

**Shoreline Substantial Development Permit  
City of Spokane Planning File Number Z20-075SSDP**

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

**Date:** June 3, 2020

**Applicant:** Avista Corporation

**Summary of Proposed Action:**

This is a Request for a Shoreline Substantial Development Permit for the development of Upriver Park, southeast of the Avista Campus, along the vacated portion of Upriver Drive. A portion of the proposed project is determined to be within the Shoreline Jurisdiction of the Spokane River in the area of the vacated East Upriver Drive, between Mission Avenue and North Center Street, on the north side of the Spokane River.

The proposed three (3) acre area will be developed as a Park to encompass and improve this reach of the Centennial Trail and improve existing access to the River. The Centennial Trail will be realigned and expanded to twelve feet (12') to accommodate the pedestrian and bicycling traffic. Two (2) entry areas will be integrated in the park on the north and south sides. Other elements will likely include, a brick arch, park benches, signage, picnic tables, bike racks, lighting and a concrete type amphitheater seating area at the north entry/plaza. A 10 foot to 20 foot length of gabion wall near the middle of the reach will be opened and reformed to allow pedestrian access from the Centennial Trail to the existing Shoreline Trail, an existing dirt path through the riparian area along the Spokane River. An existing reach of jersey barriers along Upriver Drive will be removed to open views of the shoreline and river. The project will remove only non-native vegetation and enhance ecological functioning, as these will be replaced with native vegetation between the new trail and the river. Irrigation will be installed, as appropriate, to establish the native vegetation. Landscaping on the west side of the trail away from the river will provide a more managed park setting, with lawn, trees and shrubs consistent with nearby City parks. Managing the vegetation will assist in eliminating illegal camping opportunities in the immediate area and open up view sheds to the river. This permit is for plans substantially in conformance with the plans and application on file with Planning and Development Services.

**Location/Context:**

The project is located southeast of the Avista Campus at 1411 N Mission Avenue, along the vacated portion of Upriver Drive, between Mission Avenue and North Center Street, on the north side of the Spokane River. The site area is roughly 3 acres and consists of City owned shorelines and the previously vacated Upriver Drive. Existing surrounding land uses include the larger Avista Campus to the northwest, Riverview Retirement Community to the northeast, and the Spokane River to the south.

**Legal Description:**

The site is located on parcels 35093.2103, 35093.0006, 35093.0005, 35093.0004 and that portion of the vacated Upriver Drive between Mission Avenue and North Center Street. The property is located in Section 09 Township 25 Range 43E. A full legal description of the subject property is available in the Planning and Development Services Department, located on the 3<sup>rd</sup> Floor of City Hall, 808 West Spokane Falls Blvd., Spokane, WA 99201-3329.

### Existing Conditions:

The site is located adjacent to the Avista Mission Campus to the southwest and the Centennial Trail and the Spokane River. The Centennial Trail runs along the south side of Upriver Drive, which the parcel fronts. Recreational uses along the shoreline in this area include walking and biking. This larger site also provides overflow parking for the campus to the southwest. This site is in the Logan Neighborhood.



Figure 1: 2012 Aerial View. Green area indicates location of proposed project boundaries.

### FINDINGS OF FACT

1. Avista Corporation applied for an Administrative Shoreline Substantial Development Permit, Z20-075SSDP for the Upriver Park Project on March 17, 2020.
2. The subject site 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 a portion of this site as Limited Urban Environment, while the majority of the site is designated as Urban Conservancy Environment with a 75-foot buffer from the Spokane River. The proposed area for the park will share Shoreline Environmental Designations; half Limited Urban Environment and half Urban Conservancy Environment.
3. The Centennial Trail, a regional trail facility, currently runs through this site. The enhancements proposed in Upriver Park will provide additional opportunities for the public to enjoy the Spokane River and the widened Centennial Trail segment.

4. In the City of Spokane, Shoreline Master Program SMC 17E.060.600 Transportation Facilities, pedestrian and bicycle linkages to existing or planned transportation networks shall be allowed in the shoreline jurisdiction and shall incorporate scenic views, viewpoints, and the preservation of significant natural features in their design, if feasible. Pedestrian and bicycle linkages are "P" Permitted Uses in the Limited Urban Environment and Urban Conservancy Environment per SMC Table 17E.060-04, Shoreline Primary Uses.
5. The subject site is located in the Land Use Categories of *Light Industrial* and *Conservation Open Space* according to the City of Spokane's Comprehensive Plan, amended in January of 2012.
6. The subject site is located in the base zones of LI (Light Industrial) and RSF (Residential Single Family). Parks and Open Space uses are allowed outright in these zones under Spokane Municipal Code (SMC) Table 17C.110-1, Residential Zone Primary Uses and Table 17C.130-1, Industrial Zone Primary Uses.
7. 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.
8. A portion of the proposal will be located within the 100 Year FEMA Flood Zone.
9. The application materials pertaining to the Shoreline Substantial Development Permit were distributed to City Departments and other agencies with jurisdiction for comment on March 24, 2020. These comments are on record with the Development Services Center.
10. This application was deemed technically complete on April 9, 2020. Notice of Application was provided to the applicant by email.
11. Notice of the Shoreline Substantial Development Permit application was posted at the intersection of Mission and Upriver Drive and the intersection of Upriver Drive and N Center Street on April 17, 2020. Notices were not placed at City Hall or the Downtown Library due to the buildings being closed due to Covid-19. 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 April 24, 2020. The Logan Neighborhood Council was also notified by email.
12. The public comment period for this shoreline substantial development permit was from April 24, 2020 through May 25, 2020. Public comments were received on this proposal, one comment was against the proposal, a couple had concerns with traffic and a majority were in support of the proposal. All comments received are made part of the official record.
13. A Determination of Non-Significance (DNS) was issued on June 3, 2020; Lead Agency, City of Spokane, Louis Meuler, Interim Planning Director, Responsible Official.

## **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

Parks and Open Space uses are allowed outright in these zones under Spokane Municipal Code (SMC) Table 17C.110-1, Residential Zone Primary Uses and Table 17C.130-1, Industrial Zone Primary Uses.

In the City of Spokane, Shoreline Master Program SMC 17E.060.600 Transportation Facilities, pedestrian and bicycle linkages to existing or planned transportation networks shall be allowed in the shoreline jurisdiction and shall incorporate scenic views, viewpoints, and the preservation of significant natural features in their design, if feasible. Pedestrian and bicycle linkages are "P" Permitted Uses in the Limited Urban Environment and Urban Conservancy Environment per SMC Table 17E.060-04, Shoreline Primary Uses. *The proposal is consistent with the Comprehensive Plan designation and goals, objectives and policies for the property;*

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

Relevant Facts:

The subject property is located in the Land Use Categories of *Conservation Open Space* and *Industrial* according to the City of Spokane's Comprehensive Plan, initially adopted by City Council on May 21, 2001 and subsequently amended in June of 2017. This proposal is consistent with the intent of several Comprehensive Plan Policies.

*NE 15.2 Natural Aesthetic Links - Link local nature views, natural aesthetics, sacred areas, and historic sites with the trail and path system of the city.*

*NE 15.5 Nature Themes – Identify and use nature themes in large scale public and private landscape projects that reflect the natural character of the Spokane region.*

*TR 20 Bicycle/Pedestrian Coordination - Coordinate bicycle and pedestrian planning to ensure that projects are developed to meet the safety and access needs of all users.*

*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 2.1 Impacts to Shoreline - Assure no net loss of shoreline ecological functions as a result of the improvement, development, expansion, location, design, or maintenance of any facility or utility.*

*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 3.2 Access System - Ensure that a system of arterials, scenic drives, pathways, public transit routes, and bikeways adjacent to and within the shoreline areas provides appropriate access to the Spokane River and Latah Creek in a way that meets the needs and desires of the community as reflected in the Comprehensive Plan, while also preserving ecological function of the shorelines.*

*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 7.5 Interpretive Signage - Encourage installation of new markers and/or interpretive signage reflecting the history and culture of the shorelines, as well as continued maintenance of existing historical and cultural markers throughout the shoreline area.*

*SMP 9.2 Linkages to Recreation Areas - Link shoreline parks, recreation areas, scenic drives, and public access points through the use of pedestrian and bicycle pathways and trails, open space, and parkways, in accordance with an approved trail plan.*

*SMP 10.3 Landscaping with Native Plants - Encourage the use of native plant communities for landscaping within the Shoreline Jurisdiction.*

*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 11.3 Appropriate Modifications - Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.*

*SMP 11.8 Mitigation Sequencing - Avoid and reduce significant ecological impacts from shoreline modification activities through mitigation sequencing.*

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

Relevant Facts:

The application was circulated on March 24, 2020, 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:

This section of the Spokane River has a 75 foot buffer and a 15 foot structure setback. As the plans are developed for construction this setback shall apply to all structures proposed in the park, including the brick archways. There are existing pull off parking areas in the proposed project site that are being relocated but will not create an increase in impervious surfaces, with the removal of Upriver Drive the project site will see a decrease in impervious surface and an increase in vegetated areas.

Comment was offered on this project by the Washington State Department of Archaeology & Historic Preservation on March 13, 2020. They recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues. As in all cases, if any artifacts or human remains are found upon excavation, the THPO office should be immediately notified and the work in the immediate area ceased.

Comment was also received by the Washington State Department of Fish and Wildlife on April 7, 2020. WDFW would like to continue to work with Avista as the plans become more

solidified for any work not only below the OHWM but also above OHWM, especially within the 75 foot buffer. Any portion of the project (trails, river access) which could have influences within the normal seasonal river flows should be evaluated for the need of a HPA. The Department of Fish and Wildlife encourages planning for a high use access area which can withstand concentrated use similar to the improved access Avista provided at the Nine Mile Dam. An improved access area should encourage people to use a specific area and thereby reduce impacts up and down the shoreline.

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 Determination of Non-Significance was issued on June 3, 2020.

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

Relevant Facts:

This proposal is consistent with the map, goals and policies of the Shoreline Master Program. The Shoreline Master Program designates a portion of this site as Limited Urban Environment, while the majority of the site is designated as Urban Conservancy Environment with a 75-foot buffer from the Spokane River. The proposed area for the swale will share Shoreline Environmental Designations; half Limited Urban Environment and half Urban Conservancy Environment.

The "limited urban" environment is assigned to shoreline areas at which seek to accommodate a range an mixture of water-oriented residential, commercial and institutional uses at moderate intensity and density levels, while protecting existing ecological function and restoring ecological functions in areas that have been previously degraded. The "urban conservancy" environment is assigned to shoreline areas seeking 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.

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 recognizes the interest of the public while enhancing the natural character of the shoreline, results in long term benefit, increases public access both visual and physical to the shoreline, and increases passive recreational opportunities for the public in the shoreline. The procedures of Chapter 173-27 of the WAC have been followed.

## **DECISION – Conditions of Approval**

TO APPROVE the Shoreline Substantial Development Permit, subject to conditions, for the construction of Upriver Park; substantially in conformance with the plans and application on file in the Planning & Development 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 including shoreline regulations, public access, setbacks and site coverage;
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. A mutually acceptable management and lease agreement between the Spokane Park Board and Avista shall be in place prior to issuance of any construction permit;
4. Avista shall work with the Washington State Department of Fish and Wildlife as the plans become more solidified for any work not only below the OHWM but also above OHWM, especially within the 75 foot buffer. Any portion of the project (trails, river access) which could have influences within the normal seasonal river flows should be evaluated for the need of a HPA.
5. Any tree work performed on public property will need to be permitted and performed by a City-licensed Commercial Arborist and coordinated with the City of Spokane Urban Forestry Department.
6. All Stormwater and surface drainage generated from re-development shall be disposed of onsite in accordance with recommendations of SMC 17D.060 Stormwater Facilities, the Spokane Regional Stormwater Manual, the City Design Standards, and the Project Engineer's recommendations for the re-development.
7. Any dirt or gravel areas must remain fenced until the site is redeveloped to prevent parking in those areas.
8. 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;
9. The Washington State Department of Archaeology & Historic Preservation identified the proposed project area as having high potential for archaeological resources and recommends a professional archaeological survey of the project area be conducted prior to ground disturbing activities. They also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues;
10. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning Department should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington;
11. A Floodplain Permit will be issued with the Building Permit Application for any work proposed within the 100 Year FEMA Flood Zone;



12. Projects that disturb over one acre of soil must obtain a Construction Stormwater General Permit from the Department of Ecology Water Quality Program. Please contact Shannon Adams at (509) 329-3610 or via email at [Shannon.Adams@ecy.wa.gov](mailto:Shannon.Adams@ecy.wa.gov);
13. This Shoreline Substantial Development Permit is not transferable to any other property;
14. Construction pursuant to this permit shall not begin and is not authorized until twenty-one days from the "date of filing" by department of ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.149(5)(a) and (b); and
15. Prior to the issuance of building or grading 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 3rd of June, 2020. In the case of Shoreline Substantial Development Permits, an additional 21 day 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 17th day of June 2020 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 3rd day of June, 2020.



for Louis Meuler

Louis Meuler, Interim Planning Director  
Neighborhood and Planning Services

By Tami Palmquist, Principal Planner