitted with the application on file dated February 28, 2018.
2. The shoreline conditional use permit is subject to compliance with all applicable codes and requirements including shoreline regulations, as well as regulations governing public access, building height, setbacks, and site coverage.
3. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020, requires that there be no net loss of shoreline ecological functions as a result of the proposal. Pursuant to Section 17E.060.020, the applicant shall engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset the impacts resulting from this proposal. With each phase of the development, Current Planning staff will be given an updated inventory of vegetation both being removed and replaced to the replacement ratios outlined in SMC Table 17E.060-1.
4. The existing Habitat Management Plan (HMP) was prepared and updated by J-U-B Engineers, Inc. for the City of Spokane. A Vegetation Replacement Plan is required to be reviewed and approved prior to any activity being permitted on the site.
5. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning & Development Department 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.
6. This approval does not waive the applicant's obligation to comply with all other requirements of the Spokane Municipal Code as well as requirements of City Departments and outside agencies with jurisdiction over land development.
7. Spokane Municipal Code 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.
8. 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 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 22nd day of May, 2018.



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.**