

**STAFF REPORT ON SHORELINE  
CONDITIONAL USE PERMIT APPLICATION  
FILE NO. Z1400039-SCUP**

**I. SUMMARY OF REQUEST AND RECOMMENDATIONS:**

**DESCRIPTION OF PROPOSAL:** The applicant, City of Spokane Parks and Recreation Department, has applied for a Hearing Examiner Shoreline Conditional Use Permit. This request is proposing shoreline stabilization measures to protect an eroding bank and incorporate a ramp-like sloped pathway allowing access to the river for the purpose of launching small non-powered watercraft, typically canoes and kayaks to the left (south) bank of the Spokane River.

Recommendation: Staff recommends approval of this application, with conditions.

**II. GENERAL INFORMATION:**

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| A. Applicant:                                | City of Spokane Parks and Recreation Dept.   |
| B. Property Owner:                           | City of Spokane Parks and Recreation Dept.   |
| C. Location of Proposal:                     | The subject property is entirely within (underneath) the drip line of the deck of the Division Street Bridge (Senator Sam C. Guess Memorial Bridge), on the left (south) bank of the Spokane River. Entirely within the Division Street ROW. |
| D. Existing Zoning:                          | DTG & DTU (Downtown General & University)  |
| E. Land Use Plan Designation:                | Conservation Open Space  |
| F. Shoreline Designations:                   | Adjacent to Spokane River (left or south bank); Shoreline Urban Intensive Environment Designation and Limited Urban Environmental Designation; 200-foot buffer; Downtown and Campus/U-District Design District                               |
| G. Environmental Overlays:                   | FEMA Flood Zone (100 year); Fish & Wildlife Habitat Area (RHA-2)   |
| H. SEPA Status:                              | A DNS was issued on December 22, 2014  |
| I. Enabling Zoning:<br>Shoreline Regulations | SMC 17G.060.170 Decision Criteria; SMC 17E.060   |
| J. Hearing Date:                             | January 15, 2015, 9:00 am  |
| K. Staff Contact:                            | Tami Palmquist, AICP, Associate Planner  |



2014 Aerial – Site roughly delineated in red

### **III. FINDINGS OF FACT:**

1. Doug Pineo and Garrett Jones, on behalf of the City of Spokane Parks and Recreation Department, applied for a Shoreline Conditional Use Permit, Z140036-SCUP, on August 28, 2014. The project consists of a shoreline stabilization of an eroding bank of the Spokane River directly under the Division Street Bridge, and incorporating a ramp-like sloped pathway allowing access to the river for the purpose of launching small non-powered watercraft, typically canoes and kayaks. The entire project (including all construction) will be located landward (minimum 3 feet, distance varies) of the ordinary high water mark (OHWM).
2. The subject property is located adjacent to the Spokane River. The Spokane River is designated by the Shoreline Management Act as a shoreline of statewide significance and therefore subject to the requirements of the City of Spokane Shoreline Master Program. The City of Spokane Shoreline Master Program designates this area half as Urban Intensive Environment with a 50-foot buffer and half as Limited Urban Environmental Designation with a 75-foot buffer from the Spokane River.
3. The subject property is located in the Land Use Category of *Conservation Open Space*, according to the City of Spokane's Comprehensive Plan, initially adopted by City Council on May 21, 2001 and subsequently amended.
4. The subject property is located in the base zone DTG and DTU (Downtown General and Downtown University) Zone. The use as a non-motorized boat launch, is determined to be categorized as Parks and Open Areas in the Institutional Category under SMC

- 17C.190.240. Parks and Open Space uses are allowed outright in the Downtown zones under Spokane Municipal Code (SMC) Table 17C.124-1, Downtown Zone Primary Uses.
5. Land Use Procedures used for Shoreline Conditional Use Permits are located in Spokane Municipal Code Chapter 17G.060.
  6. In the City of Spokane, Shoreline Master Program SMC 17E.060.360 Primary Permitted Uses, boat ramps for recreation are listed as an example of a Water-Enjoyment Use. Boating Facilities, such as launch ramps for small non-motorized watercraft, are “CU” Conditional Uses in the Limited Urban Environment and “N” Not Permitted in the Urban Intensive Environment per SMC Table 17E.060-04, Shoreline Primary Uses. Water-Enjoyment Recreational Developments are “CU” Conditional Uses in the Urban Intensive Environment and the Limited Urban Environment per SMC Table 17E.060-04, Shoreline Primary Uses. Pursuant to SMC 17E.060.310 a shoreline conditional use permit is required for this development.
  7. This site is located within the SMP Downtown Design District and subject to the design standards as described in SMC Section 17E.060.810 Standards and Guidelines Specific to the Downtown and Campus Districts, and SMC Section 17E.060.820 Standards and Guidelines Specific to the Downtown District.
  8. The subject property is located within the Riparian Habitat Zone 2 as designated in Spokane Municipal Code Chapter 17E.020, Fish and Wildlife Conservation Areas. The subject property is also located within a designated Riparian Habitat Area (250-feet from OHWM).
  9. A portion of the project, specifically the Centennial Trail and proposed shoreline restoration area, is located within the 100 Year FEMA Flood Zone.
  10. This project is subject to review and comment by City of Spokane Design Review Board. A Collaborative Workshop with the Design Review Board was held on November 14, 2012 and a Recommendation Meeting was held on August 14, 2013 for the entire Convention Center Expansion project. The boat launch was a part of that overall project.
  11. A Community Meeting was held on October 23, 2014, at 4:30 pm, in City Hall Conference Room 5A (808 West Spokane Falls Boulevard, Spokane, WA 99201).
  12. The application materials pertaining to the Shoreline Conditional Use Permit were distributed to City Departments and other agencies with jurisdiction for comment on October 28, 2014. These comments are on record with Planning & Development.
  13. This application was deemed technically complete on November 12, 2014. Notice of Application and Public Hearing were provided to the applicant by email on November 12, 2014.
  14. Notice of the Shoreline Conditional Use Permit application was posted on site, along the Centennial Trail, at the downtown library and City Hall on November 19, 2014. Notices were also mailed to surrounding property owners, taxpayers and occupants within 400 feet of the subject property, as specified on the Notification District Map. The Riverside Neighborhood Council was also notified.

15. The public comment period for this shoreline substantial development permit was from November 19, 2014 to December 19, 2014. No public comment was received on this project.
16. A Determination of Non-Significance (DNS) was issued on December 22, 2014; Lead Agency, City of Spokane Planning and Development, Louis Meuler, Interim Director, Responsible Official. No appeal of the determination was filed.

#### **IV. DEPARTMENTAL & AGENCY REPORTS**

Notice of this proposal was sent to City departments and outside agencies for their review and comments on October 28, 2014. Avista Utilities and City of Spokane Engineering Services were the only departments and agencies that provided comment. Their comments are included with the file and are made part of this application by reference.

#### **V. CONCLUSIONS**

*SMC 17G.060.170 Decision Criteria – Type II and Type III permit applications.*

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

##### Relevant Facts:

The subject property is located in the base zone DTG and DTU (Downtown General and Downtown University) Zone. The use as a non-motorized boat launch, is determined to be categorized as Parks and Open Areas in the Institutional Category under SMC 17C.190.240. Parks and Open Space uses are allowed outright in the Downtown zones under Spokane Municipal Code (SMC) Table 17C.124-1, Downtown Zone Primary Uses.

In the City of Spokane, Shoreline Master Program SMC 17E.060.360 Primary Permitted Uses, boat ramps for recreation are listed as an example of a Water-Enjoyment Use. Boating Facilities, such as launch ramps for small non-motorized watercraft, are “CU” Conditional Uses in the Limited Urban Environment and “N” Not Permitted in the Urban Intensive Environment per SMC Table 17E.060-04, Shoreline Primary Uses. Water-Enjoyment Recreational Developments are “CU” Conditional Uses in the Urban Intensive Environment and the Limited Urban Environment per SMC Table 17E.060-04, Shoreline Primary Uses. Pursuant to SMC 17E.060.310 a shoreline conditional use permit is required for this development.

The proposal of a non-motorized boat launch directly beneath the Division Street Bridge at the time that the Convention Center Expansion made application had required the need for a code amendment to take place prior to any approvals. Since that time SMC Section 10.19.010 Swimming in River, was modified to read “No person may intentionally enter, swim, dive or float, with or without a boat, raft, craft or other flotation device, in or upon the water of the Spokane River at any point between the west line of the Division Street bridge and the west line of the Monroe Street bridge.” Since this launch is to be located east of the center line of the Division Street Bridge it now meets

this requirement.

Staff Comment: The proposed project is allowed by conditional use permit. The site is located in an area that has active erosion and lacks vegetation as a result of being under the Divisions Street Bridge.

Staff finds that criterion 1 is met.

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

Relevant Facts: The Spokane Comprehensive Plan, adopted May 2001, designates the subject property as “Conservation Open Space.” This category *includes areas that are publicly owned, not developed, and designated to remain in a natural state. The purpose of this category is to protect areas with high scenic value, environmentally sensitive conditions, historic or cultural values, priority animal habitat, and/or passive recreational features. It is expected that improvements would be limited to those supporting preservation or some passive recreation activities, like soft trails and wildlife viewpoints.* (Spokane Comprehensive Plan, 3.5 Description of Land Use Designations, page 35 of the Land Use Chapter).

Specific Comprehensive Plan Policy applicable and supportive of this application:

**LU 2.1 Public Realm Features** - *Encourage features that improve the appearance of development, paying attention to how projects function to encourage social interaction and relate to and enhance the surrounding urban and natural environment.*

**LU 5.4 Natural Features and Habitat Protection** - *Ensure development is accomplished in a manner that protects significant natural features and wildlife habitat.*

**PRS 2.3 Urban Open Space Amenities** - *Continue to develop urban open space amenities that enhance the local economy. Discussion: Urban open space amenities include trails, interpretive areas, plant materials, public squares, viewpoints and interpretive signage, and provide benefits to both residents and visitors.*

**NE 3.2 Public Access** – *Create public access points in shoreline areas that do not disturb the natural habitat.*

**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 5.4 Provisions for Shoreline Protection** - *Require that new development provide adequate provisions for the protection of water quality, erosion control, landscaping, aesthetic characteristics, drainage systems, aquatic and wildlife habitat, views, archaeological sites, and normal public use of the water.*

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

**SMP 8.3 Access in the Central Business District** - Enhance public access to the river in the Central Business District shoreline area in the form of plazas, vistas, pedestrian ways, and promenades, or other means.

**SMP 11.28 Use of Natural Materials** - Encourage the use of natural materials rather than artificial materials in the construction of erosion controls.

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

Staff finds that criterion 2 is met.

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

Relevant Facts: The application was circulated on October 28, 2014, amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved.

Avista Utilities provided comments on the proposal on November 11, 2014, and they have been incorporated into this recommendation as conditions of approval.

Staff finds that criterion 3 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;*

Relevant Facts: The site area is suitable for development per the site plan submitted with this application. The applicant lists all physical and environmental elements located on the site, or in the vicinity, in the Environmental Checklist and JARPA submitted. City departments and other agencies also reviewed this checklist for physical characteristics of the property.

Staff finds that criterion 4 is met.

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 neighboring properties or the surrounding area, considering the design and intensity of the proposed use.*

Relevant Facts: As mentioned above, this proposal was routed for review by applicable departments and agencies. Their findings and recommendations are incorporated into the conditions of approval for this proposal. There will be short term impacts on the site during construction.

An Environmental Checklist dated October 28, 2014 with a subsequent Determination of Nonsignificance issued on December 22, 2014 following the close of the public comment

period. A JARPA was also prepared. The Applicant has applied for additional agency permits as described in the JARPA.

Staff finds that criterion 5 is met.

*SMC 17G.060.170 Decision Criteria – Shoreline Conditional Use Permit. The purpose of a shoreline conditional use permit is to provide a system within the shoreline master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the shoreline master program.*

6. *The proposed use is consistent with the policies of RCW 90.58.020 and the shoreline master program.*

Relevant Facts: This proposal is consistent with the map, goals and policies of the Shoreline Master Program. This site is located half in the area designated by the Shoreline Master Program as Urban Intensive Environment and the Downtown Design District and half in the area designated as Limited Urban Environment and in the Campus/U-District Design District.

The “intensive urban” environment is assigned to shoreline areas at the heart of the city that are appropriate and planned for a multiplicity of high-intensity water-oriented urban, residential, commercial, office, and industrial land uses. The density and intensity of uses within this environment are balanced with a mix of open space and recreational and cultural facilities. The purpose of the “limited urban” environment is to accommodate a range and mixture of water-oriented residential, commercial, and institutional uses at moderate intensity and density levels, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. In addition, this designation provides for appropriate physical and visual public access and recreation uses. This environment is intended for development that creates a unique urban waterfront environment, enhances aesthetic appeal, provides public access, and allows compatible uses.

Staff finds that criterion 6 is met.

7. *The proposed use will not unreasonably interfere with the normal public use of public shorelines.*

Relevant Facts: Existing public access and views of the river will not change as a result of this application. Public access to the River will be increased. There will be temporary impacts during the construction process.

Staff finds that criterion 7 is met.

8. *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.*

Relevant Facts: There are no known Conditional Use Permits in the general vicinity and this application will provide additional public access to the River while stabilizing an eroding streambank.

Staff finds that criterion 8 is met.

9. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with the uses planned for the area under the comprehensive plan and the shoreline master program.

Relevant Facts: This project is suitable for access to the Spokane River and will be required to use best management practices and shall engage in the restoration, rehabilitation, or enhancement of the shoreline environment in order to offset any impacts resulting from this project.

Staff finds that criterion 9 is met.

10. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located, and the public interest in enjoying the physical and visual access suffers no substantial detrimental effect.

Relevant Facts: This project will not have an impact on the ability to enjoy the Spokane River; rather it will add physical access to the river.

As stated in the Shoreline Application, the project will be located between the north (waterward) edge of the Centennial Trail and the OHWM. There is no vegetation on the site. The project will stop existing soil erosion on the site, contributing to improved water quality. Since there is no native or non-native vegetation on the site no impact to shoreline habitat or ecological function will occur. The project is entirely above the OHWM, so no adverse ecological impacts to the river will occur. There will be no temporary or permanent loss of ecological function.

Staff finds that criterion 10 is met.

## **VI. RECOMMENDATIONS**

STAFF CONCLUSION: The proposal is located within the Shoreline Jurisdictional boundary. The proposal meets the intent of the Spokane Shoreline Master Program and is consistent with the policies of the Shoreline Management Act. The project will mitigate all adverse impacts on the shoreline area, its values or functions. As such, the City of Spokane Planning & Development Department recommends approval of the shoreline stabilization measures to protect an eroding bank and incorporate a ramp-like sloped pathway for the purpose of launching small non-powered watercraft subject to the conditions stated below and of the other agency permits.

1. The site shall be developed in substantial compliance with the plans submitted with the application and dated August 28, 2014, as well as comments received on the project from City Departments and outside agencies with jurisdiction.



2. This project lies within the Riparian Habitat Zone 2 of Spokane River as defined in Spokane Municipal Code, 17E.020.070. In compliance with Spokane Municipal Code 17E.020.070, Fish and Wildlife Conservation Areas – Exemptions, all exempt activities shall be undertaken using best management practices; the applicant shall maintain records documenting compliance with best management practices.
3. The project lies within the 100-Year FEMA Flood Zone and is subject to the provisions of Section 17E.030 – Floodplain Management and 17E.060.190 – Flood Hazard Reduction.
4. The Shoreline Master Program, SMC 17E.060 and SMC 17E.020 require no net loss of shoreline ecological functions that could result from the 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.
5. In compliance with comments offered on this project by Avista Utilities on November 11, 2014, and at previous site visits, coordination with Avista from the Parks and Recreation Department shall be made to insure the safety and education for patrons using the proposed facilities. Avista’s concerns and related conditions are listed below (for clarity “The City” shall refer to the City of Spokane Parks and Recreation Department as the applicant for this proposal):
  - a. The City will need to actively enforce the existing City Ordinance that prohibits people from being in the river between the west end of the Division Street Bridge and the Monroe Street Bridge at all times of the year.
  - b. Boating downstream of the bridge, but upstream of the boat restraining system, is extremely dangerous all of the time but more so during high flow periods, as such the City needs to ensure people will stay out of the water in this area at all times.
  - c. The Boat Launch should not be open to the public during high flow periods. The City should install appropriate warning signs at the Boat Launch, as well as all other upstream boat launches, warning the public of the dangers associated with being on the river during high flows. Avista is willing to work with the City on the text and location for the signs.
  - d. The City should install at least two “take-out” signs upstream of the Boat Launch directing people to take out on the left side of the river underneath the Division Street Bridge. These signs should be located downstream of the Don Kardong Bridge to provide adequate time to use the take out at the Boat Launch. Avista is willing to work with the City on the text and location for the signs.
6. This project shall conform to the requirements of the Hydraulic Project Approval for this project by the Washington Department of Fish and Wildlife and any additional agency permits.
7. All City of Spokane development standards from the various departments shall be met.
8. The Centennial Trail is a fire access lane and access must be maintained for all

emergency vehicles.

9. An Erosion and Sediment Control plan that satisfies the requirements of SMC 17D.090 "Erosion and Sediment Control" will be required for the proposed work.
10. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning & Development 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.