

**Shoreline Substantial Development Permit
City of Spokane Planning File Number Z1500034-SSDP**

PLANNING DIRECTOR'S FINDING OF FACT, CONCLUSIONS AND DECISION

Date: July 10, 2015

Applicant: Avista Corporation

Summary of Proposed Action:

This is a Request for a Shoreline Substantial Development Permit for the construction of a 0.7 acre grassy swale on a 3.2 acre parcel within the Ross Court area of the Avista Mission Ave Campus. A portion of the proposed project is determined to be within the Shoreline Jurisdiction of the Spokane River on a site located on East Upriver Drive, between North Center Street and N Granite St, on the north side of the river. The swale will be constructed on the lower southwestern half of parcel 35093.1314, as Avista intends to reroute North Center St to bisect through the middle of the existing parcel in the future. This project will provide a location of needed stormwater collection for current and future planned development on this site. The project will incorporate native trees and other plants placed for landscaping, after the future North Center St realignment, which is planned for a later phase on this site. This permit is for plans substantially in conformance with the plans and application on file with Planning and Development Services.

Location/Context:

The project is located northeast of the Upriver Dr and North Center St intersection. The site address is 1709 E Upriver Drive, Spokane, WA 99220. The existing parcel is roughly 3.2 acres and consists of a developed surface parking lot on the northwestern corner, while the rest of the site is open with gravel and jersey barriers. Existing surrounding land uses include the larger Avista Campus to the southwest, multi-family housing to the northeast, and the Centennial Trail and Spokane River to the south, across Upriver Drive. The creation of this swale and the eventual trees and native vegetation will make this site much more esthetically pleasing for pedestrian, bicycle and vehicle traffic, as well as offer better protection for the river system by providing an infiltration location landward of the Spokane River.

Legal Description:

The site is located on parcel 35093.1314. The property is located in Section 09 Township 25 Range 43E. A full legal description of the subject property is available in the Planning and Development Services Department, located on the 3rd Floor of City Hall, 808 West Spokane Falls Blvd., Spokane, WA 99201-3329.

Existing Conditions:

The site is located adjacent to the Avista Mission Campus to the southwest and the Centennial Trail and the Spokane River. The Centennial Trail runs along the south side of Upriver Drive, which the parcel fronts. Recreational uses along the shoreline in this area include walking and biking. This larger site also provides overflow parking for the campus to the southwest. This site is in the Logan Neighborhood.

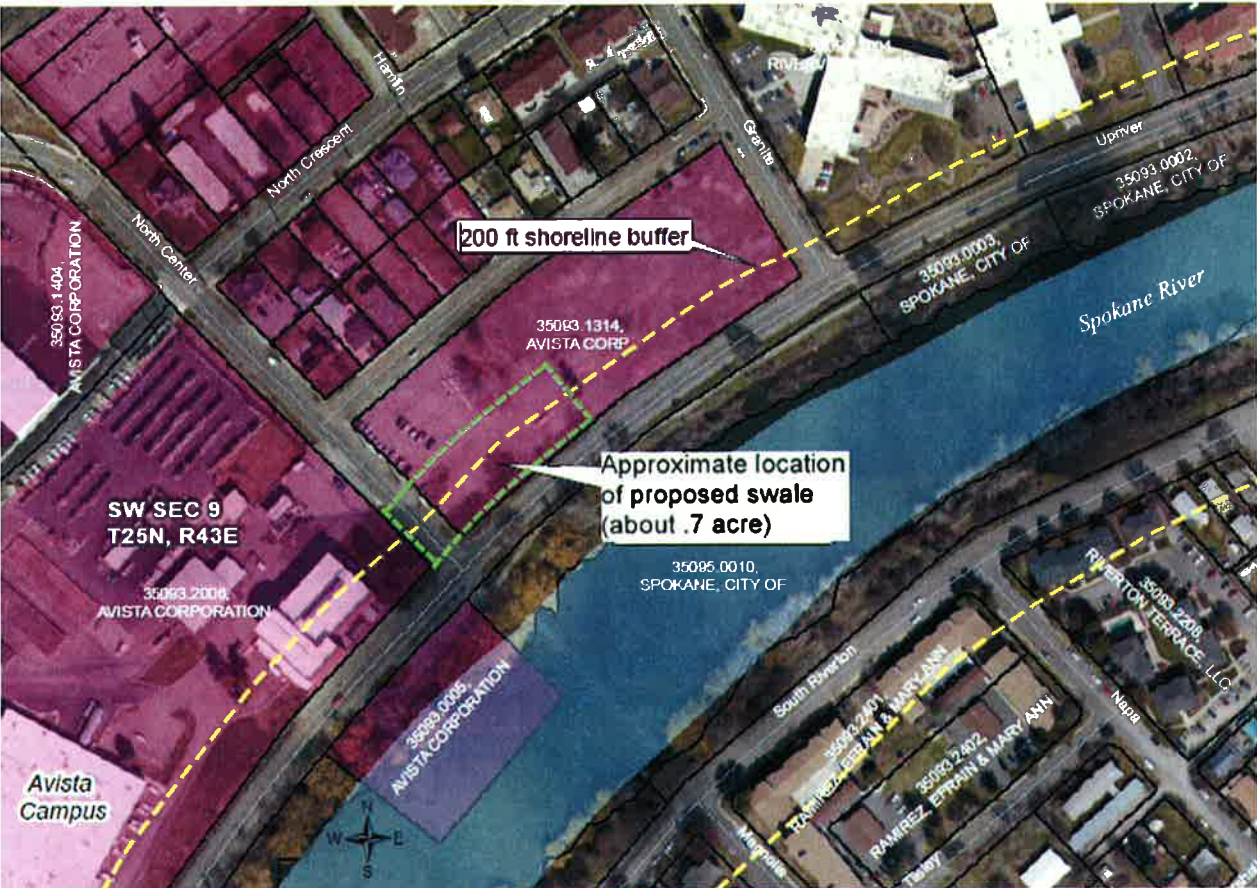


Figure 1: 2012 Aerial View. Green dotted line indicates location of proposed project boundaries.

FINDINGS OF FACT

1. Avista Corporation applied for an Administrative Shoreline Substantial Development Permit, Z1500034-SSDP for the Avista Swale Project on May 15, 2015.
2. The 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 a portion of this site as Limited Urban Environment, while the majority of the site is designated as Urban Conservancy Environment with a 75-foot buffer from the Spokane River. The proposed area for the swale will share Shoreline Environmental Designations; half Limited Urban Environment and half Urban Conservancy Environment.
3. The subject property is located in the Land Use Category of *Light Industrial* according to the City of Spokane’s Comprehensive Plan, amended in January of 2012. Previously, the site had a land use category R 15-30.
4. The subject property is located in the base zone LI (Light Industrial). This development requires a Shoreline Substantial Development Permit because the proposal falls within the shoreline jurisdiction and total cost of the proposed project exceeds \$5,718, the dollar amount established per WAC 173-27-040.
5. The subject property is located within the Riparian Habitat Zone 2, as designated in Spokane Municipal Code Chapter 17E.020, Fish and Wildlife Conservation Areas.

6. A portion of the proposal may be located within the 100 Year FEMA Flood Zone.
7. A Determination of Non-Significance (DNS) was issued on October 16, 2014; Lead Agency, City of Spokane Planning and Development, Scott Chesney, AICP, Director, Responsible Official. This was one of multiple projects included in the environmental review.
8. The application materials pertaining to the Shoreline Substantial Development Permit were distributed to City Departments and other agencies with jurisdiction for comment on May 20, 2015. These comments are on record with the Planning & Development Department.
9. This application was deemed technically complete on June 5, 2015. Notice of Application was provided to the applicant by email.
10. Notice of the Shoreline Substantial Development Permit application was posted on Upriver Drive, at the downtown library, and in City Hall on June 12, 2015. Notices were also mailed to surrounding property owners, taxpayers and occupants within 400 feet of the subject property, as specified on the Notification District Map. The Logan Neighborhood Council was also notified.
11. The public comment period for this shoreline substantial development permit was from June 12, 2015 to June 26, 2015. No public comments were received on this project.

CONCLUSIONS AND DECISION CRITERIA

SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

SMC Chapter 17G.060.170

The intent of the shoreline substantial development permit procedure is to determine the conditions under which a use may be permitted. These permits are subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses permitted in the surrounding area. A shoreline substantial development permit may be granted only if the following facts and conditions are found to exist:

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

Relevant Facts

This proposal of a grassy swale has been identified as an accessory use to the larger Avista site, which is classified as a Capital Facility and Utility. Capital Facilities (Basic Utility) are permitted outright in the Industrial Zones under Spokane Municipal Code (SMC) Table 17C.130-1

Additionally, in the City of Spokane Shoreline Master Program, SMC 17E.060.290 states that no use, modification, or development, except for those listed in SMC 17E.060.300, shall be undertaken in the shoreline jurisdiction without first obtaining a shoreline substantial development permit. Substantial developments include any development where the total cost or fair market value exceeds \$5,718.

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

Relevant Facts:

The subject property is located in the Land Use Category of *Light Industrial* according to the City of Spokane's Comprehensive Plan, initially adopted by City Council on May 21,

2001. This site underwent a Comprehensive Plan Amendment in 2012; it previously had a land use category of R 15-30. This proposal is in anticipation of the planned Avista campus expansion and street reroute. This proposal is consistent with the intent of several Comprehensive Plan Policies.

CFU 3 Coordination – Goal: *Promote contiguous, orderly development and provision of urban services through the regional coordination of land use and public services related to capital facilities and utilities.*

CFU 4 Service Provision – Goal: *Provide public services in a manner that facilitates efficient and effective delivery of services and meets current and future demand.*

CFU 4.1 Compact Development: *Promote areas of concentrated development in designated centers to facility economical and efficient provisions of utilities, public facilities, and services.*

SMP 4.1 Preservation of Natural Resources - *Preserve and properly utilize the natural resources of the shorelines, including scenic vistas, aesthetics, vegetation, and vital estuarine areas for fisheries and wildlife protection.*

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.*

SMP 8.2 Access and Shoreline Ecological Functions - *Assure that public access improvements result in no net loss of shoreline ecological functions.*

SMP 10.2 Native Plant Restoration - *Maintain and restore native plant communities within the Shoreline Jurisdiction in order to:*

- ◆ *Ensure no net loss of ecological functions; and*
- ◆ *Improve impaired ecological functions.*

SMP 10.3 Landscaping with Native Plants - *Encourage the use of native plant communities for landscaping within the Shoreline Jurisdiction.*

SMP 11.35 Visual and Physical Access in Development - *Ensure that shoreline development includes, when feasible, visual and physical public access to the shorelines, while avoiding, minimizing, or mitigating negative impacts to the shoreline.*

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

Relevant Facts:

The application was circulated on May 20, 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. This application will be subject to compliance with the various conditions of approval.

4. *If approval of a site plan is required, the property is suitable for the proposed use and a site plan considering the physical characteristics of the property including but not limited to size, shape, location, topography, soil, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features;*

Relevant Facts:

Comment was offered on this project by the Tribal Historic Preservation Officer of the Spokane Tribe of Indians on May 28, 2015, requesting monitoring on ground of any

disturbing activity. This request was passed along to the applicant, who had no concerns with this request. As in all cases, if any artifacts or human remains are found upon excavation, the THPO office should be immediately notified and the work in the immediate area ceased.

The City's engineering department provided comments with no concerns, stating that any comments regarding the design of the proposal will be handled with the engineering permit that is currently under review with Planning and Development.

Per the shoreline regulations, SMC Section 17E.060.200 Water Quality and Stormwater, stormwater management facilities shall be developed in such a manner that there is no net loss of shoreline ecological functions or a significant impact to aesthetic qualities or recreational opportunities. The site has not provided much in terms of aesthetics or shoreline function for quite some time. The addition of native landscaping including trees and plants will increase the site's stormwater function and contribution to the shoreline.

The project is required to meet the standards outlined in SMC Section 17E.060.490 General Requirements for Shoreline Use and Modifications: Part V. Requirements for Specific Shoreline Uses: Capital Facilities and Utilities and, specifically as these relate to stormwater management. Stormwater facilities shall be built to the standards in chapter 17D.060 SMC and other applicable city standards.

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 the neighboring property or the surrounding area, considering the design and intensity of the proposed use;*

Relevant Facts:

This project has undergone review through the SEPA process. A Determination of Non-Significance was issued on October 16, 2014.

6. *The proposal is consistent with the map, goals and policies of the Shoreline Master Program;*

Relevant Facts:

This proposal is consistent with the map, goals and policies of the Shoreline Master Program. The Shoreline Master Program designates a portion of this site as Limited Urban Environment, while the majority of the site is designated as Urban Conservancy Environment with a 75-foot buffer from the Spokane River. The proposed area for the swale will share Shoreline Environmental Designations; half Limited Urban Environment and half Urban Conservancy Environment.

The "limited urban" environment is assigned to shoreline areas at which seek to accommodate a range an mixture of water-oriented residential, commercial and institutional uses at moderate intensity and density levels, while protecting existing ecological function and restoring ecological functions in areas that have been previously degraded. The "urban conservancy" environment is assigned to shoreline areas seeking 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.

The applicant notes that the designation does not accurately reflect the actual conditions of the site, as the site is separate from the river by Upriver Drive and the majority of the

natural area is located near the river itself. The site has been substantially disturbed and the addition of the proposal and the future addition of natural vegetation will bring the site closer into compliance with shoreline goals and policies, while also providing more ecological function to the site.

7. *The proposal is consistent with chapter 90.58 RCW (Shoreline Management Act) and Chapter 173-27 WAC (permits for development on shorelines of the state);*

Relevant Facts: 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 recognizes the interest of the public while enhancing the natural character of the shoreline, results in long term benefit, and increased visual public access to the shoreline. The procedures of Chapter 173-27 of the WAC have been followed.

DECISION – Conditions of Approval

TO APPROVE the Shoreline Substantial Development Permit, subject to conditions, for the construction of a grassy swale; substantially in conformance with the plans and application on file in the Planning & Development Department, and the following conditions of approval:

1. This Shoreline Substantial Development Permit is subject to the compliance of this proposal with all applicable codes and requirements including shoreline regulations, public access, and site coverage;
2. The site shall be developed in compliance with the plans on record and comments received on the project from City Departments and outside agencies with jurisdiction;
3. The contractor is required to have a Construction Stormwater Pollution Prevention Plan (SWPPP) in place prior to and during construction in order to prevent sediment laden stormwater run-off or other pollutants from entering the Spokane River;
4. A phased landscape plan will be required, indicating which plantings will be completed with this permit and which plantings will be completed with the future street reroute.

Spokane Tribe Conditions:

5. Coordination with the Spokane Tribe of Indians for monitoring on ground of any disturbing activity is required.
6. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning 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;

Additional Conditions:

7. A Floodplain Permit may be required for this proposal. If it is required, an application is required to be submitted with the Building Permit Application for any work proposed within the 100 Year FEMA Flood Zone.
8. This Shoreline Substantial Development Permit is not transferable to any other property;

9. Construction pursuant to this permit shall not begin and is not authorized until twenty-one days from the "date of filing" by department of ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.149(5)(a) and (b);
10. Prior to the issuance of building or grading permits for the construction contemplated in this shoreline substantial development permit application, the applicant shall submit evidence to this file that the property owner has signed and caused the "Shoreline Substantial Development Permit Agreement" to be recorded with the Spokane County Auditor's Office.

Expiration:

In compliance with WAC 173-27-090, construction activities shall commence within two years of the effective date of this permit unless an extension has been granted; authorization to conduct development activities shall terminate five years after the effective date of filing.

NOTICE OF RIGHT TO APPEAL

Appeals of the Planning Director's decision are governed by Spokane Municipal Code 17G.060.210. Any aggrieved party may file an appeal of this decision. Decisions of the Planning Director regarding administrative permits (Type II) are final. They may be appealed to the City of Spokane Hearing Examiner within fourteen (14) calendar days of the date of this decision. The date of this decision is the 10th of July, 2015. In the case of Shoreline Substantial Development Permits, an additional appeal period occurs following filing of the Shoreline Substantial Development Permit with the Department of Ecology. Such appeals may be made to the Shorelines Hearings Board.

The date of the last day to appeal to the City of Spokane Hearing Examiner is the 24th day of July 2015 at 4:00 P.M.

The appeal fee (\$250.00) must be paid in full at the time the appeal is made. The form for filing an appeal is available from the Planning Services Department.

Dated this 10th day of July, 2015



JoAnne Wright, AICP, Associate Planner
on behalf of Louis Meuler, Interim Planner Director
Planning and Development

By Ali Brast, Assistant Planner