

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application for) FINDINGS, CONCLUSIONS,
an expansion to the existing Shadle) AND DECISION
Library in the Residential Single Family)
Zone) FILE NO. Z20-012CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant, Spokane Library, is proposing an expansion to the existing Shadle Library in the Residential Single Family (RSF) zone. The proposal involves a single-story 11,875 square foot addition to the existing library located at the southeast corner of Belt Street and Wellesley Avenue, along with minimal modifications to the existing parking lot. 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 *revised* conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Spokane Library
Caris O'Malley
906 W. Main Avenue
Spokane WA 99201

Owner: City of Spokane
808 W. Spokane Falls Boulevard
Spokane, WA 99201

Agent: Hill International
Becky Blakenship
808 W. Riverside Avenue, Suite 400
Spokane WA 99201

Property Location: The property is located at 2500 W. Wellesley Avenue, in the NE ¼ of Section 1, Township 25 North, Range 42 East Willamette Meridian. The property is a part of Tax Parcel No. 25011.0001.

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

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

Site Description: Tax Parcel 25011.0001 is a large, flat area adjacent to and west of Shadle Park High School, east of Belt Street, south of Wellesley Avenue, and north of Longfellow Avenue. The parcel contains the existing Shadle Library, Shadle Aquatic Center, and Shadle

Park, as well as the Shadle Park Water Reservoir. The project site is located in the northwest corner of the parcel, at the intersection of Wellesley Avenue and Belt Street. The project site is improved with the existing Shadle Library and an adjoining parking lot.

Surrounding Conditions and Uses: Properties to the north, east and south are all zoned Residential Single Family (RSF). Properties directly to the west of the library are zoned Centers and Corridors. Land uses to the north and south are single-family homes. Immediately to the east is Shadle Park High School and its associated parking. Farther to the east are single-family homes. The Shadle Shopping Center and Glover Middle School are located directly to the west.

Project Description: The applicant is proposing a single-story 11,875 square foot addition to the existing Shadle Library at the southeast corner of Belt Street and Wellesley Avenue. Minimal modifications are proposed to the existing parking lot. No expansion of the parking lot is proposed.

PROCEDURAL INFORMATION

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

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

Notice of Application/Public Hearing: Mailed: February 10, 2020
Posted: February 10, 2020

Community Meeting: December 11, 2019

Public Hearing Date: March 5, 2020

Site Visit: March 2, 2020

State Environmental Policy Act (SEPA): A Determination of Nonsignificance (DNS) was issued by the City of Spokane on February 10, 2020. Any appeal of the DNS was due on February 24, 2019. No appeal was filed.

Testimony:

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

Steven Clark
Integrus Architecture
10 S. Cedar Street
Spokane WA 99201

Exhibits:

1. Planning Services Staff Report dated 02/27/20
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 02/10/20
 5. Design Review Board Recommendation dated 02/12/20
 6. Notice of Application Instructions dated 02/05/20, including:
 - A Notice of Application & Public Hearing
 - B Affidavit of Mailing on 02/10/20
 - C Affidavit of Posting at Site, Library, and City Hall on 02/10/20
 7. Request for Comments letter dated 01/17/20, including:
 - A Spokane Tribe of Indians dated 01/28/19
 - B City of Spokane Street Department dated 02/04/20
 - C City of Spokane Engineering Department dated 02/26/20
 - D City of Spokane Traffic Engineering dated 02/27/20
 8. Community Meeting Instructions dated 11/20/19, including:
 - A Notice of Community Meeting for 12/11/19
 - 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 Summary
 9. Parking Memo dated 07/26/19
- A Exhibits received at the hearing:
- 1 Hardcopy of Planning’s PowerPoint Presentation
 - 2 Integrus Architecture Presentation

FINDINGS AND CONCLUSIONS

To be approved, the proposed CUP must comply with the criteria set forth in SMC Section 17C.060.170 and 17C.320.080(F). The Hearing Examiner has reviewed the proposed CUP 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).*

Libraries are identified in SMC 17C.190.420 as Community Services, an Institutional Category of use. A Community Service is a Limited/Conditional Use in the RSF zone. See Table 17C.110-1. In the RSF zone, an addition to an existing Community Service of more than 1,500 square feet or a new building require a conditional use permit. See SMC 17C.110.110(D). Such proposals are processed as a Type III application. See *id.*

The Hearing Examiner 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 proposed expansion of an existing library is consistent with the goals and policies of the CP. In particular, the expansion of the existing facility promotes the objectives of Goal N 3, Neighborhood Facilities, which seeks to maximize the usefulness of existing neighborhood facilities. See CP, Chapter 11, Neighborhoods, p. 11-6. The proposal also ensures that the neighborhood continues to offer public services and cultural, social, and recreational opportunities that enhance the quality of life of its residents, consistent with Policy N 2.1, Neighborhood Quality of Life. See CP, Chapter 11, Neighborhoods, p. 11-5.

The project site has an Open Space designation in the CP. The site is clustered with a public park that the public utilizes for multiple recreational activities and the expanded Library will be an added asset to the surrounding community. The Hearing Examiner agrees with the Staff: "It's a natural choice to group the neighborhood-serving uses on a common site and this proposed expansion is just an extension of those uses." See Exhibit 1, p. 4. The Hearing Examiner also agrees with the Staff that the proposal is also consistent with other goals and policies of the CP, including provisions calling for compatible development and adequate public facilities, among other things. See Exhibit 1, pp. 3-4.

The Hearing Examiner 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 January 17, 2020, 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 7A-7D. 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 7. 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 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 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 greater slope on the south side toward the Water Tank. 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 are no known environmental constraints. See Exhibit 3 (Environmental Checklist).

There was no evidence of poor drainage conditions at the proposed site. In any event, the applicant will be required to meet the standards set forth in the Spokane Regional Stormwater Manual at the time of building permit. See Exhibit 3 (Environmental Checklist). A Grading & Drainage Plan has also been prepared for this project. See Exhibit 2E. As conditioned, the project properly addresses any drainage concerns.

There are no surface waters at the site. See Exhibit 3 (Environmental Checklist ¶ B(3)(a)(1)). No groundwater was encountered during subsurface testing. See Exhibit 3 (Environmental Checklist ¶ A(14)(b)(1)). There is no evidence in this record that the project will have an impact on groundwater. However, 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. See Exhibit 1, p. 4. The site is suitable for the proposed development according to all City departments and agencies that commented. See *id.*

There are no other known places or objects of cultural, historic, or archaeological significance that impact this project. See Exhibit 3 (Environmental Checklist ¶ B(13)). The Shadle Park Reservoir is located 80 feet south of the proposed addition. The reservoir is not listed on the Register of Historic Properties but appears to meet the criteria for listing. See *id.* Even so, the proposed expansion of the Shadle Library would not appear to have any discernable impact on the Shadle Park Reservoir, whether it was considered to have historical significance or not.

No additional parking is proposed as a part of the project. See Exhibit 1, p. 5. The applicant provided a memo discussing the existing parking conditions for the site indicating there is sufficient parking for the addition. See Exhibit 9. The Staff also analyzed the parking and concluded that the library already provided sufficient parking to accommodate not only the addition, but also other uses that share that parking area. *Testimony of A. Brast.*

Based upon the foregoing, the Hearing Examiner 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 3 (Environmental Checklist ¶ B(3)(a)(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 February 10, 2020. See Exhibit 4. The DNS was not appealed. As a result, the City's determination that the project does not result in significant environmental impacts cannot be questioned based upon SEPA.

The proposal is compatible with the surrounding area. The site is already improved with a library building. The project merely expands that use. The proposed expansion is expertly designed to integrate with the site, the nearby uses, as well as the neighborhood as a whole. See Exhibit 2E. The applicant's Conditional Use Permit Application notes that the proposed addition will be single-story construction, matching the existing built character on the site. See Exhibit 2B. Additionally, the plan indicates maintaining several very mature trees on the west side of the site, which will continue to screen the use from the public right-of-way on the west side of the site. See Exhibit 1, p. 5.

For most projects, one of the central environmental concerns is the potential impacts from traffic. Here, however, the project is merely an expansion of an existing use. The additional traffic from the expanded use was not significant enough to warrant further traffic analysis. *Testimony of A. Brast.*

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment that cannot be adequately addressed through mitigation. The project is compatible with the surrounding uses and residential neighborhoods. Therefore, this criterion for approval of the CUP 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)(1).*

The residential appearance and function of the area will not be negatively impacted by this project. The project will result in a 11,875 square foot addition to the existing library. However, the addition will be single-story structures, honoring the height and setback requirements of the zone. Extensive landscaping and other site improvements will ensure that the project blends well with the other uses of the parcel and the surrounding neighborhood.

While the use of the site may intensify slightly due to the expansion of the library, there is no indication that this is inconsistent with how the site is already being utilized. See Exhibit 1, p. 6. Per the Community Meeting Summary, people are excited about the expansion and enjoyed the proposed design. No one indicated that the proposed expansion would negatively affect the surrounding area. See *id*; see also Exhibit 8F. In addition, the expanded library will have to satisfy the restrictions for institutional uses in residential areas. Ultimately, the project will not have a materially greater impact on the character of the neighborhood than the existing use.

The Hearing Examiner concludes that the project, as conditioned, is compatible with the surrounding neighborhood. Therefore, this criterion is satisfied.

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 design of the project appears to be proportionate to the neighborhood, and appropriate given the characteristics of the site. See Exhibit 2E. The size, scale, and setbacks of the proposed buildings will be consistent with adjacent existing single-family homes. See Exhibit 1, p. 6; see also Paragraph 6 above. The library use itself will not be any closer to adjacent residential uses as the parcel is very large. See *id*. Landscape improvements are proposed between the addition and the public right-of-way for screening and softening purposes. See *id*. Additionally, there are several mature trees on the west side of the building that will be maintained for screening purposes. See *id*. To further ensure compatibility with the residential neighborhood, the project will be required to satisfy the design standards for institutional uses in a residential area. See SMC 17C.110.500-575.

There was no testimony or other evidence suggesting that this project will be incompatible with the adjacent residential uses. In the Hearing Examiner's view, the proposed improvements will have no more impact on the neighborhood than the existing facility. Even if the use becomes more intense following the construction of the addition, the Hearing Examiner still believes the proposal is compatible with the neighborhood, for the reasons already discussed.

The Hearing Examiner finds this requirement satisfied.

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).*

There is no evidence in this record suggesting that livability will be diminished by this project. The project does not include elements that may cause unanticipated or undue light, glare, odor, or litter. See Exhibit 1, p. 6. The nature of the project would not appear to require any extraordinary measures for lighting. In any case, overhead lighting is required to be contained on the site per SMC 17C.110.520, Lighting. No late night operations are expected. See Exhibit 1, p. 6. No odor is anticipated, and trash will be picked up on the site regularly, consistent with existing operations. See *id.* Finally, no concerns were raised about privacy or safety, and the Hearing Examiner cannot conceive of any such impacts, given the nature of the proposal.

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

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).*

This project does not create material burdens on the transportation system or on other public facilities. See Exhibit 1, p. 7. 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 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 *id.* An existing storm line sits under the proposed addition, but the proposal identifies relocating the pipe around the footprint of the new building. See *id.*

The nature of the use is not changing as a result of this project. There was no evidence introduced at the hearing suggesting that this project would cause any genuine stress on the transportation system. In addition, there was no evidence presented to suggest that this project is incongruous with the transportation element of the CP. The Hearing Examiner concludes that this criterion is satisfied.

10. *The project should not be conditioned upon accommodating the relocation of a bus stop or related improvements.*

Spokane Transit Authority (STA) has requested that the applicant install two new bus pads for boarding and alighting on Wellesley in front of the library. See Exhibit 1, p. 5. The STA would like to relocate a bus stop from its current location on Wellesley, in front of the Shadle Shopping Center, to a new location on Wellesley, in front of the library. See *id.* However, the STA did not provide a substantive analysis to describe how this proposal is necessitated by the proposed expansion to the library. At the hearing, the Staff did not have sufficient information to explain the STA's reasoning for this proposal. No representative of the STA appeared at the hearing to clarify the issue. Under the circumstances, the Hearing Examiner concludes that there is no justification for conditioning the library project on the City's consent to accommodation for a new bus stop. The STA's proposal appears to be outside the scope of this project. The Hearing Examiner concludes that any plan to accommodate a new bus stop is a matter for negotiation between the STA and the City, and not the proper subject of a project condition.

DECISION

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

1. The project will be developed in substantial conformance with SMC 17C.110.500 through SMC 17C.110.575, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with, and limit the negative impacts on surrounding residential areas.
2. 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.
3. Per comments from the Spokane Tribe, develop an Inadvertent Discovery Plan to implement into the scope of work.
4. 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.
5. 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.

6. SMC 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.
7. 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 6th day of March, 2020.



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 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 March 6, 2020. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS MARCH 30, 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.