

CITY OF SPOKANE HEARING EXAMINER

Re: Shoreline Conditional Use Permit)
Application by Spokane Community) FINDINGS, CONCLUSIONS,
College for a pre-engineered fire training) AND DECISION
tower with associated site work on the)
campus in the Light Industrial zone.) FILE NO. Z24-195SCUP

1 SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant, Spokane Community College, has applied for a shoreline conditional use permit (SCUP) for the construction of a pre-engineered fire training tower with associated site work on the campus of Spokane Community College. A portion of this proposal is within the Shoreline Jurisdiction.

Decision: APPROVED, subject to conditions.

2 FINDINGS OF FACT/BACKGROUND INFORMATION

Applicant: Washington State Community College District 17 –
Spokane Community College

Owner: Washington State Community College District 17,
DBA: Community Colleges of Spokane

Property Location: The project is located at 1810 N. Green Street (parcel no. 35105.3501).

Legal Description: The legal description for the site is provided in Exhibit 2.

Zoning: LI (Light Industrial).

Comprehensive Plan (CP) Map Designation: Institutional

Shoreline Designations: Limited Urban Environment (LUE) Designation; Spokane River Shoreline Jurisdiction with 200-foot Shoreline Buffer; Upriver Shoreline District

Environmental Overlays: Priority Habitat and Species, Riparian Habitat Area 1

Site Description: The site is generally graded and flat and currently being used for parking and storage. The site also contains the Heavy Equipment/Fire Science building #19 per the Spokane Community College campus map. The total project site, including improvements consisting of a concrete pad and paved areas for training vehicles is approximately 9,250 square feet. The proposed tower will replace the existing training tower located on the southwest corner of the campus. The Spokane Community College Fire Science building was previously located in the same area as the existing tower but was demolished in 2022 to accommodate the north/south

freeway project. The Fire Science program has since been relocated to the building immediately west of the proposed tower location.

Surrounding Conditions and Uses: The project site is on the northeastern corner of the Spokane Community College campus, an Institutional use. The Property itself and properties to the east and south are zoned Light Industrial. East Ermina Avenue and the Spokane River are immediately to the north of the project site.

3 PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (SMC) 17E.060, Environmental Standards; and SMC 17G.061.310, Decision Criteria.

Notice of Community Meeting: Mailed: February 20, 2024
Posted: February 20, 2024

Notice of Application/Public Hearing: Mailed: June 21, 2024
Posted: June 21, 2024

Community Meeting: March 12, 2024

Site Visit: July 9, 2024

Public Hearing Date: July 9, 2024

State Environmental Policy Act (SEPA): A determination of nonsignificance (DNS) was issued by the City on June 11, 2024. The DNS was not appealed.

Testimony:

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Present but did not Testify or Submitted Comments to the Record:

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Exhibits:

1. Planning Services Staff Report, 8 pp.
2. Application, including:
 - General Application, pp. 1-3
 - Shoreline Permit Application, pp. 4-8
 - Shoreline/Critical Areas Checklist, pp. 9-11
 - Notification Map Application, pp. 12-13
 - Project Narrative, pp. 14-19
 - Receipt of Fees, p. 20
3. SEPA Determination (pp. 1-2) and Environmental Checklist (pp. 3-28)
4. Request for Comments (pp. 1-4), including:
 - Spokane Fire Department, p. 5
 - Spokane Regional Health District, p. 6
 - Washington State Department of Ecology (WSDOE), pp. 7-8
 - Spokane Tribe of Indians, p. 9
5. Notice of Application and Hearing Materials, including:
 - Notice of Application and Public Hearing, pp. 1-2
 - Instructions, pp. 3-4
 - Public Comment, p. 5
 - Notification District, pp. 6-16
 - Noticing Affidavits, pp. 17-18
6. Community Meeting Materials, including:
 - Noticing Affidavits, pp. 1-3
 - Instructions, pp. 4-5
 - Notice of Community Meeting, pp. 6-7
 - Attendee List, p. 8
 - Meeting Outline and Presentation Materials, pp. 9-11
7. Staff Presentation

4 FINDINGS AND CONCLUSIONS

To be approved, the proposed SCUP must comply with the criteria set forth in Spokane Municipal Code Section 17G.061.310. The Hearing Examiner has reviewed the proposed SCUP application and the evidence of record with regard to this section and makes the following findings and conclusions:

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

The subject site is zoned Light Industrial (LI) with an Institutional land use designation. See Exhibit 1, p. 4. Per SMC 17C.190.410 – Use Category Descriptions, colleges are identified as an Institutional Use Category with accessory uses including offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and bookstores. *Id.* Colleges and their accessory uses are permitted in the LI zone per SMC Table 17C.130.100-1. *Id.* The City recognizes a fire training tower as a laboratory use. *Id.*

Under the LI zoning, the proposed use is allowed. However, that does not end the inquiry. A determination must be made whether the proposal is allowed under the shoreline regulations. According to the official Shoreline Map (SMC 17.E.060.060), this parcel is within the Limited Urban Environment (LUE) shoreline designation. Pursuant to the shoreline standards, institutional uses are categorized as a “conditional use” in the LUE designation. See SMC Table 17E.060.690-1. As a result, the fire training tower may be allowed as a conditional use.

Under both the zoning and shoreline designations, the proposal is allowed, provided the application satisfies the development standards and the criteria for a conditional use. Therefore, the Hearing Examiner finds this criterion is satisfied.

4.2 The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. *SMC 17.G.061.310(C)(2)*.

The CP designates the site as “Institutional.” This designation is intended to encourage uses such as middle and high schools, colleges, universities, and large governmental facilities. See CP, Chapter 3, Land Use, p. 3-42. The site is also designated as LUE under the Shoreline Master Program. The LUE designation contemplates a range and mixture of water-oriented residential, commercial, and institutional uses of the shoreline at moderate intensity and density levels. See CP, Chapter 14, Shorelines, p. 14-18. Development in the LUE should be managed so that it protects existing ecological functions and restoring ecological functions in areas that have been previously degraded. *Id.* In addition, this designation provides for appropriate physical and visual public access and recreation uses. *Id.*

The proposed tower will replace the existing training tower located on the southwest corner of the campus. See Exhibit 1, p. 2. The proposal is also supported by specific CP goals and policies.

For example, Goal LU 8 states that the Urban Growth Area is to accommodate medical, governmental, educational, institutional, commercial, and industrial facilities. Policy LU 5.5 ensures that infill and redevelopment projects are well-designed and compatible with

surrounding uses and building types. Policy SMP 3.6 calls for parking facilities in shoreline areas only as necessary to support permitted shoreline uses.

The project also addresses the policies that specifically relate to shorelines. For example, the proposed conditions of the project require the Applicant to provide a vegetation replacement plan if any native vegetation is removed and design a “dry” tower that doesn’t use fire or water. See Conditions 2 and 5.

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. 14-23. Planting with native species also promotes Policy SMP 4.5, which encourages landscaping with native plant communities as new development occurs. See Policy SMP 4.5, CP, Chapter 14, Shorelines, p. 14-29.

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

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

The decision criteria for Type III decisions (such as a SCUP) require that these types of applications satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.061.310(C)(3). Accordingly, the application was circulated on April 18, 2024, among all City departments and outside agencies with jurisdiction. See Exhibit 1, p. 5.

The city received various comments regarding the proposal. See e.g. Exhibit 4, pp. 5-9. None of the commenting departments or agencies reported that concurrency could not be achieved. See Exhibit 1, p. 5. The Spokane Tribe of Indians acknowledged that the area has been extensively developed, but the Applicant will still be required to implement an Inadvertent Discovery Plan into the scope of work. See Exhibit 4, p. 9. There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied.

The Hearing Examiner concludes that the project satisfies the concurrency requirements of the municipal code. This criterion is satisfied.

4.4 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. *SMC 17.G.061.310(C)(4)*.

The site area is suitable for development per the site plan submitted with this application. See Exhibit 1, p. 5. The applicant lists all physical and environmental elements located on the site, or in the vicinity, in the submitted Environmental Checklist. *Id*; see also Exhibit 3. City departments and other agencies also reviewed this checklist for physical characteristics of the property. See Exhibit 1, p. 5. The proposed fire tower will be located on a general site that is significantly

developed with institutional structures. *Id.* The proposed improvements total approximately 9,250 square feet, which is small portion of the 100-acre Spokane Community College campus. *Id.* The proposed construction site within the larger campus is generally flat and graded and is currently being used as a parking lot and storage area. *Id.*

Based upon the foregoing, the Hearing Examiner concludes that this criterion for project approval is satisfied.

4.5 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. *SMC 17.G.061.310(C)(5).*

As mentioned above, this proposal was routed for review by applicable departments and agencies. *Id.* Their findings and recommendations are incorporated into the conditions of approval for this proposal. There will be short-term, on-site impacts during construction; however, the long-term impacts will be positive, in that Community Colleges of Spokane will be able to continue fire science education. *Id.*

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment that cannot be adequately addressed through mitigation. See Conditions 2 and 5 below. Therefore, this criterion for approval of the SCUP is satisfied.

4.6 For shoreline conditional use permits the following additional criteria apply:

4.6.1 The proposed use is consistent with the policies of [Revised Code of Washington] RCW 90.58.020 and the Shoreline Master Program. *SMC 17G.061.310(D)(2)(a)(i).*

The Hearing Examiner agrees with Staff's conclusion that this proposal is consistent with the policies of the Shoreline Master Program. See Exhibit 1, p. 6. In particular, the Staff noted as follows:

The proposal is consistent with the map, goals, and policies of the Shoreline Master Program. The site is designated by the Shoreline Master Program as within the Limited Urban Environment (LUE), as well as being within the Spokane River Shoreline District. In the LUE, institutional uses are limited use allowed through a shoreline conditional use permit, per SMC Table 17E.060.690-1 - Shoreline Primary Uses.

Id. In addition, the proposal is consistent with the adopted shoreline policies, as is discussed in some detail in Paragraph 4.2 above.

Additionally, in SMC 17E.060.360 – Primary Permitted Uses, colleges are an example of a Non-water Oriented Use. *Id.* Per SMC Table 17E.060.690-1, in the Limited Urban Environment Designation, a Non-water-orientated institutional use is classified as “L[5]/CU” (Limited/Conditional Uses). *Id.* Pursuant to SMC 17E.060.700(5) – Shoreline Limited Use

Standards, non-water-oriented institutional uses shall not be allowed unless the site is physically separated from the shoreline by another property or public right-of-way, or the use provides public access. *Id.* The proposed site is separated from the shoreline by East Ermina Avenue, a public right-of way; therefore, this requirement is satisfied.

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

4.6.2 The proposed use will not unreasonably interfere with the normal public use of public shorelines. *SMC 17G.061.310(D)(2)(a)(ii).*

The applicant identified in their application that the proposed project is located on a substantially developed portion the Spokane Community College campus. See Exhibit 1, p. 6. The proposal will not interfere or change normal physical public use of the shoreline. *Id.*

Given the foregoing and the fact that the proposal is to replace an existing tower, the Hearing Examiner finds this criterion for approval satisfied.

4.6.3 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. *SMC 17G.061.310(D)(2)(a)(iii).*

Future SCUPs in the area will be reviewed for concurrency with the goals of the Shoreline Master Program. See Exhibit 1, p. 7. The shoreline jurisdiction encompasses a relatively small portion of the campus, most of which is substantially developed. *Id.* Future development on the site that is within the shoreline jurisdiction is naturally limited due to existing development and limited vacant areas available for development. *Id.* The Hearing Examiner finds this criterion satisfied.

4.6.4 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. *SMC 17G.061.310(D)(2)(a)(iv).*

As has been discussed above, the project is a replacement of an existing tower and will not have a general cumulative impact beyond what is existing. Ultimately, the Hearing Examiner agrees with the Staff's comment on this issue:

The entire Spokane Community College is zoned LI with an Institutional land use designation. Per SMC Table 17C.130.100-1, colleges and their accessory uses are permitted the in the LI zone. Per SMC 17C.190.410 – Colleges, examples of accessory uses to colleges include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and bookstores. The City recognizes a fire training tower as a laboratory use.

See Exhibit 1, p. 7. In addition, the project will be required to meet shoreline design standards found in SMC 17E.060, as well as the Downtown design standards found in SMC 17C.130 at the time of building permit. *Id.*

For these reasons, and for the reasons discussed elsewhere in this decision, the Hearing Examiner concludes that this criterion is satisfied.

4.6.5 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. *SMC 17G.061.310(D)(2)(a)(v).*

As mentioned above in 4.6.2, this project will not change the physical access to the Spokane River shoreline. The tower is approximately 34 feet in height so there will be some inherent visual impact to the shoreline. See Exhibit 1, p. 7. However, the visual impact will only affect those on the campus and will not have off-site visual impacts. *Id.* The visual impact of the proposed tower will not be greater than any existing structure on campus and within the shoreline jurisdiction. *Id.* Per SMC 17E.060.770(B) – Visual Access Setback, visual access shall be achieved by setting buildings back a minimum of fifteen feet from property lines adjacent to public rights-of-way that intersect the shoreline jurisdiction. *Id.* The site plan provided by the applicant indicates a 25-foot setback from East Ermina Avenue property line and a 20-foot setback from North Rebecca Street property line, both of which intersect the shoreline jurisdiction. *Id.*

SMC Table 17E.060.770-1 provides height standards for structures in the Upriver Shoreline District based of distance from the ordinary high water mark (OHWM). *Id.* The proposed site is approximately 175 feet landward of the OHWM. *Id.* Per SMC Table 17E.060.770-1, a structure distance of 75 to 200 feet from the OHWM allows for a maximum building height of 35 feet. *Id.* Plans provided by the applicant indicate a proposed 34-foot building height. *Id.*

The Hearing Examiner concludes that this criterion is satisfied.

5 DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the Shoreline Conditional Use Permit for the fire training tower, subject to the following conditions:

1. The site shall be developed in substantial compliance with the plans submitted with the application, as well as comments received on the project from City Departments and outside agencies with jurisdiction.
2. 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. A vegetation replacement plan will be required if any native vegetation is removed.
3. If any artifacts or human remains are found upon excavation, The Spokane Tribe of Indians and the City of Spokane shall 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.

4. Adhere to any additional performance and development standards documented in comments or required by City of Spokane, Spokane County, Washington State, and any Federal agency.
5. Conditional approval is based off the submitted plans of a “dry” design that does not use fire and/or water training exercises. Any future proposal to use fire and/or water training exercises and associated utilities shall require permits to be submitted and evaluated for compliance with City Departments and outside agencies with jurisdiction.

SIGNED this 9th day of July 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 of the Hearing Examiner regarding shoreline conditional use permits 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.