

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Shoreline Conditional Use Permit )  
Application by Whipple Consulting )  
Engineers on behalf of Woodbee, ) FINDINGS, CONCLUSIONS,  
LLC to construct a 12-unit apartment ) AND DECISION  
with associated parking (a portion of )  
which are in the shoreline jurisdiction ) FILE NO. Z24-394SCUP  
in the Residential Multi-family zone. )

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The Applicant, Whipple Consulting Engineers, on behalf of the property owner Woodbee, LLC, has applied for a shoreline conditional use permit (SCUP) proposing to construct a 12-unit apartment with associated parking. The existing duplex on site will remain. This application is reviewing the portion of the extensions that are within the shoreline jurisdiction.

**Decision:** APPROVED, subject to conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant:** Whipple Consulting Engineers, Inc., c/o Ryan Andrade  
21 S. Pines Road  
Spokane Valley, WA 99206

**Owner:** Woodbee, LLC  
100 N/ Broadway, Suite 1700  
St. Louis, MO 63102

**Property Location:** The project is located at 2517 E Upriver Drive (parcel no. 35091.2914).

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

**Zoning:** RMF (Residential Multi-family).

**Comprehensive Plan (CP) Map Designation:** Residential Moderate

**Shoreline Designations:** North of the Spokane River; Shoreline Residential Environment; 75-foot buffer; Upriver Shoreline District

**Environmental Overlays:** Fish & Wildlife Habitat Area (RHA-2)

**Site Description:** The subject property is 0.68 acre (29,873 square feet) and generally sloped from the north to south, with slopes ranging from 8%-15%. See Exhibit 1, p. 2. There is an existing duplex on the subject property that will remain. *Id.* According to the Spokane County Assessors information, the duplex is approximately 2,592 square feet. *Id.* The subject property is located adjacent to the Spokane River. *Id.* 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). *Id.* The SMP designates this area as Shoreline Residential Environment with a 75-foot buffer from the Spokane River. *Id.*

**Surrounding Zoning and Uses:** The subject property is located in the RMF Zone. *Id.* Residential household living uses are permitted in the RMF zone under Spokane Municipal Code (SMC) Table 17C.111.100-1, Residential Zone Primary Uses. *Id.*, pp. 2-3. Surrounding zoning designations include Residential Multi-family to the north, east, and west, and Residential 1 to the south (Spokane River). *Id.*, p. 3.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** SMC 17E.060, Environmental Standards; and SMC 17G.061.310, Decision Criteria.

**Notice of Community Meeting:** Mailed: October 30, 2023  
Posted: October 30, 2023

**Notice of Application/Public Hearing:** Mailed: February 6, 2024  
Posted: February 6, 2024

**Site Visit:** November 6, 2024

**Hearing Date:** November 7, 2024

**SEPA:** A Determination of Nonsignificance (DNS) was issued by the City on October 18, 2024. The DNS was not appealed.

#### **Testimony:**

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

Ryan Andrade  
Whipple Consulting Engineers, Inc.  
21 S. Pines Road  
Spokane Valley, WA 99206

Sherilyn Peters  
4209 E. Jackson Avenue  
Spokane, WA 99217

William Glanville  
4209 E. Jackson Avenue  
Spokane, WA 99217

#### **Exhibits:**

1. Planning Services Staff Report, 9 pp.
2. Application, including:  
General Application, pp. 1-2

- Supplemental Information and Development Narrative, pp. 3-10
- Notification Map Application, pp. 11-16
- Shoreline/Critical Areas Checklist, pp. 17-19
- Shoreline Permit Application, pp. 20-24
- Application for Floodplain Development Permit, pp. 25-26
- 3. Site Plans, 3 pp.
- 4. Environmental Checklist (pp. 1-21) and SEPA Determination (pp. 22-25)
- 5. Request for Comments (pp. 1-2), including:
  - Washington State Department of Ecology, pp. 3-5
  - Spokane Regional Emergency Communications, pp. 6-7
  - City of Spokane Legal, p. 8
- 6. Notice of Application and Hearing Materials, including:
  - Instructions, pp. 1-2
  - Notice of Application and Public Hearing, pp. 3-4
- 7. Community Meeting Materials, including:
  - Instructions, pp. 1-2
  - Notice of Community Meeting, pp. 3-4
  - Notification Map, p. 5
  - Community Meeting Notes and Sign-In, pp. 6-9
  - Community Meeting Recording
- 8. Noticing Affidavits, including:
  - Community Meeting Affidavits, pp. 1-4
  - Public Hearing Affidavits, pp. 5-8
- 9. Staff Presentation

### **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:

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

The subject property is located in the base zone RMF Zone. See Exhibit 1, p. 3. The proposed uses include Residential Household Living (17C.190.110). *Id.* The proposal also includes accessory parking, which would be subject to the parking standards of 17C.230. *Id.* Apartments and condominiums are categorized as Residential Household Living, which is allowed outright in the Residential Multi-Family zone under SMC Table 17C.111.100-1, Residential Zone Primary Uses.

In the City of Spokane, SMP, Primary Permitted Uses, multifamily residences of 4 or more dwelling units are noted as "CU" in SMC Table 17E.060.690-1, Shoreline Primary Uses. Parking accessory to a permitted use is also permitted in the Shoreline Residential Environment. *Id.*, p. 4. Pursuant to SMC 17E.060.310 a shoreline conditional use permit is required for this development. *Id.*

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.

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

The CP designates the site as “Residential Moderate.” This designation is intended to utilize the neighborhood concept as a unit of design. See CP, Chapter 3, Land Use, pp. 3-6 and 3-7. Neighborhoods should have identifiable physical boundaries. *Id.* A variety of compatible housing types are allowed in a neighborhood and include higher density residences. *Id.* The proposal retains the duplex on site and adds a 12-unit apartment building, which is clearly consistent with the designations for the property and also well-supported by several CP goals and policies.

For example, Policy LU 4.4 calls for a well-connected network that provides safe, direct and convenient access for all users, including pedestrians, bicycles, and automobiles, through site design for new development and redevelopment. See CP, Chapter 3, p. 3-27. Policy LU 5.1 ensure. that developments are sensitive to the built and natural environment. See CP, Chapter 3, p. 3-28. Similarly, Policy 5.5 ensures that infill and redevelopment projects are designed to be compatible with and complement surrounding uses and building types. See CP, Chapter 3, p. 3-29.

The project also addresses the policies that specifically relate to shorelines. The proposed conditions fulfill Policy SMP 1.3, which provides that developers must ensure that there is no net loss of ecological functions of the shoreline. See CP, Chapter 14, p.14-23. This policy is further supported by Policy 10.3, which encourages the use of native plant communities for landscaping. See CP, Chapter 14, p. 14-37. The design of the project fulfills Policy SMP 3.7, which directs developers to minimize the environmental and visual impacts of parking facilities. See CP, Chapter 14, p. 14-28. Similarly, Policies 8.2 and 11.35 ensures that shoreline development includes visual and physical public access to the shoreline without loss of shoreline functions. See CP, Chapter 14, p. 14-34 & p. 14-43, respectively. The 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, p. 14-30.

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

3. *The proposal meets the concurrency requirements of Chapter 17D.010. See 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, on August 22, 2024, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 5.

The city received various comments regarding the proposal. See e.g. Exhibit 5, pp. 3-8. None of the commenting departments or agencies reported that concurrency could not be

achieved. See Exhibit 1, p. 5. 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. *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 17.G.061.310(C)(4).*

The site area is suitable for redevelopment 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 Environmental Checklist that was provided with this application. *Id*; see also Exhibit 4.

Portions of the site are located within the 100-year FEMA floodplain due to previous cut into the grade for the development of the existing duplex. *Id*. A floodplain development permit is included as part of this application per SMC.17E.030 Floodplain Management. See Exhibit 1, p. 5; Exhibit 2, pp. 25-26.

While staff did not receive comments from the Spokane Tribe of Indians, it is known that 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. See Exhibit 1, p. 5.

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

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary, conditions can be placed on the proposal to avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17.G.061.310(C)(5).*

As mentioned above, application materials were reviewed by applicable departments and agencies. Their findings and recommendations are incorporated into the conditions of approval for this proposal. An Environmental Checklist dated August 12, 2024, was submitted by the applicant for review, and a Final DNS was issued on October 18, 2024. See Exhibit 1, p. 6.

The project will be required to meet shoreline design standards found in SMC 17E.060 as well as the Multi-Family design standards found in SMC 17C.111. *Id*. Along Upriver Drive, there is a mix of single-family homes, duplexes, and apartment complexes. *Id*. This new development would blend in well to the surrounding residential uses. *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. 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 [Revised Code of Washington] RCW 90.58.020 and the Shoreline Master Program.*

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

*This proposal is consistent with 90.58 RCW the Shoreline Management Act. This proposal implements the Shoreline Management Act as enunciated in RCW 90.58.020. This proposal will not diminish the quality of the shoreline environment, given the site's characteristic and conditions. The development sits landward of a public right-of-way (Upriver Drive), so there is less impact directly adjacent to the Shoreline. The procedures of Chapter 173-27 of the WAC have been followed.*

See *id.* In addition, the proposal is consistent with the adopted shoreline policies, as is discussed in some detail in Paragraph 2 above.

The site is designated in the SMP as Shoreline Residential Environment and as part of the Upriver Shoreline District. The Shoreline Residential Environment is assigned to accommodate existing, small lot residential development and accessory structures. See Exhibit 1, p. 6. The shoreline residential environment may also provide appropriate public access and recreational uses. *Id.*

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.

- b. *The proposed use will not unreasonably interfere with the normal public use of public shorelines;*

The Hearing Examiner concludes that this project does not affect "normal public use" of the shorelines by the public. The Centennial Trail is a heavily used public trail that will continue to provide public access and views of the Spokane River. See Exhibit 1, p. 7. This proposed development will not interfere with the trail at any point during construction or post construction. *Id.* In addition, the project will enhance access and enjoyment of the Spokane River. *Id.* The construction of housing near the Spokane River will bring people closer to the river and provide future residents with a view of the shoreline. *Id.* The Hearing Examiner concludes that this criterion 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.*

There are other SCUPs in the general vicinity; however, they all work together to improve the Spokane River Shoreline experience and implement the goals and policies outlined in the SMP. See Exhibit 1, p. 7. The surrounding area for at least a half mile is zoned residential, allowing for multiple types of residences to be constructed and allow for continued views of the river for those residing in this area. *Id.* The Hearing Examiner finds this criterion satisfied.

- 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.*

As has been discussed above, the proposed multi-family development is consistent with the Comprehensive Plan and SMP. Existing residential uses exist along this segment of Upriver drive so the proposal is compatible with surrounding uses. See Exhibit 1, p. 7. Ultimately, the Hearing Examiner agrees with and 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.*

As stated previously, the project has been reviewed through the SEPA process and reviewed by applicable departments and agencies. The site will be developed in accordance with the land use requirements in place at the time of building permit. See Exhibit 1, pp. 7-8.

The project is located next to a city street, with access to public roads, water, and sewer, thus all city utilities exist at the site. See Exhibit 1, p. 8. Parking facilities will be located on the landward side of the development, furthest away from the shoreline. *Id.* The design of the project minimizes the traffic and construction impacts on the shoreline environment as much as possible. *Id.* The applicant will be required to show there is no net loss of ecological functions on site during and after the project is complete. *Id.*

For these reasons, 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 for the Woodbee Apartments project, subject to the following conditions:

1. This Shoreline Conditional Use Permit 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 this application, as well as comments received on the project from City Departments and outside agencies with jurisdiction.
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 the impacts resulting from this proposal.
4. Public access to the Spokane River and river views shall be required as part of the Shoreline Master Program and SMC 17E.060.280.
5. The applicant must register all dry wells installed to receive stormwater runoff with Ecology's Underground Injection Control (UIC) Program. Registration must occur 60 days before construction of the drywell.

6. Applicant must 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. 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.
8. 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.

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.

DATED this 14<sup>th</sup> day of November 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.