

**Shoreline Substantial Development Permit
City of Spokane Planning File Number Z18-953SSDP**

**PLANNING DIRECTOR'S FINDING OF FACT, CONCLUSIONS AND
DECISION**

Date: March 6, 2019
Applicant: Julia Culp, Bernardo Wills Architects
Owner: Gerald Dicker, GVD Commercial Properties

Summary of Proposed Action:

Request for a Shoreline Substantial Development Permit to perform overall site improvements which will likely include a new pool, a new restaurant patio, repair and repaving of the existing trail, new landscape and new or adjusted irrigation. This proposal also includes upgrades to the west building exterior including an entry canopy and new siding. The eastern most pool may be a future phase, with upgrades to the existing pool and addition of a children's splash pad.

Site Description:

The subject property is located at 700 N. Division Street. The building site is generally perpendicular to the Spokane River and contains approximately 69,150 square feet of building area on approximately 7.68 acres. The site has an existing hotel and restaurant on it, with parking area to the north and east of the buildings. There are also outdoor patios, swimming pools and a trail on the river side of the buildings.

Location:

The site is located at 700 N. Division, on the north bank of the Spokane River, east of Division Street.

Parcel Numbers: 335172.3317, 35172.3405 and 35175.0031

A Portion of the NW ¼ & SW ¼ of Section 17, Township 25N, Range 43 E.W.M in the City and County of Spokane.

Surrounding Conditions:

The site is currently developed as a hotel and restaurant. The south border of the site is the Spokane River. The properties to the north are commercial, and Gonzaga University is to the east.

FINDINGS OF FACT

1. GVD Commercial Properties applied for an Administrative Shoreline Substantial Development Permit, Z19-953 SSDP to perform overall site improvements on December 20, 2019.

2. The project area is located north of the Spokane River; 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 the Limited Urban Environment, within the Spokane River Campus/U-District, and has a 75 Foot Buffer. Section 17E.060.690 permits Non-water Oriented Commercial Uses with certain conditions. The scope of this project requires a Shoreline Substantial Development Permit.
3. The subject property is located in the CB-150 (Community Business) Zone. Hotels are listed under Retail Sales and Services, which is allowed outright in the CB zone under Spokane Municipal Code (SMC) Table 17C.120-1, Commercial Zone Primary Uses.
4. The subject property is located in the designated General Commercial 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 2 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 December 19, 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 December 27, 2019. These comments are on record with the Planning & Development Services Department.
7. This application was deemed technically complete on January 22, 2019. The Notice of Application was provided to the agent electronically on the same date.
8. Notices of the Shoreline Substantial Development Permit application were posted on the site, at 700 N. Division, at the Downtown Library and City Hall on January 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 January 30, 2019.
9. There were no written comment letters or phone calls received from the public with questions or concerns.
10. A SEPA Determination of Non-Significance (DNS) was issued by City of Spokane Planning and Development Services on March 6, 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;*

Relevant Facts: Retail Sales and Services, which include hotels and restaurants, are allowed uses in the GC zone under Spokane Municipal Code (SMC) Table 17C.120-1.

In the City of Spokane, Shoreline Master Program SMC 17E.060.360 Primary Permitted Uses, Non-Water-Oriented Commercial Uses are "L" Limited Uses in the Limited Urban Environment per SMC Table 17E.060-04, Shoreline Primary Uses. Non-water oriented commercial uses shall not be allowed unless the site is physically separated from the shoreline by another property or public right-of-way; or use is part of a mixed-use project (a combination of the non-water oriented commercial use and any of the following: water-dependent, water-related and/or water-enjoyment uses); use provides public access; and use achieves no net loss of shoreline ecological functions, pursuant to Article III, Part II, No Net Loss of Ecological Functions and Mitigation.

This project includes a mix of uses on the site and will improve public access to the shoreline.

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

Relevant Facts:

This proposal is consistent with the intent of several Comprehensive Plan Policies.

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, view points and interpretive signage, and provide benefits to both residents and visitors.

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.

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SMP 3.1 Shoreline Access - Improve access to the shoreline by developing, where appropriate, pathways, trails and bikeways along and adjacent to the shoreline.

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 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.

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.

The proposal meets the intent of the Spokane Shoreline Master Program (SMP) and is consistent with the policies of the Shoreline Management Act (SMA). The SMA and SMP promote the restoration of shorelines to the natural environment to further increase and protect the ecological functions of the area.

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

Relevant Facts: The application was circulated on December 27, 2019, amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved. This application will be subject to compliance with the various conditions of approval.

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;*

Relevant Facts: The site area is suitable for development per the site plan submitted with this application.

Per the shoreline regulations, SMC Section 17E.060.200 Water Quality and Stormwater, stormwater management facilities shall be developed in such a manner that there is no net loss of shoreline ecological functions or a significant impact to aesthetic qualities or recreational opportunities. Low impact development (LID) techniques shall be employed throughout the various stages of development, including site assessment, planning and design, vegetation conservation, site preparation, retrofitting, and management techniques.

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;*

Relevant Facts: This project has undergone review through the SEPA process. A DNS was issued on March 6, 2019.

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

Relevant Facts: The City of Spokane Shoreline Master Program, effective July 26, 2010, designates this area as a Shoreline Limited Urban Environment, within the Spokane River Campus/U-District, with a designated 75 Foot Buffer. Section 17E.060.690 permits Non-water Oriented Commercial Uses with certain conditions. The nature of the existing building and its location on the site makes this a conforming structure as it relates to the applied 75 foot buffer. The proposal will not impede any further into the Shoreline Environment. Staff finds that the improvements to this building is consistent with 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);*

Relevant Facts: 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 offers long term benefit to the site and the community by utilizing an existing development and providing public access within the Shoreline jurisdiction. The procedures of Chapter 173-27 of the WAC have been followed.

DECISION

TO APPROVE the Shoreline Substantial Development Permit, subject to conditions, to perform overall site improvements which will likely include a new pool, a new restaurant patio, repair and repaving of the existing trail, new landscape and new or adjusted irrigation; 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 Shoreline Master Program requires no net loss of ecological function; the project will focus development of the site to the disturbed area.
4. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning and Development office 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.
5. 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 the Spokane River.

6. This Shoreline Substantial Development Permit is not transferable to any other property;
7. Prior to the issuance of building permits for the construction contemplated in this shoreline substantial development permit application, the applicant shall submit evidence to this file that the property owner has signed and caused the "Shoreline Substantial Development Permit Agreement" to be recorded with the Spokane County Auditor's Office.

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 6th of March, 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 20th day of March, 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 6th day of March, 2019.



Heather Trautman, Director
Office of Neighborhood and Planning Services

By Tami Palmquist, Principal Planner
Development Services Center