

JRP Land, LLC
Shoreline Conditional Use Permit Application

CAVEAT: Applicant's proposal is a long plat subdivision containing 94 lots, which is accessed by a bridge over Latah Creek . There will be utility lines, road work and bridge work located in the shoreline area. The following responses assume that this Shoreline CUP is only concerned with impacts created by the extent of the Applicant's proposal situated within the shoreline area (i.e. utilities, road work and bridge work). Uses and impacts associated with development occurring outside of the shoreline area are generally not discussed.

- 1. Identify the name of the shoreline (water body) with which the site of the proposal is associated.**

Latah Creek

- 2. Provide a general description of the proposed project, including the proposed use or uses and the activities necessary to accomplish the project.**

Applicant will need to expand upon and improve an existing approach road through the shoreline area and bury water and sewer utility lines along the same approach. Applicant will also have to expand an existing one-lane bridge that currently accesses the site. This work will occur above and below the ordinary high water mark and will require further permitting with various state agencies.

- 3. Provide a general description of the property and adjacent uses, including physical characteristics, intensity of development, improvements and structures.**

The JRP Land property, approximately 48 acres in size, is located directly across SR 195 from the Cheney-Spokane interchange, inside the City of Spokane ("City") and the Urban Growth Area. The property has historically been used for agricultural purposes, and contains various water rights used in pursuit of these functions. The property contains over 2,700 feet of Latah Creek frontage to the west and direct access to Highway 195.

On the south end of the property a house, built in 1908, is situated within 200 feet of the ordinary high water mark. Over time 11 outbuildings, many also located within 200 feet of the ordinary high water mark, were constructed to support the agricultural and ranch activities. To the north of the property lies an AVISTA substation. To the east of the property lies City of Spokane park property (High Drive Park). To the west of the property lies Highway 195. There are no intense surrounding uses.

- 4. What is the estimated total Fair Market Value project cost within the Shoreline Jurisdiction?**

\$500,000.

- 5. Will the proposed development intrude waterward of the ordinary high water mark?**

Yes.

6. Will the proposed use or development affect existing views of the shoreline or adjacent waters?

No.

7. Explain how the proposed use will not unreasonably interfere with the normal public use of public shorelines.

Currently, the public does not have access to the bridge, the private road located across the bridge or the project site. If anything, this project (the larger plat application) will increase public access to an area of Latah Creek that has heretofore been held as private property.

8. Please explain how the proposal is consistent with the map, goals and policies of the Shoreline Master Plan.

The location on the property of the proposed improvements is considered to be ecologically degraded and poorly functioning from decades of agricultural use. The City of Spokane Shoreline Master Plan's hydrologic assessment deems the majority of the reach as not properly functioning. As such, at the project level there will be restoration activities that occur along with the improvements (particularly the bridge improvements).

The property is located in the "Urban Conservancy" shoreline designation. "The purpose of the Urban Conservancy environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses."

In fact, one designation criteria for an Urban Conservancy area is that it has "potential for ecological restoration." Moreover, the "Management Policies" in the Urban Conservancy Area include "Establish[ing] standards for shoreline stabilization measures, vegetation conservation, water quality and shoreline modifications that ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values."

This project is consistent with the following Goals and Policies of the Shoreline Master Program:

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

SMP 1.4: Public Interest and Property Rights. Protect the interests of the public in attaining the goals of the Shoreline Master Program, while acknowledging and respecting private property rights.

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 6.3: Vegetative Buffers. Maintain, protect, and restore natural

vegetative buffers that are within the floodway of the Spokane River and Latah Creek that function to reduce flood hazards.

SMP 7.3: Sites and Structures. Identify, preserve, and manage shoreline sites and structures having historical, cultural, scientific or educational value, and endeavor to avoid, minimize, or mitigate any adverse impacts to these resources.

SMP 10: RESTORATION. Goal: Restore or rehabilitate impaired or blighted areas along the shorelines to an ecologically functioning condition with an emphasis on native plant communities appropriate to the environmental designation.

SMP 10.1: Restoration Plan. Develop a restoration plan for the Spokane River and Latah Creek that:

- (1) Identifies degraded areas, impaired ecological functions, and potential restoration sites;
- (2) Establishes restoration goals and priorities, including Shoreline Master Program goals and policies that provide for the restoration of impaired ecological functions;
- (3) Acknowledges existing restoration projects, programs, and elements;
- (4) Identifies additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources;
- (5) Proposes timelines and establishes benchmarks for implementing restoration projects and programs;
- (6) Provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals;
- (7) Promotes community and property owner education, stewardship, and partnerships for restoration projects, programs, and activities;
- (8) Provides a native plant palette for the Spokane River and Latah Creek for preferred use in restoration projects and programs and that is required for all City property; and

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

- (1) Ensure no net loss of ecological functions; and
- (2) 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 10.5: Damaged Undeveloped Areas. Stabilize and restore undeveloped areas along the shoreline that have been eroded, burned, filled with improper

material, or otherwise damaged.

SMP 10.6: Best Management Practices. Restore degraded shorelines, arrest the processes of erosion, sedimentation, and flooding, and enhance wildlife habitat through the use of best management practices and techniques.

SMP 10.7: Ecological Connectivity. Require ecological viability and connectivity through habitat islands and corridors in restoration efforts that encompass fish and wildlife areas.

SMP 11: SHORELINE USE. Goal: Plan for and coordinate development that protects against adverse effects to the ecological health of the shoreline.

SMP 11.1: Structural Modifications. Allow structural shoreline modifications only where they are:

- (1) Demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage; and
- (2) Necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

SMP 11.6: Enhancement of Impaired Ecological Functions. Plan for the enhancement of impaired ecological functions where feasible and appropriate, while accommodating permitted uses.

SMP 11.47: Single-Family Use Priority. Give priority to single-family residences only when they are developed in a manner consistent with pollution control and prevention of damage to the natural environment.

Furthermore, this proposal is consistent with the City's Shoreline Restoration Plan (2008) and is supported by its Goal and Policies:

Goal: Restore or rehabilitate impaired or blighted areas along the shorelines to an ecologically functioning condition with an emphasis on native plant communities appropriate to the environmental designation.

Restoration Plan Policy 3: Work with public and private partners to encourage restoration and enhancement of Spokane's shoreline areas. The City of Spokane will work to establish partnerships with public and private groups on specific restoration programs, as funding allows.

9. A detailed narrative of how the impacts of the proposal have been analyzed to achieve no net loss of shoreline ecological functions, including each step of the mitigation sequencing process, as defined in Section 17E.060.220 SMC.

The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require no net loss of shoreline ecological functions that could result from any proposal. Pursuant to Section 17E.060.220 the applicant shall engage in the restoration, rehabilitation or enhancement of the shoreline environment in order to offset the impacts resulting from this proposal. In compliance with these regulations, a Habitat Management Plan was prepared for Applicant's long plat subdivision proposal and will improve the Shoreline Environment.

Applicant has submitted a SEPA Checklist with its long plat and PUD applications, and a forthcoming determination by the Responsible Official is forthcoming. Until that process runs its course it is difficult to understand the impacts associated with any work done in the Shoreline Environment. However, the Applicant will seek to avoid impacts by voiding the impact altogether by not taking a certain action or parts of an action; will seek to minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts; and/or will rectify the impact by repairing, rehabilitating or restoring the affected environment.

10. List of permits required from other than City of Spokane agencies, include name of agency, date of application, and number of application.

There have been no applications to any agencies to date.

11. List the provisions of the land use code that allows the proposal.

This Shoreline CUP is required by the Spokane Municipal Code because Applicant is proposing a long plat subdivision containing lot line divisions within the 200 foot shoreline area, and not because applicant is proposing a use not otherwise permitted outright by the underlying zone classification. The proposal is consistent with the underlying zoning for the site, which is listed as Residential Agricultural (RA) and Residential Single Family (RSF).

12. Please explain how the proposal is consistent with the comprehensive plan designation and goals, objective and policies for the property.

The comprehensive plan designation for the site is listed as Agricultural (AG) and Potential Open Space (OS). The general comprehensive plan designations are different than the more specific zoning designations. However, where there are conflicts between a general comprehensive plan and a specific zoning code, the conflict is resolved in the zoning code's favor. *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 874 (1997); *see also Lakeside Indus. v. Thurston County*, 119 Wn.App. 886, 895 (2004)(To the extent a comprehensive plan prohibits a use that the zoning code permits, the use is permitted.). As discussed in response to Question #1 above, the proposal is consistent with the underlying zoning designations of the site (RA and RSF).

It is important to note that the proposal contains open spaces totaling more than one-half ($\frac{1}{2}$) of the property, much of which is located within the shoreline area. These open spaces will provide the homeowners and the general public with access to the shoreline area, and will serve to connect the development to the existing City-owned open space in upland areas as well. Specifically, the Comprehensive Plan goals and policies supported by this feature of the proposal are:

PRS 1.1 Open Space System. Provide an open space system within the urban growth boundary that connects with regional open space and maintains habitat for wildlife corridors.

- PRS 1.2 River Corridors. Protect river and stream corridors as crucial natural resources that need to be preserved for the health and enjoyment of the community.
- PRS 1.4 Property Owners and Developers. Work cooperatively with property owners and develops to preserve open space areas within or between developments, especially those that provide visual or physical linkages to the open space network.
- PRS 2.1 Amenities Within Each Neighborhood. Provide open space and park amenities within each neighborhood that are appropriate to the natural and human environment of the neighborhood, s determined by the neighborhood and the Spokane Park Board.
- PRS 2.2 Proximity to Open Space. Provide open space in each city neighborhood.
- PRS 2.3 Urban Open Space Amenities. Continue to develop urban open space amenities that enhance the local economy.
- PRS 3.1 Trails and Linkages. Provide trails and linkages to parks that make minimal use of streets, especially arterial streets, in order to maximize the recreation experience and safety of all users.
- PRS 5.1 Recreation Opportunities. Provide and improve recreational opportunities that are easily accessible to all citizens of Spokane.
- PRS 5.6 Outdoor Recreational Facilities. Provide facilities and programs that allow the public the opportunity to participate in a broad range of outdoor recreational activities.
- PRS 5.8 Recreation for Youth. Provide a diversity of recreation opportunities, in a safe, healthy manner that meet the interests of the community's youth.

13. Please explain how the proposal meets the concurrency requirements of SMC Chapter 17D.010.

Pursuant to SMC 17D.010.020 a concurrency test will be performed during the processing of Applicant's long plat submittals. As such, the timing is premature to discuss in depth the satisfaction of concurrency requirements. However, even at this early point in the process, based upon the comments received from the applicable City departments during the Applicant's pre-development conference, the capacity of concurrency facilities (either existing or as planned) is equal to or greater than the capacity required by these eight lots. The same is true for the capacity of the concurrency facilities in relation to the impacts associated with the entire project at full build-out.

14. If approval of a site plan is required, demonstrate how the property is suitable for the proposed use and site plan. Consider the following: 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.

The part of the project situated within the shoreline area is generally flat and easily developable. The final project will be serviced with municipal sewer and water that will run across a bridge that accesses the project, and all stormwater will be disposed of under the conditions imposed by an accepted and approved stormwater management plan. Furthermore, in the course of preparing Applicant's long plat application, Applicant will submit the following studies and/or documents related to work in the shoreline area: Habitat Management Plan, SEPA Checklist, Critical Areas Checklist, Geotechnical Analysis, Stormwater Management Plan, Conceptual Sewer Plan and a Conceptual Water Plan. These studies will provide the basis for any proposed mitigation or enhancements to address issues raised with regard to site compatibility issues.

15. Please explain any significant adverse impact on the environment or the surrounding properties the proposal will have and any necessary conditions that can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.

This proposal contains no development activities in the shoreline area, and Applicant is unaware of any significant adverse impacts created by the proposal at this time. A SEPA Checklist will be included as a part of Applicant's project submittals. The Responsible Official will determine whether "significant adverse impacts" exist for the entire project. It is anticipated that any project-related impacts to the environment will be mitigated through modifications or enhancements conditioned by the Responsible Official's SEPA Determination. Moreover, Applicant will be submitting the documents listed in response to Question #4 above that will provide further analysis of environmental issues.

16. Please explain how the cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the shoreline master program.

Applicant is unaware of any pending Shoreline CUPs applications in the area. In fact, the subject property is the only property in the area that is suitable for private development, thus virtually precluding future requests.

Moreover, in 2009 the City of Spokane adopting a new Shoreline Master Plan update that created a 200 foot buffer for the entire reach of Latah Creek on the subject property. Because this buffer extends to the fullest extent of the Department of Ecology's jurisdiction, this will effectively prevent any development activities from occurring in the shoreline area in the future.

Finally, to the extent that a Shoreline CUP application is presented in the future, Applicant assumes that the City of Spokane and the Department of Ecology will appropriately condition such an application to ensure that the goals and objectives of the City's Shoreline Master Program are safeguarded.

The following information is required by SMC 17G.060.070(B):

1. Official shoreline boundary.

See Preliminary Plat Map for OHWM/Shoreline Boundary.

2. Typical cross-sections showing existing and proposed ground elevations and heights of existing and proposed structures.

Applicant is not proposing structures at this time. All structures will be constructed in accordance with the height limitations of the underlying zone.

3. Proposed land use contours at five-foot intervals on areas landward of the ordinary high water mark.

See Applicant's aerial map with 1' contour lines.

4. Source, composition and volume of fill material, extracted material and proposed disposal area.

Applicant is not proposing any site work in the shoreline area at this time.

5. Drainage channels, water bodies and flood zones.

See Applicant's project submittals.

6. Compliance with requirements for septic tanks and drainfields.

Not Applicable. Project will be connected to City of Spokane municipal sewer line.

7. Shoreline designation.

The vast majority of the property is listed in the "Urban Conservancy" category, and a small portion in the southern end is listed in the "Natural" category.

8. Vicinity map.

See Applicant's project submittals.

9. Description of improvements and land uses within one thousand feet of the site.

The land uses and improvements surrounding the site are as follows:

- The land to the east of the site is public open space owned by the City of Spokane, which contains no improvements. The use is largely recreational in nature.
- The land to the south of the site is occupied by a mobile home park (with appurtenant improvements). The use is largely residential in nature.
- The land to the west of the site is occupied by Highway 195.
- The land to the north of the site contains an AVISTA substation, with associated power lines etc. The substation is considered an Essential Public Facility, and the actual use of the property is largely passive in nature.