

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit)
Application by Gonzaga University to) FINDINGS, CONCLUSIONS,
allow the construction of an addition) AND DECISION
to the baseball team locker room)
and a new indoor baseball practice) FILE NO. Z23-033SCUP
facility on the Gonzaga University)
Campus.

I. SUMMARY OF PROPOSAL AND DECISION

Proposal: Gonzaga seeks a shoreline conditional use permit (SCUP) in order to permit the construction of an addition to the baseball team locker room and a new indoor baseball practice facility adjacent to the baseball field on Gonzaga’s campus. The property is situated in the General Commercial (GC-150) zone. An SCUP is required because the proposed development is partially within the Shoreline Jurisdiction.

Decision: Approved, with conditions.

**II. FINDINGS OF FACT
BACKGROUND INFORMATION**

Applicant: Gonzaga University – AVP Plant & Const. Services
Attn: Kenneth Sammons
502 E. Boone Avenue
Spokane, WA 99258

Owner: Corporation of Gonzaga University
Attn: Kenneth Sammons
502 E. Boone Avenue
Spokane, WA 99258

Property Location: The property is located at 703 E. Spokane Falls Boulevard, Spokane, Washington, 99258. The site is designated as Tax Parcel No. 35175.0410.

Legal Description: The full legal description of the site is set forth in Exhibit 1.

Zoning: General Commercial (GC-150).

Comprehensive Plan Map Designation: The property is designated as Institutional.

Shoreline Designations: Limited Urban Environment (LUE); 75-foot Shoreline Buffer; Campus/U-District.

Site Description: The project parcel is located on the southeast corner of the Gonzaga University Campus and consists of approximately 760,000 square feet. The Spokane River forms the southwesterly portion of the site. See Exhibit 7 (slide 3). The parcel is

already fully developed and includes the School of Law, the Patterson baseball complex, parking areas, and open space. *See id.* The site is flat, having a slope of only 1% in certain areas.

Surrounding Zoning: The zoning to the north is Residential High Density (RHD). The zoning to the east is GC-150, the same as the site. The zoning to the west is Downtown University (DTU). The zoning to the south is Corridor Type 1 (CC1-EC).

Project Description: The proposed project includes an addition to the current Gonzaga University baseball team locker room, and the construction of a new indoor baseball practice facility. The new practice facility will connect to the locker room facility. Total new square footage is approximately 16,000 square feet. The proposed improvements are within or partially within the 200-foot shoreline jurisdiction. *See Exhibit 7 (slide 6).*

III. PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (SMC) 17C.120, Commercial Zones; SMC 17C.110.510, Institutional Design Standards; SMC 17E.060, Shoreline Regulations; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: January 6, 2023
Posted: January 6, 2023

Notice of Application/Public Hearing: Mailed: March 1, 2023
Posted: March 1, 2023

Community Meeting: January 24, 2023

Public Hearing Date: April 5, 2023

Site Visit: March 30, 2023

SEPA: A Determination of Nonsignificance (DNS) was issued by the City of Spokane Planning Department on March 3, 2023. The appeal period for the DNS ended on March 17, 2023. The DNS was not appealed.

Testimony:

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

Kenneth Sammons
Corporation of Gonzaga University
502 E. Boone Avenue
Spokane, WA 99258

Exhibits:

Planning Services Staff Report, including:

1. Application Materials
 - General Application, pp. 1-4
 - Shoreline Permit Application, pp. 5-7
 - Notification Map Application, pp. 8-12
2. Site Plan, 3 pp.
3. SEPA Checklist and DNS, 17 pp.
4. Request for Comments, pp. 1-4, including comments from:
 - Spokane Tribe of Indians, p. 5
 - City of Spokane Engineering Department, p. 6
 - Spokane Fire Department, p. 7
 - Washington State Department of Archaeology and Historic Preservation, pp. 8-9
5. Notice of Application/Public Hearing, including:
 - Instructions, pp 1-2
 - Notice of Application and Public Hearing, pp. 3-4
 - Notification Map and Parcel Numbers, pp. 5-6
 - Noticing Affidavits, pp. 7-12
6. Community Meeting Materials, including Noticing Affidavits, 12 pp.
7. Staff Presentation

IV. FINDINGS AND CONCLUSIONS

To be approved, the proposed SCUP must comply with the criteria set forth in SMC 17G.060.170. The Hearing Examiner has reviewed the application for an 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, a proposed use must be permitted in the shoreline jurisdiction and comply with the zoning of the property. See SMC 17E.060.690(C).

The project site is zoned General Commercial, with a 150-foot height limit (“GC-150”). The uses allowed in the commercial zones are shown on Table 17C.120-1. See SMC 17C.120.100. In accordance with the table, “colleges” are outright permitted in the GC zone, provided the applicable development standards are satisfied. See Table 17C.120-1; see *also* Staff Report, p. 3. The term “colleges” includes “universities,” and “liberal arts colleges,” among other institutions. See SMC 17C.190.410(C). In addition, “health and sports facilities” qualify as accessory uses of colleges, confirming that such uses are also permitted in this zone. See SMC 17C.190.410(B); see *also* Staff Report, p. 3. The proposed addition to a baseball team locker room and a new indoor baseball practice facility easily qualify as “health and sports facilities” associated with a college campus. The proposal is, therefore, allowed under the provisions of the zoning code.

The project site is designated under the Shoreline Master Program (SMP) as a Limited Urban Environment (LUE). See Staff Report, p. 2; see *also* Shoreline Environment Designations Upriver (Map), dated 10/2008. The uses allowed in the LUE are shown in Table 17E.060-04. See SMC 17E.060.690(E). Although the Staff Report does not discuss the matter, the Hearing Examiner concludes that the proposed use is not intended to directly facilitate the use and enjoyment of the river. Thus, the proposal is not a water-related, water-oriented, or water-enjoyment institutional use. See SMC 17E.060.630(D)(1)-(4) (defining these types of uses). Rather, the proposal is for a “non-water-oriented institutional use.” See *id.* According to Table 17E.060-04, non-water-oriented institutional uses are conditional uses in LUE designated sites. See Table 17E.060-04. Thus, the use is allowed, provided the conditional use standards are satisfied.

Non-water oriented institutional use must also address the limitations set forth in SMC 17E.060.700(A)(5). See *id.* Under those limitations, such a use is only allowed if the site is “physically separated from the shoreline by another property or a public property,” or the use provides public access. See SMC 17E.060.700(A)(5)(a)-(b). In this case, there is a pre-existing walking trail along the waterfront, through the Gonzaga property, which provides public access to the shoreline. *Testimony of K. Sammons.* “As part of the project, pedestrian connections to the adjacent trail network shall be maintained to provide public access to the shoreline.” See Staff Report, p. 4. In addition, a new connection to that trail will be added by the Applicant. See Staff Report, pp. 5-6. Thus, the proposal ensures that public access to the shoreline will not only be preserved but also expanded to some degree.

The Hearing Examiner concludes that the proposed use is allowed under the provisions of the land use codes and shoreline regulations, provided an SCUP is obtained and the other development regulations are satisfied. Therefore, this criterion for approval is fulfilled.

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).*

Given the nature and design of the project, the Hearing Examiner agrees with the Staff that the proposal is specifically supported by Goal LU 5, which promotes development “...that is attractive, complementary, and compatible with other land uses.” See CP, Goal LU 5, Chapter 3, p. 23. The project is also consistent with Policy LU 5.5, which seeks to ensure that “...infill and redevelopment projects are well-designed and compatible with surrounding uses and building types.” See CP, Policy LU 5.5, Chapter 3, p. 24.

The proposed conditions and mitigation measures fulfill Policy SMP 1.3, which provides that developers must ensure that there is no net loss of ecological functions of the shoreline. See Policy SMP 1.3, CP, Chapter 14, Shorelines, p. 22. Adherence to this requirement is a condition of this project. See Condition 4. That said, there is no material impact to native species arising from this project. The proposed improvements, including the building, the fire lane, and the trail addition, will not result in the removal of native vegetation. *Testimony of K. Sammons.* The only vegetation to be removed is portions of the existing lawn. See *id.* The only native shoreline vegetation on the site is between the public trail and the river. See *id.* The project will not result in any work within that area. See *id.* In any case, to the extent any native vegetation is removed, it must be replaced in the appropriate ratio. *Testimony of D. deBit.* This issue will be reviewed further at the

building permit stage, which could result in the requirement for a revegetation plan. See *id.* These requirements are consistent with Policy SMP 10.2, which calls for maintaining and restoring native plant communities, and Policy SMP 4.5, which encourages landscaping with native plant communities as new development occurs. See CP, Chapter 14, Shorelines, pp. 28 & 34.

The proposed conditions also further the objectives of Policy SMP 5.4. That policy states that new development should include adequate provisions for the protection of water quality, erosion control, landscaping, aesthetic characteristics, habitat, normal public use of the water, and other matters. See CP, Chapter 14, Shorelines, p. 28. Consistent with this policy, the conditions require the Applicant to engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset any project impacts. See Condition 4.

Policy SMP 11.35 promotes, whenever feasible, provisions for visual and physical public access to the shorelines. See SMP 11.35, CP, Chapter 14, Shorelines, p. 39. This project will interfere with normal, public use of the shoreline. See Paragraph 6b. There is an existing trail, supported by an easement, providing public access to the shoreline. *Testimony of K. Sammons.* In addition, the project includes a new trail connection from the parking area to the public trail. See Exhibits 2 and 7 (slide 7). The proposed addition will also include a type of “hall of fame” from which visitors will have a view of the shoreline. Thus, the structure itself provides a new venue to enjoy the views of the Spokane River. These features facilitate visual and physical access to the shoreline, consistent with the SMP.

The structure is well designed to fit the site and to be compatible with the surrounding area, as well as being a complementary element of the campus itself. The project conditions ensure that the shoreline environment will be protected through the development process. As such, the proposal 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 an SCUP) mandate that all proposals must satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on February 1, 2023, a request for comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 4, pp. 1-4.

The city received a handful of responses to its request for comments. See *e.g.* Exhibit 4, pp. 5-9. However, City staff noted that “...there were no departments or agencies that reported that concurrency could not be achieved.” See Staff Report, p. 4. In addition, 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 municipal code. Therefore, this criterion for approval of the conditional use permit is met.

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

The 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. On the contrary, the area to be developed is situated within the Gonzaga Campus, between the baseball field, the law school, and parking areas. Thus, the project will be a natural extension/addition to the campus. The site is flat, having a slope that does not exceed 1%. See Exhibit 3 (Environmental Checklist ¶ B(1)). Thus, the topography of the site poses no development challenges.

The Spokane River is adjacent to the site. See Exhibit 3 (Environmental Checklist ¶ B(3)(a)(1)). However, there are no indications of surface water on the site itself. See *id.* Storm water drainage on the property will be handled through the typical methods identified in the Spokane Regional Stormwater Manual (SRSM). See *e.g.* Exhibit 3 (Environmental Checklist ¶¶ A(14)(a)(1), A(14)(b)(2), & B(3)(c)(1)). There are no surface indications or a history of unstable soils on the site. See Exhibit 3 (Environmental Checklist ¶ B(1)(d)). No groundwater will be withdrawn as the project will be served by City water. See Exhibit 3 (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)). There is no reason to expect that groundwater will be impacted by this project. See *e.g.* Exhibit 3 (Environmental Checklist ¶ B(3)(b)-(c)).

There are no known historic or cultural features on the site. See Exhibit 3 (Environmental Checklist ¶ B(13)). The Washington State Department of Archaeology and Historic Preservation advised that although the site had a high probability of containing archaeological resources, it was not recommending a cultural survey due to the small footprint of the proposed development. See Exhibit 4, p. 8. However, the Spokane Tribe of Indians recommended that a cultural survey be completed for this site. See Exhibit 4, p. 5. Based upon this recommendation, the project conditions require the developer to enlist the services of an archaeologist to conduct a cultural survey of this site prior to any ground disturbing activities. See Condition 5. Gonzaga did not object to the condition.

Various City departments and agencies reviewed the SEPA checklist for physical characteristics of the property, and no other comments were received indicating the site is unsuitable for development. There was no testimony at the hearing suggesting that the physical characteristics made development of the site problematic.

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

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

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

On or about February 1, 2023, Gonzaga University prepared an environmental checklist, pursuant to SEPA, for the proposed addition to its athletic facilities. 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.

There are no wetlands or streams on the land to be developed, although the Spokane River is adjacent to the site. See Exhibit 3 (Environmental Checklist ¶ B(3)(a)(1)). No threatened or endangered species were identified on the site. See Exhibit 3 (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)). The project is not anticipated to create any significant noise or light. See Exhibit 3 (Environmental Checklist ¶ B(7)(b) & B(11)). No waste materials will be discharged into the ground or into surface waters, barring a construction accident. See Exhibit 3 (Environmental Checklist ¶¶ 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)).

On March 3, 2023, the Planning Department of the City of Spokane, as lead agency, issued a DNS for the project. See Exhibit 13. Any appeal of the DNS was due on or before March 17, 2023. See *id.* No appeal of the DNS was filed.

There is no substantive evidence in this record that environmental impacts make the project unfeasible or materially problematic. The SEPA process clearly supports the premise that the project will not have significant impacts on the environment. No one appealed the DNS to challenge this conclusion.

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment. Therefore, this criterion for approval of the conditional use permit is satisfied.

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. See SMC 17G.060.170(D)(2)(a)(i).*

The site is designated as LUE under the SMP. See Staff Report, p. 5. The LUE designation applies to shorelines that are "...intended to accommodate further urban growth and infill development and that are appropriate for a mix of water-oriented residential, institutional, and limited commercial uses." See CP, Chapter 14, p. 17. Thus, the LUE designation specifically supports an institutional use like Gonzaga's plan to expand its athletic facilities. See Staff Report, p. 5. The site is designated as a Campus/U-District, which acknowledges that this site is to be used for college campus purposes. See *id.* In addition, the Hearing Examiner previously described how the

proposal complies with the provisions of the SMP. See Paragraph IV.2. For the same reasons, the proposal is consistent with the public policies set forth in the RCW 90.58.020 of the Shoreline Management Act. See *id.*

The proposed project is consistent with the policies of the Shoreline Management Act and the SMP. As a result, this criterion is satisfied.

b. The proposed use will not unreasonably interfere with the normal public use of public shorelines. See SMC 17G.060.170(D)(2)(a)(ii).

The project site is within the Gonzaga Campus and, thus, is located on private property. However, there is an existing trail along the Spokane River, and through the site, that provides public access to the shoreline. See Staff Report, pp. 5-6; *Testimony of K. Sammons*. The proposed structure will not interfere with the public use of the trail. See Staff Report, p. 5. In addition, the proposal adds a new connection to the trail, potentially enhancing access to the shoreline. See Staff Report, pp. 5-6. Staff emphasized that any new pedestrian pathways that are installed in the shoreline must meet all development standards set forth in SMC 17E.060, Shoreline Regulations, including the requirement to be open to the public. See *id.*, p. 6. Under the circumstances, the Hearing Examiner concludes that the proposed development does not interfere with normal public use of the shoreline. Therefore, this criterion for approval of the SCUP is satisfied.

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. See SMC 17G.060.170(D)(2)(a)(iii).

This criterion cautions that impacts of multiple conditional uses may aggregate and damage the shoreline environment in ways that may not be apparent when analyzing each development in isolation. Therefore, the Hearing Examiner should consider any other conditional uses that have recently been allowed “in the area.”

As pertinent here, there are two other conditional uses that should be specifically addressed. Both of those projects were improvements to Gonzaga’s Campus. In 2016, the Hearing Examiner granted an SCUP to Gonzaga University to allow the construction of the Myrtle Woldson Performing Arts Center. See Findings, Conclusions, and Decision, File No. Z16-678REZN, dated November 3, 2016 (“Woldson SCUP”). In addition, in 2017, the Hearing Examiner approved another SCUP for Gonzaga, in this case authorizing the construction of a new Integrated Science and Engineering Facility. See Findings, Conclusions, and Decision, File No. Z17-782SCUP, dated February 19, 2018 (“Integrated Science SCUP”).

The development of the Myrtle Woldson Performing Arts Center had only nominal impacts on the shoreline. In that project, the plaza was the only work completed within the shoreline environment, and that intrusion was limited to 35 feet. See Woldson SCUP, p. 6; *Testimony of D. deBit*. The Hearing Examiner concluded that the plaza “will cause little to no negative impact on the shoreline.” See Woldson SCUP, p. 6. In addition, the plaza created new opportunities for public use and enjoyment of the shoreline, consistent with the policies of the Shoreline Management Act. See *id.*

The development of the Integrated Science and Engineering Facility also had limited effect on the shoreline. In that case, a small portion of the development encroached into the shoreline buffer. See Integrated Science SCUP, p. 6. Those encroachments consisted of improvements such as drainage swales and a fire lane. See *id.* The development did not obstruct public access to the shoreline, which was preserved through a public easement. See *id.*, p. 5. The new building provided also a new place to enjoy the views of Lake Arthur and the Spokane River. See *id.* Finally, the project included appropriate mitigation to offset the impacts, including the preparation of a Habitat Management Plan and a Vegetation Replacement Plan. See Conditions 4 and 5, Integrated Science SCUP, p. 9.

Under the circumstances, Staff concluded there was no genuine risk of cumulative impacts due to this proposal. See Staff Report, p. 6. The Hearing Examiner agrees. None of the campus projects interfere with public use and enjoyment of the shoreline. The impacts of the proposals were relatively small, and each project includes features that benefit the public interest. In addition, there is no reason to believe that the impacts of the proposal will accumulate with impacts of the other conditional uses recently approved. Thus, the record lacks any evidence that cumulative impacts will undermine the intent or goals the SMP. This criterion is met.

- 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. See SMC 17G.060.170(D)(2)(a)(iv).*

The project site is designated as Institutional property and is a part of the Gonzaga Campus. To the southwest is the Spokane River, and on the other side of the river, WSU Campus. The addition will be situated between the law school, campus parking, and the baseball complex. Thus, the primary improvement is a single-story building surrounded by institutional uses. The proposed structure will be required to meet all design and developed standards listed under Chapter 17E.060, Shoreline Regulations. The project must also comply with the Institutional Design Standards, found at SMC 17C.110.510. See Staff Report, p. 6. As has been discussed above, the proposal is well designed to fit the site, the campus, and the surrounding neighborhood. See *e.g.* Paragraphs IV.2, 4-5. The Hearing Examiner concludes that this criterion is satisfied.

- 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. See SMC 17G.060.170(D)(2)(a)(v).*

The proposal will not result in significant adverse effects to the shoreline environment, as previously discussed. See Paragraphs 4 and 5. In any event, the project is conditioned upon compliance with the shoreline regulations, including the requirement that there be no net loss of ecological functions of the shoreline. See Conditions 2 and 4.

The project will not negatively impact physical or visual access to the shoreline by the public. See Paragraphs 2 and 6b; see *also* Staff Report, p. 6. No element of this project interferes with public use or enjoyment of the shoreline. The existing public trail is unaffected by this project. The project includes a new connection to that trail, enhancing

access in some measure. In addition, the proposed addition will provide a new place from which visitors can view and enjoy the Spokane River.

Because this project does not result in adverse effects to the shoreline, 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 shoreline conditional use permit subject to the following conditions:

1. Approval is for a shoreline conditional use permit to allow Gonzaga University to construct an addition to the baseball team locker room and a new indoor baseball practice facility adjacent to the baseball field on Gonzaga's campus (the specific property being identified above and in the record). The facility will be constructed substantially as set forth in the plans and application on file in the Planning Department.
2. The Shoreline Conditional Use Permit is subject to the compliance of this proposal with all applicable codes and requirements including but not limited to shoreline regulations, public access, building height, bulk, setbacks, and site coverage.
3. 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.
4. The Shoreline Master Program, SMC 17E.060, and SMC 17E.020 require no net loss of shoreline ecological functions that could result from the proposal. Pursuant to SMC 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.
5. A Cultural Survey and sub-surface testing shall be completed prior to any ground disturbing activities, per the comments of the Spokane Tribe of Indians.
6. The Applicant shall coordinate with the Spokane Tribe of Indians so that the Tribe has the opportunity to monitor the ground disturbing activities of the project. Any monitoring of ground disturbing activities conducted by the Spokane Tribe of Indians shall be accomplished at the sole expense of the Tribe.
7. Avista Utilities will require any underground utilities that exist in the project area to be relocated as part of the project.
8. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before

excavating, removing or altering Native American human remains or archaeological resources in Washington.

9. This approval does not waive the Applicant's obligation to comply with all of the requirements of the Spokane Municipal Code, including the International Codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.
10. 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.
11. Spokane Municipal Code section 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.
12. 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.

13. 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 5th day of April 2023.



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 April 5, 2023, 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.