

CITY OF SPOKANE HEARING EXAMINER

Re:	Application for Shoreline)	
	Conditional Use Permit by)	FINDINGS, CONCLUSIONS,
	Spectrum Development Solutions)	AND DECISION
	to develop multi-family structures in)	
	the LI zone along N. Iron Bridge)	FILE NO. Z22-295SCUP
	Way.)	

SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant, Spectrum Development Solutions, on behalf of Iron Bridge QOZB LLC, is proposing a new 4-story multi-family structure with 162 units with associated parking, landscaping, and a single-story amenity building. The proposal also includes a second phase to construct a 4-story multi-family structure with 110 units. The proposed construction will take place, in part, within the Shoreline Jurisdiction. As a result, a Shoreline Conditional Use Permit (SCUP) is required for this proposal.

Decision: Approved, with *revised* conditions.

FINDINGS OF FACT **BACKGROUND INFORMATION**

Applicant: Spectrum Development Solutions
Attn: Jhomar Small
1809 7th Ave #1501
Seattle, WA 98101

Owner: Iron Bridge QOZB LLC
Attn: Gabriel Grant
1809 7th Ave #1501
Seattle, WA 98101

Agent: Randy Vanhoff
ZBA Architects
421 W Riverside Ave # 860
Spokane, WA 99201

Property Location: The subject property is located at 811 N. Iron Bridge Way and 1411 E. Iron Bridge Way. The property is situated north of Iron Bridge Way, west of the BNSF tracks, and east of the Spokane River. The property is designated under Tax Parcel Nos. 35176.3517, 35176.3514, and 35176.3515. The full legal description of the property is set forth in Exhibit 5.

Zoning: The property is zoned Light Industrial (LI).

Comprehensive Plan (CP) Map Designation: The project site is designated as Light Industrial in the CP.

Site Description: The site is 5.75 acres and is generally flat. The proposed site is vacant and sits adjacent to the shoreline of the Spokane River. There are no structures on the site, except an existing sound wall on the boundary adjacent to the BNSF railroad right-of-way.

Project Description: The proposed scope of work includes construction in two phases. The first phase of construction will include a 4-story, multi-family residential building with approximately 162 rental units and a single-story amenity building and associated parking. See Exhibit 2. The second phase will include a 4-story multi-family residential building with approximately 110 rental units. See Exhibit 4, p. 4. The rental units in both buildings will include 1, 2, and 3 bedroom apartments.

Surrounding Zoning: The project site is zoned Light Industrial (LI) and is surrounded to the west, east, and south by property within the same zone. Zoning to the north and northeast is Residential Multi-Family. Zoning to the northwest is also LI.

Adjacent Land Use: The Spokane River is adjacent and to the west of the project site. To the north and northeast, the uses are residential. To the south and east, the uses are primarily light industrial and offices.

Shoreline Management Act: The subject property is located adjacent to the Spokane River. The Spokane River is designated by the Shoreline Management Act as a shoreline of statewide significance and, therefore, subject to the requirements of the City of Spokane Shoreline Master Program (SMP). The City of Spokane SMP designates this area as Limited Urban Environment with a 75-foot buffer from the Spokane River.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (SMC) 17C.130 – Industrial Zones; SMC 17E.060 – Shoreline Regulations; and SMC 17G.060.170 – Decision Criteria.

Notice of Community Meeting: Mailed: June 12, 2022
Posted: June 10, 2022

Community Meeting: June 27, 2022

Notice of Application/Public Hearing: Mailed: September 29, 2022
Posted: September 29, 2022

Public Hearing Date: November 9, 2022

Site Visit: November 29, 2022

State Environmental Policy Act (SEPA): A Determination of Nonsignificance (DNS) was issued on September 29, 2022. The DNS was not appealed.

Testimony:

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

Kevin Cash
AHBL, Inc.
kcash@ahbl.com

Present but did not testify or submitted comments to the record:

Juliete Sinisterra
University District Development Association
120 N. Pine Street, Suite 292
Spokane, WA 99202

Mark Newton
1514 E. Cataldo Avenue
Spokane WA 99202
grumpyspray@yahoo.com

Exhibits:

Planning Services Staff Report, including:

1. Application Materials
 - General Application, pp. 1-2
 - Shoreline Permit Application, pp. 3-7
 - Shoreline/Critical Areas Checklist, pp. 8-11
 - Notification Map Application, pp. 12-13
2. Site Plan, 1 p.
3. SEPA Checklist and DNS, 27 pp.
4. Trip Generation and Distribution Letter, 6 pp.
5. Title Report, 25 pp.
6. Request for Comments, pp. 1-4, including comments from:
 - A. Washington State Department of Ecology, pp. 4-6
 - B. City of Spokane Engineering Department, p. 6
 - C. Spokane Regional Health District, pp. 8-8
 - D. Spokane Tribe of Indians, p. 10
7. Notice of Application/Public Hearing with Responses, 5 pp.
8. Community Meeting Materials, 5 pp. and Recording
9. Noticing Affidavits, 4 pp.
10. Hearing Examiner's Findings, Conclusions, and Decision re: Z2001-42-SL/BSP dated, January 17, 2002, 13 pp.
11. 2001 Mitigated Determination of Nonsignificance and SEPA Checklist for Iron Bridge, 16 pp.
12. Staff Presentation

FINDINGS AND CONCLUSIONS

To be approved, the proposed SCUP application must comply with the criteria set forth in SMC 17G.060.170 and SMC 17E.060, the shoreline regulations. 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).*

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

The property is zoned LI and lies within the Limited Urban Environment of the Shoreline. See Staff Report, p. 3. Residential household living uses are allowed on sites within one-quarter mile of the Spokane River where residents can take advantage of the river amenity. See SMC 17C.130.110.2. The project site is adjacent to the Spokane River. Therefore, the proposed residential use is permitted in the LI zone. In addition, multi-family structures are allowed in the Limited Urban Environment of the Shoreline if a SCUP is approved. See SMC 17E.060.690(E) (Table 17E.060-04).

Under both the zoning and shoreline designations, the proposal is allowed, provided the applicable development standards and conditional use requirements are met. Therefore, 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 CP designates the site and the surrounding neighborhood as Light Industrial. See Staff Report, p. 1. Residential uses are not appropriate in the Industrial designation because of off-site impacts generated by industrial uses and the lack of residential amenities in these areas. See CP, Chapter 3, Policy LU 1.10, p. 3-12. However, an exception is made for river-oriented residential use in areas along the Spokane River, where residents can take advantage of the river amenity. See *id.*

The Applicant proposes to develop a multi-family residential building along the Spokane River. The Spokane River and its shoreline are adjacent and westerly to the site. The project is designed to take advantage of the site's proximity to the Spokane River, as contemplated by Policy LU 1.10. The area to the north is zoned for residential multi-family and is already developed with residential uses. The proposed multi-family buildings are certainly compatible with the other residential uses in the vicinity. To the east and south is a mixture of industrial and office uses. However, there is no evidence that the proposed multi-family buildings will not blend well with the mixture of uses in this neighborhood. Under the circumstances, the project fulfills Goal LU 5 and Policy LU 5.5, which promote development that is complementary and compatible with surrounding uses and building types. See CP, Chapter 3, pp. 3-27 & 3-28.

The project conditions require adherence to shoreline regulations and no net loss of shoreline ecological functions. See Conditions 1 and 3. These conditions fulfill several land use policies by ensuring development is sensitive to the natural environment, enhance environmental quality, maintain the quality of life, and ensure compatibility. See CP, Chapter 3, LU 5.4 & LU 5.5, pp. 3-27 & 3-28; see *also* Chapter 14, SMP 1.3, p. 14-23, and SMP 5.4, p. 14-30.

The project site consists of three parcels (Tax Parcel Nos. 35176.3517, 35176.3514, and 35176.3515) totaling about 5.75 acres. There is a fourth parcel (35176.3506) owned by Iron Bridge QOZB LLC, which situated between the project site and the Spokane River.

Testimony of D. deBit & K. Cash. This fourth parcel includes a trail and existing vegetation and will not be disturbed by the proposed development. See *id.* Thus, the fourth parcel provides some buffer between the development and the Spokane River.

All vegetation was previously removed from the site. See Exhibit 1, p. 4. Any native plants remaining on the site will be preserved to the extent possible. See *id.* It is not anticipated that the shoreline vegetation will be disturbed, but if replacement of plantings occur, the Applicant will be required to provide a revegetation plan that would address the replacement of disturbed vegetation in the shoreline jurisdiction. See Staff Report, p. 4. Revegetation with native plant species enhances the shoreline environment and improves or guards against the loss of ecological functions, consistent with Policies SMP 10.2 & SMP 10.3. See CP, Chapter 14, p. 14-37.

In addition, the Applicant is making a point to use native or adaptive species in its landscaping plans. *Testimony of K. Cash.* “Plantings will be drought tolerant and hardy to the region and will greatly enhance the appearance, biodiversity, and habitat qualities of the landscape.” See Exhibit 3 (Environmental Checklist ¶ B(4)(d)).

The project includes amenities adjacent to the shoreline. For example, the design includes a set of patios and walkways on the river side of the proposed buildings. *Testimony of K. Cash.* The enhancements to this area will provide improved circulation and access to the trail for the future residents. See *id.* The project also provides public access to the shoreline. There is no current access to the river across the site, other than by crossing private property. See *id.* However, the project design includes a breezeway through the middle of the multi-family structures, providing public access to the trail and the shoreline area. See Exhibit 2; *Testimony of D. deBit.* The design will, therefore, enhance connectivity and improve the use and enjoyment of the shoreline environment. As the Applicant explained:

This development will enhance and promote trail access and use at the Iron Bridge access trail allowing for connectivity with the University District, Downtown, the Centennial Trail and other developed bicycle pathways.

See Exhibit 1, p. 4. These features further the objectives of Policy SMP 11.35, which states that shoreline development should include visual and physical public access to the shorelines, when feasible, while also avoiding negative impacts to the shoreline. See CP, Chapter 14, p. 14-43.

Because the project is consistent with the designations, goals, and policies of the CP, the Hearing Examiner finds that this criterion has been satisfied.

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

The application was circulated on August 29, 2022, among all City departments and outside agencies with jurisdiction. See Exhibit 6. There were no departments or agencies that reported that concurrency could not be achieved. See Staff Report, p. 4; see also Exhibit 6. The Hearing Examiner concludes that this criterion is satisfied.

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. The development area is of sufficient size and shape to accommodate the project, as is demonstrated by the layout shown on the site plan. See Exhibit 2. The location of the site does not pose genuine limitations on its use and development. The site is located along Iron Bridge Way and near other residential uses.

The project site is generally flat. See Exhibit 3 (Environmental Checklist ¶ B(1)(a)). There are slopes of approximately 33% at the sides of the existing bio-infiltration swale. See *id.* However, the swale is on an adjacent parcel, not on the development site. In addition, there is no proposal to alter the swale or undertake construction activities that effect those slopes. Thus, the topography does not present a genuine obstacle to development.

The shoreline of the Spokane River adjoins the site to the west. See Exhibit 11 (Environmental Checklist ¶ B(3)(a)(1)). However, there are no indications of surface water on the site. See *id.* The project does not include surface water withdrawals or diversions. See Exhibit 11 (Environmental Checklist ¶ B(3)(a)(3)). The project does not involve the discharge of waste materials into any surface waters. See Exhibit 11 (Environmental Checklist ¶ B(3)(a)(6)).

Storm water drainage on the property will be handled through the typical methods identified in the Spokane Regional Stormwater Manual. See e.g. Exhibit 3 (Environmental Checklist ¶¶ A(14)(a)(1), (b)(2)). Stormwater will be conveyed to the existing swale where water will either evaporate or infiltrate into the ground. See Exhibit 3 (Environmental Checklist ¶ A(14)(a)(1)). The swale will provide the required stormwater treatment. See *id.* The project does not otherwise change the drainage patterns in the vicinity of the site. See Exhibit 3 (Environmental Checklist ¶ B(3)(c)(3)).

The Applicant will be taking various steps to control and mitigate the potential impacts of erosion, including implementation of best management practices during the construction and the preparation of a temporary erosion and sediment control plan. See Exhibit 3 (Environmental Checklist ¶ B(1)(h)). In addition, the Applicant will be required to adhere to the design and development standards under SMC 17E.060, which call for best management practices to protect the shoreline. See Staff Report, p. 4.

No groundwater will be withdrawn as the project will be served by city water. See Exhibit 11 (Environmental Checklist ¶ B(3)(b)(1)). In addition, public wastewater will be collected and routed to the public sewage treatment facility. See Exhibit 3 (Environmental Checklist ¶ B(3)(b)(2)). In addition, the construction work is not anticipated to impact groundwater. A geotechnical report was prepared for the site in 2016. See Exhibit 3 (Environmental Checklist ¶ A(14)(b)(1)). No groundwater was observed in any of the seven test pits dug at the site. See *id.*

There are no known historic or cultural features on the site. See Exhibit 11 (Environmental Checklist ¶ B(13)(a)); see also Exhibit 3 (Environmental Checklist ¶ B(13)(b)). In addition, the site has been highly disturbed by industrial and construction activities. See *id.* Despite

this history, the Spokane Tribe of Indians recommended that a cultural survey be completed for this site. See Exhibit 6. Based upon this recommendation, the project conditions require the Applicant to enlist the services of an archaeologist to conduct a cultural survey of this site prior to any ground disturbing activities. See Condition 4. In addition, if any cultural or historic resources are discovered during the construction work, the developer will be required to follow the protocols established by state law. See Condition 5.

Various City departments and agencies reviewed the SEPA checklist for physical characteristics of the property and no comments were received indicating the site is unsuitable for development. See Staff Report, p. 4.

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 effects or interference with the use of neighboring properties or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

On or about July 17, 2022, the Applicant prepared an environmental checklist for the project. See Exhibit 3. The project checklist makes periodic reference to an environmental checklist prepared by the prior owner in 2001. See Exhibit 11. These checklists support the conclusion that no significant environmental impacts will arise from this project.

For example, there are no wetlands, surface waters, or other limiting features on the site. See Exhibit 11 (Environmental Checklist ¶ B(3)(a)(1)). Portions of the site lie within a 100-year floodplain. See Exhibit 3 (Environmental Checklist ¶ B(3)(a)(5)). FEMA on-line maps indicate areas of the project site are within Flood Zone AE and Flood Zone X (Shaded). See *id.* However, less than 1,400 square feet of building footprint is within Flood Zone X (Shaded). See *id.* No building footprint is planned within Flood Zone AE. See *id.* Thus, there is some encroachment into the floodplain, but the encroachment is relatively minor. A previously approved project on the site had similar conditions. See *id.*

No comments from any government departments or agencies identified any risk to priority species or habitat. The Washington State Department of Fish and Wildlife, for example, made no comments on the proposal. No threatened or endangered species were identified on the site. See Exhibit 11 (Environmental Checklist ¶ B(4)(c) & B(5)(b)).

The project is not anticipated to create any significant noise or light, with the exception of noise from the construction work. See Exhibit 11 (Environmental Checklist ¶ B(7)(b) & B(11)). The completed project will not be a significant source of noise. See *id.* No waste materials will be discharged into the ground or into surface waters. See Exhibits 3 and 11 (Environmental Checklist ¶¶ B(3)(a)(6), B(3)(b)(2) & B(3)(c)(2)). No environmental hazards are anticipated to arise due to this project. See Exhibit 3 (Environmental Checklist ¶ B(7)(a)).

The Applicant will be required to implement onsite controls for stormwater and surface drainage generated from the development. See SMC 17D.060.010 *et seq.* As discussed

above, all stormwater will be collected, treated, and discharged in accordance with the Spokane Regional Stormwater Manual. See Paragraph 4.

There will be some impacts and risks due to construction activity. See Exhibit 3 (Environmental Checklist ¶ B(7)(a)). However, the construction impacts will not result in significant environmental impacts and can be adequately mitigated (e.g. dust control, limited work hours, etc.). Further, the construction activity is temporary. Once the construction project ends, the potential impacts from noise, dust, and emissions from vehicles will cease. See e.g. Exhibits 3 and 11 (Environmental Checklist ¶ B(7)(b)(1) (concerning construction noise)). In addition, the environmental impacts of the completed project are minor.

Various departments and agencies reviewed the proposal and did not conclude that there were significant environmental impacts. The City examined the environmental checklist, and ultimately issued a DNS on September 29, 2022. See Exhibit 3. The appeal period for the DNS expired on October 13, 2022. See *id.* The DNS was not appealed.

Based upon the foregoing, the Hearing Examiner concludes that the proposal will not have a significant adverse impact on the environment or the surrounding properties and, therefore, this criterion for approval has been met.

6. *The proposed use is consistent with the policies of Revised Code of Washington (RCW) 90.58.020 and the shoreline master program. See SMC 17G.060.170(D)(a)(i).*

The Hearing Examiner agrees with Staff's conclusion that this proposal is consistent with the policies of the SMP. See Staff Report, p. 5. The site is designated as Shoreline Limited Urban Environment and the Campus/U-District Shoreline District. See *id.* These designations contemplate that this property is a proper location for a multi-family development. See Staff Report, p. 5; see also Paragraph 1.

The proposal will not diminish the quality of the shoreline environment, given the site's characteristics and conditions. See Paragraphs 2, 4, & 5. There is a parcel of land between the Spokane River and the proposed site that will remain in its current state. See Staff Report, p. 5. This land contains a public trail and native vegetation, providing an appropriate buffer and amenity for the proposed residential use. See *id.* The conditions also require that there be no net loss of ecological function as a result of this project. See Condition 3. The record does not support a claim that the project will have a negative effect on shoreline ecology.

The Hearing Examiner concludes that the project is consistent with the policies of state law and the SMP. Therefore, this criterion for approval is satisfied.

7. *The proposed use will not unreasonably interfere with the normal public use of public shorelines. See SMC 17G.060.170(D)(a)(ii).*

The site has historically been used for industrial purposes, which did not allow any public use or access to the shoreline from this site. See Exhibit 1, p. 4. The majority of the site was previously cleared. See Exhibit 1, p. 3. The site is currently undeveloped with no public access routes across the site. See *id.*

The proposed development will not interfere with the public access to the shoreline. See Staff Report, p. 5. The Iron Bridge access trail is located on the adjacent parcel abutting the Spokane River. See Exhibit 1, p. 3. The trail will continue to provide public access and views of the Spokane River. See *id.* The current accessibility to the shoreline will be preserved. See Staff Report, p. 5. No recreational uses of the shoreline will be displaced by the project. See Exhibit 3 (Environmental Checklist ¶ B(12)(b)). In addition, any new pedestrian pathways on site that are in the Shoreline Jurisdiction will be required to meet all development standards described in SMC 17E.060 Shoreline Regulations, including being open for public use. See *id.*

In addition, the project will enhance access and enjoyment of the Spokane River. The construction of housing near the Spokane River will bring people closer to the river and will provide future residents with a view of the shoreline. See Exhibit 1, p. 4. “The project will provide outdoor amenities for residents and access to trails and natural areas along the Spokane River.” See Exhibit 3 (Environmental Checklist ¶ B(12)(c)). The design of the project also improves public access to the shoreline. The project incorporates includes a breezeway between sections of the multi-family structures to allow public access to the shoreline from the site. *Testimony of D. deBit & K. Cash.*

The Hearing Examiner finds 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)(a)(iii).*

The Staff emphasized that the land in the vicinity of this proposal has been built out for decades. See Staff Report, p. 6. Staff acknowledged that other conditional use permits have been granted in the area. However, Staff concluded that those permits “work together to improve the Spokane River shoreline experience and implement the goals and policies outlined in the SMP.” See *id.* There is no evidence in this record to dispute this conclusion. There is also no evidence suggesting that the approval of this proposal, in conjunction with other conditional use permits granted in the area, will have a cumulative effect that could preclude achieving the goals of the SMP. Under the circumstances, the Hearing Examiner concludes that this criterion is satisfied.

9. *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. See SMC 17G.060.170(D)(a)(iv).*

The Hearing Examiner has already concluded that the proposal is consistent with the CP and the SMP. See Paragraphs 2 and 6 above. That discussion applies with equal force here and need not be repeated. 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 the physical and visual access suffers no substantial detrimental effect. See SMC 17G.060.170(D)(a)(v).*

The discussion in Paragraphs 5-7 demonstrates that the proposed use will not have significant adverse effects on the shoreline environment or public access to the shorelines.

As stated previously, the project has been reviewed through the SEPA process and reviewed by applicable departments and agencies. Their findings and recommendations are incorporated into the conditions of approval for this proposal. See *id.* The site will be developed in accordance with the land use requirements in place at the time of building permit.

The project is located next to a city street, with access public roads, water, and sewer. See Exhibit 1, p. 5; see also Exhibit 3 (Environmental Checklist ¶ B(14)(a)). Thus, all city utilities already exist at the site. See Exhibit 1, p. 4. No new streets will be constructed. See *id.* Transportation facilities are located at the south end of the site, away from the river. See *id.* Parking facilities will also be located on the landward side of the development, furthest away from the shoreline. See *id.* Thus, the design of the project minimizes the traffic and construction impacts on the shoreline environment, as much as possible.

The Applicant will be required to show there is no net loss of ecological functions on site during and after the project is complete. In addition, the Applicant will be planting native and adaptive plants on the site. As previously discussed, these plantings will reduce erosion risks, enhance aesthetics, and improve habitat and water quality, consistent with shoreline policies. See Paragraph 2. The Hearing Examiner concludes that this criterion is satisfied.

DECISION

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

1. This SCUP is subject to the compliance of this proposal with all applicable codes and requirements including shoreline regulations, public access, building height, bulk, setbacks, and site coverage.
2. The site shall be developed in substantial compliance with the plans submitted with the application, SEPA, as well as comments received on the project from City Departments and outside agencies.
3. The SMP, SMC 17E.060 and SMC 17E.020, require no net loss of shoreline ecological functions that could result from the proposal. Pursuant to Section 17E.060.220, the Applicant shall engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset impacts resulting from this proposal.
4. Per the comment of the Spokane Tribe of Indians, a Cultural Survey shall be completed prior to any ground disturbing activities.
5. Per the comments submitted by the Spokane Tribe of Indians, monitoring during ground disturbing activities shall be incorporated into the scope of work. 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. Adhere to any additional performance and development standards documented in comments or required by the City of Spokane, Spokane County, Washington State, and any Federal agency.
7. *This approval does not waive the Applicant's obligation to comply with all of the requirements of the SMC, including the payment of transportation impact fees in accordance with Chapter 17D.075, the International Codes (as adopted in this jurisdiction), as well as requirements of City Departments and outside agencies with jurisdiction over land development.*
8. *SMC 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.*
9. 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.

10. 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.

SIGNED this 29th day of November 2022.



Brian T. McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by SMC 17G.060.210 and 17G.050.

On November 30, 2022, a copy of this decision will be sent by first class mail to the Applicant, the Property Owner, and the Agent and by email or first class mail to other parties of record.

Decisions of the Hearing Examiner regarding SCUPs 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.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.