

## CITY OF SPOKANE HEARING EXAMINER PRO TEM

<b>Re:</b>	Conditional Use Permit Application for a	)	FINDINGS, CONCLUSIONS,
	new single-story 13,000 square foot	)	AND DECISION
	public library in the Residential Two	)	
	Family Zone	)	FILE NO. Z190545CUP3

### SUMMARY OF PROPOSAL AND DECISION

**Proposal:** The applicant, the City of Spokane, is proposing a new single story 13,000 square foot public library with associated utilities, parking and landscaping, located in Liberty Park in the Residential Two Family (RTF) zone. For an addition to an existing community service use of more than 1,500 square feet and/or a new building, a Type III Conditional Use Permit (CUP) is required.

**Decision:** Approved, with conditions.

### FINDINGS OF FACT BACKGROUND INFORMATION

**Applicant/** City of Spokane  
**Owner:** Public Libraries  
808 W. Spokane Falls Boulevard  
Spokane WA 99201

**Agent:** Hill International  
c/o Becky Blakenship  
801 W. Riverside Avenue, Suite 400  
Spokane WA 99201

**Property Location:** The subject property is located at 402 S. Pittsburg Street (parcel not assigned, Boundary Line Adjustment in process with Spokane County) (Section 21, Township 25N, Range 43E).

**Zoning:** The property is zoned RTF.

**Comprehensive Plan Map Designation:** The property is designated as Open Space in the City of Spokane Comprehensive Plan (CP).

**Site Description:** The proposal site is located on the southwest corner of South Pittsburg Street and East 4<sup>th</sup> Avenue. Currently, the site consists of six parcels, but is going through the parcel consolidation process (as of January 29, 2020, the process is completed with the City, and pending a parcel number with Spokane County Assessor's office). The site currently has two tennis courts that will be removed. All other park amenities will remain, including the basketball courts, aquatic center, parking lot, and ball field.

**Surrounding Conditions and Uses:** The land to the north, south, east, and west of the site is zoned RTF. Land use to the north and the east is single-family homes with a land use designation of Residential 10-20 units per acre; to the south and the west is Liberty Park with an underlined land use designation of Open Space. The Ben Burr trail and connection to the trail is located to the south of the Park.

**Project Description:** Spokane Public Libraries is proposing to construct a new Public Library in Liberty Park. The park is owned by the City of Spokane and will continue to operate as a park with the new Library addition. The proposal will include new landscaping and pedestrian connections to the existing parking lot and public sidewalk. The structure will be approximately 13,000 square feet in size and 22 feet in height.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** SMC 17C.110, Residential Zones; 17C.320.080(F), Conditional Use Decision Criteria; and 17C.110.110 (D), Limited Use Standards; 17G.060.170, Land Use Application Procedures Decision Criteria; and CP.

**Notice of Community Meeting:** Mailed: November 11, 2019  
Posted: November 25, 2019  
Removed: December 11, 2019

**Notice of Application/Public Hearing:** Mailed: January 20, 2020  
Posted: January 20, 2020

**Community Meeting:** December 10, 2019

**Public Hearing Date:** February 13, 2020

**Site Visit:** February 10, 2020

**State Environmental Policy Act (SEPA):** A Determination of Nonsignificance (DNS) was issued by the City of Spokane on January 20, 2020. Any appeal of the DNS was due on February 3, 2019. No appeal was filed.

### **Testimony:**

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

Cody Dompier  
Integrus Architecture  
10 S. Cedar  
Spokane WA 99201

### **Exhibits:**

1. Planning Services Staff Report dated 02/03/20
2. Application, including:
  - A General application
  - B Conditional use application
  - C Building narrative
  - D Notification map application

- E Site plans
- 3. State Environmental Policy Act (SEPA) Checklist dated 12/18/19
- 4. Determination of Nonsignificance "DNS" dated 01/20/20
- 5. Design Review Board Recommendation dated 01/22/20
- 6. Notice of Application Instructions dated 01/09/20, including:
  - A Notice of Application & Public Hearing
  - B Affidavit of Mailing on 01/20/20
  - C Affidavit of Posting at Libraries and City Hall on 01/20/20
- 7. Public Comments
- 8. Request for Comments letter dated 12/19/19, including:
  - A Integrated Capital Management dated 12/23/19
  - B Avista dated 12/27/19
  - C Washington State Department of Ecology dated 01/07/20
  - D Spokane Transit Authority dated 01/08/20
- 9. Community Meeting Instructions dated 11/19/19, including:
  - A Notice of Community Meeting for 12/10/19
  - B Affidavit of Mailing on 11/11/19
  - C Affidavit of Posting in Library and City Hall on 11/25/19
  - D Affidavit of Removal of Public Sign on 12/11/19
  - E Community Meeting Sign-in Sheet
  - F Community Meeting Comments
- 10. Pre-Development Conference Notes dated 07/11/19
  - A Exhibits received at the hearing:
    - 1 Hardcopy of Planning's PowerPoint presentation

### **FINDINGS AND CONCLUSIONS**

To be approved, the proposed CUP must comply with the criteria set forth in SMC Section 17C.320.080 and 17C.320.080(F) regarding Institutional and Other Uses in Residential Zones. The Hearing Examiner Pro Tem has reviewed the proposed CUP and the evidence of record with regard to the application and makes the following findings and conclusions:

#### **SMC 17C.320.080 Decision Criteria**

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

Libraries are identified in SMC 17C.190.420 as Community Service uses, an Institutional Category of Use. As specified in SMC 17C.110.110.C, in the RTF zone an addition to an existing community service use of more than 1,500 square feet and/or a new building require a conditional use permit and are processed as a Type III application. *See id.*

The Hearing Examiner Pro Tem concludes that the proposal is allowed under the land use codes, so long as the conditional use and other development standards are satisfied. As a result, 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).*

The project site has an Open Space designation in the CP. The proposed Public Library achieves many comprehensive goals and policies. The site is already a public park that the public utilizes for multiple recreational activities and the new Library will be an added asset to the surrounding community. Staff finds the location is well thought out, considering the current use of the site. It is less impactful to the surrounding neighborhood to utilize a site already being used for public services, rather than introducing another public site to the neighborhood.

The proposal results in the addition of a library to an existing public park, in furtherance of the CP policies and goals. See CP, Chapter 3, Land Use. See also Exhibit 1, pp. 3-4.

The Hearing Examiner Pro Tem concludes that the project is consistent with the goals and policies of the CP. Therefore, this criterion is satisfied.

3. *The proposal meets the concurrency requirements of Chapter 17D.010 SMC. See SMC 17G.060.170(C)(3).*

The decision criteria for Type III decisions (such as a CUP) mandate that all proposals satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on December 19, 2019, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction.

The city received limited responses to its request for comments, and none of those comments indicated that concurrency could not be achieved. See Exhibits 8A-8D. 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); see also Exhibit 8. In addition, 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 Hearing Examiner Pro Tem finds that the project satisfies the concurrency requirements of the SMC. Therefore, this criterion for approval of the CUP is met.

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features. See SMC 17G.060.170(C)(4).*

The Hearing Examiner Pro Tem concludes that the property is suitable for the proposed use given its physical characteristics. There is nothing about the shape, size, or topography of the property that makes the proposed use unsuitable. The site is relatively flat on the north half with a steeper slope from the existing tennis courts, which will be removed, toward the existing parking lot. See Exhibit 3 (Environmental Checklist ¶ B(1)). See also Exhibit 1, p. 4. The shape and size of the property easily accommodate the proposed use, within the constraints of the development standards. See e.g. Exhibit 2E. There is ample room in the park for this proposal, as the park is approximately 14 acres in size. See Exhibit 1, p. 4. There are no known environmental constraints. See Exhibit 3 (Environmental Checklist). The applicant will be

required to meet the standards set forth in the Spokane Regional Stormwater Manual at the time of building permit. See *id.* A bridge on the west side of Liberty Park is a registered historic place. See Exhibit 3 (Environmental Checklist ¶ B(13)). There are no other known places or objects of cultural, historic, or archaeological significance. See *id.* The property is located in the Aquifer Sensitive Area and the Aquifer Critical Recharge Area, but that does not preclude the proposed use. It does mean that the provisions of SMC 17E.010 must be honored, however. See Exhibit 1, p. 4. The site is suitable for the proposed development according to all City departments and agencies that commented. See *id.* The project will include removing one deciduous street tree, but adding six new street trees and five accent trees. See *id.* Portions of the lawn will also be restored and new bushes will also be planted to enhance the vegetation on site. See *id.* Based upon the foregoing, the Hearing Examiner Pro Tem concludes that the site is suitable for the proposed use. Therefore, this criterion for approval is satisfied.

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

The environmental review process, completed pursuant to SEPA, demonstrates that the project will not have significant environmental impacts.

The Applicant prepared an environmental checklist, pursuant to SEPA, for this project. See Exhibit 3 (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 surface waters, such as wetlands or streams, on the site. See Exhibit 5B (Environmental Checklist ¶ B(3)(a)(1)). No high groundwater was encountered during site investigations. See Exhibit 3 (Environmental Checklist ¶ A(14)(b)(1)). The property does not lie within a 100-year floodplain. See Exhibit 3 (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters. See Exhibit 3 (Environmental Checklist ¶¶ B(3)(a)(6), B(3)(b)(2) & B(3)(c)(2)). No other 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 3 (Environmental Checklist ¶ B(7)(a)). No threatened or endangered species were identified on the site. See Exhibit 3 (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)).

A DNS was issued on January 20, 2020. See Exhibit 4. The DNS was not appealed. In addition, the applicant received a recommendation of approval from the Design Review Board on January 22, 2020. The board and staff encourages the applicant to preserve the white pines that exist along 4<sup>th</sup> Avenue.

The applicant's Conditional Use Permit Application states that the proposed Library will be single-story construction that will be meeting the development standards for the Single Family zone. See Exhibit 1, p. 5. While the use is more impactful than a single family home, staff believes that the location is appropriate considering the existing status of the park, and its accessibility to the surrounding neighborhood. See *id.* The Ben Burr Trail connects to the park to the south, offering another accessible route to the park and proposed Library. See *id.*

For the foregoing reasons, the Hearing Examiner Pro Tem concludes that the project will not have significant impacts on the environment that cannot be adequately addressed through mitigation. Therefore, this criterion for approval of the CUP is satisfied.

## **SMC 17C.320.080(F) Decision Criteria**

### **1. *Proportion of Residential Household Living Uses.***

*The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the residential household living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the residential household living category and is specifically based on the:*

- a. number, size and location of other uses not in the residential household living category in the residential; and*
- b. intensity and scale of the proposed use and of existing residential household living uses and other uses.*

See SMC 17C.320.080(F)(1).

The proposed project will be required to meet design standards at the time of building permit. See Exhibit 1, p. 5. The site is currently a public park, so there are no residential uses being replaced by this proposal. See *id.* The proposal will not significantly lessen the function of the area since the site has already been used as a public space. See *id.*

The Hearing Examiner Pro Tem agrees with the conclusion of City Staff and hereby finds this criterion satisfied.

### **2. *Physical Compatibility.***

- a. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks and landscaping; or*
- b. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping and other design features.*

See SMC 17C.320.080(F)(2).

The applicant will be required to integrate Institutional Design Standards in Residential Zones, SMC 17C.110.500, at time of building permit. See Exhibit 1, p. 6. The size, scale, and setbacks of the proposed buildings will be consistent with adjacent existing single-family homes. See *id.* Street trees and additional landscaping will be required to help with additional screening of the new improvements from the right-of-way. See *id.*

This criterion will be met at the time of building permit; therefore, the Hearing Examiner Pro Tem finds this requirement satisfied.

### **3. *Livability.***

*The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:*

- a. noise, glare from lights, late-night operations, odors and litter; and*
- b. privacy and safety issues.*

See SMC 17C.320.080(F)(3).

To address potential livability impacts, library activities will be held entirely indoors. See Exhibit 1, p. 6. The installation of new street trees will help mitigate any new noise on the site from the existing park. See *id.* Overhead lighting is required to be contained on the site per SMC 17C.110.520, Lighting. See *id.* No late night operations are expected. See *id.* No odor is anticipated. Trash will be picked up on the site regularly, consistent with existing operations. See *id.*

The Hearing Examiner Pro Tem agrees with the assessment of City Staff regarding livability impacts and finds this criterion is met.

4. *Public Services.*

- a. *The proposed use is in conformance with the street designations of the transportation element of the Comprehensive Plan.*
- b. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include:*
  - i). *street capacity, level of service and other performance measures;*
  - ii). *access to arterials;*
  - iii). *connectivity;*
  - iv). *transit availability;*
  - v). *on-street parking impacts;*
  - vi). *access restrictions;*
  - vii). *neighborhood impacts;*
  - viii). *impacts on pedestrian, bicycle and transit circulation;*
  - ix). *safety for all modes; and*
  - x). *adequate transportation demand management strategies.*
- c. *Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems concept are acceptable to the engineering services department.*

See SMC 17C.320.080(F)(4).

The proposal does not decrease the level of service on any adjacent street; no traffic study was required or undertaken for this proposal. See Exhibit 1, p. 7. The Spokane Transit Authority (STA) will serve the proposed Library with transit service, so the applicant will be required to coordinate with STA to construct a new bus shelter pad. See *id.*; see also Exhibit 8D. The site has access to all City of Spokane public services, and will not require any additions to be made in order to fully accommodate the proposed site development. See Exhibit 1, p. 7; see also Exhibit 8.

### **DECISION**

Based on the findings and conclusions above, it is the decision of the Hearing Examiner Pro Tem to approve the proposed CUP subject to the following conditions:

1. 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.

2. Per comment dated January 8, 2020, from STA, the new library will be served with public transit and, therefore, a new bus stop boarding and alighting pad and a bus shelter pad will need to be included with the frontage improvements. The bus stop must meet the STA's Bus Stop Design Standards.
3. Per comment dated December 27, 2019, from Avista, any cost for removal or relocation of existing utilities served by Avista will be the property owner's responsibility.
4. 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 Revised Code of Washington (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.
5. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County Washington State, and any Federal agency.


### **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.

6. 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 20<sup>th</sup> day of February, 2020.



David W. Hubert  
City of Spokane Hearing Examiner Pro Tem

### **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 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 three days after a written decision is mailed by the local jurisdiction. This decision was mailed on February 21, 2020. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS THE MARCH 16, 2020 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.