

**STAFF REPORT ON SHORELINE  
CONDITIONAL USE PERMIT APPLICATION  
FILE NO. Z1500071SCUP**

**I. SUMMARY OF REQUEST AND RECOMMENDATIONS:**

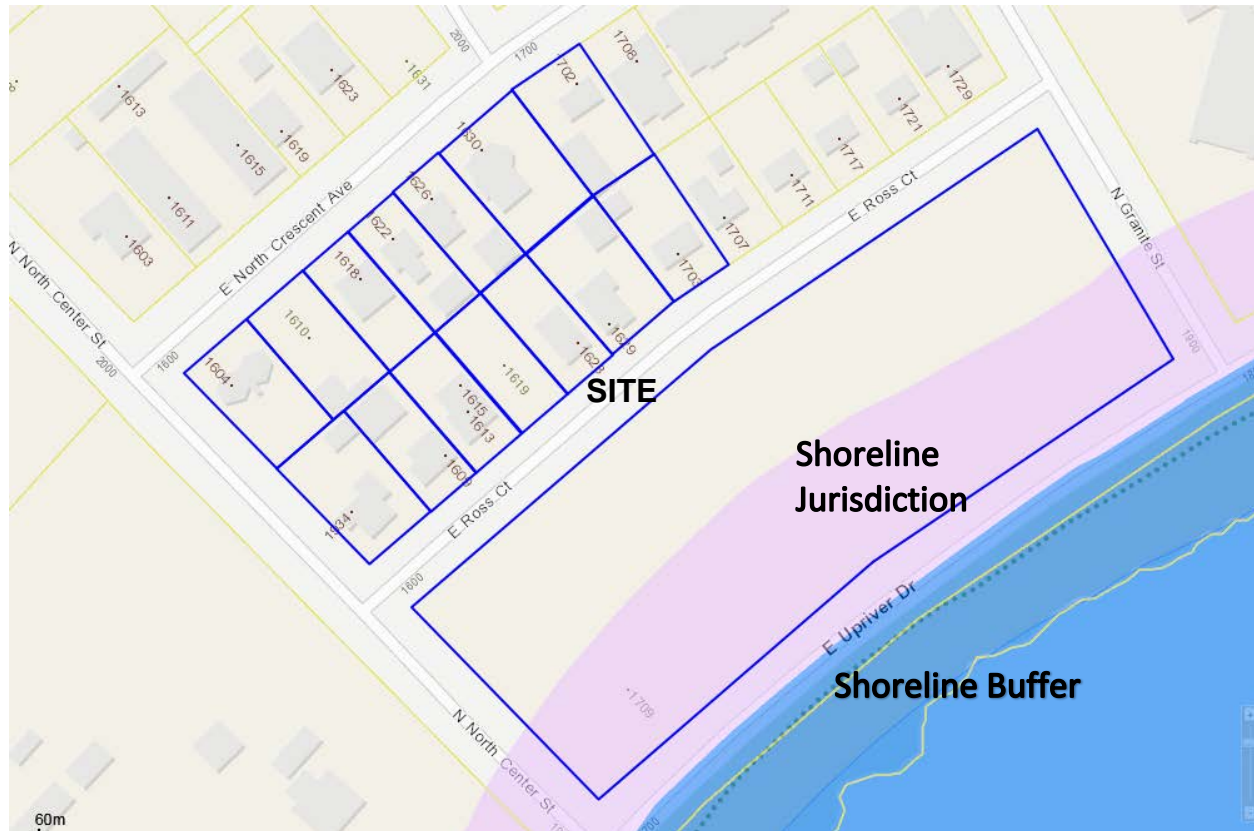
**DESCRIPTION OF PROPOSAL:** The applicant, Avista, is requesting to realign North Center Street, which will result in the intersection of North Center Street and Upriver Drive being moved several hundred feet to the northeast of its current location. This new intersection will be located within the 200 foot shoreline jurisdiction and requires a shoreline conditional use permit. Utilities will also be rerouted and installed within this new alignment.

Recommendation: Staff recommends approval of this application, with conditions.

**II. GENERAL INFORMATION:**

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|----|--|---|
| A. | Applicant:                                     | Avista Corporation, Robin Bekkedahl   |
| B. | Property Owner:                                | Avista Corporation<br>1411 E Mission Ave<br>Spokane, WA 99220   |
| C. | Location of Proposal:                          | The subject property is located at <b>1709 E Upriver Dr</b> , 35093.1314. The following parcels are also partially included in the realignment: 35093.1201, 35093.1202, 35093.1203, 35093.1204, 35093.1205, 35093.1206, 35093.1207, 35093.1208, 35093.1209, 35093.1210, 35093.1211, 35093.1212, 35093.1106, and 35093.1107. |
| D. | Existing Zoning:                               | LI (Light Industrial) and RMF (Residential Multi-Family)  |
| E. | Land Use Plan Designation:                     | Light Industrial and Residential 15-30  |
| F. | Shoreline Designations:                        | Shoreline Urban Conservancy Designation; 75-foot Shoreline Buffer; Upriver Shoreline District   |
| G. | Environmental Overlays:<br>100 year Flood Zone | Habitat and Species, Riparian Habitat Area 2, FEMA  |
| H. | SEPA Status:                                   | A DNS was issued on May 6, 2016   |
| I. | Enabling Zoning:<br>Shoreline Regulations      | SMC 17G.060.170 Decision Criteria; SMC 17E.060  |

- J. Hearing Date: May 19, 2016, 9:00 am
- K. Staff Contact: Ali Brast, Assistant Planner



**III. FINDINGS OF FACT:**

1. Avista is requesting to realign North Center Street, which will result in its intersection with Upriver Drive being within the 200ft shoreline setback of the Spokane River several hundred feet northeast of its current intersection location. This realignment will include the construction of approximately 1,300 linear feet of new roadway. A new public sewer line, waterline, curbs, sidewalks, roadside drainage, driveway approaches and landscaping will also be constructed as part of the realignment. Avista has purchased 14 residential lots situated to the north of Ross Court. The existing homes have either been relocated or demolished in anticipation of this street realignment. Separate from this application, Avista has applied for street vacations of a portion of North Center Street, a portion of E Ross Court, a portion of E North Crescent, and N Hamlin Street.

2. The main subject property is located adjacent to the Spokane River. The Spokane River is designated by the Shoreline Management Act as a shoreline of statewide significance and therefore subject to the requirements of the City of Spokane Shoreline Master Program. The City of Spokane Shoreline Master Program designates this area as Urban Conservancy Environment with a 75-foot buffer from the Spokane River.
3. The subject property is located in the Land Use Categories of Light Industrial and Residential 15-30, according to the City of Spokane's Comprehensive Plan, initially adopted by City Council on May 21, 2001 and subsequently amended. The portion zoned R 15-30 is currently seeking a Comprehensive Plan Amendment to change to Light Industrial.
4. The subject property is located in the base zone LI Zone (Light Industrial). The realignment will also be located in what's currently zoned RMF (Residential Multi-Family), although the applicant applied for a Comprehensive Plan Amendment to change the zoning from RMF to LI to correspond with the campus' adjacently owned properties. The use is a new road which is categorized as a Basic Utility in the Institutional Category under SMC 17C.190.240. Basic Utility uses are allowed outright in the Light Industrial zones under Spokane Municipal Code (SMC) Table 17C.130-1, Industrial Zone Primary Uses. Basic Utilities are also allowed outright in the RMF zone, per Table 17C.110-1 and 17C.110.110.C
5. Land Use Procedures used for Shoreline Conditional Use Permits are located in Spokane Municipal Code Chapter 17G.060.
6. In the City of Spokane, Shoreline Master Program SMC 17E.060.360 Primary Permitted Uses, a new road is an example of a Non-Water Oriented Use. Per SMC Table 17E.060-04, in the Urban Conservancy Environment, New Construction or Expansion of Existing Utilities or Facilities is classified as "L(2)/CU" (Limited/Conditional Uses). Pursuant to SMC 17E.060.700 (2), new construction or expansion of existing utilities or facilities or any parts of those facilities that are non-water oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible alternative is available. If this can be demonstrated, a shoreline conditional use permit is required.
7. In the City of Spokane Shoreline Master Program 17E.060.340, shoreline development requiring a shoreline conditional use permit is subject to design review. However, SMC 17G.040.030 identifies projects exempt from this process. SMC 17G.040.030.A.2.b states that projects that have been designed by a multi-departmental process (including review by staff from engineering, urban design, planning, the urban forester, and other applicable advisory or regulatory departments), clearly meet all adopted City policies, and are not requesting a deviation are exempt from design review. This project meets that criteria and was therefore exempt from formal design review.
8. Procedural Requirements:
  - A Community Meeting was held on 7/15/15;
  - Application was submitted on 9/2/15;
  - A Request for Comments from Agencies and Departments was sent 9/2/15;
  - Applicant was notified on 9/25/15;
  - \*Applicant requested an extension on processing of application on 9/30/15;

- Combined Notice of Application and Public Hearing was mailed and posted on 4/1/16, which began the 30-day public comment period; and
  - The Public Comment Period closed on 5/2/16
9. A Determination of Non-Significance (DNS) was issued on May 6, 2016; Lead Agency, City of Spokane, Planning & Development Tami Palmquist, Associate Planner, Responsible Official. The appeal period is currently active.

#### **IV. DEPARTMENTAL & AGENCY REPORTS**

Notice of this proposal was sent to City departments and outside agencies for their review and comments on September 2, 2015. The City's Engineering Department and the Spokane Tribe were the only agencies to respond. Their comments are included with the file and are made part of this application by reference.

#### **V. CONCLUSIONS**

*SMC 17G.060.170 Decision Criteria – Type II and Type III permit applications.*

1. *The proposal is allowed under the provisions of the land use codes.*

##### Relevant Facts:

The subject property is located in the base zone LI Zone (Light Industrial). The realignment will also be located in what's currently zoned RMF (Residential Multi-Family), although the applicant applied for a Comprehensive Plan Amendment to change the zoning from RMF to LI to correspond with the campus' adjacently owned properties. The use is a new road which is categorized as a Basic Utility in the Institutional Category under SMC 17C.190.240. Basic Utility uses are also allowed outright in the Light Industrial zones under Spokane Municipal Code (SMC) Table 17C.130-1, Industrial Zone Primary Uses. Basic Utilities are allowed outright in the RMF zone, per Table 17C.110-1 and 17C.110.110.C

In the City of Spokane, Shoreline Master Program SMC 17E.060.360 Primary Permitted Uses, a new road is an example of a Non-Water Oriented Use. Per SMC Table 17E.060-04, in the Urban Conservancy Environment, New Construction or Expansion of Existing Utilities or Facilities is classified as "L(2)/CU" (Limited/Conditional Uses). Pursuant to SMC 17E.060.700 (2), new construction or expansion of existing utilities or facilities or any parts of those facilities that are non-water oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible alternative is available. If this can be demonstrated, a shoreline conditional use permit is required.

Staff Comment: The current alignment of North Center St sits in the shoreline jurisdiction and this realignment will place the intersection equidistant from the shoreline. Avista is proposing this realignment to allow their campus to be contiguous and to provide a better buffer between the campus and the retirement community to the east through the installation of additional screening between the uses.

**Staff finds that criterion 1 is met.**

2. *The proposal is consistent with the Comprehensive Plan designation and goals, objectives and policies for the property;*

Relevant Facts: The Spokane Comprehensive Plan, adopted May 2001, designates the subject property as “Light Industrial” This category *is intended for those lighter industrial uses, which produce little noise, odor, or smoke.* (Spokane Comprehensive Plan, 3.5 Description of Land Use Designations, page 34 of the Land Use Chapter).

Specific Comprehensive Plan Policy applicable and supportive of this application:

**CFU 1 Goal** – *Provide and maintain adequate public facilities and utility services and reliable funding in order to protect investment in existing facilities and ensure appropriate levels of service.*

**LU 1.2 Public Facilities and Services** – *Ensure that public facilities and service systems are adequate to accommodate proposed development before permitting development to occur.*

**LU 5.4 Natural Features and Habitat Protection** - *Ensure development is accomplished in a manner that protects significant natural features and wildlife habitat.*

**PRS 1.2 River Corridors** – *Protect river and stream corridors as crucial natural resources that need to be preserved for the health and enjoyment of the community.*

**SMP 1.3 No Net Loss of Ecological Functions** - *Ensure that all shoreline uses and development are regulated in a manner that guarantees no net loss of shoreline ecological functions that are necessary to sustain shoreline natural resources.*

**SMP 5.4 Provisions for Shoreline Protection** - *Require that new development provide adequate provisions for the protection of water quality, erosion control, landscaping, aesthetic characteristics, drainage systems, aquatic and wildlife habitat, views, archaeological sites, and normal public use of the water.*

**Staff finds that criterion 2 is met.**

3. *The proposal meets the concurrency requirements of SMC Chapter 17D.010;*

Relevant Facts: The application was circulated on September 2, 2015, amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved.

The Spokane Tribe provided comments on the proposal on September 14<sup>th</sup>, 2015 and they have been incorporated into this recommendation as conditions of approval.

**Staff finds that criterion 3 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;*

**Relevant Facts:** The site area is suitable for the road construction per the site plan submitted with this application. The applicant lists all physical and environmental elements located on the site, or in the vicinity, in the Environmental Checklist submitted. City departments and other agencies also reviewed this checklist for physical characteristics of the property. The new street will be constructed consistent with City street standards.

**Staff finds that criterion 4 is met.**

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring properties or the surrounding area, considering the design and intensity of the proposed use.*

**Relevant Facts:** As mentioned above, this proposal was routed for review by applicable departments and agencies. Their findings and recommendations are incorporated into the conditions of approval for this proposal. There will be short term impacts on the site during construction.

An Environmental Checklist dated April 28, 2015 with a subsequent Determination of Nonsignificance issued on May 6, 2016 following the close of the public comment period.

**Staff finds that criterion 5 is met.**

*SMC 17G.060.170 Decision Criteria – Shoreline Conditional Use Permit. The purpose of a shoreline conditional use permit is to provide a system within the shoreline master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the shoreline master program.*

6. *The proposed use is consistent with the policies of RCW 90.58.020 and the shoreline master program.*

**Relevant Facts:** This proposal is consistent with the map, goals and policies of the Shoreline Master Program. A portion of this site is located in the area designated by the Shoreline Master Program as Urban Conservancy Environment.

The “urban conservancy” environment is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area and that are not generally suitable for water-dependent uses if any of the following characteristics apply:

- i. They are suitable for water-related or water-enjoyment uses;
- ii. They are open space, floodplain or other sensitive areas that should not be more intensively developed;

- iii. They have potential for ecological restoration;
- iv. They retain important ecological functions, even though partially developed; or
- v. They have the potential for development that is compatible with ecological restoration

The purpose of the “urban conservancy” environment is to protect and restore ecological functions of open space, flood plain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Staff Comment: The realignment of this existing roadway will not inhibit future development of the site. Any subsequent land use applications or building permits would be evaluated using the above criteria at that time.

**Staff finds that criterion 6 is met.**

7. *The proposed use will not unreasonably interfere with the normal public use of public shorelines.*

Relevant Facts: Existing public access and views of the river will not change as a result of this application. There is currently an intersection of these two roadways to the southwest of the proposed intersection. The Centennial Trail runs along the northern side of the river; that recreational trail will not be touched as part of this realignment. There will be temporary impacts to Upriver Dr. during the construction process.

**Staff finds that criterion 7 is met.**

8. *The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the shoreline master program.*

Relevant Facts: Avista has received a handful of other conditional use permits along the shoreline in this area, due to the fact that the campus sits partially within the Shoreline Jurisdiction all along Upriver Drive. However, the applicant typically works closely with the City to ensure proposed development is well suited for the site and its proximity to the River, developing replanting plans and appropriate mitigation where necessary.

**Staff finds that criterion 8 is met.**

9. *The proposed use of the site and design of the project is compatible with other authorized uses within the area and with the uses planned for the area under the comprehensive plan and the shoreline master program.*

Relevant Facts: This institutional use is allowed in both the Light Industrial and Residential Multi-Family zones and will not conflict with any other authorized uses. Currently the site has very little vegetation and any vegetation that does exist is non-native. The existing lawn and any existing ornamental vegetation within the new North Center Street right-of-way will be removed and replaced with typical street trees.

**Staff finds that criterion 9 is met.**

10. *The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located, and the public interest in enjoying the physical and visual access*

*suffers no substantial detrimental effect.*

**Relevant Facts:** This proposal will cause no different effects within the shoreline environment, as the existing North Center Street sits in the shoreline at roughly the same location, just several hundred feet to the southwest. Additionally, this proposal will not have a negative impact on the ability to enjoy the Spokane River as access to the river will go unchanged, except for disruptions during construction.

The project will be located on the northwest (waterward) side the OHWM on a site with very little vegetation. Because of this, no impact to shoreline habitat or ecological function will occur. There will be no temporary or permanent loss of ecological function.

**Staff finds that criterion 10 is met.**

## **VI. RECOMMENDATIONS**

**STAFF CONCLUSION:** The proposal is located within the Shoreline Jurisdictional boundary. The proposal meets the intent of the Spokane Shoreline Master Program and is consistent with the policies of the Shoreline Management Act. The project will mitigate all adverse impacts on the shoreline area, its values or functions. As such, the City of Spokane Planning & Development Department recommends approval of the realignment of North Center Street subject to the conditions stated below and of the other agency permits.

1. The site shall be developed in substantial compliance with the plans submitted with the application dated September 2, 2015, 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.
3. In response to the comments offered on this project by the Spokane Tribe on September 14, 2015, the Tribe will monitor the site work, for which the applicant has already entered into a contract.
4. A flood plain development permit is required to be obtained prior to any earthwork.
5. 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.
6. 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.