

**Shoreline Substantial Development Permit
City of Spokane Planning File Number Z19-207SSDP**

PLANNING DIRECTOR'S FINDING OF FACT, CONCLUSIONS AND DECISION

Date: June 28, 2019

Applicant: City of Spokane – Engineering

Summary of Proposed Action:

Request for a Shoreline Substantial Development Permit to remove abandoned CSO outfall piping which currently protrudes from the embankment above Latah Creek. The existing pipe is 5-7 feet deep and approximately 50 feet of length is proposed to be removed.

Location:

The location of this site is within High Drive Park on the east side of Latah Creek, west of High Drive, south of Inland Empire Way, and north of Qualchan Golf Course, approximately down the bluff between 33rd and 37th Avenues.

Parcel Number: 35312.0002.

A Portion of the NE¼ of the SW ¼ Section 31, Township 25N, Range 43 E.W.M in the City and County of Spokane.

Existing Conditions:

The current use of the site is City of Spokane Conservation Lands. Mountain bikers, hikers, trail runners, dog walkers and other recreationists use the area. Adjacent properties include High Drive and a residential neighborhood area to the east and Latah Creek to the west.

Zoning/Overlays/Environmental Designations:

- The site is zoned RSF (Residential Single Family).
- The land use designation is Conservation Open Space.
- This site is adjacent to Latah Creek; which is designated as a shoreline of statewide significance; a portion of the project area lies within Shoreline Jurisdiction under the Shoreline Master Program.
 - The Shoreline District is Latah Creek;
 - The Shoreline Environmental designation is the Natural Environment; and
 - The Shoreline Buffer is 200 feet.
- This site lies within Critical Areas: Fish and Wildlife Habitat Area 6.

FINDINGS OF FACT

1. The City of Spokane Engineering Department applied for an Administrative Shoreline Substantial Development Permit, Z19-207 SSDP on May 6, 2019.
2. The project area is located east of Latah Creek; which 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 Natural Environment.

3. The subject property is located in the RSF (Residential Single Family) Zone. Parks and Open Areas are allowed outright in the RSF zone under Spokane Municipal Code (SMC) Table 17C.110-1, Residential Zone Primary Uses.
4. The subject property is located in the designated Conservation Open Space land use according to the City of Spokane's Comprehensive Plan, adopted by City Council on May 21, 2001.
5. The subject property is located within the Riparian Habitat Zone 6 as designated in Spokane Municipal Code Chapter 17E.020, Fish and Wildlife Conservation Areas. The subject property is located within a designated Riparian Habitat Area (250-feet from OHWM). A City of Spokane, Critical Area's Checklist was completed by the applicant on May 6, 2019.
6. The application materials pertaining to the Shoreline Substantial Development Permit were distributed to City Departments and other agencies with jurisdiction for comment on May 7, 2019. The Department of Ecology and Washington State Department of Fish and Wildlife responded with comments. These comments are on record with the Planning & Development Services Department.
7. This application was deemed technically complete on May 24, 2019. Notice of Application was provided to the applicant on May 24, 2019.
8. Notices of the Shoreline Substantial Development Permit application were posted on the site, at High Drive and 37th Avenue on May 31, 2019, at the Downtown and South Hill libraries and City Hall on May 30, 2019. 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, on May 28, 2019. The Latah/Hangman, Manito/Cannon and Comstock Neighborhood Councils were also notified.
9. There were no letters of public comment received on this project. A few phone calls were received, asking for more information, but none voiced concern with the project.
10. A SEPA Determination of Non-Significance (DNS) was issued by City of Spokane Engineering Department on May 2, 2019.

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;*

Basic Utilities are a limited use under Spokane Municipal Code (SMC) Table 17C.100-1 Residential Zone Primary Uses. Maintenance of existing utilities and facilities is a permitted

use under Spokane Municipal Code (SMC) Table 17E.060-04 Shoreline Primary Uses. This proposal is to remove the basic utility use and return the site to native.

The City of Spokane Shoreline Master Program designates this area as Natural Environment. SMC Table 17E.060-3 permits Shoreline Habitat and Natural Systems Enhancement Project activity within all environmental designation, with a shoreline substantial development permit or exemption from such a permit. Due to the scope of this project, it is found not to be exempt from a Shoreline Substantial Development Permit and requiring this Administrative Shoreline Substantial Development Permit.

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

This proposal is consistent with the intent of several Comprehensive Plan Policies. The proposal is to remove a utility use and return the site to native vegetation while improving the natural aesthetics of Latah Creek.

This site is designated on the Land Use Map as Conservation Open Space. The Comprehensive plan policy **LU 6.2 Open Space** includes discussion of Open Space:

Open Space: *Open Space includes major publicly or privately owned open space areas, such as golf courses, major parks and open space areas, and cemeteries. These areas usually have facilities for active and passive recreation and include paved and unpaved roads, parking lots, hard surface trails, and buildings and facilities that support activities occurring in the open space area.*

SMP 4.6 Mitigation of Adverse Impacts

Require that new development or redevelopment avoid or mitigate negative impacts to steep banks, surface and ground water quality, ecological functions, wildlife habitat, vegetative cover, and erosion of the soil. The SMA and SMP promote the restoration of shorelines to the natural environment to further increase and protect the ecological functions of the area.

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.

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

This application is exempt from concurrency requirements under SMC Section 17D.010.030 (E) (6).

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;

The site maps submitted as a component of the application for this Shoreline Substantial Development Permit were routed for agency comment, along with the Habitat Management Plan used for the revegetation of the Bluff Road Restoration, application Z17-365SSDP. It describes the extend of pipe to be removed and restoration work and vegetation to be replaced. The site is located on the bluff adjacent to Latah Creek. The Department of Ecology has asked that the amount of pipe to be removed is reduced in order to retain the existing tree and prevent possible erosion form occurring on the bank. A comment received from the Comstock NHC Chair, during agency review, has requested the same. The WDFW has required that a HPA be obtained because of the likelihood of highly erodible soils falling into Latah Creek. No additional agency comments or conditions were received for this project.

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;*

This project has undergone review through the SEPA process. A DNS was issued on May 2, 2019.

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

This site is located in the area designated Natural Environment in the Shoreline Master Program. Under SMC Table 17E.060-3, Shoreline Habitat and Natural Systems Enhancement Project activity is permitted in this area. This proposal is consistent with the map, goals and policies of the Shoreline Master Program.

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);*

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 restoring the natural character of the shoreline, restoring public access both visual and physical to a publicly owned area of the shoreline, and preserves passive recreational opportunities for the public in the shoreline. The procedures of Chapter 173-27 of the WAC have been followed.

DECISION

TO APPROVE the Shoreline Substantial Development Permit, subject to conditions, for the removal of abandoned CSO outfall piping which currently protrudes from the embankment above Latah Creek; substantially in conformance with the plans and application on file in the Planning & Development Services 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;
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 Latah Creek;
4. An HPA from WDFD will be required for the project;
5. Due to the unstable slopes at the site and lack of riparian and upland forest cover along Latah Creek, please consider reducing the construction impacts by leaving all trees and shrubs in the project area. If tree removal is unavoidable, a planting plan should address replanting the site per the established replacement ratios in Spokane Municipal Section 17E.060.260; and
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.

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 28th of June, 2019. 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 12th day of July, 2019 at 5:00 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 28th day of June, 2019.



Heather Trautman, Director
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By Tami Palmquist, Principal Planner
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