

**CITY OF SPOKANE HEARING EXAMINER**

<b>Re:</b> Conditional Use Permit and Height Variance Application by Spokane Public Schools to rebuild Adams Elementary in the Residential 1 (R1) zone.	) ) ) ) )	FINDINGS, CONCLUSIONS, AND DECISION  FILE NO. Z23-543VAR
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**I. SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The Applicant, Spokane Public Schools, is seeking a Conditional Use Permit (CUP) and Variance to rebuild Adams Elementary School as a 60,000-square-foot, three-story structure at the corner of 37th Avenue and Regal Street. The primary parcel on which the school will be constructed is zoned Residential 1 (R1). In the R1 zone, new school buildings require a CUP, processed as a Type II permit. The proposed structure would have a partial third floor that is 47-feet tall. The current height limit in the R-1 zone is 40 feet. Due to the proposed height being over the allowable limit in the zone, the applicant requested the height variance. The matters were consolidated into a single application and a determination was made by the Planning Director to refer the entire proposal to the Hearing Examiner as a type III application.

**Decision:** The application is APPROVED, with *revised* conditions.

**II. FINDINGS OF FACT**

**BACKGROUND INFORMATION**

**Applicant/Owner:** Spokane Public School  
c/o John Elder  
2815 E Garland Ave  
Spokane, WA 99207

**Agent:** NAC Architecture  
c/o Brooke Hanley  
1203 W Riverside  
Spokane, WA 99201

**Property Location:** Adams Elementary School is located at 2909 E. 36<sup>th</sup> Avenue (Parcels 35342.0001, 35342.2901, 35342.3022), on the northeast corner of the E. 37<sup>th</sup> Avenue and S. Regal Street intersection.

**Zoning:** The parcels are zoned Residential 1 (R1) or Residential Multi-Family (RMF).

**Comprehensive Plan Map Designation:** The parcels are designated as Institutional and Residential Moderate in the City of Spokane Comprehensive Plan (CP).

**Site Description:** The site has been home to Adams Elementary School since 1910 and is situated on the corner of 37th Avenue and Regal Street on Spokane’s South Hill. While elevated

from the grade of the adjacent 37th Ave, the site itself is relatively flat. The existing 3-story building occupies the western half of the site with three one-story portable units sitting east of the main school building. The current structure is 42 feet tall. The School District has also acquired a stand-alone parcel across the Fiske Street right-of-way that will be incorporated into the redesigned site and provide driveway access to the on-site parking lot.

**Surrounding Conditions and Uses:** The surrounding zoning is a mix of Residential 1 (R1), Residential Multi-Family (RMF), and Office (O-35). The surrounding land use designations are Institutional, Residential Low, and Residential Moderate.

**Project Description:** The scope of the proposal includes the demolition of the existing school buildings, as well as an existing single-family home, and reconstruction of a new 60,000-square-foot, 3-story building with classrooms, gymnasium, music and art classrooms and studios, as well as outdoor play fields, courts, and associated parking. The applicant acquired an additional parcel that has not been a part of the Adams Elementary School campus in its current iteration. The existing single-family home on that new parcel, which is across the right-of-way of unimproved Fiske Street, will be demolished, and the parking lot driveway is proposed to exit out to 36<sup>th</sup> Avenue through that parcel. Originally, the applicant intended to pursue a street vacation of the Fiske Street right-of-way, between 36<sup>th</sup> and 37<sup>th</sup> Avenues; however, they instead have requested a revocable license from the City of Spokane Engineering Department for the use of this right-of-way for their driveway. The request has been preliminarily approved.

The property is zoned Residential 1. In the R1 zone, new school buildings require a CUP. The proposed structure is identified as 47-feet tall to the top of the third floor. The current height limit in the R1 zone is 40 feet. Due to the proposed height being over the allowable limit in the zone, the applicant has also requested a variance. Per 17C.111.110.G, the Planning Director referred the entire application – both CUP and Variance – to the Hearing Examiner for decision, as the variance request is inherent to the proposed rebuild.

### **III. PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code (SMC) 17C.111, Residential Zones; SMC 17C.320.080(F), Conditional Uses; and SMC 17G.061.310, Decision Criteria.

**Notice of Community Meeting:** Mailed: August 2, 2023  
Posted: July 31, 2023

**Notice of Application/Public Hearing:** Mailed: January 17, 2024  
Posted: January 19, 2024

**Community Meeting:** August 17, 2023

**Public Hearing Date:** February 14, 2024

**Site Visit:** February 12, 2024.

**State Environmental Policy Act (SEPA):** A Determination of Nonsignificance (DNS) was issued on July 6, 2023. The appeal deadline for the determination was July 20, 2023. The DNS was not appealed.

## Testimony:

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

Greg Forsyth  
Spokane Public Schools  
[gregoryf@spokaneschools.org](mailto:gregoryf@spokaneschools.org)

Melissa McFadgen  
NAC Architecture  
[mmcfadgen@nacarchitecture.com](mailto:mmcfadgen@nacarchitecture.com)

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

Carol Tomsic  
Lincoln Heights Neighborhood Council  
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David Goodman  
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John Elder  
Spokane Public Schools  
[johnel@spokaneschools.org](mailto:johnel@spokaneschools.org)

## Exhibits:

Staff Report, dated 2/13/24, including the following exhibits:

1. Application Materials, including:
  - General Application, pp. 1-3
  - Conditional Use Permit Application, pp. 4-17
  - Variance Application, pp. 18-22, including attachment:
    - Exhibit A: Adams historic photos and article, pp. 23-24
    - Exhibit B: Renderings of the proposed design site plan and three-dimensional views, pp. 25-27
    - Exhibit C: Community survey results, pp. 28-29
  - DNS, p. 30
  - Comments from:
    - Spokane Tribe of Indians, p. 31
    - Washington State Department of Ecology, pp. 32-33
  - SEPA Checklist, pp. 34-65, including:
    - Appendix A: Maps, Photos, Drawings & Plans, pp. 66-74
    - Appendix B: Distribution List, pp. 75-76
  - Project site plans, pp. 77-93
  - Pre-Development Conference Notes and Correspondence, pp. 94-112

2. Notice of Application & Public Hearing Materials, including:
  - Notice of Application and Public Hearing Instructions dated 9/13/23, pp. 1-5
  - Notice of Application and Public Hearing, pp. 5-6
  - Public Comments, pp. 7-10
  - Noticing Affidavits, pp. 11-17
3. Request for Agency Comments, pp. 1-2, including:
  - City of Spokane Traffic Department, p. 3
  - Spokane Regional Health Department, pp. 4-5
  - Spokane Fire Department, pp. 6-8
  - Spokane Transit, p. 9
  - City of Spokane Engineering Department, pp. 10-11
  - Technically Incomplete Letter dated 1/8/24, pp. 12-13
  - Applicant response to comments, pp. 14-18
4. Community Meeting materials, including:
  - Notification Map Application, pp. 1-4
  - Notice of Community Meeting for 8/17/24, pp. 5-6
  - Noticing Affidavits, pp. 7-8
  - Meeting Attendance, pp. 9-10
  - Community Meeting Presentation, pp. 11-16
  - Community Meeting Instructions, pp. 17-18
5. Staff Presentation
6. Applicant Presentation

#### **IV. FINDINGS AND CONCLUSIONS**

To be approved, the proposed CUP and Variance must comply with the criteria set forth in SMC Sections 17G.061.310(C), 17C.320.080.(F), and 17G.061.310(E)(1). The Hearing Examiner has reviewed the proposed CUP and Variance along with the evidence of record regarding the application and makes the following findings and conclusions:

##### **A. Conditional Use Decision Criteria**

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.061.310(C)(1).*

In the R1 zone, Tables 17C.111.100-1 and 17C.111.110(G) indicates that new school buildings or additions more than 5,000 square feet are allowed through a Type II CUP. 17C.111.110(G) states that the Planning Director may require a Type II CUP application be processed as a Type III application when the Director issues written findings that the Type III process is in the public interest. The Planning Director believed that because the height variance request was inherent to the proposed reconstruction of the school, the entire application should be processed as a Type III application, with the Hearing Examiner being the decision maker on both elements of the application. See Staff Report, p. 3.

The Hearing Examiner concludes that 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.061.310(C)(2).*

In Chapters 3 Land Use, 4 Transportation, and 10 Social Health of the City's Comprehensive Plan:

\*Policy LU 3.1 Coordinated and Efficient Land Use states: [Focus] growth in areas where adequate services and facilities exist

\*Policy LU 4.4 Connections states: Form a well-connected network which provides safe, direct, and convenient access for all users, including pedestrians, bicycles, and automobiles, through site design for new development and redevelopment.

\*Policy LU 6.3 School Locations states: Work with the local school districts to identify school sites that are located to serve the service area and that are readily accessible for pedestrians and bicyclists.

\*Policy LU 6.5 Schools as a Neighborhood Focus states: Encourage school officials to retain existing neighborhood school sites and structures because of the importance of the school is maintaining a strong, healthy neighborhood.

\*Policy N 2.1 Neighborhood Quality of Life states: Ensure that neighborhoods continue to offer residents transportation and living options, safe streets, quality schools, public services, and cultural, social, and recreational opportunities in order to sustain and enhance the vitality, diversity, and quality of life within neighborhoods.

See Staff Report, pp. 3-4

The Hearing Examiner agrees with the Staff that the proposed use serves all these goals and policies and, therefore, is in the public interest. The Hearing Examiner concludes that this criterion is satisfied.

- 3. The proposal meets the concurrency requirements of Chapter 17D.010 SMC. See SMC 17G.061.310(C)(3).*

The application was circulated on December 14, 2023, among all City departments and outside agencies with jurisdiction, and there were no departments or agencies that reported that concurrency could not be achieved. All comments received are included in this record. See Staff Report, p. 4. Of particular note is the fact that this proposal would replace an existing school facility, with an expectation of roughly equivalent use and intensity of utilities, services, and traffic patterns. Many intended changes to the site are expected to alleviate existing concerns with and traffic flow and surface water, among other like considerations that have been incorporated into the proposal.

The Hearing Examiner concludes that the project satisfies the concurrency requirements of the SMC.

- 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.061.310(C)(4).*

The 3.7-acre site is currently used as an elementary school. The new site design will move the replacement school to the west side of the property, with a staff parking lot provided along the southeast side of the site. The outdoor play fields and play equipment will be focused in the

center and northeastern portions of the site towards the more residential adjoining uses. The applicant originally intended to request a street vacation of Fiske Street between 36<sup>th</sup> and 37<sup>th</sup> Avenues, however, the applicant ultimately requested a Revocable License from the City of Spokane Engineering Department for the use of the Fiske Street right-of-way for the driveway from 37<sup>th</sup> Avenue to the staff parking lot. The parent drop-off zone will be located on 36<sup>th</sup> Avenue, with a school bus drop-off being maintained on 37<sup>th</sup> Avenue. The proposed location of parking and the structure itself all comply with the zoning standards for setbacks and parking. All storm water will be retained on site and will infiltrate into the soils, per the geotechnical report prepared for the site. See Staff Report, p. 4.

As it holds Lead Agency status, the School District processed its own SEPA checklist. The submitted application materials indicated that the Spokane Tribe concurred that there are no natural, historical, or cultural features remaining, due to the existing developed character of the site. During the SEPA review, it is indicated that the Tribe requested an Inadvertent Discovery Plan be developed for the site, which the applicant intends to complete. The existing school is potentially eligible for listing on the historic register and has been inventoried and documented on the WISAARD website in accordance with Washington State Department of Archeology and Historic Preservation guidelines. See *id.*

This site is located within the Aquifer Critical Area Recharge Zone and must comply with SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection. See *id.*

The Hearing Examiner concludes that the property is suitable for the proposed use given its current use for such services. Based on the foregoing, the Hearing Examiner concludes that 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.061.310(C)(5).*

A SEPA DNS was issued on July 6, 2023, by Spokane Public Schools as the lead agency. See Staff Report, p. 5. The DNS was not appealed.

As outlined in the DNS and the Environmental Checklist, the project will not have significant adverse effects on the environment and surrounding neighborhood. See Staff Report, p. 4.

The requested Variance application does indicate the intent for the structure to be taller than the allowable 40-feet in the zone. The proposed height is 47 feet for a portion of the 3rd floor, which is stepped back from the building footprint itself. Per the application materials, the existing school, which has been in place for 113 years, is 42 feet above the highest grade and 44 feet in overall height from the lowest floor level. No comments were received during the community meeting nor the public comment period that expressed concerns with the proposed height of the building. See *id.*

The applicant will be required to meet the standards set out in SMC 17C.111.500 through SMC 17C.111.575, Institutional Design Standards in Residential Zones, at time of building permit review. See *id.*

The applicant received a recommendation of approval from the Design Review Board on September 13, 2023. *See id.*

Staff received a public comment on January 19, 2024, from the Neighborhood Council Chair with concerns over the loss of pedestrian/bicycle access through Fiske Street and asked for a shared-use path to be provided along the Fiske Street right-of-way from 36<sup>th</sup> Avenue to 37<sup>th</sup> Avenue. Staff responded to the Neighborhood Chair with the information that the City's Traffic Engineer was requesting the same and that it would be included in the recommended conditions to the Hearing Examiner. *See id.*

The Hearing Examiner concludes that the project will not have significant impacts on the environment or the surrounding properties and, therefore, this criterion is satisfied.

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

The proposal does not significantly increase the proportion of uses not in the residential household living category, as the existing school has been in existence for 113 years and predates all other surrounding uses. *See Staff Report*, p. 4. The only new addition to the campus is the parcel addressed as 3104 E 36<sup>th</sup> Avenue, which does currently contain a single-family home. *See id.*, pp. 5-6. This home is proposed to be demolished for the purpose of the driveway, which will serve the school parking lot across the Fiske Street right-of-way. *See id.* However, it is staff's opinion the overall intensity and scope of the proposed rebuild will not negatively impact the surrounding uses, as the building is being pushed to the west, further away from the neighboring residential properties. *See id.* The other non-residential uses in the area include a small office to the west and the substantial buildings and facilities of adjoining Ferris High School to the south. But again, there is the existing nonresidential use of the current buildings, and the expected replacement will not significantly lessen the residential appearance and function of the area.

The Hearing Examiner concludes that this criterion for approval is satisfied.

7. *Physical Compatibility. 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; or 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 site has contained a school building for more than 113 years, and the structure predates all surrounding uses. *See Staff Report*, p. 6. The replacement building will be required to comply with current Institutional Design Standards in Residential Zones, SMC 17C.111.500, and apply any recommendations given by the City of Spokane Design Review Board. *See id.* The proposed new structure is substantially similar in size, and numerous aspects of the site design, including grade work, setbacks, and landscaping, will ensure analogous physical compatibility.

The Hearing Examiner concludes that this criterion is satisfied.

8. *Livability. 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).*

The proposal will not affect the livability of the surrounding residences. For example, no additional noise is anticipated from the proposed use because the level of service is not changing. See Staff Report, p. 6. Nothing in this record suggests that the new school will result in odors. See *id.* There may be some light or glare from the required overhead lighting, but it is required to be contained on the site per SMC 17C.110.520, Lighting. See *id.* Any after-hours operations will be consistent with those that have occurred on this site in the past. See *id.* There is no reason to question this conclusion, based on this record.

The Hearing Examiner concludes that the new school will have no material negative impact on the livability of the surrounding residential neighborhood and is likely to improve upon and ameliorate existing conditions. As a result, the Hearing Examiner concludes this criterion is satisfied.

9. *Public Services. 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. Public services are also capable of serving the proposed use. See SMC 17C.320.080(F)(4).*

The proposal does not decrease the level of service on any adjacent improved street. See Staff Report, pp. 6-7. The 36<sup>th</sup> Avenue parent drop off zone is being significantly increased in size, which one could predict will increase the level of service on that street, as 36<sup>th</sup> Avenue is currently often overwhelmed with vehicles due to the insufficient length of the existing drop off zone. See *id.* 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.* Further, Spokane Transit requested a condition of approval that will require improvements to an adjacent bus stop. This condition is included in this approval and will improve the transportation system.

The Hearing Examiner concludes that the transportation system and other public facilities and services are sufficient to support the proposed use. Therefore, this criterion is satisfied.

## **B. Variance Decision Criteria**

1. *A variance or modification of the standard or requirement is not prohibited by the land use codes. See SMC 17G.061.310(E)(1)(a).*

There is no prohibition in the code against requesting an increase to the allowable height from 40 feet to 47 feet in the R1 zone. See Staff Report, p. 7.

The Hearing Examiner finds this criterion satisfied.



2. *No other procedure is provided in this chapter to vary or modify the standard or requirement, or compliance with such other procedure would be unduly burdensome. See SMC 17G.061.310(E)(1)(b).*

In the R1 zone, there is no alternate code path to request an increase in height. See Staff Report, p. 7. Seeking a variance is the only procedure available to receive relief from strict application of this code. See Staff Report, p. 7.

The Hearing Examiner finds this criterion satisfied.

3. *Strict Application of the standard or requirement would create an unnecessary hardship due to one or more of the reasons listed below. Mere economic hardship or self-created hardship are not considered for the purposes of this section.*
  - i. *The property cannot be developed to the extent similarly zoned property in the area can be developed because the physical characteristics of the land, the improvements or uses located on the land do not allow such development; or*
  - ii. *Compliance with the requirement or standard would eliminate or substantially impair a natural, historic, or cultural feature of area-wide significance.*

See SMC 17G.061.310(E)(1)(c).

The applicant has outlined several ways the hardship is not merely economic or self-created. See Staff Report, p. 7. The application materials indicate that the existing school site of 3.7 acres is actually quite small in comparison to a typical elementary school site, and that it was a struggle to achieve all the necessary elements of the new building – many required by state building codes – while also providing sufficient open space, play area, and parking, as well as meeting the building accessibility requested by the neighborhood. See *id.* The application materials argue that if the building is required to comply with the 40-foot height limitation, the individual floors of the school would need to be compressed to an insufficient height to accommodate several code-required systems for noise reduction, increased daylighting, and healthy indoor quality. See *id.* If, instead of building taller, the structure is required to increase in footprint, the applicant argues that this would result in a loss of outdoor gross motor and physical activity space, for both the students in the school and the neighborhood in general. See *id.* The application notes that there are no City parks within the Adams attendance boundary, so this site also serves as neighborhood green space. See *id.*

The hardship is not merely economic but represents an unchangeable reality of the site's relatively small size (compared to other elementary schools). The small size of the site and the important interests in maximizing park and open space, as well as other practical considerations and code requirements, create a hardship that other similar elementary school sites do not face. The hardship is not self-created, and the Applicant has endeavored to ameliorate the constraints of the small site size by acquiring an adjacent parcel. Still, the hardship persists.

The Hearing Examiner agrees with the Applicant's analysis and Staff's conclusion of the satisfaction of the hardship criteria. Therefore, this criterion is satisfied.

4. *In addition, the following objectives shall be reasonably satisfied:*
  - i. *Surrounding properties will not suffer significant adverse effects.*
  - ii. *The appearance of the property or use will not be inconsistent with the development patterns of the surrounding property; and*

- iii. *The ability to develop the property in compliance with other standards will not be adversely affected.*

See SMC 17G.061.310(E)(1)(d).

The site currently contains an existing three-story building, built in 1910, that is 42 feet above grade and 44 feet in overall height from the lowest floor level. See *id.* The majority of the replacement structure is 30 feet tall, with a stepped-back third floor to an ultimate height of 47 feet. See Staff Report, p. 8. It is Staff's opinion that the proposed replacement structure is not drastically inconsistent with the historic built environment on the parcel. See *id.* Additionally, as the portion of the building that is proposed to be more than the allowable height is stepped back from the overall building footprint, the visual impact to adjacent neighbors or pedestrians at ground level will not change. See *id.*

There is no evidence in the record that shows any potential significant adverse defects to surrounding properties. The appearance of the property and its use will not be inconsistent with the development patterns on the surrounding properties. The record demonstrates that the property will be able to be developed in compliance with all other applicable standards.

The Hearing Examiner finds this criterion satisfied.

5. *No variance may be granted to allow or establish a use that is not allowed in the underlying districts as a permitted use; or to modify or vary a standard or requirement of an overlay zone, unless specific provision allow a variance. See SMC 17G.061.310(E)(1)(e).*

In the R1 zone, Tables 17C.111.100-1 and 17C.111.110(G) indicate that new school buildings or larger additions are allowed through a Type II Conditional Use Permit. See Staff Report, p. 8. The height of a structure is not prohibited to be increased by any code regulations, and this request does not modify or vary a standard or an overlay zone. See *id.*

The Hearing Examiner accepts this analysis and finds this criterion satisfied.

6. *Floodplain variance is subject to the additional criterion of SMC 17E.030.090 and SMC 17E.030.100. See SMC 17G.061.310(E)(1)(f).*

This does not apply to this proposal; therefore, the Hearing Examiner finds this criterion satisfied.

## **V. DECISION**

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

1. The project will be developed in substantial conformance with SMC 17C.111.500, Land Use Standards, Residential Zones, and Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas.
2. Per comments from the City's Traffic Engineer, provide a shared-use pathway in the Fiske Street right-of-way to provide bicycle and pedestrian connection between 36<sup>th</sup> and 37<sup>th</sup> Avenues.

3. The Revocable License for use of the Fiske Street right-of-way is required to be recorded prior to building permit issuance.
4. Spokane Transit currently operates Routes 43 and 247 on 37<sup>th</sup> Avenue and has a bus stop at 37<sup>th</sup> Avenue and Regal Street, adjacent to Adams Elementary. As part of the scope of this rebuild, *the Applicant shall improve the* area around this stop to ADA standards. *The stop shall be* an 8-foot-deep (minimum) × 24-foot-long ADA accessible bus stop between curb and sidewalk with the head of the stop located approximately 30 feet from pedestrian crossing at the adjacent intersection.
5. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services shall be immediately notified, and the work in the immediate area will 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.
6. 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.
7. 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.

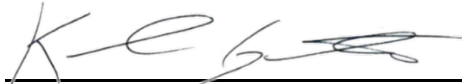
#### COVENANT

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.

8. SMC 17G.061.350 regulates the expiration of this approval, and Table 17G.061.010-1 sets forth the time frame for the expiration of all approvals.
9. 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 15<sup>th</sup> day of February, 2024.



Karl J. Granrath  
City of Spokane Hearing Examiner

### **NOTICE OF RIGHT TO APPEAL**

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.061.340 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits and variances 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 15, 2024. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS MARCH 4, 2024, AT 5:00 P.M.**

In addition to paying any Court costs to appeal the decision, RCW 36.70C.110 requires the petitioner to pay the local jurisdiction the cost of preparing the record. Failure by the petitioner to timely pay the local jurisdiction relieves the local jurisdiction of responsibility to submit the record and is grounds for dismissal of the petition.

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