

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Conditional Use Permit Application by the ) FINDINGS, CONCLUSIONS,  
City of Spokane Wastewater Department ) AND DECISION  
to allow the construction of a Combined )  
Sewer Overflow (CSO) storage tank )  
along W. Northwest Boulevard ) FILE NO. Z1400015-CUP3

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The City of Spokane Wastewater Department seeks a conditional use permit in order to allow the construction of a Combined Sewer Overflow (CSO) storage tank, to be installed underground, along the west side of W. Northwest Boulevard and between Kiernan and Providence Avenues.

**Decision:** Approved, with conditions.

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

**Applicant/** City of Spokane Wastewater Department  
**Owner:** 808 West Spokane Falls Boulevard  
Spokane, WA 99201

**Agent:** Dan Buller, P.E.  
City of Spokane, Engineering Design  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

**Property Location:** The proposed site straddles a portion of the right-of-way of W. Northwest Boulevard and a parcel of property, designated as Tax Parcel No. 25023.0604 and owned by the City of Spokane. The site is located in the Southwest ¼ of Section 2, Township 25 North, Range 42 East, W.M.

**Legal Description:** The legal description is provided in the General Application, included in the record as Exhibit 2A.

**Zoning:** The property is zoned RSF (Residential Single-family).

**Comprehensive Plan Map Designation:** The property is designated as Residential 4-10 in the city's Comprehensive Plan.

**Site Description:** The site is designated as Tax Parcel No. 25023.0604 and is owned by the City of Spokane. The site is characterized by a flat area adjacent and westerly of Northwest Boulevard, which is the top of the easterly bank of the Spokane River. The remainder of the site consists of steep slopes forming the easterly bank of the Spokane River. The tank will be installed partly in the flat area of the site and partly within Northwest Boulevard. See Exhibit 2D.

**Surrounding Conditions and Uses:** To the west of Northwest Boulevard, the land is designated as Potential Open Space under the Comprehensive Plan. To the east of Northwest Boulevard, the land use designation is Residential 4-10. Single Family Residential (RSF) zoning surrounds the proposal on all sides.

**Project Description:** The City of Spokane Wastewater Department is proposing to construct an underground Combined Sewer Overflow (CSO) storage tank with the dimensions of 34 feet in width by 400 feet in length by 20 feet in height. The tank volume is .9 million gallons. The proposed project will require clearing some dry-land grasses that will be replaced. No trees are scheduled for removal.

### PROCEDURAL INFORMATION

**Authorizing Ordinances:** Spokane Municipal Code ("SMC") 17C.110, Residential Zones; SMC 17C.320.080(F), Conditional Use Criteria, and SMC 17G.060.170, Decision Criteria.

**Notice of Community Meeting:** Mailed: February 26, 2014  
Posted: February 26, 2014

**Notice of Application/Public Hearing:** Mailed: May 16, 2014  
Posted: May 16, 2014

**Community Meeting:** March 12, 2014

**Public Hearing Date:** June 5, 2014

**Site Visit:** June 3, 2013

**SEPA:** A Determination of Nonsignificance ("DNS") was issued by the City of Spokane Engineering Department on March 14, 2014.

#### **Testimony:**

Dave Compton, Assistant Planner  
City of Spokane Planning & Development  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Dan Buller, P.E.  
City of Spokane Wastewater Department  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

#### **Exhibits:**

1. Planning Services Staff Report
2. Application, including:
  - 2A General Application
  - 2B Conditional Use Permit Application
  - 2C Notification Map Application
  - 2D Site Plan
3. Conditional Use Permit Counter Complete Checklist

4. Engineering Services comments
  - 4A Geotechnical Report by Budinger & Associates dated May 8, 2014
5. Solid Waste comments
6. Spokane Regional Clean Air Agency comments
7. Spokane Tribe of Indians comments
  - 7A Cultural Resources Survey report by Spokane Tribe of Indians, dated 04-15-13
  - 7B Archaeology – Survey Requested by Washington State Department of Archaeology & Historic Preservation, dated 04-14-14
8. Northwest Pipeline comments
9. Notice map
10. Parcel and address listing
11. Notice of Community Meeting
12. Notice Application and Public Hearing
13. Affidavit of mailings:
  - 13A dated 02-26-14
  - 13B dated 05-14-14
14. Affidavit of posting:
  - 14A dated 02-26-14
  - 14B dated 05-15-14
15. SEPA Determination of Nonsignificance dated 03-21-14
16. Environmental Checklist
17. Community meeting summary
18. Community meeting sign in sheet
19. Community meeting open house flyer
20. Community meeting hard copy of PowerPoint presentation
21. Hearing file preparation checklist
22. Emails dated 03-14, 03-29 and 05-20-14 to/from Dan Buller, Dave Compton and Jacqueline Corley
 

re: cultural resource survey
23. Letter dated 03-28-14 to Interested Parties from Dave Compton
 

re: requesting comments
24. Emails dated 03-31 and 04-01-14 to/from City Staff and R Carriker
 

re: requesting summary of community meeting
25. Emails dated 04-25 through 05-12-14 to/from Patty Kells and Dave Compton
 

re: Engineering Services comments
26. Letter dated 05-13-14 to Dan Buller from Dave Compton
 

re: notice of application/public hearing instructions
27. Email dated 05-14-14 to Dan Buller and Dave Compton from Kay Bisaro
 

re: sign posting
- A-1 Hardcopy of Planning's PowerPoint presentation received at hearing

## **FINDINGS AND CONCLUSIONS**

### **A. Conditional Use Permit**

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code sections 17G.060.170 and 17C.320.080(F). The Hearing Examiner has reviewed the proposed conditional use permit and the evidence of record with regard to the application and makes the following findings and conclusions:

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).*

The project site is zoned Residential Single Family (“RSF”), a residential category. The uses allowed in the residential zones are shown on Table 17C.110-1. See SMC 17.110.110. The table does not specifically identify a CSO or related infrastructure among the regulated uses. See Table 17C.110-1. However, stormwater facilities and conveyance systems are elsewhere identified as Basic Utilities, an institutional category of use. See Exhibit 1, p. 5.

“Basic Utilities” are infrastructure services that need to be located in or near the area where the service is provided. See SMC 17C.190.400(A). Examples include water and sewer pump stations, sewage disposal and conveyance systems, water towers and reservoirs, water quality and flow control facilities, water conveyance systems, and stormwater facilities and conveyance systems. See SMC 17C.190.400(C). The proposed project fits the general definition of a Basic Utility, and is explicitly identified in the examples listed in the municipal code.

According to Table 17C.110-1, Basic Utilities are a limited (“L”) use, rather than a conditional use (“CU”). However, the use category for “Basic Utilities” is modified by the bracketed number “[3]”, suggesting that additional terms apply. The footnotes to Table 17C.110-1 state: “Standards that correspond to the bracketed numbers [ ] are stated in SMC 17C.110.110.” See Table 17C.110-1. The pertinent portion of SMC 17C.110.110 confirms that its provisions apply to all parts of the table that have a note [3], and further states:

New buildings or larger additions require a conditional use permit and are processed as a Type III application. ...

See SMC 17C.110.110(A)(3). As a result, the project requires a conditional use permit.

The land use codes permit Basic Utilities, such as the proposed project, to be constructed in the RSF zone, so long as the project satisfies the criteria for a conditional use and the other development standards in the municipal code. The Hearing Examiner finds that this criterion is satisfied.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

The project site has a Residential 4-10 designation under the comprehensive plan. While the provisions describing this land use designation do not directly address utilities, residential uses and developments certainly require adequate sewer and stormwater infrastructure. There are various provisions in the comprehensive plan that directly support this premise.

For example, the first goal of the Land Use element of the comprehensive plan memorializes the objective of providing coordinated, efficient, and cost effective public facilities and utility services. See Comprehensive Plan (“CP”), Goal LU 1, Citywide Land Use. Policy 1.12 of the Land Use element recognizes the adequate public facilities and services systems must exist to accommodate proposed development, and must exist before development is permitted to occur. See CP, Policy LU 1.12, Public Facilities and Services.

Similarly, the Capital Facilities element calls for the city to provide and maintain adequate public facilities and utility services, as well as to ensure reliable funding is in place to protect the public's investment in this infrastructure. See CP, Goal CFU 1, Adequate Public Facilities and Services (also noting that such investments ensure adequate levels of service). Policy CFU 1.2 of the Capital Facilities Element further provides as follows:

Require the development of capital improvement projects that either improve the city's operational efficiency or reduce costs by increasing the capacity, use, and/or life expectancy of existing facilities.

See CP, Policy CFU 1.2, Operational Efficiency. In addition, CFU 1.3 calls for the maintenance, rehabilitation and renovation of existing facilities. See CP, Policy CFU 1.3, Maintenance.

The project satisfies the foregoing goals and policies by ensuring that the utility infrastructure is adequate to serve the public need. The project is also designed to control the overflow of untreated stormwater and sewage into the Spokane River during storm events, consistent with the mandates of the Department of Ecology. *Testimony of D. Buller*. As a result, while the project does have some environmental impact at the development site, from a larger perspective the project serves to protect the environment, specifically the Spokane River. This fulfills the intent of Goal CFU 5 of the Capital Facilities Element, which states as follows:

Minimize impacts to the environment, public health, and safety through the timely and careful siting and use of capital facilities and utilities.

See CP, Goal CFU 5, Environmental Concerns.

The policies underlying this goal also demonstrate that the project fulfills the intent of the comprehensive plan by controlling the impacts of runoff and overflows. Policy CFU 5.3, Stormwater, provides: "Implement a Stormwater Management Plan to reduce impacts from urban runoff." In the discussion of that policy, the following objective is stated: "...the City of Spokane should work continuously toward the reduction of existing combined sewer overflows wherever technically, economically, and environmentally appropriate." See CP, Chapter 5, p. 19.

The Hearing Examiner finds that the project is consistent with the goals and policies of the comprehensive plan, and therefore this criterion is satisfied.

3. *The proposal meets the concurrency requirements of Chapter 17D.010SMC. See SMC 17G.060.170(C)(3).*

The decision criteria for Type III decisions (such as a conditional use permit) mandate that any proposal satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). In addition, under the concurrency standards, facilities for public wastewater (sewer and stormwater) must be evaluated for concurrency. See SMC 17D.010.010(I). Accordingly, on March 28, 2014, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction.

The city received minimal response to its request for comments. See e.g. Exhibits 5, 6, & 8. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1. To the extent that there was a lack of substantive

comments from departments and agencies with jurisdiction, the Hearing Examiner must conclude that concurrency standards are satisfied. The concurrency provisions of the municipal code state that a lack of response by a notified facility or service provider shall be construed as a finding that concurrently is met. See SMC 17D.010.020(B)(1). In addition, the Request for Comments advises that a lack of comment by any referral agency will be considered acceptance of the application as technically complete and meeting concurrency requirements. See Exhibit 5.

A review of the record confirms that there is no substantive evidence that the project transgresses any concurrency requirements. There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied. The proposal, by its nature, does not place substantive demands on public infrastructure. The project does not have any discernible effect on public services such as fire, police, or schools. See Exhibit 16 (Environmental Checklist ¶ B(15)). If anything, the proposal improves public facilities by increasing the city's capacity to handle wastewater.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the municipal code. Therefore, this criterion for approval of the conditional use permit 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. See SMC 17G.060.170(C)(4).*

The "site plan" for the project is included in the record as Exhibit 2D. The site plan, along with other documents in the record, describes the location, size, shape, and topography of the property. These documents also include information about the physical characteristics of the site and details about the proposed project. A review of this documentation confirms that the project site is suitable for the proposed use.

The site of the proposed project is situated at the top of the bank of the Spokane River. The Spokane River is approximately 400 feet west and 200 feet below the construction site. See Exhibit 2B. Not surprisingly, the topography of the site is a primary consideration. The majority of the parcel is characterized by steep slopes exceeding the grade of 30%. *Testimony of D. Compton*. However, the construction site within the parcel is relatively flat, with grades 10% or less. *Testimony of D. Compton*; see also Exhibit 2B. Thus, the grade of the parcel is significantly lower as one approaches the proposed construction area. *Testimony of D. Compton*. The proposed tank will be constructed partly within the flat area of the parcel, and partly within the right-of-way for Northwest Boulevard. The construction area of the site, in other words, will be outside the steep slope area of the site. See Exhibit 1, p.2. In addition, a geotechnical evaluation of the site was completed by Budinger & Associates. See Exhibit 4A. That evaluation contains recommendations for completing the construction without creating significant impacts. See id.

There are no indications of surface water on the site. The site consists of undeveloped ground and grasses. Storm water naturally drains into the site or drains into the city's storm water system. See Exhibit 2B. There is no reason to expect that groundwater will be impacted by this project. It is acknowledged that the site is located within the Aquifer Critical Area Recharge Zone and must comply with the aquifer protection measures contained in SMC 17E. See Exhibit 1, p. 5. Even so, it is not anticipated that this project will have any effect on

groundwater. *Testimony of D. Compton*. Groundwater is at a depth at least 200 feet below the project. See id.

There are no known cultural or historic resources on this site that warrant against approval of the proposal. See Exhibit 16 (Environmental Checklist ¶ B(13)(a)-(b)). There are no buildings on the site. Thus, there are no historic structures that could be impacted by the project. If cultural resources were present, that fact would have to be determined by investigating the grounds. From March 12 to March 18, 2014, the Spokane Tribe of Indians completed a cultural survey of the site for the proposed tank. See Exhibit 7A. This investigation included 28 shovel test probes and a pedestrian survey of the site. See id. The survey did not result in the discovery of significant cultural resources. See id. The Tribe concluded<sup>1</sup> that it was unlikely that the project would have an adverse effect on “significant or potentially significant cultural resources.” See id.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion 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 17G.060.170(C)(5).*

The environmental review process, completed pursuant to the State Environmental Policy Act, demonstrates that the project will not have significant environmental impacts. To the extent certain impacts occur or may occur, those impacts can be addressed adequately through appropriate mitigation measures.

On or about March 14, 2014, the City of Spokane prepared an environmental checklist, pursuant to the State Environmental Policy Act, for this project and other tank installations. See Exhibit 16 (Environmental Checklist). The checklist supports the conclusion that this project will not have significant impacts on the environment or the surrounding properties. For example, there are no wetlands or streams on the site, although the project is near the Spokane River. See Exhibit 16 (Environmental Checklist ¶ B(3)(a)(1)). The property does not lie within a 100-year floodplain. See Exhibit 16 (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters. See Exhibit 16 (Environmental Checklist ¶¶ B(3)(b)(2) & B(3)(c)(2)). No environmental hazards (e.g. exposure to toxic chemicals, risk of fire or explosion, hazardous wastes, etc.) are anticipated to arise due to this project. See Exhibit 16 (Environmental Checklist ¶ B(7)(a)). No threatened or endangered species were identified on the site. See Exhibit 16 (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)).

On March 21, 2014, the Department of Engineering Services of the City of Spokane, as lead agency, issued a Determination of Non-significance (“DNS”) for the project. See Exhibit 15. Any appeal of the DNS was due on April 4, 2014. See id. No appeal of the DNS was filed.

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<sup>1</sup> The Tribe also recommended that a cultural resource monitor be present during any excavation of the site. The Hearing Examiner disagrees that an on-site monitor is necessary given the lack of evidence that any cultural resources are or may be present. However, the Hearing Examiner will include the more typical condition that if, during excavation, any significant cultural or archaeological resources are discovered, the appropriate protocol will be followed.

It should be acknowledged that site proximity to the Spokane River does warrant some concern. However, the construction site is on a relatively flat area situated above the large river bank. As noted above, the construction site is 200 feet above and approximately 400 east of the Spokane River. See Exhibit 2B. The distance between the river and the construction work will, to a large degree, eliminate the likelihood of significant impacts to the river. A portion of the parcel lies within both the Riparian Habitat Zone (Zone #4) and the Habitat & Species (Natural Open Space) overlays. However, the construction area lies outside the overlay areas. *Testimony of D. Compton.* Erosion near the river is also a concern. But again, the construction work will not be taking place within the steep slopes.

There was no substantive evidence that environmental impacts made the project unfeasible or materially problematic. The SEPA process clearly supports the premise that the project will not have significant impacts on the environment. No one appealed the DNS. There was no testimony or evidence at the public hearing establishing that there were significant impacts overlooked in the SEPA review. And, ultimately, the CSO project will help reduce sewage emissions into the Spokane River, most likely creating a positive environmental benefit.

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment, which cannot be adequately addressed through mitigation. Therefore, this criterion for approval of the conditional use permit is satisfied.

6. *The overall residential appearance and function of the area will not be significantly lessened due to the construction of utilities and infrastructure. The project will not result in the construction of improvements that are disproportionate to the residential household uses in the surrounding area. See SMC 17C.320.080(F).*

This project will not have a material, negative impact on the residential appearance or function of the area. The nature and design of this utility project ensures that, upon completion, the site and use will be compatible with nearby residential neighborhoods.

The project location is undeveloped city land. The construction work will be inconvenient and disruptive to users of Northwest Boulevard, for a time, but the inconvenience will be relatively minor and will be temporary. Upon completion of the project, the site will be restored with vegetation. The tank will be entirely buried. Other than access hatches, there will be virtually no indication of the presence of the CSO tank.

The residential function and appearance of the area will not be altered by this project. The project does not include any buildings that would detract from the residential character of the neighborhood. The utility infrastructure will be almost entirely invisible to neighbors or observers. Given that reality, there is nothing in this project that could be considered incongruous or disproportionate to nearby residential uses.

The Hearing Examiner concludes that this criterion for approval is met.

7. *The proposal will be compatible with the adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks and landscaping. The proposal will mitigate the differences in appearance or scale through such means as setbacks, screening, landscaping and other design features. See SMC 17C.320.080(F)(2).*



The site is a natural bluff overlooking the Spokane River. See Exhibit 2B. There is a dirt trail at the edge of the bluff. See id. The site and trail are currently used by pedestrians enjoying the views. See id. The dirt trail will be restored when the project is complete, and the site will be available to enjoy the views after the project is completed. See id.; see also Exhibit 16 (Environmental Checklist ¶ B(10)(b)). Since the site will return to use as open space upon completion of the project, it is difficult to envision how the proposal would be incompatible with nearby residential uses.

There will be impacts upon the surrounding residences due to noise, dust, and aesthetics as a result of the excavation and construction work. See id. However, those impacts will be temporary in nature. Once the project is completed, and the proposed landscaping is installed, the site will return to use as open space. The CSO tank will be completely buried and thus not visible to neighbors or others near the site. There are no other structures or buildings proposed that could be considered incompatible with nearby residences. The proposed landscaping will mitigate the visual impacts of the construction work. The Hearing Examiner therefore concludes that the project is compatible with surrounding residential developments, and is well designed to mitigate any potential impacts.

8. *The proposal will not have significant adverse impacts on the livability of nearby residential lands due to noise, glare, late-night operations, odors and litter, or privacy and safety issues. See SMC 17C.320.080(F)(3).*

The operation of the underground utility, by its nature, will have little to no impact on nearby residents. As stated previously, once the construction work is completed, the site will essentially appear the same as it did before the project.

The tank is underground. There are no above-ground buildings. Operational activity on the site will be of very low intensity. The proposed project will result in, at most, one vehicle trip per day to the site by maintenance personnel. See Exhibit 16 Environmental Checklist ¶ B(14)(f)). No regular late night operations are proposed. See Exhibit 1, p. 7. There are no lights proposed for the project. See Exhibit 1, p. 7. No light or glare will be generated by this project. See Exhibit 16 (Environmental Checklist ¶ B(11)). There will be no operations carried on at the site that would result in noise, glare, odors, litter, or similar impacts. See Exhibit 1, p. 7. No litter or garbage is generated on site. See id. There was no testimony or evidence offered at the public hearing to suggest that such impacts were a probable result of this project.

The only apparent source of noise would be by construction activities, and perhaps the occasional utility vehicle accessing the site. The construction noise is temporary, and will cease when the project is completed. See Exhibit 16 (Environmental Checklist ¶ B(7)(b)). The vehicle noise is not a material factor, as the traffic to and from the site is too small to create a substantive impact.

A concern could be anticipated with respect to odor from a tank that temporarily holds wastewater. However, the proposed CSO tank will have an odor control filter system. See Exhibit 1, p. 7; see also Exhibit 16 (Environmental Checklist ¶ B(2)(a) & (c)). There was no testimony or other evidence submitted that odors would emanate from the site. Thus, the Hearing Examiner has no basis to suspect that odors cannot be controlled at this location.

The proposal itself does not raise any concerns about privacy or safety, and there was no evidence or testimony suggesting any ways in which the CSO tank could create such concerns.

The Hearing Examiner concludes that this criterion for approval has been satisfied.

9. *The proposed use is in conformance with the street designations of the transportation element of the comprehensive plan. The transportation system is capable of supporting the proposed use in addition to existing uses in the area, upon consideration of the evaluation factors provided in the municipal code. See SMC 17C.320.080(F)(4).*

The proposal is to construct utility infrastructure. As a result, factors such as connectivity, circulation, and transit availability are not particularly relevant to the proposal or the nature of the use. Traffic generated from the utility operation is minimal. The area transportation system therefore easily accommodates the proposed use.

As discussed above on the issue of concurrency, there are adequate public services to support the proposed use. In fact, with respect to the management of wastewater, the project is intended to increase the capacity and performance of public services.

The proposal is consistent with the transportation element of the comprehensive plan, and therefore this criterion to approve a conditional use is satisfied.

### DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed conditional use permit subject to the following conditions:

1. Approval is for a conditional use permit to allow the City of Spokane Wastewater Department to construct an underground tank to be used as a combined sewer overflow tank by the City of Spokane Wastewater Department. The tank will be constructed substantially as set forth in the General Application submitted and included in the record as Exhibit 2A and the Site Plan submitted and included in the record as Exhibit 2D. If changes are sought to the General Application and Site Plan, they shall be submitted to Planning Services for review and approval. If Planning Services finds that the changes are substantial, than they shall be forwarded to the Hearing Examiner for review and approval.
2. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas.
3. The project will be developed in substantial conformance with the plans that were submitted at the time of application for this Conditional Use Permit and dated 03-27-2014.
4. A landscaping plan should be prepared by a registered landscape architect to address site restoration work.
5. All conclusions and recommendations from the final engineering reports—environmental, structural, engineering, stormwater and geotechnical—must be adhered to in accordance with City Standards and regulations.
6. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services 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.

7. All storm water and surface drainage generated on this site must be disposed of in accordance with SMC 17D.060 "Storm Water Facilities" as per the Project Engineer's recommendations, based on a final drainage plan accepted. A grading and drainage plan showing finished 1-foot contours and supporting calculations is required.

8. 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.

9. 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.

10. The applicant shall comply with the requirements of the Spokane Regional Clean Air Agency as set forth in Exhibit 6.

11. 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.

12. 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.

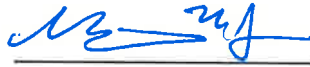
### COVENANT

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.

13. 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 17<sup>th</sup> day of June, 2014.



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Brian T. 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 17<sup>th</sup> day of June, 2014. **THE DATE OF THE LAST DAY TO APPEAL IS THE 8th DAY OF JULY 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.