

CITY OF SPOKANE HEARING EXAMINER

Re: Skywalk Application by) FINDINGS, CONCLUSIONS,
Spokane Public Facility District) AND DECISION
)
) FILE NO. Z1400022-SKWK

SUMMARY OF PROPOSAL AND DECISION

Proposal: The Spokane Public Facility District seeks approval of a Type III Skywalk Permit to connect a new mezzanine floor in the Convention Center to the second floor of the new convention hotel. The applicant also seeks approval of a variance to exceed the fourteen foot height limit for the skywalk structure.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: Spokane Public Facility District
Attn: Kevin Twohig, CEO
720 W. Mallon Avenue
Spokane, WA 99201

Owners: Spokane Public Facility District
Attn: Kevin Twohig, CEO
Convention Center Hotel, LLC
Attn: Walt Worthy

Agent: Jim Kolva
115 S. Adams Street, #1
Spokane, WA 99201

Property Location: The subject site is located at 333 and 334 W. Spokane Falls Boulevard, west of the intersection at Bernard Street and Spokane Falls Boulevard. The proposed skywalk will cross Spokane Falls Boulevard.

Zoning: The property is zoned DTG (Downtown General).

Comprehensive Plan Map Designation: The property is designated as Institutional and Downtown in the City’s 2001 Comprehensive Plan.

Site Description and Surrounding Conditions: The proposed skywalk will be constructed in the air space over Spokane Falls Boulevard. The proposed site is

between Bernard Street and Washington Street, but close to the intersection of Bernard Street and Spokane Falls Boulevard. On the south side of Spokane Falls Boulevard, the new convention hotel is under construction. That construction project encompasses the entire block between Bernard Street and Washington Street, to the east and west, and Spokane Falls Boulevard and Main Street to the north and south. On the north side of Spokane Falls Boulevard is the Convention Center, the Ag Trade Center, and the INB Performing Arts Center. Further to the north is the Spokane River and Riverfront Park.

Surrounding Zoning: The Convention Center is zoned DTG-100, and the new Convention Center Hotel is zoned DTC and DTC-100 on the northwest corner. The INB Performing Arts Center and Ag Trade Center are zoned Institutional. Riverfront Park is classified as Open Space. The zoning in the area is predominantly downtown.

Project Description: The applicant has requested approval of a Type III Skywalk Permit to construct a skywalk over Spokane Falls Boulevard to connect a new mezzanine floor within the Spokane Convention Center to the parking garage of the new convention hotel. The skywalk will be approximately two stories above the street. The proposed skywalk will be approximately 112 feet in length and 18 feet in height. A variance has been requested to exceed the 14 foot height limit for the structure, in order to accommodate the difference in height between the Convention Center and the new convention hotel. The applicant requested this variance because the allowable external slope of the structure (1%) is less than the slope allowed for the internal ramp (5%). The structure needs to be deepened, therefore, to meet the external slope requirement and account for the height differences between the buildings, while still preserving the aesthetics of the skywalk and receiving buildings. The skywalk will include steel structure, a ramp and mechanical/electrical equipment, and will be enclosed with glass and aluminum panels. The purpose of the project is to provide a grade-separated, all-weather pedestrian connection over Spokane Falls Boulevard.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (“SMC”) Chapter 12.02, Article III, Skywalks, and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: March 10, 2014
Posted: March 10, 2014

Notice of Application/Public Hearing: Mailed: June 2, 2014
Posted: June 3, 2014

Design Review Board: Workshop Meeting: November 13, 2013
Recommendation Meeting: June 25, 2014

Community Meeting: March 26, 2014

Site Visit: July 18, 2014

SEPA: A Determination of Nonsignificance (“DNS”) was issued by the City of Spokane Engineering Department on June 18, 2014.

Hearing Date: July 10, 2014

Testimony:

Tami Palmquist, Associate Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Stanley M. Schwartz
Witherspoon Kelley
422 W. Riverside Ave., Suite 1100
Spokane, WA 99201

Bert Lomax
6517 S. Pittsburg
Spokane, WA 99223

Jim Kolva
115 S. Adams St., #1
Spokane, WA 99201

Kevin Twohig
Spokane Public Facilities District
720 W. Mallon Avenue
Spokane, WA 99201

Larry Soehren
PFD Project Chair
601 W. Main, #400
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
2. Application, including:
 - 2A General Application
 - 2B Variance Permit Application
 - 2C Skywalks and Air Right Use Application
 - 2D Project Description
 - 2E Design Review Application and Project Summary
 - 2F Site Plan
 - 2G Rendering of Area of Gateway Sign Graphic
 - 2H Aerial view of proposed skywalk
 - 2I Building Sections
3. Skywalk Specifications Checklist
4. Pre-Development Conference Notes
5. Engineering Services comments
6. Building Services comments
7. Design Review comments
 - 7A dated 11-05-13
 - 7B dated 11-14-13

- 7C Undated response to 11-14-13 comments from applicant
- 7D dated 06-16-14
- 7E dated 06-30-14
- 8. Spokane Regional Clean Air Agency comments
- 9. Spokane Tribe of Indians comments
- 10. Notice map
- 11. Parcel and address listing
- 12. Notice of Community Meeting
- 13. Notice Application and Public Hearing
- 14. Affidavit of mailings:
 - 14A dated 03-10-14
 - 14B dated 06-02-14
- 15. Affidavit of posting:
 - 15A dated 03-10-14
 - 15B dated 06-03-14
- 16. SEPA Determination of Nonsignificance dated 06-18-14
- 17. Environmental Checklist
- 18. Community meeting attendance roster
- 19. Community meeting agenda
- 20. Community meeting summary
- 21. Letter dated 02-21-14 to Jim Kolva from Tami Palmquist
re: community meeting instructions
- 22. Letter dated 05-13-14 to Interested Parties from Tami Palmquist
re: requesting comments
- 23. Letter dated 05-28-14 to Jim Kolva from Tami Palmquist
re: notice of application/public hearing instructions
- 24. Email dated 06-09-14 to Tami Palmquist from Bert Lomax
re: opposing project
- 25. Email dated 06-09-14 to Hearing Examiner's Office from Stan Schwartz
re: memorandum in support of skywalk application
- 26. Hard copy of PowerPoint presentation by Tami Palmquist
- A-1 Email dated 06-01-14 to Tami Palmquist from Gary Pollard, Chair, Riverside
Neighborhood Council
re: in support of skywalk project

FINDINGS AND CONCLUSIONS

To be approved, the proposed skywalk and variance applications must comply with the criteria set forth in Spokane Municipal Code sections 17G.060.170. The Hearing Examiner has reviewed the proposed applications and the evidence of record with regard to the application and makes the following findings and conclusions.

A. Skywalk Application

1. *The proposed skywalk or air rights use is consistent with the comprehensive*

plan. See SMC 17G.060.170(E)(3)(a).

The proposal is generally consistent with the comprehensive plan. There are numerous policies that which broadly support pedestrian connectivity throughout the downtown. See Exhibit 1, p. 5. The proposal certainly advances the goal of connectivity, in particular by creating a convenient and safe way for pedestrians to travel to and from the convention areas, the performing arts center, parking, and the new hotel. In this regard, the proposed skywalk makes eminent sense.

There is apparently only one policy that is explicitly directed to skywalks, namely Policy TR 2.10, entitled "Pedestrian and Bicycle Linkages Across Barriers." See id. That policy provides that skywalks should only be developed where pedestrians cannot be safely accommodated at the ground level. The Hearing Examiner believes that pedestrian safety is a genuine problem at this particular location. There is a history of pedestrian traffic exiting the convention area and performing arts center, in particular, and into Spokane Falls Boulevard in order to reach parking areas on the south side of the street. *Testimony of K Twohig.* Spokane Falls Boulevard is fairly heavily trafficked, and the intensity of such use will only increase with the new convention hotel being erected. The Hearing Examiner concludes that these circumstances often result in unsafe conditions for pedestrians. Efforts to date to address the issue (e.g. bike-rack style barriers along the sidewalk to guide pedestrians to cross-walks), while well intended given the lack of alternatives, seem far from optimal. The proposed skywalk is a logical and effective option to reduce the likelihood of conflict between pedestrians and vehicles. Connecting the campus to parking by a separated walking route appears to be a well-considered alternative to otherwise unsatisfactory conditions.

The objectives of the comprehensive plan are also supplemented by a specific plan developed for downtown. As the applicant noted, this subarea plan adds detail to the city's comprehensive plan. See Exhibit 25, p. 3 (citing SMC 17B.010.020). There are numerous policies in the downtown plan that generally supports the development of the convention area campus. See Exhibit 2C, pp. 1-8. The Hearing Examiner generally agrees with the comments from the applicant in this regard. See id. The Hearing Examiner concludes that the proposed skywalk is consistent with and constitutes a beneficial component of that campus. And this conclusion further establishes that the proposal is consistent with the goals and policies of the comprehensive plan, as refined or supplemented by the downtown plan.

The Hearing Examiner concludes, consistent with the Staff, that this criterion for approval is satisfied.

2. *The proposed skywalk or air rights use conforms to the standards contained in sections 12.02.0430 through 12.02.0474, unless design deviations have been approved by the Design Review Committee. See SMC 17G.060.170(E)(3)(b).*

The proposal satisfies the development standards contained in the municipal code. While the applicant has proposed certain deviations from those standards, those

departures from the letter of the codes are properly addressed by variance requests. That matter aside, the Hearing Examiner believes that all the municipal standards are satisfied in this case, as the following discussion demonstrates.

Initially, it should be recognized that the design elements of the proposal have already been considered and deemed satisfactory by the Design Review Board. The Design Review Board considered the proposed design at a workshop on November 13, 2013. See Exhibit 1, p. 5. Following that workshop, the Design Review Board suggested modifications to the proposed plan. See id. Thereafter some adjustments were made to the plans. See id. The Design Review Board then considered the revised plans and endorsed them as satisfying technical requirements and aesthetic objectives. See id. The Hearing Examiner is aware of no evidence, in this record, to justify reaching a conclusion contrary to the Design Review Board, hereinafter “DRB”.

The proposed skywalk addresses the technical design standards and requirements. As the DRB recognized, the proposed skywalk meets the standards for transparency; finish materials; structural materials; glazing; drainage; vertical clearance; ramp construction; lighting; level connection; street access and other similar standards. See e.g. SMC 12.02.0450, 12.02.0452, 12.02.1462, 12.02.0464, 12.02.0470, 12.02.0472 and 12.02.0474 . In any event, conformity with such technical design requirements will be a condition of this approval. Generally speaking, these are not optional goals, that are code-based development standards. The only anticipated deviations from these standards are those addressed in the variance application (discussed further below). So long as the variance is granted with respect to such deviations, the proposal will be developed in full conformity with the design requirements.

One design issue that calls for specific attention is the question of signage. The applicant proposes to display the words “Convention Center” on the glass of the Skywalk. See Exhibit 1, p. 7. A depiction of the proposed display is provided in Exhibit 2E. This proposal needs to be considered more carefully because the municipal code provides that “[n]o advertising, readerboards, or other signs, except City traffic signs, shall be permitted on the internal or external portions of the skywalk structures.” See SMC 12.02.0470(A).

The Hearing Examiner concludes that the SMC 12.02.0470, considered alone, prohibits the proposed signage on the skywalk glass. While the Hearing Examiner agrees that the signage may not qualify as advertising, and is certainly not a readerboard, the proposed display clearly does fit within the meaning of “other signage.” The term “other signage” is quite broad. There are no provisions in SMC 12.02.0470 limiting the scope or meaning of “other signage.” The applicant suggests, nonetheless, that the proposed signage is in the nature of a “city traffic sign,” and therefore fits within an express exception to the rule against signage. See Exhibit 25 p. 4 n.1; see also Exhibit 7C p. 3. The Hearing Examiner disagrees, to the extent the applicant may be suggesting that the exception for “city traffic signs” literally applies in this case. The proposed display is not a traffic sign. Thus, on its face, SMC 12.02.0470 prohibits the proposed signage. However, that is not the end of the analysis.

Despite the foregoing, the Hearing Examiner concludes that the proposed display should be permitted as an authorized design deviation. Under the municipal code, the Design Review Board may approve deviations for skywalk applications. See SMC 17G.060.170(E)(3)(b). In addition, the Hearing Examiner is authorized to allow design exceptions as deemed appropriate, but only if such deviations are recommended by the Design Review Board. See id. In this case, following the workshop, the Design Review Board recommended that the applicant give greater consideration to “design options that could create a more distinctive gateway to Downtown.” See Exhibit 7B. The applicant then proposed a design that included the graphic simply stating “Convention Center,” marking the entrance to the convention area of downtown. See Exhibit 7C. In a subsequent meeting, the Design Review Board approved the revised design, including the signage, with a clear understanding of the requirements of SMC 12.02.0470. See Exhibits 7D and 7E. The Hearing Examiner concurs with the Design Review Board's recommendation to approve the proposed design, for a number of reasons.

The convention campus is located at a gateway point to downtown. The proposed location of the skywalk is an ideal location to demark that entrance. As the applicant notes, the skywalk bridges “two structures that will now anchor the East End Gateway.” See Exhibit 7C, p. 2. The signage would also promote the wayfinding objective of the Downtown plan. While the signage is not literally a traffic sign, the display does touch upon some of the purposes of such signage, by calling attention to the location of public or community amenities. The signage does not turn the skywalk into a billboard or set any kind of precedent that for displays on other skywalks in the downtown area. The situation presented in this case is quite unique, given the nature of the convention campus, the lack of retail traffic or operations within the campus itself (on the north side of Spokane Falls Boulevard), the proximity to a gateway point into the city, and the like. And the design is tasteful, blending in perfectly with the surroundings and aesthetics of the campus. Ultimately, the Hearing Examiner agrees with the applicant that the signage helps create a distinctive gateway to downtown Spokane, as requested by the Design Review Board.

The Hearing Examiner concludes, for the reasons discussed above, that this criterion for approval is met.

3. *The proposed skywalk or air rights use conforms to the standards contained in the uniform codes. See SMC 17G.060.170(E)(3)(c).*

Adherence to the uniform codes is a fundamental prerequisite and condition to the issuance of building permits. See Exhibit 1, p. 9. Compliance with those standards is a condition of this approval. No comments or evidence was submitted suggesting that this project could not or would not satisfy such standards. As conditioned, this project will be developed in accordance with the uniform codes. As a result, the Hearing Examiner concludes that this criterion is satisfied.

4. *The City is compensated for the fair market value of public air space used for any*

activity other than public pedestrian circulation. See SMC 17G.060.170(E)(3)(d).

By the terms of this criterion, no compensation is due to the City if the skywalk is installed for purposes of public pedestrian circulation. That is the express purpose of this skywalk. As a result, no compensation is required. See Exhibit 1, p. 9. The Hearing Examiner agrees with Staff that this criterion is inapplicable to this proposal. See id.

- 5. An agreement, satisfactory to the City Attorney, indemnifies and holds the City harmless against all loss or liability, and the applicant obtained approved public liability insurance, naming the City as an additional named insured, with combined limits of \$500,000.00. See SMC 17G.060.170(E)(3)(e) and SMC 12.02.0430.*

The Staff and the applicant both confirmed that the required agreement is in the process of being prepared for presentation to the City Council. The presentation and execution of the required agreement is, in fact, a condition of this approval. Therefore, this criterion will be satisfied if this project is to go forward.

B. Variance Application

- 1. A variance or modification of the standard or requirement is not prohibited by the land use code. See SMC 17G.060.170(E)(1)(a).*

The applicant sought a variance from the requirement that the skywalk structure itself be no more than 14 feet in height. See Exhibit 2B. The Staff concluded that this criterion is satisfied because there the municipal code does not contain a prohibition against obtaining a variance from this height limitation. See id. As further evidence that no such prohibition exists, the Staff notes that the Hearing Examiner, conditioned upon a DRB recommendation, is authorized under SMC 12.02.0424 to approve exceptions to such design requirements. See id. The Hearing Examiner agrees with these conclusions.

- 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.060.170(E)(1)(b).*

The Hearing Examiner reads this criterion to require, in essence, that if there is another, less drastic, way to obtain an exception or deviation from code requirements, other than a variance, that procedure must be followed rather than seeking a variance. The exception to this proscription is for cases in which the alternative to the variance option is “unduly burdensome.”

Given this understanding, the Hearing Examiner doubts that a variance is necessary in order to approve the height modification for the skywalk. SMC 12.02.0424 allows the Hearing Examiner to grant exceptions to the skywalk regulations under Chapter 12, provided the DRB first recommends such changes. The design exception authorized in SMC 12.02.0424 does not state that the granting of the exception is dependent upon satisfying the requirements for a variance. That code section does

reference Chapter 11.02 of the SMC. However, Chapter 11.02 has been repealed. Moreover, Chapter 12.02 has replaced the former provisions related to skywalks. See e.g. former SMC 11.02.0466 (stating the decision criteria for skywalk permits).

In this case, the DRB specifically approved the design as presented. See Exhibits 7C and 7E. That design, as presented, was for a skywalk structure that exceeded fourteen feet in height. On this record, there appeared to be no substantive changes to the design following the DRB's recommendation on June 25, 2014. Although the testimony was not explicit in this regard, it would appear, under these circumstances that the DRB approved the structure even though it exceeded the height limitation, and did so in order to ensure certain design objectives were satisfied.

Assuming that the Hearing Examiner has misunderstood something and a variance application is actually mandated in this case, the applicant properly requested a variance, having no better alternative to pursue. The Hearing Examiner also recognizes that the applicant likely felt compelled to apply for the variance, in order to avoid discovering, at this late juncture, that a variance application was actually required. In any event, as the Staff concluded, other than the design deviation first sought through the DRB, there is no alternative for the applicant other than to request a variance. See Exhibit 1, p. 4. Therefore, this criterion for approval of the variance is satisfied.

3. *Strict application of the standard or requirement would create an unnecessary hardship because the property cannot be developed to the extent similarly zoned property in the area can be developed due to the physical characteristics of the improvements. See SMC 17G.060.170(E)(1)(c).*

The Hearing Examiner concludes that this criterion for approval of a variance is satisfied. A variance from the height limitation was necessitated by the difference in height between the two receiving structures, i.e. the existing Convention Center and the new convention hotel under construction. The skywalk must be connected on the second floor. Due the difference in the height of the respective second floors, the external structure of the skywalk, without modifications, would exceed the 1% slope limitation. To address this issue, the application proposed to deepen the structure to 18 feet, so that the external structure would satisfy the slope requirement, even though the internal ramp would slope to a degree greater than 1%.

The only evidence in this record is that the difference in height between the structures was not within the control of the applicant. The Public Facilities District is not in a position to dictate to the hotel developer the precise height of the second floor of the new facility, which is already partly constructed. And the Convention Center was built decades ago, so its height is predetermined. Thus, the problem being addressed was not "self-created." See SMC 17G.060.170(E)(1)(c). It would be wholly unreasonable to condition the project on some radical modification to the already existing Convention Center, merely to ensure the aesthetic objective for skywalk slope was maintained. That is the kind of unnecessary hardship that the variance standards were designed to avoid.

There is no question that a variance can be granted based upon the height differences between the two buildings. Under the applicable criteria, a variance can be granted when the “physical characteristics” of “the improvements” do not allow such development. See id. Thus, a variance is allowed not only due to conditions of the land itself, but also of improvements to the land, such as the two buildings in question, one pre-existing, and one under construction.

This is the kind of case contemplated by the variance standards. As a result, the Hearing Examiner concludes that this criterion for approval of a variance is met.

4. *The project should be approved because surrounding properties will not suffer significant adverse effects; the appearance of the property or use will not be inconsistent with the development patterns of the surrounding property; and the ability to develop the property in compliance with other standards will not be adversely affected. See SMC 17G.060.170(E)(1)(d).*

The Hearing Examiner concludes that the proposal does not create adverse effects on surrounding properties. As the Staff notes, the Convention Center dominates the north side of Spokane Falls Boulevard at the relevant location. See Exhibit 1, p. 4. The new convention hotel will take up the entire block on the south side of Spokane Falls Boulevard between Washington Street and Bernard Street. See id. None of the nearby uses, such as a restaurant, offices, or an apartment building, will be negatively affected by the presence of a skywalk. See id. The impacts on views are affected minimally, as the skywalk is largely transparent in accordance with the code. No historic features or contexts are negatively impacted. See id.

The skywalk is designed to blend in aesthetically. The variance request will facilitate this quality, by disguising the deviation from the slope requirements and ensuring that the skywalk appears level. See id. The additional height of the skywalk will also appear proportional given the length of the structure. See id.

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

5. *The requested variance does not 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.060.170(E)(1)(e).*

Pursuant to SMC 12.02.0420, a skywalk may be constructed in any part of the City of Spokane. As a result, the proposed variance does not allow an otherwise prohibited use or standard. The Hearing Examiner concurs with Staff that this criterion is therefore satisfied.

6. *Any floodplain variance is subject to the additional criteria found in SMC 17E.030.090 and SMC 17E.030.100. See SMC 17G.060.170(E)(1)(f).*

This application is not subject to floodplain requirements. See Exhibit 1, p. 5. The Hearing Examiner agrees with Staff that this criterion is not applicable. See id.

C. Comments in Opposition to Application

The Hearing Examiner acknowledges that there was one strong voice in opposition to the project. Mr. Lomax offered an intelligent and fairly persuasive critique regarding the problems created by the downtown skywalk system, as well as the city's utilization of one-way streets in the downtown area. Although his arguments were well articulated and had some merit, the Hearing Examiner nonetheless concludes that this project should be approved.

First, the Hearing Examiner must note that the applicant has satisfied all the criteria for approval of the project, as is extensively discussed above. Mr. Schwartz correctly noted that the approval criteria do not apparently grant the Hearing Examiner discretion to deny the project based upon the issues raised by Mr. Lomax. For example, the Hearing Examiner doubts that he has the authority to deny the application because, hypothetically, an additional skywalk would reduce foot-traffic to retail businesses at the street level. For the most part, the objections raised are policy questions that would have to be addressed legislatively, i.e. by the City Council.

Second, even if the Hearing Examiner had the requisite authority to deny the project on the suggested grounds, the Hearing Examiner would nonetheless approve the project on this record. The Hearing Examiner believes that Mr. Lomax's criticisms are better directed at the existing skywalk and street system in the core of downtown, rather than to this project. The Hearing Examiner agrees with Mr. Soehren that the proposed skywalk is essentially a single-purpose structure that is not oriented in or around retail uses. The Hearing Examiner also agrees with Mr. Twohig that the proposed structure is more analogous to the skywalk between Riverpark Square and City Hall, than to the skywalk systems more centrally located downtown. In the Hearing Examiner's opinion, the use of the skywalk to reach the convention campus from the parking garage will not adversely affect street-level retail, or create a "vacuum" of sorts that invites deterioration at the street level. There will undoubtedly be a great deal of pedestrian traffic in front of the new hotel, as well as in and around the convention center campus. What will not be as likely, however, is that folks will be taking unnecessary risks crossing Spokane Falls Boulevard.

DECISION

It is the decision of the Hearing Examiner to approve the proposed skywalk application subject to the following conditions:

1. Approval is for a skywalk to extend across Spokane Falls Boulevard. The skywalk is to be built in the location and with the design substantially in accordance with the

plans submitted to the City and in the record as Exhibits 2F, 2G, 2H and 2I. Any proposed changes to those plans shall be submitted to Planning Services for review and approval. If Planning Services finds the proposed changes to be substantial then they will be submitted to the Hearing Examiner for review and approval.

2. Pursuant to SMC Section 12.02.0452, Further Specifications, construction plans submitted for a building permit must conform with the following requirements:
 - A. The construction of skywalks shall be in accordance with the plans and specifications filed with the City, and shall comply with the City building code, so as to provide necessary fire protection between the pedestrian skywalk structure and the buildings to which it is connected, as well as necessary fire protection between properties within the tributary malls and walkways.
 - B. Skywalks must be designed and constructed so as to bear solely upon privately owned land and be removable without affecting the structural integrity of the buildings situated on private land.
 - C. All glazing within the skywalk structure shall be not less than one-quarter inch thick tempered glass set in metal frames. Skywalks must have internal, controlled, year-round drainage to adjoining building systems or to the storm sewer, constructed and maintained to the satisfaction of the City of Spokane.
3. The applicant shall negotiate with the City and execute an agreement satisfactory to the City Attorney that contains the appropriate indemnifications, insurance provisions and the appropriate agreement regarding air rights, as applicable. The ordinance approving the skywalk shall not be submitted to the City Council until that agreement is in place.
4. 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.
5. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code including the Uniform Codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.
6. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.
7. Spokane Municipal Code section 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.
8. 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 24 day of July 2014.



Brian McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits 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 DECISION SET OUT ABOVE.** The date of the decision is the 24th day of July, 2014. **THE DATE OF THE LAST DAY TO APPEAL IS THE 14th DAY OF AUGUST 2014 AT 5:00 P.M.**

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.

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