

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, JANUARY 12, 2015

MISSION STATEMENT

TO DELIVER EFFICIENT AND EFFECTIVE SERVICES
THAT FACILITATE ECONOMIC OPPORTUNITY
AND ENHANCE QUALITY OF LIFE.

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBER MICHAEL A. ALLEN

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER AMBER WALDREF

CITY COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON WEDNESDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ccavanaugh@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. Cavanaugh at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|--|------------------------------------|------------------------------|
| 1. Revenue Agreement for the sale of surplus asphalt grindings to Knife River Corporation at the rate of \$3.55 per ton for a total of approximately \$156,000. | Approve | OPR 2015-0013
RFB 4087-14 |
| 2. Contract Amendment to add funds to the 2014 contract with Spokane County Geiger Work Crew for cleanup work in the I-90 corridor from Maple Street to Division Street and between Third and Fourth Avenues. | Approve | OPR 2013-0464 |
| 3. Report of the Mayor of pending: | Approve &
Authorize
Payments | CPR 2015-0002 |
| a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2015 total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | | |
| b. Payroll claims of previously approved obligations through _____, 2015: \$_____. | | CPR 2015-0003 |

EXECUTIVE SESSION

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

CITY COUNCIL SESSION

(May be held or reconvened following the 3:30 p.m. Administrative Session)

(Council Briefing Center)

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

APPOINTMENTS

RECOMMENDATION

Hotel Advisory Commission: One Appointment

Confirm

CPR 2015-0034

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

OPEN FORUM

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

LEGISLATIVE AGENDA

NO EMERGENCY BUDGET ORDINANCES

EMERGENCY ORDINANCE

Requires Five Affirmative, Recorded Roll Call Votes

- ORD C35219 Of the City of Spokane, Washington, providing for the issuance and sale of Limited Tax General Obligation Refunding Bonds, 2015, of the City in the principal amount of not to exceed \$52,000,000, for the purpose of refunding certain outstanding bonds of the City; providing for the redemption of the outstanding bonds to be refunded; providing for the annual levy of taxes to pay the principal of and interest on the bonds; authorizing preliminary and final official statements; authorizing an escrow agreement; and delegating authority to the designated representative to determine the manner of sale of the bonds, approve the number of series, tax status of each series, and other terms of the bonds under the conditions set forth herein, and declaring an emergency.

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2015-0005 Approving the appointments to the City Council standing committees, inter-governmental boards and other boards and committees.
- RES 2015-0006 Adopting the Comprehensive Water System Plan. (The City of Spokane, being a Group A water system, is required to submit an updated Water System Plan for review and approval to the Washington State Department of Health.)
- RES 2010-0034 Adopting an update to the current City of Spokane's Commute Trip Reduction Plan.
- ORD C35121
(As Amended) Vacating the north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street in the Southwest Quarter of Section 28, T26N, R43E, W.M., Spokane

Washington (hereinafter “Rosewood Avenue”) from owners having an interest in real estate abutting the above right-of-way.

- ORD C35148 Relating to the Code of Ethics; adopting a new Chapter 1.04A to Title 1 of the Spokane Municipal Code and repealing Title 1.04 of Title 1 of the Spokane Municipal Code. (Deferred from December 1, 2014, Agenda)
- ORD C35211 (To be considered under “Hearings” Item H2.a.)
- ORD C35212 (To be considered under “Hearings” Item H2.b.)
- ORD C35214 Relating to historic preservation and the landmarks commission, adopting a new chapter 4.35 to title 4 of the Spokane Municipal Code, amending SMC sections 17D.040.230 and 17D.040.300, adopting a new section 17D.040.310 to chapter 17D.040 of the Spokane Municipal Code and repealing SMC section 17D.040.010, 17D.040.020, 17D.040.030, 17D.040, 17D.040.050, 17D.040.060, 17D.040.070 and 17D.040.080.
- ORD C35215 Relating to qualifications for the Planning and Development Services Director; amending SMC section 3.01A.365 of the Spokane Municipal Code.
- ORD C35216 Relating to vehicle impoundment and declaring an area within East Central as an area within which vehicles are subject to impoundment if used to patronize a prostitute and related offenses; amending SMC Section 10.06.037 of the Spokane Municipal Code.
- ORD C35217 Relating to animal control and amending SMC sections 10.03.020, 10.03.033, 10.03.035, and 10.03.050, and adopting a new chapter 10.24A to title 10 of the Spokane Municipal Code.
- ORD C35218 Amending SMC section 10.10.025 regarding vehicular interference.

FIRST READING ORDINANCE

(No Public Testimony Will Be Taken)

- ORD C35220 (To be considered under Hearings Item H1.)

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

HEARINGS

(If there are items listed you wish to speak on, please sign your name on the sign-up sheets in the Chase Gallery.)

RECOMMENDATION

- | | | | |
|-----|---|-------------------------------------|------------|
| H1. | a. Hearing on vacation of Pearl Street from North line of Sharp Avenue to South line of Sinto Avenue; Pearl Street from North line of Sinto Avenue to South line of alley between Sinto Avenue and Mission Avenue. | Approve
Subject to
Conditions | |
| | b. First Reading Ordinance C35220 Regarding the vacation of Pearl Street from North line of Sharp Avenue to South line of Sinto Avenue; Pearl Street from North line of Sinto Avenue to South line of alley between Sinto Avenue and Mission Avenue requested by Vincent Dressel and Harlan Douglass. | Further
Action
Deferred | ORD C35220 |
| H2. | <u>Final Reading Ordinances Relating to the Hamilton form Based Code:</u> | | |
| | a. Final Reading Ordinance C35211 amending the Land Use Plan Map of the City's Comprehensive Plan from "Residential 4-10" to "Centers & Corridors Core" for property located within the boundaries of the Hamilton Form Based Code Subarea Plan; and amending the Zoning Map to Context Areas CA1, CA1, CA3, and CA4 Form Based Code Zoning Categories within the boundaries of the Hamilton Form Based Code Subarea Plan, which generally includes a six-block area along Hamilton Street bounded by the alley between Augusta Avenue and Nora Avenue on the North and Desmet Avenue on the South, all as set forth in Comprehensive Plan Land Use Plan Map Amendment File No. Z1400055COMP. | Pass Upon
Roll Call
Vote | ORD C35211 |

b. Final Reading Ordinance C35212 relating to the Hamilton Form Based Code Subarea Plan; adopting a new chapter 17C.123 Form Based Code Zones to Title 17C Land Use Standards of the Spokane Municipal Code; amending SMC 17C.200.010, 17C.200.040 and 17C.200.050, relating to Landscaping & Screening; amending SMC 17C.230.100, 17C.230.120, 17C.230.130, 17C.230.140, 17C.230.145, and 17C.230.200, relating to Parking & Loading; and amending SMC 17A.020.010, SMC 17A.020.020, 17A.020.030, 17A.020.050, 17A.020.060, 17A.020.070, 17A.020.090, 17A.020.150, 17A.020.160 and 17A.020.220, relating to Definitions.

Pass
Upon Roll
Call Vote

ORD C35212

**Motion to Approve Advance Agenda for January 12, 2015
(per Council Rule 2.1.2)**

OPEN FORUM (CONTINUED)

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT

The January 12, 2015, Regular Legislative Session of the City Council is adjourned to January 26, 2015. The January 26, 2015, 6:00 p.m. Legislative Session will be a Town Hall Session held in the City Council Chambers of City Hall.

Note: The regularly scheduled City Council meeting for Tuesday, January 20, 2015, has been canceled. (There is no meeting on Monday, January 19, 2015, due to the recognized Martin Luther King Jr. holiday).

NOTES

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	OPR 2015-0013
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	RFB 4087-14
<u>Requisition #</u>	

<u>Submitting Dept</u>	STREET
<u>Contact Name/Phone</u>	MARK SERBOUSEK 232-8810
<u>Contact E-Mail</u>	MSERBOUSEK@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	1100 - AGREEMENT FOR SALE OF SURPLUS ASPHALT GRINDINGS

Agenda Wording

Revenue Agreement for the sale of surplus asphalt grindings to Knife River Corporation at the rate of \$3.55 per ton which is approximately \$156,000.00.

Summary (Background)

The City of Spokane Purchasing Department requested a bid for the sale of surplus asphalt grindings. The surplus asphalt grindings have been produced over the last six years by the Street Department's Grind and Overlay program. The Street Department recycles some of this material for use on our gravel roads, gravel shoulders and pavement/subgrade repair projects, and this is the left over asphalt grindings. Knife Creek River Corporation will be responsible for loading and hauling the grindings.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Revenue \$ 156,000.00	# 1100 21700 99999 36911 99999
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SCHENK, ANDREW	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	PCED 1/5/15
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mlesesne@spokanecity.org	
<u>Additional Approvals</u>		mhughes@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA	aschenk@spokanecity.org	
		jahensley@spokanecity.org	
		tprince@spokanecity.org	

REVENUE AGREEMENT

THIS AGREEMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and KNIFE RIVER CORPORATION - NORTHWEST, whose address is 8844 West Wyoming Avenue, Rathdrum, Idaho 83858-9578, as "Company".

The parties agree as follows:

1. DESCRIPTION OF WORK. The City shall provide approximately forty-four (44,000) thousand tons of surplus asphalt grindings for pick-up and purchase by the Company at a rate of THREE AND 55/100 DOLLARS PER TON, in accordance with the Company's response to the City's RFB # 4087-14, entitled Sale of Asphalt Grindings, dated December 8, 2014 and attached hereto.
2. CONTRACT TERM. The Agreement shall begin on January 15, 2015 and end on July 1, 2015, unless terminated earlier.
3. COMPENSATION. The Company shall pay the City for approximately forty-four (44,000) thousand tons of surplus asphalt grindings for pick-up by the Company at a rate of THREE AND 55/100 DOLLARS PER TON, totaling ONE HUNDRED FIFTY SIX THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$156,200.00), as full compensation for the surplus asphalt grindings provided under this Agreement.
4. PAYMENT. The Company shall submit payment to the City Street Department, Administration Office, 901 North Nelson Street, Spokane, Washington 99201. If the City objects to all or any portion of the payment, it shall notify the Company and reserves the right to only receive that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.
5. TERMINATION. Either party may terminate this Agreement, with or without cause, by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.
6. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.
7. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor – employer relationship will be created by this Agreement.
8. INDEMNIFICATION. The Company shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims for damages, liability, cost and expense arising out of the negligent conduct of the Company's performance of

this Agreement, except to the extent of those claims arising from the negligence of the City, its officers and employees.

The Company waives its immunity under Industrial Insurance, Title 51 RCW, to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.

9. INSURANCE. During the term of the Agreement, the Company shall maintain in force at its own expense, the following types and amounts of insurance:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers;
- B. General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1,500,000 each occurrence for Bodily Injury and Property Damage. It shall provide that the City, its agents, officers and employees are Additional Insureds but only with respect to the Company's services to be provided under this Agreement; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$500,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Company shall furnish an acceptable insurance certificate to the City at the time the Company returns the signed Agreement.

10. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

11. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

12. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Agreement.

13. AUDIT / RECORDS. The Company and its sub-companies shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. The Company and its sub-companies shall provide access to authorized City representatives at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

14. MISCELLANEOUS PROVISIONS.

A. ASSIGNMENTS. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this Agreement shall continue to be in full force and effect.

B. DISPUTES. This Agreement shall be performed under the laws of the State of Washington. Any litigation to enforce this Agreement or any of its provisions shall be brought in Spokane County, Washington.

C. SEVERABILITY. In the event any provision of this Agreement should become invalid, the rest of the Agreement shall remain in full force and effect.

D. AMENDMENTS. This Agreement may be amended at any time by mutual written agreement.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

KNIFE RIVER CORPORATION -
NORTHWEST

Email Address, if available: _____

By: _____

Title: _____

Attachments that are part of this Agreement:

Company's response to the City's RFB # 4087-14, entitled Sale of Asphalt Grindings,
dated December 8, 2014.

14-684

PCED Agenda Item
Consent/Informational Item

Bid #4087-14 Contract Project Update

Title: Sale of Asphalt Grindings

Date: January 5, 2015

Prepared By: Andy Schenk

Narrative: The City of Spokane Purchasing Department requested a bid for the sale of surplus asphalt grindings. These surplus asphalt grinding have been produced over the last 6 years by the Street Department's grind and overlay program. The Street Department recycles some of this material for use on our gravel roads, gravel shoulders and pavement/subgrade repair projects and this is the leftover asphalt grindings.

The City received one bid from Knife River Corporation – Northwest (Rathdrum, ID) for \$3.55 per ton, which is approximately \$156,000. Knife River is responsible for the loading and hauling of the surplus asphalt grindings.

Funding Sources: The revenues received from the sale of the surplus asphalt grindings will be deposited in the Street Department's budget.

Further Updates/Information: Andy Schenk; 625-7738

DAVID A. CONDON
MAYOR



CITY OF SPOKANE - PURCHASING
808 W. Spokane Falls Blvd.
Spokane, Washington 99201-3316
(509) 625-6400

REQUEST FOR BID

City of Spokane, Washington

BID NUMBER: 4087 - 14

DESCRIPTION: SALE OF ASPHALT GRINDINGS

DUE DATE: MONDAY, DECEMBER 8, 2014
No later than 1:00 p.m.

City of Spokane - Purchasing
4TH Floor, City Hall
808 W. Spokane Falls Blvd.
Spokane WA 99201-3316

BID SUBMITTED BY:

COMPANY Knife River Corporation - Northwest

MAILING ADDRESS 8844 W. Wyoming Avenue

Rathdrum, ID 83858-9578

PHYSICAL ADDRESS Same

PHONE NUMBER 208-712-7300

FAX NUMBER 208-712-0175

E-MAIL ADDRESS vanner.hegbloom@kniferiver.com

Chae Prince

Purchasing

CITY OF SPOKANE REQUEST FOR BIDS

PART I. PRICING PAGE

TO: PURCHASING, CITY OF SPOKANE

BID NAME: SALE OF ASPHALT GRINDINGS

BID NO: 4087-14

The undersigned agrees to purchase and haul the following items at the price stated, subject to this Request for Bid's conditions and requirements.

	QTY	DESCRIPTION	UNIT PRICE	TOTAL
1	Approximately 44,000 Tons	Asphalt Grindings Located at 4101 E Queen, Spokane WA 99217-6620	43.55	\$ 156,200.00
		Sales TAX (8.7 %)		\$ 13,589.40
		TOTAL		\$ 169,789.40

ACCEPTANCE: The signing and submittal of Part 1 of this proposal shall be an indication of acknowledgement and acceptance of these terms and conditions and compliance shall be part of the bidders' proposal.

Knife River Corporation -
Firm Name: Northwest Signature: 

8844 W. Wyoming Avenue
Mailing Address: Rathdrum, ID 83858-9578 By: Vanner P. Hegbloom
(Type or Print)

Title: General Manager

Phone: 208-712-7300 Date: 12/08/2014

Please indicate person to be contacted by the City concerning item(s) being bid:

NAME: Vanner Hegbloom TELEPHONE: 208-712-7307

BUSINESS LICENSE REQUIREMENT

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid business registration. The Vendor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Vendor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at 509-625-6070 to request an exemption status determination.

CITY OF SPOKANE BUSINESS LICENSE NUMBER: T13070225BUS

ORGANIZATION

Proposal of an () individual () partnership (X) corporation organized and existing under the Laws of the State of Oregon.

MINORITY BUSINESS ENTERPRISE

Vendor (is___, is not X) a Minority Business Enterprise. A Minority Business Enterprise is defined as a "business, privately or publicly owned, at least 51% of which is owned by minority group members." For purpose of this definition, minority group members are Blacks, Hispanics, Asian Americans, American Indian or Alaskan Natives, or Women.

SMALL BUSINESS

Vendor (is___, is not X) a small business concern. (A small business concern for the purpose of government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operations in which it is bidding on government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria as prescribed by the Small Business Administration).

PART II. SPECIFICATIONS**SECTION I: SPECIAL INSTRUCTIONS**

1. The bidder must use their own equipment to load and haul the Asphalt Grindings from the stockpile.
2. The bidder must weigh and record each load of grindings on a certified scale
3. The bidder understands that the grindings must be removed from the site by May 31, 2015. There may be an opportunity to purchase asphalt grindings produced in 2015 as well.
4. The bidder understands that the City of Spokane is selling these asphalt grindings "as is" with no warranty.
5. I acknowledge receipt and compliance with the above special instructions. 2PH
Initial

SECTION IV. BID PREPARATION AND EVALUATION

1. PREPARATION OF BIDS

All bids shall be typed or printed in ink, prepared on the form furnished by the Purchaser and signed by an authorized person of Bidder's firm. If errors are made, they may be crossed out. Corrections shall be printed in ink or typewritten adjacent and initialed in ink by the person signing the bid. IF THE BIDS CONTAIN ANY OMISSION, ERASURES, ALTERATIONS, ADDITIONS, OR ITEMS NOT CALLED FOR IN THE PROPOSAL, OR CONTAIN IRREGULARITIES OF ANY KIND, IT MAY CONSTITUTE SUFFICIENT CAUSE FOR REJECTION.

2. PREPARATION OF ENVELOPES

Place the Original bid in a sealed envelope. On the front of the envelope, place the following information:

"SEALED BID - IMPORTANT"
PROJECT NAME
OPENING DATE AND TIME
COMPANY NAME

3. SUBMISSION OF BIDS Submit one (1) original copy of the bid, as follows:

• **Original copy to:** **City of Spokane Purchasing**
4th Floor - City Hall
808 West Spokane Falls Blvd.
Spokane WA 99201-3316

The Purchaser is not responsible for bids delivered late. It is the responsibility of the Bidder to be sure the bids are sent sufficiently ahead of time to be received **no later than 1:00 PM** on the opening date.

City Hall is now a secured building so if you are hand delivering your response, please give yourself enough time to get through security.

Sealed bids will be opened at 1:15 p.m., Monday, December 8, 2014 in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201

4. INTERPRETATION

If the Bidder discovers any errors, discrepancies or omissions in the bid specifications, or has any questions about the specifications, the Bidder must notify City of Spokane Purchasing in writing. Any addenda issued by the Purchaser will be incorporated into the contract or purchase order.

5. WITHDRAWAL OF BIDS

Bidders may make written request to City of Spokane Purchasing for withdrawal of a sealed bid prior to the scheduled bid opening. Unless otherwise specified, no bids may be withdrawn for a minimum of sixty (60) calendar days after the opening date.

6. EVALUATION OF BIDS

Evaluation of bids shall be based upon the following criteria, where applicable:

- The price, including sales tax and the effect of discounts. Price may be determined by life cycle costing or total cost bidding, when advantageous to the Purchaser.
- The quality of the items bid, their conformity to specifications and the purpose for which they are required.

- The Bidder's ability to provide prompt and efficient service and/or delivery.
- The character, integrity, reputation, judgment, experience and efficiency of the Bidder.
- The quality of performance of previous contracts or services.
- The previous and existing compliance by the Bidder with the laws relating to the contract or services.
- Uniformity or interchangeability.
- The energy efficiency of the product throughout its life.
- Any other information having a bearing on the decision to award the contract.

7. BIDDING ERRORS

When, after the opening and tabulation of bids, a Bidder claims error, and requests to be relieved of award, he will be required to promptly present certified work sheets. The Purchaser will review the work sheets and if the Purchaser is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the Bidder may be relieved of his bid.

8. BIDDER PREQUALIFICATION.

Prior to award of contract or purchase, Bidders shall be required to submit evidence of sufficient facilities, equipment, experience and financial ability to insure completion of the work, unless waived by the Purchaser.

9. REJECTION OF BIDS.

The Purchaser reserves the right to reject any or all bids; to waive minor deviations from the specifications, to waive any informality in bids received, whenever it is in the Purchaser's best interest, and to accept or reject all or part of this bid at prices shown.

10. AWARD OF CONTRACT.

Award of contract or purchase, when made, will be to the Bidder whose bid is the most favorable to the Purchaser, taking into consideration price and the other evaluation factors. STATE CONTRACTS WHERE APPLICABLE WILL BE CONSIDERED AS A BID. The City Council shall make the award of contract or purchase. Unsuccessful Bidders will not automatically be notified of bid results.

SECTION V. GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

- A. Bidder - one who submits a bid.
- B. Vendor - Bidder to whom contract or purchase order is awarded.
- C. Purchaser - City of Spokane and other government agencies (Pursuant to RCW 39.34).
- D. Destination-Delivery - Delivery to Purchaser's building location and includes uncrating and installation.

E. Until Further Notice - Any time in excess of sixty (60) days from date of opening.

F. Cost - Total cost of ownership based on the best available information.

2. CONTRACT PERIOD

The initial contract shall be for a 1 year period beginning approximately JANUARY 1, 2015.

3. RENEWAL

Contract renewals or extensions shall be initiated at the discretion of the City and subject to mutual agreement. The contract may be extended for one (1) additional one-year contract period with the total contract period not to exceed two (2) years.

4. DELIVERY DEFAULT

A. The acceptance of late performance by the Purchaser shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligations remaining to be performed by Vendor.

SECTION VI. STANDARD TERMS AND CONDITIONS

1. PATENTS, TRADEMARKS AND COPYRIGHTS

The Vendor warrants the items to be furnished do not infringe any patent, registered trademark or copyright, and agrees to hold Purchaser harmless in the event of any infringement or claim thereof.

2. TITLE

The Vendor warrants that the items to be furnished are free and clear of all liens and encumbrances and that the Vendor has good and marketable title to same.

3. COMPLIANCE WITH LAWS

The Vendor shall comply with all applicable federal, state and local laws, rules, and regulations, affecting its performance and hold the Purchaser harmless against any claims arising from the violation thereof.

4. CONTRACT DISPUTES

Any contract agreement shall be performed under the laws of the State of Washington. Any litigation to enforce such agreement or any of its provisions shall be brought in Spokane County, Washington.

5. OVERCHARGES.

The Vendor assigns to the Purchaser any claims for anti-trust violations or overcharges relating to items purchased in filling the Purchaser's orders. The Vendor warrants that its suppliers will also assign any such claims.

6. WARRANTIES

The Vendor warrants that the items furnished will conform to its description and any applicable specifications, shall be of good merchantable quality and fit for the known purpose for which sold. This warranty is in addition to any standard warranty or service guarantee by Vendor to the Purchaser.

7. UNIFORM COMMERCIAL CODE

The Uniform Commercial Code (UCC), as effective in Washington State, RCW Title 62A, shall determine the rights and duties of the Vendor and the Purchaser.

8. NON-DISCRIMINATION

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this agreement because of

age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.

9. SAVE HARMLESS

Vendor shall protect, indemnify and save the Purchaser harmless from and against any damage, cost or liability for any injuries to persons or property arising from acts or omissions of Vendor, his employees, agents or sub-contractors, howsoever caused.

10. TAXES

- FEDERAL. The Purchaser is exempt from federal excise taxes. Exemption certificates will be furnished on request.
- SALES TAX. The City of Spokane is required to pay Washington State Sales/Use Tax on all purchases. All bidders whether inside or outside the State of Washington shall show the tax rate applicable to this bid. All taxes payable by the City of Spokane as a result of this contract are considered a part of the bid evaluation. Washington State Sales Tax is payable by the City of Spokane direct to the State of Washington on awards made to out-of-state vendors who do not have a Washington State Sales Tax Number. If you have any questions concerning the appropriate rate, contact the Washington State Department of Revenue (509) 482-3800.
- Business, occupational and personal property taxes are the responsibility of the Vendor.

11. BRAND NAME "OR EQUAL"

Brand names and numbers, when used, are for the purpose of indicating the desired quality, performance or use. Vendors may offer other brands of comparable or better quality, performance and use. Descriptive literature shall also be submitted, when available. Any bid containing a brand which is not of equal quality, performance or use, must be represented **as an alternate and not as an equal.**

12. QUANTITIES

Quantities, when used, are estimates only and are given for the purpose of comparing bids on a uniform basis. Quantities shall be bid on a more or less basis. Payment will be made only for quantities actually ordered, delivered and accepted, whether greater or less than the stated amounts.

13. ASSIGNMENTS

The provisions or monies due under the contract or purchase order shall be assignable only with the prior consent of the City of Spokane Purchasing.

14. CHANGES

No alteration in any of the terms, conditions, delivery, price, quality or specifications of items ordered will be effective without the written consent of the City of Spokane Purchasing.

15. DEFAULT

The Vendor agrees that if a law suit is instituted by the Purchaser for any default on the part of the Vendor, and the Vendor is adjudged to be in default, he/she shall pay to the Purchaser all costs and expenses, expended or incurred by the Purchaser in connection therewith, and reasonable attorney's fees. Venue shall be in the County of Spokane, Washington.

16. REJECTION

All items purchased herein are subject to approval by the Purchaser. Any rejection of items resulting because of non-conformity to the terms or specifications of this order whether held by the Purchaser or returned, will be at the Vendor's risk and expense.

17. TERMINATION

In event of a breach by Vendor of any of the provisions of this order, Purchaser reserves the right to terminate upon immediate oral or written notification to the Vendor. Vendor shall be liable for damages suffered by the Purchaser resulting from Vendor's breach of contract.

18. MINORITY BUSINESS OPPORTUNITIES

Purchaser actively solicits the participation of certified minority business enterprises in the bidding of any and all goods or services.

19. FREIGHT TERMS

- A freight bill must support all freight charges included on an invoice.
- The Purchaser reserves the right to be advised of selection of method and type of carrier.
- No charges will be allowed for handling, including but not limited to packing, wrapping, bags, containers or reels, unless otherwise stated herein.
- All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents affecting this order shall contain the applicable purchase order number. Packing lists shall be enclosed in every box or package shipped pursuant to this order, indicating the contents therein. Invoices will not be processed for payment until all items invoiced are received.
- Risk of Loss. Regardless of F.O.B. point, Vendor agrees to bear all risks of loss, injury or destruction of items ordered herein which occur prior to delivery; such loss, injury or destruction shall not release Vendor from any obligation hereunder.

20. VENDOR'S COOPERATION

The Vendor shall communicate with City of Spokane Purchasing and shall actively cooperate in all matters pertaining to this contract or purchase in any way City of Spokane Purchasing may direct to the end that the Purchaser shall receive efficient and satisfactory service.

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	OPR 2013-0464
<u>Renews #</u>	

<u>Submitting Dept</u>	NEIGHBORHOOD SERVICES & CODE ENFORCEMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	HEATHER 625-6854 TRAUTMAN	<u>Project #</u>	
<u>Contact E-Mail</u>	HTRAUTMAN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	CR 15034
<u>Agenda Item Name</u>	1200 CONTRACT AMENDMENT FOR I-90 CLEANING SERVICES		

Agenda Wording

Add funds to the 2014 contract with Spokane County Geiger Work Crew for clean up work in the I-90 corridor

Summary (Background)

Add funds to existing contracting for Geiger Crew clean up. This work including litter pick up, landscape maintenance and graffiti painting.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Expense \$ 20,000.00	# 1450-22050-42650-54201
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TRAUTMAN, HEATHER	<u>Study Session</u>	1/5/15
<u>Division Director</u>	MALLAHAN, JONATHAN	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	jquintrall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mhuhges@spokanecity.org	
<u>Additional Approvals</u>		htrautman@spokanecity.org	
<u>Purchasing</u>		hwhaley@spokanecity.org	
		mlesesne@spokanecity.org	

CONTRACT AMENDMENT #2

THIS CONTRACT AMENDMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and SPOKANE COUNTY DETENTION SERVICES,, with offices at the Public Safety Building, 1100 West Mallon Avenue, Spokane, Washington 99260-0001, as "County Detention", and SPOKANE COUNTY, with offices at the Spokane County Courthouse, 1116 West Broadway Avenue, Spokane, Washington 99260-0001, as "County", jointly referred to as "Parties".

WHEREAS, the parties entered into a Contract wherein the Parties agreed the County, which operates the Geiger Corrections Center, will provide inmate work crews to the City to assist with various tasks such as litter and solid waste pickup, graffiti removal, vegetation removal and disposal and other labor related tasks; and

WHEREAS, this Contract provided crews to CLEAN UP THE INTERSTATE 90 (I-90) VIADUCT FROM MAPLE STREET TO DIVISION STREET, BETWEEN 3RD AND 4TH AVENUES; and

WHEREAS, supplementary funds are required to clean-up additional areas; -- Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The Contract dated May 14, 2013 and May 20, 2013, any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. EFFECTIVE DATE. This Contract Amendment shall become effective upon signature of all Parties.
3. COMPENSATION. The City shall pay TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) for everything furnished and done under this Contract Amendment.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated on _____

SPOKANE COUNTY DETENTION
SERVICES

E-Mail address, if available: _____

By: _____

ADOPTED by the Board of County Commissioners of Spokane County, Washington this
_____ day of _____ 2014.

Al French, Chair

ATTEST:

Todd Mielke, Vice-Chair

Daniela Erickson
Clerk of the Board

Shelly O'Quinn, Commissioner

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/24/2014
<u>Clerk's File #</u>	CPR 2015-0034
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	MAYOR
<u>Contact Name/Phone</u>	BRANDY COTE 625-6774
<u>Contact E-Mail</u>	BCOTE@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Boards and Commissions Appointments
<u>Agenda Item Name</u>	0520 APPOINTMENT OF DAN ZIMMERER TO THE HOTEL ADVISORY COMMISSION

Agenda Wording

Appointment of Dan Zimmerer to a three year term on the Spokane Hotel Advisory Commission, from January 1, 2015 to December 31, 2017.

Summary (Background)

Appointment of Dan Zimmerer to a term on the Spokane Hotel Advisory Commission. Per the interlocal agreement creating the Hotel/Motel Commission, appointments may be from the City, Spokane Valley or Spokane County, and must be an operator or employee of a lodging business in Spokane County.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	COTE, BRANDY	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		bcote@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mdodroe@visitspokane.com	
<u>Additional Approvals</u>			
<u>Purchasing</u>			

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	ORD C35219
<u>Renews #</u>	

<u>Submitting Dept</u>	FINANCE	<u>Cross Ref #</u>	RES 2014-0085
<u>Contact Name/Phone</u>	GAVIN COOLEY 625-6585	<u>Project #</u>	
<u>Contact E-Mail</u>	GCOOLEY@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Emergency Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	SALE OF BONDS TO REFINANCE 2004 STREET DEBT		

Agenda Wording

An ordinance authorizing the issuance and sale of Limited Tax General Obligation (LTGO) Bonds in an amount not to exceed \$52 M to refund certain outstanding 2004 Street Bonds.

Summary (Background)

These bonds will refund certain outstanding 2004 Street Bonds. The refinancing is part of a larger street funding strategy for the next 20-years. In November 2014, more than 77% of City voters passed a new Street Levy for improved and integrated streets at the same \$0.57 per \$1,000 in assessed property value that citizens had been paying for 2004 Street Bond debt.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	COOLEY, GAVIN	<u>Study Session</u>	
<u>Division Director</u>	COOLEY, GAVIN	<u>Other</u>	Finance Committee
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	gcooley@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	tdunivant@spokanecity.org	
<u>Additional Approvals</u>		mfeist@spokanecity.org	
<u>Purchasing</u>		rromero@spokanecity.org	
		laura.mcaloon@klgates.org	
		alan@adashen.com	
		scott@adashen.com	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Under the new plan, the City will assess the new levy, remove the assessment for previous street bond debt, and refinance and restructure remaining debt at a lower cost over time. The result of the changes includes \$5 million in additional annual funding for street and provisions to pay for remaining debt out of other existing resources. This refunding is part of that overall strategy.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Distribution List			

CITY OF SPOKANE, WASHINGTON

LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015

ORDINANCE NO. C35219

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015, OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$52,000,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS OF THE CITY; PROVIDING FOR THE REDEMPTION OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING PRELIMINARY AND FINAL OFFICIAL STATEMENTS; AUTHORIZING AN ESCROW AGREEMENT; AND DELEGATING AUTHORITY TO THE DESIGNATED REPRESENTATIVE TO DETERMINE THE MANNER OF SALE OF THE BONDS, APPROVE THE NUMBER OF SERIES, TAX STATUS OF EACH SERIES, AND OTHER TERMS OF THE BONDS UNDER THE CONDITIONS SET FORTH HEREIN, AND DECLARING AN EMERGENCY.

Passed: January ____, 2015

Prepared by:

K&L GATES LLP
Spokane, Washington

CITY OF SPOKANE, WASHINGTON
ORDINANCE NO. C _____
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* This table of contents and the cover page are for convenience of reference and are not intended to be a part of this ordinance.

ORDINANCE NO. C35219

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015, OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$52,000,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS OF THE CITY; PROVIDING FOR THE REDEMPTION OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING PRELIMINARY AND FINAL OFFICIAL STATEMENTS; AUTHORIZING AN ESCROW AGREEMENT; AND DELEGATING AUTHORITY TO THE DESIGNATED REPRESENTATIVE TO DETERMINE THE MANNER OF SALE OF THE BONDS, APPROVE THE NUMBER OF SERIES, TAX STATUS OF EACH SERIES, AND OTHER TERMS OF THE BONDS UNDER THE CONDITIONS SET FORTH HEREIN, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Spokane, Washington (the “City”) now has outstanding its Unlimited Tax General Obligation Bonds, Series 2004, issued under the date of December 29, 2004, pursuant to Ordinance No. C33544, passed by the Council on December 13, 2004 (the “2004 Bond Ordinance”), in the aggregate principal amount of \$24,151,000 (the “2004 Bonds”), which remain outstanding as follows:

<u>Maturity Years (December 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>CUSIP Numbers</u>
2019*	\$1,100,000	5.25%	849067A78
2020	1,250,000	5.25	849067A86
2021	1,250,000	5.25	849067A94
2022	1,250,000	5.25	849067B28
2023	1,250,000	5.25	849067B36
2024	1,250,000	5.25	849067B44

* Term Bonds

; and

WHEREAS, the 2004 Bonds maturing on and after December 1, 2019 are callable for redemption at any time on or after December 1, 2014, at a price of par plus accrued interest to the date of redemption; and

WHEREAS, the City also has outstanding its Unlimited Tax General Obligation and Refunding Bonds, Series 2007, issued under the date of October 7, 2007, pursuant to Ordinance No. C34127, passed by the Council on October 22, 2007 (the “2007 Bond Ordinance”), in the aggregate principal amount of \$58,090,000 (the “2007 Bonds”), which remain outstanding as follows:

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Numbers
2015	\$1,600,000	4.00%	849067L43
2016	1,680,000	4.00	849067L50
2017	1,765,000	4.00	849067L68
2018	1,855,000	4.00	849067L76
2019	1,935,000	4.00	849067L84
2020	2,015,000	4.125	849067L92
2021	2,110,000	4.50	849067M26
2022	7,940,000	5.00	849067M34
2023	8,400,000	4.75	849067M42
2024	8,855,000	4.75	849067M59

; and

WHEREAS, the 2007 Bonds maturing on and after December 1, 2018 (together with the 2004 Bonds, the “Refunded Bonds”) are callable for redemption at any time on or after December 1, 2017, at a price of par plus accrued interest to the date of redemption; and

WHEREAS, it is deemed necessary and in the best interest of the City to modify its debt service and other terms of the Refunded Bonds by refunding the 2004 Bonds and the 2007 Bonds through the issuance of Limited Tax General Obligation Refunding Bonds, 2015 (the “Bonds”); and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SPOKANE, WASHINGTON as follows:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings:

Acquired Obligations means the Government Obligations acquired by the City under the terms of this ordinance and the Escrow Agreement to effect the defeasance and refunding of the Refunded Bonds.

Approved Bid means the winning bid submitted for a series of the Bonds if such series is sold by Competitive Sale.

Beneficial Owner means any person that has or shares the power, directly or indirectly to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

Bond Fund means the City of Spokane General Obligation Bond Redemption Fund maintained pursuant to Section 11 of this ordinance.

Bond Purchase Contract means, if the Bonds of a series shall be sold by Negotiated Sale, the purchase contract relating to such Bonds between the City and the Underwriter providing for the purchase of such Bonds by the Underwriter and setting forth certain terms approved by the Designated Representative as provided in Section 13 of this ordinance.

Bond Register means the books or records maintained by the Registrar containing the name and mailing address of the owner of each Bond or nominee of such owner and the principal amount and number of Bonds of a series held by each owner or nominee.

Bonds means the City of Spokane, Washington, Limited Tax General Obligation Refunding Bonds, 2015, issued pursuant to this ordinance. The Bonds may be issued in one or more series.

Bond Year means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bonds or the date that is five years after the date of issuance of the Bonds, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bonds.

Call Date means the date on which bonds will be prepaid, as selected by the City, which date will be no earlier than 30 days after closing of the Bonds.

Chief Financial Officer means the duly qualified, appointed and acting Chief Financial Officer of the City or any other officer who succeeds to the duties now delegated to that office.

City means the City of Spokane, a municipal corporation and first class charter city duly organized and existing under the laws of the State of Washington and the Charter of the City.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Commission means the United States Securities and Exchange Commission.

Competitive Sale means the process by which the Bonds (or a portion of them) are sold through the public solicitation of bids from underwriting firms.

Continuing Disclosure Agreement means an agreement entered into by the Chief Financial Officer pursuant to Section 14 of this ordinance in order to permit the purchaser of the Bonds of a series to comply with the Rule.

Cost of Issuance Agreement means the agreement of that name, to be entered into by the City and the Escrow Agent, providing for the payment of certain costs of issuance with respect to the issuance of the Bonds, substantially in the form attached hereto as Exhibit B.

Council means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

Designated Representative means the Chief Financial Officer or the Director of Management and Budget.

Director of Management and Budget means the duly qualified, appointed and acting Director of Management and Budget of the City or any other officer who succeeds to the duties now delegated to that office.

DTC means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 4 hereof, or any successor depository.

Escrow Agreement means the Escrow Deposit Agreement to be dated as of the date of closing and delivery of the Bonds substantially in the form attached hereto as Exhibit A.

Escrow Agent means the financial institution selected by the Treasurer pursuant to Section 8 of this ordinance, also known as ***Refunding Trustee***.

Government Obligations means those obligations now or hereafter defined as such in chapter 39.53 RCW.

Issue Date means, with respect to the Bonds, the date of initial issuance and delivery of the Bonds to the Underwriter in exchange for the purchase price of the Bonds.

Letter of Representations means the blanket issuer letter of representations from the City to DTC.

MSRB means the Municipal Securities Rulemaking Board or any successor to its functions.

Negotiated Sale means the process by which the Bonds (or a portion of them) are sold by negotiation to one or more underwriting firms selected by the Designated Representative.

Net Proceeds, when used with reference with the Bonds, means the principal amount of the Bonds, plus accrued interest and original issue premium, if any, and less original issue discount, if any.

Notice of Sale means, if the Bonds shall be sold by Competitive Sale, the notice of bond sale authorized to be given in Section 13 of this ordinance.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such

use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Refunded Bonds means the 2004 Bonds maturing on and after December 1, 2019 and the 2007 Bonds maturing on and after December 1, 2018.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register. For so long as the Bonds are held in book-entry only form, DTC shall be deemed to be the sole Registered Owner.

Registrar means the fiscal agency of the State of Washington or such other registrar as may be designated in a certificate by the Designated Representative for the purposes of registering and authenticating the Bonds of a series, maintaining the Bond Register, effecting transfer of ownership of such Bonds, and paying the principal of, premium, if any, and interest on such Bonds.

Rule means the Commission's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Tax-Exempt Bonds means the Bonds of a series issued on a federally tax-exempt basis.

Treasurer means the Treasurer of the City or the person succeeding to the functions currently performed by the Treasurer.

2004 Bond Ordinance means Ordinance No. C33544, passed by the Council on December 13, 2004.

2004 Bonds means the Unlimited Tax General Obligation Bonds, Series 2004, of the City issued December 29, 2004, and authorized by the 2004 Bond Ordinance.

2007 Bond Ordinance means Ordinance No. C34127, passed by the Council on October 22, 2007.

2007 Bonds means the Unlimited Tax General Obligation and Refunding Bonds, Series 2007, issued October 7, 2007, and authorized by the 2007 Bond Ordinance.

Underwriter means, the underwriter(s) of the Bonds of a series if such Bonds are sold by Negotiated Sale or the successful bidder(s) submitting the Approved Bid if the Bonds of a series are sold by Competitive Sale.

Rules of Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Emergency. The Council declares that an emergency exists in order that there be no delay in issuing the Bonds, ensuring the favorable marketing of the Bonds for the benefit of the City. Therefore, this ordinance shall be in full force and effect immediately upon its passage by the Council.

Section 3. Authorization of Bonds and Bond Details. For purposes of refunding the 2004 Bonds, the 2007 Bonds and paying a portion of the costs of issuance of the Bonds, thereby effecting a restructuring of the debt service and terms of the 2004 Bonds and the 2007 Bonds in the best interests of the City and its taxpayers, the City shall issue its Limited Tax General Obligation Refunding Bonds, 2015 in one or more series in the aggregate principal amount of not to exceed \$52,000,000 (the “Bonds”).

The Bonds shall be general obligations of the City, shall be designated “City of Spokane, Washington, Limited Tax General Obligation Refunding Bonds, 2015,” shall be fully registered as to both principal and interest, shall be issued in the aggregate principal amount set forth in the Bond Purchase Contract or the Notice of Sale and the Approved Bid for such Bonds, shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification, shall be dated their date of delivery, and shall be in the denomination of \$5,000 each or any integral multiple of \$5,000 within a maturity. The Bonds shall bear interest from their dated date or from their most recent interest payment date to which interest has been paid or duly provided for, whichever is later, at the rates payable, commencing no later than one year following the Issue Date, and semiannually thereafter on each December 1 and June 1, to the maturity or earlier redemption of the Bonds, and shall

mature on the dates and in the principal amounts set forth in the Bond Purchase Contract or the Notice of Sale and the Approved Bid for such Bonds, all as approved by the Designated Representative.

Section 4. Registration, Exchange and Payments.

(a) *Registrar/Bond Register.* The City hereby specifies and adopts the system of registration approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agencies. The City shall cause a bond register to be maintained by the Registrar. So long as any Bonds of a series remain outstanding, the Registrar shall make all necessary provisions to permit the exchange or registration or transfer of such Bonds at its principal corporate trust office. The Registrar may be removed at any time at the option of the Designated Representative upon prior notice to the Registrar and a successor Registrar appointed by the Designated Representative. No resignation or removal of the Registrar shall be effective until a successor shall have been appointed and until the successor Registrar shall have accepted the duties of the Registrar hereunder. The Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Registrar's powers and duties under this ordinance. The Registrar shall be responsible for its representations contained in the Certificate of Authentication of such Bonds.

(b) *Registered Ownership.* The City and the Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 14 of this ordinance), and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 4(h) hereof, but such Bond may be transferred as herein provided. All such

payments made as described in Section 4(h) shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

(c) *DTC Acceptance/Letters of Representations.* The Bonds initially shall be held in fully-immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the City has executed and delivered to DTC a Blanket Issuer Letter of Representations. Neither the City nor the Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds in respect of the accuracy of any records maintained by DTC or any DTC participant, the payment by DTC or any DTC participant of any amount in respect of the principal of or interest on the Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the City to the Registrar or to DTC), or any consent given or other action taken by DTC as the Registered Owner. For so long as any Bonds are held in fully-immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC or its nominee and shall not mean the owners of any beneficial interest in such Bonds.

(d) *Use of Depository.*

(1) The Bonds shall be registered initially in the name of “Cede & Co.,” as nominee of DTC, with one Bond maturing on each of the maturity dates for the Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(B) to any substitute depository appointed by the Designated Representative pursuant to subsection (2) below or such substitute depository's successor; or (C) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Designated Representative to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Designated Representative may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Registrar shall, upon receipt of all outstanding Bonds, together with a written request of the Designated Representative, issue a single new Bond for each maturity then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Designated Representative.

(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Designated Representative determines that it is in the best interest of the Beneficial Owners of the Bonds of a series that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The Designated Representative shall deliver a written request to the Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon

receipt by the Registrar of all then outstanding Bonds of a series together with a written request of the Designated Representative to the Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.*

The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

(f) *Registrar's Ownership of Bonds.* The Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to

act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

(g) *Registration Covenant.* The City covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Tax-Exempt Bond that complies with the provisions of Section 149 of the Code.

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully-immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds of a series are no longer in fully-immobilized form, interest on such Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date, or upon the written request of a Registered Owner of more than \$1,000,000 of Bonds (received by the Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Registrar by wire transfer to the account within the continental United States designated by the Registered Owner. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the Registrar.

Section 5. Redemption Prior to Maturity and Purchase of Bonds.

(a) *Optional or Extraordinary Redemption.* The Bonds of a series shall be subject to optional and/or extraordinary redemption on the dates, at the prices and under the terms set forth in the Bond Purchase Contract or the Notice of Sale and the Approved Bid as approved by the Designated Representative pursuant to Section 13 of this ordinance.

(b) *Mandatory Redemption.* The Bonds of a series shall be subject to mandatory redemption to the extent, if any, set forth in the Bond Purchase Contract or the Approved Bid and as approved by the Designated Representative pursuant to Section 13 of this ordinance.

(c) *Effect of Purchase.* To the extent that the City shall have purchased any term bonds since the last scheduled mandatory redemption of such term bonds, the City may reduce the principal amount of the term bonds to be redeemed in like principal amount. Such reduction may be applied in the year specified by the Designated Representative.

(d) *Selection of Bonds for Redemption.* If Bonds of a series are called for optional redemption, the maturities of Bonds to be redeemed shall be selected by the Designated Representative. If any Bonds to be redeemed (optional or mandatory) then are held in book-entry-only form, the selection of Bonds to be redeemed within a maturity shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds to be redeemed are no longer held in book-entry-only form, the selection of such Bonds to be redeemed shall be made in the following manner. If the City redeems at any one time fewer than all of the Bonds having the same maturity date, the particular Bonds or portions of Bonds and maturity to be redeemed shall be selected by lot utilizing a random selection process (reasonably determined by the Registrar) in increments of \$5,000. In the case of a Bond of maturity in a denomination greater than \$5,000, the City and Registrar shall treat each Bond of that maturity

as representing such number of separate Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Bond of that maturity by \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed, upon surrender of such Bond at the principal office of the Registrar there shall be issued to the Registered Owner, without charge therefor, for the then-unredeemed balance of the principal sum thereof a Bond or, at the option of the Registered Owner, Bonds of like maturity and interest rate in any of the denominations herein authorized.

(e) *Purchase of Bonds.* The City also reserves the right to purchase any of the Bonds offered to the City at any time at a price deemed reasonable by the City.

(f) *Notice of Redemption.* Written notice of any redemption of Bonds prior to maturity, which notice may be conditional, shall be given by the Registrar on behalf of the City by first class mail, postage prepaid, not less than 20 days nor more than 60 days before the date fixed for redemption to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. This requirement shall be deemed complied with when notice is mailed to the Registered Owners at their last addresses shown on the Bond Register, whether or not such notice is actually received by the Registered Owners.

So long as the Bonds are in book-entry only form, notice of redemption shall be given to Beneficial Owners of Bonds to be redeemed in accordance with the operational arrangements then in effect at DTC, and neither the City nor the Registrar shall be obligated or responsible to confirm that any notice of redemption is, in fact, provided to Beneficial Owners.

Each notice of redemption prepared and given by the Registrar to Registered Owners of Bonds shall contain the following information: (1) the proposed redemption date, (2) the redemption price, (3) if fewer than all outstanding Bonds of a series are to be redeemed, the

identification by maturity (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (4) that on the date fixed for redemption the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest shall cease to accrue from the date fixed for redemption (unless the notice of redemption is a conditional notice, in which case the notice shall state that interest shall cease to accrue from the date fixed for redemption if and to the extent that funds have been provided to the Registrar for the redemption of Bonds), (5) that the Bonds are to be surrendered for payment at the principal office of the Registrar, (6) the CUSIP numbers of all Bonds being redeemed, (7) the dated date of the Bonds being redeemed, (8) the rate of interest for each Bond being redeemed, (9) the date of the notice, and (10) any other information deemed necessary by the Registrar to identify the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(g) *Effect of Redemption.* Unless the City has revoked a notice of redemption (or unless the City provided a conditional notice and the conditions for redemption set forth therein are not satisfied), the City shall transfer to the Registrar amounts that, in addition to other money, if any, held by the Registrar for such purpose, will be sufficient to redeem, on the date fixed for redemption, all the Bonds to be redeemed. If, and to the extent that, funds have been provided to the Registrar for the redemption of Bonds then such Bonds shall become due and payable on the date fixed for redemption and interest on such Bond shall cease to accrue from and after such date.

(h) *Use of CUSIP Numbers.* Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(i) *Amendment of Notice Provisions.* The foregoing notice provisions of this section, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

Section 6. Form of Bonds. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. _____ \$ _____

STATE OF WASHINGTON

CITY OF SPOKANE
LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015

INTEREST RATE: % MATURITY DATE: CUSIP NO.:
REGISTERED OWNER: CEDE & CO.
PRINCIPAL AMOUNT:

THE CITY OF SPOKANE, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay interest thereon from _____, 20__, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on _____ 1, 20__, and semiannually thereafter on the first days of each succeeding December and June. Both principal of and interest on this bond are payable in lawful money of the United States of America. Interest shall be paid as provided in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to The Depository Trust Company ("DTC"). Initially, the City has specified and adopted the registration system for the bonds of this issue specified by the State Finance Committee, and the fiscal agency of the State will act as registrar, paying agent and authenticating agent (the "Bond Registrar").

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington, the City Charter, and Ordinance No. C_____ duly passed by the City Council on January __, 2015 (the "Bond Ordinance"). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is one of an authorized issue of bonds of like date, tenor, rate of interest and date of maturity, except as to number and amount in the aggregate principal amount of \$_____ and is issued pursuant to the Bond Ordinance for the purposes of refunding its Unlimited Tax General Obligation Bonds, Series 2004, Unlimited Tax General Obligation and Refunding Bonds, Series 2007 and paying costs of issuance.

The bonds of this issue are subject to redemption as stated in the [Bond Purchase [Contract] [Notice of Sale for such Bonds] [Approved Bid].

The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to the City without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The bonds of this issue are not "private activity bonds" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). The bonds of this issue have not been designated by the City as "qualified tax-exempt obligations" under Section 265(b) of the Code for banks, thrift institutions and other financial institutions. [The interest on the bonds of this issue is [not] excludable from federal income taxation.]

The pledge of tax levies for payment of principal of and interest on the bonds may be discharged prior to maturity of the bonds by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond and the bonds of this issue does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Spokane, Washington, has caused this bond to be signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be reproduced hereon, all as of this ____ day of _____ 2015.

CITY OF SPOKANE, WASHINGTON

By _____ /s/ manual or facsimile
Mayor

ATTEST:

_____/s/ manual or facsimile
City Clerk

[SEAL]

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Limited Tax General Obligation Refunding Bonds, 2015, of the City of Spokane, Washington, dated _____, 2015.

WASHINGTON STATE FISCAL
AGENCY, Registrar

By THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as subcontractor
to The Bank of New York Mellon, fiscal
agent for the State of Washington

By _____
Authorized Signer

Section 7. Execution of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be impressed or a facsimile thereof imprinted or otherwise reproduced on the Bonds.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City.

Any Bond may also be signed and attested on behalf of the City by such persons who are at the actual date of delivery of such Bond the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Section 8. Designation of Refunded Bonds; Refunding Plan.

(a) *Application of Bond Proceeds.* The net proceeds of the Bonds (exclusive of any amounts that may be designated by the Designated Representative in a closing certificate to be allocated to pay costs of issuance), together with other available funds of the City in the amount (if any) specified by the Designated Representative, shall be held by the City and used at the direction of the Designated Representative to pay the costs of or reimbursing the City for the costs of redeeming the Refunded Bonds or may be placed into the escrow account pursuant to the terms of the Escrow Agreement to effect a defeasance of the Refunded Bonds.

(b) *Defeasance of Refunded Bonds.* In order to effect the defeasance of the Refunded Bonds, the net proceeds of the Bonds shall be deposited with an Escrow Agent and shall be utilized to purchase the Acquired Obligations and to maintain such necessary beginning cash balance to defease the Refunded Bonds and to discharge the other obligations of the City relating thereto under the 2004 Bond Ordinance and the 2007 Bond Ordinance authorizing their issuance, by providing for the payment of the interest on the Refunded Bonds to the date fixed for redemption and the redemption price (the principal amount) on the date fixed for redemption of the Refunded Bonds. When the final transfer has been made for the payment of such redemption price and interest on the Refunded Bonds, any balance then remaining with the Escrow Agent shall be transferred to the account designated by the City and used for the purposes specified by the Designated Representative.

(c) *Acquired Obligations.* The Acquired Obligations, if any, shall be payable in such amounts and at such times that, together with any necessary beginning cash balance, will be sufficient to provide for the payment of:

(1) the interest on the Refunded Bonds as such becomes due on and before the date fixed for redemption or maturity of the Refunded Bonds; and

(2) the price of redemption of the Refunded Bonds on the date fixed for redemption of the Refunded Bonds or the maturity value of the Refunded Bonds that are defeased to maturity.

(d) *Appointment of Escrow Agent.* The City hereby authorizes the Treasurer to solicit proposals for and select a financial institution to act as the Escrow Agent for the Refunded Bonds (the “Escrow Agent”). The Bond proceeds designated in the foregoing subsection together with any cash contribution from the City shall be transferred to the Escrow Agent in order to implement the refunding plan. A beginning cash balance, if any, and Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Bonds remaining after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Bonds and/or returned to the City for the payment of such expenses. The Treasurer is hereby further authorized to solicit proposals for and select a verification agent who will confirm the accuracy of certain financial information regarding the funds to be deposited with the Refunding Trustee and the implementation of the refunding plan.

Section 9. Call For Redemption of Refunded Bonds and Escrow Agreement.

(a) *Call For Redemption of the Refunded Bonds.* The City hereby irrevocably sets aside sufficient funds out of the purchase of Acquired Obligations from proceeds of the Bonds to make the payments described in Section 8 of this ordinance.

The City hereby irrevocably calls the Refunded Bonds for redemption on the Call Date in accordance with terms of the 2004 Bond Ordinance and the 2007 Bond Ordinance authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be effective and irrevocable after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notice of the redemption of the Refunded Bonds in accordance with the applicable provisions of the 2004 Bond Ordinance and the 2007 Bond Ordinance. The Treasurer of the City is authorized and requested to provide whatever assistance is necessary to accomplish such redemption and the giving of notice therefor.

The Escrow Agent is hereby authorized and directed to pay to the fiscal agency or agencies of the State of Washington, sums sufficient to pay, when due, the payments specified in Section 8 of this ordinance. All such sums shall be paid from the moneys and Acquired Obligations deposited with said Escrow Agent pursuant to the previous section of this ordinance, and the income therefrom and proceeds thereof. All moneys and Acquired Obligations deposited with said Escrow Agent and any income therefrom shall be credited to a refunding account and held, invested (but only at the direction of the Treasurer) and applied in accordance with the

provisions of this ordinance and with the laws of the State of Washington for the benefit of the City and owners of the Refunded Bonds.

The City will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds shall be paid when due.

(b) *Escrow Agreement/Cost of Issuance Agreement.* The Treasurer is authorized and directed to execute and deliver to the Escrow Agent an Escrow Deposit Agreement substantially in the form attached to this ordinance as Exhibit A (the “Escrow Agreement”) and a Cost of Issuance Agreement substantially in the form attached to this ordinance as Exhibit B (the “Cost of Issuance Agreement”), with such changes or modifications as the Treasurer, with the advice of bond counsel to the City, consider necessary or advisable.

The City hereby irrevocably sets aside for and pledges to the payment of the Refunded Bonds the moneys and obligations to be deposited with the Escrow Agent pursuant to the Escrow Agreement to accomplish the plan of refunding and defeasance of the Refunded Bonds set forth herein and in the Escrow Agreement. When all of the Refunded Bonds shall have been redeemed and retired, the City may cause any remaining money to be transferred to the Bond Fund for the purposes set forth above.

Section 10. Tax Covenants. The covenants of this section shall be applicable only to those Bonds issued as tax-exempt obligations or Bonds that are required to observe the applicable rules and regulations under the Code for tax-exempt bonds. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Bonds and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be

required under applicable law to continue the exemption from federal income taxation of the interest on the Bonds.

(a) *Arbitrage Covenant.* Without limiting the generality of the foregoing, the City covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Bonds or any other funds of the City which may be deemed to be proceeds of the Bonds pursuant to Section 148 of the Code and the regulations promulgated thereunder which, if such use had been reasonably expected on the dates of delivery of the Bonds to the initial purchasers thereof, would have caused the Bonds to be treated as “arbitrage bonds” within the meaning of such term as used in Section 148 of the Code.

The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon. The City will comply with the requirements of Section 148 of the Code and the applicable regulations thereunder throughout the term of the Bonds.

(b) *Private Person Use Limitation for Bonds.* The City covenants that for as long as the Bonds issued as governmental bonds or tax advantaged bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bonds to be allocated to any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than 5% of the Net Proceeds of the Bonds are allocable to any Private Person Use; and

(4) More than 5% of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the project described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the projects financed or refinanced with the proceeds of the Bonds (including the Refunded Bonds), and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bonds allocable to the state or local governmental use portion of the project(s) to which the Private Person Use of such portion of the projects financed or refinanced with the proceeds of the Bonds (including the Refunded Bonds) relate. The City further covenants that it will comply with any limitations on the use of the projects financed or refinanced with the proceeds of the Bonds by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on

the Bonds. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds.

(c) *Modification of Tax Covenants.* The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any Bonds.

(d) *No Designation under Section 265(b) of the Code.* The Bonds are not "qualified tax-exempt obligations" under Section 265(b)(3) of the Code for banks, thrift institutions and other financial institutions.

Section 11. Bond Fund and Provision for Tax Levy Payments. The Treasurer currently maintains a fund to be used for the payment of debt service on all limited tax general obligation bonds, designated as the "General Obligation Bond Redemption Fund" (the "Bond Fund"). The taxes hereafter levied for the purpose of paying principal of and interest on the Bonds and other funds to be used to pay the Bonds shall be deposited in the Bond Fund no later than the date such funds are required for the payment of principal of and interest on the Bonds. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City funds.

The City hereby irrevocably covenants and agrees for as long as any of the Bonds are outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with all other revenues and money of the City legally available for such purposes, to pay

the principal of and interest on the Bonds as the same shall become due. All of such taxes so collected and any other money to be used for such purposes shall be paid into the Bond Fund.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people pursuant to the Constitution of the State of Washington, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bonds will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bonds. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bonds as the same shall become due.

Section 12. Defeasance. In the event that the City, in order to effect the payment, retirement or redemption of any Bond, sets aside in the Bond Fund or in another special account, cash or noncallable Government Obligations, or any combination of cash and/or noncallable Government Obligations, in amounts and maturities which, together with the known earned income therefrom, are sufficient to redeem or pay and retire such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such cash and/or noncallable Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on such Bond. The owner of a Bond so provided for shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal, premium, if any, and interest from such special account, and such Bond shall be deemed to be not outstanding under this ordinance.

The City shall give written notice of defeasance to the owners of all Bonds so provided and to each party entitled to receive notice in accordance with Section 14 of this ordinance.

Section 13. Delegation of Authority; Sale of Bonds.

(a) *Delegation of Authority.* The City has determined that it would be in the best interest of the City to delegate to the Designated Representative the authority to approve the manner of sale, the number of series, the series designation, the final principal amounts and prices of each maturity of the Bonds, date of the Bonds, tax status of each series, interest rates, payment dates, redemption provisions, maturity dates of such Bonds, and other terms and conditions of the Bonds in the manner provided hereafter so long as:

- (1) the aggregate principal amount of the Bonds does not exceed \$52,000,000; and
- (2) the true interest cost of each series of the Bonds does not exceed 5%.

In determining the manner of sale, number of series, the taxable or tax-exempt status of each series, the series designation, the final principal amounts of the Bonds and prices of each maturity, date of the Bonds, interest rates, payment dates, redemption provisions, and maturity dates of such Bonds, the Designated Representative, in consultation with City staff and the City's financial advisor, shall take into account those factors that, in the Designated Representative's judgment, will result in the lowest true interest cost on the applicable series of the Bonds to their maturity, including, but not limited to current financial market conditions and current interest rates for obligations comparable in tenor and quality to the applicable series of the Bonds.

(b) *Bond Sale.* The Designated Representative is hereby authorized to determine whether the Bonds shall be sold by Negotiated Sale or by a Competitive Sale. Upon the selection of one or more underwriters, the Designated Representative shall negotiate the terms of

sale for the Bonds, including the terms described in this section, in a contract of sale (a “Bond Purchase Contract”).

If the Bonds are sold by Competitive Sale, the Designated Representative or his designee shall: (a) establish the date of the public sale; (b) establish the criteria by which the successful bidder will be determined; (c) request a good faith deposit from the Successful Bidder; (d) cause notice of the public sale to be given (the “Notice of Sale”); and (e) provide for such other matters pertaining to the public sale as he deems necessary or desirable. The Designated Representative shall cause notice of the public sale to be given and provide for such other matters pertaining to the public sale as she deems necessary or desirable.

Upon the date and time established for the receipt of bids for the Bonds, the Designated Representative or his designee shall open the bids and shall cause the bids to be mathematically verified. The Designated Representative will approve the bid offering to purchase the Bonds at the lowest true interest cost to the City at such price as shall be determined at the time of sale by the Designated Representative, plus accrued interest to the date of delivery, on all the terms and conditions set out in the applicable Notice of Sale.

All bids submitted for the purchase the Bonds shall be as set forth in the applicable Notice of Sale or otherwise as established by the Designated Representative which will be furnished upon request made to the Designated Representative. Such successful bidder shall, within three hours of the award of the Bonds, make a good faith deposit by federal wire or by a cashier’s or certified check, made payable to the order of the City in an amount determined by the Designated Representative. The good faith deposit of the successful bidder shall be security for the performance of its bid and shall be held as liquidated damages in case the successful bidder fails to take up and pay for the applicable series of the Bonds within 45 days if tendered

for delivery. All bids submitted shall be opened (but not read publicly) by the City. The City reserves the right to reject any and all bids and to waive any irregularity or informality in any bid.

Subject to the terms and conditions set forth in this section, the Designated Representative is hereby authorized to accept an Approved Bid in a Competitive Sale and/or execute the final form of a Bond Purchase Contract in a Negotiated Sale, upon his approval of the number of series, the series designation, the final principal amounts of the Bonds (within the parameters established in this section), date of the Bonds, interest rates, payment dates, redemption provisions, and maturity dates of such bonds set forth therein. Following the sale of the Bonds of a series, the Designated Representative shall provide a report to the Council, describing the final terms of such Bonds approved pursuant to the authority delegated in this section.

(b) *Delivery of Bonds; Documentation.* Upon the passage and approval of this ordinance, the proper officials of the City including the Designated Representative, are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Bonds to the successful bidder thereof and further to execute all closing certificates and documents required to effect the closing and delivery of the Bonds. In furtherance of the foregoing, the Designated Representative is authorized to approve and enter into agreements for the payment of costs of issuance, including underwriter's discount, the fees and expenses specified in the Bond Purchase Contract or Notice of Sale, including fees and expenses of underwriter and other retained services, including Bond Counsel, financial advisor, rating agencies, fiscal agency, Escrow Agent, and other expenses customarily incurred in connection with issuance and sale of bonds.

(c) *Preliminary and Final Official Statements.* The Designated Representative is hereby authorized to deem final the preliminary Official Statement relating to the Bonds for the purposes of the Rule. The Designated Representative is further authorized to ratify and to approve for purposes of the Rule, on behalf of the City, the Official Statement relating to the issuance and sale of the Bonds and the distribution of the Official Statement pursuant thereto with such changes, if any, as may be deemed by him to be appropriate.

Section 14. Undertaking to Provide Ongoing Disclosure. The Designated Representative is hereby authorized to enter into a written undertaking for the benefit of the owners of the Bonds as required by Section (b)(5) of the Rule (the “Continuing Disclosure Agreement”). The Continuing Disclosure Agreement constitutes the City's written undertaking for the benefit of the owners (including Beneficial Owners) of the Bonds as required by Section (b)(5) of the Rule.

Section 15. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City and the Registrar in connection therewith and upon his/her filing with the Designated Representative and the Registrar evidence satisfactory to the Designated Representative and the Registrar, respectively, that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City and the Registrar with indemnity satisfactory to the Designated Representative and the Registrar, respectively.

Section 16. Severability. If any provision in this ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall

be deemed separable from the remaining provision of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

Section 17. Effective Date. This ordinance shall become effective immediately upon its passage, pursuant to the declaration of emergency in Section 2 hereof.

PASSED by the City Council of the City of Spokane, Washington, at a regular meeting thereof, held on January____, 2015.

CITY OF SPOKANE
Spokane County, Washington

Ben Stuckart, Council President

ATTEST:

Terri L. Pfister, Clerk

(SEAL)

APPROVED AS TO FORM:

Nancy Isserlis, City Attorney

Laura D. McAloon, Bond Counsel

CERTIFICATE

I DO HEREBY CERTIFY that I am the duly chosen, qualified and acting Clerk of the City of Spokane, Washington (the “City”), and keeper of the records of the City Council (the “Council”); and

I HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. C____ of the City (the “Ordinance”), as finally passed at a regular meeting of the Council held on the _____ day of January, 2015, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ of January, 2015.

City Clerk

EXHIBIT A

ESCROW DEPOSIT AGREEMENT

CITY OF SPOKANE, WASHINGTON

LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015

THIS ESCROW AGREEMENT, dated as of January ____, 2015 (herein, together with any amendments or supplements hereto, called the "Agreement") is entered into by and between the City of Spokane, Washington (herein called the "City") and _____, _____, _____ as Escrow Agent (herein, together with any successor in such capacity, called the "Escrow Agent"). The notice addresses of the City and the Escrow Agent are shown on Exhibit A attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, the City heretofore has issued and there presently remain outstanding the obligations described in Exhibit B attached hereto (the "Refunded Bonds"); and

WHEREAS, pursuant to Ordinance No. C_____, adopted on January ____, 2015 (the "Bond Ordinance"), the City has determined to issue its Limited Tax General Obligation Refunding Bonds, 2015 (the "Bonds"); and

WHEREAS, the proceeds of the Bonds are being used for the purpose of providing funds to pay the costs of refunding the Refunded Bonds and certain costs of issuance; and

WHEREAS, pursuant to the Bond Ordinance, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C attached hereto and made a part hereof, and certain Refunded Bonds have been designated for defeasance and shall be paid on their scheduled maturity dates, and will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C; and

WHEREAS, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, the issuance, sale, and delivery of the Bonds have been duly authorized to be issued, sold, and delivered for the purpose of obtaining the funds required to provide for the payment of the principal of, interest on and redemption premium (if any) on the Refunded Bonds when due as shown on Exhibit C attached hereto; and

WHEREAS, the City desires that, concurrently with the delivery of the Bonds to the purchasers, the proceeds of the Bonds, together with certain other available funds of the City (if needed), shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as (the “Escrowed Securities”) for deposit to the credit of the Refunding Accounts and to establish a beginning cash balance (if needed) in the Refunding Accounts; and

WHEREAS, simultaneously herewith, the City is entering into a Cost of Issuance Agreement with the Escrow Agent to provide for the payment of costs of issuance relating to the Bonds;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the City and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

Article 1. Definitions

Section 1.1. Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

Escrow Account Deposits mean the cash deposits from proceeds of the Bonds and contributions from the City (if needed) in the amount and all as described in Exhibit D.

Escrowed Securities means the noncallable Government Obligations described in Exhibit D attached to this Agreement, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement.

Government Obligations means direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

Paying Agent means the fiscal agency of the State of Washington, as the paying agent for the Refunded Bonds.

2004 Refunded Bonds means the City’s Unlimited Tax General Obligation Bonds maturing on and after December 1, 2019.

2004 Bonds Refunding Account means the tax-exempt escrow account of that name established pursuant to this Agreement for the purpose of defeasing and refunding the 2004 Refunded Bonds.

2007 Refunded Bonds means the City's Unlimited Tax General Obligation and Refunding Bonds maturing on and after December 1, 2015.

2007 Bonds Refunding Account means the tax-exempt escrow account of that name established pursuant to this Agreement for the purpose of defeasing and refunding the 2007 Refunded Bonds.

Section 1.2. Other Definitions.

The terms "Agreement," "City," "Escrow Agent," "Bond Ordinance," "Refunded Bonds," and "Bonds" when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section 1.3. Interpretations.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Bonds in accordance with applicable law.

Article 2. Deposit of Funds and Escrowed Securities

Section 2.1. Deposits in the Escrow Fund.

Concurrently with the sale and delivery of the Bonds the City shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds (from the proceeds of the Bonds and a cash contribution by the City) sufficient to purchase the Escrowed Securities described in Exhibit D attached hereto, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the City in writing.

Article 3. Creation and Operation of Refunding Accounts

Section 3.1. Refunding Accounts

The Escrow Agent has created on its books two special trust accounts and irrevocable escrows to be known as the 2004 Bonds Refunding Account and the 2007 Bonds Refunding Account (the "Refunding Accounts"). The 2004 Bonds Refunding Account shall be established for the purpose of refunding the 2004 Refunded Bonds, and the 2007 Bonds Refunding Account shall be established for the purpose of refunding the 2007 Refunded Bonds. The Escrow Agent hereby agrees that upon receipt thereof it will deposit to the credit of the 2004 Bonds Refunding Account certain amounts described in Exhibit D-1 and will deposit to the credit of the 2007 Bonds Refunding Account certain amounts described in Exhibit D-2. Such deposits, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Refunding Accounts, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the

principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Refunding Accounts shall be transferred to the City, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.2. Payment of Principal and Interest.

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances from time to time on deposit in the Escrow Fund, the amounts required to pay the principal of the Refunded Bonds at their respective redemption dates and interest thereon to such redemption dates in the amounts and at the times shown in Exhibits C-1 and C-2.

Section 3.3. Sufficiency of Escrow Fund.

The City represents that, based upon the information provided by _____, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity, all as more fully set forth in Exhibit E attached hereto. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Escrow Fund shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2. hereof, the City shall timely deposit in the Refunding Accounts, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Refunding Accounts or the City's failure to make additional deposits thereto.

Section 3.4. Trust Fund.

The Escrow Agent or its affiliate, shall hold at all times the Refunding Accounts, the Escrowed Securities and all other assets of the Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Refunding Accounts to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Refunding Accounts only as set forth herein. The Escrowed Securities and other assets of the Refunding Accounts shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Bonds shall be entitled to the same preferred claim and first lien upon the Escrowed Securities, the proceeds thereof, and all other assets of the Refunding Accounts to which they are entitled as owners of the Refunded Bonds. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as a trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent under this Agreement shall not be subject to warrants, drafts or

checks drawn by the City or, except to the extent expressly herein provided, by the Paying Agent.

Article 4. Limitation on Investments

Section 4.1. Investments.

Except for the initial investment in the Escrowed Securities, and except as provided in Section 4.2 hereof, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

Section 4.2. Substitution of Securities.

At the written request of the City, and upon compliance with the conditions hereinafter stated, the Escrow Agent shall utilize cash balances in the Refunding Accounts, or sell, transfer, otherwise dispose of or request the redemption of the Escrowed Securities and apply the proceeds therefrom to purchase Refunded Bonds or Government Obligations which do not permit the redemption thereof at the option of the obligor. Any such transaction may be effected by the Escrow Agent only if (a) the Escrow Agent shall have received a written opinion from a firm of certified public accountants that such transaction will not cause the amount of money and securities in the Refunding Accounts to be reduced below an amount sufficient to provide for the full and timely payment of principal of and interest on all of the remaining Refunded Bonds as they become due, taking into account any optional redemption thereof exercised by the City in connection with such transaction; and (b) the Escrow Agent shall have received the unqualified written legal opinion of its bond counsel or tax counsel to the effect that such transaction will not cause any of the Bonds or Refunded Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Article 5. Application of Cash Balances

Section 5.1. In General.

Except as provided in Section 2.1, 3.2 and 4.2 hereof, no withdrawals, transfers or reinvestment shall be made of cash balances in the Refunding Accounts. Cash balances shall be held by the Escrow Agent in United States currency as cash balances as shown on the books and records of the Escrow Agent and, except as provided herein, shall not be reinvested by the Escrow Agent; provided, however, a conversion to currency shall not be required (i) for so long as the Escrow Agent's internal rate of return does not exceed 20%, or (ii) if the Escrow Agent's internal rate of return exceeds 20%, the Escrow Agent receives a letter of instructions, accompanied by the opinion of nationally recognized bond counsel, approving the assumed reinvestment of such proceeds at such higher yield.

Article 6. Redemption of Refunded Bonds

Section 6.1. Call for Redemption.

The City hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption dates, as shown on Appendix A attached hereto.

Section 6.2. Notice of Redemption/Notice of Defeasance.

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds pursuant to the terms of the Refunded Bonds and in substantially the forms attached hereto as Appendices A and B attached hereto and as described on said Appendices A and B to the Paying Agent for distribution as described therein. The notice of defeasance shall be given immediately following the execution of this Agreement, and the notice of redemption shall be given in accordance with the ordinance authorizing the Refunded Bonds. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

Article 7. Records and Reports

Section 7.1. Records.

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Refunding Accounts and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

Section 7.2. Reports.

While this Agreement remains in effect, the Escrow Agent quarterly shall prepare and send to the City a written report summarizing all transactions relating to the Refunding Accounts during the preceding financial quarter, including, without limitation, credits to the Refunding Accounts as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Refunding Accounts for payments on the Refunded Bonds or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Refunding Accounts as of the end of such period.

Article 8. Concerning the Paying Agents and Escrow Agent

Section 8.1. Representations.

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 8.2. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Refunding Accounts. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Refunding Accounts or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the City promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Bonds shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

The Escrow Agent is not a party to the proceedings authorizing the Bonds or the Refunded Bonds and is not responsible for nor bound by any of the provisions thereof (except to the extent that the Escrow Agent may be a place of payment and paying agent and/or a paying agent/registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Refunding Accounts, or any part thereof, or as to the title of the City thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own neglect or willful misconduct, nor for any loss unless the same shall have been through its negligence or bad faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Refunding Accounts, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own willful misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the City or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or

contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time.

Section 8.3. Successor Escrow Agents.

Any corporation, association or other entity into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or otherwise transfer all or substantially all of its corporate trust assets and business or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or other transfer to which it is a party, *ipso facto*, shall be and become successor Escrow Agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as Escrow Agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the City, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the City within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Washington, authorized under such laws to exercise corporate trust powers, having its principal office and place of business in the State of Washington, having a combined capital and surplus of at least \$100,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the City and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.3 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by

the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

Article 9. Miscellaneous

Section 9.1. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days prior notice thereof.

Section 9.2. Termination of Responsibilities.

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the City, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

Section 9.3. Binding Agreement.

This Agreement shall be binding upon the City and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the City, the Escrow Agent and their respective successors and legal representatives.

Section 9.4. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 9.5. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

Section 9.6. Time of the Essence.

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 9.7. Notice to Moody's and Standard & Poor's.

In the event that this Agreement or any provision thereof is severed, amended or revoked, the City shall provide written notice of such severance, amendment or revocation to Moody's Investors Service at 7 World Trade Center at 250 Greenwich Street, New York, New York, 10007, Attention: Public Finance Rating Desk/Refunded Bonds and Standard & Poor's Ratings Services, 55 Water Street, New York, New York 10041, Attention: Refunded Bonds Municipal Bond Department.

Section 9.8. Amendments.

This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Bonds. No such amendment shall be made without first receiving written confirmation from the rating agencies (if any) which have rated the Refunded Bonds that such administrative changes will not result in a withdrawal or reduction of its rating then assigned to the Refunded Bonds. If this Agreement is amended, prior written notice and copies of the proposed changes shall be given to the rating agencies which have rated the Refunded Bonds.

EXECUTED as of the date first written above.

CITY OF SPOKANE, WASHINGTON

Treasurer

[ESCROW AGENT]

as Authorized Signer

Exhibit A	—	Addresses of the City and the Escrow Agent
Exhibit B	—	Description of the Refunded Bonds
Exhibit C	—	Schedule of Debt Service on Refunded Bonds
Exhibit D	—	Description of Beginning Cash Deposit (if any) and Escrowed Securities
Exhibit E	—	Refunding Accounts Cash Flow
Appendix A-1	—	Notice of Redemption for the 2004 Bonds
Appendix A-2	—	Notice of Redemption for the 2007 Bonds
Appendix B-1	—	Notice of Defeasance for the 2004 Bonds
Appendix B-2	—	Notice of Defeasance for the 2007 Bonds

EXHIBIT A
Addresses of the City and Escrow Agent

City: City of Spokane
808 W. Spokane Falls Boulevard
Spokane, WA 99201-3342
Attention: Treasurer

Escrow Agent: _____

Attention: _____

EXHIBIT B

Description of the Refunded Bonds (the “Refunded Bonds”)

City of Spokane, Washington
Unlimited Tax General Obligation Bonds, Series 2004
(the “2004 Refunded Bonds”)

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Numbers
2019*	\$1,100,000	5.25%	849067A78
2020	1,250,000	5.25	849067A86
2021	1,250,000	5.25	849067A94
2022	1,250,000	5.25	849067B28
2023	1,250,000	5.25	849067B36
2024	1,250,000	5.25	849067B44

* Term Bonds

City of Spokane, Washington
Unlimited Tax General Obligation and Refunding Bonds, Series 2007
(the “2007 Refunded Bonds”)

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Numbers
2015	\$1,600,000	4.00%	849067L43
2016	1,680,000	4.00	849067L50
2017	1,765,000	4.00	849067L68
2018	1,855,000	4.00	849067L76
2019	1,935,000	4.00	849067L84
2020	2,015,000	4.125	849067L92
2021	2,110,000	4.50	849067M26
2022	7,940,000	5.00	849067M34
2023	8,400,000	4.75	849067M42
2024	8,855,000	4.75	849067M59

EXHIBIT C
Schedule of Debt Service on the Refunded Bonds

I. Schedule of Debt Service on 2004 Refunded Bonds

<u>Date</u>	<u>Interest</u>	<u>Principal/ Redemption Price</u>	<u>Total</u>
	\$		\$

II. Schedule of Debt Service on 2007 Refunded Bonds

<u>Date</u>	<u>Interest</u>	<u>Principal/ Redemption Price</u>	<u>Total</u>
	\$		\$

EXHIBIT D
Escrow Deposit

I. Cash \$ _____

II. Other Obligations

<u>Description</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Total Cost</u>
		\$	%	\$

EXHIBIT E
Refunding Accounts Cash Flow

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Cash Balance
	\$	\$	\$	\$

APPENDIX A-1

NOTICE OF REDEMPTION*

City of Spokane, Washington Unlimited Tax General Obligation Bonds, Series 2004

NOTICE IS HEREBY GIVEN that the City of Spokane, Washington has called for redemption on _____, 2015, of its outstanding Unlimited Tax General Obligation Bonds, Series 2004 (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to _____, 2015. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

[The Bank of New York Mellon
Worldwide Securities Processing
2001 Bryan Street, 9th Floor
Dallas, TX 75201]

-or-

Wells Fargo Bank, National Association
Corporate Trust Department
14th Floor
999 Third Avenue
Seattle, WA 98104

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on _____, 2015.

The following Bonds are being redeemed:

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Nos.
2019*	\$1,100,000	5.25%	849067A78
2020	1,250,000	5.25	849067A86
2021	1,250,000	5.25	849067A94
2022	1,250,000	5.25	849067B28
2023	1,250,000	5.25	849067B36
2024	1,250,000	5.25	849067B44

*Term Bonds

By Order of the City of Spokane, Washington

The Bank of New York Mellon, as Paying Agent

* This notice shall be given not more than 60 nor less than 30 days prior to _____, 2015 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed The Depository Trust Company of New York, New York; Piper Jaffray & Co. (formerly Seattle-Northwest Securities Corporation), Ambac Assurance Insurance Corporation, Moody's Investors Service, New York, New York; and Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc., New York, New York, and to the Municipal Securities Rulemaking Board.

Dated: _____.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the “Act”) unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

APPENDIX A-2

NOTICE OF REDEMPTION*

City of Spokane, Washington Unlimited Tax General Obligation and Refunding Bonds, Series 2007

NOTICE IS HEREBY GIVEN that the City of Spokane, Washington has called for redemption on _____, 2015, of its outstanding Unlimited Tax General Obligation and Refunding Bonds, Series 2007 (the “Bonds”).

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to _____, 2015. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

[The Bank of New York Mellon
Worldwide Securities Processing
2001 Bryan Street, 9th Floor
Dallas, TX 75201]

-or- Wells Fargo Bank, National Association
Corporate Trust Department
14th Floor
999 Third Avenue
Seattle, WA 98104

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on _____, 2015.

The following Bonds are being redeemed:

<u>Maturity Years (December 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>CUSIP Numbers</u>
2015	\$1,600,000	4.00%	849067L43
2016	1,680,000	4.00	849067L50
2017	1,765,000	4.00	849067L68
2018	1,855,000	4.00	849067L76
2019	1,935,000	4.00	849067L84
2020	2,015,000	4.125	849067L92
2021	2,110,000	4.50	849067M26
2022	7,940,000	5.00	849067M34
2023	8,400,000	4.75	849067M42
2024	8,855,000	4.75	849067M59

* This notice shall be given not more than 60 nor less than 30 days prior to _____, 2015 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed The Depository Trust Company of New York, New York; Piper Jaffray & Co., Ambac Assurance Insurance Corporation, Moody's Investors Service, New York, New York; and Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc., New York, New York, and to the Municipal Securities Rulemaking Board.

By Order of the City of Spokane, Washington

The Bank of New York Mellon, as Paying Agent

Dated: _____.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the “Act”) unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

APPENDIX B-1

Notice of Defeasance* City of Spokane, Washington Unlimited Tax General Obligation Bonds, Series 2004

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated January _____, 2015, by and between City of Spokane, Washington (the "City") and _____ (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the or redemption date of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. C33544 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Unlimited Tax General Obligation Bonds, Series 2004 (Dated December 29, 2004)

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Nos.	Call Date (at 100%)
2019*	\$1,100,000	5.25%	849067A78	___/___/2015
2020	1,250,000	5.25	849067A86	___/___/2015
2021	1,250,000	5.25	849067A94	___/___/2015
2022	1,250,000	5.25	849067B28	___/___/2015
2023	1,250,000	5.25	849067B36	___/___/2015
2024	1,250,000	5.25	849067B44	___/___/2015

*Term Bonds

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the Defeased Bonds described above, which certificate is in the principal amount of \$_____. All of which has been defeased as described above.

* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company of New York, New York; The Bank of New York Mellon, as Fiscal Agent; Moody's Investors Service, New York, New York; and Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc., New York, New York, Piper Jaffray & Co. (formerly Seattle-Northwest Securities Corporation), Ambac Assurance Corporation and to the Municipal Securities Rulemaking Board.

APPENDIX B-2

Notice of Defeasance*
City of Spokane, Washington
Unlimited Tax General Obligation and Refunding Bonds, Series 2007

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated January _____, 2015, by and between City of Spokane, Washington (the "City") and _____ (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the or redemption date of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. C34127 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Unlimited Tax General Obligation and Refunding Bonds, Series 2007 (Dated October 7, 2007)

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Nos.	Call Date (at 100%)
2015	\$1,600,000	4.00%	849067L43	N/A
2016	1,680,000	4.00	849067L50	N/A
2017	1,765,000	4.00	849067L68	N/A
2018	1,855,000	4.00	849067L76	___/___/2015
2019	1,935,000	4.00	849067L84	___/___/2015
2020	2,015,000	4.125	849067L92	___/___/2015
2021	2,110,000	4.50	849067M26	___/___/2015
2022	7,940,000	5.00	849067M34	___/___/2015
2023	8,400,000	4.75	849067M42	___/___/2015
2024	8,855,000	4.75	849067M59	___/___/2015

* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company of New York, New York; The Bank of New York Mellon, as Fiscal Agent; Moody's Investors Service, New York, New York; and Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc., New York, New York, Piper Jaffray & Co. (formerly Seattle-Northwest Securities Corporation), Ambac Assurance Corporation and to the Municipal Securities Rulemaking Board.

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the Defeased Bonds described above, which certificate is in the principal amount of \$_____. All of which has been defeased as described above.

EXHIBIT B

COST OF ISSUANCE AGREEMENT

**CITY OF SPOKANE, WASHINGTON
LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2015**

THIS COST OF ISSUANCE AGREEMENT, dated as of January ____, 2015 (herein, together with any amendments or supplements hereto, called the "Agreement"), is entered into by and between the CITY OF SPOKANE, WASHINGTON, (herein called the "City") and _____, _____, _____ as Escrow Agent (herein, together with any successor in such capacity, called the "Escrow Agent" or "Refunding Trustee").

WITNESSETH:

WHEREAS, pursuant to Ordinance No. C_____ of the City, adopted on December ____, 2015 (the "Ordinance"), the City has determined to issue its Limited Tax General Obligation Refunding Bonds, 2015 (the "Bonds") for the purpose of providing funds to pay the costs of refunding certain outstanding bonds of the City; and

WHEREAS, simultaneously herewith, the City is entering into an Escrow Deposit Agreement, dated January ____, 2015 under which the Escrow Agent will hold invested proceeds of the Bonds in order to pay and redeem the refunded bonds under the terms set forth therein; and

WHEREAS, certain proceeds of the Bonds will be delivered to the Escrow Agent on the date of issuance of the Bonds that are required to be disbursed to pay costs of issuance of the Bonds; and

WHEREAS, the Escrow Agent has agreed, without additional compensation to disburse the Bond proceeds received to pay costs of issuance under the terms of this Agreement;

Section 1. Deposit in the Costs of Issuance Fund.

The Escrow Agent has created on its books a special trust fund and escrow fund to be known as the Costs of Issuance Fund. The Escrow Agent agrees that upon receipt it will deposit to the credit of the Costs of Issuance Fund Account the sum of \$_____ to pay those costs of issuance set forth on Exhibit A. Such deposit, all proceeds therefrom, and all cash balances on deposit therein shall be the property of the Costs of Issuance Fund to pay those costs of issuance set forth on Exhibit A upon receipt of invoices. If any of the \$_____ deposit allocated for costs of issuance for the Bonds remains unspent on _____, 20__, the Escrow Agent shall transfer such unspent amount to the City, and this Agreement shall be deemed fully performed and terminated.

Section 2. Investments.

The Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder.

Section 3. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the costs of issuance identified herein shall be limited to the proceeds of the Bonds delivered to the Escrow Agent.

Section 4. Compensation.

The City shall pay to the Escrow Agent fees for performing the services hereunder and under the Escrow Agreement for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement and the Escrow Agreement pursuant to the terms of the Fee Schedule attached as Exhibit B. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against funds held under the Escrow Agreement for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

Section 5. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A to the Escrow Agreement.

Section 6. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the state of Washington.

EXECUTED as of the date first written above.

CITY OF SPOKANE, WASHINGTON

Treasurer

**[ESCROW AGENT/REFUNDING
TRUSTEE]**

as Authorized Signer

Exhibit A - Costs of Issuance Schedule
Exhibit B - Fee Schedule

EXHIBIT A

Costs of Issuance

Bond Counsel Fee (K&L Gates LLP) \$
Escrow Agent Fee (.....).....
Rating Agency Fee (.....)
Total: \$

EXHIBIT B

FEE SCHEDULE

See Attached

CERTIFICATE

I, the undersigned, City Clerk of the City Council, of the City of Spokane, Washington (the "City") and keeper of the records of the City Council (the "City Council"), DO HEREBY CERTIFY:

1. That the attached Ordinance is a true and correct copy of Ordinance No. C_____ of the City Council (the "Ordinance"), duly adopted at a regular meeting thereof held on the _____ day of January, 2015.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the adoption of the Ordinance; that all other requirements and proceedings incident to the proper adoption of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of January, 2015.

City Clerk

**Agenda Sheet for City Council Meeting of:**

01/12/2015

Date Rec'd

12/30/2014

Clerk's File #

RES 2015-0005

Renews #Cross Ref #Submitting Dept

CITY COUNCIL

Contact Name/Phone

BEN STUCKART 625-6269

Project #Contact E-Mail

BSTUCKART@SPOKANECITY.ORG

Bid #Agenda Item Type

Resolutions

Requisition #Agenda Item Name0320 RESOLUTION APPOINTING COUNCIL MEMBER APPOINTMENTS TO
BOARDS & COMMITTEEAgenda Wording

A resolution approving the appointments to the City Council standing committees, inter-governmental boards and other boards and committees.

Summary (Background)

SMC 2.005.010 D. 6 provides that standing committee membership shall be determined at the second legislative session of the City Council of each calendar year and memorialized by resolution of the City Council. This resolution appointments to the City Council standing committees, inter-governmental boards and other boards and committees.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

MCDANIEL, ADAM

Study SessionDivision DirectorOtherFinance

LESESNE, MICHELE

Distribution ListLegal

PICCOLO, MIKE

For the Mayor

SANDERS, THERESA

Additional ApprovalsPurchasing

RESOLUTION NO. 2015-0005

A resolution regarding council member appointments to boards and committees.

WHEREAS, city council members are appointed to serve on various boards and committees, including City Council standing committees, inter-governmental boards and various other boards and committees; and

WHEREAS, City Council standing committee appointments are governed by Chapter 2.005 of the Spokane Municipal Code and Rule 9 of the City Council's Rules of Procedure; and

WHEREAS, SMC 2.005.010 D. 6 provides that standing committee membership shall be determined at the second legislative session of the City Council of each calendar year and memorialized by resolution of the City Council; and

WHEREAS, council members are included as members of several inter-governmental boards and committees and serve on other city boards and committees pursuant to various inter-local agreements, provisions of the SMC and state statutes; - - Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPOKANE that the City Council approves the appointments to the City Council standing committees, inter-governmental boards and other boards and committees as set forth in Attachment A.

BE IT FURTHER RESOLVED that subsequent changes to the boards and committees appointments may be approved by motion of the Council.

ADOPTED by the City Council on _____, 2015.

City Clerk

Approved as to form:

Assistant City Attorney

Committee/Board	Current Membership	Proposed Membership
Finance	Chair - Ben Stuckart	Chair - Ben Stuckart (all members)
Public Works	Chair - Amber Waldref	Chair - Amber Waldref (all members)
PCED	Chair - Candace Mumm	Chair - Candace Mumm (all but Allen)
Public Safety	Chair - Jon Snyder	Chair - Jon Snyder (all members)
Parks Board	Mike Allen	Mike Allen
Library Board	Ben Stuckart	Ben Stuckart
Planning Commission	Candace Mumm	Candace Mumm
Airport Board	Ben Stuckart	Ben Stuckart
Priority Spokane Board	Amber Waldref	Amber Waldref
Board of Health	Mike Fagan, Amber Waldref, Jon Snyder	Mike Fagan, Amber Waldref, Jon Snyder
Visit Spokane	Steve Salvatori	Candace Mumm
** Lodging Tax	Steve Salvatori	Karen Stratton
** Lodging Tax 1.3%	Steve Salvatori	Karen Stratton
Police Pension	Ben Stuckart, Mike Fagan	Ben Stuckart, Mike Fagan
Fire Pension	Steve Salvatori, Ben Stuckart	Ben Stuckart, Mike Allen
Spokane Employees Retirement Board	Jon Snyder	Jon Snyder
Community Health and Human Services	Amber Waldref, Mike Fagan	Karen Stratton, Mike Fagan
Arts Fund	Candace Mumm	Karen Stratton
Human Rights Commission	Ben Stuckart	Blaine Stum for council
Aging and Long Term Care	Jon Snyder, Mike Fagan	Jon Snyder, Mike Fagan
Growth Management Act Steering Committee	Jon Snyder, Candace Mumm, Mike Fagan	Jon Snyder, Candace Mumm, Mike Fagan
Spokane Regional Solid Waste Liaison Board	Steve Salvatori, Mike Fagan	Mike Fagan, Mike Allen
Spokane Transit Authority	Amber Waldref, Candace Mumm, Mike Allen	Amber Waldref, Candace Mumm, Karen Stratton
Spokane Regional Transportation Council	David Condon, Jon Snyder	Amber Waldref , Jon Snyder, <i>David Condon</i>
University District PDA	Ben Stuckart	Ben Stuckart
Solid Waste Advisory Council	Steve Salvatori	Mike Fagan
Parking Advisory Committee	Steve Salvatori	Jon Snyder
Community Assembly Liaison	Amber Waldref	Karen Stratton
Investment Committee	Steve Salvatori	Candace Mumm

Plan is to adopt this tonight

As of January 1, 2015

As of January 1, 2015

**Agenda Sheet for City Council Meeting of:**

01/12/2015

Date Rec'd

12/30/2014

Clerk's File #

RES 2015-0006

Renews #Submitting Dept

WATER & HYDROELECTRIC SERVICES

Cross Ref #Contact Name/Phone

DAN KEGLEY 625-7840

Project #Contact E-Mail

DKEGLEY@SPOKANECITY.ORG

Bid #Agenda Item Type

Resolutions

Requisition #Agenda Item Name

4100 - ADOPTING THE CITY OF SPOKANE COMPREHENSIVE WATER SYSTEM

Agenda Wording

The City of Spokane, being a Group A water system, is required to submit an updated Water System Plan (WSP) for review and approval to the Washington State Department of Health.

Summary (Background)

The updated Comprehensive Water System Plan, revised December 2014, as reviewed by the State of Washington Department of Health, has been prepared in accordance with the State of Washington Department of Health Rules and Regulation; including WAC 246-290-100.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

SHUPE, LYNN

Study Session

PWC 1/5/2015

Division Director

ROMERO, RICK

OtherFinanceDistribution ListLegal

SCHOEDEL, ELIZABETH

dkegley, jsakamoto, acline

For the Mayor

SANDERS, THERESA

Additional ApprovalsPurchasing

RESOLUTION

WHEREAS, pursuant to the State of Washington Department of Health Rules and Regulations, WAC 246-290-100, the City of Spokane is required to update its Comprehensive Water System Plan every six years; and

WHEREAS, the last Comprehensive Water System Plan for the City of Spokane was prepared in 2006 and adopted by City Council on February 26, 2007; and

WHEREAS, the City of Spokane believes it is in the public interest to maintain a current Comprehensive Water System Plan to help ensure the continued, reliable delivery of safe drinking water at reasonable cost, facilitate economic growth, and foster coordination with adjacent water purveyors; and

WHEREAS, a Comprehensive Water System Plan provides guidance and planning information used by City staff in developing the Water Department's annual Six Year Capital Program update; and

WHEREAS, the Comprehensive Water System Plan (revised) December 2014, as developed and recommended by City staff and as reviewed by the State of Washington Department of Health, has been prepared in accordance with the State of Washington Department of Health Rules and Regulation; including WAC 246-290-100; and

WHEREAS, the Comprehensive Water System Plan: December 2014 includes the Environmental Checklist pursuant to the State Environmental Policy Act; and a Determination of non-significance has been issued; and

WHEREAS, the City Council of the City of Spokane finds implementation of the Plan to be in the public interest;--NOW, THEREFORE,

BE IT RESOLVED by the City of Spokane that the Comprehensive Water System Plan: December 2014, incorporated herein, is hereby adopted and approved.

Adopted and approved by City Council _____, 2014

City Clerk

Approved as to Form:

Assistant City Attorney

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	RES 2010-0034
<u>Renews #</u>	

Submitting Dept	PLANNING & DEVELOPMENT	Cross Ref #	ORD C3459
Contact Name/Phone	GRANT WENCEL 625-6146	Project #	
Contact E-Mail	GWENCEL@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Resolutions	Requisition #	
Agenda Item Name	0650 - RESOLUTION - COMMUTE TRIP REDUCTION PLAN		

Agenda Wording

A resolution adopting an update to the current City of Spokane's Commute Trip Reduction (CTR) Plan.

Summary (Background)

In 2006 the Washington State Legislature passed the Commute Trip Reduction (CTR) Efficiency Act. The law updates the previously enacted CTR law that requires local jurisdictions experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle (SOV) round trips. Such plans require major employers to implement programs to reduce SOV commuting by employees. In 2007 the City of Spokane coordinated with Spokane County

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	MEULER, LOUIS	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	Distribution List	
<u>Legal</u>	DALTON, PAT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	gwencel@spokanecity.org	
Additional Approvals		lmeuler@spokanecity.org	
<u>Purchasing</u>			



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

and other jurisdictions to develop a new Commute Trip Reduction (CTR) Plan. The City now needs to formally adopt the revised Commute Trip Reduction Implementation Plan Update: 2015 - 2019.

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

RESOLUTION NO. 2010-0034

A resolution adopting/updating the City of Spokane's Commute Trip Reduction (CTR) Plan

WHEREAS, in 1991 the Washington State Legislature adopted the Commute Trip Reduction Law RCW 70.94.521 requiring governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle commute trips. Such plans shall require major employers and employers at major worksites to implement programs to reduce single-occupant vehicle commuting by employees at major worksites; and

WHEREAS, the City of Spokane adopted a Commute Trip Reduction Ordinance in 1993 (SMC 15.01); and

WHEREAS, the Washington State Legislature passed the Commute Trip Reduction Efficiency Act of 2006, which amended the requirements for local governments' Commute Trip Reduction Plans; and

WHEREAS, the City created a CTR Plan that addresses the new requirements of the Commute Trip Efficiency Act of 2006; and

WHEREAS, the CTR Plan is a collection of goals and policies, facility and service improvements, and marketing strategies that support reducing drive alone trips and vehicle miles traveled. It also describes requirements for major employers, documents the public involvement process, presents a sustainable financing plan, and lays out the implementation structure for the CTR program; and

WHEREAS, the State's CTR objectives compliment, promote, and provide an implementation mechanism for the City of Spokane's Comprehensive Plan; - Now, therefore,

BE IT RESOLVED that the City Council that:

1. It hereby adopts the attached City of Spokane Commute Trip Reduction Plan Update: 2015 - 2019; and
2. It acknowledges that the CTR Plan is consistent with the Comprehensive Plan;

ADOPTED by the City Council this _____ day of January 2015.

City Clerk

Approved as to form:

Assistant City Attorney

Commute Trip Reduction Implementation Plan Update: 2015–2019

Jurisdiction: City of Spokane

Goals, targets and other performance measures

See Goal and Target Worksheet (attached). **County will provide**

Strategies

What specific steps and strategies will you implement to meet your goal? Please include (a) policies and regulations, (b) services and facilities, and (c) marketing and incentives.

Develop and implement a set of strategies that will help CTR employers achieve their goals for increasing commute alternative use and reducing vehicle miles traveled and greenhouse gas emissions.

CTR employers will receive a commuting option board to be used specifically for promoting and encouraging transportation options. Each board has a specific spot to display the ETCs name and contact information.

Employee Transportations Coordinators (ETCs) are required to attend 15 hours of mandatory ETC training within six months of being appointed ETC. Seasoned ETCs will be encouraged to take refresher courses as needed. The comprehensive ETC training classes will be offered throughout the year and include:

- ETC Orientation
- Management Support
- Marketing CTR / Subsidies and Incentive
- MyCommute.org – online tracking calendar
- Commute Finder Northwest – online ride-matching tool
- Transit Workshop
- Annual Report Workshop
- CTR Survey Workshop
- Social Media for TDM
- FISH Training (motivational)

Networking opportunities will be offered throughout the year to update ETCs on CTR and transportation related issues, promotional campaigns and opportunities, incentives, events, etc.

Collaborate with local agencies and organizations to enhance and improve CTR promotional efforts, media coverage, CTR events and joint projects to ensure maximum leverage and exposure.

Develop and implement promotional campaigns that will encourage the use of commute alternatives.

At a minimum meet annually with CTR employers to review and discuss their CTR program, review CTR survey results, strategize improvements to help employers achieve their CTR targets and goals. Require employers to make program improvements and modifications as needed based on survey results.

Work collaboratively with Spokane Transit to provide updates and feedback to CTR employers on all STA projects and service improvements.

Work collaboratively with the City of Spokane to provide updates and feedback to CTR employers on all projects and improvements that impact and encourage walking, bicycling and transit use within the City of Spokane and surrounding area.

Provide ongoing assistance to employers to enhance, strengthen and grow their CTR program.

Comprehensive planning & community goals

[Governor's Executive Order 14-04 Washington Carbon Reduction and Clean Energy Action](#) directs state agencies to assist local governments to update their comprehensive plans to produce travel and land-use patterns that maximize efficiency in movement of goods and people, and reduce greenhouse gas emissions.

How does trip reduction support the goals of your community and comprehensive plan, and vice versa? How will you further integrate trip reduction through the updating of your comprehensive plan (e.g., parking, land use)?

The reduction of commute trips will support many community goals and policies, which include the following within the Spokane Comprehensive Plan:

TU 4 Transportation

Goal: Promote a network of safe and cost effective transportation alternatives, including transit, carpooling, bicycling, pedestrian-oriented environments, and more efficient use of the automobile, to recognize the relationship between land use and transportation.

TR 6 Environmental Protection

Goal: Minimize the impacts of the transportation system on the environment, including the region's air quality and environmental features, such as natural corridors.

TR.6 Vehicle-Related Air Pollution

Develop transportation control measures to reduce vehicle-related air pollution.

TR 9 Equitable Funding

Goal: Finance a balanced, multi-modal transportation system using resources efficiently and equitably.

T9.1 Cost Information for Citizens

Promote alternatives to private automobile use by informing citizens of the total economic costs and publicly financed subsidies to motor vehicle use.

ED 6.5 Infrastructure Maintenance

Maintain infrastructure at safe and efficient levels. (CTR reduces transportation maintenance costs)

ED 8.2 Sustainable Economic Strategies

Promote sustainable economic strategies (CTR reduces transportation costs)

Increasing opportunities for transportation alternatives is a major policy/goal/project component for the "Transportation Strategic Plan Update", which is an extensive update to the Transportation Chapter of the Spokane Comprehensive Plan. The document is presently being developed and should be completed and adopted in 2015. This update will be a major policy and funding component which will provide opportunities to reduce commute trips in multiple ways.

Land use and transportation conditions

How do existing and future anticipated land-use and transportation conditions affect CTR worksites?

Land-use and transportation conditions have the opportunity to limit or enhance commute trip reduction worksites.

Financial plan

What are the anticipated funding sources and amounts for local trip reduction, including grants and local funding?

The CTR program of the City of Spokane is administered by Spokane County through an inter-local agreement. State funding is allocated and based on the approved state budget and on how many affected worksites are in the City of Spokane. In addition, Spokane County secures CMAQ grants to

help enhance and maintain the CTR program and will continue to apply for the grants when available, approximately every three years.

The City of Spokane has many major funded projects and programs that will be implemented during 2015-2019 which will provide opportunities to increase the use of transportation alternatives for commute trips, including:

Transportation Strategy Plan Update (within Comprehensive Plan), Completion of Downtown Spokane Pedestrian Countdown Timers, Sidewalk Improvement Program, Post Street Bridge Study/Improvements, I-90 Division Street Gateway Enhancements, Parking Environment Improvement Program, Sprague Avenue Rebuild-Sprague Corridor Investment Strategy, Downtown Pedestrian Improvements, Addison & Standard Bicycle & Pedestrian Corridor, Ben Burr Trail-Centennial Trail Connection, Bicycle Route Signing & Stripping, Centennial Trail Gap/Mission Avenue Crossing Study, Connect to Transit/Hardscape Improvements, Division Street Gateway Improvements (streetscape and transportation improvements), Downtown Bicycle Network Completion, Fish Lake Trail/Phase 3, High Drive Pedestrian & Bicycle Linkage, Millwood Trail, U-District Pedestrian & Bicycle Bridge (currently seeking construction funding), Transportation Benefit District Program (sidewalk improvements), Safe Routes to Schools projects.

Funding for these projects and programs is from a variety of local and non-local funding sources. The funding total is over \$24 million. Additional minor improvements will be made during this five year period including: sidewalk segments, street crossing improvements, improvements from private development projects, etc.

The City will continue to pursue additional educational and infrastructure funding opportunities to support commute trip reduction.

GTEC report (if your jurisdiction has a designated GTEC)

Are you continuing to implement? **County to provide, as needed**

Optional: Describe the (a) strategies, (b) land use and transportation conditions, (c) population and employment demographics, and (d) financial plan, and how they differ from those in the CTR plan.

What specific policy, service changes and land-use steps will be accomplished during this period for the GTEC area?

Regional transportation planning organization CTR plan review

☐ Recommended

☐ Not recommended

RTPO comments:

DRAFT

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/22/2014
<u>Clerk's File #</u>	ORD C35121
<u>Renews #</u>	

<u>Submitting Dept</u>	PLANNING & DEVELOPMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	ELDON BROWN 625-6305	<u>Project #</u>	
<u>Contact E-Mail</u>	EBROWN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	First Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0650 - FIRST READING ORDINANCE - ROSEWOOD AVENUE		

Agenda Wording

Ordinance amending Ordinance No. C35121 vacating the north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street.

Summary (Background)

City Council passed Ordinance C35121 on August 11, 2014. Since that time it has become necessary to modify the ordinance to change the legal description of the vacation to more fully describe the area.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MEULER, LOUIS	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	PCED 5/19/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	edjohnson@spokanecity.org	
<u>Additional Approvals</u>		sbishop@spokanecity.org	
<u>Purchasing</u>			

City of Spokane
Planning and Development
808 West Spokane Falls Blvd.
Spokane, WA 99201-3343
(509) 625-6700

(AMENDED) ORDINANCE NO. C35121

An ordinance vacating the north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street in the Southwest Quarter of Section 28, T26N, R43E, W.M., Spokane, Washington (hereinafter "Rosewood Avenue") from owners having an interest in real estate abutting the above right-of-way; and

WHEREAS, a petition for the vacation of the north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street in the Southwest Quarter of Section 28, T26N, R43E, W.M., Spokane, Washington, has been filed with the City Clerk by the owner of property abutting said street, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, a previous version of a non-user statute (RCW 36.87.090), adopted by the legislature in 1889, provided:

Any county road, or part thereof, which has heretofore been or may hereafter be authorized, which remains unopened for public use for the space of five years after the order is made or authority granted for opening the same, shall be and the same is hereby vacated, and the authority for building the same barred by lapse of time.

WHEREAS, Rosewood Avenue was dedicated in 1890 as part of the Gunn's Addition to Spokane Falls Wash plat, which plat was located in unincorporated Spokane County; and

WHEREAS, to the best of the City's knowledge and understanding, Rosewood Avenue has never been improved as a public street and opened for public use; and

WHEREAS, Rosewood Avenue and the areas surrounding it were annexed into the City of Spokane in 1994 by the Calkin's Annexation, more than five years after Rosewood Avenue was dedicated; and

WHEREAS, due in part to the fact that Rosewood Avenue has never been improved or used as a public street, various private improvements encroach into Rosewood Avenue; and

WHEREAS, by virtue of the RCW quoted above, the Spokane City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That the **north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street in the Southwest Quarter of Section 28, T26N, R43E, W.M., Spokane, Washington,** is hereby vacated. Parcel number not assigned.

Section 2. An easement is reserved and retained over and through the entire vacated area for the utility services of Avista Utilities, Qwest, Comcast and the City of Spokane to protect existing and future utilities.

Section 3. That no compensation for the assessed value of the area herein vacated shall be required by virtue of the previous version of the non-user statute (RCW 36.87.090) which vacated Rosewood Avenue by operation of law many years ago.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

Mayor

Date: _____

Effective Date: _____



OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD
SPOKANE, WASHINGTON 99201-3342
509.625.6350

September 22, 2014

City Clerk File No.:
ORD C35148

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35148 RELATING TO THE CODE ETHICS

During the Spokane City Council's 3:30 p.m. Briefing Session held Monday, September 8, 2014, upon review of the Council's Advance Agenda for September 15, 2014, City Attorney Nancy Isserlis provided an overview of Final Reading Ordinance C35148 relating to the Code of Ethics. Ms. Isserlis noted the proposed ordinance is a new Ethics policy which will hopefully take us into the next decade and be a best practice for the City. She asked that the ordinance have a first reading today and that final action of the ordinance be deferred for six to eight weeks in order to allow a series of discussions in the community regarding the ordinance. She noted the Ethics Committee reviewed the ordinance as recently as last week and made some suggested changes. She further advised the ordinance also needs to be run through union leadership because some of the unions are bound by the current policy and there may be a need to bargain the changes with the unions, as the City enters into negotiation with those unions. Ms. Isserlis stated she would also like to have two or maybe more public meetings so that people in the community can access the ordinance and provide input. Council Member Snyder inquired if the Council could obtain a redline copy of the ordinance reflecting the changes. Ms. Isserlis indicated that staff tried to do that, and stated this ordinance basically repeals in its entirety the former code and creates a completely new code. Council President Stuckart asked if the Council could have a list of the changes. Ms. Isserlis noted she can do that, but doing a redlined version just didn't work. Council Member Snyder indicated he would not be able to vote on the ordinance until the Council is provided some kind of document that is really detailed (with respect to the changes being made). Ms. Isserlis indicated she would do her best and do that. Ms. Mumm invited Ms. Isserlis to come to a Planning, Community and Economic Development meeting and do a side by side with a matrix and show the changes, or something similar, and so that Ms. Isserlis can provide the feedback she is getting as well on the ordinance. Subsequent to additional commentary by Ms. Isserlis and Council, the following action was taken:

Motion by Council Member Snyder, seconded by Council Member Waldref, **to defer** Final Reading Ordinance C35148 to November 3, 2014, **carried unanimously.**

Subsequently, during the City Council's 6:00 p.m. Legislative Session held September 8, Ordinance C35148—relating to the Code of Ethics; adopting a new Chapter 1.04A to Title 1 of the Spokane Municipal Code and repealing Title 1.04 of Title 1 of the Spokane Municipal Code—was read for the first time, with further action deferred (to November 3, 2014).

A handwritten signature in cursive script, appearing to read "Terri L. Pfister", written over a horizontal line.

Terri L. Pfister, MMC
Spokane City Clerk

**Agenda Sheet for City Council Meeting of:**

12/1/2014

Date Rec'd

8/27/2014

Clerk's File #

ORD C35148

Renews #Submitting Dept

CITY ATTORNEY

Cross Ref #Contact Name/Phone

NANCY ISSERLIS EXT. 6225

Project #Contact E-Mail

NISSERLIS@SPOKANECITY.ORG

Bid #Agenda Item Type

Final Reading Ordinance

Requisition #Agenda Item Name

0500 ORDINANCE RELATING TO THE CODE OF ETHICS

Agenda Wording

An Ordinance relating to the Code of Ethics; adopting a new chapter 1.04A to Title 1 of the Spokane Municipal Code and repealing Title 1.04 of Title 1 of the Spokane Municipal Code

Summary (Background)

Language changes to enhance duties and powers of the Ethics Commission and address inforcement powers and complaint process.

Fiscal Impact

Neutral \$ 0.00

Budget Account

0000 00000 00000

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

DALTON, PAT

Study SessionDivision DirectorOtherFinance

BUSTOS, KIM

Distribution ListLegal

DALTON, PAT

nisserlis@spokanecity.org

For the Mayor

SANDERS, THERESA

mpiccolo@spokanecity.org

Additional Approvals

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Purchasing

rimus@spokanecity.org

ORDINANCE NO. C35148

AN ORDINANCE relating to the Code of Ethics; adopting a new chapter 1.04A to Title 1 of the Spokane Municipal Code and repealing Title 1.04 of Title 1 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 1.04A to Title 1 of the Spokane Municipal Code to read as follows::

Chapter 1.04A Code of Ethics

Sections:

- 1.04A.010 Purpose
- 1.04A.020 Definitions
- 1.04A.030 Prohibited Conduct
- 1.04A.040 Penalties for Noncompliance
- 1.04A.050 Recall of Elected Official for Violation of Code of Ethics
- 1.04A.060 Where to Seek Initial Review
- 1.04A.070 Where to Seek Judicial Review
- 1.04A.080 Ethics Commission
- 1.04A.090 Duties and Powers
- 1.04A.100 Ex Parte Communication
- 1.04A.110 Complaint Process of the Ethics Commission
- 1.04A.120 Training
- 1.04A.130 Restrictions on Ethics Commission Members
- 1.04A.140 Vacancy and Removal
- 1.04A.150 Limitation Period
- 1.04A.160 Applicability
- 1.04A.170 Advisory Opinion
- 1.04A.180 Severability

1.04A.010 Purpose

- A. It is the policy of the City of Spokane to uphold, promote and demand the highest standards of ethics from all of its employees and City officers, whether elected, appointed or hired. City officers and employees shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles

as public servants including the appearance of impropriety, and never use their City position, authority or resources for personal gain.

- B. It is the intent of the City Council that this chapter be reasonably construed to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest or any other violation of this Code of Ethics. This Code of Ethics is supplemental to state law, including, but not limited to, chapter 42.20 RCW – Misconduct of Public Officers, chapter 42.23 RCW – Code of Ethics for Municipal Officers – Contract Interests, and chapter 42.36 RCW – Appearance of Fairness Doctrine.
- C. It is the function of the Ethics Commission to pursue the above stated policy of the City of Spokane. The Ethics Commission shall develop training, programs and initiatives in support of this goal.

1.04A.020 Definitions

The following words and phrases as used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings:

- A. “Agency” means any City board, commission, bureau, committee, department, institution, division or tribunal in City government.
- B. “Assist” means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to or otherwise provide assistance to another person, believing that the action is of help, aid, advice or assistance of the person with intent so to assist such person.
- C. “Beneficial interest” has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.
- D. “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.
- E. “City” means the City of Spokane, Washington.
- F. “City action” means any action on the part of an agency, including, but not limited to:
 - 1. a decision, determination, finding, ruling or order; and

2. a grant, payment, award, license, contract, transaction, sanction or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling or order.
- G. “City officer” means every individual elected, appointed, hired or otherwise selected to an office or position with the City, or any subdivision, agency, committee or board thereof, whether such individual is paid or unpaid.
- H. “Compensation” means anything of economic value, however designated, that is paid, loaned, granted or transferred, or to be paid, loaned, granted or transferred for, or in consideration of, personal services to any person.
- I. “Confidential information” means:
1. Specific information, rather than generalized knowledge, that is not available to the general public on request; or
 2. Information made confidential by law including but not limited to taxpayer information, RCW 82.32.330; information regarding organized crime, RCW 43.43.856; criminal history information, Chapter 10.97 RCW; medical records, Chapter 70.02 RCW; and juvenile records, RCW 13.50.010; or
 3. Information that is initially disclosed or discussed in executive session, and which is not available to the general public on request; however
 4. Confidential information does not include information authorized by the mayor or a majority vote of the council to be disclosed.
- J. “Contract” or “grant” means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. “Contract” or “grant” includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement or a sales agreement.
- K. “Ethics Commission” means the commission on ethical conduct for and duly appointed by the City.
- L. “Employee” means any person holding a regularly compensated position of employment with the City but does not include elected officers and persons who serve without compensation on City boards and commissions.
- M. “Exempt employee” shall mean those City employees not represented by a recognized labor union and identified by both the City administration and the applicable labor unions as exempt confidential employees.
- N. “Family member” means:
1. a spouse or domestic partner; or

2. any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or
 3. any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the City officer or employee.
- O. "Gift" means anything of economic value or tangible worth for which no consideration is given. "Gift" does not include:
1. items from family members or friends where it is clear that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
 2. items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
 3. items exchanged among officials and employees or a social event hosted or sponsored by a City officer or City employee for coworkers;
 4. payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging and subsistence expenses incurred the day before through the day after the event;
 5. items a City officer or City employee is authorized by law to accept;
 6. payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging and subsistence expenses incurred the day before through the day after the event;
 7. items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;
 8. campaign contributions reported under chapter 42.17 RCW;
 9. discounts available to an individual as a member of an employee group, occupation or similar broad-based group;
 10. awards, prizes, scholarships or other items provided in recognition of academic or scientific achievement;

11. attendance of a City officer or employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business or where official attendance by the officer or employee as a City representative is appropriate;
 12. an award publicly presented in recognition of public service; or
 13. any item of nominal value which cannot reasonably be presumed to influence the vote, action or judgment of the City officer or employee, or be considered as part of a reward for action or inaction. An item of nominal value shall include incidental items associated with the professional conduct or courtesies of a City officer or employee's duty including the acceptance during the conduct of official business of such items as refreshments, note pads, pens, pins and books.
- P. "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.
- Q. "Honorarium" means money or thing of value offered to a City officer or City employee for a speech, appearance, article or similar item or activity in connection with the City officer's or City employee's official role.
- R. "Household member" means any person having a close relationship with and residing in the same household of the City officer or employee, and having agreed to be jointly responsible for basic living expenses.
- S. "Person" means any individual, partnership, association, firm, institution or corporation, business or other entity, however constituted, organized or designated.
- T. "Personal interest" means direct or indirect pecuniary or material benefit accruing to a City officer or employee as a result of legislation or a contract or transaction which is or may be the subject of an official act or action by or with the City except for such contracts or transactions which confer similar benefits to all other persons and/or property similarly situated. For the purpose of this chapter, an City officer or employee is deemed to have a personal interest in the affairs of:
1. any person who is a City officer or employee's family member or household member, as defined in this chapter;
 2. any business entity in which the City officer or employee is an officer, director or employee;

3. any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent of the total stock or total legal and beneficial ownership, is controlled or owned directly or indirectly by the City officer or employee;
 4. any person or business entity with whom a contractual relationship exists with the City officer or employee; provided, that a contractual obligation of less than five hundred dollars, or a commercially reasonable loan made in the ordinary course of business or a contract for a commercial retail sale shall not be deemed to create an interest in violation of this chapter.
- U. “Regulatory agency” means any City board, commission, department or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.
- V. “Represented employee” shall mean a City employee represented by a recognized labor union.
- W. “Responsibility” in connection with a transaction involving the City, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove or otherwise direct City action in respect of such transaction.
- X. “Staff Director” means the employee appointed by the City Attorney to, in addition to other responsibilities, assist the Ethics Commission in its duties.

1.04A.030 Prohibited Conduct

The following shall constitute a violation of this Code of Ethics:

- A. General Prohibition Against Conflicts of Interest.
In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety, no current City officer or employee shall have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that might be seen as conflicting with the City officer or employee’s proper discharge of his or her official duties, the conduct of official City business or as adverse to the interests of the City. Performance of a legally required duty by a City officer or employee shall not be considered a violation of the Code of Ethics.
1. Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict.

2. Upon receipt of such a notification, the supervisor or appointing authority shall take action to resolve the potential conflict of interest within a reasonable time, which may include, but is not limited to, designating an alternative employee to perform the duty that is involved in the potential conflict. The supervisor or appointing authority shall document the disposition of the potential conflict in writing in files maintained by the appointing authority. The supervisor or appointing authority may request an advisory opinion from the Ethics Commission before addressing and resolving of the potential conflict.

B. Personal Interests in Contracts Prohibited.

No City officer or employee shall participate in his or her capacity as a City officer or employee in the making of a contract in which he or she has a personal interest, direct or indirect, or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the City. Except, that this prohibition shall not apply where the City officer or employee has only a remote interest in the contract, and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, and thereafter the governing body authorizes, approves or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the City officer(s) having the remote interest as defined below.

C. Remote Interest.

For purposes of this section, a "remote interest" means:

1. that of a non-salaried non-compensated officer of a nonprofit corporation;
2. that of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
3. that of a landlord or tenant of a contracting party;
4. that of a holder of less than one percent of the shares of a corporation, limited liability company or other entity which is a contracting party.

D. Personal Influence in Contract Selection Prohibited.

No City officer or employee shall influence the City's selection of, or its conduct of business with, a corporation, person or firm having or proposing to do business with the City if the City officer or employee has a personal interest in or with the corporation, person or firm, unless such interest is a remote interest and

where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, as defined in the preceding section. Provided, however, that no City officer or employee may receive anything of value from the City as a result of any contract to which the City shall be a party except for the City officer or employee's salary or lawful compensation.

E. Representation of Private Person at City Proceeding Prohibited.

No City officer or employee shall appear on behalf of a private person, other than himself or a family member or household member, as defined in this chapter, or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or a City officer in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City. Representation of a private person pursuant to a legally required duty by a City officer or employee is permitted and shall not be considered a violation of the Code of Ethics.

F. Certain Private Employment Prohibited.

No City officer or employee shall engage in or accept private employment, or render services for, any private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

G. Personal Interest in Legislation Prohibited.

No City officer or employee may benefit either directly or indirectly from any legislation or contract to which the City shall be a party except for the lawful compensation or salary of the City officer or employee unless such interest is a remote interest where the facts and extent of such interest is disclosed. City council members' participation in the enactment of legislation shall be governed by chapter 42.23 RCW – The Code of Ethics for Municipal Officers and chapter 42.36 RCW – The Appearance of Fairness Doctrine. City council members shall not be prohibited from participating in the adoption of legislation when the council member has only a remote interest in the legislation, which has been disclosed, and the legislation is applicable to the general public and not unique to the council member.

H. Continuing Financial Interest.

Where a City officer, employee, or family member of a City officer or employee, has a substantial ongoing financial relationship with a corporation, firm, or person seeking a contract, or proposing to do business with the City, such City officer or employee shall not:

1. Influence or participate in the City's contract selection of or conduct business with such corporation, firm, or person; nor
2. Influence or participate in the City's contract selection of, or conduct business with, a corporation, firm, or party competing against a party that a City officer or employee has such a substantial ongoing financial relationship.
3. For purpose of this section, a substantial ongoing financial relationship is defined as: expanding beyond just a formal contractual relationship. Rather it encompasses any financial interest, direct or indirect, where a City officer, employee, or family member of a City officer or employee is involved in a client-service relationship in which:
 - a. the City officer, employee, or family member of a City officer or employee, receives a substantial portion of his or her revenue or like compensation through such relationship, whether received through his or her corporation, firm, or as an individual; or
 - b. Such client-service relationship is likely to continue to provide considerable potential business or has provided substantial business in the past. This does not include prior financial relationships that are so far removed in time or rare in frequency as to be insignificant.
4. Corporations, firms or persons doing business with the City shall be advised of this provision, and shall certify, as part of any contract with the City, that they are aware of the restrictions in this policy.

I. Disclosure of Confidential Information

1. Disclosure of Confidential Information
No City officer or employee shall, except as required or reasonably believed to be required for the performance of his/her duties, disclose confidential information gained by reason of his/her official position or use such information for his/her own personal interest. "Confidential information" is all information, whether transmitted orally or in writing, that the employee has been informed, is aware, or has reason to believe is intended to be used only for city purposes, is not intended for public disclosure, or is otherwise of such a nature that it is not, at the time, a matter of public record or public knowledge.
2. Confidential information includes, but is not limited to, personal information regarding City officials and employees; private financial and other personal information provided by city taxpayers, license holders, contractors, and customers; intelligence and investigative information,

including the identity of persons filing complaints; formulas, designs, drawings, and research data obtained or produced by the city and preliminary, non-final assessments, opinions, and recommendations concerning city policies and actions. Any public official who is uncertain as to whether certain information is confidential should consult the City Attorney. An employee who is uncertain as to whether certain information is confidential should consult their immediate supervisor or department head.

J. Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity

City employees shall not, directly or indirectly, solicit any gift or give or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form, under the following circumstances:

1. It could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or
2. The gift was intended to serve as a reward for any official action on their part. Public officials and city employees may accept de minimis gifts such as, but not limited to, calendars, coffee mugs, flowers, candy, and other similar items that are given as a customary business practice and have no material significance to the recipient, with such gifts from any one source not to exceed one hundred dollars in value in any twelve-month period. City employees should report any gift to their immediate supervisor. This section shall not apply to gifts made to the city. All such gifts shall be given to the mayor for official disposition. This prohibition shall not apply to those items which are excluded from the definition of gift in SMC 1.04A.020.

K. Fair and Equitable Treatment.

1. No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use position to secure special privileges or exceptions for himself/herself or for the benefit, gain or profits of any other persons.
2. No City officer or employee shall employ or use the employment of any person under the City officer's or employee's official control or direction for the personal benefit, gain or profit of the City officer or employee or another beyond that which is available to every other person.
3. No City officer or employee shall use City-owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business (not personal use), and for such purposes and under such conditions as can be reasonably expected to be approved by City policies.

4. Except as authorized by law and in the course of his or her official duties, no City officer or employee shall use the power or authority of his or her office or position with the City in a manner intended to induce or coerce any other person to provide such City employee or any other person with any compensation, gift, or other thing of value directly or indirectly.
 5. City Officers and employees are encouraged to participate in the political process on their own time and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition, but shall not use or authorize the use of City facilities or resources for such purposes except as authorized by the provisions of RCW 42.17.13.
- L. False and Frivolous complaints prohibited.
No person subject to the Code of Ethics shall knowingly file a false complaint or report of a violation of this Code of Ethics.
- M. Aiding others prohibited.
No City officer or employee may knowingly aid or assist any City officer or employee in the violation of any provision of this Code of Ethics.
- N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited.
No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude or dishonesty, the nature of which demonstrates lack of fitness for the position held, shall be considered conclusive evidence of a violation of this Code of Ethics. Demonstrated acts of moral turpitude or dishonesty are not limited to felony or misdemeanor criminal convictions.
- O. Prohibited Conduct After Leaving City Service.
1. Disclosure of Privileged, Confidential or Proprietary Information Prohibited.
No former City officer or employee shall disclose or use any privileged, confidential or proprietary information gained because of his or her City employment.
 2. Participation in City Matters Prohibited.
No former City officer or employee shall, within a period of one year after leaving City office or employment:
 - a. participate in matters involving the City if, while in the course of employment with the City, the former City officer or employee was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;

- b. represent any person as an advocate in any matter in which the former City officer or employee was involved while a City officer or employee; or
 - c. participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project, or work to be done, or the process to be used.
- 3. **Duty to Inform.**
Whenever a City officer or employee wishes to contract with a former City officer or employee for expert or consultant services within one year of the latter's leaving City service, advance notice shall be given to and approval received from the Ethics Commission. Said approval shall be in written form and copied to the mayor at the same time that it is given to the individual making the request.
- 4. **Exceptions.**
 - a. The prohibitions of subsections (2)(a) and (2)(b) of this section shall not apply to a former City officer or employee acting on behalf of a governmental agency if the Ethics Commission has determined that the service to the agency is not adverse to the interest of the City.
 - b. Nothing in this chapter shall prohibit an official elected to serve a governmental entity other than the City of Spokane from carrying out their official duties for that government entity.
- 5. Corporations, firms or persons doing business with the City shall be advised of this provision, and shall certify, as part of any contract with the City, that they are aware of the restrictions in this policy. If a firm or person doing business with the City assists an employee in violating the provisions of the Code, the firm or business may be disbarred, excluded from contracting with the City for 5 years.

1.04A.040 Penalties for Noncompliance

- A. If the alleged violating party stipulates to the decision of the Ethics Commission, the decision that violation has occurred and acceptance of the consequences specified in the decision becomes final without hearing. However, if stipulation is not acceptable to the party against whom the complaint is filed, the matter will proceed to hearing by the Ethics Commission.
- B. A stipulation or hearing determination by the Ethics Commission that a violation has occurred shall subject the party found in violation to any of the following penalties, which may be imposed by the Ethics Commission:

1. A cease and desist order as to violations of this Code of Ethics.
2. A recommendation to the city council that an appointed committee or commission member be removed from the board or commission.
3. An order to pay to the City damages sustained by the City that are caused by the conduct constituting the violation.
4. In the case of a violator who receives wages from the City, a civil penalty of up to five thousand dollars per violation or three times the economic value of anything received or sought in violation of this chapter or rules adopted under it, whichever is greater, may be imposed. Alternatively, the violator who is a member of a board or commission may be suspended for a number of days to be decided by the Ethics Commission, in lieu of fine but not in lieu of damages.
5. An employee of the city who commits a violation of this chapter may be subjected to disciplinary action, up to and including termination from employment; provided that such disciplinary action is consistent with Career Service Guidelines and any applicable collective bargaining agreement.
6. Costs, including reasonable investigative costs, shall be included as part of the limit under subsection (B)(4) of this section. Costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.
7. As appropriate, the Ethics Commission may refer the disposition of a complaint to the City or County prosecuting attorney's office for appropriate action.
8. Damages under this section may be enforced in the same manner as a judgment in a civil court.

1.04A.050 Recall of Elected Official for Violation of Code of Ethics

- A. Pursuant to City Charter Section 8.5, the city council may consider a resolution to place an elected official's name on a recall ballot based upon the Ethics Commission's recommendation to the city council that the elected official be subject to a recall election. The Ethics Commission must determine that:
 1. an elected official of the City has knowingly committed a violation of the Code of Ethics,
 2. the violation constitutes moral turpitude rendering the elected official unfit to remain in office, and

3. there are no mitigating circumstances.
- B. In considering whether to place an elected official's name on a recall ballot, the city council shall have a resolution submitted to the city clerk's office setting forth the Ethics Commission's determination and recommendation regarding the violation of the Code of Ethics and calling for a public hearing on the matter. The city council shall schedule a hearing at least thirty days from the date the resolution is submitted to the city clerk's office. A copy of the resolution and hearing date shall be personally served upon the elected official. At the time the city council is scheduled to consider the resolution, the chairperson of the Ethics Commission or the Ethics Commission's designee shall appear before the city council to present the Ethics Commission's determination and recommendation. The Ethics Commission shall deliver to the city council all records maintained by the Commission created pursuant to its review and determination of the matter. The elected official who is the subject of the Ethics Commission's shall be given an opportunity to respond to the Ethics Commission's determination and recommendation and to present argument against passage of the resolution by the city council to place the elected officials name on a recall ballot. Both the Ethics Commission's representative and the elected official shall be permitted to respond to questions from the city council.
 - C. The city council, by a vote of a majority of the city council, may pass the resolution to place the elected official's name on a recall election ballot for action by the voters of the City on the next available general or special election established by state law. The city clerk's office shall forward the required resolution to the Spokane County auditor's office pursuant to state law requesting the ballot proposition be placed on the next available general or special election. The city attorney's office shall be responsible for preparing a ballot synopsis for the recall election and any necessary resolutions or other legal documents.
 - D. If approved by a majority of the electors voting in the election, the elected official shall be removed from office effective the date the recall election results are certified by the Spokane County auditor.

1.04A.060 Where to Seek Initial Review

- A. Any person who has been assessed a monetary fine and/or cost bill, or has been disciplined or removed from office, for a violation of this chapter may seek initial review at the Spokane city council by delivering a written notice of appeal to the office of the city council within twenty days of receiving a decision of the Ethics Commission regarding a written notice of the assessed fine and/or cost bill.
- B. The notice of appeal shall be in writing and shall include the mailing address and, if different, the street address where papers may be served on the appellant. The notice of appeal shall contain, in separate numbered paragraphs, statements of

the specific findings of fact, conclusions of law, or aspects of the fine and/or cost bill on which the appellant seeks review, the basis for the appeal, and a brief statement of the relief requested. The appellant shall attach a copy of the committee's written decision being appealed.

- C. The city council will forward a copy of the written notice of appeal to the Ethics Commission and the person making the original complaint within ten days of receiving the notice of appeal from the appellant.
- D. The Ethics Commission shall provide the city council with a copy of the recorded proceedings and all documents offered into evidence at the Ethics Commission hearing within twenty days of receiving a copy of the written notice of appeal from the council.
- E. The city council may determine its own procedures for hearing each appeal by majority vote, as long as it does not conflict with the procedures in this chapter.
- F. In considering the amount of any monetary penalty and/or cost bill, the city council may allow additional testimony. The council may also modify the amount of any monetary penalty and or cost bill.
- G. Any decision to reverse the Ethics Commission's decision finding a violation must be based solely on the administrative record below and after determining that the Commission's decision was arbitrary, capricious or not supported by substantial evidence in the Commission's record.
- H. The city council may not modify any part of the Commission's decision under an appeal filed to the city council under this section unless there is a majority plus one vote.
- I. The Commission's decision shall be deemed to have been upheld unless the city council reverses or modifies the Commission's decision within seventy-five days after the notice of appeal is filed.

1.04A.070 Where to Seek Judicial Review

A person who receives a penalty for noncompliance from the Ethics Commission or an adverse decision from the city council upon review pursuant to SMC 1.04.070 may appeal the decisions by seeking a writ from the Spokane County superior court pursuant to chapter 7.16 RCW, or other appropriate legal action.

Section

1.04A.080 Ethics Commission

- A. The Ethics Commission shall be comprised of seven members who shall be appointed by the mayor and confirmed by the city council. The initial six

members shall be appointed for a one-, two- and three-year term and may be reappointed for one additional three-year term. The seventh member who shall be appointed by members of the Ethics Commission shall serve an initial three-year term and may be reappointed for a second three-year term. The Ethics Commission appointees shall include representatives from the following segments of the community:

1. A person with a professional or academic background in the legal profession including attorneys, law professors or members of the judiciary.
 2. A person from local business with experience in human resources/personnel.
 3. A person who possesses familiarity with politics and the political process.
- B. All reasonable efforts shall be used to locate individuals who satisfy the requirements in subsection (A). In the event that any one of the requirements in subsection (A) cannot reasonably be satisfied, a substitute may be appointed. The substitute shall have a background in a profession which includes a code of ethics as an element of the profession.
- C. The City Attorney shall appoint a Staff Director to the Ethics Commission. The Staff Director shall provide assistance to the Commission as necessary for the Commission to fulfill its obligations and duties.
- D. Commission members shall serve without compensation.

1.04A.090 Duties and Powers

- A. The Ethics Commission shall, with the assistance of the Staff Director, create a manual of its operating policies, procedures, forms, and rules consistent with this chapter and subject to the approval of the city council. The Ethics Commission shall review its manual at least annually for possible modifications. The manual shall be posted and maintained as part of the City's website. (See 1.04.090 D)
- B. The Ethics Commission may, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Commission;
1. In case of refusal to obey a subpoena issued to a person, the Ethics Commission shall petition the superior court of a county within the jurisdiction of which the investigation, proceeding or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business for an order requiring the person to appear before the Ethics Commission or its member to produce

evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.

- C. All hearings of the Ethics Commission shall be conducted as contested hearings under applicable provisions of the Spokane Municipal Code and the rules and regulations adopted by the Ethics Commission. All hearings shall be open to the public. The record of the hearings, as well as all documents submitted in regards to the complaint and the Ethics Commission's investigation, shall be subject to public disclosure laws, chapter 42.56 RCW - Public Records Act.
- D. A Commission member who has a conflict regarding a specific complaint before the Ethics Commission shall recuse himself or herself from hearing that complaint, but shall remain a member of the Commission for future complaints.
- E. The Ethics Commission may, when circumstances make it necessary to do so, retain outside legal counsel and other experts, as needed, after solicitation of recommendations from the City Attorney (unless the need to retain outside counsel is caused by a conflict involving the City Attorney's Office).
- F. The Ethics Commission may make recommendations to the city council for amendments to this chapter and for such other legislation affecting the subject matter of this chapter as the Ethics Commission may deem necessary or desirable.
- G. The Ethics Commission shall develop educational programs which inform agencies, public officials and city officers and employees about City, state and federal ethics laws, and the importance of ethics to the public's confidence in municipal government.

1.04A.100 Ex Parte Communications

- A. After a complaint has been filed and during the pendency of a complaint before the Ethics Commission, no member of the Commission may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that;
 - 1. The members of the Commission may obtain legal advice from the City Attorney or, in the event of a conflict, with independent legal counsel and may discuss the complaint with their staff.
 - 2. The members of the Commission may discuss the complaint at a lawfully conducted meeting. Commission deliberations concerning complaints are subject to exemption from the Open Public Meetings Act, as permitted by law. If any person attempts to communicate with a Commission member regarding the pending complaint, the Commission member shall report the

substance of the communication to the Commission on the public record at the next regular meeting of the Commission.

3. The Commission shall not take testimony or comments from any person regarding complaint except as presented in an investigative report or in the course of a duly noticed public hearing.

1.04A.110 Complaint Process of the Ethics Commission

- A. A complaint that this Code of Ethics has been violated by a City employee or a City officer shall be filed with the Ethics Commission.
- B. Any person may file an official written complaint or inquiry with the Ethics Commission asking whether a current City officer or employee has failed to comply with this Code of Ethics.
- C. Complaints and inquiries must be in writing on a form approved by the Ethics Commission. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint or inquiry is true. The complaint must describe the facts that constitute the violation of this Code of Ethics in sufficient detail so that the Commission and the person who is the subject of the complaint or inquiry can reasonably be expected to understand the nature of any offense that is being alleged.
- D. The Commission, upon receipt of the complaint, shall acknowledge receipt of the complaint, forward the complaint simultaneously to the person who is complained against, if known, and the City Attorney, and promptly meet and review the complaint. As soon as practicable after giving due consideration to a complaint the Commission shall either:
 1. Dismiss the complaint based on any of the following grounds:
 - a. It has no jurisdiction;
 - b. The alleged violation, if true, would not constitute a violation of this article;
 - c. The alleged violation is a minor or de minimis violation;
 - d. The complaint or inquiry is, on its face, frivolous, groundless or brought for purposes of harassment;
 - e. The matter has become moot because the person who is the subject of the complaint or inquiry is no longer a City officer or employee;

- f. The appointing authority has already taken action as a result of finding a violation and the Commission believes the action was appropriate; or
 - 2. Determine that:
 - a. The complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics;
 - b. Further information must be presented for the Commission to determine if a violation of the Code of Ethics has occurred.
- E. If the Commission determines the complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics, it may create a stipulation for the City officer or employee subject to the complaint resolving the complaint, the determination of compliance and the penalty, if any to be imposed.
- F. If the complaint is not resolved by stipulation, or earlier in the adjudication process, or additional information is required to establish the factual record necessary for the Commission to determine whether a violation of the Code of Ethics has occurred, the board may convene a hearing at a future date certain. At such a hearing, the Commission may call additional witnesses or consider additional documentary evidence. After final deliberations on additional testimony, statements, or documents presented at the hearing, the Commission shall determine whether or not a violation of the Code of Ethics has occurred.
- G. Any person who is the subject of a complaint may designate a representative if he or she wishes to be represented by someone else, to present evidence, and to cross-examine witnesses. The person who submitted the complaint and the subject of the complaint must be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing.
- H. After the Commission has made its final determination, the Commission shall issue its written findings of fact and conclusions of law, along with its recommended disposition (if applicable). The Commission may, in addition, issue any additional reports, opinions, or recommendations as it deems advisable under the circumstances. All such reports shall be reviewed by the city attorney (or independent legal counsel in the event that a conflict of interest prevents the city attorney from conducting the review) prior to their issuance. The Commission's conclusions shall be based on the preponderance of the evidence standard.
- I. The investigation of complaints shall be completed by the Ethics Commission and written findings and conclusions prepared within sixty days of the date of the complaint. A copy of the written investigation findings and conclusions shall be served on any party against whom a complaint is filed within three days of the

Ethics Commission's final decision. It shall be posted on the City's website for the Ethics Commission no more than twenty-four hours later. Posting on the website will clearly indicate the disposition of the issue in the text of the link and not in the text of the document only.

- J. The City Attorney may require the investigation of complaints and written findings to be completed by the Ethics Commission, in a reasonable amount of time, less than that stated in (I) in circumstances where the matter should be resolved more quickly.
- K. Any individual who is advised of another's violation of this code is responsible to direct the advising party of this code and its procedure for filing complaints.

1.04A.120 Training

- A. The Ethics Commission, with the assistance of the Staff Director, shall prepare, distribute and periodically update an employee handbook on the Code of Ethics, after obtaining the city attorney's review. In addition to the updates the Commission shall disseminate any change in policy that results from a finding of the Commission if it applies to other city employees.
- B. Every appointing authority shall give a copy or electronic version of the handbook and any updates to each employee annually and shall provide annual training to employees regarding the Code of Ethics. Each City employee or official shall read and agree in writing to the City of Spokane Code of Ethics.
- C. Information shall be provided to employees terminating city service regarding the restrictions on former city employees.

1.04A.130 Restrictions on Ethics Commission Members

- A. Restrictions on Holding Office

No member or employee of the Ethics Commission may hold any other City or County office, or be an officer of a political party.

- B. Restrictions on Employment

No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City or County and no employee of the Commission may hold any other employment with the City or County.

- C. Restrictions on Political Activities

No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions to or soliciting contributions from any Commission within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure or participating in decisions by organizations to participate in a campaign.

D. Restrictions after Employment

Members and employees of the Ethics Commission are subject to the post - employment restrictions set forth in the City of Spokane Code of Ethics.

1.04A.140 Vacancy and Removal

A. In the event a vacancy occurs, the mayor shall appoint a qualified person to complete the remainder of the term.

1. A member of the Commission may be removed only for misconduct pursuant to this chapter.
2. Any member of the Ethics Commission guilty of official misconduct or convicted of a crime involving moral turpitude or dishonesty shall be removed by the city council upon recommendation by the mayor.

1.04A.150 Limitation Period

A. Any action taken under this chapter must be commenced within three years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within three years from the date the violation was discovered or reasonably should have been discovered:

1. by any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or
2. if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate Ethics Commission.

1.04A.160 Applicability

The Code of Ethics shall be applicable to all elected or appointed officers and exempt confidential employees and shall not be applicable to represented employees unless the City and the respective labor union have entered into a

collective bargaining agreement providing that compliance with the Code of Ethics is a condition of employment.

1.04A.170 Advisory Opinions

- A. Upon request of any employee, the mayor or a member of the city council, or any City Officer, the Ethics Commission may also render written advisory opinions concerning the applicability of the Code to hypothetical circumstances and/or situations solely related to the persons making the request.
- B. Upon request of the mayor, or two members of the city council, the board of ethics may also render written advisory opinions concerning the applicability of the code to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

1.04A.180 Severability

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

Section 2. That Title 1.04 of the Spokane Municipal Code is repealed.

PASSED BY THE CITY COUNCIL ON _____, 2014.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

CODE OF ETHICS

HIGHLIGHTED CHANGES

- ❖ Enhanced duties and powers of the Commission.
- ❖ Terms are better defined, such as "gift", "financial interest", "use of City property".
- ❖ Better guidance to those covered by the Code, including mandatory training and handbook for employees.
- ❖ Moral turpitude/dishonesty convictions are conclusive evidence of violation of the Code.
- ❖ Greater enforcement powers for penalties and violations, including post-City employment.
- ❖ Complaint process streamlined.

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/19/2014
<u>Clerk's File #</u>	ORD C35211
<u>Renews #</u>	

<u>Submitting Dept</u>	PLANNING & DEVELOPMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	BORIS BORISOV 625-6156	<u>Project #</u>	
<u>Contact E-Mail</u>	BBORISOV@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	First Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0650 - ORDINANCE AMENDING LAND USE PLAN MAP		

Agenda Wording

An Ordinance amending the Land Use Plan Map of the City's Comprehensive Plan from "Residential 4-10" to "Centers & Corridors Core" for property located within the boundaries of the Hamilton Form Based Code Subarea Plan; and amending the zoning map

Summary (Background)

In July 2012, the Logan Neighborhood Stakeholder Team, with the City of Spokane Planning Department, began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area, and is designed to foster

<u>Fiscal Impact</u>		<u>Budget Account</u>
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#
<u>Approvals</u>		<u>Council Notifications</u>
<u>Dept Head</u>	MEULER, LOUIS	<u>Study Session</u>
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u> PCED 12/15/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>
<u>Legal</u>	RICHMAN, JAMES	lhattenburg@spokanecity.org
<u>For the Mayor</u>	SANDERS, THERESA	lmeuler@spokanecity.org
<u>Additional Approvals</u>		zetter@spokanecity.org
<u>Purchasing</u>		jrichman@spokanecity.org
		jneff@spokanecity.org
		jquintrall@spokanecity.org
		awaldref@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

to context areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within the boundaries of the Hamilton Form Based Code Subarea Plan, which generally includes a six block area along Hamilton Street bounded by the alley between Augusta Avenue and Nora Avenue on the north and Desmet Avenue on the south, all as set forth in Comprehensive Plan Land Use Plan Map amendment file No. Z1400055COMP.

Summary (Background)

economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses, and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area. The entire project area is approximately 36.15 acres. Ordinance C35211 amends the City's Comprehensive Plan Land Use Plan map from "Residential 4-10" to "Centers & Corridors Core" for property located within the boundaries of the Hamilton Form Based Code Subarea Plan; and amends the Zonin

Fiscal Impact

Select \$

Select \$

Budget Account

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Distribution List

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mhughes@spokanecity.org

mlesesn@spokanecity.org

bborisov@spokanecity.org

ORDINANCE NO. C35211

AN ORDINANCE AMENDING THE LAND USE PLAN MAP OF THE CITY'S COMPREHENSIVE PLAN FROM "RESIDENTIAL 4-10" TO "CENTERS & CORRIDORS CORE" FOR PROPERTY LOCATED WITHIN THE BOUNDARIES OF THE HAMILTON FORM BASED CODE SUBAREA PLAN; AND AMENDING THE ZONING MAP TO CONTEXT AREAS CA1, CA2, CA3, AND CA4 FORM BASED CODE ZONING CATEGORIES WITHIN THE BOUNDARIES OF THE HAMILTON FORM BASED CODE SUBAREA PLAN, WHICH GENERALLY INCLUDES A SIX BLOCK AREA ALONG HAMILTON STREET BOUNDED BY THE ALLEY BETWEEN AUGUSTA AVE AND NORA AVE ON THE NORTH AND DESMET AVE ON THE SOUTH, ALL AS SET FORTH IN COMPREHENSIVE PLAN LAND USE PLAN MAP AMENDMENT FILE NO. Z1400055COMP.

WHEREAS, in accordance with the Growth Management Act (GMA), the City of Spokane previously adopted a Comprehensive Plan (RCW 36.70A); and

WHEREAS, GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that, so long as a subarea plan clarifies, supplements, or implements city-wide comprehensive plan policies, and so long as the cumulative impacts of the proposed subarea plan are addressed by appropriate environmental review under chapter 43.21C. RCW, the initial adoption of a subarea plan may occur outside of this annual process; and

WHEREAS, Per Article VIII of the City Charter, the Spokane City Council recognizes distinct neighborhood areas as neighborhood councils through the Neighborhood Councils Program and the Community Assembly; and

WHEREAS, The City Council allocated \$550,000 in the fall of 2007 to be used for planning activities by neighborhood councils; and

WHEREAS, The Logan Neighborhood Organization ("LNO") is the City Council-recognized neighborhood council for the area generally bounded by Division Street on the west, the Spokane River on the east, Euclid Street on the north, Trent Avenue on the south, and bisected north to south by Hamilton Street and west to east by Mission Avenue; and

WHEREAS, On March 8, 2011 the Logan Neighborhood Organization (LNO) was designated to initiate abbreviated neighborhood planning and LNO representatives endorsed a letter of intent to begin planning; and

WHEREAS, On March 30 and March 31, 2012, respectively, the manager of the Logan Neighborhood Stakeholders Team ("LNST"), Karen Byrd, and the chair of the Logan Neighborhood Organization, Jeanette Harras, signed a memorandum of

understanding with the Planning Services Department recognizing the LNST to conduct abbreviated planning; and

WHEREAS, Between August of 2012 and February 2013, a consultant, Studio Cascade worked with the Logan Neighborhood Stakeholder Team, property owners, business owners, residents, and other interested parties to prepare a form-based model zoning code through a series of planning sessions, interviews, charrettes, and an open house; and

WHEREAS, The Logan Neighborhood Identity Plan and Model Form-Based Code for the Hamilton Corridor were adopted via City Council resolution as credible representation of the desire for the Logan Neighborhood on May 12, 2014; and

WHEREAS, The Logan Neighborhood Stakeholder Team worked with the City of Spokane's Planning & Development staff between May 2014 and September 2014 to modify the Model Form-Based Code for the Hamilton Corridor from a model code to a specific regulatory document, Hamilton Form Based Code; and

WHEREAS, In September of 2014 City of Spokane's Planning & Development staff drafted the Hamilton Form Based Code Subarea Plan which amends the Comprehensive Plan Land Use Plan Map and implementing Form Based Code zoning categories; and

WHEREAS, The Hamilton Form Based Code Subarea Plan was submitted as a Comprehensive Plan amendment application Z1400055COMP on October 6, 2014; and

WHEREAS, The Hamilton Form Based Code Subarea Plan requires several actions including a Comprehensive Plan Land Use Map and Zoning Map Changes within the boundary of the Hamilton Form Based Code Subarea Plan; and

WHEREAS, staff requested comments from agencies and departments on October 6, 2014, and a public comment period ran from October 6, 2014 to October 2014; and

WHEREAS, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Comprehensive Plan on October 23, 2014; and

WHEREAS, Notice of Application was mailed on October 27, 2014 to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014. Comments were provided by property owners and other interested parties; and

WHEREAS, Staff made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal; and

WHEREAS, the Spokane City Plan Commission held a substantive workshop to study the proposal on November 12, 2014; and

WHEREAS, A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on November 26, 2014 for the Hamilton Form Based Code Subarea Plan. The public appeal period for the SEPA determination ended on December 10, 2014 at 4pm; and

WHEREAS, Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was mailed to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary on November 26, 2014; and

WHEREAS, Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014 and the *Official Gazette* on December 3, 2014; and

WHEREAS, The Planning Department prepared a staff report found that the amendment met all the review guidelines and required decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17G.020. Comprehensive Plan Amendment Procedure (the "Staff Report"); and

WHEREAS, the Spokane Plan Commission conducted a public hearing and deliberated on December 10, 2014 for Application Z1400055COMP, Hamilton Form Based Code Subarea Plan; and

WHEREAS, the Spokane Plan Commission found that Application Z1400055COMP, Hamilton Form Based Code Subarea Plan is consistent with and implements the Comprehensive Plan; and

WHEREAS, the Plan Commission voted 7 to 2 to recommend approval of Application Z1400055COMP, Hamilton Form Based Code Subarea Plan on December 10, 2014; and

WHEREAS, the City Council adopts the recitals set forth herein as its findings and conclusions in support of its adoption of this ordinance and further adopts the findings, conclusions, and recommendations from the Planning & Development Services Staff Report and the City of Spokane Plan Commission for the same purposes; --

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN: That the Spokane Comprehensive Plan Land use Plan Map and Zoning Map be amended as

presented in the attached land use and zoning maps for the Hamilton Form Based Code Subarea Plan Project Boundary.

PASSED BY THE CITY COUNCIL ON _____, 2015.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

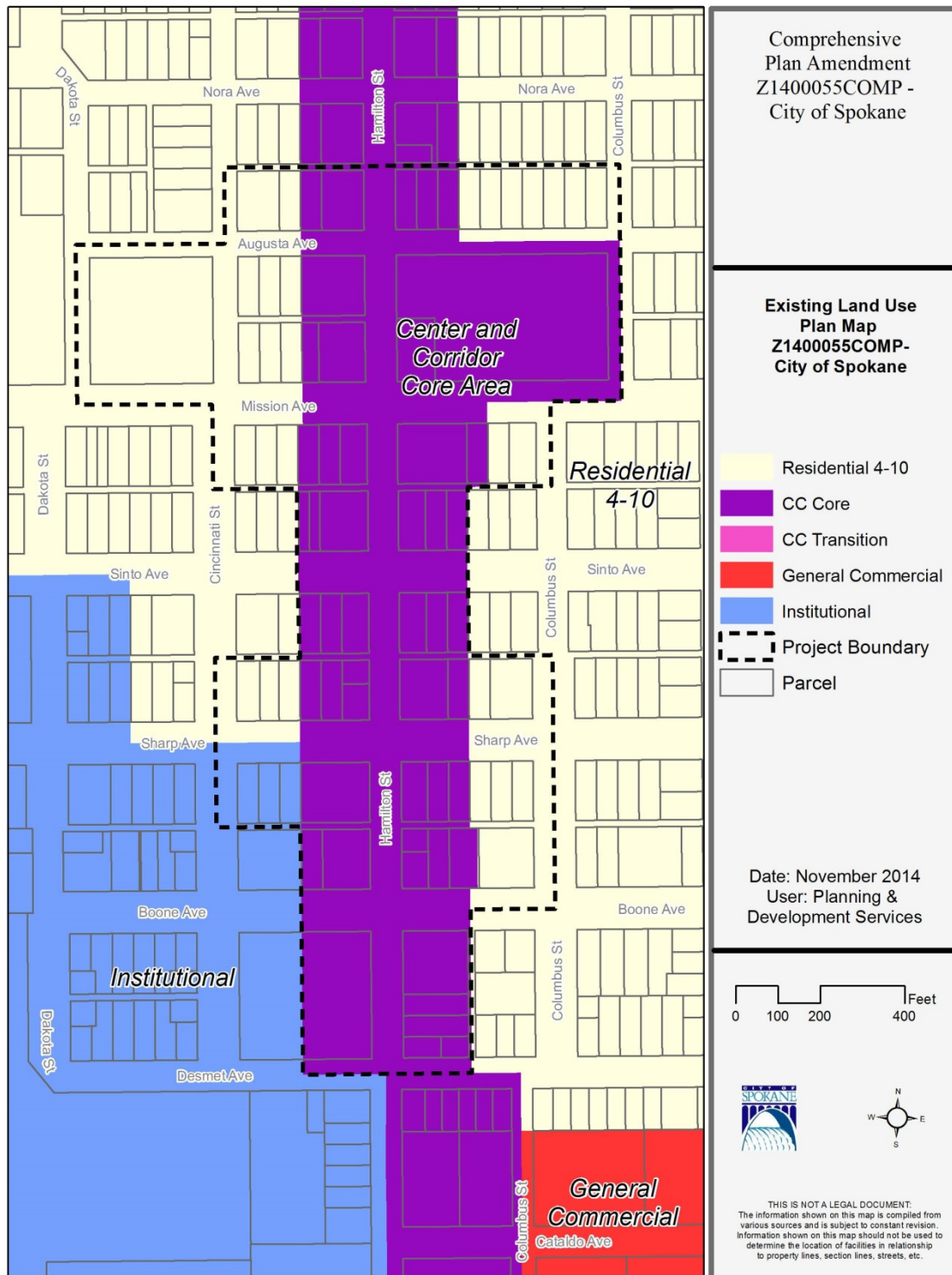


Exhibit B

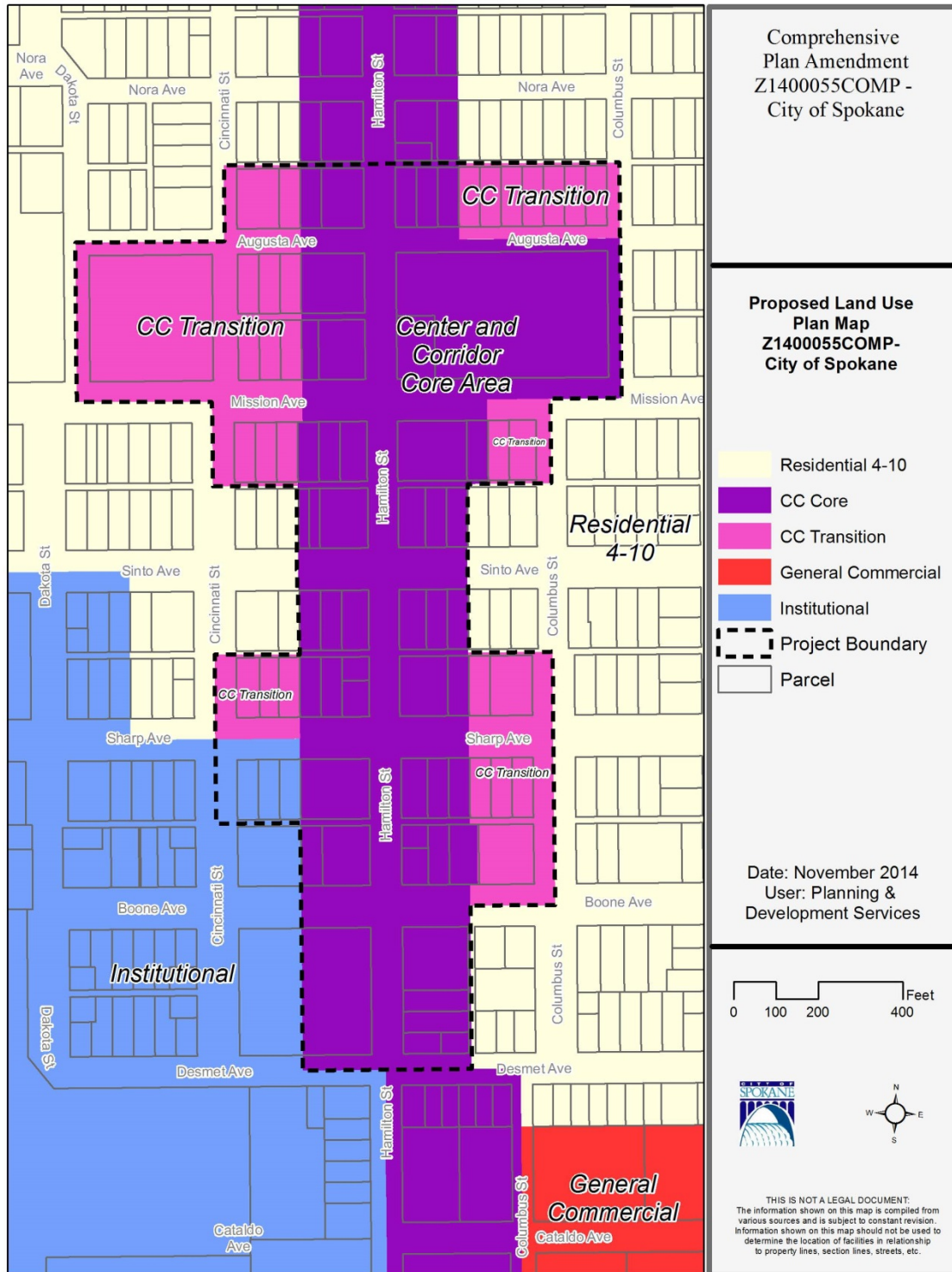


Exhibit C

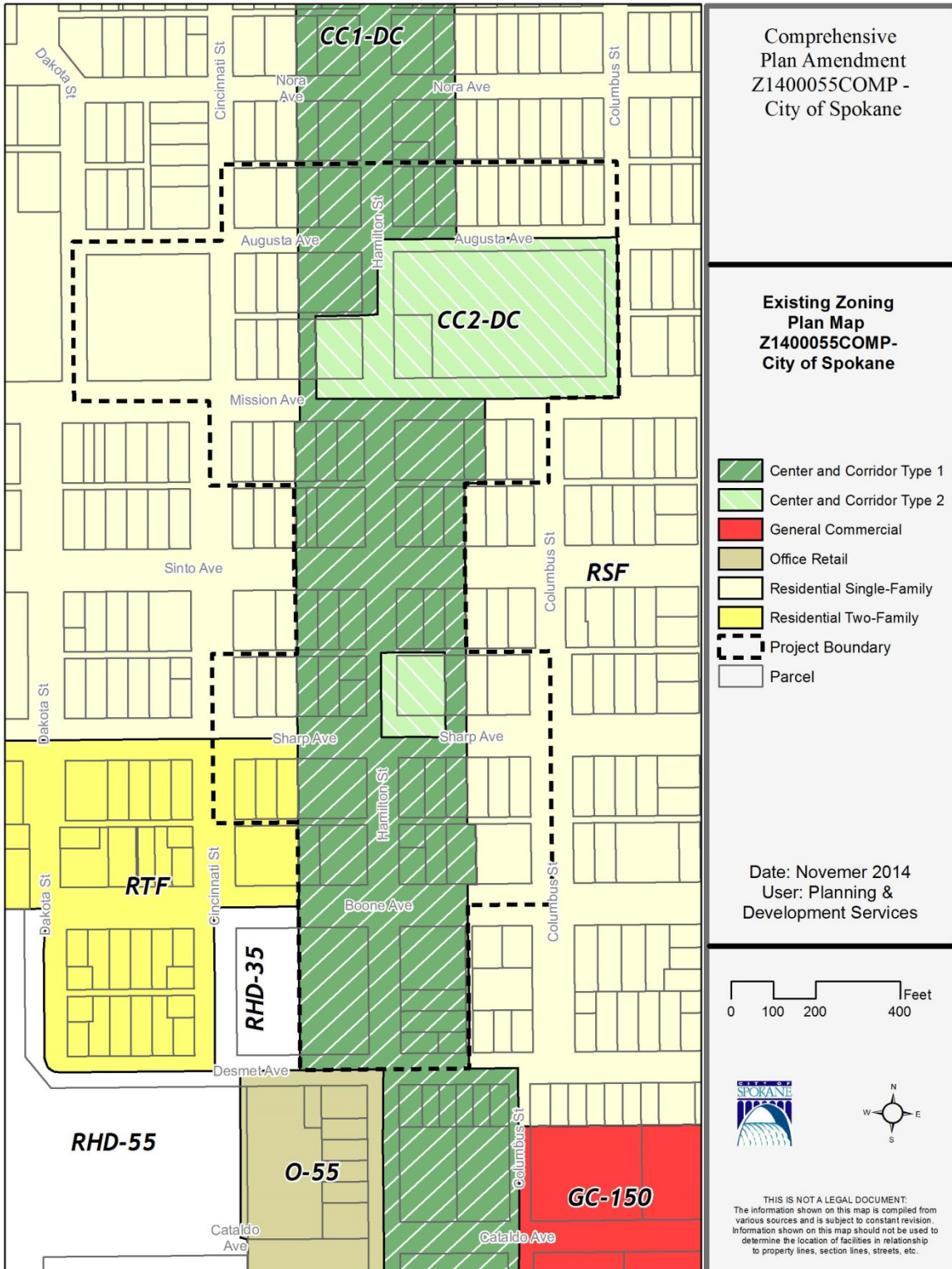
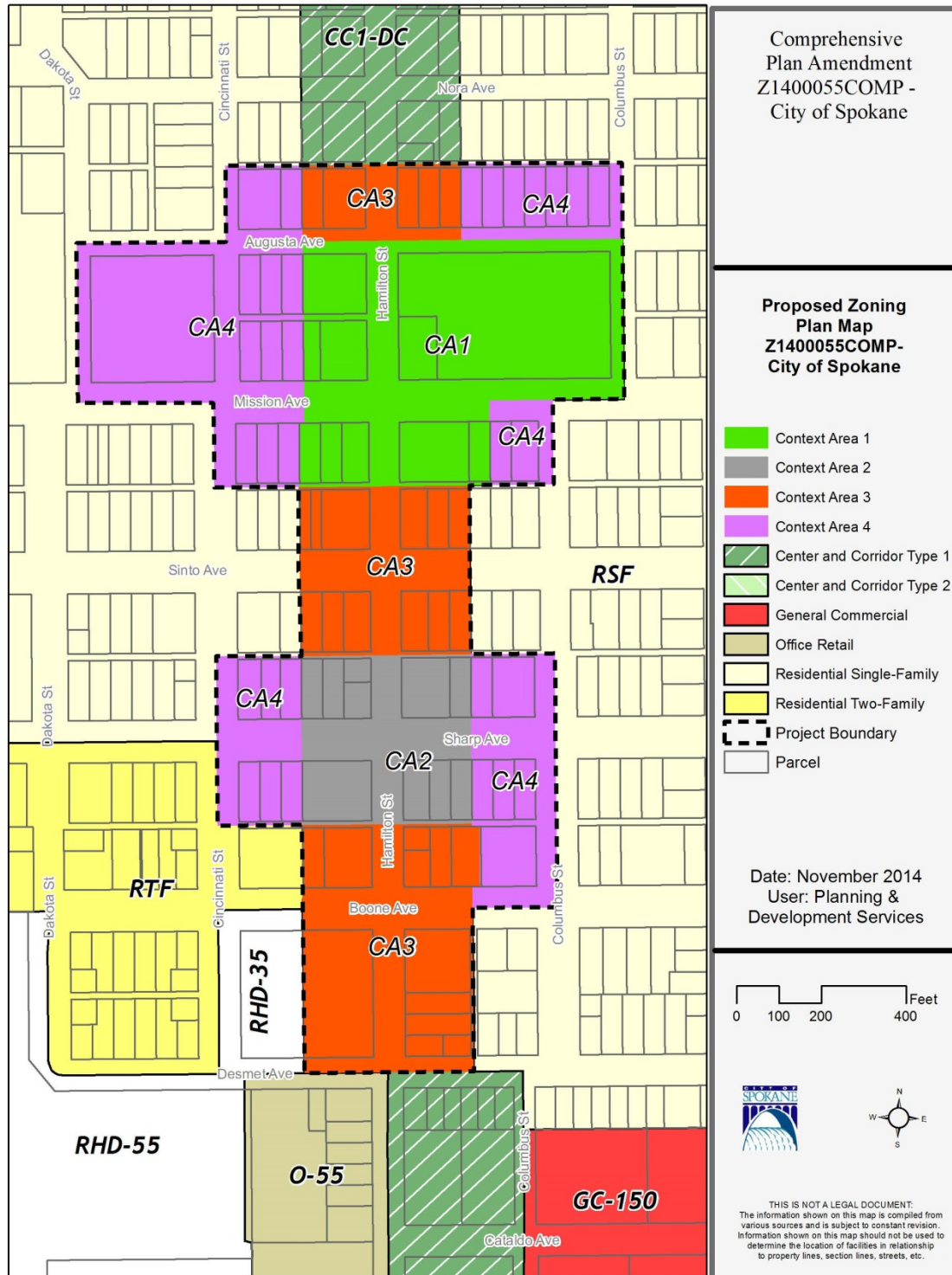


Exhibit D



HAMILTON

FORM-BASED CODE

SUBAREA PLAN

ORDINANCE # C35211
ORDINANCE # C35212
Information Packet

Spokane City Council
January 2015

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CITY OF SPOKANE PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE HAMILTON FORM BASED CODE SUBAREA PLAN - COMPREHENSIVE PLAN LAND USE PLAN MAP AMENDMENT FILE NO. Z1400055COMP

A Recommendation of the City of Spokane Plan Commission to the Spokane City Council approving the Hamilton Form Based Code Subarea Plan. The proposal falls into two actions: (1) Comprehensive Plan land use plan map amendment from “Residential 4-10” to “Center & Corridor Transition.” (2) Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC), Residential Single-Family (RSF), and Residential Two-Family (RTF) zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary (collectively the “Hamilton Subarea Form Based Code Proposal”).

FINDINGS OF FACT:

- A. In accordance with the Growth Management Act (GMA), the City of Spokane previously adopted a Comprehensive Plan (RCW 36.70A).
- B. GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that, so long as a subarea plan clarifies, supplements, or implements city-wide comprehensive plan policies, and so long as the cumulative impacts of the proposed subarea plan are addressed by appropriate environmental review under chapter 43.21C. RCW, the initial adoption of a subarea plan may occur outside of this annual process.
- C. Per Article VIII of the City Charter, the Spokane City Council recognizes distinct neighborhood areas as neighborhood councils through the Neighborhood Councils Program and the Community Assembly.
- D. The City Council allocated \$550,000 in the fall of 2007 to be used for planning activities by neighborhood councils.
- E. The Logan Neighborhood Organization (“LNO”) is the City Council-recognized neighborhood council for the area generally bounded by Division Street on the west, the Spokane River on the east, Euclid Street on the north, Trent Avenue on the south, and bisected north to south by Hamilton Street and west to east by Mission Avenue.

- F. On March 8, 2011 the Logan Neighborhood Organization was designated to initiate abbreviated neighborhood planning and LNO representatives endorsed a letter of intent to begin planning.
- G. On March 30 and March 31, 2012, respectively, the manager of the Logan Neighborhood Stakeholders Team ("LNST"), Karen Byrd, and the chair of the Logan Neighborhood Organization, Jeanette Harras, signed a memorandum of understanding with the Planning Services Department recognizing the LNST to conduct abbreviated planning.
- H. On June 19, 2012 the Logan Neighborhood Organization approved the initial neighborhood planning direction proposed by the LNST, which states: "Pursue streetscape and intersection improvements, including bicycle and pedestrian connections along the Hamilton Corridor, as well as to pursue becoming one of the pilot neighborhoods the city choses for form-based zoning standards."
- I. On July 25, 2012 the Logan Neighborhood Stakeholder Team agreed by consensus both to pursue the drafting of a neighborhood "identity plan" using Res. 2008-0100 funds by a qualified volunteer planner, William Sinclair and to authorize the preparation of a form-based model zoning code which with a consultant, Studio Cascade. Form based codes are aimed at promoting public health, safety and general welfare by creating safe, attractive, pedestrian-friendly environments by regulating the location of buildings closer to the right-of-way, establishing building form, scale, treatment, and articulation and interaction with a vibrant public ream.
- J. Between August of 2012 and February 2013, Studio Cascade worked with the Logan Neighborhood Stakeholder Team, property owners, business owners, residents, and other interested parties to prepare a form-based model zoning code through a series of planning sessions, interviews, charrettes, and an open house.
- K. On June 26, 2013 The *Logan Neighborhood Identity Plan* and *Model Form-Based Code for the Hamilton Corridor* were approved by the Logan Neighborhood Stakeholder Team and by the Logan Neighborhood Organization on March 18, 2014.
- L. The *Logan Neighborhood Identity Plan* and *Model Form-Based Code for the Hamilton Corridor* were adopted via City Council resolution as credible representation of the desire for the Logan Neighborhood on May 12, 2014.
- M. The Logan Neighborhood Stakeholder Team worked with the City of Spokane's Planning & Development staff between May 2014 and September

2014 to modify the *Model Form-Based Code for the Hamilton Corridor* from a model code to a specific regulatory document, *Hamilton Form Based Code*.

- N. The Logan Neighborhood Stakeholder Team agreed that the *Hamilton Form Based Code* is to foster an economically vibrant, pedestrian-safe and walkable, mixed-use environment along the Hamilton Street corridor.
- O. Drive-through facilities are a necessary component of modern life in some areas, but drive-through facilities that are not designed with pedestrian traffic in mind, intrinsically create bad street frontage that is unsafe for pedestrians.
- P. Drive-through facilities are dependent on a high volume of vehicle traffic and a high turnover of customers, which can create significant traffic impacts with respect to site access, stacking or queuing lanes, and can create conflicts between internal traffic, parking areas, and pedestrian traffic.
- Q. Drive-through facilities create the potential for exhaust fumes, noise and traffic congestion, and drive-through fast food restaurants require outdoor speakers/ordering board which may create visual and noise impacts.
- R. On July 30, 2014 the updated *Hamilton Form Based Code* was presented to the public at an open house. Notice was provided to all affected property owners/taxpayers/occupants within the project boundary and those within 400 feet of the project boundary.
- S. On August 18, 2014 the City of Spokane held a meeting with property owners within the project boundary to collect feedback on the *Hamilton Form Based Code Draft*.
- T. In September of 2014 City of Spokane's Planning & Development staff drafted the *Hamilton Form Based Code Subarea Plan* which amends the Comprehensive Plan Land Use Plan Map and implementing Form Based Code zoning categories.
- U. *The Hamilton Form Based Code Subarea Plan* was submitted as a Comprehensive Plan amendment application Z1400055COMP on October 6, 2014.
- V. *The Hamilton Form Based Code Subarea Plan falls into two actions: (1)* Comprehensive Plan land use plan map amendment from "Residential 4-10" to "Center & Corridor Transition." *(2)* Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC), Residential Single-Family (RSF), and Residential Two-Family (RTF) zones

with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary.

- W. Staff requested comments on the Environmental Checklist from City Departments and outside agencies on October 6, 2014. The consultation period ended on October 20, 2014. No adverse comments were received from agencies or departments.
- X. Notice of Application was mailed on October 27, 2014 to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014. Comments were provided by property owners and other interested parties.
- Y. Staff made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal.
- Z. The Spokane City Plan Commission held a substantive workshop to study the amendment on November 12, 2014.
- AA. A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on November 26, 2014 for the Hamilton Form Based Code Subarea Plan. The public appeal period for the SEPA determination ended on December 10, 2014 at 4pm.
- BB. On October 23, 2014, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Comprehensive Plan.
- CC. Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was mailed to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary on November 26, 2014.
- DD. Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014 and the *Official Gazette* on December 3, 2014.
- EE. The Planning Department prepared a staff report found that the amendment met all the review guidelines and required decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17G.020.

Comprehensive Plan Amendment Procedure (the "Staff Report").

FF. The Plan Commission held a public hearing on the recommended amendment on December 10, 2014.

GG. The Plan Commission recommended, by a vote of 7 to 2, approval of the *Hamilton Form Based Code Subarea Plan* on December 10, 2014.

HH. As a result of the City's efforts, the public has had extensive opportunities to participate throughout the process and persons desiring to comment were given that an opportunity to comment.

II. The Plan Commission adopts the foregoing, together with the contents and findings in the Staff Report, as its finding of fact relating to this matter.

CONCLUSIONS:

A. The Hamilton Subarea Form Based Code Proposal is consistent with the decision criteria and review guidelines for Comprehensive Plan amendments, as listed in SMC 17G.020.030, and is further consistent with the Comprehensive Plan.

B. The Hamilton Subarea Form Based Code Proposal is consistent with applicable provisions of the Comprehensive Plan and bears a substantial relation to public health, safety, general welfare, and protection of the environment.

RECOMMENDATIONS:

Recommendation #1:

By a vote of 7 to 2, subject to the caveat set forth in Recommendation #3 below, the Plan Commission recommends to the City Council approval of the *Hamilton Form Based Code Subarea Plan* Amendment to the Land Use Plan Map of the City's Comprehensive Plan for a change from the land use plan map designation "Residential 4-10" to "Center & Corridor Transition."

Recommendation #2:

By a vote of 7 to 2, subject to the caveat set forth in Recommendation #3 below, the Plan Commission recommends to the City Council the approval of *Hamilton Form Based Code Subarea Plan* amendment to Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones; amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions; amending the City of Spokane Zoning Map and replacing Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC),

Residential Single-Family (RSF), and Residential Two-Family (RTF) zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within the project boundary.

Recommendation #3:

The Plan Commission requests that the City Council include in the Plan Commission's 2015 annual work schedule (i) the development of design standards for Context Area 4 of the Hamilton Subarea Form Based Code Proposal; (ii) design standards for drive-through facilities to replace the prohibition in the Hamilton Subarea Form Based Code Proposal; and (iii) review of request to expand the boundaries of the southern portion of Context Area 3 to include the following parcels: 35171.1415; 35171.1416; 35171.1405; 35171.1414; 35171.1402; and 35171.1401.

A handwritten signature in black ink, reading "Dennis Dellwo", is written over a horizontal line.

**Dennis Dellwo, President
Spokane Plan Commission
December 17, 2014**

**STAFF REPORT ON COMPREHENSIVE PLAN
LAND USE MAP CHANGE & ZONING MAP CHANGE
HAMILTON FORM BASED CODE SUBAREA PLAN
FILE NO. Z1400055COMP**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

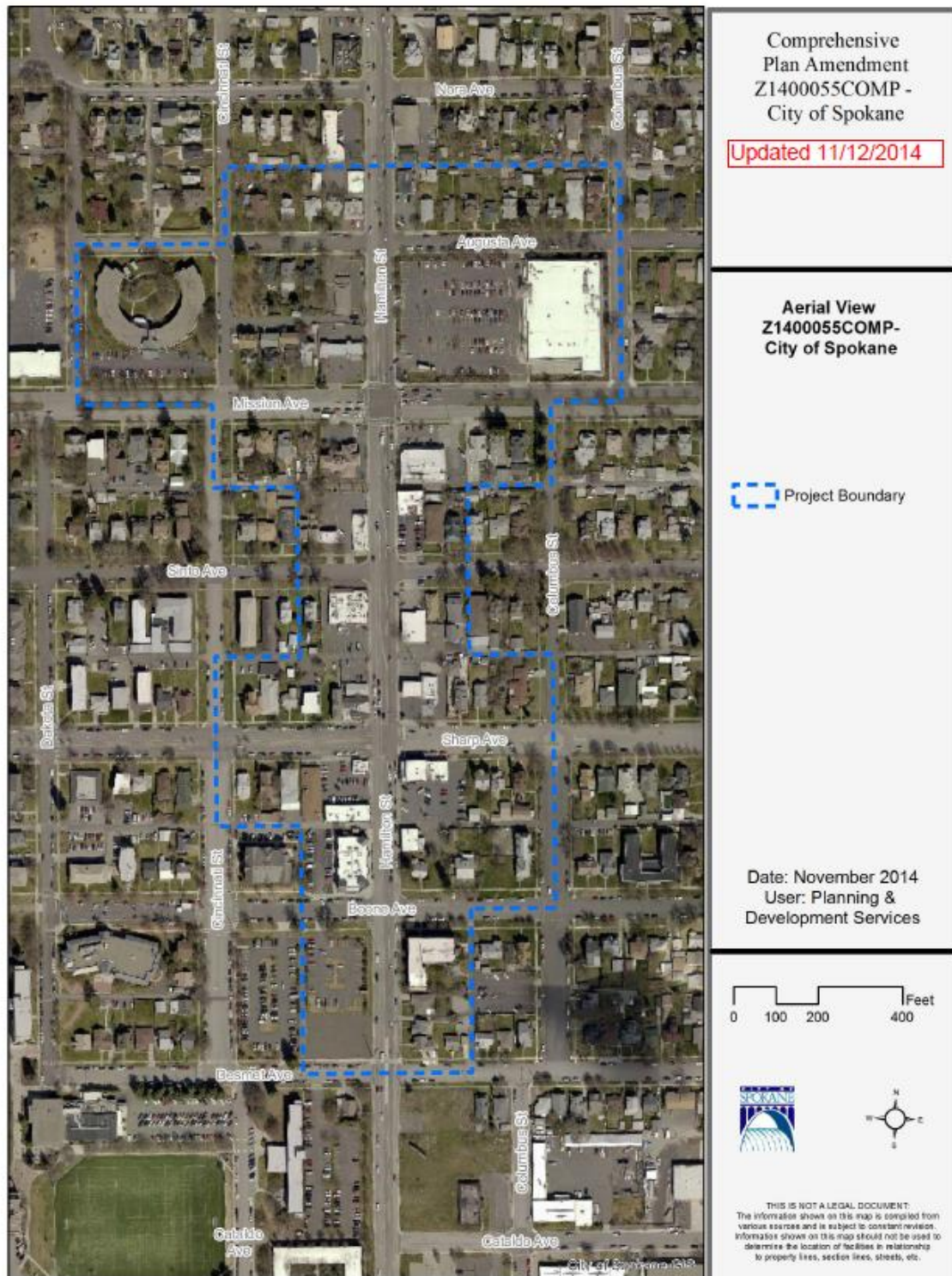
DESCRIPTION OF PROPOSAL: In July, 2012 the Logan Neighborhood Stakeholder Team with the City of Spokane Planning Department began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area and is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area.

II. GENERAL INFORMATION:

Applicant	City of Spokane
Location of Proposal:	The affected geographic area is centered on the Hamilton Street corridor, bordered by Desmet Ave. to the south and the alley between Augusta Ave. and Nora Ave. to the north. The east/west boundaries vary. Please see attached project area maps.
Legal Description	A full legal description of the subject properties and all related project documents are available at Planning and Development, located on the third Floor of City Hall, 808 West Spokane Falls Blvd., Spokane, WA 99201-3329
Existing Land Use Plan Designation:	"Residential, 4 to 10 units per acre"
Proposed Land Use Plan Designation:	"Center & Corridor Transition"
Existing Zoning:	CC1-DC (Center & Corridor 1 District Center); CC2-DC (Center & Corridor 2 District Center); RSF (Residential Single Family); and RTF (Residential Two-family)
Proposed Zoning:	New, Form Based Code Zoning Categories: CA1, CA2, CA3, CA4 (Context Areas)
SEPA Status:	A SEPA threshold Determination of Non-Significance (DNS) was made on November 26, 2014. The appeal period closed on December 10, 2014 at 4pm.
Enabling Code Section:	SMC 17G. 020, Comprehensive Plan Amendment Procedure
Plan Commission Hearing Date:	December 10, 2014

Staff Contact:	Boris Borisov, Assistant Planner; bborisov@spokanecity.org
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III. FINDINGS OF FACT:



- A. Site Description: The proposed project area is approximately 36.15 acres. There are approximately 82 affected parcels. This proposal retains the current “Center and Corridor Core” Land Use Plan Map Designation along the Hamilton Corridor. The proposed zoning categories of Context Areas 1, 2, and 3 along Hamilton are commercial in nature and fit the current Land Use Designation of the Comprehensive Plan.

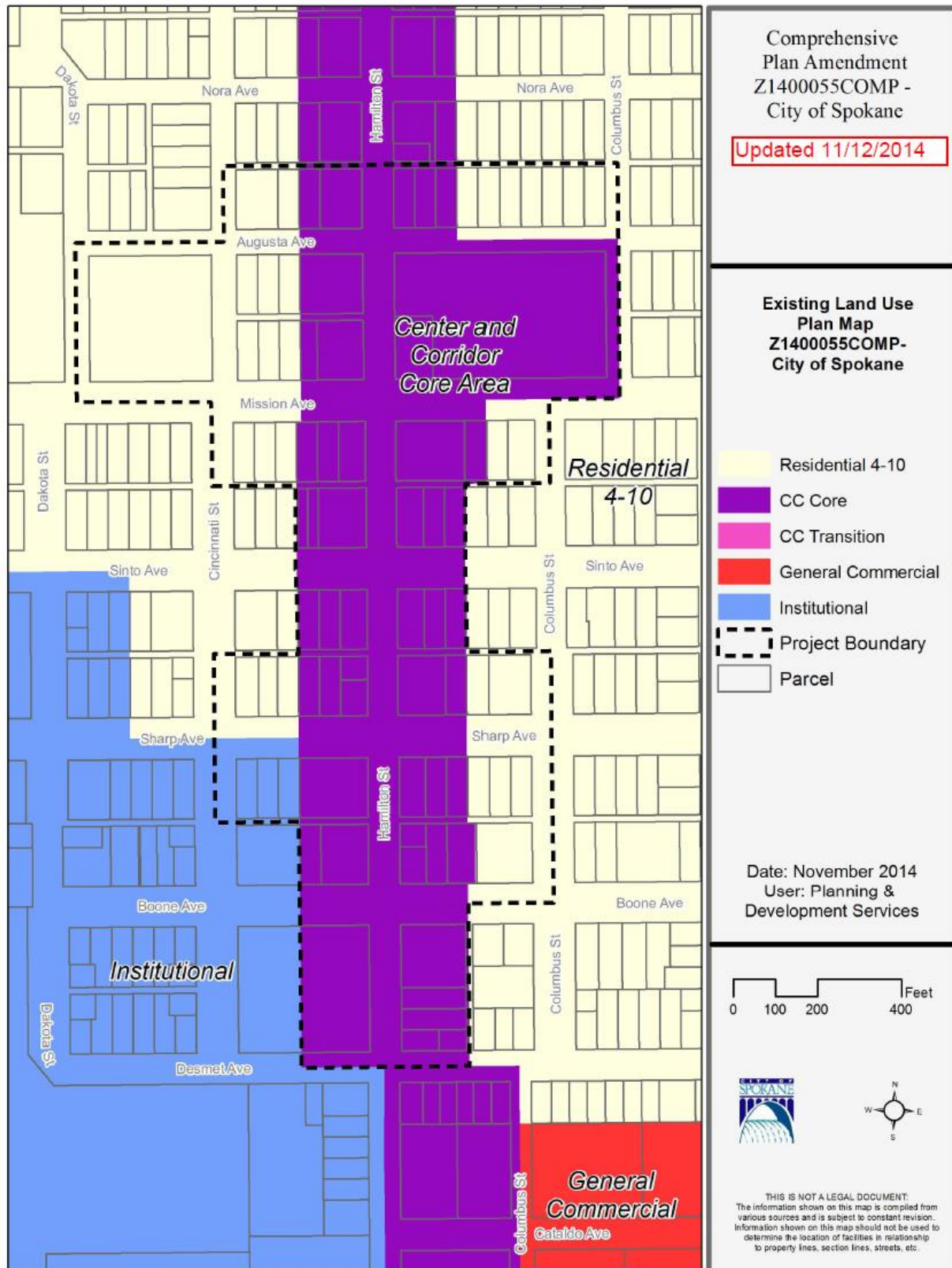
Context Area 4 (CA4) is a buffer zone between the commercial core and the residential neighborhood. The Hamilton Form Based Code Subarea Plan amends the Land Use Plan Map from Residential 4-10 to Center & Corridor Transition (see maps below). The newly proposed CA4 zoning category allows commercial on a small scale but is predominantly residential in nature. This new zoning category also retains current height standards of the residential single-family zoning standards for the purposes of keeping these areas residential in scale.

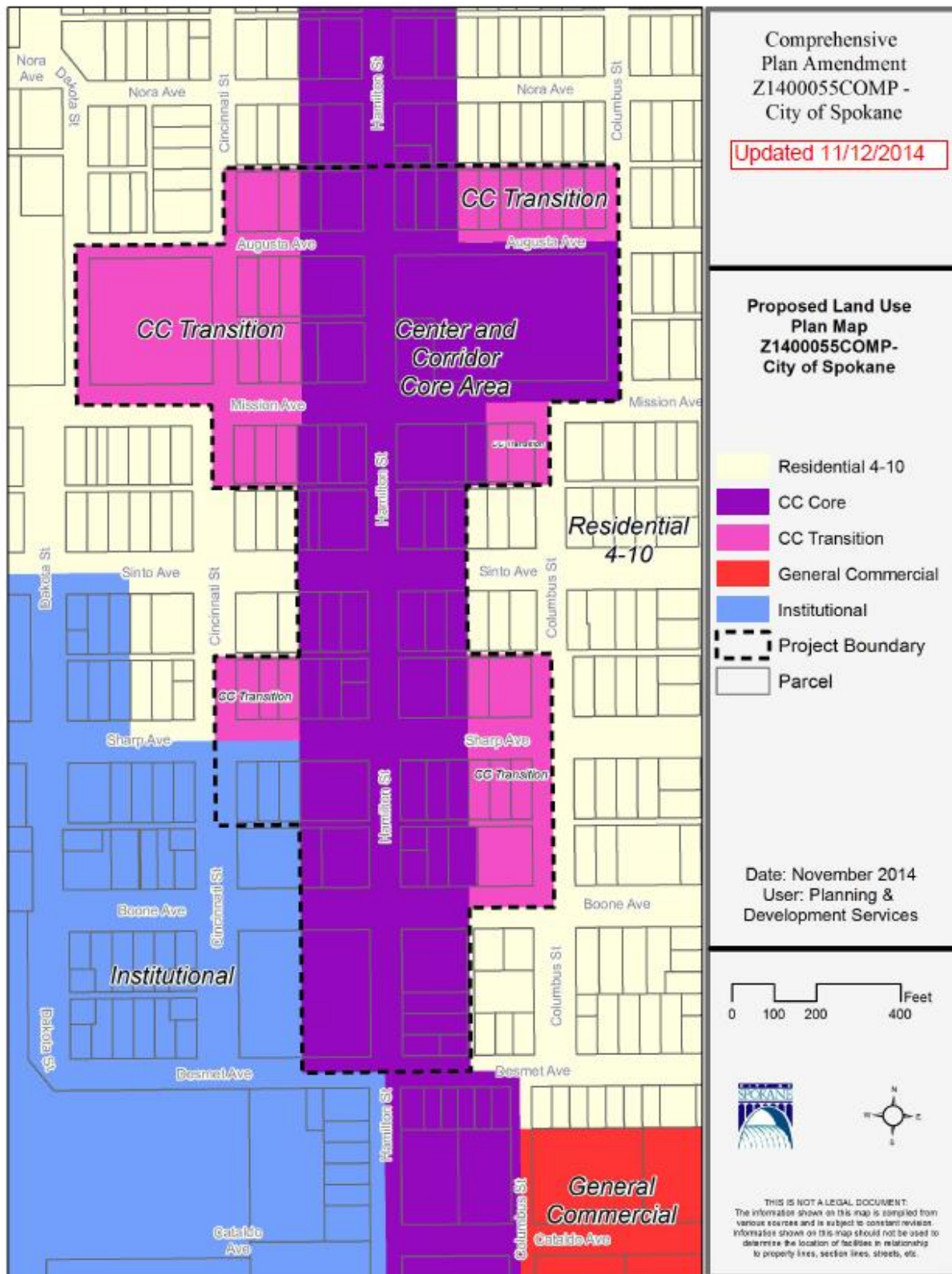
- B. Project Description: The Form Based Code replaces existing zoning and design guidelines within the affected geographical area. This code regulates land development by setting controls on building form, coupled with performance-based parameters relative to building use and density.

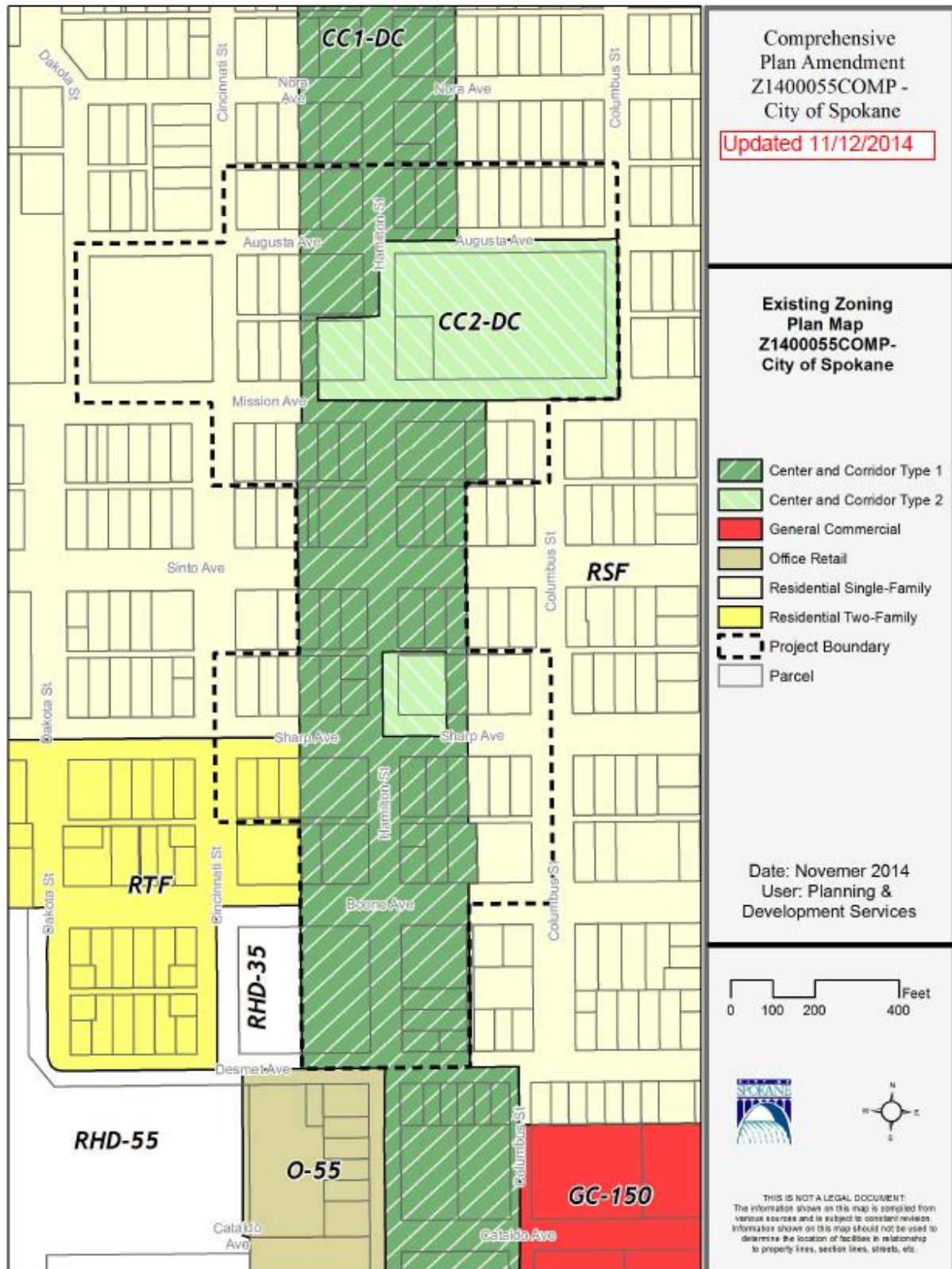
This proposal falls into two actions:

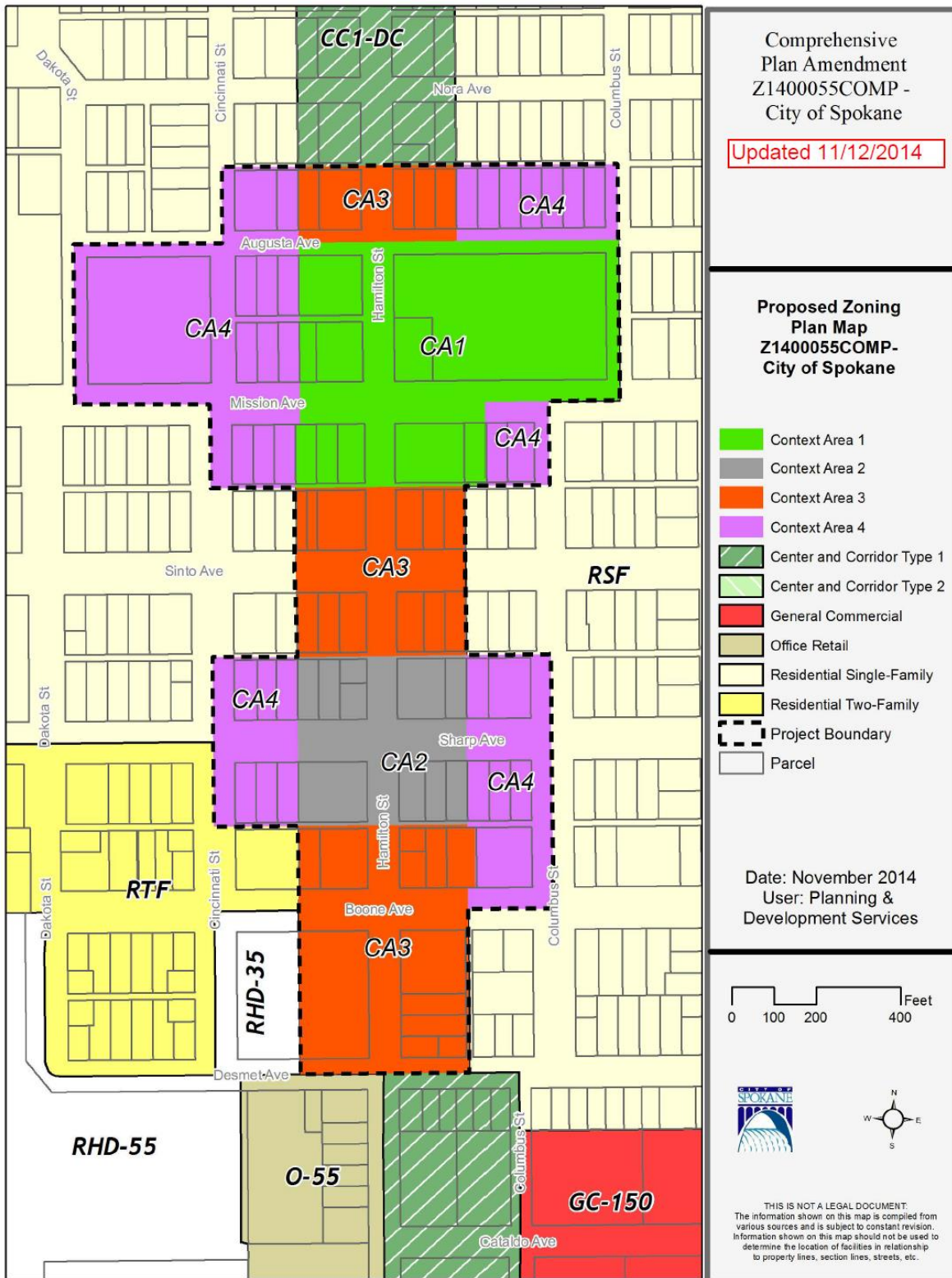
1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition (see maps below).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1-DC, CC2-DC, RSF, and RTF zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories.

C. Existing Land Use Plan Map Designations



D. Proposed Land Use Plan Map

E. Existing Zoning Map

E. Proposed Zoning Map

G. Zoning and Land Use Designation History:

The 1982 Logan Neighborhood Design Plan had several Land Use Designations for the project area being considered as part of this proposal. Land along Hamilton Street was classified as Neighborhood Business and Community Business, while the surrounding land has historically been designated as Low Density Residential. Other designations included Medium Density Residential, Institutional/Residential, and Institutional. In 2006, the Land Use Designations within the project boundary were amended to Center & Corridor Core (CC Core) and Residential 4-10 (R4-10). Corresponding zoning was amended to Residential Single-Family (RSF) and Center & Corridor 1 District Center (CC1-DC).

H. Adjacent Land Use:

Land use to the south of the project boundary is designated as CC Core and Institutional. Gonzaga University is immediately to the west of the lower half of the project boundary and is designated Institutional. Land use to the east and west of project boundary is designated Residential 4-10. Hamilton Street, which runs through the center of the project area, is classified as a major arterial. Local streets running east/west within the boundary include Desmet Ave, Boone Ave, Sinto Ave, and Augusta Ave. Sharp Ave is a minor arterial and Mission Ave is a major arterial. Other north/south local streets within the project boundary include Cincinnati St. and Columbus St. Spokane Transit Authority Bus Route 28 has service on Hamilton Street. The most recent traffic counts indicate that the average daily total trips per day range from 26,000 to 30,800 depending on the block.

I. Applicable Municipal Code Regulations: SMC 17G.020, Comprehensive Plan Amendment Procedures.

J. Outreach and Public Process:

- Meetings with the Logan Stakeholder Group (subcommittee of the Logan Neighborhood Council): May 29, 2014; June 25, 2014; August 19, 2014; and November 6, 2014.
- Open House, July 30, 2014: Mailed postcards to all affected property owners/taxpayers/occupants and those within 400 ft. of project boundary.
- Property Owner Meeting, August 18, 2014: Mailed invitation letter to all affected property owners/taxpayers/occupants within project boundary.

K. Procedural Requirements:

- Application was submitted on October 06, 2014.
- Environmental Checklist was routed to City Departments and outside agencies for review on October 6, 2014. Consultation period ended on October 20, 2014.
- Notice of Application was mailed on October 27, 2014 to all affected property owners/taxpayers/occupants in addition to those within 400 ft. of project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014.

- Planning & Development Services made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal.
- A SEPA Determination of Non Significance was issued on November 26, 2014.
- Notice of SEPA Determination and Plan Commission Hearing was mailed to all affected property owners/taxpayers/occupants in addition to those within 400 ft. of project boundary on November 26, 2014.
- Notice of SEPA Determination and Plan Commission Hearing was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014.
- Hearing Date is scheduled with the Plan Commission for December 10, 2014.

IV. DEPARTMENT REPORTS and PUBLIC COMMENT

Notice of this proposal was sent to City departments and outside agencies for their review. Department comments are included in the file.

As of the date of the staff report, several comments about the project were received from property owners and other interested parties via email, telephone calls, and letters. A summary of comments in addition to copies of correspondence are included in the file.

V. CONCLUSIONS

SMC 17G.020.030 provides a list of considerations that are to be used, as appropriate, in evaluating proposal to amend the comprehensive plan. The following is a list of those considerations followed by staff analysis relative each.

A. Regulatory Changes.

Amendments to the Comprehensive Plan must be consistent with any recent state or federal legislative actions, or changes to state or federal regulations, such as changes to the Growth Management Act, or new environmental regulations.

Relevant facts: The proposal is being considered and processed in accordance with the most current regulations of the Growth Management Act, the Washington State Environmental Policy Act (SEPA) and the Spokane Municipal Code. There are no known recent state or federal or local legislative actions with which the proposal would be in conflict. Staff concludes this criterion is met.

B. GMA.

The change must be consistent with the goals and purposes of the state Growth Management Act.

Relevant facts: The “Legislative findings” included in the Revised Code of Washington pertaining to GMA is essentially a call for coordinated and planned growth that is done cooperatively between citizens, government, and the private sector. The complete text of the “Legislative findings” follows:

RCW 36.70A.010, Legislative findings.

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the

wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.

The Growth Management Act contains 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, "Planning Goals"). The goals that are most directly related to the land use element state:

- ♦ *Urban growth. "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner."*
- ♦ *Reduce sprawl. "Reduce the inappropriate conversion of undeveloped land into sprawling, low density development."*
- ♦ *Housing. "Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock."*
- ♦ *Citizen participation and coordination. "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts."*

Based on the evaluation provided elsewhere in this report, staff concludes that the application is consistent with these and the rest of the GMA Planning goals and the overall purpose of the Growth Management Act.

C. **Financing.**

In keeping with the GMA's requirement for plans to be supported by financing commitments, infrastructure implications of approved comprehensive plan amendments must be reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.

Relevant facts: This proposal has been reviewed by city departments responsible for providing public services and facilities. No comments have been made to indicate that this proposal creates issues with any public services and facilities. Comments are provided in the file.

Staff concludes that this criterion is met.

D. **Funding Shortfall.**

If funding shortfalls suggest the need to scale back on land use objectives and/or service level standards, those decisions must be made with public input as part of this process for amending the comprehensive plan and capital facilities program.

Relevant facts: Staff has concluded that this criterion is not applicable to this proposal. There are no funding shortfall implications.

E. Internal Consistency.

The requirement for internal consistency pertains to the comprehensive plan as it relates to all of its supporting documents, such as the development regulations, capital facilities program, shoreline master program, downtown plan, critical area regulations, and any neighborhood planning documents adopted after 2001. In addition, amendments should strive to be consistent with the parks plan, and vice versa. For example, changes to the development regulations must be reflected in consistent adjustments to the goals or policies in the comprehensive plan. As appropriate, changes to the map or text of the comprehensive plan must also result in corresponding adjustments to the zoning map and implementation regulations in the Spokane Municipal Code.

Relevant facts: The Proposal implements the Centers and Corridor goals and policies of the Comprehensive Plan. In 2006, the Spokane Comprehensive Plan Land Use Chapter was changed, designating the Mission and Hamilton Center from Neighborhood Center to Hamilton Street Corridor District Center. This was done as part of the Center and Corridor planning aimed at implementing the City's Comprehensive Plan. The Form Based Code Subarea Plan builds on this designation and works to create an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor. The Comprehensive Plan Land Use Plan Map change is supplemented by new development regulations which are part of the proposal.

Below are applicable Goals and Policies from the Comprehensive Plan which support this proposal. Staff discussion follows:

Relevant Comprehensive Plan Goals and Policies

From Chapter 3, Land Use

Goal: LU 1 CITYWIDE LAND USE

Offer a harmonious blend of opportunities for living, working, recreation, education, shopping, and cultural activities by protecting natural amenities, providing coordinated, efficient, and cost effective public facilities and utility services, carefully managing both residential and nonresidential development and design, and proactively reinforcing downtown Spokane's role as the urban center.

- Policy: LU 1.4 Higher Density Residential Uses: *Direct new higher density residential uses to centers and corridors designated on the land use plan map*

Goal: LU 3 EFFICIENT LAND USE

Promote the efficient use of land by the use of incentives, density and mixed-use development in proximity to retail businesses, public services, places of work, and transportation systems.

- Policy: LU 3.2 Centers and Corridors: *Designate centers and corridors (neighborhood scale, community or district scale, and regional scale) on the land use plan map that encourage a mix of uses and activities around which growth is focused.*

Goal: LU 4 TRANSPORTATION

Promote a network of safe and cost effective transportation alternatives, including transit, carpooling, bicycling, pedestrian-oriented environments, and more efficient use of the automobile, to recognize the relationship between land use and transportation.

- Policy: LU 4.2 Land Uses that Support Travel Options: *Provide a compatible mix of housing and commercial uses in neighborhood centers, districts centers, employment centers, and corridors.*
- Policy LU 4.4 Connections: *Design residential, commercial, and industrial development that takes into consideration the connections, both vehicular and pedestrian, to adjoining sites to reduce personal automobile trips.*
- Policy: LU 7.1 Regulatory Structure: *Develop a land use regulatory structure that utilizes creative mechanisms to promote development that provides a public benefit.*
- Policy: LU 7.4 Sub-Area Planning Framework: *Use the Comprehensive Plan overall guidance and undertake more detailed sub-area and neighborhood planning in order to provide a forum for confronting and reconciling issues and empowering neighborhoods to solve problems collectively.*

From Chapter 4, Transportation

Goal: TR 2 TRANSPORTATION OPTIONS

Provide a variety of transportation options, including walking, bicycling, taking the bus, carpooling, and driving private automobiles, to ensure that all citizens have viable travel options and reduce dependency on automobiles.

- Policy: TR 2.1 Physical Features: *Incorporate site design and other physical features into developments that encourage alternatives to driving.*
- Policy: TR 2.4 Parking Requirements: *Develop and maintain parking requirements for vehicles that adequately meet the demand for parking yet discourages dependence on driving.*
- Policy TR 2.6 Viable Walking Alternative: *Promote and provide for walking as a viable alternative to driving.*
- Policy TR 2.7 Safe Sidewalks: *Provide for safe pedestrian circulation within the city; wherever possible, this should be in the form of sidewalks with a pedestrian buffer strip or other separation from the street.*

Goal: TR 3 TRANSPORTATION AND LAND USE

Recognize the key relationship between the places where people live, work, and shop and their need to have access to these places; use this relationship to promote land use

patterns, transportation facilities, and other urban features that advance Spokane's quality of life.

- Policy: TR 3.1 Transportation and Development Patterns: *Use the City's transportation system and infrastructure to support desired land uses and development patterns, especially to reduce sprawl and encourage development in urban areas.*

Goal: TR 7 SENSE OF PLACE

Foster a sense of community and identity through availability of transportation choices and transportation design features, recognizing that both profoundly affect the way people interact and experience the city.

- Policy: TR 7.1 Character and Pride: *Create transportation improvements that promote Spokane's character, enhance the character of its neighborhoods, and foster community pride*
- Policy: TR 7.2 Street Life: *Promote a healthy street life in commercial areas, especially downtown, through transportation facilities that are designed with care to enhance both their use and the surrounding street environment.*
- Policy: TR 7.3 Street Trees: *Plant street trees wherever possible to enhance the transportation environment.*
- Policy: TR 7.4 Pedestrian Buffer Strips: *Develop pedestrian buffer strips in a way that is appropriate to the surrounding area and desired outcomes.*
- Policy TR 7.5 Building Setbacks: *Reduce building setbacks from the street and distances between buildings in neighborhood commercial areas to improve pedestrian access and develop an urban form.*
- Policy TR 7.6 Sidewalk Use: *Allow businesses to utilize available sidewalks as long as pedestrian travel is not unreasonably impacted and the sidewalk's use and design is in character with the neighborhood.*

Staff Discussion: The Hamilton Form Based Code Subarea Plan promotes a street environment for pedestrians by placing buildings close to the street with wide sidewalks and street trees, attractive landscaping, benches, and frequent transit stops. Parking lots are placed to the side or the back of buildings. This proposal promotes compatible mix of housing and commercial uses along the corridor and into the transition zones between the corridor and surrounding neighborhood. This provides opportunities for people to walk, enables less reliance on automobiles, reduces commuting times and distances, makes mass transit more viable, and provides greater convenience for area residents. By promoting a vibrant public realm, the proposal takes into consideration the connections, both vehicular and pedestrian to adjoining sites to reduce personal automobile trips. The proposal also regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public

spaces and a healthy mix of uses. This regulatory structure utilizes creative mechanisms to promote development that provides a public benefit. The proposal is a detailed sub-area neighborhood planning process that provides a forum to confront and reconcile issues by empowering the neighborhood to solve problems collectively. The Logan Neighborhood Stakeholder Team has been working on the preparation of the form-based model zoning code since 2012.

F. Regional Consistency.

All changes to the comprehensive plan must be consistent with the countywide planning policies (CWPP), the comprehensive plans of neighboring jurisdictions, applicable capital facilities or special district plans, the regional transportation improvement plan, and official population growth forecasts.

Relevant facts: This amendment will not impact regional consistency.

G. Cumulative Effect.

All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, neighborhood planning documents, adopted environmental policies and other relevant implementation measures.

i. Land Use Impacts.

In addition, applications should be reviewed for their cumulative land use impacts. Where adverse environmental impacts are identified, mitigation requirements may be imposed as a part of the approval action.

ii. Grouping.

Proposals for area-wide rezones and/or site-specific land use plan map amendments may be evaluated by geographic sector and/or land use type in order to facilitate the assessment of their cumulative impacts.

Relevant facts: Per SMC 17G.020.040(A), this application is being reviewed as an initial adoption of a specific/subarea plan.

Staff concludes that this criterion is met.

H. SEPA.

SEPA review must be completed on all amendment proposals.

1. Grouping.

When possible, the SEPA review process should be combined for related land use types or affected geographic sectors in order to better evaluate the proposals' cumulative impacts. This combined review process results in a single threshold determination for those related proposals.

2. DS.

If a determination of significance (DS) is made regarding any proposal, that application will be deferred for further consideration until the next applicable review cycle in order to allow adequate time for generating and processing the required environmental impact statement (EIS).

Relevant facts: The application has been reviewed in accordance with the State Environmental Policy Act (SEPA) that requires that the potential for adverse environmental impacts resulting from a proposal be evaluated during the decision-making process. On the basis of information contained with the environmental checklist, the written comments from local and State departments and agencies concerned with land development within the city, a review of other information available to the Director of Planning Services, and in recognition of the mitigation measures that will be required by State and local development regulations at the time of development, a Determination of Non-Significance (DNS) was issued on November 26, 2014.

Staff concludes that this criterion is met.

I. Adequate Public Facilities.

The amendment must not adversely affect the City's ability to provide the full range of urban public facilities and services (as described in CFU 2.1 and CFU 2.2) citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

Relevant facts: All affected departments and outside agencies providing services to the subject properties have had an opportunity to comment on the proposal and no agency or department offered comments suggesting the proposal would affect the City's ability to provide adequate public facilities to the property or surrounding area or consume public resources otherwise needed to support comprehensive plan implementation strategies. Any specific site development impacts can be addressed at time of application for a building permit, when actual site development is proposed. Staff concludes that this criterion is met.

J. UGA.

Amendments to the urban growth area boundary may only be proposed by the city council or the mayor of Spokane and shall follow the procedures of the countywide planning policies for Spokane County.

Relevant facts: The proposal does not involve amendment of the urban growth area boundary. This criterion is not applicable to this proposal.

K. Consistent Amendments.

1. Policy Adjustments.

Proposed policy adjustments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of adjustment might be supported by findings from feedback instruments related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

- a. growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- b. the capacity to provide adequate services is diminished or increased;
- c. land availability to meet demand is reduced;

- d. population or employment growth is significantly different than the plan's assumptions;
- e. plan objectives are not being met as specified;
- f. the effect of the plan on land values and affordable housing is contrary to plan goals;
- g. transportation and/or other capital improvements are not being made as expected;
- h. a question of consistency exists between the comprehensive plan and its elements and chapter 36.70A RCW, the countywide planning policies, or development regulations.

Relevant facts: This proposal is a request for a Comprehensive Plan Land Use Plan Map amendment, not a policy adjustment. This criterion is not applicable to this proposal.

2. Map Changes.

Changes to the land use plan map (and by extension, the zoning map) may only be approved if the proponent has demonstrated that all of the following are true:

- a. The designation is in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.);

Relevant facts: Relevant Comprehensive Plan policies are addressed in Criterion E above.

Staff concludes that the proposed amendment is compatible with neighboring land uses and is consistent with the Comprehensive Plan.

- b. The map amendment or site is suitable for the proposed designation;

Relevant facts: This proposal amends several areas designated as Residential Single Family (RSF) to Center & Corridor Transition (CC Transition) which are adjacent to the Hamilton Corridor. A new Form Based Code zoning category, Context Area 4 (CA4) will replace current zoning. Context Area 4 allows small scale commercial but is predominately residential in nature and functions as a transition zone. Staff finds that these sites are suitable for the amendment being proposed.

- c. The map amendment implements applicable comprehensive plan policies better than the current map designation.

Relevant facts: Staff finds that the proposed amendment is consistent with the Comprehensive Plan policies.

3. Rezones, Land Use Plan Map Amendment.

Corresponding rezones will be adopted concurrently with land use plan map amendments as a legislative action of the city council. If policy language changes have map implications, changes to the land use plan map and zoning map will be made accordingly for all affected sites upon adoption of the new policy language. This is done to ensure that the comprehensive plan remains internally consistent and to preserve consistency between the comprehensive plan and supporting development regulations.

Relevant facts: This proposal includes the adoption of new development regulations which specify corresponding rezones. Staff concludes that this criterion is met.

L. Inconsistent Amendments.

1. Review Cycle.

Because of the length of time required for staff review, public comment, and plan commission's in-depth analysis of the applicant's extensive supporting data and long-term trend analysis, proposals that are not consistent with the comprehensive plan are addressed only within the context of the required comprehensive plan update cycle every seven years pursuant to RCW 36.70A.130(4)(C) and every other year starting in 2005.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

2. Adequate Documentation of Need for Change.

- a. The burden of proof rests entirely with the applicant to provide convincing evidence that community values, priorities, needs and trends have changed sufficiently to justify a fundamental shift in the comprehensive plan. Results from various measurement systems should be used to demonstrate or document the need to depart from the current version of the comprehensive plan. Relevant information may include:
- b. growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- c. the capacity to provide adequate services is diminished or increased;
- d. land availability to meet demand is reduced;
- e. population or employment growth is significantly different than the plan's assumptions;
- f. transportation and/or other capital improvements are not being made as expected;
- g. conditions have changed substantially in the area within which the subject property lies and/or Citywide;
- h. assumptions upon which the plan is based are found to be invalid; or
- i. sufficient change or lack of change in circumstances dictates the need for such consideration.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

3. Overall Consistency.

If significantly inconsistent with the current version of the comprehensive plan, an amendment proposal must also include wording that would realign the relevant parts of the comprehensive plan and its other supporting documents with the full range of changes implied by the proposal.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

VI. **RECOMMENDATIONS**

STAFF CONCLUSION: For reasons outlined within this report, staff recommends that two actions be approved as part of the Hamilton Form Based Code Subarea Plan:

1. Action #1: Comprehensive Plan Amendment to Land Use Plan Map. Amend the Land Use designations within the project boundary from R 4-10 to CC Transition (as identified in the maps above).
2. Action #2: Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace CC1-DC, CC2-DC, RSF, and RTF zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary (see maps above).

**SPOKANE ENVIRONMENTAL ORDINANCE
NONPROJECT DETERMINATION OF NONSIGNIFICANCE**

FILE NO(S): Z1400055COMP - Proposed Comprehensive Plan Amendment for the Hamilton Form Based Code Subarea Plan

PROPONENT: City of Spokane, Planning & Development

DESCRIPTION OF PROPOSAL: The Form Based Code replaces existing zoning and design guidelines within the affected geographical area. This code regulates land development by setting controls on building form, coupled with performance-based parameters relative to building use and density. The entire project area is approximately 37.6 acres. This proposal falls into two actions:

1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition (See Exhibit 2: Existing Land Use Plan Map and Exhibit 3: Proposed Land Use Plan Map at: <https://beta.spokanecity.org/projects/logan>).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones (See Exhibit 1: SMC 17C.123 Form Based Code Zones Draft at: <https://beta.spokanecity.org/projects/logan>). Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1, CC2, RSF, and RTF zones with CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories (See Exhibit 4: Existing Zoning and Exhibit 5: Proposed Zoning at: <https://beta.spokanecity.org/projects/logan>).

LOCATION OF PROPOSAL, INCLUDING STREET ADDRESS, IF ANY: The affected geographic area is centered on the Hamilton Street corridor, bordered by Desmet Ave. to the south and the alley between Augusta Ave. and Nora Ave. to the north. The east/west boundaries vary. Please see attached project area map or visit <https://beta.spokanecity.org/projects/logan/> for a project map.

LEAD AGENCY: City of Spokane, Planning & Development

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- [] There is no comment period for this DNS.
- [] This DNS is issued after using the optional DNS process in section 197-11-355 WAC. There is no further comment period on the DNS.
- [x] This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for at least 14 days from the date of issuance (below). Comments must be submitted no later than December 10, 2014 at 4:00 p.m. if they are intended to alter the DNS.

Responsible Official: Louis Meuler

Position/Title: Interim Director, Planning and Development **Phone:** (509) 625-6300

Address: 808 West Spokane Falls Boulevard, Spokane, WA 99201-3329

Date Issued: November 26, 2014 **Signature:** 

APPEAL OF THIS DETERMINATION, after it becomes final, may be made to the City of Spokane Hearing Examiner, 808 West Spokane Falls Blvd., Spokane, WA 99201. The appeal deadline is fourteen (14) calendar days after the signing of the DNS. This appeal must be on forms provided by the Responsible Official, make specific factual objections and be accompanied by the appeal fee. Contact the Responsible Official for assistance with the specifics of a SEPA appeal.

Environmental Checklist
UPDATED 11-7-2014

File No. Z1400055COMP

Purpose of Checklist:

The State Environmental Policy Act (SEPA) chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An Environmental Impact Statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "*does not apply*."

IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (Part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: Hamilton Form Based Code Subarea Plan and Zoning Change.
2. Name of applicant: City of Spokane
3. Address and phone number of applicant or contact person: Planning & Development Services, 3rd Floor, Spokane City Hall, 808 West Spokane Falls Boulevard, Spokane, WA 99201-3329, (509) 625-6300. Contact Person: Boris Borisov, Assistant Planner
4. Date checklist prepared: October 6, 2014
5. Agency requesting checklist: City of Spokane
6. Proposed timing or schedule (including phasing, if applicable): A Plan Commission hearing on this proposal is scheduled to take place in December of 2014. Then the subarea plan must be approved by City Council and signed by the Mayor to be adopted.
7.
 - a. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. Yes, the Form Based Code is being applied to a small area of the Logan neighborhood as a pilot project. This type of zoning may be applied to other parts of the City if successful. A separate approval process, including SEPA would be completed if applied to other parts of the City.
 - b. Do you own or have options on land nearby or adjacent to this proposal? If yes, explain. No.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to his proposal. None that is directly related to this proposal.
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. None.
10. List any government approvals or permits that will be needed for your proposal, if known. The adoption of new zoning categories utilizing a Form Based Code will require a Comprehensive Plan Amendment via a subarea plan for the affected geographical area. This Comprehensive Plan Amendment will modify land use in some areas within the affected geographical area and introduce new zoning categories. Additionally, a new chapter will be added to the Spokane Municipal Code that is specific to the affected geographical area. These amendments require approval of the Spokane City Council and Mayor.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. In July, 2012 the Logan Neighborhood Stakeholder Team with the City of Spokane Planning Department began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area and is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area. The entire project area is approximately 37.6 acres.

This proposal falls into two actions:

1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition and from Institutional to CC Transition. (See Exhibit 2: Existing Land Use Plan Map and Exhibit 3: Proposed Land Use Plan Map).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter 17C.XXX123 Form Based Code (See Exhibit 1: 17C.XXX123 Form Based Code Draft at: <https://beta.spokanecity.org/projects/logan>). Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1, CC2, RSF, and RTF zones with CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories (See Exhibit 4: Existing Zoning and Exhibit 5: Proposed Zoning)

See Exhibit 6, Aerial Map of Project Boundary for an overview of entire affected geographic area.

All exhibits and supporting documents can be found at:
<https://beta.spokanecity.org/projects/logan>

12. Location of the proposal. Give sufficient information to a person to understand the precise location of your proposed project, including a street address, if any, and section, township and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity

map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit application related to this checklist. The affected geographic area is centered on the Hamilton corridor, bordering Desmet to the south and the alley between Augusta and Nora to the north. The east/west boundaries vary. Please see Exhibit 6: Aerial Map of Project Boundary at: <https://beta.spokanecity.org/projects/logan>.

13. Does the proposed action lie within the Aquifer Sensitive Area (ASA)? The General Sewer Service Area? The Priority Sewer Service Area? The City of Spokane? (See: Spokane County's ASA Overlay Zone Atlas for boundaries.)
Yes.

14. The following questions supplement Part A.

a. Critical Aquifer Recharge Area (CARA) / Aquifer Sensitive Area (ASA)

- (1) Describe any systems, other than those designed for the disposal of sanitary waste, installed for the purpose of discharging fluids below the ground surface (includes systems such as those for the disposal of stormwater or drainage from floor drains). Describe the type of system, the amount of material to be disposed of through the system and the types of material likely to be disposed of (including materials which may enter the system inadvertently through spills or as a result of firefighting activities).
Not applicable, this is a non-project action. Systems designed for stormwater disposal would be included in new development projects, if the adopted amendments will apply to new development. These are reviewed on a project basis and mitigated as required under SMC Section 17D.060.

- (2) Will any chemicals (especially organic solvents or petroleum fuels) be stored in aboveground or underground storage tanks? If so, what types and quantities of material will be stored?
Not applicable, this is a non-project action.

- (3) What protective measures will be taken to insure that leaks or spills of any chemicals stored or used on site will not be allowed to percolate to groundwater. This includes measures to keep chemicals out of disposal systems.
Not applicable, this is a non-project action.

- (4) Will any chemicals be stored, handled or used on the site in a location where a spill or leak will drain to surface or groundwater or to a stormwater disposal system discharging to surface or groundwater?
Not applicable, this is a non-project action.

b. Stormwater

(1) What are the depths on the site to groundwater and to bedrock (if known)?

Not applicable, this is a non-project action

(2) Will stormwater be discharged into the ground? If so, describe any potential impacts?

Not applicable, this is a non-project action

TO BE COMPLETED BY APPLICANT

B. ENVIRONMENTAL ELEMENTS

Evaluation for
Agency Use
Only

1. Earth

- a. General description of the site (circle one): *flat, rolling, hilly, steep slopes, mountains, other.* The affected geographic area is predominately flat.
- b. What is the steepest slope on the site (approximate percent slope)? The affected geographic area is predominately flat. The slopes range from 0 to 16 percent.
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. The soils are generally described as Garrison gravelly loam 0 to 5% slope. Please see the "Soil Survey, Spokane County Washington, 1968" for additional information regarding this and other soil classifications within the City of Spokane.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. The affected geographic area has no history of unstable soils in the immediate vicinity according to the Potential Erosion Hazard map of the City of Spokane.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill: There are no fills or grading proposed directly related to this proposal, this is a non-project action.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. There should not be any erosion directly related to this proposal, as this is a non-project action. Impacts would be project based and would be evaluated on a project-by-project basis.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? Not applicable, this is a non-project action. The Form Based Code specifies maximum impervious coverage for specific zones in the affected geographic area. These standards would apply to new projects and would limit the amount of impervious surfaces (see Exhibit 1: 17C.XXX123 Form Based Code Draft, Section 17C.XXX123.040-1 at: <https://beta.spokanecity.org/projects/logan>).
- h. Proposed measures to reduce or control erosion or other impacts to the earth, if any: Not applicable, this is a non-project action. The Form Based Code sets maximum impervious surface coverage areas within the geographic area as well as landscaping standards.

2. Air

- a. What type of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. Construction of required accesses and other infrastructure required as conditions of approval, if any, and other development permitted by the zoning code will generate emissions to the air. Impacts will be evaluated as projects are proposed.
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. No, this is a non-project action.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any: This specific proposal contains no provisions to reduce or control emissions.

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3. Water

a. SURFACE:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. There is no surface water body within the affected geographic area. The Spokane River is approximately ½ mile to the south of the project boundary and ¼ of a mile to the east
- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. No
- (3) Estimate the amount of fill and dredge material that would be placed in or removed from the surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
There is no fill or dredge material that is proposed to be placed or removed in relation to this proposal, this is a non-project action. The development standards of the Shorelines Master Program (SMP) and the Title 17E.070 (wetlands) of the SMC regulate the filling and dredging of surface water and wetlands.
- (4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
No, this proposal will not require surface water withdrawals or diversions. This is a non-project action.
- (5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. The affected geographic area does not lie within a 100-year floodplain.
- (6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
No, this proposal does not involve any discharge of water materials to surface waters. This is a non-project action.

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b. GROUND:

- (1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No, this proposal does not involve any discharge of water materials to surface waters. This is a non-project action.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sanitary waste treatment facility. Describe the general size of the system, the number of houses to be served (if applicable) or the number of persons the system(s) are expected to serve.

Not applicable, this is a non-project action. All buildings within the affected geographic area are served by city sewer.

c. WATER RUNOFF (INCLUDING STORMWATER):

- (1) Describe the source of runoff (including stormwater) and method of collection and disposal if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable, this is a non-project action.

- (2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable, this is a non-project action.

- d. PROPOSED MEASURES to reduce or control surface, ground, and runoff water impacts, if any. I

The provisions of SMC 17D.060 Stormwater Facilities regulates stormwater and requires appropriate on-site storage and disposal. New development is reviewed under these regulations and required to build appropriate stormwater facilities.

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4. Plants

a. Check or circle type of vegetation found on the site:

x _____ Deciduous tree: *alder, maple, aspen, other.*

x _____ Evergreen tree: *fir, cedar, pine, other.*

x _____ Shrubs

x _____ Grass

_____ Pasture

_____ Crop or grain

_____ Wet soil plants, *cattail, buttercup, bullrush, skunk cabbage, other.*

_____ Water plants: *water lilly, eelgrass, milfoil, other.*

x _____ Other types of vegetation.

b. What kind and amount of vegetation will be removed or altered? No vegetation is proposed to be removed or altered as part of this proposal, this is a non-project action.

c. List threatened or endangered species known to be on or near the site. Not-applicable, this is a non-project action.

c. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: The Form Based Code imposes landscaping standards prescribed in SMC 17C.200. These landscaping requirements ensure properties developed within the affected geographical area enhance vegetation on site (see: Supporting Amendments to SMC, Landscaping & Screening at: <https://beta.spokanecity.org/projects/logan/>)

3.

5. Animals

a. Circle any birds and animals which have been observed on or near the site are known to be on or near the site:

Not-applicable, this is a non-project action.

birds: *hawk, heron, eagle, songbirds, other.* _____

mammals: *deer, bear, elk, beaver, other.* _____

fish: *bass, salmon, trout, herring, shellfish, other.* _____

other: _____

b. List any threatened or endangered species known to be on or near the site.

Not-applicable, this is a non-project action.

- a. Is the site part of a migration route? If so, explain.
Not-applicable, this is a non-project action.
- d. Proposed measures to preserve or enhance wildlife, if any:
The provisions of Spokane Municipal Code Section 17E.020 Fish and Wildlife Habitat contain development standards for the protection of animals listed as threatened, endangered and priority species.

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable, this is a non-project action. New development in the affected geographic area could use any combination of electric, natural gas, wood stove, and/or solar to meet energy needs.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. Not applicable, this is a non-project action.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
The Form Based Code is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor. The affected geographic area will benefit from an environment that supports multiple modes of transportation including automobile, walking, cycling, and transit.

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe. No, this proposal is a non-project action and should not directly increase the risk of any of these hazards.
- (1) Describe special emergency services that might be required.
Not applicable, this is a non-project action.
- (2) Proposed measures to reduce or control environmental health hazards, if any:

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Not applicable, this is a non-project action.

b. NOISE:

- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable, this is a non-project action.

- (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

New development could create construction noise as redevelopment occurs with the affected geographic area. Any such noise would be subject to the provisions of SMC 10.0D Noise Control.

- (3) Proposed measure to reduce or control noise impacts, if any:

Noise is regulated under SMC 10.D Noise Control. This section of the Spokane Municipal Code outlines maximum permissible environmental sound levels by zone type (residential, commercial, office, retail, industrial, etc). Projects within the affected geographic area would be subject to these standards.

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties?

Uses within the affected geographic area are a mix of residential and commercial. Approximately 39% of the parcels within the boundary are zoned for residential use and 61% are zoned Center & Corridor. The Centers and Corridor zones have a variety of uses including retail, commercial and personal services.

- b. Has the site been used for agriculture? If so, describe. No

- c. Describe any structures on the site. The affected geographic area has numerous structures. Approximately 39% of the area is zoned for residential use and has single family/multi-family. The Center and Corridor zones which make up roughly 61% of the affected geographic area has commercial structures that range from 3,000 sf to 10,000 sf.

- d. Will any structures be demolished? If so, which? This is a non-project action and as such demolition of structures is not being proposed. Structures could be demolished as part of normal redevelopment activity.

- e. What is the current zoning classification of the site? The affected geographic area has a mix of zones including

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residential single family (RSF), residential two-family (RTF), and center and corridor (CC1, and CC2).

- f. What is the current comprehensive plan designation of the site? The Comprehensive Land Use Map designation for the affected geographic area is Center and Corridor Core Residential 4-10, and Institutional.
- g. If applicable, what is the current shoreline master program designation of the site? Not applicable.
- h. Has any part of the site been classified as a critical area? If so, specify. Yes. The entire affected geographic area is within the critical aquifer recharge area.
- i. Approximately how many people would reside or work in the completed project? Not applicable, this is a non-project action
- j. Approximately how many people would the completed project displace? Not applicable, this is a non-project action
- k. Proposed measures to avoid or reduce displacement impacts, if any: Not applicable, this is a non-project action
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: This project implements the centers and corridors goals and policies and land use map designations of the comprehensive plan. Several areas of the affected geographic area will require a Comprehensive Plan Amendment to the Land Use Plan Map.

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9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing. Not applicable, this is a non-project action.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high-, middle- or low-income housing. Not applicable, this is a non-project action.
- c. Proposed measures to reduce or control housing impacts, if any: Not applicable, this is a non-project action.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? This is a non-project action and does not include the construction of buildings. The standards for building height are regulated in this proposal. There are four Context Areas (zones) within the affected geographic area. The tallest building allowed would be in a Context Area 1 zone at 6 5 stories or 80-66 feet (see figures 17C.XXX123.040GD through 17C.XXX123.040FG under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>) along a shop front street (designated along Hamilton and commercial nodes/intersections). A wide variety of building materials will be allowed within each zone.
- b. What views in the immediate vicinity would be altered or obstructed? Views may be altered if developers take advantage of allowable maximum height standards within the affected geographic area. The proposal has design requirements to ensure the proper “fit” within the surrounding neighborhood. These include architectural requirements, articulating façade requirements, roofline objectives, mechanical screening, and other considerations. These requirements establish important functional and aesthetic characteristics sought by the community. (See Section 17C.XXX123.060 Architectural Requirements under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). Areas adjacent to residential zones have lower height maximum standards to ensure smooth transitions between intense uses and a neighborhood context.
- c. Proposed measures to reduce or control aesthetic impacts, if any: The proposal has design requirements to ensure the proper “fit” within the surrounding neighborhood. These include architectural requirements, articulating façade requirements, roofline objectives, mechanical screening, and other considerations. These requirements establish important functional and aesthetic characteristics sought by the community (See Section 17C.XXX123.060 Architectural Requirements under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? This is a non-project action. Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). These standards help reduce glare, especially at night.

- b. Could light or glare from the finished project be a safety hazard or interfere with views? This is a non-project action. Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). These standards help reduce glare, especially at night.
- c. What existing off-site sources of light or glare may affect your proposal? Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).
- d. Proposed measures to reduce or control light and glare impacts, if any: The Hamilton Form Base Code prescribes lighting standards within parking lots to reduce glare and contribute to the character and safety of sites and adjacent right of way. Pedestrian scale fixtures are required for all lighting illuminating pedestrian paths. Vehicle scale fixtures are allowed for general surface lot and site lighting. Parking lot lighting is required to provide adequate night visibility and security by distributing a minimum of two foot-candles to a maximum of six foot-candles of illumination at ground level. All lighting is required to be shielded to minimize off-site glare, directing light downward and away from adjacent properties (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity? Not applicable, this is non-project action
- b. Would the proposed project displace any existing recreational uses? If so, describe. Not applicable, this is non-project action
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: Not applicable, this is non-project action

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe. A portion of the Mission Avenue Historic District is within the northwest part

of the affected geographic area. This accounts for approximately 10 parcels that are both within the affected geographic area and the Mission Avenue Historic District. One parcel, located at 1226-1228 N. Hamilton is on the local preservation register. This property commonly known as Jack and Dan's, is one of five remaining beer parlors in Spokane that has operated continuously as a parlor/tavern since the repeal of prohibition in Washington in 1933.

- b. Generally describe any landmarks or evidence of historic archaeological, scientific or cultural importance known to be on or next to the site. Jack and Dan's Tavern, located at 1226-1228 N. Hamilton is one of five remaining beer parlors in Spokane that has operated continuously as a parlor/tavern since the repeal of prohibition in Washington in 1933.
- c. Proposed measures to reduce or control impacts, if any: This proposal does not specifically have measures to reduce impacts on historic properties. The proposal encourages compatible use of existing properties with the surrounding neighborhood.

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14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any. The main north/south route in the affected geographic area is served by Hamilton Street. This street supports a mixed-use corridor environment. Mission Ave serves existing east/west arterial needs and includes a median with turn lanes. Boone Ave, Sharp Ave, and Sinto Ave serve east/west arterial needs and provide for and support a mixed-use district environment. Augusta Ave, Columbus St, Cincinnati St, and Dakota St, provide for and support an environment bridging between mixed-use and residential areas. Access to all streets would not change as part of this proposal as this is a non-project action.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop? Yes.
- c. How many parking spaces would the completed project have? How many would the project eliminate? This is a non-project action. The proposal has maximum parking requirements for each context area. Context Areas 1, 2, and 3 have a maximum of 2 spaces/500 sf of floor area. Context Area 4 (residential in character) has a minimum off-street parking requirement of 1 space per dwelling unit.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets not including driveways? If so, generally describe (indicate whether public or private). No.
- e. Will the project use (or occur in the immediate vicinity of) water, rail or air transportation? If so, generally describe. Not applicable, this is a non-project action.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak would occur. Not applicable, this is a non-project action.

(Note: to assist in review and if known indicate vehicle trips during PM peak, AM Peak and Weekday (24 hours).)

- g. Proposed measures to reduce or control transportation impacts, if any: Not applicable, this is a non-project action.

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15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe. This proposal is a non-project action and should not directly increase the need for fire, police, health care or school services.
- d. Proposed measures to reduce or control direct impacts on public services, if any: Impacts will be addressed at the time of permit application.

16. Utilities

- a. Circle utilities currently available at the site: *electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.* The project area is fully served with urban utilities.
- b. Describe the utilities that are proposed for the project, the utility providing the service and the general construction activities on the site or in the immediate vicinity which might be needed. Not applicable, this is non-project action.

C. SIGNATURE

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. I also understand that, should there be any willful misrepresentation or willful lack of full disclosure on my part, the *agency* must withdraw any determination of Nonsignificance that it might issue in reliance upon this checklist.

Date: _____

Signature: _____

Please Print or Type:

Proponent: City of Spokane

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6300

Person completing
form (if different

from proponent): Boris Borisov, Assistant Planner

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6156

Email: bborisov@spokanecity.org

[Updated November 7, 2014](#)

FOR STAFF USE ONLY

Staff member(s) reviewing checklist: _____

Based on this staff review of the environmental checklist and other pertinent information, the staff concludes that:

- ☐ A. there are no probable significant adverse impacts and recommends a Determination of Nonsignificance.
- ☐ B. probable significant adverse environmental impacts do exist for the current proposal and recommends a Mitigated Determination of Nonsignificance with conditions.
- ☐ C. there are probable significant adverse environmental impacts and recommends a Determination of Significance.

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS
(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage or release of toxic or hazardous substances; or production of noise?
The proposal would not directly increase discharge to water, emissions to air, the production and storage of toxic or hazardous substances or noise.

Proposed measures to avoid or reduce such increases are:
No such measures are included in this proposal.

2. How would the proposal be likely to affect plants, animals, fish or marine life?
This proposal is unlikely to directly affect plants and animals.

Proposed measures to protect or conserve plants, animals, fish or marine life are:
No measures are proposed to specifically address the conservation of plants and animals in this proposal. However, the SMC includes standards related to protection of critical areas and habitat.

3. How would the proposal be likely to deplete energy or natural resources?
The proposed code amendments will not directly affect energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:
The proposal does not directly address energy and natural resource conservation.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains or prime farmlands?

This proposal will not directly affect environmentally sensitive areas. If the amendments adopted will apply to new development, the new development will be subject to the critical area standards of the Spokane Municipal Code.

Proposed measures to protect such resources or to avoid or reduce impacts are:

No new measures are proposed. Project impacts will be addressed at the time of permit application in accordance with the standards of the Spokane Municipal Code.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The amendments are intended to implement the policies of the City's Comprehensive Plan. Development approved under the proposed amendments are required to meet the development regulations adopted under the Comprehensive Plan.

Proposed measures to avoid or reduce shoreline and land use impacts are:

No additional measures are proposed.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

This proposal increases the height maximum in the Context Area 1 zone from 54' to 66' along Shopfront streets. It also increases the height maximum in Context Area 2 from 54' to 66' along Shopfront streets (See Figure 17C.XXX.040-DC through Figure 17C.XXX.040-ED under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). This type of increase is only allowed on streets adjacent to Hamilton and corner lots. This is consistent with the Comprehensive Plan's Corridor designations which call for increase of densities.

Proposed measures to reduce or respond to such demand(s) are:

Any development proposals would individually go through the SEPA process and would be required to mitigate impacts on transportation or public services and utilities.

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment.

The proposal should not conflict with local, state or federal laws or requirements for the protection of the environment.

C. SIGNATURE

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. I also understand that, should there be any willful misrepresentation or willful lack of full disclosure on my part, the *agency* may withdraw any Determination of Nonsignificance that it might issue in reliance upon this checklist.

Date: _____ Signature: _____

Please Print or Type:

Proponent: City of Spokane

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6300

Person completing
form (if different

from proponent): Boris Borisov, Assistant Planner

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6156

Email: bborisov@spokanecity.org

[Updated November 7, 2014](#)

FOR STAFF USE ONLY

Staff member(s) reviewing checklist: _____

Based on this staff review of the environmental checklist and other pertinent information, the staff concludes that:

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- B. ☐ probable significant adverse impacts do exist for the current proposal and recommends a Mitigated Determination of Nonsignificance with conditions.
- C. ☐ there are probable significant adverse environmental impacts and recommends a Determination of Significance.

HAMILTON FORM-BASED CODE

SUBAREA PLAN

Public Comment Packet

Comments From July through September 2014 (pre-official public comment period for Comp Plan Amendments)

Comments	Date	Format	Contact Name
<p>Input on Context Areas: Input on Context Areas: We are strongly opposed to the mandatory height minimum for the CA-1 Context Area. This 4-story requirement, for our 15,000 sf lot located at Mission and Hamilton will deprive from any reasonable use of the property. It amounts to a taking of private property.</p> <p>Input on Street Type Designations: Generally no significant concerns Other Comments: The requirement to place any buildings at the corner of our property. Placing parking away from the street is already making it difficult for us to find a new tenant for the property. The prohibition on drive-through facilities has taken away most of the demand for the property from the brokers and national tenants we have talked to. I have talked to numerous commercial brokers.</p>	7/30/2014	Comment Card from July Open House	Mike Dempsey
<p>I believe there is a drafting error in the July 11, 2014 draft of the HFBC, on page 5. The reference to "figures 17.XXX.050-C through 17.XXX.050-F", in subsection 17C.XXX.040(A), should instead be to "figures 17C.XXX.040-C through 17C.XXX.040-F". The figures were in Section 17.XXX.050 in an earlier draft, but are now in Section 17C.XXX.040.</p> <p>There are also errors on page 6, in the references to "Figure 17C.XXX.050-A" and "17C.XXX.050-B", in Section 17C.XXX.040(G)(5). You also need to insert the "C" in the references to "figures 17.XXX.040-C through 17.XXX.050-F" in Section 17C.XXX.040(H).</p>	7/30/2014	Email	Mike Dempsey
<p>I have several comments regarding the HFBC draft. They are as follows; --reference should be made to the Logan Identity Plan within the document. --shrubs aren't mitigation enough for blank walls --clarity is needed around the allowance of retail in CA4 to prevent just home businesses within a residence and if a retail use is included then I think the regs for retail use (i.e. design/landscaping/parking) should be required.</p>	8/4/2014	Email	Karen Byrd
<p>Owns the 3 west lots on Hamilton and Augusta. Wanted to know if he will have to comply with new zoning rules once adopted. Staff explained current buildings are grandfathered.</p>	8/1/2014	Phone Call	Rod Scroggin
<p>Concern about sidewalk width and building height minimums: It will be difficult to lease site with height minimum requirement.</p>	8/4/2014	Phone Call	Greg Byrd
<p>Inquired about impacts the code may have on her property. Staff explained the property is outside of the project boundary</p>	8/5/2014	Email	Annabelle Leith
<p>Opposition to moratorium and Draft HBFC. See attached email</p>	8/18/2014	Email	Mike Dempsey

I just wanted to respond to the work that has been undertaken by the Logan Neighborhood over the last year or so. The development of the Form Based Code, I believe, is exemplary, very well thought out, and should be enacted by the City Council. I grew up at 808 E Augusta, and after 4 decades away living in NYC, I presently live and work at this address. Any movement toward enhancing pedestrian activity, and providing increased density will be good for the Logan Neighborhood, and for the City of Spokane. Thank you.	9/30/2014	Email	Gregory J. Higgins
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Logan Form Based Code Public Comments Period October 27th - November 25th, SUMMARY

Comments	Date	Format	Contact Name
Property owner of 929 E Boone requested his property be within the HFBC boundary as part of the CA4 zone. The zone was expanded to include the property per direction of the Planning Director	10/3/2014	Email	Stephen Kraft
Needed more info about the project. Referred to Website, provided project overview. Mr. Faridnia is not within project boundary, just needed more info.	10/28/2014	Voicemail/Phone Call	Mannie Frednya
Called Back Nov 3rd. Mr. Blemo wanted to know more about the project as he is in the process of purchasing 902 E Boone. I explained the vision of the neighborhood and what FBC strives to accomplish.	10/28/2014	Voicemail/Phone Call	Joe Blemo
Mr. Kuntz asked about the timeline for adoption. Informed Mr. Kuntz we are looking at the proposal to be in front of City Council in January of 2015.	10/27/2014	Voicemail	Greg Kuntz
Mr. Byrd stated he is opposed to the height minimum standards and the prohibition of drive-throughs	11/7/2014	Phone Call	Greg Byrd
Stated they were glad height minimum requirements were eliminated. Opposed to prohibition on drive-throughs	11/9/2014	Email	Rod & Glenice Scroggin
Asked why the changes were needed. Staff replied via email explaining the neighborhood planning process that resulted in this proposal and elements of the code. Staff provided a link to the website with full project details.	11/9/2014	Email	Margie Clarity
Mr. Byrd asked where the 18' Foot 1st floor height minimum came from	Week of 11/17	Phone Call	Greg Byrd
Councilman Fagan inquired why the road diet was dropped from the HFBC. Staff explained this was due to traffic numbers being too high on Hamilton to allow for a 3 lane section. Mr. Fagan also asked about angle parking and staff responded this proposal does not call for angle parking.	11/20/2014	Email	Councilman Mike Fagan
Mr. Dempsey submitted a letter on behalf of Carmela Dempsey and Pete Anderson, owners of the NW corner of Hamilton and Mission; see attached letter	11/24/2014	email	Mike Dempsey
Mr. Byrd submitted a letter with comments. See attached.	11/25/2014	Email	Greg Byrd

Logan Form Based Code Comments After Official Comment Period Nov 26th - Current

Comments	Date	Format	Contact Name
1) 35' height max in CA4; is there flexibility to go higher? 2) Recommended increasing impervious service in CA4 to 60% or 70% 3) Concern with language about Frontage Types (porches) - Staff stated this was under the guideline section of the code	12/2/2014	Meeting	Greg Kuntz

Public Comments July 2014 – September 2014

Public Open House July 30, 2014

Property Owner Meeting August 18, 2014

HAMILTON FORM-BASED CODE

We Want To Hear From You!

Leave your comments and input on this card

Name:

M. L. Demsey

ADDRESS:

3224 S. Whipple Rd

PHONE NUMBER:

E-MAIL CONTACT:

demseyml@comcast.net

RESPONSE REQUESTED: YES NO

Context Areas: What are your thoughts on the context areas including regulations for height, parking, land uses, building lines, etc?

We are strongly opposed to the mandatory height minimum for the CA-1 context area.

This 4-story requirement for our 15,000 sq ft lot located at Mission & Hamilton ^{with defective} from any reason ^{use of the property, it is tantamount to a taking of private property} because

Street Type Designations: Street types describe amenities based upon intended use and desired qualities. What are your thoughts with regards to required amenities including street trees, a planting zone, pedestrian zone, benches, trash receptacles, and pedestrian scale lighting?

Generally no significant concerns.

Other Comments/Feedback:

We have the requirements to place the parking building ~~at~~ at the corner of our property. I have placed parking away from the street is already making it difficult for us to find a new tenant for the property. The prohibition on drive-thru facilities has taken away most of the demand for the property from the numerous brokers and ~~commercial~~ national tenants we have talked to. I have talked to numerous commercial brokers.

Borisov, Boris

From: dempseymc@comcast.net
Sent: Wednesday, July 30, 2014 4:51 PM
To: Borisov, Boris
Subject: Re: Form Based Code Open House

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Boris,

I believe there is a drafting error in the July 11, 2014 draft of the HFBC, on page 5. The reference to "figures 17.XXX.050-C through 17.XXX.050-F", in subsection 17C.XXX.040(A), should instead be to "figures 17C.XXX.040-C through 17C.XXX.040-F". The figures were in Section 17.XXX.050 in an earlier draft, but are now in Section 17C.XXX.040.

There are also errors on page 6, in the references to "Figure 17C.XXX.050-A" and "17C.XXX.050-B", in Section 17C.XXX.040(G)(5). You also need to insert the "C" in the references to "figures 17.XXX.040-C through 17.XXX.050-F" in Section 17C.XXX.040(H).

I will be at the meeting tonight.

Mike Dempsey
477-7427 (Spokane County Hearing Examiner)

From: "Boris Borisov" <bborisov@spokanecity.org>
To: "Chris Kelly" <cmk@tipperary-press.com>, "Chris Nichols" <chris@chairscoffee.com>, "Jeanette Harras" <logandnc@gmail.com>, "Karen Byrd" <byrdkd50@gmail.com>, "Ken Sammons" <ksammons@plant.gonzaga.edu>, "Ken Wenhien" <kssw@msn.com>, "Mike Dempsey" <dempseymc@comcast.net>, "Mitch Moczulski" <Mitch@chairscoffee.com>, "Paul Harrington" <pharrington@southhenry.com>, "Paul Kropp" <pkropp@fastmail.fm>, "Rod & Glenia Singh" <flyrod3@comcast.net>
Sent: Tuesday, July 29, 2014 1:33:26 PM
Subject: Form Based Code Open House

Good Afternoon,

This is a friendly reminder that the Form Based Code Open House is tomorrow night from 6-8pm. Attached is a flyer with information. Hope to see you there.

Best Regards,



Boris Borisov | Assistant Planner | Planning & Development Services

Borisov, Boris

From: Karen Byrd <byrdkd50@gmail.com>
Sent: Monday, August 04, 2014 7:44 AM
To: Borisov, Boris
Subject: HFBC Comments & next mtg

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Boris,

I have several comments regarding the HFBC draft. They are as follows; --reference should be made to the Logan Identity Plan within the document.

--shrubs aren't mitigation enough for blank walls --clarity is needed around the allowance of retail in CA4 to prevent just home businesses within a residence and if a retail use is included then I think the regs for retail use (ie design/landscaping/parking) should be required.

Do you think there has been enough time for public comment for the stakeholder group to meet tomorrow? I am available to meet tomorrow or Thursday at 430p.

Have you received very many comments or concerns?

Thanks,

Karen Byrd

Sent from my iPhone

Borisov, Boris

From: Borisov, Boris
Sent: Monday, August 11, 2014 10:50 AM
To: ann4sure@comcast.net
Subject: RE: Hamilton corridor model

Hi Annabelle,

Thank you for the email and question. Your property at 1104 E August is outside of the boundary area for the Form Based Code. It seems that your property is about six parcels east of the project boundary.

Feel free to contact me if you have further questions.

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: ann4sure@comcast.net [<mailto:ann4sure@comcast.net>]
Sent: Tuesday, August 05, 2014 2:26 PM
To: Borisov, Boris
Subject: Hamilton corridor model

I wanted to know how this impacts my home in this area, I live at 1104 E. Augusta. Does this mean that they will be able to build apartment's around me or next door to me?

Thank you, Annabelle Leith ann4sure@comcast.net

- • Updated – Hamilton Corridor Model Form Based Code – July 2014

Borisov, Boris

From: dempseymc@comcast.net
Sent: Monday, August 18, 2014 3:15 PM
To: Borisov, Boris
Subject: Re: Hamilton Form Based Code Feedback

Thanks, Boris. I meant to say that the owners of the site have had to put off prospective tenants due to the moratorium and the current restrictions in the draft HFBC.

From: "Boris Borisov" <bborisov@spokanecity.org>
To: dempseymc@comcast.net
Sent: Monday, August 18, 2014 2:37:57 PM
Subject: RE: Hamilton Form Based Code Feedback

Hi Mike,

Thank you for the comments and feedback. I look forward to hearing more input from stakeholders and will keep you updated during this process.

Best Regards,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

-----Original Message-----

From: dempseymc@comcast.net [mailto:dempseymc@comcast.net]
Sent: Monday, August 18, 2014 1:49 PM
To: Borisov, Boris
Cc: pete anderson; curran dempsey; Mark J. Rosenblum
Subject: Re: Hamilton Form Based Code Feedback

Boris,

I'm sorry that due to one of our cars being in the shop today, I will not be able to attend tonight's meeting.

My 88-year old mother, Carmela Dempsey, owns 70% of the 15,600-square foot lot located at the northwest corner of the intersection of Hamilton and Mission. This property has been in the Dempsey family since my great-grandfather, C.C. Dempsey, a Spokane pioneer who was a former Sheriff of Spokane County (1896-1898) and owned the large Dempsey Hotel in downtown Spokane for many years, lived on the property in a 13-room mansion. The property housed a Shell Oil gas station after

that, and then a carwash starting in 1985 until the owners had it torn down early in 2014.

My mother is very much opposed to the draft HFBC, and the moratorium adopted by the City that is in effect along the Hamilton corridor. The lot is perfect for drive-through retail, with ingress along Mission and egress along Hamilton. It is clearly not large enough to support a minimum 54-foot/4-story tall building, with mixed uses, now or in the future; nor is there a market for such use now or in the foreseeable future. The prospective tenants who have shown interest in the property over the last several months since the carwash was removed are single-story, drive-through retail and retail strip development. This includes a number of national tenants, who we have had to put off due to the uncertainties over t.

Of most concern is the 4-story minimum building height under the HFBC in the CA-1 context area that applies to my mother's property. If this minimum is adopted, it would appear to take all reasonable use of the property away, which would be a compensable taking.

The City cannot argue that the site could be combined with other adjoining parcels in the future, to make a 4-story building marketable; which assemblage and use appears completely speculative anyway. The single-parcel test requires that this parcel be viewed on its own merits.

The height minimums that are proposed in the various context areas under the HFBC would make nearly all existing buildings along the corridor in their respective context areas nonconforming (including the new Clementine Square). This is against the concept of typical form-based zoning, which is not intended to force such drastic changes to the character of an existing neighborhood.

There is also concern regarding the impact of the inordinately wide improvements and setbacks required along a shopfront street like Hamilton and Mission, which would require a whopping 24-foot set aside for my mother's property along both Mission and Hamilton. This represents approximately 6,000 square feet of a 15,600-square foot lot, or 38% of the lot.

Personally, I have long been an admirer of the City of Spokane, and appreciate the City trying to make a positive impact on the Hamilton corridor and adjoining neighborhoods. However, the proposed zoning from my mother's point of view is a disaster in the making. From my own experience, this sort of restrictive zoning, that takes away most reasonable uses of the property in the existing market, is what brought form-based zoning down in the City of Spokane Valley; not just an argument over aesthetics.

Respectfully submitted,

Mike Dempsey

----- Original Message -----

From: "Boris Borisov" <bborisov@spokanecity.org>

To: byrdkd50@gmail.com
Cc: "Scott Chesney" <schesney@spokanecity.org>, "Louis Meuler" <LMeuler@SpokaneCity.org>
Sent: Monday, August 18, 2014 9:47:21 AM
Subject: Hamilton Form Based Code Feedback

Dear Stakeholders,

This is a friendly reminder we are meeting today with property owners to discuss the Hamilton Form Based Code:

Date: Monday, August 18, 2014

Time: 5-6:30pm

Location: Gonzaga Plant Service Building, 1004 N. Ruby.

Directions: The entrance is around on the east side of the building. From the south, take Ruby north to DeSmet Avenue. Turn right and go about ½ block and turn into the driveway on the south side of the street. The building is the second one on the right. From Division, going south, turn left onto DeSmet, go a block and a half and turn south into the driveway as noted above.

Please RSVP to this email if you plan on attending. If you cannot attend, please review the attached draft and provide your feedback via email or phone.

Thank you,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

Borisov, Boris

From: Greg Higgins <gjharch@comcast.net>
Sent: Tuesday, September 30, 2014 3:28 PM
To: Borisov, Boris
Cc: 'Karen Byrd'
Subject: COMMENT-HAMILTON FORM BASED CODE

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Borisov,
I just wanted to respond to the work that has been undertaken by the Logan Neighborhood over the last year or so. The development of the Form Based Code, I believe, is exemplary, very well thought out, and should be enacted by the City Council.

I grew up at 808 E Augusta, and after 4 decades away living in NYC, I presently live and work at this address. Any movement toward enhancing pedestrian activity, and providing increased density will be good for the Logan Neighborhood, and for the City of Spokane. Thank you.

Best regards,

Greg

GREG HIGGINS architecture

Gregory J. Higgins, Architect
808 E. Augusta Ave., Unit A
Spokane, WA 99207
T: 509.482.2764

Official Public Comment Period
October 27, 2014 – November 25, 2014

Borisov, Boris

From: Cho <kraftproperties@comcast.net>
Sent: Friday, November 21, 2014 6:01 PM
To: Borisov, Boris
Subject: Re: 929 E Boone Ave

Boris

Thank you very much for making that change. It makes a lot of sense.

Yes that is our LLC and the loan is under that name as well.

Stephen Kraft

On Nov 20, 2014, at 1:55 PM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:

> Hi Stephen,
>
> Please take a look at the attached map. We've added 929 E Boone do the CA4 transition area. Also, assessor info indicated the owner of this property is Olivia, LLC. Is that your LLC? Thanks for the assistance.
>
> Best,
>
> Boris Borisov
> Assistant Planner
> 509-625-6156
>
> -----Original Message-----
> From: Cho [<mailto:kraftproperties@comcast.net>]
> Sent: Thursday, October 30, 2014 8:48 AM
> To: Borisov, Boris
> Subject: Re: 929 E Boone Ave
>
> Boris
>
> Thank you for your reply. Please talk to Scott Chesney as he already said the city agrees with me on the 929 E. Boone and neighboring vacant land to the west of it.
> I've been stating this since Nikole Coleman first had the meeting February 2013!
>
> Stephen Kraft
>
> On Oct 30, 2014, at 8:17 AM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:
>
>> Hi Stephen,
>>
>> Thank you for the email and follow-up. When we last spoke the entire proposal was being submitted for review under State Environmental rules. That review lasted 2 weeks. Following this review we are required to kick off what is called a public comment period during which we send out letters to every property owner (the one you received). We must send out the draft that was submitted for review originally (thus the letter you received does not yet include those

changes). The letter your received kicks off a public comment period in which we will continue to get feedback about the proposal.

>>

>> We then take this feedback and look at possible changes to the code and map and have it reviewed by the Plan Commission and City Council as part of an adoption process. We plan on making the changes you requested after the public comment period expires on November 26th, before the draft goes to the Plan Commission and City Council.

>>

>> There is a lot of process involved in these type of changes and we appreciate your feedback as we work towards incorporating feedback.

>>

>> If you have any questions, don't hesitate to contact me.

>>

>> Best,

>>

>>

>>

>> Boris Borisov | Assistant Planner | Planning & Development Services

>> 509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

>>

>>

>>

>>

>>

>>

>> -----Original Message-----

>> From: Cho [<mailto:kraftproperties@comcast.net>]

>> Sent: Wednesday, October 29, 2014 5:37 PM

>> To: Borisov, Boris

>> Cc: Borisov, Boris; thekraftfamily1@comcast.net

>> Subject: Re: 929 E Boone Ave

>>

>> Boris

>>

>> Hello, I sent this earlier this month to Scott Chesney as well and he responded that the city agreed that it should be within the boundaries of the transition and should not be the lone part of that block left out.

>>

>> The map that I just received a letter from the City Of Spokane planning still does not show it within the project site. When will the map reflect what you've agreed to do?

>>

>> He did say at the time that the very next map coming out wouldn't reflect it but It's now been four weeks. As a property owner I need something a little more definite please.

>>

>> Sincerely,

>>

>> Stephen Kraft

>>

>> On Oct 3, 2014, at 3:43 PM, Stephen Kraft <kraftllc@hotmail.com> wrote:

>>

>>> Hello Mr Borisov

>>>

>>> We are the owners of 929 East Boone Ave., which includes the almost two city lots (one parcel) to the west of it.

>>>

>>> Back when this whole project started with the meeting that was held at Gonzaga University on February 6, 2013, I noticed an immediate problem with the project study area, as it did not include our families lot at the south and east part of that block--which includes Jack and Dan's.

>>>

>>> As I stated in an email on February 20, 2013 after attending the meeting organized by Nikole Coleman, "with Jack and Dans just down the alley to the west and GU dorms and properties to the east, this area is already in transition.

>>> To exclude it from a higher intensity development area is not right, and probably just an oversight. It would be terrible to be the only less developed island on the block so to speak."

>>>

>>> Nikole stated in response "the boundary needs to be drawn somewhere for this model, but that doesn't mean that the eventual rezone can go no further. Your comments and others that we've received will certainly inform what the city decides to do..."

>>>

>>> I just examined the latest draft of September 30, 2014 and my property is still not considered within the transitional area even. I want to know why it is not included?

>>>

>>>

>>> Sincerely

>>>

>>> Stephen Kraft

>>> 509-990-0869

> <logan-subarea-proposed-zoning-map-11-12-2014.pdf>

Borisov, Boris

From: flyrod3@comcast.net
Sent: Sunday, November 09, 2014 6:36 PM
To: Borisov, Boris
Subject: Hamilton Formed Based Code

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Boris,

1. We are glad the minimum and maximum height requirements have been eliminated. This would have a hardship on many property owners and nothing would have been gained from it.
2. We think drives thrus are a good thing if they are done properly and they are a service to the public.
3. Why did you not have more pictures of property north of Sharp? Example Clarks Cleaners. That is one of best looking properties on Hamilton. He has a drive thru.

Thanks,

Rod & Glenice Scroggin

Borisov, Boris

From: Borisov, Boris
Sent: Monday, November 10, 2014 1:25 PM
To: 'Marguerite Clarity'
Subject: RE: Hamilton zoning change

Dear Margie,

Thank you for the email. The change proposed are part of a neighborhood planning process that began in 2012. We worked with the neighborhood on creating this proposal before the McDonald's project. What this proposal does is try to create an urban, pedestrian friendly, and walkable environment along Hamilton. Part of this is having buildings closer to the street and creating a streetscape with amenities like trees, benches, lighting, etc. The changes that affect the property next to yours include the measures I mentioned above. You can get full project details at:
<https://beta.spokanecity.org/projects/logan/>

If you have further questions, don't hesitate to contact me directly.

Best,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

-----Original Message-----

From: Marguerite Clarity [<mailto:clarity007@hotmail.com>]
Sent: Sunday, November 09, 2014 9:17 PM
To: Borisov, Boris
Subject: Hamilton zoning change

Hi,

My house is next to the change, but looks like it is not affected. 918 E Boone. Can you tell me why the changes are needed? Is it because people were upset McDonald's went in? What are people trying to control by these proposed changes?

Thanks,
Margie

Sent from my iPad

Borisov, Boris

From: Fagan, Mike
Sent: Thursday, November 20, 2014 9:00 AM
To: Borisov, Boris
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Boris,

Thank you once again.

The area that I am keying on is outside of the FBC boundary area.

Regards,

Mike Fagan

From: Borisov, Boris
Sent: Thursday, November 20, 2014 8:55 AM
To: Fagan, Mike
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Councilman Fagan,

Attached is the project map. This proposal does not call for angle parking or any change to the streets from curb-to-curb. We scaled back the project to control the environment from the back of the curb to the building. This is more of an incremental approach.

You can find the updated code document and other related maps here: <https://beta.spokanecity.org/projects/logan/> (look under Form Based Code Subarea Plan Documents).

Thank you,

Boris

From: Fagan, Mike
Sent: Thursday, November 20, 2014 8:46 AM
To: Borisov, Boris
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Boris,

Thank you for the update.

One more thing; Please forward a copy of the project map.

I have an issue with regards to angle parking and I am wanting to see if the request is coming from inside or outside.

Thank you

Mike Fagan

From: Borisov, Boris
Sent: Thursday, November 20, 2014 8:38 AM
To: Fagan, Mike
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Good Morning Councilman Fagan!

The traffic numbers are too high to support narrowing Hamilton. There has been some conversation about doing on street parking on Hamilton during off-peak hours. However, the proposal as it stands now only gives guidance to the form, mass, and bulk of the buildings and the space from the back of the curb to the building frontage.

Let me know if I can be of further assistance.

Best Regards,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: Fagan, Mike
Sent: Wednesday, November 19, 2014 8:17 AM
To: Borisov, Boris
Cc: McGrath, Sheryl
Subject: LOGAN MEETING LAST NIGHT

Boris,

Good Morning !

Do you know what the reason(s) are that prompted Logan to drop the road diet ?

Regards,

Mike Fagan

Mike Fagan

Spokane City Councilman

City of Spokane

808 W. Spokane Falls Blvd.

Spokane, WA 99201-3335

509-625-6257

fax 509-625-6550

mfagan@spokanecity.org

PLEASE NOTE THIS EMAIL IS PUBLIC RECORD AND WILL BE RETAINED ACCORDING TO THE CITY OF SPOKANE DOCUMENT POLICY

Borisov, Boris

From: dempseymc@comcast.net
Sent: Monday, November 24, 2014 9:34 AM
To: Borisov, Boris
Cc: pete anderson; dempsey, curran; Mark J. Rosenblum
Subject: Comments by Carmela Dempsey and Pete Anderson on SEPA review of draft HFBC
Attachments: 20141124091157347.pdf

Boris,

Please find attached a letter from me submitted on behalf of Carmela Dempsey and Pete Anderson, who own the lot at the northwest corner of Hamilton and Mission; regarding SEPA review on the draft HFBC.

If you have any questions, please free to contact me by email or by telephone at 979-5328.

Thank you for all the courtesies that you have extended to our group.

Mike Dempsey

November 24, 2014

Boris Borisov
Spokane Planning Services
808 W. Spokane Falls Boulevard #3
Spokane, WA 99201

RE: SEPA Review of Hamilton Form Based Code-Subarea Plan, Ordinance #s 1 and 2;
Comments submitted by Carmela Dempsey and Peter Anderson

Dear Mr. Borisov:

I submit these comments on the September 30, 2014 draft of the Hamilton Form Base Code ("HFBC") that is currently under SEPA review; at the request of my mother, Carmela Dempsey, and my cousin Peter Anderson. They strongly oppose the draft, based on the adverse impacts that the regulations in the draft would have on the commercial lot they own at the northwest corner of Hamilton Street and Mission Avenue.

The chief concerns of the owners are the mandatory minimum building height of 42 feet and three (3) stories, including an 18-foot high ground floor, applicable in the CA-1 context area along both Mission and Hamilton as "Shopfront" streets; as well as the ban on drive-through facilities in the CA-1 context area (and the other context areas in the HFBC).

None of the City's zones mandate a minimum building height for commercial uses or other development. Further, the Center and Corridor 1 (CC1) zone that currently applies to the owners' property, and the City's other main commercial zones, do not ban drive-through facilities on Principal Arterial streets such as Mission or Hamilton.

The November 3, 2014 redraft of the HFBC discussed at the November 6, 2014 stakeholder meeting deleted Mission Avenue as a Shopfront street, and removed the minimum building heights; from the HFBC. The owners endorse such changes. However, the draft retained the 18-foot minimum ground floor height, which appears excessive to them; and still banned drive-through facilities in all context areas.

You indicated at the stakeholder meeting that City Planning staff recently attended a conference on form-based codes in Salt Lake City, and received comments critical of the HFBC draft from other jurisdictions. This included the fact that most local jurisdictions do not impose a minimum building height, no other streets in the corridor besides Hamilton should be designated as a Shopfront street, single-story commercial buildings can work in the corridor, an economic feasibility study would be needed to justify requiring commercial buildings to be higher than single story, both the height minimums and height maximums in

the HFBC appear excessive, incentives could be used to encourage building height rather than minimum heights, transitions in height are needed between commercial buildings/parking lots and nearby residential uses to avoid adverse impacts, and market forces along the corridor should be considered by the code.

You advised that City legal staff had weighed in on the building height minimums in the HFBC; and was uncomfortable supporting them based on the lack of an economic feasibility study that supports such minimums, and legal taking issues that could be raised by commercial property owners along Hamilton. The comments from City legal staff, and from the Salt Lake City conference, drove the revisions contained in the November 3, 2014 draft.

You advised that the recently adopted Cincinnati Form Based Code was used as a model for the HFBC. I note that the Main Street Transect (T5MS) zone in the Cincinnati FBC requires a 14-foot minimum ground floor ceiling, considerably lower than the 18-foot minimum floor in the HFBC; and does not prohibit drive-through facilities, although it requires that drive-through lanes not be located between buildings and adjacent streets.

The impetus for the drafting of the HFBC was the desire of the Logan Neighborhood to reduce Hamilton from five (5) lanes down to (3) lanes, to allow a more pedestrian friendly corridor. City Traffic Engineering logically found this proposal impossible; since Hamilton is the second busiest north-south arterial in the City for traffic volumes, has a busy freeway interchange at Interstate 90, and is unlikely to see any traffic mitigation until the North Spokane Corridor is extended to Interstate 90 (at least several years down the road).

Form-based codes primarily regulate an intended physical form, regulate use secondarily, and attempt to enhance the form and character of a place.

The property at Hamilton and Mission has been in the family for generations, and once housed a 13-room mansion lived in by my great grandfather, C.C Dempsey; a Spokane pioneer who was one of the first elected Sheriffs of Spokane County (1898-1899), and owned the Dempsey Hotel and Restaurant downtown on Trent Avenue that closed prior to Expo '74. After the mansion was removed, the property was used as a Shell Station for many years; and then for a carwash the last 30 years, until the carwash was removed earlier this year.

The owners have an attachment to the property, would like to leave it to their heirs, and prefer to find a new tenant rather than sell the property.

The traffic along Hamilton makes the property highly desirable for retail uses that can attract the pass-by traffic, including drive-through uses. Traffic can enter the site on Mission and

Dempsey/Anderson
SEPA Review Comments on HFBC
November 24, 2014
Page 3

exit onto Hamilton, and a drive-through lane could be put on the side of the building away from the street if necessary.

The small lot lying west of the property is improved with an older residence, but is zoned for commercial use. The lot to the north has already been developed with McDonald's, which was allowed to have a drive-through along Hamilton. Safeway dominates the land across Hamilton to the east. Most of the commercial buildings along Hamilton are single-story, with some being 2-story.

Clarks Cleaners located across Mission to the south is a desirable use in the neighborhood, and has a drive-thru service (see enclosed photo). A great neighborhood use like Starbuck's, or Einstein Bros Bagels, cannot locate on the property without a drive-through feature.

A viable retail use that doesn't depend on drive-through service cannot economically locate on the property with the mandatory minimum building height contained in the September 30, 2014 draft of the HFBC. There is no off-street parking available along Mission and Hamilton near the property to serve multi-story use, and this 15,600-square foot lot is too small to construct a parking structure. Residential use of the site is undesirable, because the lot is at the crossing of two busy arterials.

The HFBC can make the corridor pedestrian friendly in this location through the requirement that the building be constructed along the street, together with the other performance standards in the draft that do not mandate height or ban drive-through facilities.

The owners respectfully request that the minimum building heights and the prohibition on drive-through facilities in the draft HFBC be removed, as unwarranted and unwise restrictions on development rights.

Thank you for consideration.

Sincerely,



Michael C. Dempsey
For Carmela Dempsey and Peter Anderson

c: Carmela Dempsey, Peter Anderson
Curran Dempsey, Attorney at Law
Mark Rosenblum, Attorney at Law, Eisenhower Carlson PLLC

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Borisov, Boris

From: Greg Byrd <greg@byrdrealestategroup.com>
Sent: Tuesday, November 25, 2014 4:30 PM
To: Borisov, Boris
Attachments: HFBC.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please see the attached and add it to my previous comments regarding the Hamilton Form Based Code.

Greg Byrd
509-326-8080
509-994-4345 (cell)
greg@byrdrealestategroup.com



Byrd Real Estate Group LLC.
PRODUCING PROPERTY SOLUTIONS
1912 N. Division St., Suite 201
Spokane WA 99207

November 25, 2014
Boris Borisov
Spokane Planning & Development Services
808 W. Spokane Falls Boulevard #3
Spokane, Washington 99201

RE: Hamilton Form Based Code ("HFBC")

Dear Mr. Borisov,

I have attended numerous meetings regarding the "HFBC". These meetings have included a preliminary meeting with Studio Cascade, a couple of open houses, meetings with stakeholders, meetings at Spokane Planning, and numerous Logan Neighborhood meetings. I am the manager of an LLC that owns 17 parcels along the Hamilton corridor south of Sharp. The LLC clearly has a vested interest in any new regulations and restrictions along this corridor.

The original sales pitch for a form based code was that it allowed more flexibility for good development. I am sorry that this is not what I find in the final "HFBC". This plan dictates or regulates height, placement, facade treatment, lighting and the look of any new buildings. It also prohibits some uses and eliminates all drive-through facilities. Where is the flexibility?

I often feel like we are trying to hit a moving target as the plan changes. The original plan at the open houses had recommended height minimums and somehow those were turned into regulated minimum height standards. No one has been able to tell me how this happened. I attended a planning meeting and was questioning the height minimum and asking for the economic analysis to show that this was feasible. I felt like this landed on deaf ears until you met the same response at the Salt Lake City Form Based Code session. I am pleased that the height minimum has been removed from the latest "HFBC".

The original design of this code was predicated on reducing Hamilton into a 3 lane boulevard. This discussion was shut down at least for the time being yet all the other plans that coincided with this did not change even though traffic on Hamilton will not be reduced or slowed down. I understand the desire to make Hamilton more pedestrian friendly, yet I find it difficult to imagine if there is no change in the traffic. Orienting the buildings closer to the street will have very little impact on pedestrians feeling more comfortable walking along Hamilton.

The property owners along Hamilton have not received a satisfactory answer as to why drive-through facilities are not allowed. When the topic is broached at a meeting it is not discussed or answered except for a statement that "we disagree and that property owners are able to bring it up at the hearing before City Council and the Planning Commission". In a private phone conversation you tell me the restriction is to make Hamilton more pedestrian friendly. Hamilton with the existing traffic is not pedestrian friendly and

prohibiting drive-through facilities is not going to improve this. A car coming out of a parking lot is not any different than a car coming out of a drive-through. I think proper planning should and can improve the streetscape by orienting the drive-through on the back side of the buildings. I understand and can appreciate that the new McDonalds on Hamilton with the drive through on the street side is not a desirable look. Clarks Cleaners on the corner of Hamilton and Mission is an attractive building that has a drive-through. Someone has yet to tell me how this orientation and architecture is objectionable as most would not even know the drive-thru is there. There are solutions other than prohibiting a use.

I had a discussion with you last week regarding the 18-foot minimum height requirement for the ground floor. You did not know how this requirement came about and could not tell me the justification for this minimum. It is more expensive to build and would certainly be more expensive to heat and cool this additional space. I can understand a more reasonable and common 14-foot minimum. You told me you would get back to me with clarification as to why and where this requirement came from. As of today, I have not heard back from you.

We know that it would be beneficial to all to have new development along the Hamilton corridor. Removing the minimum height requirement was a positive step in the right direction. My concern is that the other regulations and requirements will have a negative impact on developer interest. We are not convinced that prohibiting a future drive-thru facility and requiring 18 foot ground floor store fronts are beneficial to this neighborhood that is in need of new development.

Thank you for your attention and consideration regarding these matters.

Sincerely,

Greg Byrd
Byrd Real Estate Group LLC
Manager LLC & M,L.L.C.
509-994-4345

Comments after Official Public Comment Period

November 26, 2014 - Present

Borisov, Boris

From: Borisov, Boris
Sent: Wednesday, December 03, 2014 4:31 PM
To: 'nomotumos@comcast.net'
Subject: Re: Form Code Meeting

Hi Greg,

Thanks for meeting up about questions related to Form Code. Here's what I captured from our discussion:

1. 35' height max in CA4. You were asking if the code would be flexible if that went over by a couple of feet
2. Impervious Surface coverage percentages: your comment is to increase the CA4 standard of 50% to either 60% or 70%
3. Porches: You were concerned about the language. I informed you these were guidelines

Let me know if you this sums it up. I'll include these comments in our documentation. Please remember we have a Plan Commission Hearing December 10, 2014 at 4pm in the City Council Chambers, 808 W. Spokane Falls Blvd.

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



Borisov, Boris

From: dempseymc@comcast.net
Sent: Wednesday, December 10, 2014 1:04 PM
To: Borisov, Boris
Cc: pete anderson; dempsey, curran; Mark J. Rosenblum
Subject: Dempsey/Anderson comments to City Planning Commission, on amendments to SMC to implement HFBC
Attachments: 20141210124755111.pdf

Boris,

Please find attached a scanned copy of a 6-page letter from me to the City Planning Commission, on behalf of Carmela Dempsey and Peter Anderson, commenting on the proposed changes to the Spokane Municipal Code that seek to implement the November 12, 2014 draft of the Hamilton Form Based Code.

I will bring the original letter to the Planning Commission's hearing today at 4:00 p.m., and plan to testify at the hearing.

Thank you for all the courtesies that you have shown to me, my mother and my cousin during this process.

Mike Dempsey

December 10, 2014

Spokane City Planning Commission
c/o City of Spokane Planning & Development, Attn: Boris Borisov
808 W. Spokane Falls Boulevard
Spokane, WA 99201

RE: Amendment of SMC, to implement Hamilton Form Based Code (HFBC)
Comments submitted by Carmela Dempsey and Peter Anderson

Dear Planning Commission Members:

I respectfully submit the following comments on the amendments proposed to the Spokane Municipal Code (SMC), to implement the November 12, 2014 draft of the Hamilton Form Based Code ("HFBC"); at the request of my 79-year old mother, Carmela Dempsey, and my cousin Peter Anderson.

Mrs. Dempsey and Mr. Anderson own the 15,600-square foot lot located at the northwest corner of the intersection of Hamilton and Mission, which is currently zoned Type 1 Center and Corridor (CC1). The carwash that was located on the property for over 28 years was removed this past spring, and the owners are searching for a new commercial tenant.

I have been an attorney for 36 years. For the past 34 years, I have practiced in the field of drafting, interpreting, applying and/or enforcing land use regulations for local governments in Spokane County and other counties in Washington. This includes the last 18 years as a hearing examiner for counties and cities; and the previous 16 years as a deputy prosecuting attorney, including nine (9) years as a senior deputy.

The owners oppose some of the proposed changes to the SMC, based on the adverse impacts they would have on the use and market value of their commercial lot. Their chief concerns are the arbitrary ban on drive-through facilities in the CA-1 context area that would apply to the property, and the minimum 18-foot ground floor required under the building height maximum specified in the CA-1 context area.

The owners also strongly oppose any attempt to reinsert the draconian minimum building heights that were present in earlier drafts of the HFBC. This included a minimum building height of 54 feet (4 stories with 18-foot ground floor) along shopfront streets in the CA-1 context area, in the July 11, 2014 draft; and a still whopping minimum building height of 42 feet (3 stories with 18-foot ground floor) in the September 30, 2014 draft. The existing commercial buildings along the Hamilton corridor are mostly single story, along with some 2-story structures.

None of the City's zones mandate a minimum building height for commercial uses or other development. Further, the CC1 zone and the City's other main commercial zones do not ban drive-through facilities on Principal Arterial streets such as Mission or Hamilton.

The model HFBC drafted in March 2013, and adopted at the June 26, 2013 stakeholder's meeting, planned for the reduction of Hamilton from five (5) lanes to three (3) lanes, called for a 10-foot sidewalk section, required buildings along "shopfront streets" to abut the sidewalk, and imposed minimum building heights along shopfront streets. However, the draft contained no restrictions on drive-through facilities.

On April 14, 2014, the City Council adopted Ordinance No. C-35093; which imposed a moratorium on all land use applications for drive-through facilities, and new construction of commercial buildings set back from the street, in all CC1 and CC2 zones on the Hamilton corridor between Trent and North Foothills Drive. The moratorium has been extended into 2015, pending consideration of the HFBC.

Ordinance No. C-35093 found that drive-through facilities that are "automobile-oriented", or set back from the street, contradict the "pedestrian orientation" of CC1 and CC2 zones and the pending form-based code; and would have a detrimental impact on the implementation and goals for form-based development on the Hamilton corridor, and render moot many of the goals of form-based development. However, such findings were not well supported because the model HFBC under consideration at the time did not call for a prohibition on drive-through facilities; the CC1 and CC2 zones have performance standards for, but do not prohibit drive-through facilities; and all drive-through facilities are by nature "automobile-oriented."

To the owners, the main impetus for the City's adoption of the Hamilton moratorium on April 14, 2014 appeared to be the recent issuance of a building permit for the construction of a McDonald's drive-in restaurant along Hamilton Street, directly north of the Dempsey/Anderson lot, without any interior seating and with drive-through lanes located between the building and the street; the Logan Neighborhood's unsuccessful campaign to prevent the construction of the McDonald's use; the pending redevelopment of the Dempsey/Anderson lot, where the carwash had just closed; and the Logan Neighborhood's desire to prevent a drive-through facility from being constructed on the Dempsey/Anderson lot, even one that did not propose drive-through lanes between the building and the sidewalk.

The draft of the HFBC presented at the May 28, 2014 stakeholder's meeting, held after the passage of City Ordinance No. C-35093, also did not ban drive-through facilities. However, Section 17C.XXX.080 of the draft required that access and stacking lanes serving drive-

through businesses not be located between the building and any adjacent street, and be designed to minimize the impact to the sidewalk environment; and that drive-through facilities be designed to minimize pedestrian conflicts both on and off the site, and comply with the additional standards for drive-through facilities set forth in SMC Chapter 17C.325.

The drafts of the HFBC prepared on July 11, 2014 through November 12, 2014 no longer planned for the reduction of Hamilton Street from five (5) lanes to three (3) lanes; but banned drive-through uses, and required buildings along shopfront streets to be located adjacent to a wider 12-foot sidewalk.

The November 3, 2014 redraft of the HFBC discussed at the November 6, 2014 stakeholder meeting deleted Mission Avenue as a shopfront street, and removed the minimum building heights, from the HFBC. The owners strongly endorsed such changes.

City Planning staff at the November 6, 2014 stakeholder meeting advised that they had recently attended a conference on form-based codes in Salt Lake City, and received comments critical of the HFBC draft from other jurisdictions. This included comments that most local jurisdictions do not impose minimum building heights, no other streets in the corridor besides Hamilton should be designated as a “shopfront” street, single-story commercial buildings can work in the corridor, an economic feasibility study would be needed to justify requiring commercial buildings to be higher than single story, both the height minimums and height maximums in the HFBC appear excessive, incentives could be used to encourage building height rather than minimum heights, transitions in height are needed between commercial buildings/parking lots and nearby residential uses to avoid adverse impacts, and market forces along the corridor should be considered in the HFBC.

City Planning staff also advised that the City Attorney’s Office had weighed in on the building height minimums in the HFBC; and was uncomfortable supporting them based on the lack of an economic feasibility study that supports such minimums, and taking issues that could be raised by commercial property owners along Hamilton. The comments from City legal staff, and from the Salt Lake City conference, drove the revisions contained in the November 3, 2014 and November 12, 2014 drafts of the HFBC.

City Planning staff further advised that the recently adopted Cincinatti Form Based Code was used as a model for the HFBC. I note that the Main Street Transect (T5MS) zone in the Cincinatti FBC, which appears comparable to the CA-1 context area in the HFBC, requires a 14-foot minimum ground floor ceiling, considerably lower than the 18-foot minimum floor in the HFBC; and does not prohibit drive-through facilities, although it requires that drive-through lanes not be located between buildings and adjacent streets.

City Planning staff has provided no rationale for a minimum 18-foot building height for the first floor of a building, in the CA-1 context area or other context areas of the HFBC. Such mandatory height could significantly increase the cost of building the first floor of a commercial use on the owners' property, with speculative gain to the neighborhood.

Over the past several months, I have consulted with licensed real estate brokers from three (3) different brokerages that represent or market property in the Hamilton corridor, as well as a prominent local land use attorney in Spokane, about the minimum building heights that were in the earlier drafts of the HFBC. They all agree that such standards would likely work a taking of the owners' small lot; because it would next to impossible to find a marketable commercial use that would want or try to build this high on the property, considering economics and the low profile of most other buildings in the corridor. They were also critical of the ban on drive-through uses, since this significantly devalues the use of this property located along a high-traffic corridor and at the juncture of two principal arterials.

The impetus for the drafting of the HFBC was the desire of the Logan Neighborhood to reduce Hamilton from five (5) lanes down to (3) lanes, to allow a more pedestrian friendly corridor. City Traffic Engineering logically found this proposal impossible; since Hamilton is the second busiest north-south arterial in the City for traffic volumes, has a busy freeway interchange at Interstate 90, and is unlikely to see any traffic mitigation until the North Spokane Corridor is extended to Interstate 90 (at least several years down the road). Where else would the traffic go that currently congests Hamilton Street during peak hours?

Form-based codes primarily regulate an intended physical form, regulate use secondarily, and attempt to enhance the form and character of a place. The ban on drive-through facilities in the moratorium and the draft HFBC has had a chilling effect on the marketing and development of the owners' property, which has been sitting vacant without a new tenant for months.

The ban on drive-through facilities would work a significant downzone of the owners' property from the current CC1 zoning. The downzoning of property along Sprague Avenue in the form-based code adopted by the City of Spokane Valley a few years ago eventually led to its wholesale repeal, not the form-based performance standards adopted in such code.

The property at Hamilton and Mission has been in the family for generations, and once housed a 13-room mansion resided in by my great grandfather, C.C Dempsey; a Spokane pioneer who was one of the first elected sheriffs of Spokane County (1898-1899), and owned the Dempsey Hotel and Restaurant downtown on Trent Avenue that closed prior to Expo '74. After the mansion was removed, the property was used as a Shell Station for many years; and then for a carwash the last 28 plus years, before it was removed this past spring.

The owners have an attachment to the property, would like to leave the property to their heirs, care about what uses are developed on the property, and prefer to find a new tenant rather than sell the property.

The traffic along Hamilton makes the owners' property highly desirable for retail uses that can attract the pass-by traffic, including drive-through uses. Traffic can enter the site on Mission and exit onto Hamilton, and a drive-through lane could be put on the side of the building away from the street if needed for the commercial use.

The small lot lying west of the property is improved with an older residence, but is zoned for commercial use. The lot to the north has already been developed with McDonald's, which was allowed to have a drive-through lane along Hamilton. Safeway dominates the land across Hamilton to the east.

Clarks Cleaners located across Mission to the south is a desirable use in the neighborhood, and has drive-thru service (see enclosed photo). A great neighborhood use like Starbuck's or Einstein Bros Bagels, or a pharmacy or bank branch with a drive-through feature, could not be developed on the owners' property if drive-through facilities are banned.

There is no off-street parking available along Mission and Hamilton near the property to serve multi-story use, and the 15,600-square foot lot is too small to construct a parking structure. Residential use of the site is undesirable, because the lot is located at the crossing of a high capacity traffic corridor and another busy arterial.

The proposed amendments to the SMC can make the Hamilton corridor "pedestrian friendly" through the requirement that the building be constructed adjacent to the 12-foot sidewalk along shopfront streets like Hamilton; together with the other performance standards in the amendments that do not mandate height or ban drive-through facilities, and the existing performance standards for drive-through facilities in the SMC.

The owners respectfully request that the 18-foot minimum building height for first floor construction along shopfront streets, and the prohibition on drive-through facilities, be deleted from the proposed amendments; as unwarranted and unwise restrictions on development rights.

Thank you for consideration.

Dempsey/Anderson
Comments to Planning Commission on HFBC
December 10, 2014
Page 6

Sincerely,



Michael C. Dempsey
Attorney at Law

c: Carmela Dempsey, Peter Anderson
Curran Dempsey, Attorney at Law
Mark Rosenblum, Attorney at Law, Eisenhower Carlson PLLC

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Borisov, Boris

From: Borisov, Boris
Sent: Tuesday, December 09, 2014 3:15 PM
To: 'kraftproperties@comcast.net'
Cc: Meuler, Louis
Subject: RE: 929 E Boone Ave

Mr. Kraft,

I cannot change the boundaries at this point as we are going to Plan Commission hearing tomorrow. You are welcome to come and testify at the hearing. I will also forward your comments to the Plan Commission. Details below:

Plan Commission Hearing
4pm
City Hall, City Council Chambers
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: kraftproperties@comcast.net [mailto:kraftproperties@comcast.net]
Sent: Tuesday, December 09, 2014 2:13 PM
To: Borisov, Boris
Subject: RE: 929 E Boone Ave

Boris,

Thank you for getting back to me with the requested change and the map as well. I think it benefits the neighborhood in the long run.

One other thing that I feel strongly enough to write a follow-up email to, is that the area on the west side of Columbus St, between Boone and Desmet should be included in the CA3. These five homes are all rentals and furthermore, the huge bland asphalt parking area, which is rarely used by the way, comes inbetween. This half

block is an eyesore, and does not need to be preserved as some single family area. Disclosure: I am an owner (aka the guy who pays the mortgage and taxes and manages the place, etc) of two of the places, 929 E. Boone and 917 E. Desmet.

What is your opinion on this at this time?

Stephen

----- Original Message -----

From: Boris Borisov <bborisov@spokanecity.org>

To: Cho <kraftproperties@comcast.net>

Sent: Thu, 20 Nov 2014 21:55:38 -0000 (UTC)

Subject: RE: 929 E Boone Ave

Hi Stephen,

Please take a look at the attached map. We've added 929 E Boone do the CA4 transition area. Also, assessor info indicated the owner of this property is Olivia, LLC. Is that your LLC? Thanks for the assistance.

Best,

Boris Borisov

Assistant Planner

509-625-6156

-----Original Message-----

From: Cho [<mailto:kraftproperties@comcast.net>]

Sent: Thursday, October 30, 2014 8:48 AM

To: Borisov, Boris

Subject: Re: 929 E Boone Ave

Boris

Thank you for your reply. Please talk to Scott Chesney as he already said the city agrees with me on the 929 E. Boone and neighboring vacant land to the west of it.

I've been stating this since Nikole Coleman first had the meeting February 2013!

Stephen Kraft

On Oct 30, 2014, at 8:17 AM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:

> Hi Stephen,

>

> Thank you for the email and follow-up. When we last spoke the entire proposal was being submitted for review under State Environmental rules. That review lasted 2 weeks. Following this review we are required to kick off what is called a public comment period during which we send out letters to every property owner (the one you received). We must send out the draft that was submitted for review originally (thus the letter you received does not yet include those changes). The letter you received kicks off a public comment period in which we will continue to get feedback about the proposal.

>

> We then take this feedback and look at possible changes to the code and map and have it reviewed by the Plan Commission and City Council as part of an adoption process. We plan on making the changes you requested after the public comment period expires on November 26th, before the draft goes to the Plan Commission and City Council.

>

> There is a lot of process involved in these type of changes and we appreciate your feedback as we work towards incorporating feedback.

>

> If you have any questions, don't hesitate to contact me.

>

> Best,

>

>

>

> Boris Borisov | Assistant Planner | Planning & Development Services

> 509.625.6156 bborisov@spokanecity.org www.spokaneplanning.org

>

>

>

>

>

> -----Original Message-----

> From: Cho [<mailto:kraftproperties@comcast.net>]

> Sent: Wednesday, October 29, 2014 5:37 PM

> To: Borisov, Boris

> Cc: Borisov, Boris; thekraftfamily1@comcast.net

> Subject: Re: 929 E Boone Ave

>

> Boris

>

> Hello, I sent this earlier this month to Scott Chesney as well and he responded that the city agreed that it should be within the boundaries of the transition and should not be the lone part of that block left out.

>

> The map that I just received a letter from the City Of Spokane planning still does not show it within the project site. When will the map reflect what you've agreed to do?

>

> He did say at the time that the very next map coming out wouldn't reflect it but It's now been four weeks. As a property owner I need something a little more definite please.

>

> Sincerely,

>

> Stephen Kraft

>

> On Oct 3, 2014, at 3:43 PM, Stephen Kraft <kraftllc@hotmail.com> wrote:

>

>> Hello Mr Borisov

>>

>> We are the owners of 929 East Boone Ave., which includes the almost two city lots (one parcel) to the west of it.

>>

>> Back when this whole project started with the meeting that was held at Gonzaga University on February 6, 2013, I noticed an immediate problem with the project study area, as it did not include our families lot at the south and east part of that block--which includes Jack and Dan's.

>>

>> As I stated in an email on February 20, 2013 after attending the meeting organized by Nikole Coleman, "with Jack and Dans just down the alley to the west and GU dorms and properties to the east, this area is already in transition.

>> To exclude it from a higher intensity development area is not right, and probably just an oversight. It would be terrible to be the only less developed island on the block so to speak."

>>

>> Nikole stated in response "the boundary needs to be drawn somewhere for this model, but that doesn't mean that the eventual rezone can go no further. Your comments and others that we've received will certainly inform what the city decides to do..."

>>

>> I just examined the latest draft of September 30, 2014 and my property is still not considered within the transitional area even. I want to know why it is not included?

>>

>>

>> Sincerely

>>

>> Stephen Kraft

>> 509-990-0869

>>

>>

>>

>>

>>

Borisov, Boris

From: Greg Kuntz <nomotumos@comcast.net>
Sent: Monday, December 08, 2014 3:22 PM
To: Borisov, Boris
Subject: Re: Form Code Meeting

Looks good.

More reasoning for amending would be that the way the percentages are written now are in line with RSF. If FBC 4 is truly transition. Percentages should be higher.

When I look at the areas that allow FBC 4 development they all stop at street intersections so you will have the width of street 60ft or so of buffer between RSF. Also if increased density is a goal of this code change then subject properties should have less restriction then current zoning.

Again

RSF allows to 35ft and a .5 FAR which essential is 50% impervious coverage. If you can achieve the required setback from property line why should it matter? Kind of a catch 22. No problem with building big attractive buildings with design standards.

Just thoughts thanks again for your time.

Greg

Sent from my iPhone

On Dec 3, 2014, at 4:30 PM, Borisov, Boris <bborisov@spokanecity.org> wrote:

Hi Greg,

Thanks for meeting up about questions related to Form Code. Here's what I captured from our discussion:

1. 35' height max in CA4. You were asking if the code would be flexible if that went over by a couple of feet
2. Impervious Surface coverage percentages: your comment is to increase the CA4 standard of 50% to either 60% or 70%
3. Porches: You were concerned about the language. I informed you these were guidelines

Let me know if you this sums it up. I'll include these comments in our documentation. Please remember we have a Plan Commission Hearing December 10, 2014 at 4pm in the City Council Chambers, 808 W. Spokane Falls Blvd.

Thank you,

<image001.jpg>

Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

<image002.gif>

<image003.gif><image004.gif><image005.gif>

HAMILTON

FORM-BASED CODE

SUBAREA PLAN

Additional Resources



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: MAY 10, 2010

FROM: Planning Services

PD-024-10

DATE: April 19, 2010

SUBJECT: Drive-Through Facilities Zoning By-Law Amendment

LOCATION: Town wide

WARD: Town wide

Page 1

RECOMMENDATION:

That Zoning By-law Amendment 2010-047, a by-law to amend the Town's Comprehensive Zoning By-law 1984-63, as amended, regarding drive-through facilities, be passed.

KEY FACTS:

- On November 10, 2008, Planning and Development Council passed Interim Control By-law 2008-177 to prohibit drive-through facilities in order to provide staff the opportunity to undertake a study in respect of land use planning policies for drive-throughs and to prepare recommendations for amendments to the Zoning By-law as necessary.
- On September 14, 2009, Planning and Development Council brought forward a report entitled "Drive-through Facilities Study and Proposed Directions" which was received. Planning Services staff were directed to proceed with additional public consultation and also requested to review the setback requirements of drive-throughs from residential zones.
- Planning Services staff has held additional consultation with the public, further assessed the issues raised and prepared updated recommendations to the Town's Zoning By-law relating to drive-throughs.
- Planning Services staff are recommending amendments to the Town's Zoning By-law to define drive-throughs, restrict them from the Central Business District and Growth Area locations as provided for in Livable

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

Oakville, require locational criteria and setbacks in C1, C2 and C6 zones; and define additional regulations for buffers and stacking spaces.

BACKGROUND

On November 10, 2008, Planning and Development Council passed Interim Control By-law 2008-177 to prohibit drive-through facilities in order to provide staff with the opportunity to undertake a study in respect of land use planning policies for drive-throughs and to prepare recommendations for amendments to the Zoning By-law as necessary.

Planning Staff completed the Drive-Through Study in the summer of 2009 and it was presented to Planning and Development Council on September 14, 2009 for endorsement. Due to time limitations the drive-through study was not dealt with at the September 14th meeting and was forwarded onto the September 28, 2009 meeting for consideration. Discussions at that meeting focused largely on the proposed 15m separation distance from residential areas as suggested in the staff report and the need for further consultation on the proposed recommendations in general. There was consensus that further consultation should be undertaken and that an extension to the Interim Control By-law be passed to allow additional time for this consultation to be undertaken. The Interim Control By-law was therefore extended at the September 28, 2009 and the following motion was passed by Council:

- "1 The Planning Services Report #PD-072-09 entitled "Drive-Through Facilities Study and Proposed Direction" be received.*
- 1. That Planning Services be requested to review the setback requirements from residential zones taking into consideration the comments received at the public meeting and the setback requirements of other municipalities.*
 - 2. That Planning Services be requested to undertake further consultation and prepare a draft Zoning By-law for consideration at a future Planning and Development Council meeting."*

Following the Council resolution, staff undertook a further review of the setback requirements by updating its analysis of the regulations and setback requirements of other municipalities. Staff also undertook further consultation with the industry stakeholders and the community.

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

POLICY FRAMEWORK

The policy framework applicable to drive-throughs was set out in detail in PD-072-09. It is summarized again to provide the policy context in which the analysis has taken place.

Official Plan

The Town's current Official Plan does not provide specific policies related to drive-through facilities. The Livable Oakville Plan prohibits new drive-through facilities within all of the Growth Areas:

- Downtown Oakville;
- Kerr Village;
- Uptown Core;
- Palermo Village;
- Bronte Village; and,
- Midtown Oakville.

These areas represent the majority of the areas where Mixed Use land use designations are applied. There are also some commercially designated areas, outside of the Growth Areas where the Mixed Use land use designations apply and as such drive-through facilities are not permitted. These areas include the Central Business District south of Kerr Village and west of the Downtown.

The Livable Oakville Plan also provides for a hierarchy of commercial land use designations to allow for a distribution of commercial centres to serve the community. Drive-throughs are generally permitted within the Core Commercial and Community Commercial centres as well as Business Commercial nodes which are predominantly located along arterial roads. The Livable Oakville Plan also contains numerous urban design policies which will work in conjunction with the Drive-Through Urban Design Guidelines to provide further direction for drive-through facilities throughout Oakville. The new urban design policies in the Livable Oakville Plan contain direction regarding site access, circulation, landscaping, parking, service, loading and storage areas, and signage and lighting.

The Urban Design Guidelines for drive-throughs will be updated as part of the comprehensive review being undertaken to develop a town-wide set of urban design guidelines which will further implement the Livable Oakville Plan.

From: Planning Services
 Date: April 19, 2010
 Subject: Drive-Through Facilities Zoning By-Law Amendment

Existing Zoning Regulations

The Town of Oakville Zoning By-law permits drive-through facilities in the majority of commercial and employment zones subject to varying regulations. Drive-throughs are currently permitted within the C1, C2, C6 and C3R zone subject to certain regulations. They are permitted through interpretation as “take-outs” in these zones (as noted by the “x” in the chart). Drive-throughs are also permitted within the C3, C3A, E1, E2 and T1 zones. However they are not permitted on a lot abutting a residential zone within these zones. The table below provides a summary of the current zoning regulations pertaining to drive-throughs.

Zone	Take outs	Drive-through	Regulation
Commercial			
C1	✓	X	9m side yard abutting a residential zone 13.5m rear yard abutting a residential zone 7.62m buffer strip abutting a residential zone
C2	✓	X	15m side and rear yard abutting a residential zone 7.62m buffer strip abutting a residential zone
C3	✓		Not permitted on a lot abutting a residential zone
C3R	✓		3m side and rear yard abutting a residential zone
C3A	✓		Not permitted on a lot abutting a residential zone
C4			Not a permitted use
C5			Not a permitted use
C6	✓	X	15m abutting a residential zone
C7			Not a permitted use
	Take outs	Drive – through	Regulation
Employment			
E1		✓	Not permitted on a lot abutting a residential zone
E2		✓	Not permitted on a lot abutting a residential zone
T1		✓	Not permitted on a lot abutting a residential zone

North Oakville Secondary Plans and Zoning By-law

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

The North Oakville East Secondary Plan specifically restricts drive-throughs in the Trafalgar Urban Core Area. The North Oakville West Secondary Plan does not have any specific references to drive-throughs. The North Oakville Zoning By-law defines drive-throughs but they are not identified as a permitted use in any of the existing zones.

Since the North Oakville lands were not part of the Interim Control By-law, any changes to the regulations for drive-throughs in the North Oakville Zoning By-law would have to come from a separate amendment. It is recommended that any resulting regulations approved through this Interim Control By-law study process be implemented into the North Oakville Zoning By-law by separate amendment to ensure a consistent approach to drive-throughs is applied to all areas of Town.

COMMENTS/DISCUSSION

Review of setback requirements

Planning staff have undertaken a further review of setback requirements imposed by other municipalities, particularly those located within the GTA, as directed by Council. Staff has compiled these regulations within a table which is attached to this report as Appendix "A". As shown in the table the setbacks vary among the municipalities surveyed and generally range anywhere from 10 meters to 60 metres. There is also a significant difference with respect to setbacks required from a residential zone to a building containing a drive through or to an intercom ordering station. It was also noted that some municipalities have provided for unique situations which could result in a reduction to the setback being considered such as the installation of noise attenuation barriers and/or landscaped buffers.

The review undertaken by planning staff reveals that there is not a consistent setback utilized by municipalities in dealing with drive-through facilities. In fact the setback requirements imposed by other municipalities vary greatly and are based on a variety of factors including the specific context of each community.

Additional Public Consultation

In total six meetings have been held to receive input from the public on drive-through facilities. In addition to the public meetings, an informal qualitative on-line survey was undertaken to collect information on the views and attitudes towards drive-throughs. The on-line survey responses are not reliable as a source of statistically valid data by which to develop future policy on drive-through facilities and were only used to consider views and opinions..

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

The first public meeting hosted by Planning Staff was a public open house held on May 7, 2009 to hear the views of the community on drive-throughs. Two residents and several stakeholders attended this open house. The second meeting was a statutory public meeting on September 14, 2009 before Planning and Development Council. Members of the public and stakeholders groups were present at this meeting and expressed their comments and concerns to Council.

As directed by Council at the September 14th, 2009 Planning and Development Council meeting additional meetings were held to further consult with the community. Four additional meetings were held to provide further opportunity for discussion and clarification of the issues. A summary of the additional meetings is provided as follows:

Stakeholder Consultation Meeting

The first meeting was a stakeholder meeting held on January 14, 2010. It was a well attended meeting with representatives from the Ontario Restaurant Hotel and Motel Association, McDonalds and Tim Horton's. There was a review of the current policies and design guidelines and there was discussion on the proposed directions as presented to the Planning and Development Council meeting on September 14, 2010. The stakeholders were concerned that any further regulations and restrictions would compromise the interests of local businesses in providing drive-through facilities which they believe are an essential customer service. The industry stakeholders also stressed the need to use evidentiary based noise and impact setbacks. The provision of a minimum site size was also discussed and the industry stressed that smaller sites can be very efficient if appropriately located. The industry further presented and discussed the RWDI study on air emissions and noted that the science was clear to show drive-throughs had less impact on air emissions than parking lots.

Public Workshop Session

The second meeting was a facilitated workshop session for those members of the public who attended and addressed Council at the September 14th P/D Council meeting as well as representatives from resident/neighbourhood groups were also invited to attend this meeting. The session provided an update on the drive-through study and generated considerable input from those who attended using the POWER tool for consultation. The discussion was focused around what people thought about the recommendations from the September 14th meeting including the positive aspects, objections to the recommendations, what else was important to people (other ideas and questions) as well as enhancements and other remedies. A summary of the session is found in Appendix "B". Among the many concerns expressed throughout the meeting the main issue was that drive-throughs should

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not be permitted within residential neighbourhoods and should be directed away from residential uses.

Second Stakeholder Meeting

The third consultation meeting was held with the Canadian Petroleum Products Institute and followed the same format as the meeting held on January 14, 2010 with the larger stakeholders group. The main issues conveyed to staff by the group were similar to those expressed in the first industry meeting and those outlined in the Institute's letter to the Town dated March 18, 2010.

Public Open House

A fourth consultation meeting was a Public Open House held on April 7th, 2010. There were approximately 80 people in attendance at this meeting. A brief presentation was followed by a question and answer period and an opportunity for attendees to express their comments and concerns to the group as a whole and on an individual basis with staff. A request was also made for written comments using the POWER tool. A summary of the comments provided at this meeting is attached to this report as Appendix "B".

Summary of Additional Comments and Information

The focus of the additional consultation was in relation to the original six recommendations proposed within the Drive-Through Facilities Study and Proposed Directions report as presented to Planning and Development Council on September 14th, 2009, specifically:

1. that drive-throughs be restricted from locating within the C3R (commercial/residential) zones of Downtown Oakville, Bronte and Kerr Villages and further the Midtown Core, Palermo Village and the Uptown Core growth areas.
2. that a minimum 15m (50') setback be required for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone.
3. that a 7.62m (15') wide landscaped buffer and 1.8m (6') high board or masonry wall be provided along all property boundaries abutting a residential zone.
4. that a minimum of 10 vehicle stacking spaces for a restaurant and a minimum of 4 vehicle stacking spaces for all other drive-throughs be required.
5. that a minimum site size of 0.3 hectares be established.
6. that new definitions for "*drive-through facility*" and "*stacking lane*" be provided.

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Subject: Drive-Through Facilities Zoning By-Law Amendment

Stakeholders and Industry Representative Input and Responses

In the meetings with the stakeholders and industry representatives there was general discussion regarding existing zoning regulations for drive-throughs and the design guidelines that were approved in 2003. It was noted by the industry representatives that the Town's Urban Design Guidelines function relatively well when assessing site plan applications for drive-throughs and they felt that additional zoning regulations relating to setbacks and buffer areas were not necessary. They did agree that clarification on the definition of drive-throughs in the zoning by-law would be useful. They recognize that drive-throughs are not permitted in the Growth Areas through the Livable Oakville Plan and strongly disagree with this position. However, there are only two site specific appeals to the Livable Oakville Plan related to this restriction.

Although planning staff acknowledge that the Urban Design Guidelines have been an effective mechanism in the past by which to assess applications they are still only guidelines which are not mandatory and may not be adhered to on a site by site basis. Planning staff therefore remain of the opinion that Urban Design Guidelines need to be strengthened through an amendment to the Zoning By-law which will implement the guidelines.

Another concern expressed from the industry stakeholders was with respect to the proposed minimum site size for drive-throughs of 0.3 ha. They felt that requiring a minimum site size may be contrary to the Town's commitment to making the most efficient use of land as possible and may restrict flexibility in site design. Staff noted that a minimum site size requirement may not be necessary if all the other regulations proposed by staff in the initial report were approved. Based on these discussions staff have given this matter some further consideration and are not recommending a minimum site size requirement be added to the Zoning By-law. Staff recognizes the industry's efforts to continue to improve drive-through functions and efficiencies to reduce impacts and minimize idling. While the RWDI study identifies less impact from idling than parking lots, the fundamental direction for redevelopment through the Livable Oakville Plan and the plans for North Oakville are to reduce car usage and increase active transportation in communities.

Community and Public Input and Responses

In the meetings with the public the primary concern expressed was with respect to the incompatibility of drive-through facilities in close proximity to residential uses and neighbourhoods. Many clearly stated that drive-throughs do serve a function by providing a convenience choice to consumers but the impacts associated with the operations and functions of drive-throughs as well as the built form they represent do not make them suitable land uses to be developed within or adjacent to stable

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residential areas. Many referred to the protection and enhancement of Oakville's stable residential areas being provided in the Livable Oakville Plan and the need for future development to uphold that principle. Most agreed that clarification of the definition of drive-throughs was needed. They also agreed that where drive-throughs are appropriate, zoning regulations should be in place to address stacking lanes and design and setbacks.

Setback Regulations

As noted earlier in the report, the setbacks imposed in the zoning regulations of other municipalities vary greatly. The intent of a setback used to separate a use or building from another use or building should ensure the area between the uses and/or buildings is utilized in a way that mitigates impacts. Setbacks alone, however, do not ensure impacts are completely mitigated. Impacts related to traffic are best addressed through the zoning of uses at site locations that have adequate traffic capacity to provide for the use. The information provided through the Interim Control By-law study identified that most drive-throughs are located on major arterials to maximize usage and accommodate traffic volumes. Staff is recommending that this locational criteria be implemented in the zoning regulations in addition to the setbacks.

Staff Analysis and Recommendations

Through the Interim Control By-law study a review of existing official plan policies, zoning regulations, drive-through guidelines and other municipalities' policies and guidelines was undertaken. Staff also reviewed the location of existing facilities and existing conditions. This review, in addition to the public consultation, identified a number of issues with respect to drive-through facilities which can generally be classified into the following categories:

- *Compatibility of drive-throughs and Impacts on adjacent residential land uses;*
- *Traffic and noise;*
- *Streetscape and urban design; and.*
- *Air quality.*

Drive-through facilities are dependent on a high volume of vehicular traffic and a high turnover of customers. As such they can have significant traffic impacts with respect to site access, stacking or queuing lanes, and can create conflicts between internal traffic, parking areas, and pedestrian traffic. Drive-through fast food restaurants also require outdoor speakers/ ordering boards which may create visual and noise impacts.

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Issues relating to drive-through facilities are often addressed through land use planning policies, provisions and regulations to ensure impacts are minimized and uses are adequately separated from residential uses. The Town's Urban Design Guidelines have proven to be an effective mechanism by which to mitigate the negative impacts associated with drive-through facilities in many cases. While the Town's Drive-Through guidelines provide assistance on these issues, the Town's current Zoning By-law does not implement the approved guidelines.

In addition, the Livable Oakville Plan is intended to move the Town towards greater sustainability. Sustainability is not just about reducing current environmental impacts but must address a change in policy to affect behaviour to eliminate such impacts. Staff understands there is a need to provide the community with a choice for convenience but also recognizes the importance of ensuring development within the stable residential communities and the commercial centres within those communities is in a form that is appropriate and one that moves away from car dependency. It is therefore being proposed that the zoning by-law be amended to implement the policies and direction as set out in the Livable Oakville Plan, as well as the implementation of the existing design guidelines on sites where drive-throughs would be permitted.

1. Locational criteria

Staff has investigated numerous ways to address the land use compatibility issue associated with drive-through facilities. While many municipalities have addressed compatibility through setback requirements, staff believes that the most appropriate method of regulating drive-throughs in Oakville is to address compatibility through locational criteria. The most acceptable and the most appropriate location for drive-through facilities, even by admission of the industry stakeholders, is along major arterial roads where traffic volumes are significant. This locational criterion has been reviewed and considered in accordance with the current drive-through facility locations and the Town's Livable Oakville Plan as well as the current zoning provisions for drive-through facilities.

The drive-through guidelines currently discourage the location of drive-throughs in certain areas of the Town such as the downtowns where a traditional main street with a pedestrian streetscape is encouraged. In addition downtown locations have lot sizes and lot patterns that are generally not conducive to drive-throughs. The Growth Areas and Central Business Districts are all evolving urban areas. They are not appropriate areas in which to locate drive-throughs. It is recommended that the Zoning By-law be amended to prohibit the location of new drive-throughs in these areas to be consistent with the Town's Livable Oakville policies.

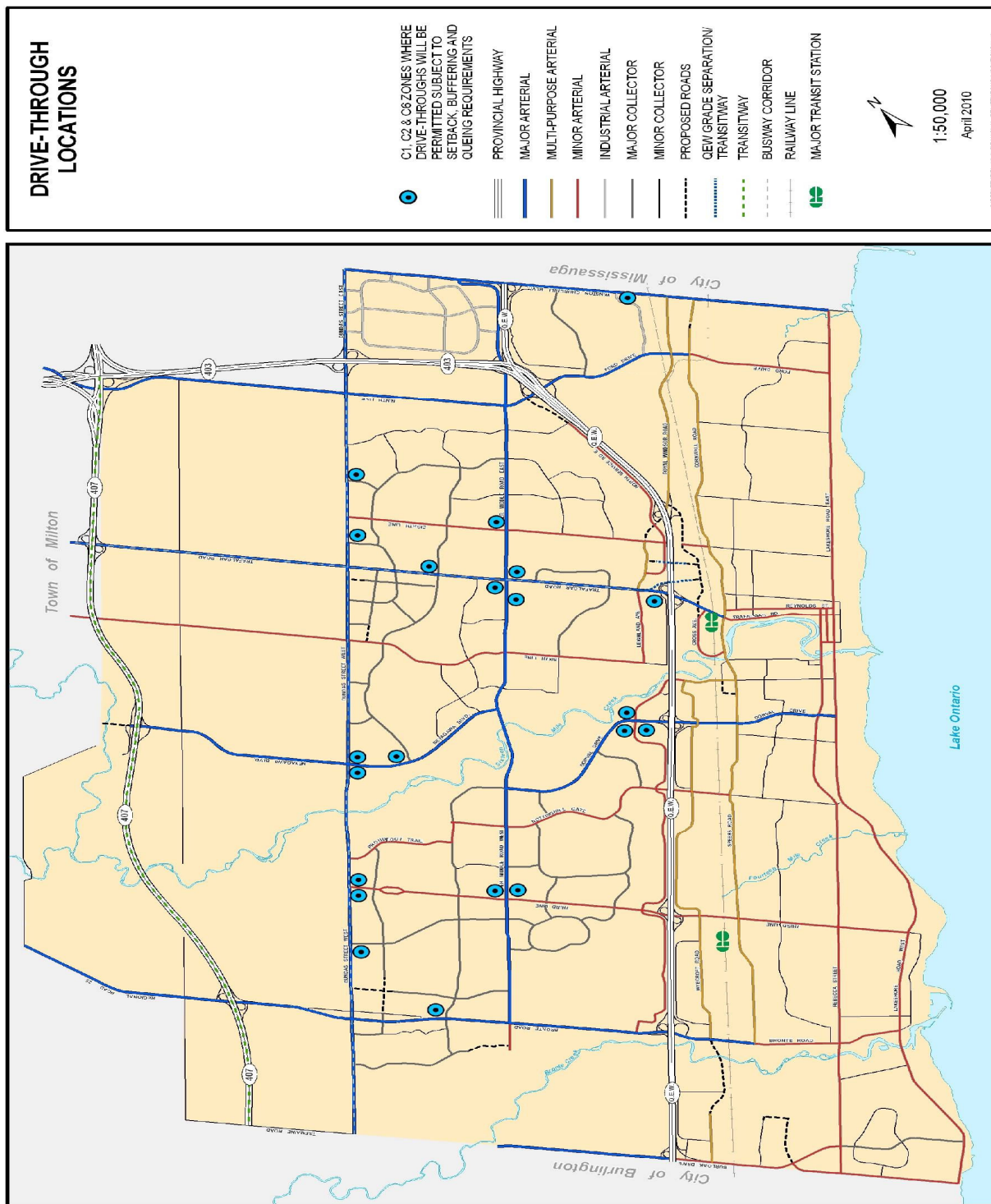
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Staff are proposing to allow drive-throughs to continue to be permitted within the C1, C2 and C6 zones, but with the added requirement that they only be permitted in these zones where the sites are on roadways which are classified as major arterials within the Town's Official Plan. These locations are designed to facilitate large volumes of traffic moving between communities. Limiting drive-through facility locations within the C1, C2 and C6 zones to only major arterials will direct them away from residential neighbourhood areas.

Drive-throughs therefore would only be permitted to locate within the C1, C2 and C6 commercial zones on the following roads as depicted on the following map:

- Burloak – north of the Q.E.W.
- Bronte Road – north of Speers Road
- Dorval Drive-north of Lakeshore Road to Upper middle Road
- Neyagawa Blvd. – entire length
- Trafalgar – north of the Q.E.W.
- Ford Drive/ Ninth Line – north of Cornwall
- Winston Churchill Blvd.
- Upper Middle Road – entire length
- Dundas Street – entire length

Drive-throughs at these locations would also continue to be subject to all the additional regulations which implement the design guidelines



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Existing drive-throughs which are not at these locations would be deemed legal non-conforming and would be permitted to continue and could also apply to enlarge or expand in accordance with the applicable regulations.

2. Separation distance from adjacent residential uses

The existence of drive-through facilities adjacent to residential uses creates a number of concerns, particularly regarding noise and traffic impacts related to fast food restaurants. Drive-through facilities are traffic intensive, with a large amount of vehicles driving through the site during the day and evening hours and as such has the potential to affect adjacent residential areas with exhaust fumes, noise and traffic congestion. An additional tool by which to reduce the negative impacts on drive-through facilities is to provide a separation distance from abutting residential uses. A 15 m separation distance has proven in the past to be an effective separation distance from residential uses when used in conjunction with landscaped buffers and acoustic fencing. A minimum 15m setback is therefore being recommended for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone. Again, this setback would only apply in those areas where the use would be permitted which is in the C1, C2 and C6 zones on major arterial roads.

3. Landscaped buffers and fencing

As previously mentioned one of the main concerns of drive-throughs next to residential uses is the noise related to the order station of fast food restaurants and the idling of vehicles awaiting service. In order to offset these concerns order stations and stacking lanes should ideally be located as far away from the abutting residential uses as possible. In addition, acoustic and visual barriers in the form of fencing and landscaped buffers should be provided along property lines abutting residential uses. Staff are proposing a 7.62m wide landscaped buffer be required for all yards abutting a residential zone, and further, that a 1.8m high solid board fence or masonry wall be provided along all property boundaries abutting a residential zone for the purpose of screening the drive-through use. Again, this setback would only apply in those areas where the use would be permitted which is in the C1, C2 and C6 zones on major arterial roads.

4. Stacking or queuing spaces

Adequate vehicle stacking spaces is critical to preventing on and off-site traffic problems. Typically for fast food eating establishments, there are two component parts of a stacking lane as follows:

- The area between the beginning of the stacking area and the order station

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- The area between the order station and the pick up window.

There is a marked difference between the stacking requirements for fast food establishments and others such as financial institutions. Generally, drive-throughs for financial institutions require less stacking spaces as there is no need for an order board for a bank machine patron. A number of municipalities have studied this issue and found that different uses require different amounts of stacking spaces.

Oakville's urban design guidelines for drive-throughs require fast food establishments provide 10 stacking spaces whereas 4 are required for banking institutions. The primary objective is to ensure that the queuing spaces are all maintained on private property and do not back up onto the public road allowance. These stacking space requirements have proven to be appropriate for effective vehicular traffic flow since the adoption of the guidelines in 2003. Staff is recommending that a minimum of 10 vehicle stacking spaces be provided for fast food eating establishments, 7 of which shall be accommodated between the entrance to the stacking lane and the order station, and further, that for all other drive-throughs a minimum of 4 vehicle stacking spaces shall be provided. It should be noted that the 10 and 4 requirement is a minimum requirement set out in the drive through guidelines. Through the development process the Town has the right to request a queuing study to confirm minimum lengths are appropriate.

5. Definitions

The Zoning by-law contains two definitions pertaining to drive-through facilities. It is being proposed to create one consistent drive-through definition to be applied Town-wide and also to provide a definition of stacking lane for clarity of interpretation of the by-law regulations as follows:

"drive-through facility" means the use of land, buildings or structures, or parts thereof, to provide or dispense products or services through an attendant or a window or an automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be in combination with other uses. A drive-through facility does not include a car washing establishment, automobile service station or a gas bar.

"stacking lane" means a continuous on-site queuing lane that includes stacking tandem spaces for motorized vehicles which is separated from other vehicular traffic and pedestrian circulation by barriers, markings or signs."

CONCLUSION

Permitting drive-through facilities in certain locations with restrictions is an effective way of minimizing their impacts on surrounding land uses, particularly residential uses, while providing a needed service to the community. It is also a balanced approach that meets the needs of the business community and the traveling public while at the same time addressing the concerns of residents regarding noise, air quality, traffic and litter.

The prohibition of drive-throughs in the downtown areas of the Town and the Growth Areas will help maintain and promote these areas as urban centres consistent with the Livable Oakville Plan. The restriction of drive-throughs within the residential communities by requiring them to be located on major arterial roads will also implement the direction of Livable Oakville to maintain and protect stable residential areas and address sustainability.

In summary, the proposed recommended zoning amendments are as follows:

- that drive-throughs be restricted from locating within the C3R (commercial/residential) zones of the Central Business Districts including Downtown Oakville, Bronte and Kerr Villages, the Midtown Core, Palermo Village and the Uptown Core.
- That drive-through only continue to be permitted in the C1, C2 and C6 zones abutting a residential zone if they are located on a classified as a major arterial within the Town's Official Plan.
- that a minimum 15m (50') setback be required for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone.
- that a 7.62m (15') wide landscaped buffer and 1.8m (6') high board or masonry wall be provided along all property boundaries abutting a residential zone.
- that a minimum of 10 vehicle stacking spaces for a restaurant and a minimum of 4 vehicle stacking spaces for all other drive-throughs be required.
- that new definitions for "*drive-through facility*" and "*stacking lane*" be provided.

CONSIDERATIONS:**(A) PUBLIC**

A statutory public meeting to gather public input was held on September 14th, 2009 and May 10th, 2010.

(B) FINANCIAL

There have been costs associated with the drive-through study which have been accommodated through the Planning Services Department budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Other Town Departments and agencies were consulted through the study process and had no comments within the proposed directions contained within the report. The Environmental Policy staff responded that in summary they were in support of the proposed enhanced regulations and were pleased with the direction the Planning Department was moving on this issue although they would prefer to see a complete ban on drive-throughs.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

The proposed amendments for drive-throughs have been evaluated in the context of the Town's Corporate Strategic Goals to ensure that they address the principles of responsible land use planning and promotion of a vibrant, attractive and healthy community.

(E) COMMUNITY SUSTAINABILITY

This report addresses the pillars of environmental and social sustainability by recommending the development of appropriate regulations for drive-through facilities in the Town.

APPENDICES:

Appendix A - Setbacks and stacking spaces required in other municipalities

Appendix B - Notes from public consultation

From: Planning Services

Date: **April 19, 2010**

Subject: **Drive-Through Facilities Zoning By-Law Amendment**

Prepared by:

Ramona Boddington, MCIP, RPP
Long Range Planning

Recommended by:

Diane Childs, MCIP, RPP
Manager, Long Range Planning

Submitted by:

Dana Anderson, MCIP, RPP
Director of Planning Services

Setbacks and stacking spaces required in other municipalities

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Aurora	10m	--	--	--
Burlington	30m	15m	--	
Caledon	10.5m-12m -- side yard 19.5m -- rear yard	--	10 - restaurant 3 - other	There is a Council direction to prepare a zoning by-law amendment to establish a 90 m setback for new drive-throughs from a residential zone or lot containing a residential use. This is expected to occur in the spring of 2010.
Kitchener	1.2m -- 6.0m for a side yard 4.0 – 14.0 m for a rear yard **refer to notes section for further details	--	--	<p>All commercial uses having a drive-through facility which contains an intercom order station shall comply with the Ministry of the Environment's noise levels for stationary sources of noise. Where a drive-through facility contains an intercom order station and is situated within 60 metres of a Residential Zone, or an Institutional Zone the drive-through facility shall not be permitted unless:</p> <ul style="list-style-type: none"> a) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels specified by the Ministry of the Environment in publication NPC-206 as amended from time to time; b) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels set out in clause a) above by the employment of measures to mitigate noise and such measures are employed prior to occupancy of the drive-through facility; or c) a noise wall certified by a professional engineer is installed prior to occupancy of the drive-through facility which will ensure that noise levels do not exceed the maximum levels set out in clause a) above.

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
London	6m-15m for side and or rear yard depending on zone in which it is situated	15m with a 2.4m nose attenuation fence 30m with a privacy fence Note: these setbacks also apply to stacking lanes	12 -- restaurant 4 - other	SEPARATION DISTANCE - INTERIOR AND REAR YARD The minimum separation distance, measured from the edge of the drive-through lane or speaker location, whichever is closer, to the closest residential/facility/institutional use lot line and/or zone line shall be 30 metres. This setback may be reduced to 15 metres if a 2.4 metre high noise attenuation barrier is installed between the residential/facility/institutional use and the drive-through lane. Further reductions to the setback may be considered upon the City's review and acceptance of mitigation measures identified by a noise study prepared by a qualified noise consultant. A minimum 3 metre wide landscaped strip is required consisting of new and/or existing vegetation immediately adjacent to any noise barrier.
Milton	5m to 6m depending which zone they are located in however buildings containing a drive-through service use are required to be located an additional 2.0m from the front lot line or exterior side lot line	7.5 m Note: these setbacks also apply to stacking lanes	10 - restaurant 3 - other	

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Mississauga	60m for a convenience restaurant which includes a drive through window		10 - restaurant 5 - other	
Newmarket	9m to 15m – rear yard setback 9m– side yard setback		12- restaurant 2 to 5 -- other	
Orangeville	30m	30m for outdoor speakers and or order boxes but <i>not</i> including stacking lanes		
Ottawa	3m – side yard 6m – rear yard	3m including stacking lanes ** please refer to notes	11 - restaurant 3 - other	where a queuing line, drive-through window or order board is located 3 metres or more from a residential zone, but is still within a yard abutting a residential zone, it must be screened from view from that residential zone by an opaque screen with a minimum height of 1.5 metres.
Toronto	30m	30m	10 - restaurant 4 - other	

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Windsor	15m Please refer to note *	30m	12 - restaurant 5 - other--	*Where there is a noise barrier wall having a minimum height of 1.8m or a building wall located between the stacking spaces and the dwelling unit, a minimum separation shall be 15m

Notes of meeting held with drive-through stakeholders**Thursday January 14, 2010 – Trafalgar Room****10 – 12 noon****Attendees:**

Michelle Saunders, Manager of Government Relations	ORHMA
Maurice Luchich, Planning Manager	Tim Hortons
Paul Hewer	McDonalds
Victor Labreche, Planner	Labreche Patterson & Ass. On behalf of ORHMA+
Dana Anderson	Planning Director
Diane Childs	Acting Manager of Long Range Planning
Lynn Rogers	Traffic Engineering Co-ordinator
Trisha Collingwood	Transportation Planner
Ramona Boddington	Polciy Planner,
Brenda Stan	Current Planner

Regrets:

Jean Roy, Engineer	Canadian Petroleum Products Institute
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1. Welcome and Introductions

The meeting commenced with a brief welcome and introduction session.

2. Overview of progress to date

- Planning Report went to Council September 14, 2009 outlining proposed directions (report was distributed at meeting)
- Council passed a motion to defer recommendation of report to allow for additional consultation with both the stakeholders and the general public and also to allow for further research of other municipalities practices
- This meeting is the first step in the additional consultation directed by Council
- Comment, concerns and additional input would be appreciated at this time.

3. Overview of progress to date

There was a general discussion regarding existing zoning provisions for drive-throughs and the design guidelines that were approved in 2003.

4. Discussion on directions from September 14, 2009 staff report

Each of the six directions were discussed as follows:

a) Direction 1 – Locational Criteria

There was a lengthy discussion regarding the prohibition of drive-throughs in the C3R zones and the growth areas. It was conveyed that Livable Oakville prohibited the location of drive-throughs in these areas and therefore the by-law must be updated to implement Livable Oakville – the new official plan.

b) Direction 2 – Separation Distance from adjacent residential uses

A table was distributed outlining other municipality's setback requirements for drive throughs abutting residential uses. Staff undertook to review the table based on the discussion which evolved and update the table as necessary.

Staff also explained the rationale used in arriving at the 15m from residential as proposed in the staff report.

c) Direction 3 – Landscape Buffers and fencing

It was noted that the landscape buffer was an existing requirement in the by-law however the 1.8 m high fencing would be a new requirement for such uses.

d) Direction 4 – Stacking or queuing spaces

There was little discussion on this topic. The issue of reduced parking standards for drive-throughs was also discussed. The rationale was brought forward that drive-throughs require less parking spaces as the cars using the drive through portion of the facility would not require a parking space. The Ottawa example, which allows for a 20% reduction in required spaces for drive throughs, was used as an example. Staff agreed to investigate this example further and give it further consideration.

e) Direction 5 – Minimum site size

It was noted by the industry representatives that a minimum site size may not be required if the previous 4 directions were implemented. Requiring a minimum site size may be contrary to the Town's commitment to making the most efficient use of land as possible and may also restrict flexibility in site design. Staff agreed and will give consideration to removing this direction.

f) Direction 6 – Definitions

There is currently no definition in the zoning by-law for drive-through facilities. A definition will provide clarity for interpretation purposes.

5. Next Steps

A number of possibilities for the manner in which the next public meeting might be undertaken. Input from the group was solicited and will be given consideration.

6. Adjournment

The meeting adjourned at 11:40am.

Notes taken by Ramona Boddington

Drive Through Study — March 4/10 Information Meeting

Summary of Flip-Chart Notes

Noted Questions and Information Requests:

- What is the separation distance requirement between restaurant patios and residential areas in Oakville? [Note: Question was addressed later in the meeting.]
- What were the protocols/data quality protection mechanisms/overall methodology used in the online survey? Can the survey data be proven to be reliable and statistically accurate? Can the respondent e-mail addresses be checked for multiple questionnaire completions; the residential address of the respondent (to ensure the person resides in Oakville); time of survey completion; etc.? If the survey cannot be proven to be reliable and an accurate picture of community sentiment — and not over-weighted with industry-generated responses — then less emphasis should be placed on it.
- What are the profiles of drive-through facility users — what demographic or other segments of the public use them...and for what and how frequently?

Positives (noted ‘likes/strengths’ of the Town’s proposed directions)

- The explicit Town understanding that drive through facilities do require some level of restriction and regulation.
- The attempt — though as yet inadequate — to provide some measure of protection for neighbourhoods.
- The Town’s ongoing work on the drive through issue and the determination to finalize an approach (including a By-law or By-laws).
- The 0.3 hectare site requirement may help reduce drive through applications.
- The drive through prohibitions identified in the locational criteria (i.e. not allowing drive throughs in certain parts of the Town).
- Willingness to consider community input.

Objections (noted ‘dislikes/weaknesses’ of the Town’s proposed directions)

- No explicit reference to or policies concerning the tendency for drive throughs to attract rodents/raccoons/other animals — there is nothing explicit in the directions concerning the storage of garbage/waste.
- Failure to fully consider the safety issues associated with drive throughs — from vehicle egress/ingress (criteria re: safely

entering/exiting the site), to potential car-jackings, to accidents caused by distracted drivers.

- The 15m setback is inadequate — this distance does not allow for appropriate mitigation of noise (voice-box chatter, car stereos, general in vehicle chatter, vehicle/motor sounds, etc.), air pollutants, etc, [the participant recommended minimum distance was 75-100 metres].
- Insufficient requirements re: screening/buffers around drive through facilities — and consideration of such things as fences, lighting, etc.
- Allowing drive throughs in C2 zoned areas, particularly in cases where they abut residential areas — drive throughs shouldn't be allowed in C2 zones; such zones were never intended to accommodate them.
- The proposed 10 vehicle stacking spaces are insufficient — vehicles will back-out on roads or otherwise cause congestion/safety issues [a minimum of 20 spaces was proposed].
- The need to add extra stacking spaces means a site size requirement larger than 0.3 hectares.
- The 7.62 metre landscaped buffer is insufficient in size [there was a suggestion to quadruple the size of the buffer or remove the need for a buffer by ensuring that no drive through is placed adjacent to a residential area].
- The directions insufficiently speak to the Town's anti-idling By-law — this By-law needs to be more aggressively enforced.
- The directions are too permissive — they should be seeking to reduce or eliminate drive throughs in keeping with the spirit and intent of Livable Oakville.
- In there totality, the directions do not do enough to keep drive throughs out of Oakville or minimize their number.
- This second report from the Town is too liberal/soft with regard to allowing the placement of drive-throughs in some parts of Oakville (the requirements to be met are fewer/lesser) — the first report was more restrictive.
- There is an absence of retailer justification for the use of drive throughs.
- The Town's approach places no cap on the number of drive throughs permitted in a particular area or territory.
- The directions place no time limits on the use of the external intercoms ('squawk boxes') — other municipalities do this.
- The Town's directions are not as enlightened as those in place in other jurisdictions — Oakville is not showing enough leadership...there is an opportunity to do so.
- There is an absence of references to or directions in support of attractive streetscaping.
- There is a need for more official and consistent terminology — for example, the term 'restaurant drive through' should be used if the establishment serves any food or beverages; there should be different terms for food-related drive throughs, banking-related drive throughs, etc.

- The directions do not adequately challenge assumptions and the status quo — there is an opportunity for the Town to remove the choice for people to use drive throughs (particularly in residential areas).

Enhancements and Remedies (noted ideas for addressing objections and strengthening the directions — beyond those already noted above)

- Require mandatory emissions and noise sensors at drive through locations — periodically measure performance against standards (successful performance should be a pre-condition of annual renewal of the ability to offer a drive through service at the location).
- Use site-specific drive through zoning for new areas of the Town — establish a minimum/maximum number for a particular population size and, in so doing, provide certainty to both residents and industry re: locations and available drive through spots.
- Place a tax on those businesses offering drive throughs or on the products they sell through the drive through (simply put, make it either more expensive to offer a drive through or to use a drive through).
- Tie allowance of drive throughs to road requirements — i.e. make drive throughs acceptable or unacceptable based on certain road characteristics.

What Else? (noted additional ideas and questions)

- Setbacks from residential areas are the key issue.
- Look at trends in other jurisdictions regarding drive throughs — and allow Oakville to set new trends.
- Look at whether drive throughs can be restricted to a single type of business or service.
- Should consumers who use drive throughs require a license (for example, a person with a disability or parent with young children would have to obtain a license that permits their use of a drive through)?
- License drive throughs — subject to annual renewals based on performance against established criteria.
- Consider banning drive throughs altogether in the Town of Oakville.

CPPI meeting with Town of Oakville, March 17, 2010

CPPI summary comments for consideration regarding Drive-through Facilities:

1. Drive-through Facilities serve a useful purpose if designed and located properly within the Town.
2. The Oakville Drive-through Facilities guidelines (# 25, 32) may reflect the preference for not having drive-Through Facilities located between the building and the street but should indicate that it can be an alternative which may be accommodated if necessary with proper siteplan design and landscaping. (Refer to existing drawing examples)
3. In general the zoning bylaw should be modified to focus the minimum 15 m setback distances on the area of the stacking lane which is located between the order box and the pick-up window (or automated machine) as opposed to the full length of the stacking lane.
4. The minimum setback for the remaining portion of the stacking lane should be as per existing commercial Buffer Strip abutting residential zone as stated in section #42 of the zoning bylaw which may vary between 3m and 7.62m.
5. The 15m minimum setback to residential should be flexible to contemplate a possible relief down to a minimum of 7.5m if supported by some site specific noise mitigation measures identified by a noise study prepared by a qualified noise consultant and acceptable to the Town.
6. The minimum 1.8m fence required immediately adjacent to any lot line abutting a lot in a residential zone should be limited to the area of the stacking lane which is within the minimum setback area of the stacking lane which is located between the order box and the pick-up window (or automated machine) as opposed to the full length of the full lot line.
7. In part III, Section 41 1) within the permitted use table on the drive-through facilities line; the footnote #1 (“not permitted on a lot abutting a residential zone”) should be deleted as it is somewhat inconsistent (and/or confusing) with regards to footnote #13

Notes from April 7th, 2010 Public Open House

Trafalgar Room, Town Hall

7:00pm – 9:00pm

There were approximately 80 people in attendance.

The meeting commenced with a brief presentation followed by a question and answer session. Many viewpoints, comments and concerns regarding drive throughs were expressed which included but not limited to:

- Emissions from vehicles idling excessive
- air quality concerns
- Restricting drive throughs excessively
- Drive throughs are a growing trend
- No regard for how residents are affected
- Need to find middle ground between residents and drive through operators
- Convenience for the average person, disabled individuals, and mothers with young children
- There is a demand for drive throughs that is why they exist
- Prefer at least a 60m separation distance
- traffic congestion
- Efficient use of land to facilitate a large amount of customers in a short period of time
- Average person gets through in 17 seconds
- Average wait is no longer than 45 seconds

Approximately 30 written responses were received by staff which largely reiterated the above comments.

Resources/Studies on Drive-Through Facilities

From: Carol Tobin

Sent: Tuesday, November 25, 2014 9:48 AM

To: Jim Doherty

Subject: Drive-through facilities and walkability

Jim,

I didn't find any studies, but perhaps the following might be useful:

- Quotation from Andres Duany (nationally known traditional neighborhood development pioneer) - <http://walkablestreets.wordpress.com/roaddiets/>
 - There are components of modern life that are necessary but which intrinsically create bad street frontage: They are the parking lot, the drive-through, and the solid walls of certain businesses and institutions that can't have windows. So there is a certain percentage of modern street frontage that will not deliver pedestrian quality. The only questions are: what percentage of your city must you give over to these uses and where do you locate them. – Andres Duany
- Phoenix Walkable Urban Code - <https://www.phoenix.gov/pdds/Document/FINAL%20DRAFT%20Walkable%20Urban%20Code.pdf> – Includes limits on drive-through facilities
- Montgomery County, PA New Town Mixed-Use District (walkable) <http://www.montcopa.org/DocumentCenter/View/4101> (See p. 25 – Drive-through prohibited)
- Guide to Creating Walkable Communities (May 9, 2012) - http://www.wrcog.cog.ca.us/uploads/media_items/guide-to-walkable-communities.original.pdf (See p. 26) “Discourage automobile-oriented users such as drive-through businesses, auto sales, and large retail outlets.”
- “Take A Walk,” *Green Living Arizona* - <http://www.greenlivingaz.com/2014/09/18/take-a-walk/> (see paragraph 2)
- “To Drive-Through or Not to Drive Through,” *CalcoastNews.com*, April 3, 2014 - <http://calcoastnews.com/2014/04/drive-drive/>
- “West Hollywood Named Most Walkable in California,” *NBC News* - <http://www.nbclosangeles.com/news/local/West-Hollywood-Named-Most-Walkable-126210613.html> (City prohibits drive-through facilities)

Carol

Carol Tobin

Planning Consultant

206.625.1300 | MRSC.org | [Local Government Success](#)

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/19/2014
<u>Clerk's File #</u>	ORD C35212
<u>Renews #</u>	

<u>Submitting Dept</u>	PLANNING & DEVELOPMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	BORIS BORISOV 625-6156	<u>Project #</u>	
<u>Contact E-Mail</u>	BBORISOV@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	First Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0650 - ORDINANCE RELATING TO HAMILTON FORM BASED CODE SUBAREA		

Agenda Wording

An Ordinance relating to the Hamilton Form Based Code Subarea Plan; adopting a new chapter 17C.123 Form Based Code Zones to Title 17C Land Use Standards of the Spokane Municipal Code; amending SMC 17C.200.010, 17C.200.040 and 17C.200.050, relating to

Summary (Background)

In July 2012, the Logan Neighborhood Stakeholder Team, with the City of Spokane Planning Department, began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area, and is designed to foster

<u>Fiscal Impact</u>		<u>Budget Account</u>
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#
<u>Approvals</u>		<u>Council Notifications</u>
<u>Dept Head</u>	MEULER, LOUIS	<u>Study Session</u>
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u> PCED 12/15/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>
<u>Legal</u>	RICHMAN, JAMES	lhattenburg@spokanecity.org
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<u>Additional Approvals</u>		zetter@spokanecity.org
<u>Purchasing</u>		jrichman@spokanecity.org
		jneff@spokanecity.org
		awaldref@spokanecity.org
		jquintrall@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Landscaping & Screening; amending SMC 17C.230.100, 17C.230.120, 17C.230.130, 17C.230.140, 17C.230.145, and 17C.230.200, relating to Parking & Loading; and amending SMC 17A.020.010, SMC 17A.020.020, 17A.020.030, 17A.020.050, 17A.020.060, 17A.020.070, 17A.020.090, 17A.020.150, 17A.020.160 and 17A.020.220, relating to Definitions.

Summary (Background)

an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses, and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area. The entire project area is approximately 36.15 acres. Ordinance No. C35212 implements the Hamilton Form Based Code Subarea Plan by amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter 17C.123 Form Based Code Zones; amending SMC 17C.200.010, 17C.200.040

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

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ORDINANCE NO. C35212

AN ORDINANCE relating to the Hamilton Form Based Code Subarea Plan; adopting a new chapter 17C.123 Form Based Code Zones to Title 17C Land Use Standards of the Spokane Municipal Code; amending SMC 17C.200.010, 17C.200.040 and 17C.200.050, relating to Landscaping & Screening; amending SMC 17C.230.100, 17C.230.120, 17C.230.130, 17C.230.140, 17C.230.145, and 17C.230.200, relating to Parking & Loading; and amending SMC 17A.020.010, SMC 17A.020.020, 17A.020.030, 17A.020.050, 17A.020.060, 17A.020.070, 17A.020.090, 17A.020.150, 17A.020.160 and 17A.020.220, relating to Definitions.

WHEREAS, in accordance with the Growth Management Act (GMA), the City of Spokane previously adopted a Comprehensive Plan (RCW 36.70A); and

WHEREAS, GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that, so long as a subarea plan clarifies, supplements, or implements city-wide comprehensive plan policies, and so long as the cumulative impacts of the proposed subarea plan are addressed by appropriate environmental review under chapter 43.21C. RCW, the initial adoption of a subarea plan may occur outside of this annual process; and

WHEREAS, Per Article VIII of the City Charter, the Spokane City Council recognizes distinct neighborhood areas as neighborhood councils through the Neighborhood Councils Program and the Community Assembly; and

WHEREAS, The City Council allocated \$550,000 in the fall of 2007 to be used for planning activities by neighborhood councils; and

WHEREAS, The Logan Neighborhood Organization ("LNO") is the City Council-recognized neighborhood council for the area generally bounded by Division Street on the west, the Spokane River on the east, Euclid Street on the north, Trent Avenue on the south, and bisected north to south by Hamilton Street and west to east by Mission Avenue; and

WHEREAS, On March 8, 2011 the Logan Neighborhood Organization (LNO) was designated to initiate abbreviated neighborhood planning and LNO representatives endorsed a letter of intent to begin planning; and

WHEREAS, On March 30 and March 31, 2012, respectively, the manager of the Logan Neighborhood Stakeholders Team ("LNST"), Karen Byrd, and the chair of the Logan Neighborhood Organization, Jeanette Harras, signed a memorandum of understanding with the Planning Services Department recognizing the LNST to conduct abbreviated planning; and

WHEREAS, Between August of 2012 and February 2013, a consultant, Studio Cascade worked with the Logan Neighborhood Stakeholder Team, property owners, business owners, residents, and other interested parties to prepare a form-based model zoning code through a series of planning sessions, interviews, charrettes, and an open house; and

WHEREAS, form-based codes are intended to foster an economically vibrant, walkable, mixed-use environment; and

WHEREAS, although drive-through facilities are a necessary component of modern life in some cases, drive-through facilities that are not designed with pedestrian traffic in mind, intrinsically create bad street frontage that is unsafe for pedestrians; and

WHEREAS, drive-through facilities are dependent on a high volume of vehicle traffic and a high turnover of customers, which can create significant traffic impacts with respect to site access, stacking or queuing lanes, and can create conflicts between internal traffic, parking areas, and pedestrian traffic; and

WHEREAS, drive-through facilities create the potential for exhaust fumes, noise and traffic congestion, and drive-through fast food restaurants require outdoor speakers/ordering board which may create visual and noise impacts; and

WHEREAS, The Logan Neighborhood Identity Plan and Model Form-Based Code for the Hamilton Corridor were adopted via City Council resolution as credible representation of the desire for the Logan Neighborhood on May 12, 2014; and

WHEREAS, The Logan Neighborhood Stakeholder Team worked with the City of Spokane's Planning & Development staff between May 2014 and September 2014 to modify the Model Form-Based Code for the Hamilton Corridor from a model code to a specific regulatory document, Hamilton Form Based Code; and

WHEREAS, In September of 2014 City of Spokane's Planning & Development staff drafted the Hamilton Form Based Code Subarea Plan which amends the Comprehensive Plan Land Use Plan Map, Zoning Map and implements Form Based Code zoning categories through the adoption of new development regulations; and

WHEREAS, The Hamilton Form Based Code Subarea Plan was submitted as a Comprehensive Plan amendment application Z1400055COMP on October 6, 2014; and

WHEREAS, The Hamilton Form Based Code Subarea Plan requires several actions including a Comprehensive Plan Land Use Map and Zoning Map Changes within the boundary of the Hamilton Form Based Code Subarea Plan; and

WHEREAS, staff requested comments from agencies and departments on October 6, 2014, and a public comment period ran from October 6, 2014 to October 2014; and

WHEREAS, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Comprehensive Plan on October 23, 2014; and

WHEREAS, Notice of Application was mailed on October 27, 2014 to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014. Comments were provided by property owners and other interested parties; and

WHEREAS, Staff made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal; and

WHEREAS, the Spokane City Plan Commission held a substantive workshop to study the proposal on November 12, 2014; and

WHEREAS, A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on November 26, 2014 for the Hamilton Form Based Code Subarea Plan. The public appeal period for the SEPA determination ended on December 10, 2014 at 4pm; and

WHEREAS, Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was mailed to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary on November 26, 2014; and

WHEREAS, Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014 and the *Official Gazette* on December 3, 2014; and

WHEREAS, The Planning Department prepared a staff report found that the amendment met all the review guidelines and required decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17G.020. Comprehensive Plan Amendment Procedure (the "Staff Report"); and

WHEREAS, the Spokane Plan Commission conducted a public hearing and deliberated on December 10, 2014 for Application Z1400055COMP, Hamilton Form Based Code Subarea Plan; and

WHEREAS, the Spokane Plan Commission found that Application Z1400055COMP, Hamilton Form Based Code Subarea Plan is consistent with and implements the Comprehensive Plan; and

WHEREAS, the Plan Commission voted 7 to 2 to recommend approval of Application Z1400055COMP, Hamilton Form Based Code Subarea Plan on December 10, 2014; and

WHEREAS, the City Council adopts the recitals set forth herein as its findings and conclusions in support of its adoption of this ordinance and further adopts the findings, conclusions, and recommendations from the Planning & Development Services Staff Report and the City of Spokane Plan Commission for the same purposes; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 17C.123 Form Based Code Zones to Title 17C SMC Land Use Standards as follows:

**Chapter 17C.123
Form Based Code Zones**

Sections.

17C.123.010	Purpose
17C.123.020	Code Organization
17C.123.030	Regulating & Street Section Plans
17C.123.040	Land Use, Height, Placement and Parking
17C.123.050	Streetscape Requirements
17C.123.060	Architectural Requirements
17C.123.070	Additional Requirements
17C.123.080	Building Type Catalogs

17C.123.010 Purpose

The form-based zoning categories implement the centers and corridors goals and policies and land use map designations of the comprehensive plan. This form-based code (FBC) is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of the code. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses.

The FBC is a pilot program and is configured as a plug-in set of regulations, replacing existing zoning and design guidelines within the FBC Limits. This pilot program is consistent with the Logan Identify Plan. All code provisions expressed herein present development requirements unless otherwise indicated, including information preceded by the word “Guidelines.” Additional, specific City of Spokane standards may be required as referenced.

17C.123.020 Code Organization

Using this code: Criteria for development within the code boundaries is expressed in six sections. Use of the FBC, relating to each of these sections, is described below:

- A. Regulating & Street Section Plans.
Find the property of interest, noting its location relative to the “Context Areas” established by the Regulating Plan, as well as the location of any “Shopfront Streets” abutting the property. These elements direct many of the allowances provided in the FBC.
- B. Height, Placement & Coverage.
Using criteria from the Regulating Plan, note the allowed maximum building heights; build-to lines; minimum building frontages, and impervious surface coverage allowances detailed in this section.
- C. Parking Criteria & Site Access.
Using criteria from the Regulating Plan and the Street Section Plan, note the various allowances regarding off-street surface parking, lot placement, lot and site lighting.
- D. Streetscape Requirements.
Using type criteria from the Street Section Plan, note the basic configuration and feature specifications for sidewalks and pedestrian buffer zones within the FBC Limits.

- E. Architectural Requirements.
Using criteria from the Regulating Plan, note the various façade treatments, screening, detailing and other requirements specific to the appearance and public-realm function of buildings.
- F. Additional Requirements.
This section identifies additional requirement not covered by the HFBC.
- G. Building Type Catalogs.
This section provides a visual catalog of desired building characteristics.

17C.123.030 Regulating & Street Section Plans

This section provides and describes the FBC Regulating Plan and Street Section Plan - two map illustrations showing the location and limits of various features and physical characteristics required under this code. The Regulating Plan also indicates placement and extents of “Shopfront Street” areas, triggering specific use, building placement and other requirements.

- A. Regulating Plan.
The Regulating Plan for the FBC is included here as Figure 17C.123.030-1, and provides the organizing framework for many of the requirements described herein. The Regulating Plan divides land within the code boundaries into four distinctive context areas and identifies shopfront streets, listed and described as follows:
 - 1. CA-1: Context Area 1 provides for and supports the most intense development patterns, generally allowing greater height and building intensities than other context areas. CA-1 is intended to grow as a mixed-use center and focal point for the neighborhood and corridor, supporting significant commercial offerings, service activities, and high-density housing.
 - 2. CA-2: Context Area 2 provides for and supports mid-range development intensities, allowing somewhat lesser height and building intensities than CA-1. CA-2 is intended to grow as a second-tier mixed-use center for the neighborhood and corridor, supporting commercial offerings, service activities, and high-density housing.
 - 3. CA-3: Context Area 3 provides for and supports low to mid-range development intensities, allowing lesser height and building intensities than CA-1 or CA-2. CA-3 is intended to grow as a second-tier mixed-use area for the neighborhood and corridor, providing continuity along Hamilton by linking CA-1 and CA-2, while at the same time acting as a transition zone between the corridor environment and CA-4 and neighborhood areas immediately outside the HFBC Limits.

4. CA-4: Context Area 4 provides for and supports low to mid-range development intensities, allowing lesser height and building intensities than other context areas. CA-4 is intended to grow as a third-tier mixed-use area for the neighborhood and corridor, acting as a transition zone between the corridor environment and lower-density residential development immediately outside the FBC Limits. Though a mix of uses are allowed in CA-4, the area is envisioned as generally residential in scale and character.
5. Shopfront Street: provides for areas where specific uses, building placement, and other requirements apply. The shopfront street is generally applied to areas where business or retail use level with and directly along the public right-of-way is seen as critical.

B. Street Section Plan.

The Context Area Zones are complemented by the Street Section Plan which is included here as Figure 17C.123.030-2 and guides public and private development within the FBC Limits. The Street Section Plan defines four section types and describes amenities based upon the intended use, desired qualities, and community objectives. Right-of-ways shall not be vacated as the space is needed to incorporate the elements described in street designations below. Curb to property line and the sidewalk width shall not be reduced in order to allow for future Street Section elements. The four section types are listed and generally described in order of intensity, as follows:

1. Street Type 1 (Hamilton Street): Type 1 provides for and supports a mixed-use corridor environment (CA-1, CA-2, CA-3). Type 1 streets have wide, well-maintained sidewalks and pedestrian amenities to encourage strolling, walking, and shopping. They maintain a Planting Zone and Clear Pedestrian Zone on each side of the street.
2. Street Type 2 (Mission Avenue): Type 2 provides for and supports a blend of mixed-use and residential environments (CA-1, CA-4). Type 2 serves existing east/west arterial needs, and includes a median with turn lanes (at Hamilton), a Planting Zone and Clear Pedestrian Zone on each side of the street.
3. Street Type 3 (Includes Sinto, Sharp, Boone): Type 3 provides for and supports a mixed-use district environment (CA-2, CA-3, CA-4). Type 3 includes a Planting Zone and Clear Pedestrian Zone on each side of the street.
4. Street Type 4 (Includes Augusta and Dakota): Type 4 provides for and supports an environment bridging between mixed-use and residential areas (CA-4). Type 4 includes a Planting Zone and Clear Pedestrian Zone on each side of the street.

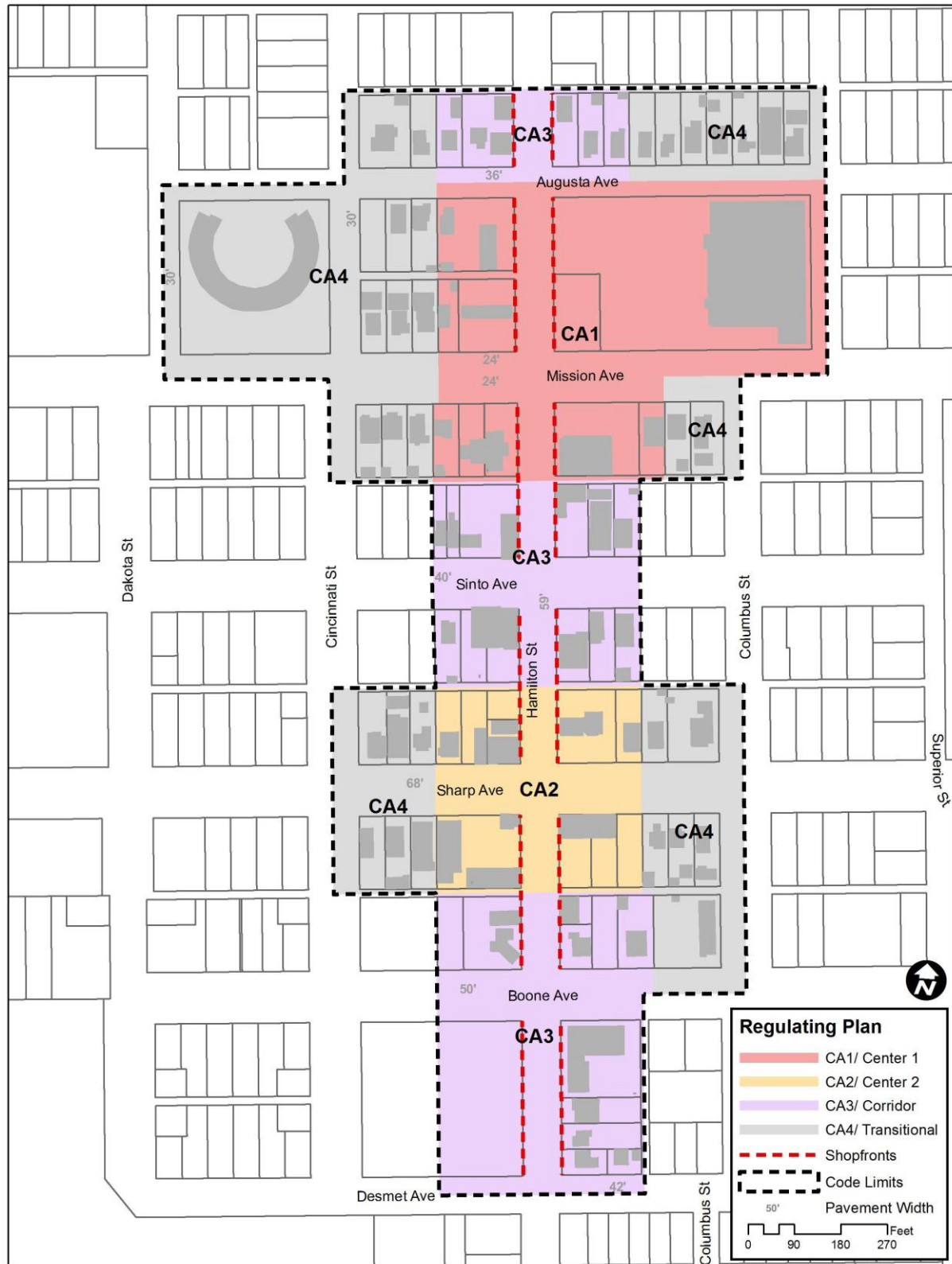


Figure 17C.123.030-1 Regulating Plan for the Form Based Code

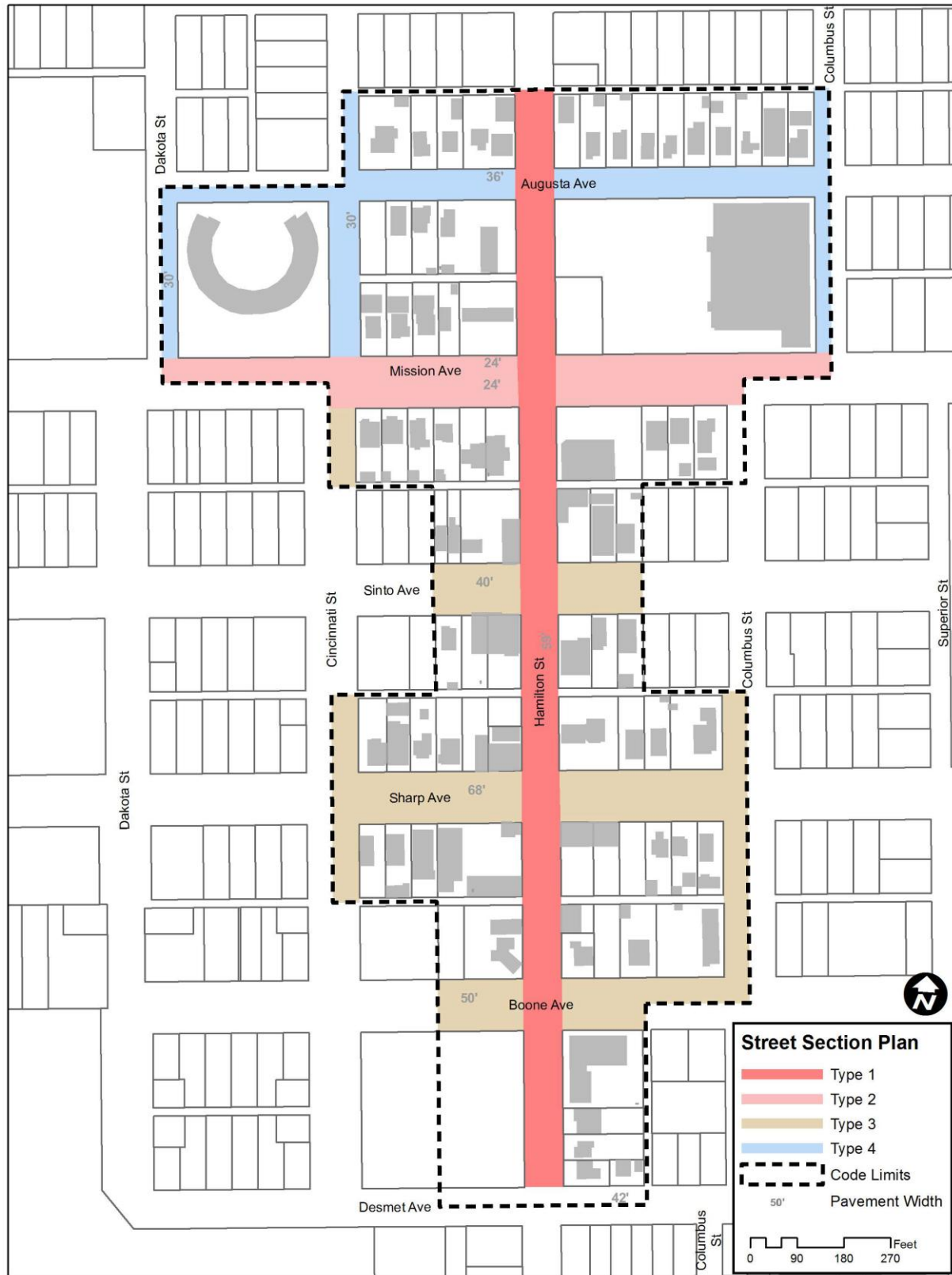


Figure 17C.123.030-2 Street Section Plan for the Form Based Code

17C.123.040 Land Use, Height, Placement and Parking

This section provides a broad range of allowable use categories within the Regulating Plan limits, specifying permitted and prohibited uses according to building story reflecting the development patterns expressed in the Regulating Plan. This section also regulates building height, placement, frontage and impervious surface coverage, specifying each within the Context Areas provided in the Regulating Plan and managing the transition between high-intensity mixed-use areas and low-intensity residential areas outside the limits of this form-based code. This section also regulates parking, parking lot location and treatment, and site lighting, consistent with the Regulating Plan. Conformance with these standards is critical to establishing the type of pedestrian and vehicular access patterns needed for the area to thrive as a vibrant, walkable district.

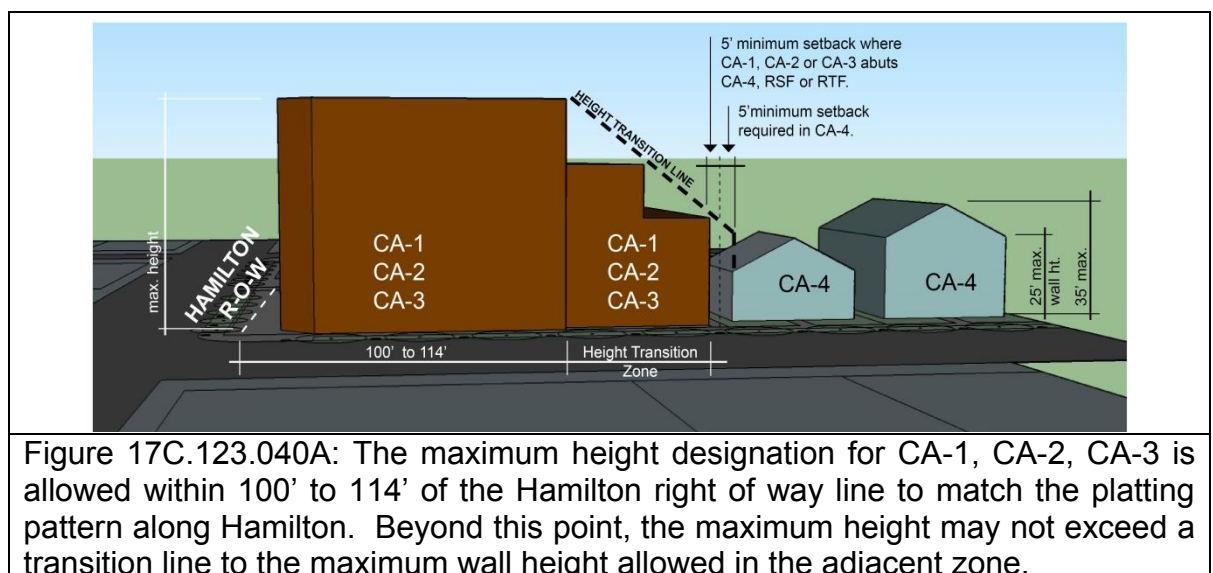
A. Use Provisions.

Use regulations are provided in figures 17.123.040-D through 17.123.040-G for all areas within the Regulating Plan. Uses deemed unsuitable for areas within the Regulating Plan area are specifically identified.

B. Building Height.

The height of buildings shall be measured from mean grade to top of cornice or roof eave and shall meet the specifications provided in figures 17.123.040-D through 17.123.040G. Building height measurements express regulatory standards.

1. Maximum height limits in CA-1, CA-2, and CA-3 are allowed only within 100' to 114' of the Hamilton right of way line to match the platting pattern along Hamilton. Beyond 100' from Hamilton, proposals shall be designed with respect for the height, scale and character of adjacent zone as described in Figure 17C.123.040-A:



- C. Story listings are provided for reference purposes only, expressing typical outcomes for listed heights. Allowable height exceptions apply to the overall distance extending beyond the measured building height, as follows:
1. Pitched roofs may extend above the height limit, but if the space within the pitched roof is habitable, it shall only be used for residential purposes.
 2. For flat roofs, Open Roof Structures (pergolas, arbors) and Architectural Roof Structures (turrets, etc.) may extend beyond the height limit by no more than 12’.
 3. For flat roofs, enclosed roof structures (penthouses) may extend above the height limit by no more than 18’ from the roof line if set back no less than 20’.
- D. Shopfront Street Provisions.
Building placement along Shopfront Streets shall prioritize street corner locations, precluding the development of parking, open spaces or other lot features at street corners.
- E. Impervious Surface Coverage.
Impervious surfaces shall not exceed the maximum impervious surface percentages (calculated on the basis of the lot) specified in Table 17C.123.040-1.

Table 17C.123.040-1 Impervious Surface Coverage

	CA-1	CA-2	CA-3	CA-4
Maximum Impervious Surface	90%	80%	70%	50%

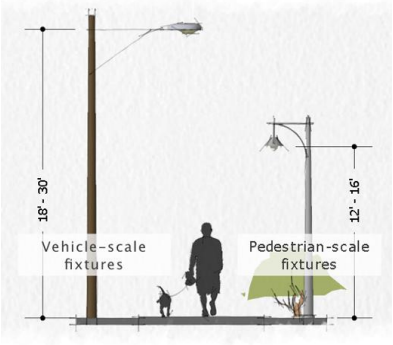
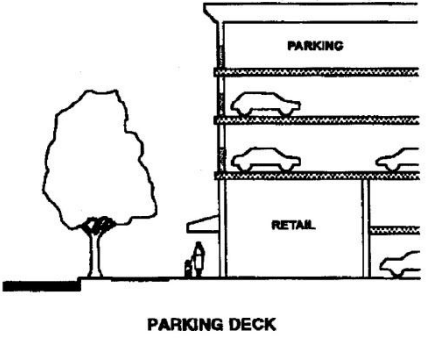
- F. Parking
1. Off-Street Surface Parking: Off-street surface parking shall not be placed between the street right-of-way and the building fronting the street.
 2. Parking Space and Aisle Dimensions: Standards for parking space and aisle dimension can be found in SMC 17C.230.140.
 3. Bicycle Parking: Requirements for bicycle parking are found in SMC 17C.230.200. Bicycle parking provided in the streetscape can contribute to requirements in SMC 17C.230.200.
 4. Other Provisions: Additional parking requirements are stated in 17C.230 SMC, Parking and Loading. The FBC supersedes the location and

amount requirements for parking; these standards are identified for each context area in figures 17.123.040-D through 17.123.040-G.

G. Surface parking and site lighting.

Surface parking lot and site lighting shall contribute to the character and safety of the site and adjacent rights of way, while not disturbing adjacent properties. Surface lot and site lighting shall adhere to the following standards:

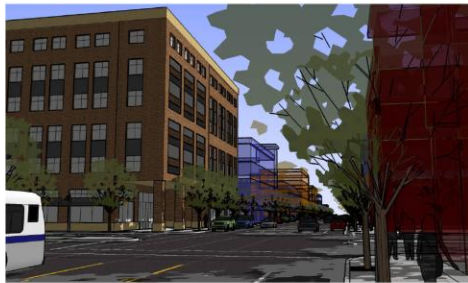
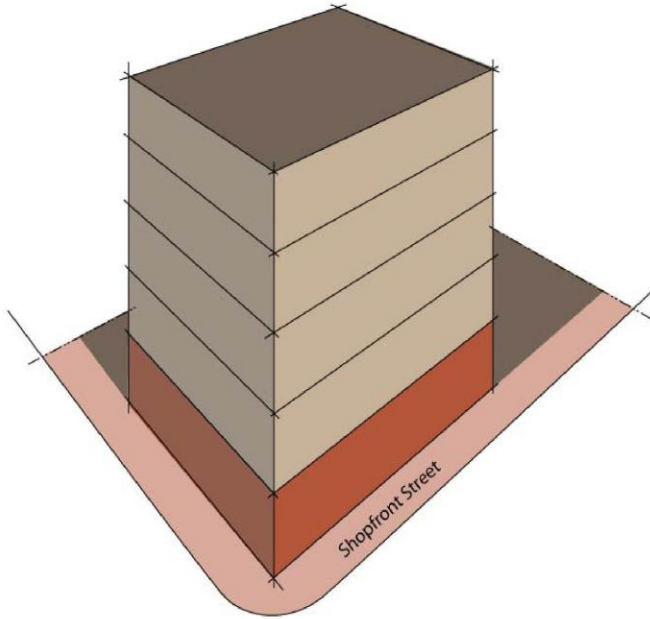
1. Lighting types - Pedestrian-scale fixtures shall be used for all lighting illuminating required Pedestrian Paths. Vehicle-scale fixtures may be used for general surface lot and site lighting. (See Figure 17C.123.040-B)
2. Performance - Parking lot and site lighting shall provide adequate night visibility and security by distributing a minimum of two foot-candles to a maximum of six foot-candles of illumination at ground level. All lighting shall be shielded from producing off-site glare, directing light downward and away from adjacent properties.
3. Driveways/Site Access - Driveway widths shall not exceed 24 feet, and curb cuts shall not exceed 30 feet for combined entry/exits.
4. Pedestrian Walkways - Within surface lots containing more than 30 parking stalls, pedestrian-friendly walkways shall be provided between the surface lots and building entrances. Pedestrian Paths shall be not less than five feet wide and be clearly defined, using at least two of the following:
 - a. Six-inch vertical curbing
 - b. Textured paving, including across vehicle lanes
 - c. Continuous landscaped area at a minimum of 3 feet wide on at least one side of the walkway
5. Shopfront Street Provisions - If fronting on a Shopfront Street, above-ground parking structures shall provide continuous ground level commercial or office spaces and uses along the street, except at ingress and egress points into the structure. (See Figure 17C.123.040-C).

	
<p>Figure 17C.123.040-B: Unless otherwise specified, Vehicle-Scale and Pedestrian Scale lighting fixtures must meet height criteria illustrated here.</p>	<p>Figure 17C.123.040-C: Parking garages (decks) along shopfront streets must provide ground-level retail, commercial or office space fronting the street.</p>

- H. Regulatory Cutsheets – The information presented in the tables in figures 17.123.040-D through 17.123.040-G represent the regulations for height, parking, land uses, build-to-lines, and building frontage for all Context Areas.
- I. Figure 17C.123.040-H supplements the regulatory cutsheets by providing visual representation for build-to-lines, interior lot lines and other standards.

Figure 17C.123.040-D

Context Area 1 (CA-1)



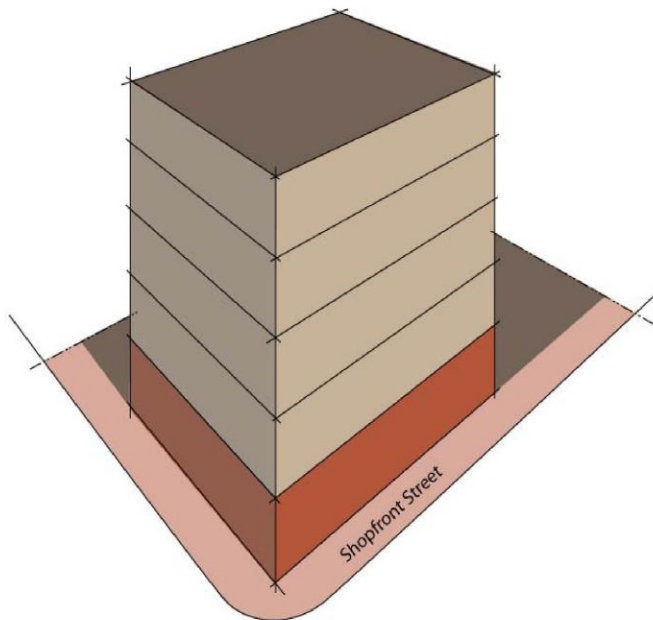
Images above are representational only and are not to be considered regulatory. The Regulating Plan, this chapter's general provisions and the information contained in the table to the right constitute the regulatory framework related to land use, height, parking, build-to-lines, coverage and frontage.

^[1] Build-to-lines shall establish a 12' foot minimum and up to 22' maximum space from the back of the curb to the building along Street Type I. If existing width is less than 12' structures shall be allowed no closer than 12' from the back of the curb.

Shopfront within 100'-114' of Hamilton property line	66' (five stories)	Height max.
Beyond 100'-114' Hamilton property line	Transition Standards as identified in 17C.123.040-A	
Maximum surface parking	2 spaces/500 sf floor area	Parking
Landscaping	See Section SMC 17C.200	
Location	To side or rear of building	
Additional Parking Requirements	See Sections: SMC 17C.230.100 SMC 17C.230.120 SMC 17C.230.130 SMC 17C.230.140 SMC 17C.230.200	
Residential, except where prohibited		Land uses
Non-Residential all floors		
Prohibited uses: Single-family (detached and townhouse) Heavy industrial, storage or warehouse Adult businesses Residential uses on shopfront street Structured parking on shopfront street Auto-Related Uses Drive-through Facilities		
Street Type 1	5'min - 15' max ^[1]	Build-to line
Street Type 2 and 4	0'	
When within 50' of CA4	5'	
Street Type 3	Not applicable	
Alley	0'	Setback line
Interior lot line	0'	
Interior lot line if abutting CA-4	5'	
Street Type 1	80%	Building frontage min.
Street Type 2	60%	
Street Type 3	N/A	
Street Type 4	0%	

Figure 17C.123.040-E

Context Area 2 (CA-2)



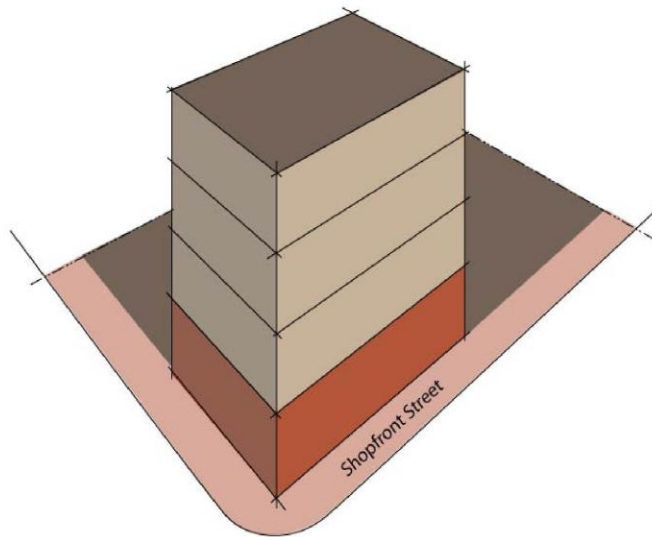
Images above are representational only and are not to be considered regulatory. The Regulating Plan, this chapter's general provisions and the information contained in the table to the right constitute the regulatory framework related to land use, height, parking, setbacks (building lines), coverage and frontage.

^[1] Build-to-lines shall establish a 12' foot minimum and up to 22' maximum space from the back of the curb to the building along Street Type I. If existing width is less than 12' structures shall be allowed no closer than 12' from the back of the curb.

Shopfront within 100'-114' of Hamilton property line	66' (five stories)	Height max.
Beyond 100'-114' Hamilton property line	Transition Standards as identified in 17C.123.040-A	
Maximum surface parking	2 spaces/500 sf floor area	Parking
Landscaping	See Section SMC17C.200	
Location	To side or rear of building	
Additional Parking Requirements	See Sections: SMC 17C.230.100 SMC 17C.230.120 SMC 17C.230.130 SMC 17C.230.140 SMC 17C.230.200	
Residential, except where prohibited		Land uses
Non-Residential all floors		
Prohibited uses: Single-family (detached and townhouse) Heavy industrial, storage or warehouse Adult businesses Residential uses on shopfront street (ground floor) Structured parking on shopfront street (ground floor) Auto Related Uses Drive-Through Facilities		
Street Type 1	5'min - 15' max ^[1]	Build-to line
Street Type 2	Not applicable	
Street Type 3	0'	
When within 50' of CA4	5'	
Street Type 4	Not applicable	Setback line
Alley	0'	
Interior lot line	0'	
Interior lot line if abutting CA-4	5'	
Street Type 1	80%	Building frontage min.
Street Type 2	60%	
Street Type 3	N/A	
Street Type 4	N/A	

Figure 17C.123.040-F

Context Area 3 (CA-3)



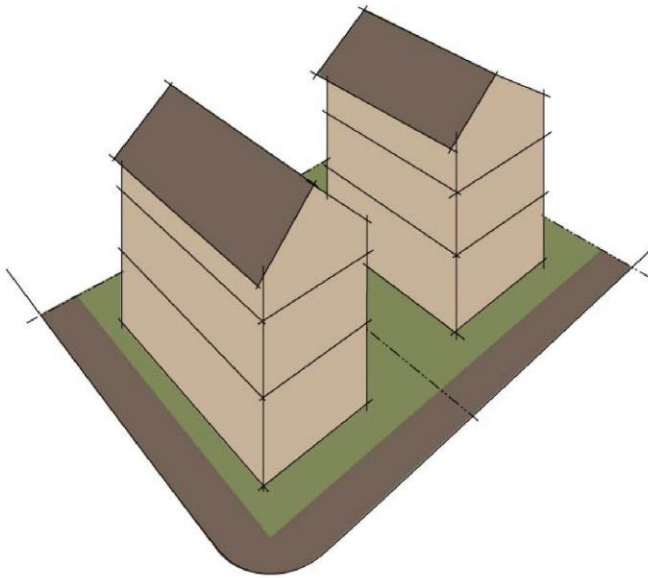
Images above are representational only and are not to be considered regulatory. The Regulating Plan, this chapter's general provisions and the information contained in the table to the right constitute the regulatory framework related to land use, height, parking, setbacks (building lines), coverage and frontage.

^[1] Build-to-lines shall establish a 12' foot minimum and up to 22' maximum space from the back of the curb to the building along Street Type I. If existing width is less than 12' structures shall be allowed no closer than 12' from the back of the curb.

Shopfront within 100' -114' of Hamilton property line	54' (four stories)	Height max.
Beyond 100' -114' Hamilton property line	Transition Standards as identified in 17C.123.040-A	
Maximum surface parking	2 spaces/500 sf floor area	Parking
Landscaping	Section SMC 17C.200	
Location	To side or rear of building	
Additional Parking Requirements	See Sections: SMC 17C.230.100 SMC 17C.230.120 SMC 17C.230.130 SMC 17C.230.140 SMC 17C.230.200	
Residential, except where prohibited		Land uses
Non-Residential all floors		
Prohibited uses: Single-family (detached and townhouse) Heavy industrial, storage or warehouse Adult businesses Residential uses on shopfront street (ground floor) Structured parking on shopfront street (ground floor) Auto Related Uses Drive-Through Facilities		
Street Type 1	5' min - 15' max ^[1]	Build-to line
Street Type 2	Not Applicable	
Street Type 3, 4	0'	
When within 50' of CA4, RSF, or RTF	5'	
Alley	0'	Setback line
Interior lot line	0'	
Interior lot line if abutting CA4, RSF, or RTF		
Street Type 1	70%	Building frontage min.
Street Type 2	60%	
Street Type 3	N/A	
Street Type 4	N/A	

Figure 17C.123.040-F

Context Area 4 (CA-4)

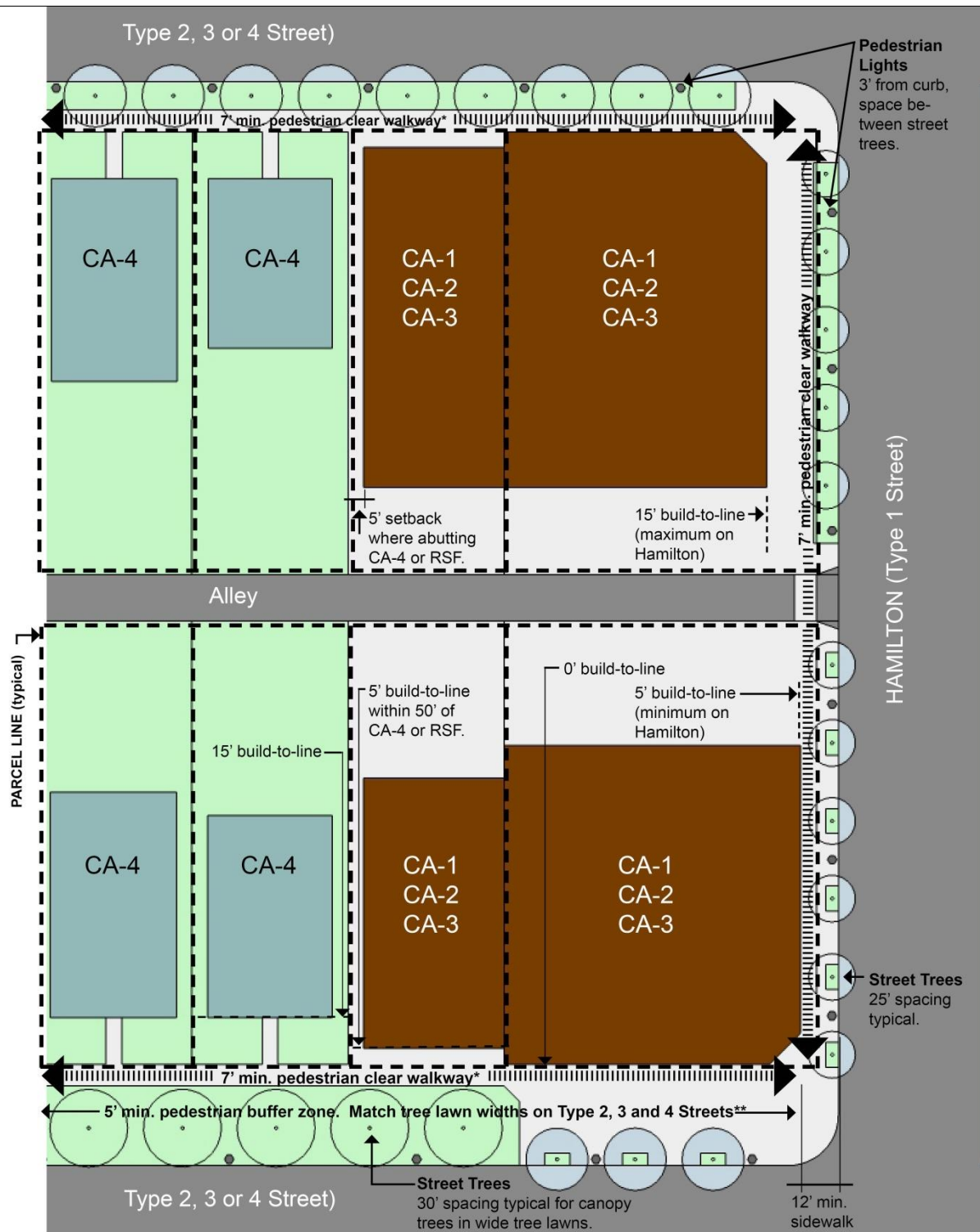


Images above are representational only and are not to be considered regulatory. The Regulating Plan, this chapter's general provisions and the information contained in the table to the right constitute the regulatory framework related to land use, height, parking, setbacks (building lines), coverage and frontage.

^[1] Attached garage or carport entrance is required to be setback twenty feet from the property line.

^[2] See SMC 17C.110.220(D)(1), setbacks regarding the use of front yard averaging.

Roof Height	35 feet	Height max.
Wall Height	25 feet	
Minimum off-street parking	1 space/ dwelling unit	Parking
Landscaping	See Section SMC17C.200	
Location	See Section SMC 17C.200	
Additional Parking Requirements	See Sections: SMC 17C.230.100 SMC 17C.230.120 SMC 17C.230.140 SMC 17C.230.145	
Residential		Land uses
Non-Residential (on ground floor)		
Non-Residential Development shall have a Residential Component. Non Residential shall be no more than 3,000 sf floor area		
Prohibited uses: All industrial categories Parking (primary use), adult business, outdoor retail sales, outdoor storage, vehicle repair and servicing, and drive-through facility Mining Auto Related Uses Drive-Through Facilities Cell Towers		
Street Type 1	N/A	Build-to line
Street Type 2	15' ⁽¹⁾ (2)	
Street Type 3	15' ⁽¹⁾ (2)	
Street Type 4	15' ⁽¹⁾ (2)	
Alley	0'	Setback line
Interior lot line	5'	
Street Type 1	N/A	Building frontage min.
Street Type 2	60%	
Street Type 3	50%	
Street Type 4	None	



*If necessary to meet minimum standard widths, a portion of the pedestrian walkway may be on private property.

**Existing tree lawn widths vary on Type 2, Type 3 and Type 4 Streets. For tree health and enhanced pedestrian comfort, a wide pedestrian buffer zone to match existing is encouraged. Please see 17C.200.050 for additional street tree requirements.

Figure 17C.123.040-H Visual Diagram

17C.123.050 Streetscape Requirements

This section identifies features and specifications for commercial and residential streets and alleys within FBC Limits, keyed to the street types identified in the Street Section Plan and to Shopfront Street areas noted on the Regulating Plan. These criteria work to establish the type of active, economically vibrant public realm sought by the community, balancing vehicular access with the safety and convenience of pedestrians and other non-motorized modes of travel.

- A. Streetscape Requirements.
Required streetscape features and dimensions of those elements are identified in Table 17C.123.050-1.

Table 17C.123.050-1 Streetscape Requirements ^[1]

	Type 1	Type 2	Type 3	Type 4	Alley
Sidewalks					
Overall Width (each side)	12' to 22'	12'	12'	12'	N/A
Type	A	A	A	A	N/A
Clear Pedestrian Zone	7'	7'	7'	7'	N/A
Planting Zone (each side) ^[2]	5'	5'	5'	5'	N/A
Street Furnishings					
Lighting, types	P ^[3]	P ^[3]	P ^[3]	P ^[3]	V
Planting, types	S	S/M	S/M	S	N/A
Benches	R	R	R	N/R	N/A
Trash receptacles	R	R	R	N/R	N/A
Bicycle parking	N/R	N/R	N/R	N/R	N/A

[1] See City of Spokane Department of Engineering Design Standards for additional specifications.

[2] Minimum size; Existing tree lawn widths vary on Type 2, 3 and 4 Streets. Additional setbacks, if any, should match existing tree lawn widths in the CA-4 zone. Please see 17C.200 for additional street tree requirements.

[3] See Figure 17C.123.050-B (below) for Pedestrian-Scale Lighting Standards

Parking Stall types: "A" = 8.5' W x 18' L parallel stalls; "B" = 9' W x 16' L angled stalls, back-in (60° ∠)

Sidewalk types: "A" = 4' x 2' scored concrete

Lighting types: "P" = Pedestrian scale; "V" = Vehicle scale

Planting types: "S" = Street trees; "M" = Median planting

Benches, Trash receptacles, Bicycle parking: "R" = Required; "N/R" = Not required

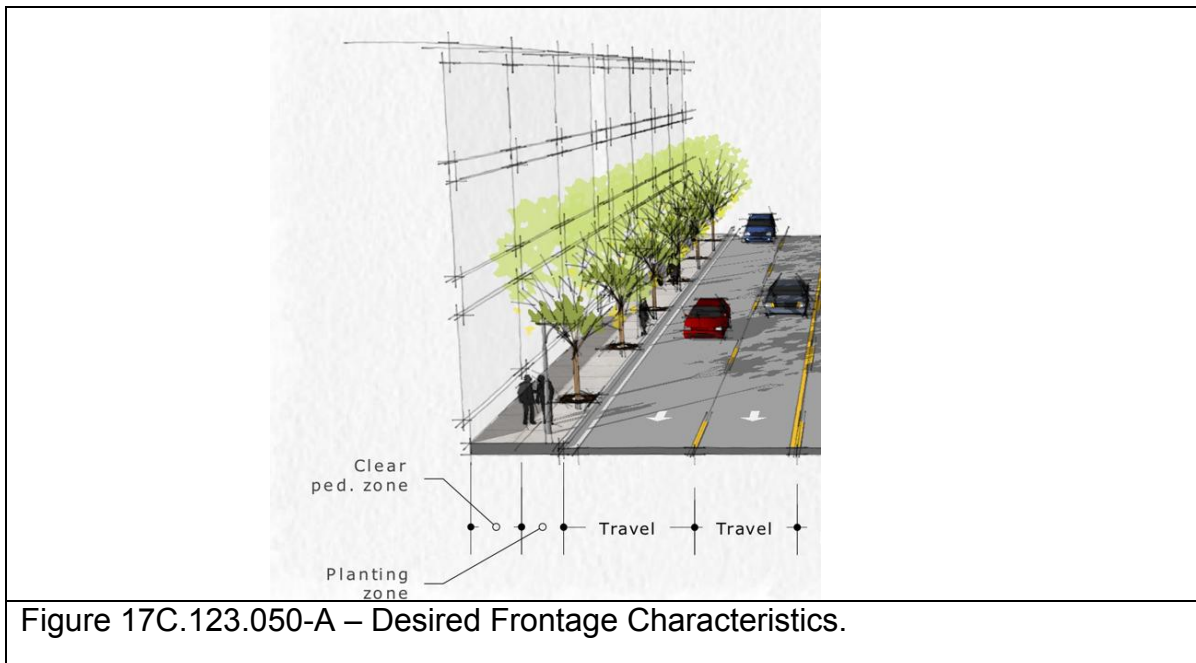


Figure 17C.123.050-A – Desired Frontage Characteristics.

B. Sidewalks.

The composition and color of sidewalks shall be as described in Table 17C.123.050-1, and shall be continued as they cross-vehicular driveways (See Figure 17C.123.050-E).

1. When the existing sidewalk width is less than 12 feet structures shall be allowed no closer than 12 feet from the back of the curb.
2. When the existing sidewalk width is greater than the bare minimum of 12 feet the sidewalk environment shall be designed to meet the intent of the Street Type designation of the street. Existing sidewalk width shall not be reduced or encroached upon by new development.

C. Street Furnishings, Placement.

Street furnishings including light poles, benches, and trash receptacles shall be placed between tree locations within the Planting Zone. Street furnishings shall not impede the clear view triangle. Temporary and intermittent sidewalk encroachments including café seating, planters, ramps, steps, and sandwich board signs may be located in the Planting Zone without restriction, or in the Clear Pedestrian Zone provided a pathway of at least six (6) feet wide remains free of such obstructions (See Figure 17C.123.050-F). Bicycle parking is encouraged where the requirement for the Planting Zone and Clear Pedestrian Zone can be met. Bicycle parking provided in the streetscape can contribute to requirements in SMC 17C.230.200(1)(b). Street furnishings

required in Table 17C.123.050-1 are to be provided in all Context Areas as follows:

1. Planting – Street trees must be installed and maintained by the adjacent property in all streets bordering development. Generally, street trees should be spaced on average 25 feet apart. At a minimum, street trees shall provide a continuous row of City-approved trees spaced according to mature canopy size, plus one or more types of City-approved ground cover. Additional requirements for landscaping are stated in chapter 17C.200, Landscaping and Screening.
2. Lighting - City-approved Traditional Series pedestrian scale lighting as shown in Figure 17C.123.050-B (flower basket optional) shall be provided and spaced at an average 50 to 60 feet apart, generally midway between required street trees and centered thirty-six (36") from the curb to ensure a uniform distance from the street edge along the entire street.
3. City approved benches and trash receptacles shall be provided for all buildings larger than 10,000 sf. Buildings less than this size are encouraged to include such amenities.

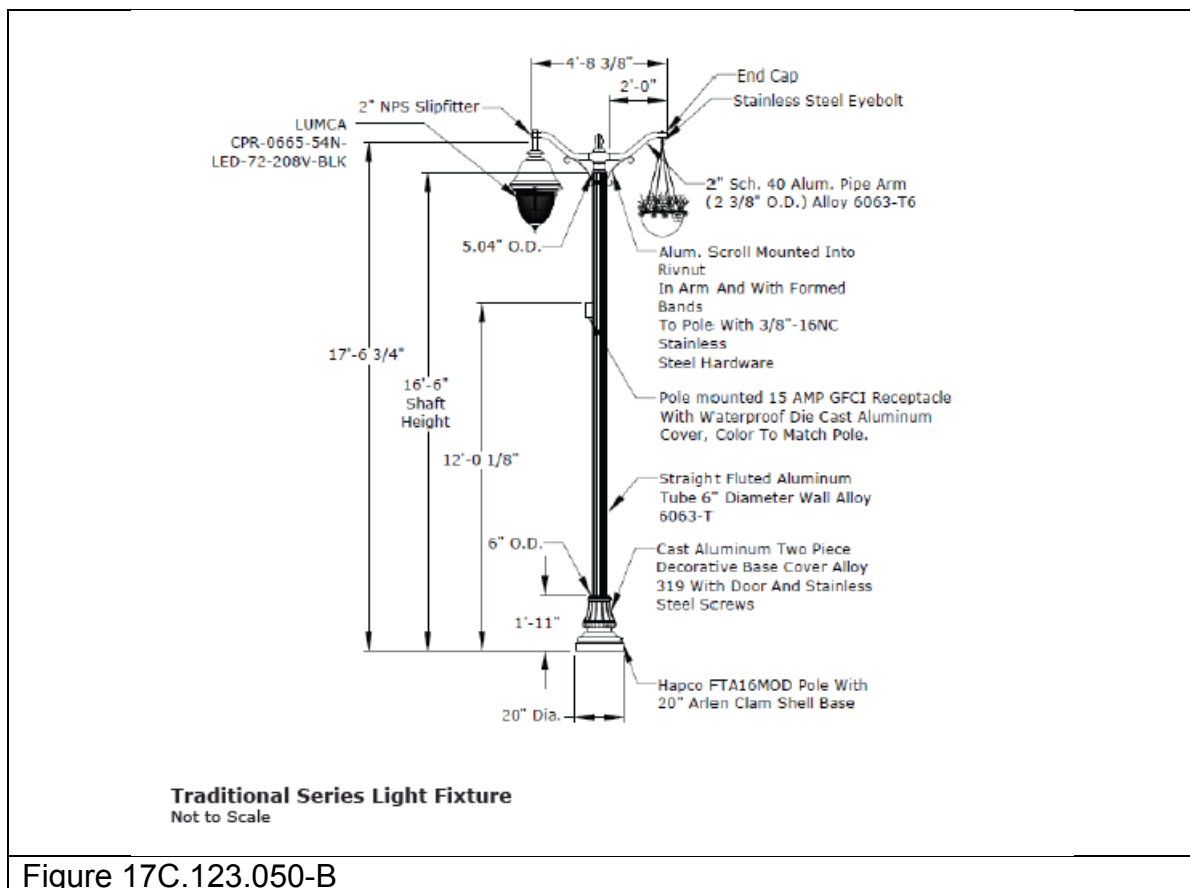


Figure 17C.123.050-B



Figure 17C.123.050-E: Curb cuts and driveways may not interrupt sidewalk material and pattern requirements. Ramps may not encroach on Clear Pedestrian Zones.



Figure 17C.123.050-F: Temporary sidewalk encroachments are allowed in the Planting Zone, or in the Clear Pedestrian Zone as per Table 17C.123.060-1.

17C.123.060 Architectural Requirements

This section identifies general architectural requirements and guidelines, articulating basic façade requirements, roofline objectives, mechanical screening and other considerations. These requirements and guidelines establish important functional and aesthetic characteristics sought by the community and expressed by the Regulating Plan, ensuring the proper “fit” within the surrounding neighborhood.

A. Building Base.

For CA-1, CA2, CA3 and all Shopfront Street areas, building façades shall include a visually prominent plinth or base, helping establish pedestrian-scaled features and aesthetically tying the building to the street level. Building bases shall measure between 9” and 16” above adjacent grade, and utilize at least one of the following:

1. “Heavier” material composition, such as a stronger, more permanent material than used on upper portions of the façade.
2. A horizontal projection showing visible thickening of the wall surface that may be accompanied by a change of material and/or color.
3. A horizontal architectural line or feature, such as a belt course or secondary cornice, at or below the top of the first story and providing

visual separation between the first two floors (See Figure 17C.123.060-A).

B. Primary Building Entries.

For CA-1, CA2, CA3 and all Shopfront Street areas, Primary Building Entries shall face the street and be made visually prominent, including the use of a recommended accent material and at least one of the following:

1. Recessed entrance. Recessed entrance shall be recessed at least 3' from the building face.
2. Canopy or awning. Canopy or awning shall extend at least 5' from the building face, with a minimum height clearance of 8' above the sidewalk.
3. Inclusion of a volume that protrudes from the rest of building surface or an Architectural Roof Structure element physically or visually integrated with the Primary Building Entry (See Figure 17C.123.060-B).
4. For mixed-use buildings, entrances to residential, office or other upper story uses shall be clearly distinguishable in form and location from retail entrances.

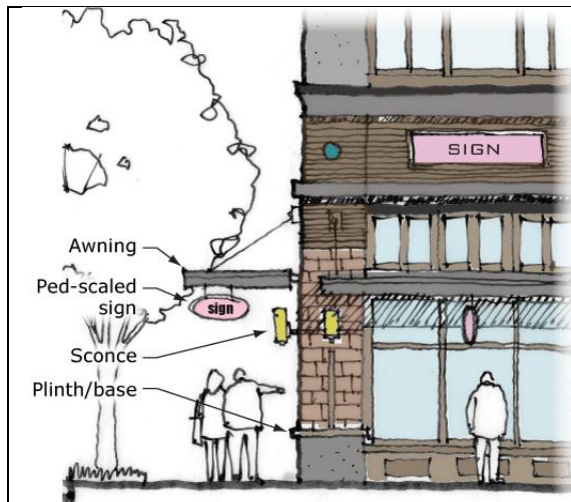


Figure 17C.123.060-A: Illustration of building base, pedestrian scale signs and other building elements described in the FBC.



Figure 17C.123.060-B: Primary Building Entrances must face the street and be made visually prominent using one or more architectural approaches listed in 17C.123.070 B.

C. Street-level Detailing.

For CA-1, CA2, CA3 and all Shopfront Street areas, street-level façades shall help create a more welcoming, aesthetically rich pedestrian environment by incorporating at least four of the following elements:

1. Canopies or awnings spanning at least 25% of the building façade. Canopy or awning shall extend at least 5' from the building face and shall not be closer than 2' from the curb, with a minimum height clearance of 8' above the sidewalk.
2. Pedestrian-Scaled Signs, mounted to the building or permanent overhang.
3. Decorative sconce, lantern or similar lighting, mounted to the building.
4. Projecting windowsills.
5. Decorative kick plates for entry doors.
6. Hanging planters supported by brackets mounted to the building.

D. Façade Transparency.

Building façades shall include substantial glazing, providing visual connectivity between activities inside and outside a building. Regarding glazing, the following provisions shall apply:

1. If fronting along a Shopfront Street, ground floor glazing shall be at least ten feet (10') in height and no more than three feet (3') above adjacent sidewalk or grade.
2. If facing a public street, upper floor façades shall include a minimum of 30% clear glass windows.
3. The total glazing expressed as a minimum percentage of ground floor façades shall meet the specifications provided in Table 17C.123.060-1.

Table 17C.123.060-1 Glazing minimums, ground floor facades*

	CA-1	CA-2	CA-3	CA4
Along Shopfront Street	60%	60%	50%	N/A
Along Non-Shopfront Street	40%	30%	30%	30%

*Glazing percentages may include windows and doors.

- E. Blank Walls.
Minimizing blank or undifferentiated façade walls helps ensure that buildings contribute to an engaging pedestrian environment. In all CA areas, blank façade walls longer than 30' along any public right-of-way shall be enhanced or screened by incorporating the following:
1. Vegetation such as espalier trees and/or vines planted adjacent to the wall surfaces.
 2. Architectural detailing, such as reveals, contrasting materials, bas-relief detailing, artwork, murals, or decorative trellises.
- F. Roof Lines.
In all CA areas, roofline elements shall adhere to the following standards:
1. Pitched or sloping roofs shall have a minimum slope of 4:12 and a maximum slope of 12:12 (rise:run).
 2. Buildings with flat roofs shall include an extended parapet on all building sides, creating a defined cornice or prominent top edge.
 3. Non-Enclosed, Enclosed and Architectural Roof Structure elements as defined by this code in are exempt from sections 17C.123.060 F.1 and 17C.123.060 F.2. Height limitations for such elements are provided in 17C.123.040.
- G. Equipment Screening.
In all CA zones visible from public rights-of-way, mechanical and electrical equipment including HVAC units, transformers, antennae and receiving dishes shall be screened from view, adhering to the following standards:
1. Rooftop mechanical and electrical equipment shall be screened by a parapet wall, enclosed within roof volumes or other building elements designed as an integral part of the building's architecture.
 2. Ground-level mechanical and electrical equipment shall be enclosed within secondary building elements, or screened by features designed to coordinate with the architectural character of the primary structure. Picket or chain-link fencing may not be used (See Figure 17C.123.060–C).
- H. Service Area Screening.
In all CA zones, service, loading and trash collection areas shall be hidden or screened from view along public rights-of way, and shall not face any public street or residential area unless no other location is possible. Service areas shall be hidden from view using a screen wall constructed of masonry, wood or metal, designed to coordinate with the architectural character of the primary structure. Screen walls shall also include one or more of the following:

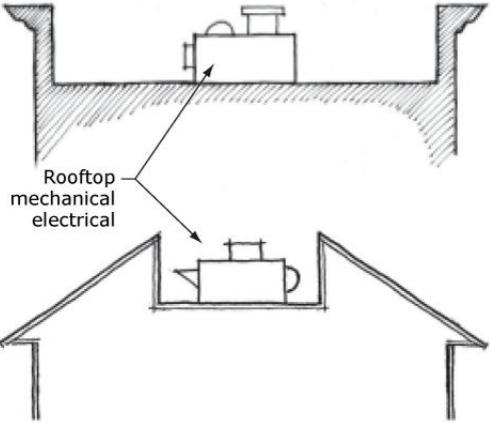

1. Vegetation such as espalier trees and/or vines planted adjacent to the wall surfaces.
2. Architectural detailing, such as reveals, contrasting materials, bas-relief detailing, artwork, murals, or decorative trellises.

I. Sign Standards.

For sign standards applying to all CA zones, see City of Spokane Municipal Code, Chapter 17C.240. For the purposes of signs standards CA1 and CA2 shall be evaluated as CC1 zone; CA3 shall be evaluated as CC2; and CA4 shall be evaluated as a residential zone.

J. Materials.

Use of quality building materials ensures that projects contribute to the overall value and character of properties within and adjacent to HFBC Limits. Buildings shall employ durable and high quality materials, such as steel, glass, brick, stone, and/or wood. (See Figure 17C.123.060–D).

	
<p>Figure 17C.123.060-C: Rooftop and ground-level equipment must be screened from view along public rights-of-way. Here mechanical systems are hidden by cornice and roof elements.</p>	<p>Figure 17C.123.060-D: The HFBC provides standards and guidelines regarding building materials, helping realize community expectations for the corridor and neighborhood.</p>

K. Guidelines.

In addition to the material standards defined in this section, the following guidelines are included to further define community expectations for projects within all CA zones within Regulating Plan limits. The guidelines presented in this section are optional and intended to express desirable characteristics for the district.

1. The use of sustainably harvested, salvaged, recycled reused products is encouraged wherever possible.
2. Optional - Recommended entry treatments include special paving materials such as ceramic tile; ornamental ceiling treatments; decorative light fixtures; decorative door pulls, escutcheons, hinges, and other hardware.
3. Authentic materials and methods of construction should be used to the greatest degree possible. Materials made to simulate higher-value materials and construction types may be used for reasons of economy, but should be durable and closely match the proportions, surface finishes, and colors of the materials they simulate.
4. When veneers are used, detailing and installation should give the appearance of full-depth material, avoiding the exposure of veneer sides, including use of wrap-around corner pieces.
5. The location and spacing of panel or expansion joints should be incorporated into the façade composition. Castings should be shaped to form architectural profiles that create bases, cornices, pilasters and other elements contributing to the façade composition.
6. Cladding and/or accent materials on the primary building should be carried over onto additions, accessory buildings and site features.
7. Recommended cladding materials include:
 - a. Brick. Red brick is characteristic of the Spokane region, although other colors may be used as well. Full size brick veneer is preferable to thin brick tile.
 - b. Stone. Granite, limestone, sandstone, and river rock are preferred stone types. Stone veneer and cast stone simulating these types is allowable.
 - c. Cast concrete. Precast or exposed site-cast structural concrete is acceptable. Pigments, special aggregates and surface textures should be exploited to achieve architectural effects.
 - d. Concrete block. Where used, creativity in selecting block sizes, surface textures, course patterns and colors is encouraged.
 - e. Wood. Horizontal sidings such as clapboard, tongue-in-groove, shingles or shakes, or vertical sidings such as board and batten are acceptable. Trim elements should be used for all wood

siding types. Heavy timber detailing and exposed bracing may be used where appropriate to the building style.

- f. Fiber-cement or cementitious siding. Fiber-cement planks, panels and shingles and are an acceptable substitute for wood siding when used in the formats described above under “Wood.”
 - g. Stucco. Stucco, cement plaster or stucco-like finishes such as EIFS may be used along ground floor portions of rear or side service and parking exposures, provided the building base treatment used along the street façade is continued. Stucco of any type should not be used along ground floor portions of street exposures.
8. Accent materials are typically used at building entrances, window and door frames, wall bases, cornices, wainscot materials and for copings, trim, and other special elements. Recommended accent materials include:
- a. Brick. Red brick is characteristic of the Spokane region, although other colors may be used as well. Full size brick veneer is preferable to thin brick tile.
 - b. Stone. Granite, limestone, sandstone, and river rock are preferred stone types. Stone veneer and cast stone simulating these types is allowable.
 - c. Cast concrete. Precast or exposed site-cast structural concrete is acceptable. Pigments, special aggregates and surface textures should be exploited to achieve architectural effects.
 - d. Concrete block. Where used, creativity in selecting block sizes, surface textures, course patterns and colors is encouraged.
 - e. Tile. Ceramic, terra cotta and cementitious tile, whether glazed or unglazed is acceptable.
 - f. Metal. Profile, corrugated and other sheet, rolled or extruded metal is acceptable. Metal accents should have trim elements to protect edges, and be of adequate thickness to resist dents and impacts. Surfaces should be treated with a high quality, fade-resistant coating system or paint such as Kynar and Tnemec. Copper, zinc and weathering steel may be left exposed.

9. Rooflines. Varied roof planes, cornice elements, overhanging eave and roof decks are encouraged, as they increase visual interest and help implement desired character objectives.
10. Recommended materials for roofs exposed and visible from public rights of way include:
 - a. Metal seam roofing. Finishes should be anodized, fluoro-coated or painted. Copper, zinc and weathering steel may be left exposed.
 - b. Slate or slate-like materials.
 - c. Sheet metal shingles.
 - d. Asphalt shingles. Projects using asphalt shingles should use the highest quality commercial grade materials, and be provided with adequate trim elements.
11. Special Paving. Cobblestones or a stamped concrete cobblestone or brick pattern are recommended for special paving and pedestrian buffer strips
12. Frontage Types. Figure 17C.123.060E clarifies expectations for how buildings will meet the street.

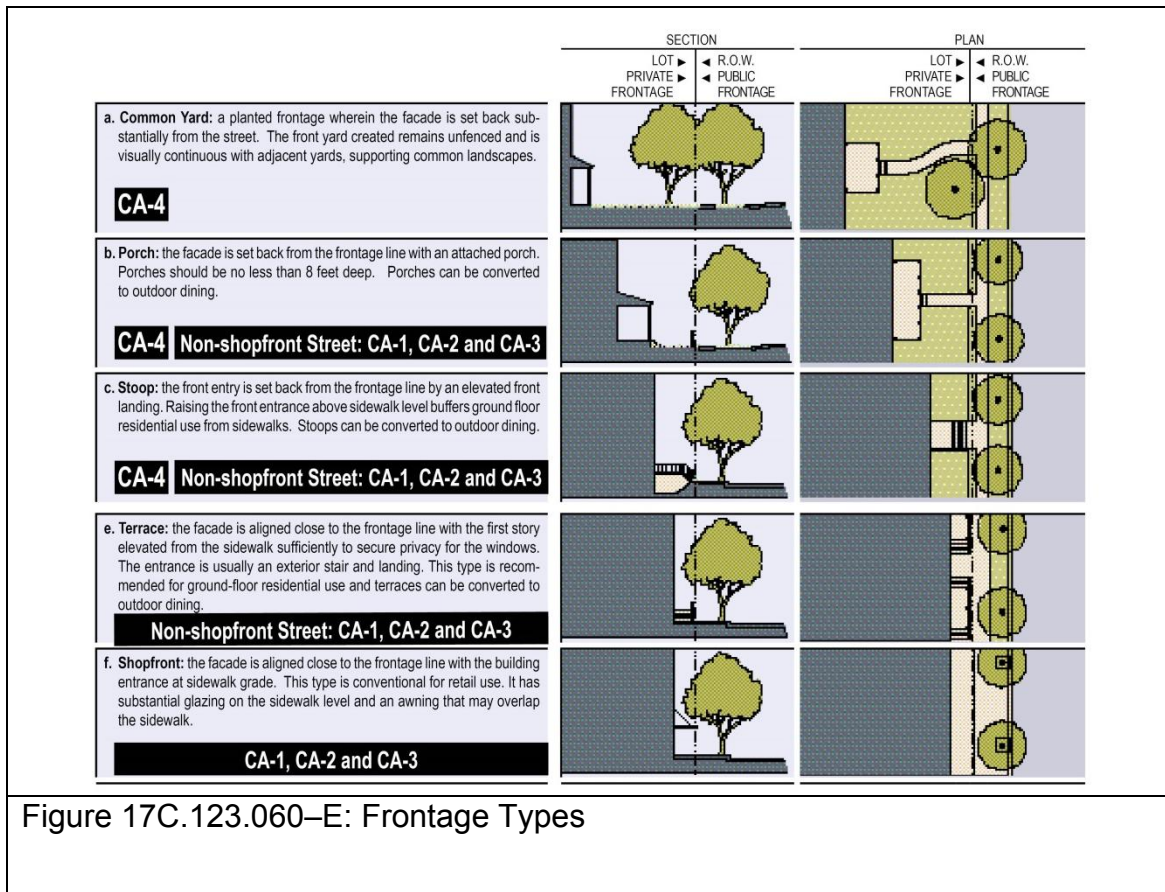


Figure 17C.123.060–E: Frontage Types

17C.123.070 Additional Requirements

- A. Drive Through Facilities.
Drive-Through Facilities are prohibited in all Context Areas of the FBC.
- B. Nonconforming Situations.
Existing development that does not conform to the development standards of this chapter is subject to the standards of chapter 17C.210 SMC, Nonconforming Situations.
- C. Nuisance-related Impacts.
 - 1. Off-site impacts. All nonresidential uses including their accessory uses must comply with the standards of Chapter 17C.220, Off Site Impacts.
 - 2. Other nuisances are further regulated by state and local laws.
- D. Outdoor Activities.

1. The standards of this section are intended to assure that outdoor sales, display, storage, and work activities:
 - a. will be consistent with the desired character of the zone;
 - b. will not be a detriment to the overall appearance of an area;
 - c. will not have adverse impacts on adjacent properties, especially those with residential uses; and
 - d. will not have an adverse impact on the environment.
2. Outdoor activities associated with permitted uses shall be permitted subject to the standards of the zone and as described below.
3. Outdoor Sales and Display Areas.
 - a. In the CA1 – CA3 zones, outdoor sales, and display areas are limited to forty percent of lot area or one thousand five hundred square feet, whichever is less.
 - b. Outdoor sales and display areas for uses in the industrial use categories are not allowed in the CA zones.
 - c. In the CA 4zone, outdoor sales and display areas are prohibited.
4. Outdoor Storage Areas.
 - a. Outdoor storage areas are not permitted in the CA1 – CA3 zones.
 - b. Outdoor storage areas in CA4 zones are subject to the standards of SMC 17C.110.270 Exterior Storage – Residential Zones.
5. Outdoor Activity Area Improvements.
 - a. Outdoor activities shall be screened and landscaped according to the provisions of chapter 17C.200 SMC, Landscaping and Screening.
 - b. In order to control dust and mud, all vehicle circulation areas must be paved.

E. Fences.

1. Purpose: The fence standards promote the positive benefits of fences without adversely impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any

required side or rear setback are limited in height so as to not conflict with the purpose for the setback.

2. Type of Fences The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.
3. Location, Height, and Design.
 - a. Street Setbacks.
 - i. No fence or other structure is allowed within twelve feet from the back of the curb, consistent with the required sidewalk width of SMC 17C.123.060.
 - ii. Fences up to three and one-half feet high are allowed in a required street setback that is measured from a front lot line.
 - iii. Fences up to six feet high are allowed in required setback that is measured from a side lot line.
 - iv. Fences shall not reduce the required setback width of SMC 17C.123.060.
 - v. Fences up to six feet high are allowed in required side or rear setbacks except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to three and one-half feet in height.
 - vi. The height for fences that are not in required setbacks is the same as the regular height limits of the zone.
 - b. Sight-obscuring Fences and Walls.
 - i. Any required or non-required sight-obscuring fences, walls, and other structures over three and one-half feet high, and within fifteen feet of a street lot line shall either be placed on the interior side of a L2 see-through buffer landscaping area at least five feet in depth (See chapter 17C.200 SMC, Landscaping and Screening), or meet the treatment of blank walls intent outlined in SMC 17C.122.060 – Initial Design Standards and Guidelines for Center and Corridors.
4. Prohibited Fences.

- a. No person may erect or maintain a fence or barrier consisting of or containing barbed, razor, concertina, or similar wire except that up to three strands of barbed wire may be placed atop a lawful fence exceeding six feet in height above grade.
 - b. No person may maintain a fence or barrier charged with electricity.
 - c. A fence, wall, or other structure shall not be placed within a public right-of-way without an approved covenant as provided in SMC 17G.010.160 and any such structure is subject to the height requirement for the adjoining setback.
 - d. No permanent fence may reduce the required sidewalk width.
- 5. Visibility at Intersections.
 - a. A fence, wall, hedge, or other improvement may not be erected or maintained at the corner of a lot so as to obstruct the view of travelers upon the streets
 - b. Subject to the authority of the traffic engineer to make adjustments and special requirements in particular cases, no fence exceeding a height of thirty-six inches above the curb may be inside the:
 - i. right isosceles triangle having sides of fifty feet measured along the curb line of each intersecting residential street; or
 - ii. right triangle having a fifteen-foot side measured along the curb line of the residential street and a seventy-five-foot side along the curb line of the intersecting arterial street, except that when the arterial street has a speed limit of thirty-five miles per hour, the triangle has a side along such arterial of one hundred twenty-two feet; or
 - iii. right isosceles triangle having sides of seven feet measured along the right-of-way line of an alley and:
 - 1. the inside line of the sidewalk; or
 - 2. if there is no sidewalk, a line seven feet inside the curb line.
- 6. Enclosures for Pools, Hot Tubs, or Ponds.
 - a. A person maintaining a swimming pool, hot tub, pond, or other impoundment of water exceeding five thousand gallons and eighteen inches or more in depth and located on private property is

required to construct and maintain an approved fence by which the pool or other water feature is enclosed and inaccessible by small children.

- b. The required pool enclosure must be at least fifty-four inches high and may be a fence, wall, building, or other structure approved by the building services department.
- c. If the enclosure is a woven wire fence, it is required to be built to discourage climbing.
- d. No opening, except a door or gate may exceed four inches in any dimension.
- e. Any door or gate in the pool enclosure, except when part of the occupied dwelling unit, must have self-closing and self-locking equipment by which the door or gate is kept secure when not in use. A latch or lock release on the outside of the door or gate must be at least fifty-four inches above the ground.
- f. Outside of the door or gate must be at least fifty-four inches above the ground.

7. Reference to Other Standards.

- a. Building permits are required by the building services department for all fences including the replacement of existing fences. A permit is not required to repair an existing fence.

E. Creation of new lots is subject to the standards of chapter 17G.080 SMC

This section provides a visual catalog of desired building characteristics for each Context Area. The purpose is to create a visual representation of building styles that are typical of the valued neighborhood character.

Context Area 1 (CA-1)

Hamilton FBC Building Character Visual Catalog

This visual catalog showcases the type, form, and general character of desired development within Context Area 1. Images are representational only.



CA-1 Non-Shopfront

See also CA-2, CA-3 and CA-4 Non-Shopfront.



CA-1 Corner

See also CA-2 and CA-3 Corner.



CA-1 Shopfront

See also CA-2 and CA-3 Shopfront.



CA-1 - 1 to 5 Story Buildings

Context Area 2 (CA-2)

Hamilton FBC Building Character Visual Catalog

This visual catalog showcases the type, form, and general character of desired development within Context Area 2. Images are representational only.



CA-2 Non-Shopfront

See also CA-3 and CA-4 Non-Shopfront.



CA-2 Corner

See also CA-3 Corner.

CA-2 Shopfront

See also CA-3 Shopfront.



CA-2 - 1 to 4 Story Buildings

Context Area 3 (CA-3)

Hamilton FBC Building Character Visual Catalog

This visual catalog showcases the type, form, and general character of desired development within Context Area 3. Images are representational only.



CA-3 Non-Shopfront

See also CA-4.



CA-3 Corner



CA-3 Shopfront



CA-3 - 1 to 2 Story Buildings

Context Area 4 (CA-4)

Hamilton FBC Building Character Visual Catalog

This visual catalog showcases the type, form, and general character of desired development within Context Area 4. Images are representational only.



CA-4 Small Footprint



CA-4 Medium Footprint



Context Area 4 (CA-4)

Hamilton FBC Building Character Visual Catalog

This visual catalog showcases the type, form, and general character of desired development within Context Area 4. Images are representational only.



CA-4 Large Footprint

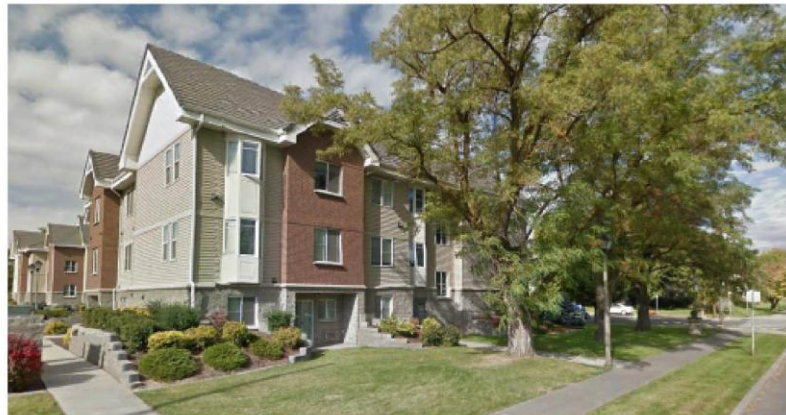


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Section 2. That SMC section 17C.200.010 is amended to read as follows:

17C.200.010 Purpose

- A. The City of Spokane recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to:
1. promote the distinct character and quality of life and development expected by the community as indicated and supported in the policies of the comprehensive plan;
 2. maintain and protect property values;
 3. enhance the visual appearance of the City;
 4. enhance the compatibility of new development with surrounding properties;
 5. preserve and enhance Spokane's urban forest;
 6. preserve and enhance existing vegetation;
 7. reduce stormwater runoff pollution, temperature, and volume;
 8. aid in energy conservation by providing shade and shelter from the wind; and
 9. promote water conservation and reduced maintenance.
- B. The following landscaping and screening standards are applicable to all sites in RA, RSF, RTF, RMF, RHD, O, OR, NR, NMU, CB, GC, CC, LI, PI HI, ~~((and))~~ downtown zones and FBC zones. These standards address materials, placement, layout, and timing of installation.

Section 3. That SMC section 17C.200.040 is amended to read as follows:

17C.200.040 Site Planting Standards

Sites shall be planted in accordance with the following standards:

- A. Street Frontages.
1. The type of plantings as specified below shall be provided inside the property lines:
 - a. along all commercial, light industrial, and planned industrial zoned properties except where buildings are built with no setback from the property line: a six-foot wide planting area of L2 see-through buffer,

including street trees as prescribed in [SMC 17C.200.050](#). Remaining setback areas shall be planted in L3.

- b. along all downtown, CC1, CC2, ~~((and))~~ CC4, and FBC zoned properties except where buildings are built with no setback from the property line, or along a Type 1 Street of the FBC: a five-foot wide planting area of L2 see-through buffer, including street trees as prescribed in [SMC 17C.200.050](#), Street Tree Requirements. Remaining setback areas shall be planted in L3. Living ground cover shall be used, with non-living materials (gravel, river rock, etc.) as accent only. In addition, earthen berms, trellises, low decorative masonry walls, or raised masonry planters (overall height including any plantings shall not exceed three feet) may be used to screen parking lots from adjacent streets and walkways.
 - c. in the heavy industrial zone, along a parking lot, outdoor sales, or
 - d. outdoor display area that is across from a residential zone: a six-foot wide planting area of L2 see-through buffer, including street trees as prescribed in [SMC 17C.200.050](#). Remaining setback areas shall be planted in L3.
 - e. in industrial zones, all uses in the commercial categories (see [chapter 17C.190 SMC](#), Use Category Descriptions, Article III, Commercial Categories) are subject to the standards for uses in the general commercial (GC) zone.
 - f. along all RA, RSF, RTF, RMF, and RHD zones, except for single-family residences and duplexes: six feet of L3 open area landscaping, including street trees as prescribed in [SMC 17C.200.050](#). For residential development along principal and minor arterials, a six-foot high fence with shrubs and trees may be used for screening along street frontages. The fence and landscaping shall comply with the standards of [SMC 17C.120.310](#) for the clear view triangle and must be placed no closer than twelve feet from the curb line. A minimum of fifty percent of the fence line shall include shrubs and trees. The landscaping is required to be placed on the exterior (street side) of the fence.
2. Except for attached and detached single-family residences and duplexes, plantings may not exceed thirty-six inches in height or hang lower than ninety-six inches within the clear view triangle at street intersections on corner lots and at driveway entries to public streets. The clear view triangle is defined in [SMC 17C.120.310](#). The director of engineering services may further limit the height of plantings, landscaping structures, and other site development features within the clear view triangle or may expand the size of the clear view triangle as conditions warrant.



B. Other Property Perimeters.

A planting strip of five feet in width shall be provided along all other property lines except where buildings are built with no setback from the property line or where a parking lot adjoins another parking lot. The type of planting in this strip varies depending upon the zone designation of the properties sharing the property line (with or without an intervening alley) as indicated in the matrix below. Where properties with dissimilar zones share a common boundary, the property with the more intense zone shall determine the required type of planting. The owners of adjacent properties may agree to consolidate their perimeter plantings along shared boundaries. Therefore, instead of each property providing a five-foot wide planting strip, they together could provide one five-foot wide planting strip, so long as the required planting type, as indicated in the matrix, is provided. Types of landscaping to be provided in planting strips alongside and rear property lines:

SUBJECT PROPERTY ZONE (vertical)	ADJACENT PROPERTY ZONE (horizontal)												
	RA	RSF	RTF	RMF	RHD	O, OR	NR, NMU	CB	GC	CC, <u>FBC</u>	LI, PI	HI	DT
RA	--	--	--	--	--	--	--	--	--	--	--	--	--
RSF	--	--	--	--	--	--	--	--	--	--	--	--	--
RTF	--	--	--	--	--	--	--	--	--	--	--	--	--
RMF	L2	L2	L2	L3	L2	L2	L2	L1	L1	L1	--	--	L1
RHD	L2	L2	L2	L2	L3	L2	L2	L2	L2	L2	--	--	L2
O, OR	L2	L2	L2	L2	L2	L3	L2	L2	L2	--	--	--	L2
NR, NMU	L2	L1	L2	L2	L2	L2	L3	L3	L2	--	--	--	L3
CB	L1	L1	L1	L1	L2	L2	L3	L3	L3	--	--	--	L3
GC	L1	L1	L1	L1	L2	L2	L2	L3	L3	--	--	--	L3
CC, <u>FBC</u>	L1	L1	L1	L1	L2	--	--	--	--	--	--	--	--
LI, PI [3]	L1	L1	L1	L1	L1	L1	L2	--	--	--	--	--	--
HI [3]	L1	L1	L1	L1	L1	L1	L1	--	--	--	--	--	--
DT	L1	L1	L1	L1	L1	L2	L2	L3	L3	--	--	--	--

Notes:

[1] In the industrial zones, all uses in the commercial categories (see [chapter 17C.190 SMC](#), Use Category Descriptions, Article III, Commercial Categories) are subject to the

standards for uses in the general commercial (GC) zone.

C. Planning Director Discretion.

The planning director shall have the discretion to waive or reduce the requirements of subsections (A)(1) and (B) of this section based on the following factors:

1. No useable space for landscaping exists between the proposed new structure and existing structures on adjoining lots or alleys because of inadequate sunlight or inadequate width.
2. The building setback provided in front of the new structure is less than six feet or is developed as a plaza with decorative paving/pavers, trees, planters, or other amenities.
3. Xeriscape landscaping is utilized in designated stormwater control areas.
4. When existing trees and other vegetation serves the same or similar function as the required landscaping, they may be substituted for the required landscaping if they are healthy and appropriate for the site at mature size. When existing trees are eight inches or more in diameter, they shall be equivalent to three required landscape trees. If necessary, supplemental landscaping shall be provided in areas where existing vegetation is utilized to accomplish the intent of this chapter.

D. Other Areas.

All other portions of a site not covered by structures, hard surfaces, or other prescribed landscaping shall be planted in L3 open area landscaping until the maximum landscape requirement threshold is reached (see [SMC 17C.200.080](#)).

E. Parking Lot Landscaping Design.

1. Purpose.

To reduce the visual impact of parking lots through landscaped areas, trellises, and/or other architectural features that complement the overall design and character of developments.



2. Parking Lot Landscaping Design Implementation.

This section is subject to the provisions of [SMC 17C.120.015](#), Design Standards Administration.

3. The parking lot landscape shall reinforce pedestrian and vehicle circulation, especially parking lot entrances, ends of driving aisles, and pedestrian walkways leading through parking lots. (P)

4. Planted areas next to a pedestrian walkways and sidewalks shall be maintained or plant material chosen to maintain a clear zone between three and eight feet from ground level. (R)



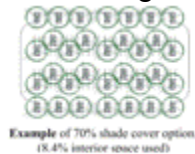
5. Low walls and raised planters (a maximum height of three feet), trellises with vines, architectural features, or special interest landscape features shall be used to define entrances to parking areas. Where signs are placed on walls, they shall be integrated into the design and complement the architecture or character of other site features. (P)
6. Landscape plant material size, variety, color, and texture within parking lots should be integrated with the overall site landscape design. (C)

F. Parking, Outdoor Sales, and Outdoor Display Areas.

1. In residential, commercial, ~~((and))~~ center and corridor, and FBC zones, a six-foot wide planting area of L2 see-through buffer landscaping shall be provided between any parking lot, outdoor sales, outdoor display area, and a street right-of-way. Living ground cover shall be used, with non-living materials (gravel, river rock, etc.) as accent only. In addition, earthen berms, trellises, low decorative masonry walls, raised masonry planters, or L1 visual screen landscaping shall be used to screen parking lots from adjacent streets and walkways (overall height including any plantings or structures shall not exceed three feet). Trees required as a part of the L2 landscape strip shall be located according to the standards for street trees in [SMC 17C.200.050](#), Street Tree Requirements.
2. In residential, commercial, ~~((and))~~ center and corridor, and FBC zones all parking stalls shall be within sixty feet of a planted area with L3 open area landscaping. All individual planting areas within parking lots shall be at least one hundred fifty square feet in size.
3. In residential, commercial, ~~((and))~~ center and corridor, and FBC zones all paved parking areas on a site with more than fifty cumulative parking spaces shall have plantings that satisfies one of the following options:
 - a. Option 1.
Interior landscaping consisting of L3 open area landscaping, including trees amounting to at least ten percent of the total area of the paved parking area, excluding required perimeter and street frontage strips. A minimum of one interior tree shall be planted for every six parking spaces.

b. Option 2.

Tree plantings shall be spaced in order that tree canopies cover a minimum of seventy percent of the entire paved area of the parking lot within fifteen years of project completion. Canopy coverage shall be measured in plan view, and be based on projected mature size of the selected tree species. All individual planting areas within parking lots shall be a minimum of eight feet in width, be at least one hundred fifty square feet in size, and in addition to the required trees, shall be planted with a living groundcover. See the “Landscape Plants for the Inland Northwest” issued by the Washington State University cooperative extension and the U.S. department of agriculture, available from the City planning services department, for acceptable mature tree size to be used when calculating canopy size.



4. Where parking lots are located between the building and a street, the amount of required interior landscaped area shall be increased by fifty percent and the minimum amount of tree shade cover shall increase to eighty percent. Where parking lots are behind buildings, the amount of interior landscaping may be decreased by fifty percent of what the code requires and the minimum amount of tree shade cover shall decrease to fifty percent.
5. A planting strip of five feet in depth with L1 visual screen landscaping or site-obscuring decorative wood, iron, etc. fences or masonry walls at least six feet in height shall be installed along property lines where any adjacent single-family residential zone would have views of parking or service areas.

6. A minimum of two-foot setback shall be provided for all trees and shrubs where vehicles overhang into planted areas.



7. In industrial zones, parking lots, outdoor sales, and outdoor display areas that are abutting or across the street from residential zones are subject to all of the requirements of subsections (E) and (F) of this section.
8. In industrial zones, all uses in the commercial categories (see [chapter 17C.190 SMC](#), Use Category Descriptions, Article III, Commercial

Categories) are subject to the standards for uses in the general commercial (GC) zones.

9. In downtown zones an applicant must demonstrate to the director that the following required elements meet the intent of the Downtown Design Guidelines. Key design elements for these features include integrating storm water facilities, improving the pedestrian environment, and adding public amenities next to surface parking; outdoor sales and outdoor display areas so that they help to define space and contribute to a more active street environment.
 - a. **Surface Parking Lot Liner Walls in the Downtown Zones.**
Surface parking lots must have a solid, decorative concrete or masonry wall adjacent to a complete street and behind a sidewalk. The wall must have a minimum height above the surface of the parking lot of two and one-half feet and a maximum height of three feet. The wall shall screen automobile headlights from surrounding properties. A wrought iron fence may be constructed on top of the wall for a combined wall and fence height of six feet. An area with a minimum width of two feet, measured from the property line, must be provided, landscaped and maintained on the exterior of the required wall. Such walls, fences, and landscaping shall not interfere with the clear view triangle. Pedestrian access through the perimeter wall shall be spaced to provide convenient access between the parking lot and the sidewalk. There shall be a pedestrian access break in the perimeter wall at least every one hundred fifty feet and a minimum of one for every street frontage. Any paving or repaving of a parking lot over one thousand square feet triggers these requirements.



Parking liner walls with plantings contribute to an interesting pedestrian environment. The parking liner wall and screen pictured above is enhanced by larger wall sections near automobile crossing points and a change in sidewalk scoring pattern. Both give cues to pedestrians and drivers.

- b. Surface parking lots in the Downtown zones are subject to the interior parking lot landscaping standard sections (F)(2) through (F)(6).
 - c. The exterior boundary of all surface parking lots adjacent to any public right-of-way must include trees spaced no more than twenty-five feet apart. The leaves of the trees or any other landscaping

features at maturity shall not obscure vision into the parking lot from a height of between three and eight feet from the ground. The species of trees shall be selected from the city's street tree list. If street trees exist or are provided consistent with [SMC 17C.200.050](#) then this landscaping strip may be omitted.

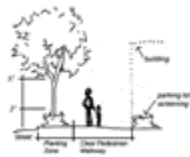
- d. Outdoor sales and display areas shall contribute to an interesting streetscape by providing the following:
 - i. Monument Features or Artistic Elements along the Street Edge between the Outdoor Display Area and the Sidewalk. These shall be integrated with display area lighting and pedestrian amenities.
 - ii. Additional Streetscape Features in the Sidewalk Environment.
Items may include elements that improve the health of street trees and plantings, improve storm water management, or artistic features that improve the pedestrian environment. This may include items such as permeable pavers in the pedestrian buffer strip, increased soil volumes for street trees, suspended sidewalks around the street tree to increase the amount of un-compacted soils, and engineered soils to support larger and healthier trees.

Section 4. That SMC section 17C.200.050 is amended to read as follows:

17C.200.050 Street Tree Requirements

- A. Purpose.
To provide consistent street frontage character within the street right-of-way. The street tree standards also maintain and add to Spokane's tree canopy and enhance the overall appearance of commercial and neighborhood development. Trees are an integral aspect of the Spokane landscape and add to the livability of Spokane. They provide aesthetic and economic value to property owners and the community at large.
- B. Street Tree Implementation.
 - 1. Street trees are required along all city streets in downtown, commercial, center and corridor, industrial zones, ~~((and in))~~ residential zones, and in FBC zones.

2. Street trees shall be planted between the curb and the walking path of the sidewalk.



3. Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner.
4. If a street has a uniform planting of street trees or a distinctive species within the right-of-way, then new street trees should be of a similar form, character and planting pattern.
5. For a full list of approved trees in the city of Spokane, see the urban forestry program's approved street tree list. Species selection should be guided by individual site conditions including hydrology, soil, solar orientation, and physical constraints.

C. Planting Zones.

1. Provide continuous planting strips or individual planting areas per Table 17C.200.050-1, Tree Planting Dimensional Standards.

TABLE 17C.200.050-1 Tree Planting Dimensional Standards [1]		
ZONE	CONTINUOUS PLANTING STRIP (minimum width as measured from back of curb)	INDIVIDUAL PLANTING AREA (width as measured from back of curb)
Downtown	Individual Planting Areas (tree vaults) required [1]	4 ft. minimum 6 ft. maximum [2]
CC	5 ft.	4 ft. minimum 6 ft. maximum [2]
<u>FBC</u>	<u>Individual Planting Areas (tree vaults) required [1]</u>	<u>5 ft [2]</u>
Commercial	5 ft.	4 ft. minimum 6 ft. maximum [2]
Industrial	6 ft.	Continuous Planting Strip required [3]
RA, RSF, RTF	6 ft.	Continuous Planting Strip required [3]
RMF, RHD	6 ft.	Continuous Planting Strip

		required [3]
School/Church Loading Zone	Not Applicable	4 ft. minimum 6 ft. maximum [2, 4]

Notes:

[1] Individual Planting Areas (tree vaults) are the standard for the Downtown and FBC Zones. Proposals for Continuous Planting Strips may be evaluated on a case by case basis.

[2] Un-compacted soils are necessary for street trees. Individual planting areas (or tree vaults) must be of a size to accommodate a minimum of 100 cubic feet of un-compacted soils per tree at a maximum depth of three feet. Refer to the Engineering Design Standards for examples of potential options in individual planting areas.

[3] Continuous Planting Strips are the standard for Industrial and Residential Zones. However, individual planting areas meeting the CC standard may be proposed and evaluated on a case by case basis in Industrial, RMF and RHD Zones.

[4] In all zones, within a school/church loading zone, street tree location may vary from the standard as long as street trees are located within the right-of-way.

[5] In all zones, when a continuous planting strip will double as a stormwater swale, the minimum width shall be 6.5 feet.

2. Continuous Planting Strips.

- a. Continuous planting strips may be planted with living ground cover or low plantings that are maintained at a height less than three feet from ground level.
- b. When auto traffic is immediately adjacent to the curb, new street trees must be planted at least three feet from the edge of the automobile travel way.



3. Individual Planting Areas.

- a. When an individual planting area is not symmetrical, the longer dimension shall run along the curb.
- b. Tree grates or plantings are acceptable. However, when there is on-street parking, a tree grate or a paved walk eighteen inches wide behind the curb are encouraged to help avoid conflicts with car doors and foot traffic. The minimum clear pedestrian walking path as required for the zone shall be maintained.

Tree Grates



Street Trees with plantings up to 3 ft.



- c. Where tree grates are used, they shall be ADA accessible and have a similar size and material as tree grates found in adjacent developments. Where tree grates are used, tree guards are encouraged for tree protection.

Tree Grate with Tree Guard



- d. Un-compacted soils are necessary for street trees. A minimum of one hundred cubic feet per tree at a maximum depth of three feet is required. See Engineering Design Standards for examples of potential options in individual planting areas and for retrofitting sidewalks.



D. Size Requirements for New Street Trees.

1. Street trees shall meet the most recent ANSI standards for a two-inch caliper tree at the time of planting
2. Larger shade trees with spreading canopies or branches are desirable where possible. Species of street trees within the public rights-of-way shall be approved by the City urban forester and reviewed by the director of engineering services.
3. If overhead power lines are present, street trees shall be limited to a mature height of twenty-five feet to avoid conflict with utility lines and

maintenance crews.

E. Spacing Requirements for Street Tree Spacing.

The objective is to create a continuous tree canopy over the sidewalk.

1. Continuous planting strips.
Average spacing shall be twenty five feet for small and columnar trees and thirty feet for canopy trees. The planning director may allow increased spacing for exceptionally large trees or upon the recommendation of the urban forester.
2. Individual planting areas.
Average spacing for all tree sizes and types shall be twenty-five feet. Trees planted adjacent to parallel parking stalls with meters may be spaced twenty feet apart.
3. Street tree plantings shall consider the location of existing utilities, lighting, driveways, business entrances and existing and proposed signs. See the Engineering Design Standards for required dimensions.

F. Clear View Zone.

Landscaped areas between the curb and sidewalk, as well as landscaped areas within the clear view triangle as defined in [SMC 17C.120.310](#) shall be maintained or plant material chosen to maintain a vertical clear view zone between three and eight feet from ground level.



Section 5: that SMC section 17C.230.100 is amended to read as follows:

17C.230.100 General Standards

A. Where the Standards Apply.

The standards of this chapter apply to all parking areas in RA, RSF, RTF, RMF, RHD, O, OR, NR, NMU, CB, GC, Downtown, CC, ~~((and))~~ industrial ~~((zones))~~, and FBC zones, whether required by this code or put in for the convenience of property owners or users. Parking areas include those accessory to a use, part of a commercial parking use, or for a park and ride facility in the basic utilities use category. Some zoning categories have unique parking standards as provided in [Table 17C.230-1](#).

B. Occupancy.

All required parking areas must be completed and landscaped prior to occupancy of any structure except as provided in [chapter 17C.200 SMC](#), Landscaping and

Screening.

C. Calculations of Amounts of Required and Allowed Parking.

1. When computing parking spaces based on floor area, floor area dedicated for parking is not counted.
2. The number of parking spaces is computed based on the uses on the site. When there is more than one use on a site, the required or allowed parking for the site is the sum of the required or allowed parking for the individual uses. For joint use parking, see [SMC 17C.230.110\(B\)\(2\)](#).
3. If the maximum number of spaces allowed is less than or equal to the minimum number required, then the maximum number is automatically increased to one more than the minimum.
4. If the maximum number of spaces allowed is less than one, then the maximum number is automatically increased to one.

D. Use of Required Parking Spaces.

Required parking spaces must be available for the use of residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces, except for group living and residential household living uses. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations. Required parking spaces must be made available to employees; it cannot be restricted only to customers. See [SMC 17C.230.110\(B\)\(2\)](#). Also, required parking spaces may not be used for the parking of equipment or storage of goods or inoperable vehicles.

E. Proximity of Parking to Use.

1. Required parking spaces for all industrial and commercial zones, except center and corridor zones, must be located on the site of the use or in parking areas whose closest point is within four hundred feet of the site. In center and corridor zones, parking is required to be located within six hundred feet of the use.
2. Required parking spaces for uses in the RA, RSF, RTF, and RMF zones must be located on the site of the use. Required parking for the uses in the RHD zone must be located on the site of the use or in parking areas whose closest point is within four hundred feet of the site.

F. Stacked Parking.

Stacked or valet parking is allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, some form of guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces and all parking area development standards continue to apply for stacked parking.

- G. **On-Street Parking.**
The minimum number of required parking spaces may be reduced by the number of on-street parking spaces immediately adjacent to a site's public right-of-way frontages, located on the same side of the street. The street must be paved, with sidewalks that are ADA accessible. Each complete twenty linear foot section of right-of-way where parallel parking is permitted is considered a parking space. Where parallel, diagonal or other on-street parking is marked on the street or officially designated by other means; the number of complete parking spaces that are adjacent on the same side of the street to the site's frontage are counted. An on-street parking space shall not be counted if it is restricted in its use as a designated loading, taxi or other special use zone or if parking is prohibited for more than five hours any twenty four-hour period. When calculating the number of required bicycle parking spaces per [SMC 17C.230.200](#), the number of vehicle off-street parking spaces that would be required before this reduction is applied is the figure that is used.
- H. **Curb Cuts.**
Curb cuts and access restrictions are regulated by the City engineering services department. Other zoning standards or design guidelines may apply.

Section 6: that SMC section 17C.230.120 is amended to read as follows:

17C.230.120 Maximum Allowed Parking Spaces

- A. **Purpose.**
Limiting the number of spaces allowed promotes efficient use of land, enhances urban form, encourages use of alternative modes of transportation, provides for better pedestrian movement, and protects air and water quality. The maximum ratios in this section vary with the use the parking it is accessory to. These maximums will accommodate most auto trips to a site based on typical peak parking demand for each use.
- B. **Maximum Number of Parking Spaces Allowed.**
Standards in a plan district or overlay zone may supersede the standards in this subsection.
1. **Surface Parking.**
The maximum number of parking spaces allowed is stated in Table 17C.230-1 and [Table 17C.230-2](#), except as specified in subsection (B)(2) of this section.
 2. **Structure Parking.**
Parking provided within a building or parking structure is not counted when calculating the maximum parking allowed.

TABLE 17C.230-1 PARKING SPACES BY ZONE [1] (Refer to Table 17C.230-2 for Parking Spaces Standards by Use)		
ZONE	SPECIFIC USES	REQUIREMENT
RA, RSF, RTF, RMF, RHD O, OR, NR, NMU, CB, GC, Industrial	All Land Uses	Minimum and maximum standards are shown in Table 17C.230-2 .
CC1, CC2, CC3 [2]	Nonresidential	Minimum ratio is 1 stall per 1,000 gross square feet of floor area. Maximum ratio is 4 stalls per 1,000 gross square feet of floor area.
	Residential	Minimum ratio is 1 stall per 1,000 gross square feet of floor area or a minimum of 1 stall per dwelling unit, whichever is less. Maximum ratio is the same as for nonresidential uses.
CC4 [2]	Nonresidential	Minimum ratio is 2 stalls per 1,000 gross square feet of floor area. Maximum ratio is 4 stalls per 1,000 gross square feet of floor area.
	Residential	Minimum ratio is 1 stall per 1,000 gross square feet of floor area or a minimum of 1 stall per dwelling unit, whichever is less. Maximum ratio is the same as for nonresidential uses.
Downtown [2]	All Land Uses	See the Downtown Parking Requirement Map 17C.230-M1 to determine if parking is required. Minimum ratio for areas shown on the map that require parking is 1 stall per 1,000 gross square feet of floor area or a minimum of 1 stall per dwelling unit, whichever is less. Maximum ratio is 3 stalls per 1,000 gross square feet of floor area.
<u>FBC [2]</u>	<u>All Land Uses</u>	<u>See SMC 17C.123.040, Hamilton Form Based Code for off-street parking requirements.</u>

Overlay	All Land Uses	No off-street parking is required. See the No Off-Street Parking Required Overlay Zone Map 17C.230-M2 and No Off-Street Parking Required Overlay Zone Map 17C.230-M3.
<p>[1] Standards in a plan district or overlay zone may supersede the standards of this table.</p> <p>[2] See exceptions in SMC 17C.230.130, CC and Downtown Zone Parking Exceptions.</p>		

Section 7: that SMC section 17C.230.130 is amended to read as follows:

17C.230.130 Parking Exceptions

- A. In center and corridor ~~((and))~~ downtown ~~((zones))~~, and FBC CA1, CA2, and CA3 zones any new building or building addition with a floor area less than three thousand square feet shall have no parking requirement.
- B. The director may approve ratios that are higher than the maximum or lower than the minimum if sufficient factual data is provided to indicate that a different amount is appropriate. The applicant assumes the burden of proof. Approval of parking above the maximum shall be conditioned upon increasing the amount of required landscaping by thirty percent. Approval of parking below the minimum shall be conditioned upon the project contributing towards a pedestrian and transit supportive environment both next to the immediate site and in the surrounding area. When determining if a different amount of parking is appropriate, the director shall consider the proximity of the site to frequent transit service, the intensity of the zoning designation of the site and surrounding sites, and the character of the proposed use.
- C. If property owners and businesses establish a parking management area program with shared parking agreements, the director may reduce or waive parking requirements.
- D. Except in the residential single-family and residential two-family zones existing legal nonconforming buildings that do not have adequate parking to meet the standards of this section are not required to provide off-street parking when remodeling which increases the amount of required parking occurs within the existing structure.

**TABLE 17C.230-2
PARKING SPACES BY USE**
(Refer to [Table 17C.230-1](#) for Parking Space Standards by Zone)
CU = Conditional Use

RESIDENTIAL CATEGORIES			
USE CATEGORIES	SPECIFIC USES	MINIMUM PARKING	MAXIMUM PARKING
Group Living		1 per 4 residents	None
Residential Household Living		1 per unit plus 1 per bedroom after 3 bedrooms; 1 per Accessory Dwelling Unit (ADU); Single Resident Occupancy (SRO) are exempt	None
COMMERCIAL CATEGORIES			
USE CATEGORIES	SPECIFIC USES	MINIMUM PARKING	MAXIMUM PARKING
Adult Business		1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Commercial Outdoor Recreation		20 per acre of site	30 per acre of site
Commercial Parking		Not applicable	None
Drive-through Facility		Not applicable	None
Major Event Entertainment		1 per 8 seats or per CU review	1 per 5 seats or per CU review
Office	General Office	1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
	Medical/Dental Office	1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Quick Vehicle Servicing		1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Retail Sales and Service	Retail, Personal Service, Repair-oriented	1 per 330 sq. ft. of floor area	1 per 200 sq. ft. of floor area
	Restaurants and Bars	1 per 250 sq. ft. of floor area	1 per 60 sq. ft. of floor area

	Health Clubs, Gyms, Lodges, Meeting Rooms and similar continuous entertainment, such as Arcades and Bowling Alleys	1 per 330 sq. ft. of floor area	1 per 180 sq. ft. of floor area
	Temporary Lodging	1 per rentable room; for associated uses such as Restaurants, see above	1.5 per rentable room; for associated uses such as Restaurants, see above
	Theaters	1 per 4 seats or 1 per 6 feet of bench area	1 per 2.7 seats or 1 per 4 feet of bench area
	Retail sales and services of large items, such as appliances, furniture and equipment	1 per 1,000 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Mini-storage Facilities		Same as Warehouse and Freight Movement	Same as Warehouse and Freight Movement
Vehicle Repair		1 per 750 sq. ft. of floor area	1 per 200 sq. ft. of floor area
INDUSTRIAL CATEGORIES			
USE CATEGORIES	SPECIFIC USES	MINIMUM PARKING	MAXIMUM PARKING
Industrial Services, Railroad Yards, Wholesale Sales		1 per 1,000 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Manufacturing and Production		1 per 1,000 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Warehouse and Freight Movement		1 per 1,000 sq. ft. of floor area for the first 3,000 sq. ft. of floor area and then 1 per 3,500 sq. ft.	1 per 200 sq. ft. of floor area

		of floor area thereafter	
Waste-related		Per CU review	Per CU review
INSTITUTIONAL CATEGORIES			
USE CATEGORIES	SPECIFIC USES	MINIMUM PARKING	MAXIMUM PARKING
Basic Utilities		None	None
Colleges		1 per 600 sq. ft. of floor area exclusive of dormitories, plus 1 per 4 dorm rooms	1 per 200 sq. ft. of floor area exclusive of dormitories, plus 1 per 2.6 dorm room
Community Service		1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Daycare		1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Medical Centers		1 per 500 sq. ft. of floor area	1 per 200 sq. ft. of floor area
Parks and Open Areas		Per CU review for active areas	Per CU review for active areas
Religious Institutions		1 per 100 sq. ft. of main assembly area or per CU review	1 per 60 sq. ft. of main assembly area
Schools	Grade, Elementary, Junior High	1 per classroom	2.5 per classroom
	High School	7 per classroom	10.5 per classroom
OTHER CATEGORIES			
USE CATEGORIES	SPECIFIC USES	MINIMUM PARKING	MAXIMUM PARKING
Agriculture		None or per CU review	None or per CU review
Aviation and Surface Passenger Terminals		Per CU review	Per CU review
Detention Facilities		Per CU review	Per CU review
Essential Public Facilities		Per CU review	Per CU review
Wireless Communication Facilities		None or per CU review	None or per CU review

Rail Lines and Utility Corridors		None	None
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Section 8: that SMC section 17C.230.140 is amended to read as follows:

17C.230.140 Development Standards

- A. Purpose
The parking area layout standards are intended to promote safe circulation within the parking area and provide for convenient entry and exit of vehicles.
- B. Where These Standards Apply
The standards of this section apply to all vehicle areas whether required or excess parking.
- C. Improvements
 - 1. Paving.
In order to control dust and mud, all vehicle areas must be surfaced with a minimum all-weather surface. Such surface shall be specified by the city engineer. Alternatives to the specified all-weather surface may be provided, subject to approval by the city engineer. The alternative must provide results equivalent to paving. All surfacing must provide for the following minimum standards of approval:
 - a. Dust is controlled.
 - b. Stormwater is treated to City standards; and
 - c. Rock and other debris is not tracked off-site.

The applicant shall be required to prove that the alternative surfacing provides results equivalent to paving. If, after construction, the City determines that the alternative is not providing the results equivalent to paving or is not complying with the standards of approval, paving shall be required.
 - 2. Striping.
All parking areas, except for stacked parking, must be striped in conformance with the parking dimension standards of subsection (E) of this section, except parking for single-family residences, duplexes, and accessory dwelling units.
 - 3. Protective Curbs Around Landscaping.
All perimeter and interior landscaped areas must have continuous, cast in place, or extruded protective curbs along the edges. Curbs separating landscaped areas from parking areas may allow stormwater runoff to pass through them. Tire stops, bollards or other protective barriers may be used

at the front ends of parking spaces. Curbs may be perforated or have gaps or breaks. Trees must have adequate protection from car doors as well as car bumpers. This provision does not apply to single-family residence, duplexes and accessory dwelling units.

D. Stormwater Management

Stormwater runoff from parking lots is regulated by the engineering services department.

E. Parking Area Layout

1. Access to Parking Spaces.

All parking areas, except stacked parking areas, must be designed so that a vehicle may enter or exit without having to move another vehicle.

2. Parking Space and Aisle Dimensions.

a. Parking spaces and aisles in RA, RSF, RTF, RHD, FBC CA4, O, OR, NR, NMU, CB, GC, and industrial zones must meet the minimum dimensions contained in Table 17C.230-3.

b. Parking spaces and aisles in Downtown (~~and~~) CC, and FBC CA1, CA2, CA3 zones must meet the minimum dimensions contained in Table 17C.230-4.

c. In all zones, on dead end aisles, aisles shall extend five feet beyond the last stall to provide adequate turnaround.

3. Parking for Disabled Persons.

The city building services department regulates the following disabled person parking standards and access standards through the building code and the latest ANSI standards for accessible and usable buildings and facilities:

- a. Dimensions of disabled person parking spaces and access aisles.
- b. The minimum number of disabled person parking spaces required.
- c. Location of disabled person parking spaces and circulation routes.
- d. Curb cuts and ramps including slope, width and location; and
- e. Signage and pavement markings.

4. A portion of a standard parking space may be landscaped instead of paved, as follows:

- a. The landscaped area may be up to two feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space, as shown in Figure 17C.230-3. Any vehicle overhang must be free from interference from sidewalks, landscaping, or other required elements.
- b. Landscaping must be ground cover plants; and

- c. The landscaped area counts toward parking lot interior landscaping requirements and toward any overall site landscaping requirements. However, the landscaped area does not count toward perimeter landscaping requirements.
5. Engineering Services Department Review
The engineering services department reviews the layout of parking areas for compliance with the curb cut and access restrictions of [chapter 17H.010 SMC](#).

Table 17C.230-3
RA, RSF, RTF, RMF, RHD, FBC CA4, O, OR, NR, NMU, CB, GC and Industrial Zones
Minimum Parking Space and Aisle Dimensions [1, 2]

Angle (A)	Width (B)	Curb Length (C)	1-way Aisle Width (D)	2-way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	8 ft.	20 ft.	12 ft.	22 ft.	8 ft.
30°	8 ft. 6 in.	17 ft.	12 ft.	22 ft.	15 ft.
45°	8 ft. 6 in.	12 ft.	12 ft.	22 ft.	17 ft.
60°	8 ft. 6 in.	9 ft. 9 in.	16 ft.	22 ft.	18 ft.
90°	8 ft. 6 in.	8 ft. 6 in.	22 ft.	22 ft.	18 ft.

Notes:

[1] See Figure 17C.230-4.

[2] Dimensions of parking spaces for the disabled are regulated by the building code. See [SMC 17C.230.140\(E\)\(3\)](#).

Table 17C.230-4
Downtown ((and)) CC, FBC CA1, CA2, and CA3 Zones
Minimum Parking Space and Aisle Dimensions [1, 2]

Angle (A)	Width (B)	Curb Length (C)	1-way Aisle Width (D)	2-way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	8 ft.	20 ft.	12 ft.	20 ft.	8 ft.
30°	8 ft. 6 in.	17 ft.	12 ft.	20 ft.	15 ft.
45°	8 ft. 6 in.	12 ft.	12 ft.	20 ft.	17 ft.
60°	8 ft. 6 in.	9 ft. 9 in.	16 ft.	20 ft.	17 ft. 6 in.
90°	8 ft. 6 in.	8 ft. 6 in.	20 ft.	20 ft.	16 ft.

Notes:

[1] See Figure 17C.230-4.

[2] Dimensions of parking spaces for the disabled are regulated by the building code. See [SMC 17C.230.140\(E\)\(3\)](#).

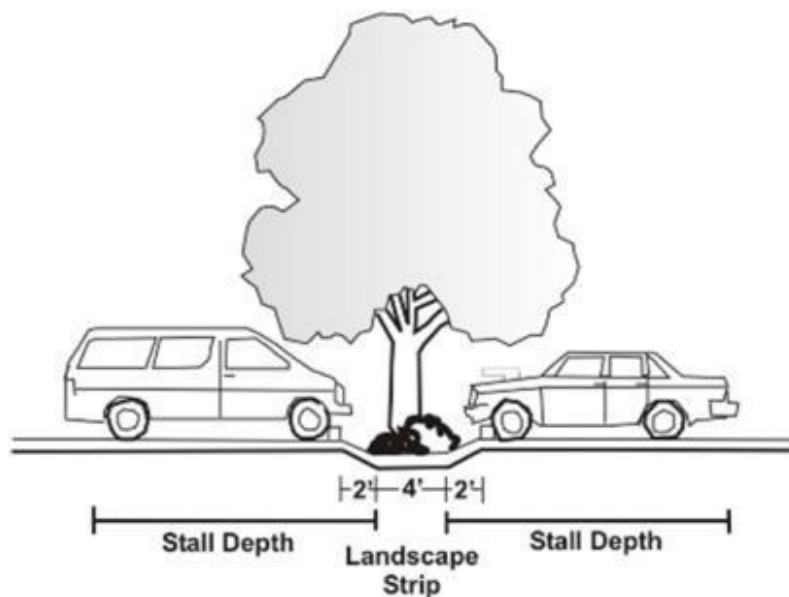


Figure 17C.230-3 Landscaped area at front of parking space

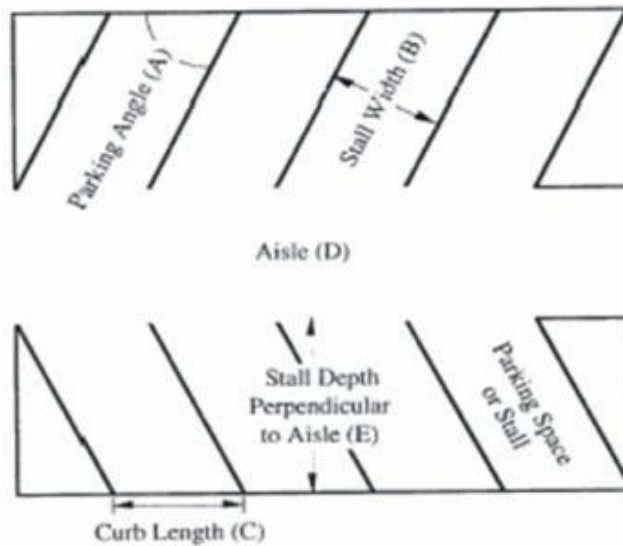
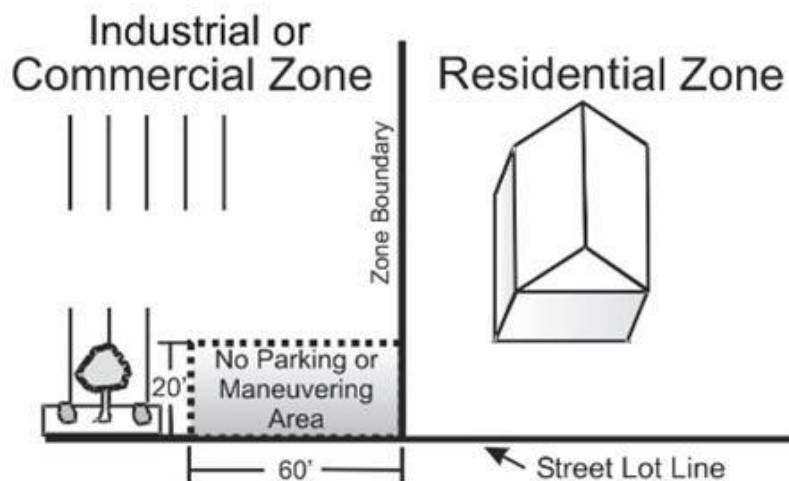


Figure 17C.230-4 Parking Dimension Factors

F. Parking Area Setbacks and Landscaping

1. For parking areas on sites abutting residential zoning districts, parking spaces or maneuvering areas for parking spaces, other than driveways that are perpendicular to the street, are not allowed within the first twenty feet from a street lot line for the first sixty feet from the boundary of the residential zoning district.



2. All landscaping must comply with the standards of [chapter 17C.200 SMC](#), Landscaping and Screening.

Section 9: that SMC section 17C.230.145 is amended to read as follows:

17C.230.145 Development Standards for Residential Uses

A. Purpose

The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.



B. Structures These Regulations Apply To

The regulations of this section apply to residential uses in the RA, RSF, RTF, RMF, ((and)) RHD, FBC CA4 zones. The regulations apply to required and excess parking areas. Parking for mobile home parks is regulated in [chapter 17C.345 SMC](#), Manufactured Homes and Manufactured Home Parks.

C. Parking Area Locations

1. Required Parking.
Required parking spaces are not allowed within the first twenty feet from a front lot line or within side street lot line setback.
2. Non-required Parking.
Non-required parking spaces for personal passenger vehicles may be located in the first twenty feet from a front lot line or the side lot line setback in a driveway. The vehicle cannot overhang or block the sidewalk.
3. Utility trailers, motorized recreations vehicles and non-motorized accessory recreational vehicles cannot be stored in the first twenty feet from the front lot line nor the side street line.

4. Driveway Width.

- a. In the RA and RSF zones, no more than forty percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than twenty percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. As an exception to the area limitations in this subparagraph, a lot is allowed at least a nine-foot wide vehicle area.
- b. In the RTF, RMF, ((and)) RHD, FBC CA4 zones, no more than twenty percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots no more than twenty percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. As an exception to the area limitations in this paragraph, a lot is allowed at least a nine-foot wide vehicle area.
- c. Exception.
Driveway coverage in the residential zones may exceed the size limitations of (4)(a) and (4)(b) above when the subject property is located on a principal arterial and the increase in site coverage is due to inadequate maneuvering area for the safe exit of vehicles from the site. The exception to driveway coverage is reviewed by the engineering services department as a portion of the driveway access permit.



5. Parking in Garages.
Parking in garages is subject to the garage setback standards of the base zone, overlay zone or plan district.
- D. Parking Space Sizes
A parking space must be at least nine feet by eighteen feet. The minimum driveway width on private property is nine feet.
- E. Paving
1. Generally.
All driveways and parking areas must be covered in an all weather surface.
 2. Exceptions.
 - a. Gravel surfaces may be approved by engineering services when the abutting street is not paved, and the applicant executes a covenant agreeing to pave the area if the street is paved in the future.
 - b. Utility trailers, motorized recreational vehicles and non-motorized accessory recreational vehicles may be stored on unpaved surfaces. A gravel surface is not required.

Section 10: that SMC section 17C.230.200 is amended to read as follows:

17C.230.200 Bicycle Parking

- A. Purpose.
Bicycle parking is required to encourage the use of bicycles by providing safe and convenient places to park bicycles.
1. Bicycle parking facilities, either off-street or in the street right-of-way, shall be provided in RMF, RHD, CC1, CC2, CC3, CC4, O, OR, NR, NMU, CB, GC, and industrial zones for any new use which requires twenty or more automobile parking spaces according to [Table 17C.230-1](#) or [Table 17C.230-2](#). All bicycle parking facilities in the street right-of-way shall conform to City engineering services department standards.
 - a. The number of required bicycle parking spaces shall be five percent of the number of required off-street auto parking spaces.
 - b. When any covered automobile parking is provided, all bicycle parking shall be covered.
 2. Within downtown and FBC CA1, CA2, CA3, zones bicycle parking facilities, either off-street or in the street right-of-way, shall be provided.

The number of spaces shall be the largest amount based on either subsections (a) or (b) below.

- a. The number of required bicycle parking spaces shall be five percent of the number of off-street auto parking spaces being provided, whether the auto parking spaces are required by code or not.
 - b. A minimum of one bicycle parking space shall be provided for every ten thousand square feet of building area. When a building is less than ten thousand square feet in building area at least one bicycle parking space shall be provided.
 - c. When any covered automobile parking is provided, all bicycle parking shall be covered.
 - d. All bicycle parking facilities in the street right-of-way shall conform to City engineering services department standards.
3. Bicycle parking facilities accessory to nonresidential uses shall be located on the lot or within eight hundred feet of the lot. Bicycle parking accessory to residential uses shall be located on-site. Bicycle parking facilities shared by more than one use are encouraged. Bicycle and automobile parking areas shall be separated by a barrier or painted lines.

Section 11: that SMC section 17A.020.010 is amended to read as follows:

17A.020.010 “A” Definitions

- A. Abandoned Sign Structure.
A sign structure where no sign has been in place for a continuous period of at least six months.
- B. Aboveground Storage Tank or AST.
Any one or connected combination of tanks that is used to contain an accumulation of liquid critical materials and the aggregate volume of which (including the volume of piping connected thereto) is more than sixty gallons and the entire exterior surface area of the tank is above the ground and is able to be fully visually inspected. Tanks located in vaults or buildings that are to be visually inspected are considered to be aboveground tanks.
- C. Accepted.
A project for which the required plans have been found to be technically adequate.
- D. Accessory Dwelling Unit (ADU).
An accessory dwelling unit is a separate additional living unit, including separate

kitchen, sleeping, and bathroom facilities, attached or detached from the primary residential unit, on a single-family lot. ADUs are known variously as:

1. "Mother-in-law apartments,"
2. "Accessory apartments," or
3. "Second units."

E. Accessory Structure.

A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure.

1. Accessory structures may be attached or detached from the primary structure.
2. Examples of accessory structures include:
 - a. Garages,
 - b. Decks,
 - c. Fences,
 - d. Trellises,
 - e. Flagpoles,
 - f. Stairways,
 - g. Heat pumps,
 - h. Awnings, and
 - i. Other structures.
3. See also [SMC 17A.020.160](#) ("Primary Structure").

F. Accessory Use.

A use or activity which is a subordinate part of a primary use and which is clearly incidental to a primary use on a site.

G. Activity.

See Regulated Activity.

H. Administrative Decision.

A permit decision by an officer authorized by the local government. The decision may be for approval, denial, or approval with conditions and is subject to the applicable development standards of the land use codes or development codes.

I. Adult Bookstore or Adult Video Store.

1. A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any

one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified anatomical areas,” as defined in [SMC 17A.020.190](#), or “specified sexual activities,” as defined in [SMC 17A.020.190](#). A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

- a. At least thirty percent of the establishment’s displayed merchandise consists of said items; or
- b. At least thirty percent of the retail value (defined as the price charged to customers) of the establishment’s displayed merchandise consists of said items; or
- c. At least thirty percent of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items; or
- d. The establishment maintains at least thirty percent of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in “floor space maintained for the display, sale, and/or rental of said items”); or
- e. The establishment maintains at least five hundred square feet of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in “floor space maintained for the display, sale, and/or rental of said items”); or
- f. The establishment regularly offers for sale or rental at least two thousand of said items; or
- g. The establishment regularly features said items and regularly advertises itself or holds itself out, in any medium, by using “adult,” “XXX,” “sex,” “erotic,” or substantially similar language, as an establishment that caters to adult sexual interests.

- 2. For purposes of this definition, the term “floor space” means the space inside an establishment that is visible or accessible to patrons, excluding restrooms.

J. Adult Business.

An “adult bookstore or adult video store,” an “adult entertainment establishment,”

or a “sex paraphernalia store.”

K. Adult Entertainment Establishment.

1. An “adult entertainment establishment” is an enclosed building, or any portion thereof, used for presenting performances, activities, or material relating to “specified sexual activities” as defined in [SMC 17A.020.190](#) or “specified anatomical areas” as defined in [SMC 17A.020.190](#) for observation by patrons therein.
2. A motion picture theater is considered an adult entertainment establishment if the preponderance of the films presented is distinguished or characterized by an emphasis on the depicting or describing of "specified sexual activities" or "specified anatomical areas."
3. A hotel or motel providing overnight accommodations is not considered an adult entertainment establishment merely because it provides adult closed circuit television programming in its rooms for its registered overnight guests.

L. Adult Family Home.

A residential use as defined and licensed by the state of Washington in a dwelling unit.

M. Agency or Agencies.

The adopting jurisdiction(s), depending on the context.

N. Agricultural Activities.

1. Pursuant to WAC 173-26-020(3)(a), agricultural uses and practices including, but not limited to:
 - a. Producing, breeding, or increasing agricultural products;
 - b. Rotating and changing agricultural crops;
 - c. Allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded;
 - d. Allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions;
 - e. Allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement;
 - f. Conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment;

- g. Maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is not closer to the shoreline than the original facility; and
 - h. Maintaining agricultural lands under production or cultivation.
 - 2. The City of Spokane shoreline master program defines agriculture activities as:
 - a. Low-intensity agricultural use is defined as passive grazing and plant cultivation; or
 - b. High-intensity agricultural use includes such activities as feedlots, feed mills, packing plants, agricultural processing plants or warehouse for the purpose of processing, packing, and storage of agricultural products.
- O. **Agricultural Land.**
Areas on which agricultural activities are conducted as of the date of adoption of the updated shoreline master program pursuant to the State shoreline guidelines as evidenced by aerial photography or other documentation. After the effective date of the SMP, land converted to agricultural use is subject to compliance with the requirements herein.
- P. **AKART.**
An acronym for “all known, available, and reasonable methods to control toxicants” as used in the sense of the state Water Pollution Control Act and RCW 90.48.520 thereof. AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.
- Q. **Alkali Wetlands.**
Alkali wetlands means wetlands characterized by the occurrence of shallow saline water. In eastern Washington, these wetlands contain surface water with specific conductance that exceeds three thousand micromhos/cm. They have unique plants and animals that are not found anywhere else in eastern Washington such as the alkali bee. Conditions within these wetlands cannot be easily reproduced through compensatory mitigation.
- R. **Alley.**
See “Public Way” ([SMC 17A.020.160](#)).
- S. **Alteration.**
A physical change to a structure or site.
 - 1. Alteration does not include normal maintenance and repair or total demolition.

2. Alteration does include the following:
 - a. Changes to the facade of a building.
 - b. Changes to the interior of a building.
 - c. Increases or decreases in floor area of a building; or
 - d. Changes to other structures on the site, or the development of new structures.
- T. Alteration of Plat, Short Plat, or Binding Site Plan.
The alteration of a previously recorded plat, short plat, binding site plan, or any portion thereof, that results in a change to conditions of approval or the deletion of existing lots or the change of plat or lot restrictions or dedications that are shown on the recorded plat. An alteration does not include a boundary line adjustment subject to [SMC 17G.080.030](#).
- U. Alternative or Post-incarceration Facility.
A group living use where the residents are on probation or parole.
- V. Alternative Tower Structure (“Stealth” Technology).
Manmade trees, clock towers, bell steeples, light poles, flag poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also “Low Visual Impact Facility”—[SMC 17A.020.120](#)).
- W. Antenna Array (Wireless Communication Antenna Array).
 1. One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency (RF) signals, which may include omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).
 2. Wireless communication antenna array shall be considered an accessory use provided they are located upon an existing structure.
- X. Antenna Height.
The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including the antenna.
- Y. Antenna Support Structure.
Any pole, telescoping mast, tower tripod, or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.
- Z. API 653.
The American Petroleum Institute’s standards for tank inspection, repair, alteration, and reconstruction.

AA. Appeal.

A request for review of the interpretation of any provision of Title 17 SMC.

AB. Appeal – Standing For.

As provided under RCW 36.70C.060, persons who have standing are limited to the following:

1. The applicant and the owner of property to which the land use decision is directed; and
2. Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;
 - b. That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;
 - c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
 - d. The petitioner has exhausted his or her administrative remedies to the extent required by law (RCW 36.70C.060).

AC. Applicant.

An application for a permit, certificate, or approval under the land use codes must be made by or on behalf of all owners of the land and improvements. "Owners" are all persons having a real property interest. Owners include:

1. Holder of fee title or a life estate;
2. Holder of purchaser's interest in a sale contract in good standing;
3. Holder of seller's interest in a sale contract in breach or in default;
4. Grantor of deed of trust;
5. Presumptively, a legal owner and a taxpayer of record;
6. Fiduciary representative of an owner;
7. Person having a right of possession or control; or
8. Any one of a number of co-owners, including joint, in common, by entireties, and spouses as to community property.

- AD. Application – Complete.
An application that is both counter-complete and determined to be substantially complete as set forth in [SMC 17G.060.090](#).
- AE. Aquaculture.
The farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater areas, and may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of free-swimming fish or the harvest of shellfish not artificially planted or maintained, including the harvest of wild stock geoducks on DNR-managed lands.
- AF. Aquatic Life.
Shall mean all living organisms, whether flora or fauna, in or on water.
- AG. Aquifer or Spokane Aquifer.
A subterranean body of flowing water, also known as the Spokane-Rathdrum Aquifer, that runs from Pend Oreille Lake to the Little Spokane River.
- AH. Aquifer Sensitive Area (ASA).
That area or overlay zone from which runoff directly recharges the aquifer, including the surface over the aquifer itself and the hillside areas immediately adjacent to the aquifer. The area is shown in the map adopted as part of [SMC 17E.050.260](#).
- AI. Aquifer Water Quality Indicators.
Common chemicals used for aquifer water quality screening. These are:
1. Calcium,
 2. Magnesium,
 3. Sodium,
 4. Total hardness,
 5. Chloride,
 6. Nitrate-nitrogen, and
 7. Phosphorus.
- AJ. Archaeological Areas and Historical Sites.
Sites containing material evidence of past human life, such as structures and tools and/or cultural sites with past significant historical events. These sites are a nonrenewable resource and provided a critical educational link with the past.
- AK. Architectural feature

Ornamental or decorative feature attached to or protruding from an exterior wall or roof, including cornices, eaves, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

AL. Architectural Roof Structure

Minor tower or turret extending from the cornice or main roof line of a building, typically highlighting a primary corner or building entry. For purposes of the FBC, such features may not be occupied.

~~((AK-))~~ AM. Area of Shallow Flooding.

A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM).

1. The base flood depths range from one to three feet.
2. A clearly defined channel does not exist.
3. The path of flooding is unpredictable and indeterminate.
4. Velocity flow may be evident.
5. AO is characterized as sheet flow and AH indicates ponding.

~~((AL-))~~ AN. Area of Special Flood Hazard.

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

~~((AM-))~~ AO. Arterial.

See:

1. "Principal Arterials" – [SMC 17A.020.160](#),
2. "Minor Arterials" – [SMC 17A.020.130](#),
3. "Collector Arterial" – [SMC 17A.020.030](#), or
4. "Parkway" – [SMC 17A.020.160](#).

~~((AN-))~~ AP. Assisted Living Facility.

A multi-family residential use licensed by the state of Washington as a boarding home pursuant to chapter 18.20 RCW, for people who have either a need for assistance with activities of daily living (which are defined as eating, toileting, ambulation, transfer [e.g., moving from bed to chair or chair to bath], and bathing) or some form of cognitive impairment but who do not need the skilled critical care provided by nursing homes.

1. An "assisted living facility" contains multiple assisted living units.

2. An assisted living unit is a dwelling unit permitted only in an assisted living facility.

~~((AQ-))~~ AQ. Attached Housing.

Two or more dwelling units that are single-family residences on individual lots attached by a common wall at a shared property line. These include:

1. Townhouses,
2. Row houses, and
3. Other similar structures

~~((AP-))~~ AR. Attached Structure.

Any structure that is attached by a common wall to a dwelling unit.

1. The common wall must be shared for at least fifty percent of the length of the side of the principal dwelling.
2. A breezeway is not considered a common wall.
3. Structures including garages, carports, and house additions attached to the principal dwelling unit with a breezeway are still detached structures for purposes of this chapter and its administration.

~~((AQ-))~~ AS. Available Capacity.

Capacity for a concurrency facility that currently exists for use without requiring facility construction, expansion, or modification (RCW 76.70A.020).

~~((AR-))~~ AT. Average Grade Level.

Means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the proposed structure.

AU. Awning

A roof-like cover, often made of fabric or metal, designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, or door.

Section 12: that SMC section 17A.020.020 is amended to read as follows:

17A.020.020 “B” Definitions

- A. **Backed Sign.**
A sign where the faces of the sign are parallel or within twenty degrees of parallel to each other.
- B. **Balloon Sign.**
A sign that is blown up with air or gas.
- C. **Bank Carving.**
The incorporation of masses of alluvium or other weak bank materials into a stream channel because of undermining, usually in high flow stages.
- D. **Bank Erosion.**
The incorporation of masses of alluvium or other weak bank materials into a stream channel.
- E. **Bankfull Width.**
 - 1. For streams, the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross-section.
 - 2. For lakes, ponds, and impoundments, line of mean high water.
 - 3. For periodically inundated areas of associated wetlands, line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.
- F. **Banner.**
A sign made of fabric or other similar non-rigid material with no enclosing framework or electrical components that is supported or anchored on two or more edges or at all four corners. Banners also include non-rigid signs anchored along one edge, or two corners, with weights installed that reduce the reaction of the sign to wind. See also Flag.
- G. **Bas-relief**
Sculptural form in which shapes or figures are carved in a flat surface and project only slightly from the background.
- ~~((G.))~~ H. **Base Flood.**
 - 1. The flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the “one hundred year flood.”
 - 2. Designation on maps always includes the letters A or V.

- ((H-)) L. Basement.
The portion of a building having its floor sub-grade (below ground level) on all sides.
- ((I-)) J. Bedrock.
Means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.
- ((J-)) K. Bee.
Any stage of development of the common domestic honeybee, *Apis mellifera* species.
- ((K-)) L. Beekeeper.
A person owning, possession, or controlling one or more colonies of bees.
- ((L-)) M. Best Available Science.
Current scientific information used in the process to designate, protect, or restore critical areas, which is derived from a valid scientific process.
- ((M-)) N. Best Management Practices.
The utilization of methods, techniques, or products that have been demonstrated to be the most effective and reliable in minimizing environmental impacts.
- ((N-)) O. Bikeways/Pathways.
Facilities designated for use by commuters and recreational users on foot or bicycle. The following types of bikeway facilities are identified and further defined in the Spokane Regional Pedestrian/Bikeway Plan published by the Spokane Regional Transportation Council:
1. Residential bikeway.
 2. Shared-use lane.
 3. Paved shoulder.
 4. Bicycle lane.
 5. Shared-use pathway.
- ((O-)) P. Binding Site Plan – Final.
A drawing to a scale which:
1. identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters provided in [SMC 17G.080.060](#);

2. contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land; and
3. contains provisions making any development be in conformity with the site plan.
4. A binding site plan can only be used on property zoned commercial or industrial.

- ~~((P-))~~ Q. Binding Site Plan – Preliminary.
A neat and approximate drawing of a proposed binding site plan showing the general layout of streets, alleys, lots, blocks, and other elements required by this chapter. The preliminary binding site plan shall be the basis for the approval or disapproval of the general layout of a binding site plan.
- ~~((Q-))~~ R. Block.
A group of lots, tracts, or parcels within well-defined and fixed boundaries. Blocks shall be recognized as closed polygons, bordered by street right-of-way lines, addition lines, or a combination of the two, unless an alley is desired, in which case a block is comprised of two closed polygons bordered by street and alley right-of-way lines.
- ~~((R-))~~ S. Block Frontage.
All of the property fronting on one side of a street that is between intersecting or intercepting streets, or that is between a street and a water feature, or end of a dead end street. An intercepting street determines only the boundary of the block frontage on the side of the street which it intercepts.
- ~~((S-))~~ T. Board.
The board of county commissioners of Spokane County.
- ~~((T-))~~ U. Boating Facilities.
Boating facilities include uses for boat or launch ramps. Boating facility use generally requires shoreline modification with impacts to the shoreline both waterward and landward of the ordinary high-water marks.
- ~~((U-))~~ V. Boundary Line Adjustment.
A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

- ~~((V-))~~ W. Breakaway Wall.
A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- ~~((W-))~~ X. Breezeway.
A breezeway is a roofed passageway joining two separate structures.
- ~~((X-))~~ Y. Building.
 1. A “building” is a structure, or part, used or intended for supporting or sheltering any use or occupancy.
 2. The term includes “factory-built structure” and “mobile home.”
 3. “Building” does not include a recreational vehicle.
 4. “Building” means a structure that has a roof and is enclosed on at least fifty percent of the area of its sides for purposes of administration of zoning provisions.
- Z. Building Base
The plinth or platform upon which a building wall appears to rest, helping establish pedestrian-scaled elements and aesthetically tying the building to the ground.
- ~~((Y-))~~ AA. Building Coverage.
Building coverage is the total amount of ground area covered by a structure or structures.
 1. For purposes of calculating building coverage, covered porches, covered decks, pergolas, trellis, or other feature covering a deck, patio or porch are considered structures and included in the building coverage calculations.
 2. Building coverage also includes uncovered horizontal structures such as decks, stairways, and entry bridges that are more than forty-two inches above grade.
 3. The calculation of building coverage includes the measurements of structures from the exterior wall including protrusions such as bay windows, but does not include the eave overhang.
- ~~((Z-))~~ AB. Building Envelope.
The area of a lot that delineates where a building may be placed.

- AC. Building Frontage
The length of any side of a building which fronts on a public street,
measured in a straight line parallel with the abutting street
- AD. Build-to Line
An alignment establishing a certain distance from the property line (street
right-of- way line) along which the building is required to be built.

- ((AA-)) AE. Bulkhead.
A solid or open pile wall erected generally parallel to and near the ordinary high-water mark for the purpose of protecting adjacent uplands from water or erosion. Bulkheads are considered a “hard” shoreline stabilization measure.

Section 13: that SMC section 17A.020.030 is amended to read as follows:

17A.020.030 “C” Definitions

- A. Candidate Species.
A species of fish or wildlife, which is being reviewed, for possible classification as threatened or endangered.
- B. Carport.
A carport is a garage not entirely enclosed on all sides by sight-obscuring walls and/or doors.
- C. Cellular Telecommunications Facility.
They consist of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer that connects the mobile unit with the land-based telephone lines.
- D. Central Business District.
The general phrase “central business district” refers to the area designated on the comprehensive plan as the “downtown” and includes all of the area encompassed by all of the downtown zoning categories combined.
- E. Certificate of Appropriateness.
Written authorization issued by the commission or its designee permitting an alteration or significant change to the controlled features of a landmark or landmark site after its nomination has been approved by the commission.
- F. Certificate of Capacity.
A document issued by the planning services department indicating the quantity of

capacity for each concurrency facility that has been reserved for a specific development project on a specific property. The document may have conditions and an expiration date associated with it.

- G. **Certified Erosion and Sediment Control Lead (CESCL).**
An individual who is knowledgeable in the principles and practices of erosion and sediment control. The CESCL shall have the skills to assess the:
1. site conditions and construction activities that could impact the quality of stormwater, and
 2. effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges.
- The CESCL shall have current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State department of ecology.
- H. **Change of Use.**
For purposes of modification of a preliminary plat, “change of use” shall mean a change in the proposed use of lots (e.g., residential to commercial).
- I. **Channel Migration Zone (CMZ).**
A corridor of variable width that includes the current river plus adjacent area through which the channel has migrated or is likely to migrate within a given timeframe, usually one hundred years.
- J. **Channelization.**
The straightening, relocation, deepening, or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.
- K. **City.**
The City of Spokane, Washington.
- L. **Clear Street Width.**
The width of a street from curb to curb minus the width of on-street parking lanes.
- M. **Clear Pedestrian Zone**
Area reserved for pedestrian traffic; typically included herein as a portion of overall sidewalk width to be kept clear of obstructions to foot traffic.
- ~~((M.))~~ N. **Clear Zone.**
An unobstructed, relatively flat area provided beyond the edge of the traveled way for the recovery of errant vehicles.
- ~~((N.))~~ O. **Clearing.**
The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as

cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

((Q-)) P.

Cliffs.

1. A type of habitat in the Washington department of fish and wildlife (WDFW) priority habitat and species system that is considered a priority due to its limited availability, unique species usage, and significance as breeding habitat. Cliffs are greater than twenty-five feet high and below five thousand feet elevation.
2. A "cliff" is a steep slope of earth materials, or near vertical rock exposure. Cliffs are categorized as erosion landforms due to the processes of erosion and weathering that produce them. Structural cliffs may form as the result of fault displacement or the resistance of a cap rock to uniform downcutting. Erosional cliffs form along shorelines or valley walls where the most extensive erosion takes place at the base of the slope.

((P-)) Q.

Closed Record Appeal Hearing.

A hearing, conducted by a single hearing body or officer authorized to conduct such hearings, that relies on the existing record created during a quasi-judicial hearing on the application. No new testimony or submission of new evidence and information is allowed.

((Q-)) R.

Collector Arterial.

A relatively low speed street serving an individual neighborhood.

1. Collector arterials are typically two-lane roads with on-street parking.
2. Their function is to collect and distribute traffic from local access streets to principal and minor arterials.

((R-)) S.

Co-location.

Is the locating of wireless communications equipment from more than one provider on one structure at one site.

((S-)) T.

Colony.

A hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen, and brood.

((T-)) U.

Commercial Driveway.

Any driveway access to a public street other than one serving a single-family or duplex residence on a single lot.

- ~~((U.))~~ V. Commercial Vehicle.
Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire.
- ~~((V.))~~ W. Commission – Historic Landmarks.
The City/County historic landmarks commission.
- ~~((W.))~~ X. Community Banner.
A temporary banner made of sturdy cloth or vinyl that is not commercial advertising that has the purpose of the promotion of a civic event, public service announcement, holiday decorations, or similar community and cultural interests and is placed on a structure located in the public right-of-way, subject to procedures authorized by city administrator.
- ~~((X.))~~ Y. Community Meeting.
An informal meeting, workshop, or other public meeting to obtain comments from the public or other agencies on a proposed project permit prior to the submission of an application.
1. A community meeting is between an applicant and owners, residents of property in the immediate vicinity of the site of a proposed project, the public, and any registered neighborhood organization or community council responsible for the geographic area containing the site of the proposal, conducted prior to the submission of an application to the City of Spokane.
 2. A community meeting does not constitute an open record hearing.
 3. The proceedings at a community meeting may be recorded and a report or recommendation shall be included in the permit application file.
- ~~((Y.))~~ Z. Compensatory Mitigation.
Replacing project-induced wetland losses or impacts, and includes, but is not limited to, the following:
1. Restoration.
The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into re-establishment and rehabilitation.
 2. Re-establishment.
The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities

could include removing fill material, plugging ditches, or breaking drain tiles.

3. Rehabilitation.

The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

4. Creation (Establishment).

The manipulations of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

5. Enhancement.

The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

6. Protection/Maintenance (Preservation).

Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres, may result in a gain in functions, and will be used only in exceptional circumstances.

((Z)) AA.

Comprehensive Plan.

The City of Spokane comprehensive plan, a document adopted pursuant to chapter 36.70A RCW providing land use designations, goals and

policies regarding land use, housing, capital facilities, housing, transportation, and utilities.

((AA)) AB.

Conceptual Landscape Plan.

A scale drawing showing the same information as a general site plan plus the location, type, size, and width of landscape areas as required by the provisions of [chapter 17C.200 SMC](#).

1. The type of landscaping, L1, L2, or L3, is required to be labeled.
2. It is not a requirement to designate the scientific name of plant materials on the conceptual landscape plan.

((AB)) AC.

Concurrency Certificate.

A certificate or letter from a department or agency that is responsible for a determination of the adequacy of facilities to serve a proposed development, pursuant to [chapter 17D.010 SMC](#), Concurrency Certification.

((AG)) AD.

Concurrency Facilities.

Facilities for which concurrency is required in accordance with the provisions of this chapter. They are:

1. transportation,
2. public water,
3. fire protection,
4. police protection,
5. parks and recreation,
6. libraries,
7. solid waste disposal and recycling,
8. schools, and
9. public wastewater (sewer and stormwater).

((AD)) AE.

Concurrency Test.

The comparison of an applicant's impact on concurrency facilities to the available capacity for public water, public wastewater (sewer and stormwater), solid waste disposal and recycling, and planned capacity for transportation, fire protection, police protection, schools, parks and recreation, and libraries as required in [SMC 17D.010.020](#).

((AE)) AF.

Conditional Use Permit.

A "conditional use permit" and a "special permit" are the same type of permit application for purposes of administration of this title.

((AF)) AG.

Condominium.

Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless

the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to chapter 64.34 RCW.

- ((AG)) AH. Confidential Shelter.
Shelters for victims of domestic violence, as defined and regulated in chapter 70.123 RCW and WAC 248-554. Such facilities are characterized by a need for confidentiality.
- ((AH)) AI. Congregate Residence.
A dwelling unit in which rooms or lodging, with or without meals, are provided for nine or more non-transient persons not constituting a single household, excluding single-family residences for which special or reasonable accommodation has been granted.
- ((AI)) AJ. Conservancy Environments.
Those areas designated as the most environmentally sensitive and requiring the most protection in the current shoreline master program or as hereafter amended.
- ((AJ)) AK. Container.
Any vessel of sixty gallons or less in capacity used for transporting or storing critical materials.
- AL. Context Areas
Established by the Regulating Plan, Context Area designations describe and direct differing functions and features for areas within FBC limits, implementing community goals for the built environment.
- ((AK)) AM. Conveyance.
In the context of [chapter 17D.090 SMC](#) or [chapter 17D.060 SMC](#), this term means a mechanism for transporting water from one point to another, including pipes, ditches, and channels.
- ((AL)) AN. Conveyance System.
In the context of [chapter 17D.090 SMC](#) or [chapter 17D.060 SMC](#), this term means the drainage facilities and features, both natural and constructed, which collect, contain and provide for the flow of surface and stormwater from the highest points on the land down to receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels, and most flow control and water quality treatment facilities.
- ((AM)) AO. Copy.
Letters, characters, illustrations, logos, graphics, symbols, writing, or any

combination thereof designed to communicate information of any kind, or to advertise, announce or identify a person, entity, business, business product, or to advertise the sale, rental, or lease of premises.

- ((AN)) AP. Cottage Housing.
1. A grouping of individual structures where each structure contains one dwelling unit.
 2. The land underneath the structures is not divided into separate lots.
 3. A cottage housing development may contain no less than six and no more than twelve individual structures in addition to detached accessory buildings for storing vehicles. It may also include a community building, garden shed, or other facility for use of the residents.
- ((AO)) AQ. Council.
The city council of the City of Spokane.
- ((AP)) AR. County.
Usually capitalized, means the entity of local government or, usually not capitalized, means the geographic area of the county, not including the territory of incorporated cities and towns.
- ((AQ)) AS. Covenants, Conditions, and Restrictions (CC&Rs).
A document setting forth the covenants, conditions, and restrictions applicable to a development, recorded with the Spokane County auditor and, typically, enforced by a property owner's association or other legal entity.
- ((AR)) AT. Creep.
Slow, downslope movement of the layer of loose rock and soil resting on bedrock due to gravity.
- ((AS)) AU. Critical Amount.
The quantity component of the definition of critical material.
- ((AT)) AV. Critical Areas.
Any areas of frequent flooding, geologic hazard, fish and wildlife habitat, aquifer sensitive areas, or wetlands as defined under [chapter 17E.010 SMC](#), [chapter 17E.020 SMC](#), [chapter 17E.030 SMC](#), [chapter 17E.040 SMC](#), and [chapter 17E.070.SMC](#).
- ((AU)) AW. Critical Facility.
A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to:
1. schools;

2. nursing homes;
3. hospitals;
4. police;
5. fire;
6. emergency response installations; and
7. installations which produce, use, or store hazardous materials or hazardous waste.

((AV)) AX. Critical Material.

1. A compound or substance, or class thereof, designated by the division director of public works and utilities which, by intentional or accidental release into the aquifer or ASA, could result in the impairment of one or more of the beneficial uses of aquifer water and/or impair aquifer water quality indicator levels. Beneficial uses include, but are not limited to:
 - a. domestic and industrial water supply,
 - b. agricultural irrigation,
 - c. stock water, and
 - d. fish propagation.

Used herein, the designation is distinguished from state or other designation.

2. A list of critical materials is contained in the Critical Materials Handbook, including any City modifications thereto.

((AW)) AY. Critical Material Activity.

A land use or other activity designated by the manager of engineering services as involving or likely to involve critical materials.

A list of critical materials activities is contained in the Critical Materials Handbook.

((AX)) AZ. Critical Materials Handbook.

1. The latest edition of a publication as approved and amended by the division director of public works and utilities from time to time to accomplish the purposes of this chapter. The handbook is based on the original prepared by the Spokane water quality management program ("208") coordination office, with the assistance of its technical advisory committee. It is on file with the director of engineering services and available for public inspection and purchase.
2. The handbook, as approved and modified by the division director of public works and utilities , contains:
 - a. a critical materials list,
 - b. a critical materials activities list, and

- c. other technical specifications and information.
3. The handbook is incorporated herein by reference. Its provisions are deemed regulations authorized hereunder and a mandatory part of this chapter.

((A~~Y~~)) BA. Critical Review.

The process of evaluating a land use permit request or other activity to determine whether critical materials or critical materials activities are involved and, if so, to determine what appropriate measures should be required for protection of the aquifer and/or implementation of the Spokane aquifer water quality management plan.

((A~~Z~~)) BB. Critical Review Action.

1. An action by a municipal official or body upon an application as follows:
 - a. Application for a building permit where plans and specifications are required, except for Group R and M occupancies ([SMC 17G.010.140](#) and [SMC 17G.010.150](#)).
 - b. Application for a shoreline substantial development permit ([SMC 17G.060.070\(B\)\(1\)](#)).
 - c. Application for a certificate of occupancy ([SMC 17G.010.170](#)).
 - d. Application for a variance or a certificate of compliance ([SMC 17G.060.070\(A\)](#) or [SMC 17G.060.070\(B\)\(1\)](#)).
 - e. Application for rezoning ([SMC 17G.060.070\(A\)](#)).
 - f. Application for conditional permit ([SMC 17G.060.070\(A\)](#)).
 - g. Application for a business license ([SMC 8.01.120](#)).
 - h. Application for a permit under the Fire Code ([SMC 17F.080.060](#)).
 - i. Application for a permit or approval requiring environmental review in an environmentally sensitive area ([SMC 17E.050.260](#)).
 - j. Application for connection to the City sewer or water system.
 - k. Application for construction or continuing use of an onsite sewage disposal system ([SMC 13.03.0149](#) and [SMC 13.03.0304](#)).
 - l. Application for sewer service with non-conforming or non-standard sewage ([SMC 13.03.0145](#), [SMC 13.03.0314](#), and [SMC 13.03.0324](#)).

- m. Application involving a project identified in [SMC 17E.010.120](#).
 - n. Issuance or renewal of franchise; franchisee use of cathodic protection also requires approval or a franchise affecting the City water supply or water system.
 - o. Application for an underground storage tank permit ([SMC 17E.010.210](#)); and
 - p. Application for permit to install or retrofit aboveground storage tank(s) ([SMC 17E.010.060\(A\)](#) and [SMC 17E.010.400\(D\)](#)).
2. Where a particular municipal action is requested involving a land use installation or other activity, and where said action is not specified as a critical review action, the City official or body responsible for approval may, considering the objectives of this chapter, designate such as a critical review action and condition its approval upon compliance with the result thereof.

((BA)) BC. Critical Review Applicant.
A person or entity seeking a critical review action.

((BB)) BD. Critical Review Officer – Authority.

- 1. The building official or other official designated by the director of public works and utilities.
- 2. For matters relating to the fire code, the critical review officer is the fire official.
- 3. The critical review officer carries out and enforces the provisions of this chapter and may issue administrative and interpretive rulings.
- 4. The critical review officer imposes requirements based upon this chapter, regulations, and the critical materials handbook.
- 5. The officer may adopt or add to any requirement or grant specific exemptions, where deemed reasonably necessary, considering the purpose of this chapter.

((BG)) BE. Critical Review Statement.
A checklist, disclosure form, or part of an application for a critical review action, disclosing the result of critical review. Where not otherwise provided as part of the application process, the critical review officer may provide forms and a time and place to file the statement.

((BD)) BF. Cumulative Impacts.
The combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a

particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

((BE)) BG. Curb Ramp.

A ramp constructed in the sidewalk to allow wheelchair access from the sidewalk to the street.

((BF)) BH. Cutbank.

The concave bank of a moving body of water that is maintained as a steep or even overhanging cliff by the actions of water at its base.

Section 14: that SMC section 17A.020.050 is amended to read as follows:

17A.020.050 “E” Definitions

A. Early Notice.

The lead agency’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (Mitigated Determination of Nonsignificance [DNS] procedures).

B. Easement.

A right granted by a property owner to specifically named parties or to the public for the use of certain land for specified purposes.

C. Ecological Functions.

Or “shoreline functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem. See WAC 173-26-201(2)(c).

D. Eave

The lower border of a roof that overhangs the wall, typically associated with exposed sloped roof elements.

((D-)) E. Ecologically Intact Shorelines.

Those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water

bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Ecologically intact status of a shoreline is determined on a case-by-case basis.

- ((E-)) F. Economic Hardship.
An owner's inability to make reasonable economic use of a historic structure as determined pursuant to [SMC 17D.040.230](#).
- ((F-)) G. Ecosystem-wide Processes.
The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
- ((G-)) H. Electric Sign.
Any sign containing electrical wiring, lighting, or other electrical components, but not including signs illuminated by a detached exterior light source.
- ((H-)) I. Elevated Building.
For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- ((I-)) J. Emergent Wetland.
A wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous wetland vegetation as the uppermost vegetative strata.
- K. Enclosed Roof Structure
Conditioned, occupiable structure extending beyond the roof line of a building; commonly termed a penthouse. For purposes of the HFBC, Enclosed Roof Structures must be set back from the parapet of a building to qualify for height limit exceptions.
- ((J-)) L. Endangered Species.
A wildlife species whose prospects for survival are in immediate danger because of a loss or change in habitat, exploitation, predation, competition, disease, disturbance, or contamination and that are designated as such by a governmental agency.

- ((~~K~~)) M. Enhancement.
See "Compensatory Mitigation" ([SMC 17A.020.030](#)).
- ((~~L~~)) N. Erosion.
The wearing away of the ground surface as a result of mass wasting or the movement of wind, water, soil, and/or ice.
- ((~~M~~)) O. Essential Habitat.
Habitat necessary for the survival of federally listed threatened, endangered and sensitive species and state listed priority species.
- ((~~N~~)) P. Ex Parte Communication.
Any oral or written communication made by any person, including a City employee or official, pertaining to a matter that is or will be within the jurisdiction of the hearing examiner made outside of a public record.
- ((~~O~~)) Q. Existing Manufactured Home Park or Subdivision – Floodplain.
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 1, 2004.
- ((~~P~~)) R. Exotic.
Any species of plants or animals that are not indigenous and are foreign to the planning area.
- ((~~Q~~)) S. Expansion to an Existing Manufactured Home Park or Subdivision – Floodplain.
The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
- ((~~R~~)) T. Extirpation.
The local destruction of or extermination of a species.
- ((~~S~~)) U. Extraordinary Hardship.
That the strict application of the provisions of this code and/or rules adopted to implement this code would prevent all economically viable use of the property.

Section 15: that SMC section 17A.020.060 is amended to read as follows:

17A.020.060 “F” Definitions

- A. **Facade.**
All the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.
- B. **Facade Easement.**
A use interest, as opposed to an ownership interest, in the property of another. The easement is granted by the owner to the City or County and restricts the owner's exercise of the general and natural rights of the property on which the easement lies. The purpose of the easement is the continued preservation of significant exterior features of a structure.
- C. **Facility and Service Provider.**
The department, district, or agency responsible for providing the specific concurrency facility.
- D. **Factory-built Structure.**
 1. "Factory-built housing" is any structure designed primarily for human occupancy, other than a mobile home, the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site.
 2. "Factory-built commercial structure" is a structure designed or used for human habitation or human occupancy for industrial, educational, assembly, professional, or commercial purposes, the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site.
- E. **Fair Market Value.**
The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead, and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.
- F. **Fascia Sign.**
A single-faced sign attached flush to a building or other structure or a sign consisting of light projected onto a building or other structure. Fascia signs do not include signs that are attached to or projected onto structures defined as sign structures by this chapter.
- G. **Feasible (Shoreline Master Program).**

1. For the purpose of the shoreline master program, means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
 - a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 - b. The action provides a reasonable likelihood of achieving its intended purpose; and
 - c. The action does not physically preclude achieving the project's primary intended legal use.
2. In cases where these guidelines require certain actions, unless they are infeasible, the burden of proving infeasibility is on the applicant.
3. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

H. Feature.

To give special prominence to.

I. Feeder Bluff.

Or "erosional bluff" means any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, and/or whose eroded sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform; these natural sources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.

J. Fill.

The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high-water mark in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

K. Financial Guarantee.

A secure method, in a form and in an amount both of which are acceptable to the city attorney, providing for and securing to the City the actual construction and installation of any improvements required in connection with plat and/or building permit approval within a period specified by the City, and/or securing to the City the successful operation of the improvements for two years after the City's final inspection and acceptance of such improvements. There are two types of financial guarantees under [chapter 17D.020 SMC](#), Financial Guarantees: Performance guarantee and performance/warranty retainer.

L. Fish Habitat.

A complex of physical, chemical, and biological conditions that provide the life-

supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, lakes, estuaries, marine waters, and near-shore areas include, but are not limited to, the following:

1. Clean water and appropriate temperatures for spawning, rearing, and holding.
2. Adequate water depth and velocity for migrating, spawning, rearing, and holding, including off-channel habitat.
3. Abundance of bank and in-stream structures to provide hiding and resting areas and stabilize stream banks and beds.
4. Appropriate substrates for spawning and embryonic development. For stream- and lake-dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand.
5. Presence of riparian vegetation as defined in this program. Riparian vegetation creates a transition zone, which provides shade and food sources of aquatic and terrestrial insects for fish.
6. Unimpeded passage (i.e., due to suitable gradient and lack of barriers) for upstream and downstream migrating juveniles and adults.

M. Flag.

A sign made of fabric or other similar non-rigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported. See also "Banner."

N. Float.

A floating platform similar to a dock that is anchored or attached to pilings.

O. Flood Insurance Rate Map or FIRM.

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.

P. Flood Insurance Study (FIS).

The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Q. Flood or Flooding.

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters; or

2. The unusual and rapid accumulation of runoff of surface waters from any source.
- R. Flood-proofing.
Structural provisions, changes, adjustments, or a combination thereof, to buildings, structures, and works in areas subject to flooding in order to reduce or eliminate the damages from flooding to such development and its contents, as well as related water supplies and utility facilities.
- S. Floodway.
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- T. Floor Area.
The total floor area of the portion of a building that is above ground. Floor area is measured from the exterior faces of a building or structure. Floor area does not include the following:
1. Areas where the elevation of the floor is four feet or more below the lowest elevation of an adjacent right-of way.
 2. Roof area, including roof top parking.
 3. Roof top mechanical equipment.
 4. Attic area with a ceiling height less than six feet nine inches.
 5. Porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than forty-two inches in height, for fifty percent or more of their perimeter; and
 6. In residential zones, FAR does not include mechanical structures, uncovered horizontal structures, covered accessory structures, attached accessory structures (without living space), detached accessory structures (without living space).
- U. Floor Area Ratio (FAR).
The amount of floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of two to one means two square feet of floor area for every one square foot of site area.
- V. Focused Growth Area.
Includes mixed-use district centers, neighborhood centers, and employment centers.
- W. Form-Based Code; FBC; FBC Limits
The Form-Based Code; physical limits or boundaries where the Hamilton Form-Based Code applies. FBC Limits are expressed in SMC 17C.123.
- ~~((W.))~~ X. Frame Effect.
A visual effect on an electronic message sign applied to a single frame to

transition from one message to the next. This term shall include, but not be limited to scrolling, fade, and dissolve. This term shall not include flashing.

~~((X:))~~ Y. Freestanding Sign.
A sign on a frame, pole, or other support structure that is not attached to any building.

~~((Y:))~~ Z. Frontage.
The full length of a plot of land or a building measured alongside the road on to which the plot or building fronts. In the case of contiguous buildings individual frontages are usually measured to the middle of any party wall.

Section 15: that SMC section 17A.020.070 is amended to read as follows:

17A.020.070 “G” Definitions

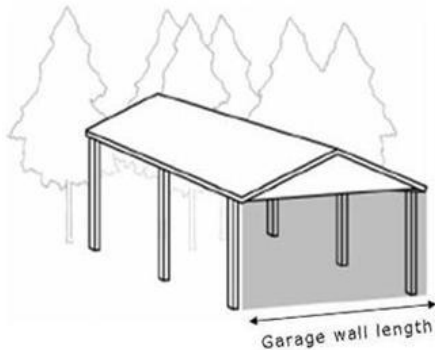
- A. Gabions.
Works composed of masses of rock, rubble, or masonry tightly enclosed usually by wire mesh so as to form massive blocks. They are used to form walls on beaches to retard wave erosion or as foundations for breakwaters or jetties.
- B. Garage.
1. A covered structure designed to provide shelter for vehicles, and which is accessory to a use in these structure types:
 - a. houses,
 - b. attached houses,
 - c. duplexes, or
 - d. mobile homes.
 2. Carports are considered garages.
 3. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage.
 4. A garage may be attached to or detached from another structure.
- C. Garage Wall Length.
The garage wall length is determined by measuring the length of the specific side of a structure that is backed by garage space. The garage wall length is not limited to the length of the garage door; it includes all the length on the specified side of a structure between the walls of the garage (see Figure 17A.020.070.A). For carports, the garage wall length is determined by measuring the length

extending from the outer edges of the roof. (See Figure 17A.020.070.B)

Figure 17A.020.070.A



Figure 17A.020.070.B



- D. General Site Plan.
1. An informal map of a proposed subdivision; or
 2. A scale drawing showing the:
 - a. actual dimensions and shape of the site to be built upon;
 - b. size and location of existing buildings on the site to the nearest foot; and
 - c. location and dimensions of proposed building(s), structure(s) and alteration(s).
- E. Genetic Diversity.
The variety of different genes within a species. The larger the variety of genes in the gene pool of a species, or the less related the breeding individuals are, the greater the chances of that species surviving various adversities, such as disease.
- F. Geologically Hazardous Area.
An area that because of its susceptibility to erosion, sliding, or other geological events is not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.
- G. Geotechnical Report.

1. Or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified professional that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions, and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties.
Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local geology and processes.

H. Glazing

Glass as used in building façades, including windows, transoms and glass portions of storefronts.

~~((H.))~~ I.

Grade.

The “grade” of a building is defined in the International Building Code, Sec. 502.1 as a grade plane representing the average of finished ground level adjoining the building of exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet (one thousand eight hundred twenty-nine mm) from the building, between the building and a point six feet (one thousand eight hundred twenty-nine mm) from the building.

~~((I.))~~ J.

Groins.

A bank of shore-protection structure in the form of a barrier oblique to primary motion of water, deigned to control movement of bed material.

~~((J.))~~ K.

Ground Disturbing Activity.

Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Ground disturbing activities include, but are not limited to demolition, construction, clearing, grading, filling, logging, and excavation.

~~((K.))~~ L.

Ground Water.

Water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

- ~~((L.))~~ M. Group Living Structure.
A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for group living uses.

Section 16: that SMC section 17A.020.090 is amended to read as follows:

17A.020.090 “I” Definitions

- A. Illegal Discharge.
Any direct or indirect non-storm water discharge to MS4.
- B. Illicit Connection(s).
Any man-made conveyance that is connected to the MS4 in violation of [chapter 17D.060 SMC](#).
- C. Illicit Discharge.
This term is covered in [SMC 17D.060.190](#).
- D. Illuminated Wall Highlights.
Lighted areas that highlight a building’s architectural or structural features and that do not convey a message or image. Illuminated wall highlights can either be created by light projected onto a feature or highlighting a feature with neon tubing or other light fixture.
- E. Impact Fee.
A charge or fee assessed by the City which mitigates all or any portion of a direct impact.
- F. Impermeable Sediment.
Sediment restricting the flow of water.
- G. Impervious Surface
Ground surfaces and coverings composed of water-impenetrable materials such as asphalt, concrete, brick, stone and rooftops.
- ~~((G.))~~ H. Improvements.
Improvements require under conditions of approval such as streets, drainage facilities, and utilities.
- ~~((H.))~~ I. Incentives.
Such rights or privileges as may from time to time exist to compensate the owner for the imposition of controls on a designated district or landmark.
- ~~((I.))~~ J. In-ground Storage Tank (IST).
Any one or a connected combination of tanks that is used to contain an accumulation of liquid critical materials, the aggregate of which (including the volume of piping connected thereto) is more than sixty gallons that is

situated to any degree within the ground, and the entire exterior surface of the tank cannot be fully visually inspected. The surface area of tank located above the ground will be treated as an aboveground storage tank (AST), and the area below the ground will be treated as an underground storage tank (UST).

- ((J-)) K. In-kind Compensation.
The restoration or replacement of a wetland with hydrogeomorphic characteristics closely approximating those of a specified wetland.
- ((K-)) L. Inner Gorge Slope.
Canyon walls created by a combination of stream downcutting/undercutting and mass wasting on the slope walls. Inner gorges may show evidence of recent movement, such as landslides, surface erosion, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. The steepness of inner gorges varies with the underlying materials. Slope gradients as gentle as about twenty-eight degrees (fifty-three percent) can be unstable in gorges, cut into incompetent bedrock, weathered materials or unconsolidated deposits. A minimum vertical height of ten feet is usually applied to distinguish between inner gorges and slightly incised streams. The top edge of an inner gorge is typically distinguished by a distinct break in slope. The upper boundary of an inner gorge is assumed to be a line along the first break in slope of at least ten degrees (seventeen percent).
- ((L-)) M. In-stream Structure.
A structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.
- ((M-)) N. Infiltration.
The downward entry of water into the immediate surface of soil.
- ((N-)) O. Integral Curb and Gutter.
Concrete curb and gutter which is formed and placed as one unit.
- ((O-)) P. "Interior Noise Level" means the average level of sound expressed in decibels (dB) measured in any habitable room with exterior windows and doors closed.
- ((P-)) Q. Interpretive Signs.
A sign that identifies historic buildings or sites where important events

occurred or which serve educational, cultural, historical, or scientific purposes.

- ~~((Q.))~~ R. Interstitial Monitoring.
A method of leak detection based on determining if there has been a failure of one of the containment layers surrounding an interstitial space. Monitoring methods may include the:
1. detection of pressure changes within the space;
 2. detection of vapors from the contained material within the space; or
 3. physical detection of contained material, or water from outside the container, within the space.

- ~~((R.))~~ S. Interstitial Space.
The volume between two separate layers of a secondary or multiple containment system. The space may be filled with air or other gas or it may be filled with a porous material.

- ~~((S.))~~ I. Invasive Species.
A species that is:
1. non-native (or alien) to city of Spokane; and
 2. whose introduction causes or is likely to cause economic or environmental harm, or harm to human health.
- Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

- ~~((T.))~~ U. Isolated Wetlands.
Those wetlands which:
1. are outside of and not contiguous to any hundred-year floodplain of a lake, river, or stream; and
 2. have no contiguous hydric soil or hydrophytic vegetation between the wetland and any waters of the United States.

Section 17: that SMC section 17A.020.150 is amended to read as follows:

17A.020.150 “O” Definitions

- A. Object.
A thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- B. Off-site Compensation.
Restoration or replacement of a wetland within its primary drainage basin, but not adjacent to the site on which a wetland has been or will be degraded. Locations

within the City and in the same drainage are preferred and required when feasible. Spokane County locations in reasonable proximity and preferably in the same drainage will be considered when no practicable City location exists.

- C. On-site Compensation.
Restoration or replacement of wetland at or very near the site where a wetland has been or will be degraded by a regulated activity.
- D. On-site Stormwater Facilities.
1. Physical improvements or design characteristics on a premises with a function to control, prevent, diminish, dissipate, treat, deflect or slow down the rate and/or volume of stormwater runoff or flows entering the public right-of-way, the public sanitary or storm sewer system, or to reduce flooding and erosion on public or private property.
 2. Examples include, but are not limited to, catch basins, pipes, ponds, impoundments, inlets and drains, as well as biotic or landscaping components such as grassy swales, drainage areas, easements, or other kinds of onsite drainage systems.
- E. Open Record Hearing.
A hearing, conducted by a single hearing body or officer authorized to conduct such hearings, that creates a record through testimony and submission of evidence and information (RCW 36.70B.050(2)).
- F. Open Roof Structure
A non-conditioned, open structure typically providing shade and casual gathering space and incorporating a pergola, arbor or trellis. For purposes of the HFBC, Open Roof Structures may include partial-height screen walls on no more than one side.
- ~~((F.))~~ G. Open Water Component.
Wetlands having any areas of standing water present for more than one month at any time of the year without emergent, scrub-shrub or forested vegetation. Open water includes any aquatic beds.
- ~~((G.))~~ H. Ordinance.
The ordinance, resolution, rules or other procedure used by the City of Spokane, Spokane County, Spokane regional health district, and Spokane County air pollution control authority to adopt regulatory requirements.
- ~~((H.))~~ I. Ordinary High Water Mark.
The mark that is found by examining the bed and banks of a water body and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years as to mark upon the soil and vegetation a character distinct from that of the abutting upland.

~~((I.))~~ J. Ordinary Repair and Maintenance.
Work the purpose and effect of which is to correct any deterioration or decay of, or damage to, the real property or structural appurtenance thereon and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

~~((J.))~~ K. Outdoor Display.

1. The outdoor display of products, vehicles, equipment and machinery for sale or lease.
2. Outdoor display is an outdoor showroom for customers to examine and compare products.
3. There is variety or a distinction among the goods on display, through different products, brands or models.
4. The display area does not have to be visible to the street.
5. Exterior display does not include goods that are being stored or parked outside. It does not include damaged or inoperable vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products. Outdoor display does not include car and boat sales and leasing when such vehicles are not accessible to customers to inspect and compare; this situation is considered outdoor storage.
6. Examples of uses that often have outdoor display are car and boat sales and leasing, and plant nurseries.
7. See also, "Outdoor Work Activities and Outdoor Storage."

~~((K.))~~ L. Outdoor Storage.

1. The outdoor storage of goods that generally have little or no differentiation by type or model.
2. The goods may be for sale or lease, but if so, they are the type that customers generally do not inspect and compare.
3. Outdoor storage also includes the outdoor storage of goods for sale, lease or rent that may be differentiated by type or model, but that are not accessible for customers to inspect or compare.
4. Outdoor storage includes the storage of raw or finished goods (packaged or bulk), including:
 - a. gases, oil, chemicals, gravel, building materials, packing materials, salvage goods, machinery, tools and equipment;
 - b. vehicles that are for sale, lease or rent, which are not accessible to the customer to inspect or compare;
 - c. vehicles that have been unloaded at port facilities and are waiting transport to off-site locations; and

- d. other similar items.
- 5. The storage of recreational vehicles outdoors is also considered outdoor storage.
- 6. Damaged or inoperable vehicles or vehicles which have missing parts, that are kept outside, are also included as outdoor storage.
- 7. Examples of uses that often have outdoor storage are lumberyards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or car rental establishments and port facilities.
- 8. See also "Outdoor Display" and "Outdoor Work Activities."

~~((L.))~~ M. Outdoor Work Activities.

- 1. Include the outdoor processing, assembly or fabrication of goods; the maintenance, repair and salvage of vehicles and equipment; and other similar activities that generally have an industrial orientation.
- 2. Outdoor work activities do not include normal pick-up and deliveries to a site, parking, excavation and fills, outdoor eating areas, outdoor recreation or outdoor markets.
- 3. See "Outdoor Display" and "Outdoor Storage."

~~((M.))~~ N. Out-of-kind Compensation.

The restoration or creation of a wetland with vegetation and other characteristics not resembling those of a specified wetland.

~~((N.))~~ O. Owner/Ownership Interest.

Owners are all persons having a real property interest. Owners include with respect to real property:

- 1. holder of fee title or a life estate;
- 2. holder of purchaser's interest in a sale contract in good standing;
- 3. holder of seller's interest in a sale contract in breach or in default;
- 4. grantor of deed of trust;
- 5. presumptively, a legal owner and a taxpayer of record;
- 6. fiduciary representative of an owner;
- 7. person having a right of possession or control; or
- 8. any one of a number of co-owners, including joint, in common, by entireties and spouses as to community property.

Section 18: that SMC section 17A.020.160 is amended to read as follows:

17A.020.160 "P" Definitions

- A. Painted Wall Highlights.
Painted areas that highlight a building's architectural or structural features and that do not convey a message or image.
- B. Painted Wall Sign.
A sign applied to a building wall with paint or a thin layer of vinyl, paper, or similar material adhered directly to the building surface and that has no sign structure.
- C. Parcel.
See "Lot" ([SMC 17A.020.120](#)).
- D. Parkway.
1. A street serving as a principal, minor, or collector arterial, typically with recreational or scenic opportunities.
2. Parkways will often have landscaped medians.
- E. Party of Record.
Any person who has appeared at a hearing of the hearing examiner by presenting testimony or making written comment.
- F. Paved Area.
1. An uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as "Grasscrete") that is able to withstand vehicular traffic or other heavy-impact uses.
2. Graveled areas are not paved areas.
- G. Pedestrian Buffer Strips (PBS).
A hard-surfaced or planted area(s) between travel or parking lanes and sidewalks, also called planting strips. PBS improves safety by separating vehicles and pedestrians and provide space for drainage, street trees and snow storage.
- H. Pedestrian Path
A continuous, unobstructed, reasonably direct route between an on-site parking lot and a Primary Building Entry designed and suitable for pedestrian use.
Minimum requirements for Pedestrian Paths are listed in Section 17C.123.040 of the FBC.
- I. Pedestrian-Scaled Fixtures (lighting)
Pole-mounted light fixtures placed and designed to illuminate foot-traffic areas including exterior lots, pathways or sidewalks. For purposes of the HFBC, Pedestrian-Scaled Fixtures are defined by height as measured from ground to bottom of shade or bulb.

- J. Pedestrian-Scaled Signs
Permanent, first-floor, exterior signs designed and placed to address pedestrian traffic; may be mounted flush with or projecting from a column, building wall, awning or transom.
- ((H-)) K. Pedestrian Street.
 A street designated on the official zoning map as a pedestrian street where development standards are required to promote a pedestrian friendly street. Pedestrian streets offer a pleasant and safe walking environment.
 Design features include minimal interruptions of the sidewalk by driveways, publicly usable site furnishing such as benches, tables, and bike racks, and visually interesting buildings close to the sidewalk.
- ((I-)) L. Performance Guarantee.
 A “financial guarantee” providing for and securing to the City the actual construction and installation of the required improvements.
- ((J-)) M. Performance/Warranty Retainer.
 A “financial guarantee” both providing for and securing to the City the actual construction and installation of such improvements, and securing to the City the successful operation of the improvements for two years after the City’s final inspection and acceptance of the improvements.
- ((K-)) N. Permanent Erosion and Sediment Control Measures.
 A combination of plants, mulch, sod, matting, erosion control blankets, and permanent structures that will provide long-term soil stabilization.
- ((L-)) O. Permanent Sign.
 Any sign not classified as a temporary sign.
- ((M-)) P. Permanent Stabilization.
 See Permanent Erosion and Sediment Control Measures.
- ((N-)) Q. Permeable Sediment.
 Sediment permitting the flow of water.
- ((O-)) R. Person.
 Any natural person, whether acting individually or in a representative capacity, partnership, joint venture, corporation, or other legal entity.
- ((P-)) S. Pier.
 Any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce, including,

but not limited to, wharves, mono-buoys, quays, ferry terminals, and fish weighing station.

~~((Q.))~~ I.

Pitched Roof Sign.

A sign attached to a roof with a pitch of one-to-four or greater and placed parallel to the building wall.

~~((R.))~~ U.

Planned Capacity.

For all capital facilities, except transportation, capacity for a concurrency facility that does not exist, but for which the necessary facility construction, expansion, or modification project is contained in the current adopted City of Spokane comprehensive plan, capital improvement program and scheduled to be completed within six years. (RCW 36.70A.020).

~~((S.))~~ V.

Planned Capacity for Transportation Facilities.

Capacity for transportation facilities, including roads and transit, that does not exist, but where transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development.

1. These strategies may include:
 - a. increased public transportation service,
 - b. ride sharing programs,
 - c. demand management, and
 - d. other transportation systems management strategies.
2. For transportation facilities, "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years (RCW 36.70A.070(6)(b)).

~~((T.))~~ W.

Planned Unit Development (PUD).

1. A planned unit development is a project permit for an overlay zone, approved by the hearing examiner, which does not fully comply with all of the development standards of the base zone in which it is located, but is approved based on superior or innovative design.
2. The City may permit a variety of types, design, and arrangement of structures and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and welfare.

~~((U.))~~ X.

Plans.

Planning documents, which are developed by the various departments of the City, pertaining to the orderly development of public facilities.

Y. Planting Zone
Area for street trees, ground cover or other plantings; typically included herein as a portion of overall sidewalk width reserved for locating permanent trees and tree grates.

~~((V-))~~ Z. Plat – Final.
A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, alleys, or other divisions and dedications and containing all elements and requirements set forth in this chapter and chapter 58.17 RCW.

~~((W-))~~ AA. Plat – Preliminary.
1. A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a subdivision required by this chapter and chapter 58.17 RCW.
2. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

~~((X-))~~ AB. Plaza.
1. Areas generally open to the public on a controlled basis and used for passive recreational activities and relaxation.
2. Plazas are paved areas typically provided with amenities, such as seating, drinking, and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

AC. Plinth
The base or platform upon which a building wall or column appears to rest, helping establish pedestrian-scaled elements and aesthetically tying the building to the ground.

~~((Y-))~~ AD. Pollutant.
Any substance which is prohibited or limited by applicable laws or regulations, which is released or discharged in conjunction with development.
Any substance that causes or contributes to violation of water quality standards, released or discharged.

~~((Z-))~~ AE. Pollution.
Contamination, or other alteration of the physical, chemical, or biological properties of wetlands, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into wetlands as will or is likely to cause a nuisance or render such wetlands harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial,

agricultural, recreational, or other legitimate beneficial uses, or to livestock, wildlife, fish, native vegetation, or other aquatic life.

- ~~((AA-))~~ AF. Potential Geologically Hazardous Areas.
Areas designated on maps maintained in the City's planning services department. They are classified "potential" because they have not been confirmed by field investigation nor do they necessarily include the full extent of all geologically hazardous areas within the City. The maps are intended to alert property owners, purchasers, developers, etc., to the possible existence of significant geological hazards, which may warrant further geotechnical study.
- ~~((AB-))~~ AG. Practicable Alternative.
An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes and having less impact to critical areas. It may involve using an alternative site in the general region that is available to the applicant and may feasibly be used to accomplish the project.
- ~~((AC-))~~ AH. Predevelopment Meetings.
Meetings between City or agency staff and an applicant or their representatives prior to formal submission of a detailed application. They are intended to provide an overview of the regulatory requirements, application process, and procedural submission requirements.
- AI. Principal Buildings
Where multiple buildings occupy a single lot, those buildings that are associated with the prevailing use of that site
- AJ. Primary Building Entry
Access or entrance of first rank, importance or value, visually associated with the prevailing ground-floor use of a building.
- ~~((AD-))~~ AK. Primary Building Walls.
Any exterior building wall that faces a street and contains a public entrance to the occupant's premises or tenant space. If an individual tenant space does not have a street facing wall, or does not have a street facing wall containing a public entrance, then the primary building wall for that individual tenant space is any wall containing a public entrance that faces a parking area on the site. (See Figure 1, [SMC 17C.240.130](#), Primary Building Walls)
- ~~((AE-))~~ AL. Primary Container.
The container that is in direct contact with the material of concern during the course of normal transport, use, or storage.

- ((~~AF~~)) AM. Primary Drainage Basin.
The basin of the stream or tributary within which a project is proposed, not including basins of major tributaries. For the purpose of this regulation the primary drainage basin of:
1. Latah Creek is not a part of the primary drainage basin of the Spokane River,
 2. Marshall Creek is not a part of the primary drainage basin of Latah Creek.
- ((~~AG~~)) AN. Primary Structure.
1. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure.
 2. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.
- ((~~AH~~)) AO. Primary Use.
1. An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed or ordinarily used.
 2. A site may have more than one primary use.
- ((~~AI~~)) AP. Principal Arterials.
A four- to six-lane street serving as a primary facility for access between the central business district, major employment districts, and major shopping centers.
- ((~~AJ~~)) AQ. Priority Habitats.
Habitat areas determined by WDFW to have unique or significant value to many species and that meet one or more of the following criteria:
1. High wildlife density.
 2. High species diversity.
 3. Important wildlife breeding habitat.
 4. Important wildlife seasonal ranges.
 5. Important movement corridors.
 6. Limited availability.
 7. High vulnerability to habitat alteration.
- ((~~AK~~)) AR. Priority Species.
A wildlife species requiring protective measures for their perpetuation due to their population status, their sensitivity to habitat alteration, and/or their recreational importance.

- ((~~AL~~)) AS. Private Street.
Roadway which is not controlled or maintained by a public authority, and which serve two or more properties.
- ((~~AM~~)) AT. Project Permit or Project Permit Application.
Any land use or environmental permit or license required for a project action, including, but not limited to, building permits, short plats, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits, or approvals required by the critical area ordinance, and site specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specifically identified under RCW 36.70B.140.
- ((~~AN~~)) AU. Projecting Sign.
A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.
- ((~~AQ~~)) AV. Protected Species.
A general classification of animals by WDFW that includes all those species not classified as listed, game, fur-bearing, or non-protected. This also includes all birds not classified as game or non-protected.
- ((~~AP~~)) AW. Proximity.
That two or more properties are either adjacent or separated by a street or alley.
- ((~~AQ~~)) AX. Public Access.
The public's right to get to and use the City's public waters, the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic streets and overlooks, viewing towers, and other public sites or facilities.
- ((~~AR~~)) AY. Public Facilities.
Any City-owned, operated, or contracted public facility or service in whole, or in part, whether existing or planned, including, but not limited to:
1. parks,
 2. recreation facilities,
 3. playgrounds,
 4. streets,
 5. transportation facilities,

6. open spaces,
7. fire facilities,
8. storm water drainage ponds, and
9. all such appurtenances and improvements.

((AS:)) AZ. Public Property.

Any City-owned real property, air space, or other interest in real estate, including streets, alleys, or other public rights-of-way, owned by or controlled by this municipality or any other governmental unit.

((AT:)) BA. Public Way.

1. A dedicated "public way" is a tract of land:
 - a. conveyed or reserved by deed,
 - b. dedicated by plat, or
 - c. acquired by decree of court,
 - d. which has been accepted and dedicated by action of the city council to the public right-of-way and for secondary use as an easement for public utilities.
2. An "alley" is a public way, usually not exceeding sixteen feet in width, designed or intended to provide secondary access to abutting properties.

Section 19: that SMC section 17A.020.220 is amended to read as follows:

17A.020.220 "V" Definitions

- A. Variance.
A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by [Title 17 SMC](#).
- B. Vegetative Classes.
Certain types of wetlands as defined by the U.S. fish and wildlife service's classification of wetlands and deepwater habitats of the United States, FWS/OBS-79-31 (Cowardin et al., 1979) and which are at least one-half acre in size or comprise at least ten percent of the entire wetland.
- C. Vehicle-Scaled Fixtures (lighting)
Pole-mounted light fixtures placed and designed to illuminate vehicular-traffic areas including exterior lots, driveways and roadways. For purposes of the HFBC, Pedestrian-Scaled Fixtures are defined by height as measured from ground to bottom of shade or bulb

((G:)) D. Vehicle Types.

1. Commercial Vehicle.
See "Commercial Vehicle" ([SMC 17A.020.030](#)).
2. Motor Vehicle.
Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes:
 - a. motorcycles,
 - b. passenger vehicles,
 - c. trucks, and
 - d. recreational vehicleswith motive power. See also Passenger Vehicle, Recreational Vehicle, and Truck.
3. Passenger Vehicle.
 - a. A motor vehicle designed to carry ten persons or less including the driver.
 - b. Passenger vehicle also includes motor vehicles designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road use.
 - c. Passenger vehicle includes vehicles commonly called cars, minivans, passenger vans, and jeeps.
 - d. Passenger vehicle is intended to cover the vehicles defined as passenger cars and multi-purpose passenger vehicles by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3. See also Recreational Vehicle, and Truck.
4. Recreational Vehicle.
See "Recreational Vehicle" ([SMC 17A.020.180](#)).
5. Truck.
 - a. A motor vehicle which is designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten persons.
 - b. Truck includes vehicles commonly called trucks, pick-ups, delivery vans, buses, motor homes, and other similar vehicles.
 - c. Truck is intended to cover the vehicles defined as trucks and buses by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3.
 - d. Trucks are divided into three categories by size as stated below.

- i. Light Truck.
Light trucks are trucks and similar vehicles with single rear axles and single rear wheels.
- ii. Medium Truck.
Medium trucks are trucks and similar vehicles, other than truck tractors, with single rear axles and dual rear wheels. Truck tractors are in the “Heavy Truck” category.
- iii. Heavy Truck.
Heavy trucks are trucks, including truck tractors, and similar vehicles with two or more rear axles.
- iv. Utility Trailer.
A vehicle designed to be pulled by a motor vehicle which is used to carry property, trash, or special equipment and that is sixteen feet or less in length. Boat trailers are included as utility trailers. Utility trailers that are longer than sixteen feet in length are considered industrial vehicles and are regulated as heavy trucks.

e. See also Passenger Vehicle, and Recreational Vehicle.

((D-)) E. Vernal Wetland System.
Seasonal depressional wetlands typically occurring high in the drainage that derive their hydrology from rainfall and snow and a small immediate watershed. Vernal systems are formed as a result of accumulation of surface water in an isolated basin that at no time of the year would have a natural inlet or outlet and water is entirely absent from the surface part of the year.

((E-)) F. Vested.
The right to development or continue development in accordance with the laws, rules, and other regulations in effect at the time vesting is achieved.

((F-)) G. Video Display Method.
A video display method is a method of display characterized by real-time, full-motion imagery.

~~((G.))~~ H. Vulnerable Species.
Those species susceptible to significant population declines because they are uncommon either within a specific area or statewide, have a very limited distribution, or have special space or habitat requirements.

Section 20: Severability Clause. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, the decision shall not affect the validity of the remaining portions of this ordinance.

PASSED BY THE CITY COUNCIL ON _____, 2015.

Attest:

Council President

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

HAMILTON

FORM-BASED CODE

SUBAREA PLAN

ORDINANCE # C35211
ORDINANCE # C35212
Information Packet

Spokane City Council
January 2015

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CITY OF SPOKANE PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE HAMILTON FORM BASED CODE SUBAREA PLAN - COMPREHENSIVE PLAN LAND USE PLAN MAP AMENDMENT FILE NO. Z1400055COMP

A Recommendation of the City of Spokane Plan Commission to the Spokane City Council approving the Hamilton Form Based Code Subarea Plan. The proposal falls into two actions: (1) Comprehensive Plan land use plan map amendment from “Residential 4-10” to “Center & Corridor Transition.” (2) Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC), Residential Single-Family (RSF), and Residential Two-Family (RTF) zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary (collectively the “Hamilton Subarea Form Based Code Proposal”).

FINDINGS OF FACT:

- A. In accordance with the Growth Management Act (GMA), the City of Spokane previously adopted a Comprehensive Plan (RCW 36.70A).
- B. GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that, so long as a subarea plan clarifies, supplements, or implements city-wide comprehensive plan policies, and so long as the cumulative impacts of the proposed subarea plan are addressed by appropriate environmental review under chapter 43.21C. RCW, the initial adoption of a subarea plan may occur outside of this annual process.
- C. Per Article VIII of the City Charter, the Spokane City Council recognizes distinct neighborhood areas as neighborhood councils through the Neighborhood Councils Program and the Community Assembly.
- D. The City Council allocated \$550,000 in the fall of 2007 to be used for planning activities by neighborhood councils.
- E. The Logan Neighborhood Organization (“LNO”) is the City Council-recognized neighborhood council for the area generally bounded by Division Street on the west, the Spokane River on the east, Euclid Street on the north, Trent Avenue on the south, and bisected north to south by Hamilton Street and west to east by Mission Avenue.

- F. On March 8, 2011 the Logan Neighborhood Organization was designated to initiate abbreviated neighborhood planning and LNO representatives endorsed a letter of intent to begin planning.
- G. On March 30 and March 31, 2012, respectively, the manager of the Logan Neighborhood Stakeholders Team ("LNST"), Karen Byrd, and the chair of the Logan Neighborhood Organization, Jeanette Harras, signed a memorandum of understanding with the Planning Services Department recognizing the LNST to conduct abbreviated planning.
- H. On June 19, 2012 the Logan Neighborhood Organization approved the initial neighborhood planning direction proposed by the LNST, which states: "Pursue streetscape and intersection improvements, including bicycle and pedestrian connections along the Hamilton Corridor, as well as to pursue becoming one of the pilot neighborhoods the city choses for form-based zoning standards."
- I. On July 25, 2012 the Logan Neighborhood Stakeholder Team agreed by consensus both to pursue the drafting of a neighborhood "identity plan" using Res. 2008-0100 funds by a qualified volunteer planner, William Sinclair and to authorize the preparation of a form-based model zoning code which with a consultant, Studio Cascade. Form based codes are aimed at promoting public health, safety and general welfare by creating safe, attractive, pedestrian-friendly environments by regulating the location of buildings closer to the right-of-way, establishing building form, scale, treatment, and articulation and interaction with a vibrant public ream.
- J. Between August of 2012 and February 2013, Studio Cascade worked with the Logan Neighborhood Stakeholder Team, property owners, business owners, residents, and other interested parties to prepare a form-based model zoning code through a series of planning sessions, interviews, charrettes, and an open house.
- K. On June 26, 2013 The *Logan Neighborhood Identity Plan* and *Model Form-Based Code for the Hamilton Corridor* were approved by the Logan Neighborhood Stakeholder Team and by the Logan Neighborhood Organization on March 18, 2014.
- L. The *Logan Neighborhood Identity Plan* and *Model Form-Based Code for the Hamilton Corridor* were adopted via City Council resolution as credible representation of the desire for the Logan Neighborhood on May 12, 2014.
- M. The Logan Neighborhood Stakeholder Team worked with the City of Spokane's Planning & Development staff between May 2014 and September

2014 to modify the *Model Form-Based Code for the Hamilton Corridor* from a model code to a specific regulatory document, *Hamilton Form Based Code*.

- N. The Logan Neighborhood Stakeholder Team agreed that the *Hamilton Form Based Code* is to foster an economically vibrant, pedestrian-safe and walkable, mixed-use environment along the Hamilton Street corridor.
- O. Drive-through facilities are a necessary component of modern life in some areas, but drive-through facilities that are not designed with pedestrian traffic in mind, intrinsically create bad street frontage that is unsafe for pedestrians.
- P. Drive-through facilities are dependent on a high volume of vehicle traffic and a high turnover of customers, which can create significant traffic impacts with respect to site access, stacking or queuing lanes, and can create conflicts between internal traffic, parking areas, and pedestrian traffic.
- Q. Drive-through facilities create the potential for exhaust fumes, noise and traffic congestion, and drive-through fast food restaurants require outdoor speakers/ordering board which may create visual and noise impacts.
- R. On July 30, 2014 the updated *Hamilton Form Based Code* was presented to the public at an open house. Notice was provided to all affected property owners/taxpayers/occupants within the project boundary and those within 400 feet of the project boundary.
- S. On August 18, 2014 the City of Spokane held a meeting with property owners within the project boundary to collect feedback on the *Hamilton Form Based Code Draft*.
- T. In September of 2014 City of Spokane's Planning & Development staff drafted the *Hamilton Form Based Code Subarea Plan* which amends the Comprehensive Plan Land Use Plan Map and implementing Form Based Code zoning categories.
- U. *The Hamilton Form Based Code Subarea Plan* was submitted as a Comprehensive Plan amendment application Z1400055COMP on October 6, 2014.
- V. *The Hamilton Form Based Code Subarea Plan falls into two actions: (1)* Comprehensive Plan land use plan map amendment from "Residential 4-10" to "Center & Corridor Transition." *(2)* Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC), Residential Single-Family (RSF), and Residential Two-Family (RTF) zones

with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary.

- W. Staff requested comments on the Environmental Checklist from City Departments and outside agencies on October 6, 2014. The consultation period ended on October 20, 2014. No adverse comments were received from agencies or departments.
- X. Notice of Application was mailed on October 27, 2014 to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014. Comments were provided by property owners and other interested parties.
- Y. Staff made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal.
- Z. The Spokane City Plan Commission held a substantive workshop to study the amendment on November 12, 2014.
- AA. A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on November 26, 2014 for the Hamilton Form Based Code Subarea Plan. The public appeal period for the SEPA determination ended on December 10, 2014 at 4pm.
- BB. On October 23, 2014, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Comprehensive Plan.
- CC. Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was mailed to all property owners and taxpayers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a four hundred foot radius of any portion of the project boundary on November 26, 2014.
- DD. Notice of SEPA Determination and Plan Commission Hearing to be held on December 10, 2014 was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014 and the *Official Gazette* on December 3, 2014.
- EE. The Planning Department prepared a staff report found that the amendment met all the review guidelines and required decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17G.020.

Comprehensive Plan Amendment Procedure (the "Staff Report").

FF. The Plan Commission held a public hearing on the recommended amendment on December 10, 2014.

GG. The Plan Commission recommended, by a vote of 7 to 2, approval of the *Hamilton Form Based Code Subarea Plan* on December 10, 2014.

HH. As a result of the City's efforts, the public has had extensive opportunities to participate throughout the process and persons desiring to comment were given that an opportunity to comment.

II. The Plan Commission adopts the foregoing, together with the contents and findings in the Staff Report, as its finding of fact relating to this matter.

CONCLUSIONS:

A. The Hamilton Subarea Form Based Code Proposal is consistent with the decision criteria and review guidelines for Comprehensive Plan amendments, as listed in SMC 17G.020.030, and is further consistent with the Comprehensive Plan.

B. The Hamilton Subarea Form Based Code Proposal is consistent with applicable provisions of the Comprehensive Plan and bears a substantial relation to public health, safety, general welfare, and protection of the environment.

RECOMMENDATIONS:

Recommendation #1:

By a vote of 7 to 2, subject to the caveat set forth in Recommendation #3 below, the Plan Commission recommends to the City Council approval of the *Hamilton Form Based Code Subarea Plan* Amendment to the Land Use Plan Map of the City's Comprehensive Plan for a change from the land use plan map designation "Residential 4-10" to "Center & Corridor Transition."

Recommendation #2:

By a vote of 7 to 2, subject to the caveat set forth in Recommendation #3 below, the Plan Commission recommends to the City Council the approval of *Hamilton Form Based Code Subarea Plan* amendment to Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones; amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions; amending the City of Spokane Zoning Map and replacing Centers & Corridors Type 1 District Center (CC1-DC), Centers & Corridors Type 2 District Center (CC2-DC),

Residential Single-Family (RSF), and Residential Two-Family (RTF) zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within the project boundary.

Recommendation #3:

The Plan Commission requests that the City Council include in the Plan Commission's 2015 annual work schedule (i) the development of design standards for Context Area 4 of the Hamilton Subarea Form Based Code Proposal; (ii) design standards for drive-through facilities to replace the prohibition in the Hamilton Subarea Form Based Code Proposal; and (iii) review of request to expand the boundaries of the southern portion of Context Area 3 to include the following parcels: 35171.1415; 35171.1416; 35171.1405; 35171.1414; 35171.1402; and 35171.1401.

A handwritten signature in black ink, reading "Dennis Dellwo", is written over a horizontal line.

**Dennis Dellwo, President
Spokane Plan Commission
December 17, 2014**

**STAFF REPORT ON COMPREHENSIVE PLAN
LAND USE MAP CHANGE & ZONING MAP CHANGE
HAMILTON FORM BASED CODE SUBAREA PLAN
FILE NO. Z1400055COMP**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

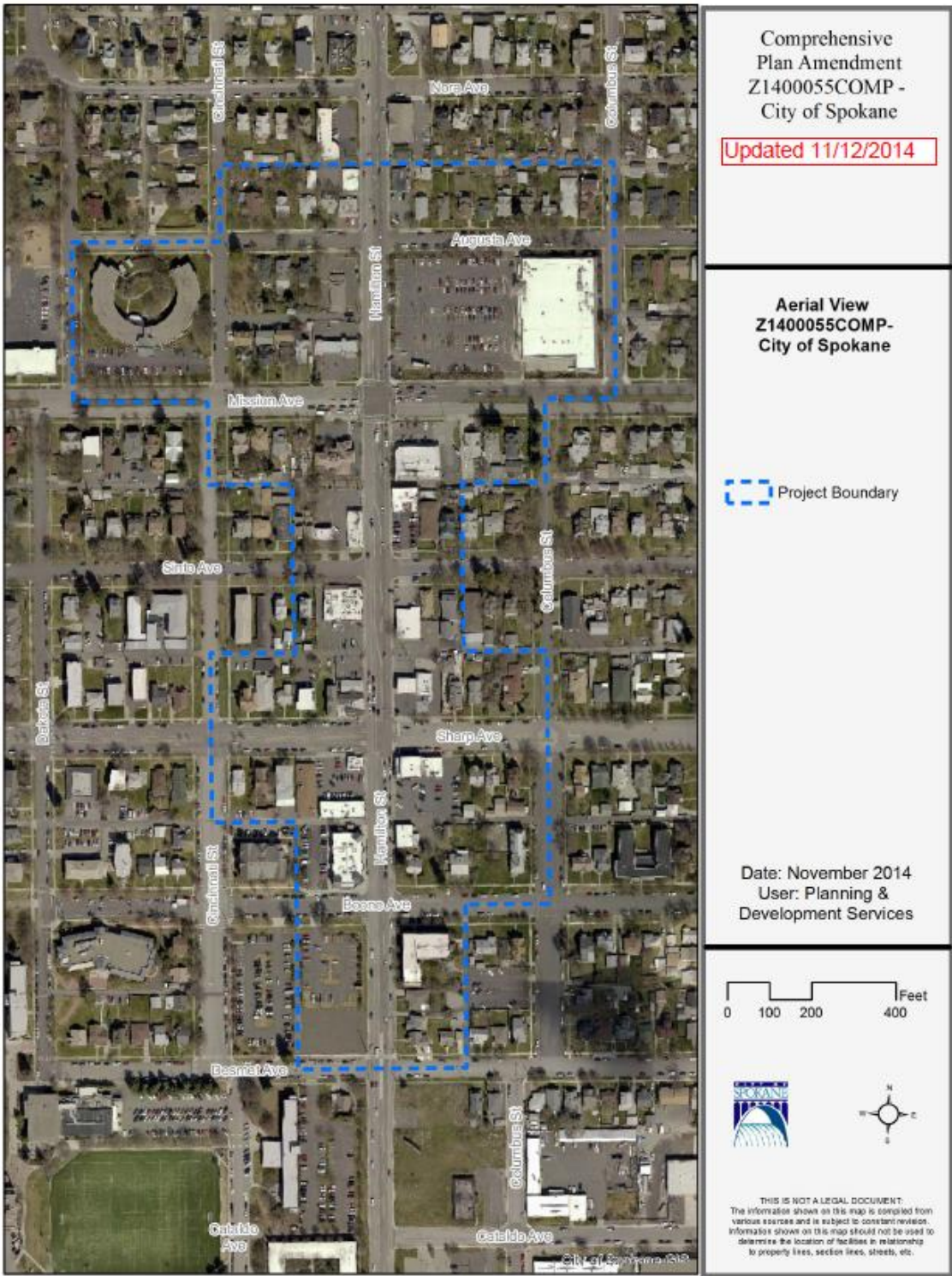
DESCRIPTION OF PROPOSAL: In July, 2012 the Logan Neighborhood Stakeholder Team with the City of Spokane Planning Department began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area and is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area.

II. GENERAL INFORMATION:

Applicant	City of Spokane
Location of Proposal:	The affected geographic area is centered on the Hamilton Street corridor, bordered by Desmet Ave. to the south and the alley between Augusta Ave. and Nora Ave. to the north. The east/west boundaries vary. Please see attached project area maps.
Legal Description	A full legal description of the subject properties and all related project documents are available at Planning and Development, located on the third Floor of City Hall, 808 West Spokane Falls Blvd., Spokane, WA 99201-3329
Existing Land Use Plan Designation:	"Residential, 4 to 10 units per acre"
Proposed Land Use Plan Designation:	"Center & Corridor Transition"
Existing Zoning:	CC1-DC (Center & Corridor 1 District Center); CC2-DC (Center & Corridor 2 District Center); RSF (Residential Single Family); and RTF (Residential Two-family)
Proposed Zoning:	New, Form Based Code Zoning Categories: CA1, CA2, CA3, CA4 (Context Areas)
SEPA Status:	A SEPA threshold Determination of Non-Significance (DNS) was made on November 26, 2014. The appeal period closed on December 10, 2014 at 4pm.
Enabling Code Section:	SMC 17G. 020, Comprehensive Plan Amendment Procedure
Plan Commission Hearing Date:	December 10, 2014

Staff Contact:	Boris Borisov, Assistant Planner; bborisov@spokanecity.org
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III. FINDINGS OF FACT:



- A. Site Description: The proposed project area is approximately 36.15 acres. There are approximately 82 affected parcels. This proposal retains the current “Center and Corridor Core” Land Use Plan Map Designation along the Hamilton Corridor. The proposed zoning categories of Context Areas 1, 2, and 3 along Hamilton are commercial in nature and fit the current Land Use Designation of the Comprehensive Plan.

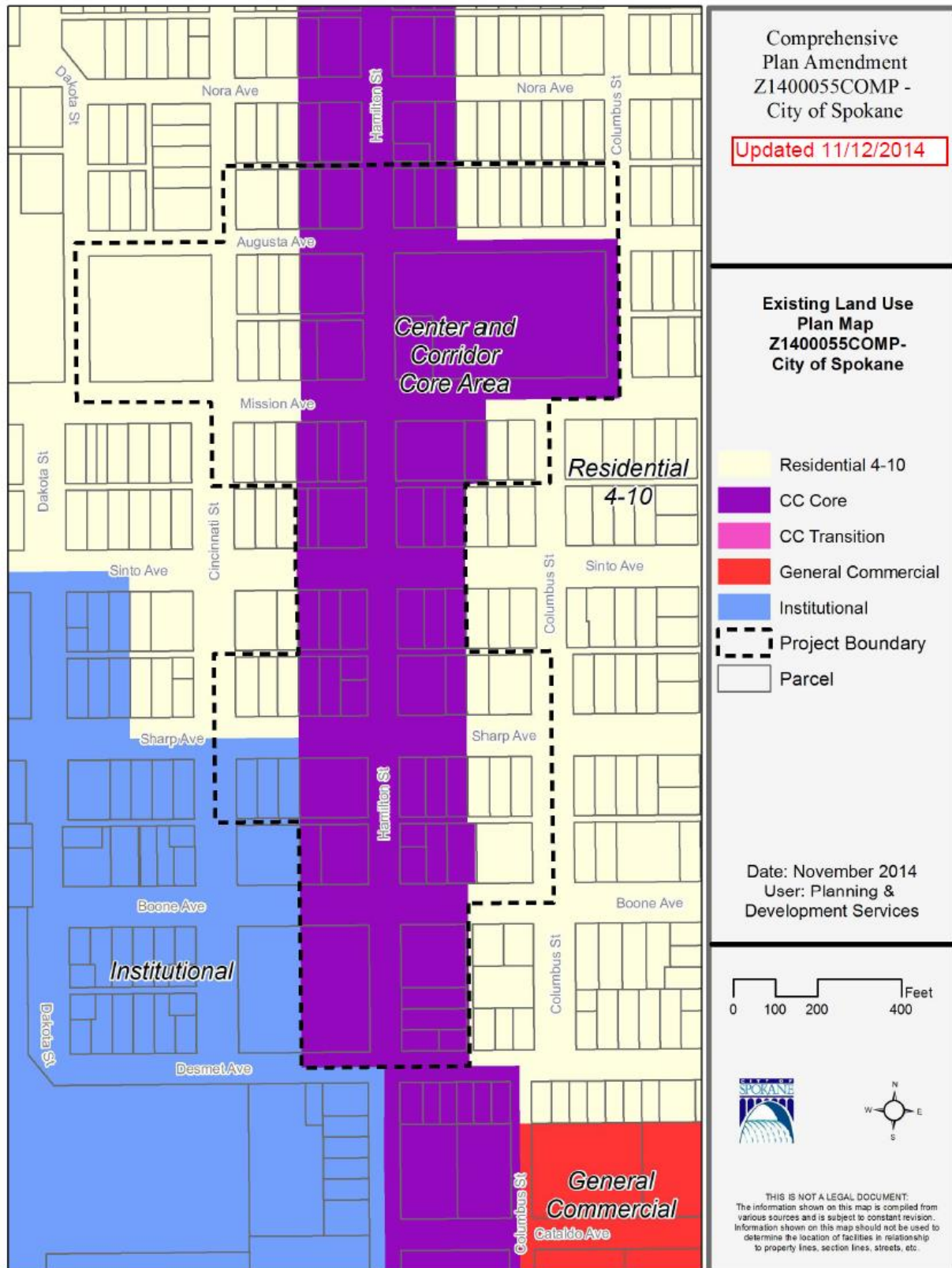
Context Area 4 (CA4) is a buffer zone between the commercial core and the residential neighborhood. The Hamilton Form Based Code Subarea Plan amends the Land Use Plan Map from Residential 4-10 to Center & Corridor Transition (see maps below). The newly proposed CA4 zoning category allows commercial on a small scale but is predominantly residential in nature. This new zoning category also retains current height standards of the residential single-family zoning standards for the purposes of keeping these areas residential in scale.

- B. Project Description: The Form Based Code replaces existing zoning and design guidelines within the affected geographical area. This code regulates land development by setting controls on building form, coupled with performance-based parameters relative to building use and density.

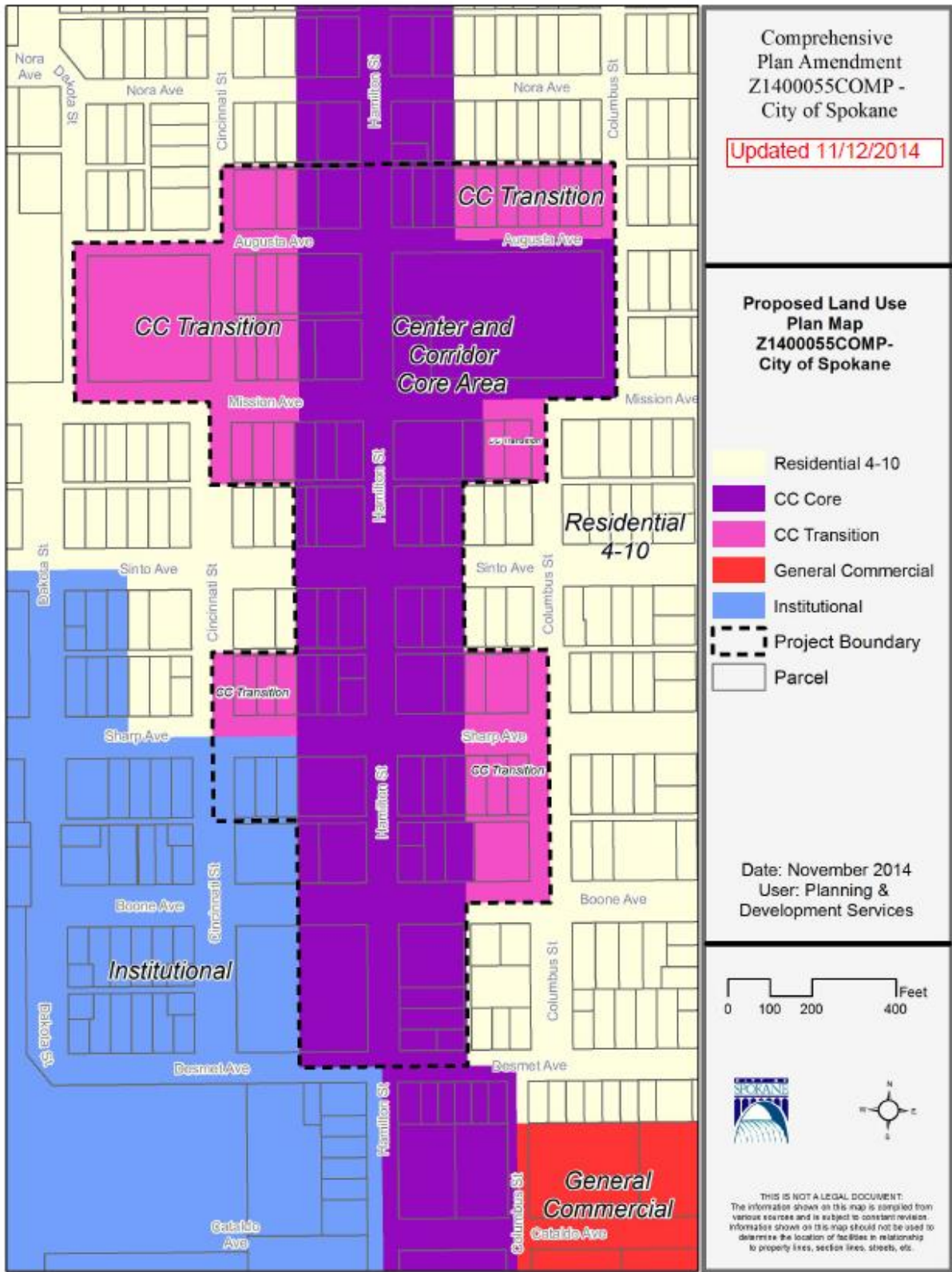
This proposal falls into two actions:

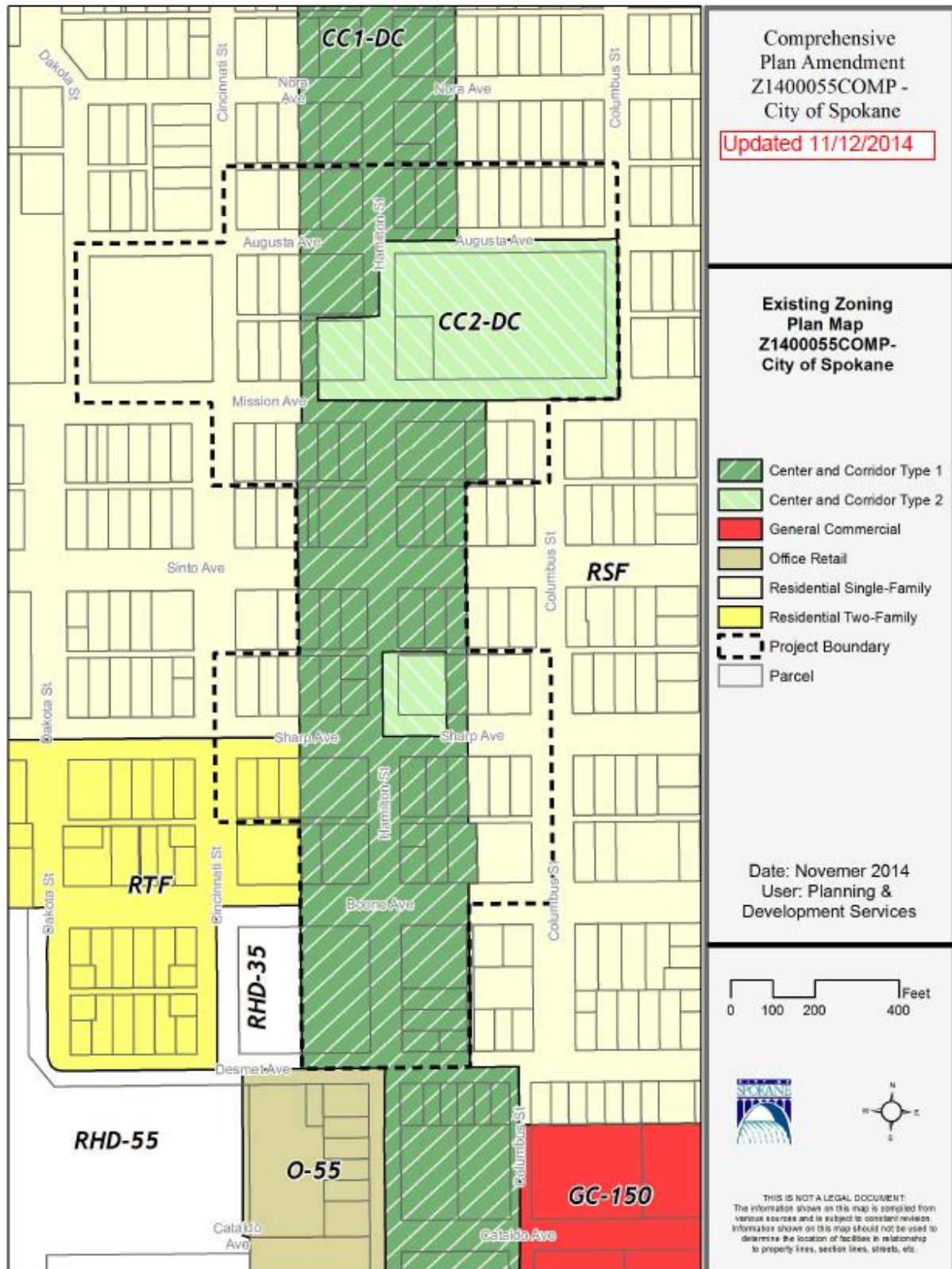
1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition (see maps below).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1-DC, CC2-DC, RSF, and RTF zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories.

C. Existing Land Use Plan Map Designations

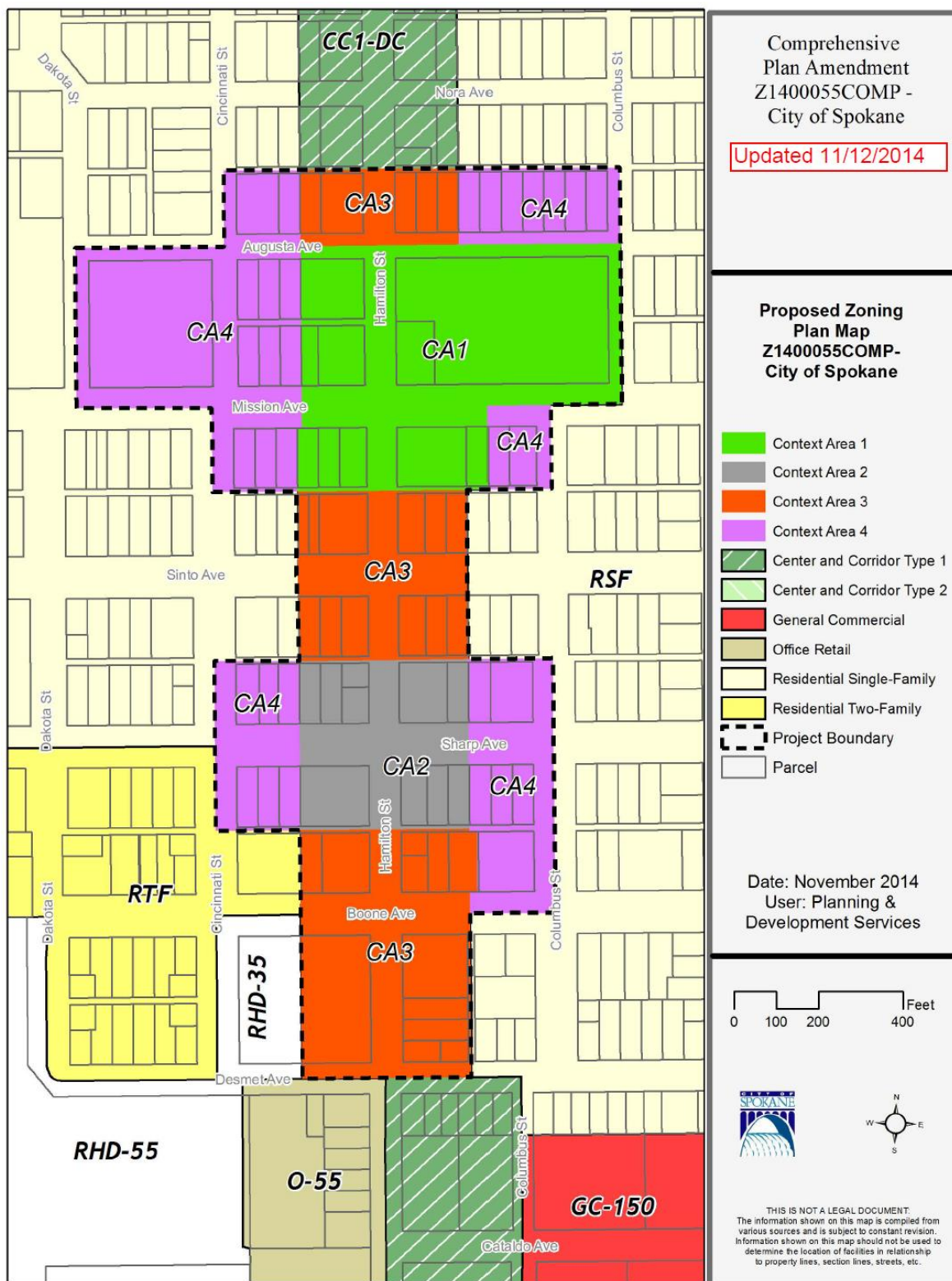


D. Proposed Land Use Plan Map



E. Existing Zoning Map

F. Proposed Zoning Map



G. Zoning and Land Use Designation History:

The 1982 Logan Neighborhood Design Plan had several Land Use Designations for the project area being considered as part of this proposal. Land along Hamilton Street was classified as Neighborhood Business and Community Business, while the surrounding land has historically been designated as Low Density Residential. Other designations included Medium Density Residential, Institutional/Residential, and Institutional. In 2006, the Land Use Designations within the project boundary were amended to Center & Corridor Core (CC Core) and Residential 4-10 (R4-10). Corresponding zoning was amended to Residential Single-Family (RSF) and Center & Corridor 1 District Center (CC1-DC).

H. Adjacent Land Use:

Land use to the south of the project boundary is designated as CC Core and Institutional. Gonzaga University is immediately to the west of the lower half of the project boundary and is designated Institutional. Land use to the east and west of project boundary is designated Residential 4-10. Hamilton Street, which runs through the center of the project area, is classified as a major arterial. Local streets running east/west within the boundary include Desmet Ave, Boone Ave, Sinto Ave, and Augusta Ave. Sharp Ave is a minor arterial and Mission Ave is a major arterial. Other north/south local streets within the project boundary include Cincinnati St. and Columbus St. Spokane Transit Authority Bus Route 28 has service on Hamilton Street. The most recent traffic counts indicate that the average daily total trips per day range from 26,000 to 30,800 depending on the block.

I. Applicable Municipal Code Regulations: SMC 17G.020, Comprehensive Plan Amendment Procedures.J. Outreach and Public Process:

- Meetings with the Logan Stakeholder Group (subcommittee of the Logan Neighborhood Council): May 29, 2014; June 25, 2014; August 19, 2014; and November 6, 2014.
- Open House, July 30, 2014: Mailed postcards to all affected property owners/taxpayers/occupants and those within 400 ft. of project boundary.
- Property Owner Meeting, August 18, 2014: Mailed invitation letter to all affected property owners/taxpayers/occupants within project boundary.

K. Procedural Requirements:

- Application was submitted on October 06, 2014.
- Environmental Checklist was routed to City Departments and outside agencies for review on October 6, 2014. Consultation period ended on October 20, 2014.
- Notice of Application was mailed on October 27, 2014 to all affected property owners/taxpayers/occupants in addition to those within 400 ft. of project boundary. This initiated a 30 day public comment period. Notice was also published in *The Spokesman Review* on October 27, 2014 and November 3, 2014 and the *Official Gazette* on October 29, 2014. The comment period ended November 25, 2014.

- Planning & Development Services made a presentation regarding the proposal to the Logan Neighborhood Council on November 18, 2014. The Neighborhood Council voted unanimously to support the proposal.
- A SEPA Determination of Non Significance was issued on November 26, 2014.
- Notice of SEPA Determination and Plan Commission Hearing was mailed to all affected property owners/taxpayers/occupants in addition to those within 400 ft. of project boundary on November 26, 2014.
- Notice of SEPA Determination and Plan Commission Hearing was published in *The Spokesman Review* on November 26, 2014 and December 3, 2014.
- Hearing Date is scheduled with the Plan Commission for December 10, 2014.

IV. DEPARTMENT REPORTS and PUBLIC COMMENT

Notice of this proposal was sent to City departments and outside agencies for their review. Department comments are included in the file.

As of the date of the staff report, several comments about the project were received from property owners and other interested parties via email, telephone calls, and letters. A summary of comments in addition to copies of correspondence are included in the file.

V. CONCLUSIONS

SMC 17G.020.030 provides a list of considerations that are to be used, as appropriate, in evaluating proposal to amend the comprehensive plan. The following is a list of those considerations followed by staff analysis relative each.

A. Regulatory Changes.

Amendments to the Comprehensive Plan must be consistent with any recent state or federal legislative actions, or changes to state or federal regulations, such as changes to the Growth Management Act, or new environmental regulations.

Relevant facts: The proposal is being considered and processed in accordance with the most current regulations of the Growth Management Act, the Washington State Environmental Policy Act (SEPA) and the Spokane Municipal Code. There are no known recent state or federal or local legislative actions with which the proposal would be in conflict. Staff concludes this criterion is met.

B. GMA.

The change must be consistent with the goals and purposes of the state Growth Management Act.

Relevant facts: The “Legislative findings” included in the Revised Code of Washington pertaining to GMA is essentially a call for coordinated and planned growth that is done cooperatively between citizens, government, and the private sector. The complete text of the “Legislative findings” follows:

RCW 36.70A.010, Legislative findings.

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the

wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.

The Growth Management Act contains 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, "Planning Goals"). The goals that are most directly related to the land use element state:

- ♦ *Urban growth. "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner."*
- ♦ *Reduce sprawl. "Reduce the inappropriate conversion of undeveloped land into sprawling, low density development."*
- ♦ *Housing. "Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock."*
- ♦ *Citizen participation and coordination. "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts."*

Based on the evaluation provided elsewhere in this report, staff concludes that the application is consistent with these and the rest of the GMA Planning goals and the overall purpose of the Growth Management Act.

C. **Financing.**

In keeping with the GMA's requirement for plans to be supported by financing commitments, infrastructure implications of approved comprehensive plan amendments must be reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.

Relevant facts: This proposal has been reviewed by city departments responsible for providing public services and facilities. No comments have been made to indicate that this proposal creates issues with any public services and facilities. Comments are provided in the file.

Staff concludes that this criterion is met.

D. **Funding Shortfall.**

If funding shortfalls suggest the need to scale back on land use objectives and/or service level standards, those decisions must be made with public input as part of this process for amending the comprehensive plan and capital facilities program.

Relevant facts: Staff has concluded that this criterion is not applicable to this proposal. There are no funding shortfall implications.

E. Internal Consistency.

The requirement for internal consistency pertains to the comprehensive plan as it relates to all of its supporting documents, such as the development regulations, capital facilities program, shoreline master program, downtown plan, critical area regulations, and any neighborhood planning documents adopted after 2001. In addition, amendments should strive to be consistent with the parks plan, and vice versa. For example, changes to the development regulations must be reflected in consistent adjustments to the goals or policies in the comprehensive plan. As appropriate, changes to the map or text of the comprehensive plan must also result in corresponding adjustments to the zoning map and implementation regulations in the Spokane Municipal Code.

Relevant facts: The Proposal implements the Centers and Corridor goals and policies of the Comprehensive Plan. In 2006, the Spokane Comprehensive Plan Land Use Chapter was changed, designating the Mission and Hamilton Center from Neighborhood Center to Hamilton Street Corridor District Center. This was done as part of the Center and Corridor planning aimed at implementing the City's Comprehensive Plan. The Form Based Code Subarea Plan builds on this designation and works to create an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor. The Comprehensive Plan Land Use Plan Map change is supplemented by new development regulations which are part of the proposal.

Below are applicable Goals and Policies from the Comprehensive Plan which support this proposal. Staff discussion follows:

Relevant Comprehensive Plan Goals and Policies

From Chapter 3, Land Use

Goal: LU 1 CITYWIDE LAND USE

Offer a harmonious blend of opportunities for living, working, recreation, education, shopping, and cultural activities by protecting natural amenities, providing coordinated, efficient, and cost effective public facilities and utility services, carefully managing both residential and nonresidential development and design, and proactively reinforcing downtown Spokane's role as the urban center.

- Policy: LU 1.4 Higher Density Residential Uses: *Direct new higher density residential uses to centers and corridors designated on the land use plan map*

Goal: LU 3 EFFICIENT LAND USE

Promote the efficient use of land by the use of incentives, density and mixed-use development in proximity to retail businesses, public services, places of work, and transportation systems.

- Policy: LU 3.2 Centers and Corridors: *Designate centers and corridors (neighborhood scale, community or district scale, and regional scale) on the land use plan map that encourage a mix of uses and activities around which growth is focused.*

Goal: LU 4 TRANSPORTATION

Promote a network of safe and cost effective transportation alternatives, including transit, carpooling, bicycling, pedestrian-oriented environments, and more efficient use of the automobile, to recognize the relationship between land use and transportation.

- Policy: LU 4.2 Land Uses that Support Travel Options: *Provide a compatible mix of housing and commercial uses in neighborhood centers, districts centers, employment centers, and corridors.*
- Policy LU 4.4 Connections: *Design residential, commercial, and industrial development that takes into consideration the connections, both vehicular and pedestrian, to adjoining sites to reduce personal automobile trips.*
- Policy: LU 7.1 Regulatory Structure: *Develop a land use regulatory structure that utilizes creative mechanisms to promote development that provides a public benefit.*
- Policy: LU 7.4 Sub-Area Planning Framework: *Use the Comprehensive Plan overall guidance and undertake more detailed sub-area and neighborhood planning in order to provide a forum for confronting and reconciling issues and empowering neighborhoods to solve problems collectively.*

From Chapter 4, Transportation

Goal: TR 2 TRANSPORTATION OPTIONS

Provide a variety of transportation options, including walking, bicycling, taking the bus, carpooling, and driving private automobiles, to ensure that all citizens have viable travel options and reduce dependency on automobiles.

- Policy: TR 2.1 Physical Features: *Incorporate site design and other physical features into developments that encourage alternatives to driving.*
- Policy: TR 2.4 Parking Requirements: *Develop and maintain parking requirements for vehicles that adequately meet the demand for parking yet discourages dependence on driving.*
- Policy TR 2.6 Viable Walking Alternative: *Promote and provide for walking as a viable alternative to driving.*
- Policy TR 2.7 Safe Sidewalks: *Provide for safe pedestrian circulation within the city; wherever possible, this should be in the form of sidewalks with a pedestrian buffer strip or other separation from the street.*

Goal: TR 3 TRANSPORTATION AND LAND USE

Recognize the key relationship between the places where people live, work, and shop and their need to have access to these places; use this relationship to promote land use

patterns, transportation facilities, and other urban features that advance Spokane's quality of life.

- Policy: TR 3.1 Transportation and Development Patterns: *Use the City's transportation system and infrastructure to support desired land uses and development patterns, especially to reduce sprawl and encourage development in urban areas.*

Goal: TR 7 SENSE OF PLACE

Foster a sense of community and identity through availability of transportation choices and transportation design features, recognizing that both profoundly affect the way people interact and experience the city.

- Policy: TR 7.1 Character and Pride: *Create transportation improvements that promote Spokane's character, enhance the character of its neighborhoods, and foster community pride*
- Policy: TR 7.2 Street Life: *Promote a healthy street life in commercial areas, especially downtown, through transportation facilities that are designed with care to enhance both their use and the surrounding street environment.*
- Policy: TR 7.3 Street Trees: *Plant street trees wherever possible to enhance the transportation environment.*
- Policy: TR 7.4 Pedestrian Buffer Strips: *Develop pedestrian buffer strips in a way that is appropriate to the surrounding area and desired outcomes.*
- Policy TR 7.5 Building Setbacks: *Reduce building setbacks from the street and distances between buildings in neighborhood commercial areas to improve pedestrian access and develop an urban form.*
- Policy TR 7.6 Sidewalk Use: *Allow businesses to utilize available sidewalks as long as pedestrian travel is not unreasonably impacted and the sidewalk's use and design is in character with the neighborhood.*

Staff Discussion: The Hamilton Form Based Code Subarea Plan promotes a street environment for pedestrians by placing buildings close to the street with wide sidewalks and street trees, attractive landscaping, benches, and frequent transit stops. Parking lots are placed to the side or the back of buildings. This proposal promotes compatible mix of housing and commercial uses along the corridor and into the transition zones between the corridor and surrounding neighborhood. This provides opportunities for people to walk, enables less reliance on automobiles, reduces commuting times and distances, makes mass transit more viable, and provides greater convenience for area residents. By promoting a vibrant public realm, the proposal takes into consideration the connections, both vehicular and pedestrian to adjoining sites to reduce personal automobile trips. The proposal also regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public

spaces and a healthy mix of uses. This regulatory structure utilizes creative mechanisms to promote development that provides a public benefit. The proposal is a detailed sub-area neighborhood planning process that provides a forum to confront and reconcile issues by empowering the neighborhood to solve problems collectively. The Logan Neighborhood Stakeholder Team has been working on the preparation of the form-based model zoning code since 2012.

F. Regional Consistency.

All changes to the comprehensive plan must be consistent with the countywide planning policies (CWPP), the comprehensive plans of neighboring jurisdictions, applicable capital facilities or special district plans, the regional transportation improvement plan, and official population growth forecasts.

Relevant facts: This amendment will not impact regional consistency.

G. Cumulative Effect.

All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, neighborhood planning documents, adopted environmental policies and other relevant implementation measures.

i. Land Use Impacts.

In addition, applications should be reviewed for their cumulative land use impacts. Where adverse environmental impacts are identified, mitigation requirements may be imposed as a part of the approval action.

ii. Grouping.

Proposals for area-wide rezones and/or site-specific land use plan map amendments may be evaluated by geographic sector and/or land use type in order to facilitate the assessment of their cumulative impacts.

Relevant facts: Per SMC 17G.020.040(A), this application is being reviewed as an initial adoption of a specific/subarea plan.

Staff concludes that this criterion is met.

H. SEPA.

SEPA review must be completed on all amendment proposals.

1. Grouping.

When possible, the SEPA review process should be combined for related land use types or affected geographic sectors in order to better evaluate the proposals' cumulative impacts. This combined review process results in a single threshold determination for those related proposals.

2. DS.

If a determination of significance (DS) is made regarding any proposal, that application will be deferred for further consideration until the next applicable review cycle in order to allow adequate time for generating and processing the required environmental impact statement (EIS).

Relevant facts: The application has been reviewed in accordance with the State Environmental Policy Act (SEPA) that requires that the potential for adverse environmental impacts resulting from a proposal be evaluated during the decision-making process. On the basis of information contained with the environmental checklist, the written comments from local and State departments and agencies concerned with land development within the city, a review of other information available to the Director of Planning Services, and in recognition of the mitigation measures that will be required by State and local development regulations at the time of development, a Determination of Non-Significance (DNS) was issued on November 26, 2014.

Staff concludes that this criterion is met.

I. Adequate Public Facilities.

The amendment must not adversely affect the City's ability to provide the full range of urban public facilities and services (as described in CFU 2.1 and CFU 2.2) citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

Relevant facts: All affected departments and outside agencies providing services to the subject properties have had an opportunity to comment on the proposal and no agency or department offered comments suggesting the proposal would affect the City's ability to provide adequate public facilities to the property or surrounding area or consume public resources otherwise needed to support comprehensive plan implementation strategies. Any specific site development impacts can be addressed at time of application for a building permit, when actual site development is proposed. Staff concludes that this criterion is met.

J. UGA.

Amendments to the urban growth area boundary may only be proposed by the city council or the mayor of Spokane and shall follow the procedures of the countywide planning policies for Spokane County.

Relevant facts: The proposal does not involve amendment of the urban growth area boundary. This criterion is not applicable to this proposal.

K. Consistent Amendments.

1. Policy Adjustments.

Proposed policy adjustments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of adjustment might be supported by findings from feedback instruments related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

- a. growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- b. the capacity to provide adequate services is diminished or increased;
- c. land availability to meet demand is reduced;

- d. population or employment growth is significantly different than the plan's assumptions;
- e. plan objectives are not being met as specified;
- f. the effect of the plan on land values and affordable housing is contrary to plan goals;
- g. transportation and/or other capital improvements are not being made as expected;
- h. a question of consistency exists between the comprehensive plan and its elements and chapter 36.70A RCW, the countywide planning policies, or development regulations.

Relevant facts: This proposal is a request for a Comprehensive Plan Land Use Plan Map amendment, not a policy adjustment. This criterion is not applicable to this proposal.

2. Map Changes.

Changes to the land use plan map (and by extension, the zoning map) may only be approved if the proponent has demonstrated that all of the following are true:

- a. The designation is in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.);

Relevant facts: Relevant Comprehensive Plan policies are addressed in Criterion E above.

Staff concludes that the proposed amendment is compatible with neighboring land uses and is consistent with the Comprehensive Plan.

- b. The map amendment or site is suitable for the proposed designation;

Relevant facts: This proposal amends several areas designated as Residential Single Family (RSF) to Center & Corridor Transition (CC Transition) which are adjacent to the Hamilton Corridor. A new Form Based Code zoning category, Context Area 4 (CA4) will replace current zoning. Context Area 4 allows small scale commercial but is predominately residential in nature and functions as a transition zone. Staff finds that these sites are suitable for the amendment being proposed.

- c. The map amendment implements applicable comprehensive plan policies better than the current map designation.

Relevant facts: Staff finds that the proposed amendment is consistent with the Comprehensive Plan policies.

3. Rezones, Land Use Plan Map Amendment.

Corresponding rezones will be adopted concurrently with land use plan map amendments as a legislative action of the city council. If policy language changes have map implications, changes to the land use plan map and zoning map will be made accordingly for all affected sites upon adoption of the new policy language. This is done to ensure that the comprehensive plan remains internally consistent and to preserve consistency between the comprehensive plan and supporting development regulations.

Relevant facts: This proposal includes the adoption of new development regulations which specify corresponding rezones. Staff concludes that this criterion is met.

L. Inconsistent Amendments.

1. Review Cycle.

Because of the length of time required for staff review, public comment, and plan commission's in-depth analysis of the applicant's extensive supporting data and long-term trend analysis, proposals that are not consistent with the comprehensive plan are addressed only within the context of the required comprehensive plan update cycle every seven years pursuant to RCW 36.70A.130(4)(C) and every other year starting in 2005.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

2. Adequate Documentation of Need for Change.

- a. The burden of proof rests entirely with the applicant to provide convincing evidence that community values, priorities, needs and trends have changed sufficiently to justify a fundamental shift in the comprehensive plan. Results from various measurement systems should be used to demonstrate or document the need to depart from the current version of the comprehensive plan. Relevant information may include:
- b. growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- c. the capacity to provide adequate services is diminished or increased;
- d. land availability to meet demand is reduced;
- e. population or employment growth is significantly different than the plan's assumptions;
- f. transportation and/or other capital improvements are not being made as expected;
- g. conditions have changed substantially in the area within which the subject property lies and/or Citywide;
- h. assumptions upon which the plan is based are found to be invalid; or
- i. sufficient change or lack of change in circumstances dictates the need for such consideration.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

3. Overall Consistency.

If significantly inconsistent with the current version of the comprehensive plan, an amendment proposal must also include wording that would realign the relevant parts of the comprehensive plan and its other supporting documents with the full range of changes implied by the proposal.

Relevant facts: This is not an inconsistent Comprehensive Plan Land Use Map Plan amendment request.

VI. RECOMMENDATIONS

STAFF CONCLUSION: For reasons outlined within this report, staff recommends that two actions be approved as part of the Hamilton Form Based Code Subarea Plan:

1. Action #1: Comprehensive Plan Amendment to Land Use Plan Map. Amend the Land Use designations within the project boundary from R 4-10 to CC Transition (as identified in the maps above).
2. Action #2: Amend Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones. Amend SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amend the City of Spokane Zoning Map and replace CC1-DC, CC2-DC, RSF, and RTF zones with Context Areas CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories within project boundary (see maps above).

**SPOKANE ENVIRONMENTAL ORDINANCE
NONPROJECT DETERMINATION OF NONSIGNIFICANCE**

FILE NO(S): Z1400055COMP - Proposed Comprehensive Plan Amendment for the Hamilton Form Based Code Subarea Plan

PROPONENT: City of Spokane, Planning & Development

DESCRIPTION OF PROPOSAL: The Form Based Code replaces existing zoning and design guidelines within the affected geographical area. This code regulates land development by setting controls on building form, coupled with performance-based parameters relative to building use and density. The entire project area is approximately 37.6 acres. This proposal falls into two actions:

1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition (See Exhibit 2: Existing Land Use Plan Map and Exhibit 3: Proposed Land Use Plan Map at: <https://beta.spokanecity.org/projects/logan>).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter SMC 17C.123 Form Based Code Zones (See Exhibit 1: SMC 17C.123 Form Based Code Zones Draft at: <https://beta.spokanecity.org/projects/logan>). Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and SMC 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1, CC2, RSF, and RTF zones with CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories (See Exhibit 4: Existing Zoning and Exhibit 5: Proposed Zoning at: <https://beta.spokanecity.org/projects/logan>).

LOCATION OF PROPOSAL, INCLUDING STREET ADDRESS, IF ANY: The affected geographic area is centered on the Hamilton Street corridor, bordered by Desmet Ave. to the south and the alley between Augusta Ave. and Nora Ave. to the north. The east/west boundaries vary. Please see attached project area map or visit <https://beta.spokanecity.org/projects/logan/> for a project map.

LEAD AGENCY: City of Spokane, Planning & Development

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- [] There is no comment period for this DNS.
- [] This DNS is issued after using the optional DNS process in section 197-11-355 WAC. There is no further comment period on the DNS.
- [x] This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for at least 14 days from the date of issuance (below). Comments must be submitted no later than December 10, 2014 at 4:00 p.m. if they are intended to alter the DNS.

Responsible Official: Louis Meuler

Position/Title: Interim Director, Planning and Development **Phone:** (509) 625-6300

Address: 808 West Spokane Falls Boulevard, Spokane, WA 99201-3329

Date Issued: November 26, 2014 **Signature:** 

APPEAL OF THIS DETERMINATION, after it becomes final, may be made to the City of Spokane Hearing Examiner, 808 West Spokane Falls Blvd., Spokane, WA 99201. The appeal deadline is fourteen (14) calendar days after the signing of the DNS. This appeal must be on forms provided by the Responsible Official, make specific factual objections and be accompanied by the appeal fee. Contact the Responsible Official for assistance with the specifics of a SEPA appeal.

Environmental Checklist
UPDATED 11-7-2014

File No. Z1400055COMP

Purpose of Checklist:

The State Environmental Policy Act (SEPA) chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An Environmental Impact Statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "*does not apply*."

IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (Part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: Hamilton Form Based Code Subarea Plan and Zoning Change.
2. Name of applicant: City of Spokane
3. Address and phone number of applicant or contact person: Planning & Development Services, 3rd Floor, Spokane City Hall, 808 West Spokane Falls Boulevard, Spokane, WA 99201-3329, (509) 625-6300. Contact Person: Boris Borisov, Assistant Planner
4. Date checklist prepared: October 6, 2014
5. Agency requesting checklist: City of Spokane
6. Proposed timing or schedule (including phasing, if applicable): A Plan Commission hearing on this proposal is scheduled to take place in December of 2014. Then the subarea plan must be approved by City Council and signed by the Mayor to be adopted.
7.
 - a. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. Yes, the Form Based Code is being applied to a small area of the Logan neighborhood as a pilot project. This type of zoning may be applied to other parts of the City if successful. A separate approval process, including SEPA would be completed if applied to other parts of the City.
 - b. Do you own or have options on land nearby or adjacent to this proposal? If yes, explain. No.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to his proposal. None that is directly related to this proposal.
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. None.
10. List any government approvals or permits that will be needed for your proposal, if known. The adoption of new zoning categories utilizing a Form Based Code will require a Comprehensive Plan Amendment via a subarea plan for the affected geographical area. This Comprehensive Plan Amendment will modify land use in some areas within the affected geographical area and introduce new zoning categories. Additionally, a new chapter will be added to the Spokane Municipal Code that is specific to the affected geographical area. These amendments require approval of the Spokane City Council and Mayor.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. In July, 2012 the Logan Neighborhood Stakeholder Team with the City of Spokane Planning Department began a public planning and engagement process for the preparation of a form-based model zoning code for a segment of Hamilton Street corridor generally from Desmet Avenue on the south to a block and a half north of Augusta Avenue. The Form Based Code is a plug-in set of regulations, replacing existing zoning and design guidelines within the affected geographical area and is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor within the boundaries of code limits. This code regulates land development by setting careful and coherent controls on building form, coupled with performance-based parameters relative to building use and density. This greater emphasis on physical form is intended to produce safe, attractive and enjoyable public spaces, including a healthy mix of uses and achieve a development pattern that is more consistent with the intent of the underlying comprehensive plan policies for this area. The entire project area is approximately 37.6 acres.

This proposal falls into two actions:

1. Comprehensive Plan Amendment to Land Use Plan Map. The Land Use designations of the affected geographic area will be amended from R 4-10 to CC Transition and from Institutional to CC Transition. (See Exhibit 2: Existing Land Use Plan Map and Exhibit 3: Proposed Land Use Plan Map).
2. Amending Spokane Municipal Code Title 17C Land Use Standards by adopting a new chapter 17C.XXX123 Form Based Code (See Exhibit 1: 17C.XXX123 Form Based Code Draft at: <https://beta.spokanecity.org/projects/logan>). Amending SMC 17C.200 Landscaping & Screening; and SMC 17C.230 Parking & Loading; and 17A.020.010 Definitions. Amending the City of Spokane Zoning Map and replacing CC1, CC2, RSF, and RTF zones with CA1, CA2, CA3, and CA4 Form Based Code Zoning Categories (See Exhibit 4: Existing Zoning and Exhibit 5: Proposed Zoning)

See Exhibit 6, Aerial Map of Project Boundary for an overview of entire affected geographic area.

All exhibits and supporting documents can be found at:
<https://beta.spokanecity.org/projects/logan>

12. Location of the proposal. Give sufficient information to a person to understand the precise location of your proposed project, including a street address, if any, and section, township and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity

map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit application related to this checklist. The affected geographic area is centered on the Hamilton corridor, bordering Desmet to the south and the alley between Augusta and Nora to the north. The east/west boundaries vary. Please see Exhibit 6: Aerial Map of Project Boundary at: <https://beta.spokanecity.org/projects/logan>.

13. Does the proposed action lie within the Aquifer Sensitive Area (ASA)? The General Sewer Service Area? The Priority Sewer Service Area? The City of Spokane? (See: Spokane County's ASA Overlay Zone Atlas for boundaries.)
Yes.

14. The following questions supplement Part A.

a. Critical Aquifer Recharge Area (CARA) / Aquifer Sensitive Area (ASA)

- (1) Describe any systems, other than those designed for the disposal of sanitary waste, installed for the purpose of discharging fluids below the ground surface (includes systems such as those for the disposal of stormwater or drainage from floor drains). Describe the type of system, the amount of material to be disposed of through the system and the types of material likely to be disposed of (including materials which may enter the system inadvertently through spills or as a result of firefighting activities).
Not applicable, this is a non-project action. Systems designed for stormwater disposal would be included in new development projects, if the adopted amendments will apply to new development. These are reviewed on a project basis and mitigated as required under SMC Section 17D.060.

- (2) Will any chemicals (especially organic solvents or petroleum fuels) be stored in aboveground or underground storage tanks? If so, what types and quantities of material will be stored?
Not applicable, this is a non-project action.

- (3) What protective measures will be taken to insure that leaks or spills of any chemicals stored or used on site will not be allowed to percolate to groundwater. This includes measures to keep chemicals out of disposal systems.
Not applicable, this is a non-project action.

- (4) Will any chemicals be stored, handled or used on the site in a location where a spill or leak will drain to surface or groundwater or to a stormwater disposal system discharging to surface or groundwater?
Not applicable, this is a non-project action.

b. Stormwater

(1) What are the depths on the site to groundwater and to bedrock (if known)?

Not applicable, this is a non-project action

(2) Will stormwater be discharged into the ground? If so, describe any potential impacts?

Not applicable, this is a non-project action

TO BE COMPLETED BY APPLICANT

B. ENVIRONMENTAL ELEMENTS

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1. Earth

- a. General description of the site (circle one): *flat, rolling, hilly, steep slopes, mountains, other.* The affected geographic area is predominately flat.
- b. What is the steepest slope on the site (approximate percent slope)? The affected geographic area is predominately flat. The slopes range from 0 to 16 percent.
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. The soils are generally described as Garrison gravelly loam 0 to 5% slope. Please see the "Soil Survey, Spokane County Washington, 1968" for additional information regarding this and other soil classifications within the City of Spokane.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. The affected geographic area has no history of unstable soils in the immediate vicinity according to the Potential Erosion Hazard map of the City of Spokane.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill: There are no fills or grading proposed directly related to this proposal, this is a non-project action.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. There should not be any erosion directly related to this proposal, as this is a non-project action. Impacts would be project based and would be evaluated on a project-by-project basis.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? Not applicable, this is a non-project action. The Form Based Code specifies maximum impervious coverage for specific zones in the affected geographic area. These standards would apply to new projects and would limit the amount of impervious surfaces (see Exhibit 1: 17C.XXX123 Form Based Code Draft, Section 17C.XXX123.040-1 at: <https://beta.spokanecity.org/projects/logan>).
- h. Proposed measures to reduce or control erosion or other impacts to the earth, if any: Not applicable, this is a non-project action. The Form Based Code sets maximum impervious surface coverage areas within the geographic area as well as landscaping standards.

2. Air

- a. What type of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. Construction of required accesses and other infrastructure required as conditions of approval, if any, and other development permitted by the zoning code will generate emissions to the air. Impacts will be evaluated as projects are proposed.
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. No, this is a non-project action.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any: This specific proposal contains no provisions to reduce or control emissions.

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3. Water

a. SURFACE:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. There is no surface water body within the affected geographic area. The Spokane River is approximately ½ mile to the south of the project boundary and ¼ of a mile to the east
- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. No
- (3) Estimate the amount of fill and dredge material that would be placed in or removed from the surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
There is no fill or dredge material that is proposed to be placed or removed in relation to this proposal, this is a non-project action. The development standards of the Shorelines Master Program (SMP) and the Title 17E.070 (wetlands) of the SMC regulate the filling and dredging of surface water and wetlands.
- (4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
No, this proposal will not require surface water withdrawals or diversions. This is a non-project action.
- (5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. The affected geographic area does not lie within a 100-year floodplain.
- (6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
No, this proposal does not involve any discharge of water materials to surface waters. This is a non-project action.

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b. GROUND:

- (1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No, this proposal does not involve any discharge of water materials to surface waters. This is a non-project action.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sanitary waste treatment facility. Describe the general size of the system, the number of houses to be served (if applicable) or the number of persons the system(s) are expected to serve.

Not applicable, this is a non-project action. All buildings within the affected geographic area are served by city sewer.

c. WATER RUNOFF (INCLUDING STORMWATER):

- (1) Describe the source of runoff (including stormwater) and method of collection and disposal if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable, this is a non-project action.

- (2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable, this is a non-project action.

- d. PROPOSED MEASURES to reduce or control surface, ground, and runoff water impacts, if any. I

The provisions of SMC 17D.060 Stormwater Facilities regulates stormwater and requires appropriate on-site storage and disposal. New development is reviewed under these regulations and required to build appropriate stormwater facilities.

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4. Plants

a. Check or circle type of vegetation found on the site:

x _____ Deciduous tree: *alder, maple, aspen, other.*

x _____ Evergreen tree: *fir, cedar, pine, other.*

x _____ Shrubs

x _____ Grass

_____ Pasture

_____ Crop or grain

_____ Wet soil plants, *cattail, buttercup, bullrush, skunk cabbage, other.*

_____ Water plants: *water lilly, eelgrass, milfoil, other.*

x _____ Other types of vegetation.

b. What kind and amount of vegetation will be removed or altered? No vegetation is proposed to be removed or altered as part of this proposal, this is a non-project action.

c. List threatened or endangered species known to be on or near the site. Not-applicable, this is a non-project action.

c. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: The Form Based Code imposes landscaping standards prescribed in SMC 17C.200. These landscaping requirements ensure properties developed within the affected geographical area enhance vegetation on site (see: Supporting Amendments to SMC, Landscaping & Screening at: <https://beta.spokanecity.org/projects/logan/>)

3.

5. Animals

a. Circle any birds and animals which have been observed on or near the site are known to be on or near the site:

Not-applicable, this is a non-project action.

birds: *hawk, heron, eagle, songbirds, other.* _____

mammals: *deer, bear, elk, beaver, other.* _____

fish: *bass, salmon, trout, herring, shellfish, other.* _____

other: _____

b. List any threatened or endangered species known to be on or near the site.

Not-applicable, this is a non-project action.

- a. Is the site part of a migration route? If so, explain.
Not-applicable, this is a non-project action.
- d. Proposed measures to preserve or enhance wildlife, if any:
The provisions of Spokane Municipal Code Section 17E.020 Fish and Wildlife Habitat contain development standards for the protection of animals listed as threatened, endangered and priority species.

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable, this is a non-project action. New development in the affected geographic area could use any combination of electric, natural gas, wood stove, and/or solar to meet energy needs.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. Not applicable, this is a non-project action.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
The Form Based Code is designed to foster an economically vibrant, walkable, mixed-use environment along the Hamilton Street corridor. The affected geographic area will benefit from an environment that supports multiple modes of transportation including automobile, walking, cycling, and transit.

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe. No, this proposal is a non-project action and should not directly increase the risk of any of these hazards.
- (1) Describe special emergency services that might be required.
Not applicable, this is a non-project action.
- (2) Proposed measures to reduce or control environmental health hazards, if any:

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Not applicable, this is a non-project action.

b. NOISE:

- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable, this is a non-project action.

- (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

New development could create construction noise as redevelopment occurs with the affected geographic area. Any such noise would be subject to the provisions of SMC 10.0D Noise Control.

- (3) Proposed measure to reduce or control noise impacts, if any:

Noise is regulated under SMC 10.D Noise Control. This section of the Spokane Municipal Code outlines maximum permissible environmental sound levels by zone type (residential, commercial, office, retail, industrial, etc). Projects within the affected geographic area would be subject to these standards.

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties?

Uses within the affected geographic area are a mix of residential and commercial. Approximately 39% of the parcels within the boundary are zoned for residential use and 61% are zoned Center & Corridor. The Centers and Corridor zones have a variety of uses including retail, commercial and personal services.

- b. Has the site been used for agriculture? If so, describe. No

- c. Describe any structures on the site. The affected geographic area has numerous structures. Approximately 39% of the area is zoned for residential use and has single family/multi-family. The Center and Corridor zones which make up roughly 61% of the affected geographic area has commercial structures that range from 3,000 sf to 10,000 sf.

- d. Will any structures be demolished? If so, which? This is a non-project action and as such demolition of structures is not being proposed. Structures could be demolished as part of normal redevelopment activity.

- e. What is the current zoning classification of the site? The affected geographic area has a mix of zones including

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residential single family (RSF), residential two-family (RTF), and center and corridor (CC1, and CC2).

- f. What is the current comprehensive plan designation of the site? The Comprehensive Land Use Map designation for the affected geographic area is Center and Corridor Core Residential 4-10, and Institutional.
- g. If applicable, what is the current shoreline master program designation of the site? Not applicable.
- h. Has any part of the site been classified as a critical area? If so, specify. Yes. The entire affected geographic area is within the critical aquifer recharge area.
- i. Approximately how many people would reside or work in the completed project? Not applicable, this is a non-project action
- j. Approximately how many people would the completed project displace? Not applicable, this is a non-project action
- k. Proposed measures to avoid or reduce displacement impacts, if any: Not applicable, this is a non-project action
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: This project implements the centers and corridors goals and policies and land use map designations of the comprehensive plan. Several areas of the affected geographic area will require a Comprehensive Plan Amendment to the Land Use Plan Map.

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9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing. Not applicable, this is a non-project action.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high-, middle- or low-income housing. Not applicable, this is a non-project action.
- c. Proposed measures to reduce or control housing impacts, if any: Not applicable, this is a non-project action.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? This is a non-project action and does not include the construction of buildings. The standards for building height are regulated in this proposal. There are four Context Areas (zones) within the affected geographic area. The tallest building allowed would be in a Context Area 1 zone at 65 stories or 80-66 feet (see figures 17C.XXX123.040GD through 17C.XXX123.040FG under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>) along a shop front street (designated along Hamilton and commercial nodes/intersections). A wide variety of building materials will be allowed within each zone.
- b. What views in the immediate vicinity would be altered or obstructed? Views may be altered if developers take advantage of allowable maximum height standards within the affected geographic area. The proposal has design requirements to ensure the proper "fit" within the surrounding neighborhood. These include architectural requirements, articulating façade requirements, roofline objectives, mechanical screening, and other considerations. These requirements establish important functional and aesthetic characteristics sought by the community. (See Section 17C.XXX123.060 Architectural Requirements under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). Areas adjacent to residential zones have lower height maximum standards to ensure smooth transitions between intense uses and a neighborhood context.
- c. Proposed measures to reduce or control aesthetic impacts, if any: The proposal has design requirements to ensure the proper "fit" within the surrounding neighborhood. These include architectural requirements, articulating façade requirements, roofline objectives, mechanical screening, and other considerations. These requirements establish important functional and aesthetic characteristics sought by the community (See Section 17C.XXX123.060 Architectural Requirements under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? This is a non-project action. Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). These standards help reduce glare, especially at night.

- b. Could light or glare from the finished project be a safety hazard or interfere with views? This is a non-project action. Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). These standards help reduce glare, especially at night.
- c. What existing off-site sources of light or glare may affect your proposal? Development within the affected geographic area would be required to adhere to lighting standards (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).
- d. Proposed measures to reduce or control light and glare impacts, if any: The Hamilton Form Base Code prescribes lighting standards within parking lots to reduce glare and contribute to the character and safety of sites and adjacent right of way. Pedestrian scale fixtures are required for all lighting illuminating pedestrian paths. Vehicle scale fixtures are allowed for general surface lot and site lighting. Parking lot lighting is required to provide adequate night visibility and security by distributing a minimum of two foot-candles to a maximum of six foot-candles of illumination at ground level. All lighting is required to be shielded to minimize off-site glare, directing light downward and away from adjacent properties (see section 17C.XXX123.040G(1)(2) under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>).

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity? Not applicable, this is non-project action
- b. Would the proposed project displace any existing recreational uses? If so, describe. Not applicable, this is non-project action
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: Not applicable, this is non-project action

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe. A portion of the Mission Avenue Historic District is within the northwest part

of the affected geographic area. This accounts for approximately 10 parcels that are both within the affected geographic area and the Mission Avenue Historic District. One parcel, located at 1226-1228 N. Hamilton is on the local preservation register. This property commonly known as Jack and Dan's, is one of five remaining beer parlors in Spokane that has operated continuously as a parlor/tavern since the repeal of prohibition in Washington in 1933.

- b. Generally describe any landmarks or evidence of historic archaeological, scientific or cultural importance known to be on or next to the site. Jack and Dan's Tavern, located at 1226-1228 N. Hamilton is one of five remaining beer parlors in Spokane that has operated continuously as a parlor/tavern since the repeal of prohibition in Washington in 1933.
- c. Proposed measures to reduce or control impacts, if any: This proposal does not specifically have measures to reduce impacts on historic properties. The proposal encourages compatible use of existing properties with the surrounding neighborhood.

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14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any. The main north/south route in the affected geographic area is served by Hamilton Street. This street supports a mixed-use corridor environment. Mission Ave serves existing east/west arterial needs and includes a median with turn lanes. Boone Ave, Sharp Ave, and Sinto Ave serve east/west arterial needs and provide for and support a mixed-use district environment. Augusta Ave, Columbus St, Cincinnati St, and Dakota St, provide for and support an environment bridging between mixed-use and residential areas. Access to all streets would not change as part of this proposal as this is a non-project action.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop? Yes.
- c. How many parking spaces would the completed project have? How many would the project eliminate? This is a non-project action. The proposal has maximum parking requirements for each context area. Context Areas 1, 2, and 3 have a maximum of 2 spaces/500 sf of floor area. Context Area 4 (residential in character) has a minimum off-street parking requirement of 1 space per dwelling unit.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets not including driveways? If so, generally describe (indicate whether public or private). No.
- e. Will the project use (or occur in the immediate vicinity of) water, rail or air transportation? If so, generally describe. Not applicable, this is a non-project action.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak would occur. Not applicable, this is a non-project action.

(Note: to assist in review and if known indicate vehicle trips during PM peak, AM Peak and Weekday (24 hours).)

- g. Proposed measures to reduce or control transportation impacts, if any: Not applicable, this is a non-project action.

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Only

15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe. This proposal is a non-project action and should not directly increase the need for fire, police, health care or school services.
- d. Proposed measures to reduce or control direct impacts on public services, if any: Impacts will be addressed at the time of permit application.

16. Utilities

- a. Circle utilities currently available at the site: *electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.* The project area is fully served with urban utilities.
- b. Describe the utilities that are proposed for the project, the utility providing the service and the general construction activities on the site or in the immediate vicinity which might be needed. Not applicable, this is non-project action.

C. SIGNATURE

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. I also understand that, should there be any willful misrepresentation or willful lack of full disclosure on my part, the *agency* must withdraw any determination of Nonsignificance that it might issue in reliance upon this checklist.

Date: _____

Signature: _____

Please Print or Type:

Proponent: City of Spokane

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6300

Person completing
form (if different

from proponent): Boris Borisov, Assistant Planner

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6156

Email: bborisov@spokanecity.org

[Updated November 7, 2014](#)

FOR STAFF USE ONLY

Staff member(s) reviewing checklist: _____

Based on this staff review of the environmental checklist and other pertinent information, the staff concludes that:

- ☐ A. there are no probable significant adverse impacts and recommends a Determination of Nonsignificance.
- ☐ B. probable significant adverse environmental impacts do exist for the current proposal and recommends a Mitigated Determination of Nonsignificance with conditions.
- ☐ C. there are probable significant adverse environmental impacts and recommends a Determination of Significance.

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS
(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage or release of toxic or hazardous substances; or production of noise?
The proposal would not directly increase discharge to water, emissions to air, the production and storage of toxic or hazardous substances or noise.

Proposed measures to avoid or reduce such increases are:
No such measures are included in this proposal.

2. How would the proposal be likely to affect plants, animals, fish or marine life?
This proposal is unlikely to directly affect plants and animals.

Proposed measures to protect or conserve plants, animals, fish or marine life are:
No measures are proposed to specifically address the conservation of plants and animals in this proposal. However, the SMC includes standards related to protection of critical areas and habitat.

3. How would the proposal be likely to deplete energy or natural resources?
The proposed code amendments will not directly affect energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:
The proposal does not directly address energy and natural resource conservation.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains or prime farmlands?

This proposal will not directly affect environmentally sensitive areas. If the amendments adopted will apply to new development, the new development will be subject to the critical area standards of the Spokane Municipal Code.

Proposed measures to protect such resources or to avoid or reduce impacts are:

No new measures are proposed. Project impacts will be addressed at the time of permit application in accordance with the standards of the Spokane Municipal Code.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The amendments are intended to implement the policies of the City's Comprehensive Plan. Development approved under the proposed amendments are required to meet the development regulations adopted under the Comprehensive Plan.

Proposed measures to avoid or reduce shoreline and land use impacts are:

No additional measures are proposed.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

This proposal increases the height maximum in the Context Area 1 zone from 54' to 66' along Shopfront streets. It also increases the height maximum in Context Area 2 from 54' to 66' along Shopfront streets (See Figure 17C.XXX.040-DC through Figure 17C.XXX.040-ED under Exhibit 1 at: <https://beta.spokanecity.org/projects/logan/>). This type of increase is only allowed on streets adjacent to Hamilton and corner lots. This is consistent with the Comprehensive Plan's Corridor designations which call for increase of densities.

Proposed measures to reduce or respond to such demand(s) are:

Any development proposals would individually go through the SEPA process and would be required to mitigate impacts on transportation or public services and utilities.

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment.

The proposal should not conflict with local, state or federal laws or requirements for the protection of the environment.

C. SIGNATURE

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. I also understand that, should there be any willful misrepresentation or willful lack of full disclosure on my part, the *agency* may withdraw any Determination of Nonsignificance that it might issue in reliance upon this checklist.

Date: _____ Signature: _____

Please Print or Type:

Proponent: City of Spokane

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6300

Person completing
form (if different

from proponent): Boris Borisov, Assistant Planner

Address: 808 W. Spokane Fall Blvd. Spokane, WA 99201

Phone: 509-625-6156

Email: bborisov@spokanecity.org

[Updated November 7, 2014](#)

FOR STAFF USE ONLY

Staff member(s) reviewing checklist: _____

Based on this staff review of the environmental checklist and other pertinent information, the staff concludes that:

- A. ☐ there are no probable significant adverse impacts and recommends a Determination of Nonsignificance.
- B. ☐ probable significant adverse impacts do exist for the current proposal and recommends a Mitigated Determination of Nonsignificance with conditions.
- C. ☐ there are probable significant adverse environmental impacts and recommends a Determination of Significance.

HAMILTON FORM-BASED CODE

SUBAREA PLAN

Public Comment Packet

Comments From July through September 2014 (pre-official public comment period for Comp Plan Amendments)

Comments	Date	Format	Contact Name
<p>Input on Context Areas: Input on Context Areas: We are strongly opposed to the mandatory height minimum for the CA-1 Context Area. This 4-story requirement, for our 15,000 sf lot located at Mission and Hamilton will deprive from any reasonable use of the property. It amounts to a taking of private property.</p> <p>Input on Street Type Designations: Generally no significant concerns Other Comments: The requirement to place any buildings at the corner of our property. Placing parking away from the street is already making it difficult for us to find a new tenant for the property. The prohibition on drive-through facilities has taken away most of the demand for the property from the brokers and national tenants we have talked to. I have talked to numerous commercial brokers.</p>	7/30/2014	Comment Card from July Open House	Mike Dempsey
<p>I believe there is a drafting error in the July 11, 2014 draft of the HFBC, on page 5. The reference to "figures 17.XXX.050-C through 17.XXX.050-F", in subsection 17C.XXX.040(A), should instead be to "figures 17C.XXX.040-C through 17C.XXX.040-F". The figures were in Section 17.XXX.050 in an earlier draft, but are now in Section 17C.XXX.040.</p> <p>There are also errors on page 6, in the references to "Figure 17C.XXX.050-A" and "17C.XXX.050-B", in Section 17C.XXX.040(G)(5). You also need to insert the "C" in the references to "figures 17.XXX.040-C through 17.XXX.050-F" in Section 17C.XXX.040(H).</p>	7/30/2014	Email	Mike Dempsey
<p>I have several comments regarding the HFBC draft. They are as follows; --reference should be made to the Logan Identity Plan within the document. --shrubs aren't mitigation enough for blank walls --clarity is needed around the allowance of retail in CA4 to prevent just home businesses within a residence and if a retail use is included then I think the regs for retail use (i.e. design/landscaping/parking) should be required.</p>	8/4/2014	Email	Karen Byrd
<p>Owns the 3 west lots on Hamilton and Augusta. Wanted to know if he will have to comply with new zoning rules once adopted. Staff explained current buildings are grandfathered.</p>	8/1/2014	Phone Call	Rod Scroggin
<p>Concern about sidewalk width and building height minimums: It will be difficult to lease site with height minimum requirement.</p>	8/4/2014	Phone Call	Greg Byrd
<p>Inquired about impacts the code may have on her property. Staff explained the property is outside of the project boundary</p>	8/5/2014	Email	Annabelle Leith
<p>Opposition to moratorium and Draft HBFC. See attached email</p>	8/18/2014	Email	Mike Dempsey

I just wanted to respond to the work that has been undertaken by the Logan Neighborhood over the last year or so. The development of the Form Based Code, I believe, is exemplary, very well thought out, and should be enacted by the City Council. I grew up at 808 E Augusta, and after 4 decades away living in NYC, I presently live and work at this address. Any movement toward enhancing pedestrian activity, and providing increased density will be good for the Logan Neighborhood, and for the City of Spokane. Thank you.	9/30/2014	Email	Gregory J. Higgins
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Logan Form Based Code Public Comments Period October 27th - November 25th, SUMMARY

Comments	Date	Format	Contact Name
Property owner of 929 E Boone requested his property be within the HFBC boundary as part of the CA4 zone. The zone was expanded to include the property per direction of the Planning Director	10/3/2014	Email	Stephen Kraft
Needed more info about the project. Referred to Website, provided project overview. Mr. Faridnia is not within project boundary, just needed more info.	10/28/2014	Voicemail/Phone Call	Mannie Frednya
Called Back Nov 3rd. Mr. Blemo wanted to know more about the project as he is in the process of purchasing 902 E Boone. I explained the vision of the neighborhood and what FBC strives to accomplish.	10/28/2014	Voicemail/Phone Call	Joe Blemo
Mr. Kuntz asked about the timeline for adoption. Informed Mr. Kuntz we are looking at the proposal to be in front of City Council in January of 2015.	10/27/2014	Voicemail	Greg Kuntz
Mr. Byrd stated he is opposed to the height minimum standards and the prohibition of drive-throughs	11/7/2014	Phone Call	Greg Byrd
Stated they were glad height minimum requirements were eliminated. Opposed to prohibition on drive-throughs	11/9/2014	Email	Rod & Glenice Scroggin
Asked why the changes were needed. Staff replied via email explaining the neighborhood planning process that resulted in this proposal and elements of the code. Staff provided a link to the website with full project details.	11/9/2014	Email	Margie Clarity
Mr. Byrd asked where the 18' Foot 1st floor height minimum came from	Week of 11/17	Phone Call	Greg Byrd
Councilman Fagan inquired why the road diet was dropped from the HFBC. Staff explained this was due to traffic numbers being too high on Hamilton to allow for a 3 lane section. Mr. Fagan also asked about angle parking and staff responded this proposal does not call for angle parking.	11/20/2014	Email	Councilman Mike Fagan
Mr. Dempsey submitted a letter on behalf of Carmela Dempsey and Pete Anderson, owners of the NW corner of Hamilton and Mission; see attached letter	11/24/2014	email	Mike Dempsey
Mr. Byrd submitted a letter with comments. See attached.	11/25/2014	Email	Greg Byrd

Logan Form Based Code Comments After Official Comment Period Nov 26th - Current

Comments	Date	Format	Contact Name
1) 35' height max in CA4; is there flexibility to go higher? 2) Recommended increasing impervious service in CA4 to 60% or 70% 3) Concern with language about Frontage Types (porches) - Staff stated this was under the guideline section of the code	12/2/2014	Meeting	Greg Kuntz

Public Comments July 2014 – September 2014

Public Open House July 30, 2014

Property Owner Meeting August 18, 2014

HAMILTON FORM-BASED CODE

We Want To Hear From You!

Leave your comments and input on this card

Name:

M. L. Demsey

ADDRESS:

3224 S. Whipple Rd

PHONE NUMBER:

E-MAIL CONTACT:

demseyml@comcast.net

RESPONSE REQUESTED: YES NO

Context Areas: What are your thoughts on the context areas including regulations for height, parking, land uses, building lines, etc?

We are strongly opposed to the mandatory height minimum for the CA-1 context area.

This 4-story requirement for our 15,000 sq ft lot located at Mission & Hamilton ^{with defective} from any reason ^{use of the property, it is tantamount to a taking of private property} because

Street Type Designations: Street types describe amenities based upon intended use and desired qualities. What are your thoughts with regards to required amenities including street trees, a planting zone, pedestrian zone, benches, trash receptacles, and pedestrian scale lighting?

Generally no significant concerns.

Other Comments/Feedback:

We the requirements to place the large building at the corner of our property. I have placed parking away from the street is already making it difficult for us to find a new tenant for the property. The prohibition on drive-thru facilities has taken away most of the demand for the property from the numerous brokers and commercial tenants we have talked to. I have talked to numerous commercial brokers.

Borisov, Boris

From: dempseymc@comcast.net
Sent: Wednesday, July 30, 2014 4:51 PM
To: Borisov, Boris
Subject: Re: Form Based Code Open House

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Boris,

I believe there is a drafting error in the July 11, 2014 draft of the HFBC, on page 5. The reference to "figures 17.XXX.050-C through 17.XXX.050-F", in subsection 17C.XXX.040(A), should instead be to "figures 17C.XXX.040-C through 17C.XXX.040-F". The figures were in Section 17.XXX.050 in an earlier draft, but are now in Section 17C.XXX.040.

There are also errors on page 6, in the references to "Figure 17C.XXX.050-A" and "17C.XXX.050-B", in Section 17C.XXX.040(G)(5). You also need to insert the "C" in the references to "figures 17.XXX.040-C through 17.XXX.050-F" in Section 17C.XXX.040(H).

I will be at the meeting tonight.

Mike Dempsey
477-7427 (Spokane County Hearing Examiner)

From: "Boris Borisov" <bborisov@spokanecity.org>
To: "Chris Kelly" <cmk@tipperary-press.com>, "Chris Nichols" <chris@chairscoffee.com>, "Jeanette Harras" <logandnc@gmail.com>, "Karen Byrd" <byrdkd50@gmail.com>, "Ken Sammons" <ksammons@plant.gonzaga.edu>, "Ken Wenhien" <kssw@msn.com>, "Mike Dempsey" <dempseymc@comcast.net>, "Mitch Moczulski" <Mitch@chairscoffee.com>, "Paul Harrington" <pharrington@southhenry.com>, "Paul Kropp" <pkropp@fastmail.fm>, "Rod & Glenia Singh" <flyrod3@comcast.net>
Sent: Tuesday, July 29, 2014 1:33:26 PM
Subject: Form Based Code Open House

Good Afternoon,

This is a friendly reminder that the Form Based Code Open House is tomorrow night from 6-8pm. Attached is a flyer with information. Hope to see you there.

Best Regards,



Boris Borisov | Assistant Planner | Planning & Development Services

Borisov, Boris

From: Karen Byrd <byrdkd50@gmail.com>
Sent: Monday, August 04, 2014 7:44 AM
To: Borisov, Boris
Subject: HFBC Comments & next mtg

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Boris,

I have several comments regarding the HFBC draft. They are as follows; --reference should be made to the Logan Identity Plan within the document.

--shrubs aren't mitigation enough for blank walls --clarity is needed around the allowance of retail in CA4 to prevent just home businesses within a residence and if a retail use is included then I think the regs for retail use (ie design/landscaping/parking) should be required.

Do you think there has been enough time for public comment for the stakeholder group to meet tomorrow? I am available to meet tomorrow or Thursday at 430p.

Have you received very many comments or concerns?

Thanks,

Karen Byrd

Sent from my iPhone

Borisov, Boris

From: Borisov, Boris
Sent: Monday, August 11, 2014 10:50 AM
To: ann4sure@comcast.net
Subject: RE: Hamilton corridor model

Hi Annabelle,

Thank you for the email and question. Your property at 1104 E August is outside of the boundary area for the Form Based Code. It seems that your property is about six parcels east of the project boundary.

Feel free to contact me if you have further questions.

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: ann4sure@comcast.net [<mailto:ann4sure@comcast.net>]
Sent: Tuesday, August 05, 2014 2:26 PM
To: Borisov, Boris
Subject: Hamilton corridor model

I wanted to know how this impacts my home in this area, I live at 1104 E. Augusta. Does this mean that they will be able to build apartment's around me or next door to me?

Thank you, Annabelle Leith ann4sure@comcast.net

- • Updated – Hamilton Corridor Model Form Based Code – July 2014

Borisov, Boris

From: dempseymc@comcast.net
Sent: Monday, August 18, 2014 3:15 PM
To: Borisov, Boris
Subject: Re: Hamilton Form Based Code Feedback

Thanks, Boris. I meant to say that the owners of the site have had to put off prospective tenants due to the moratorium and the current restrictions in the draft HFBC.

From: "Boris Borisov" <bborisov@spokanecity.org>
To: dempseymc@comcast.net
Sent: Monday, August 18, 2014 2:37:57 PM
Subject: RE: Hamilton Form Based Code Feedback

Hi Mike,

Thank you for the comments and feedback. I look forward to hearing more input from stakeholders and will keep you updated during this process.

Best Regards,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

-----Original Message-----

From: dempseymc@comcast.net [mailto:dempseymc@comcast.net]
Sent: Monday, August 18, 2014 1:49 PM
To: Borisov, Boris
Cc: pete anderson; curran dempsey; Mark J. Rosenblum
Subject: Re: Hamilton Form Based Code Feedback

Boris,

I'm sorry that due to one of our cars being in the shop today, I will not be able to attend tonight's meeting.

My 88-year old mother, Carmela Dempsey, owns 70% of the 15,600-square foot lot located at the northwest corner of the intersection of Hamilton and Mission. This property has been in the Dempsey family since my great-grandfather, C.C. Dempsey, a Spokane pioneer who was a former Sheriff of Spokane County (1896-1898) and owned the large Dempsey Hotel in downtown Spokane for many years, lived on the property in a 13-room mansion. The property housed a Shell Oil gas station after

that, and then a carwash starting in 1985 until the owners had it torn down early in 2014.

My mother is very much opposed to the draft HFBC, and the moratorium adopted by the City that is in effect along the Hamilton corridor. The lot is perfect for drive-through retail, with ingress along Mission and egress along Hamilton. It is clearly not large enough to support a minimum 54-foot/4-story tall building, with mixed uses, now or in the future; nor is there a market for such use now or in the foreseeable future. The prospective tenants who have shown interest in the property over the last several months since the carwash was removed are single-story, drive-through retail and retail strip development. This includes a number of national tenants, who we have had to put off due to the uncertainties over t.

Of most concern is the 4-story minimum building height under the HFBC in the CA-1 context area that applies to my mother's property. If this minimum is adopted, it would appear to take all reasonable use of the property away, which would be a compensable taking.

The City cannot argue that the site could be combined with other adjoining parcels in the future, to make a 4-story building marketable; which assemblage and use appears completely speculative anyway. The single-parcel test requires that this parcel be viewed on its own merits.

The height minimums that are proposed in the various context areas under the HFBC would make nearly all existing buildings along the corridor in their respective context areas nonconforming (including the new Clementine Square). This is against the concept of typical form-based zoning, which is not intended to force such drastic changes to the character of an existing neighborhood.

There is also concern regarding the impact of the inordinately wide improvements and setbacks required along a shopfront street like Hamilton and Mission, which would require a whopping 24-foot set aside for my mother's property along both Mission and Hamilton. This represents approximately 6,000 square feet of a 15,600-square foot lot, or 38% of the lot.

Personally, I have long been an admirer of the City of Spokane, and appreciate the City trying to make a positive impact on the Hamilton corridor and adjoining neighborhoods. However, the proposed zoning from my mother's point of view is a disaster in the making. From my own experience, this sort of restrictive zoning, that takes away most reasonable uses of the property in the existing market, is what brought form-based zoning down in the City of Spokane Valley; not just an argument over aesthetics.

Respectfully submitted,

Mike Dempsey

----- Original Message -----

From: "Boris Borisov" <bborisov@spokanecity.org>

To: byrdkd50@gmail.com
Cc: "Scott Chesney" <schesney@spokanecity.org>, "Louis Meuler" <LMeuler@SpokaneCity.org>
Sent: Monday, August 18, 2014 9:47:21 AM
Subject: Hamilton Form Based Code Feedback

Dear Stakeholders,

This is a friendly reminder we are meeting today with property owners to discuss the Hamilton Form Based Code:

Date: Monday, August 18, 2014

Time: 5-6:30pm

Location: Gonzaga Plant Service Building, 1004 N. Ruby.

Directions: The entrance is around on the east side of the building. From the south, take Ruby north to DeSmet Avenue. Turn right and go about ½ block and turn into the driveway on the south side of the street. The building is the second one on the right. From Division, going south, turn left onto DeSmet, go a block and a half and turn south into the driveway as noted above.

Please RSVP to this email if you plan on attending. If you cannot attend, please review the attached draft and provide your feedback via email or phone.

Thank you,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

Borisov, Boris

From: Greg Higgins <gjharch@comcast.net>
Sent: Tuesday, September 30, 2014 3:28 PM
To: Borisov, Boris
Cc: 'Karen Byrd'
Subject: COMMENT-HAMILTON FORM BASED CODE

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Borisov,
I just wanted to respond to the work that has been undertaken by the Logan Neighborhood over the last year or so. The development of the Form Based Code, I believe, is exemplary, very well thought out, and should be enacted by the City Council.

I grew up at 808 E Augusta, and after 4 decades away living in NYC, I presently live and work at this address. Any movement toward enhancing pedestrian activity, and providing increased density will be good for the Logan Neighborhood, and for the City of Spokane. Thank you.

Best regards,

Greg

GREG HIGGINS architecture

Gregory J. Higgins, Architect
808 E. Augusta Ave., Unit A
Spokane, WA 99207
T: 509.482.2764

Official Public Comment Period
October 27, 2014 – November 25, 2014

Borisov, Boris

From: Cho <kraftproperties@comcast.net>
Sent: Friday, November 21, 2014 6:01 PM
To: Borisov, Boris
Subject: Re: 929 E Boone Ave

Boris

Thank you very much for making that change. It makes a lot of sense.

Yes that is our LLC and the loan is under that name as well.

Stephen Kraft

On Nov 20, 2014, at 1:55 PM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:

> Hi Stephen,
>
> Please take a look at the attached map. We've added 929 E Boone do the CA4 transition area. Also, assessor info indicated the owner of this property is Olivia, LLC. Is that your LLC? Thanks for the assistance.
>
> Best,
>
> Boris Borisov
> Assistant Planner
> 509-625-6156
>
> -----Original Message-----
> From: Cho [<mailto:kraftproperties@comcast.net>]
> Sent: Thursday, October 30, 2014 8:48 AM
> To: Borisov, Boris
> Subject: Re: 929 E Boone Ave
>
> Boris
>
> Thank you for your reply. Please talk to Scott Chesney as he already said the city agrees with me on the 929 E. Boone and neighboring vacant land to the west of it.
> I've been stating this since Nikole Coleman first had the meeting February 2013!
>
> Stephen Kraft
>
> On Oct 30, 2014, at 8:17 AM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:
>
>> Hi Stephen,
>>
>> Thank you for the email and follow-up. When we last spoke the entire proposal was being submitted for review under State Environmental rules. That review lasted 2 weeks. Following this review we are required to kick off what is called a public comment period during which we send out letters to every property owner (the one you received). We must send out the draft that was submitted for review originally (thus the letter you received does not yet include those

changes). The letter your received kicks off a public comment period in which we will continue to get feedback about the proposal.

>>

>> We then take this feedback and look at possible changes to the code and map and have it reviewed by the Plan Commission and City Council as part of an adoption process. We plan on making the changes you requested after the public comment period expires on November 26th, before the draft goes to the Plan Commission and City Council.

>>

>> There is a lot of process involved in these type of changes and we appreciate your feedback as we work towards incorporating feedback.

>>

>> If you have any questions, don't hesitate to contact me.

>>

>> Best,

>>

>>

>>

>> Boris Borisov | Assistant Planner | Planning & Development Services

>> 509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

>>

>>

>>

>>

>>

>>

>> -----Original Message-----

>> From: Cho [<mailto:kraftproperties@comcast.net>]

>> Sent: Wednesday, October 29, 2014 5:37 PM

>> To: Borisov, Boris

>> Cc: Borisov, Boris; thekraftfamily1@comcast.net

>> Subject: Re: 929 E Boone Ave

>>

>> Boris

>>

>> Hello, I sent this earlier this month to Scott Chesney as well and he responded that the city agreed that it should be within the boundaries of the transition and should not be the lone part of that block left out.

>>

>> The map that I just received a letter from the City Of Spokane planning still does not show it within the project site. When will the map reflect what you've agreed to do?

>>

>> He did say at the time that the very next map coming out wouldn't reflect it but It's now been four weeks. As a property owner I need something a little more definite please.

>>

>> Sincerely,

>>

>> Stephen Kraft

>>

>> On Oct 3, 2014, at 3:43 PM, Stephen Kraft <kraftllc@hotmail.com> wrote:

>>

>>> Hello Mr Borisov

>>>

>>> We are the owners of 929 East Boone Ave., which includes the almost two city lots (one parcel) to the west of it.

>>>

>>> Back when this whole project started with the meeting that was held at Gonzaga University on February 6, 2013, I noticed an immediate problem with the project study area, as it did not include our families lot at the south and east part of that block--which includes Jack and Dan's.

>>>

>>> As I stated in an email on February 20, 2013 after attending the meeting organized by Nikole Coleman, "with Jack and Dans just down the alley to the west and GU dorms and properties to the east, this area is already in transition.

>>> To exclude it from a higher intensity development area is not right, and probably just an oversight. It would be terrible to be the only less developed island on the block so to speak."

>>>

>>> Nikole stated in response "the boundary needs to be drawn somewhere for this model, but that doesn't mean that the eventual rezone can go no further. Your comments and others that we've received will certainly inform what the city decides to do..."

>>>

>>> I just examined the latest draft of September 30, 2014 and my property is still not considered within the transitional area even. I want to know why it is not included?

>>>

>>>

>>> Sincerely

>>>

>>> Stephen Kraft

>>> 509-990-0869

> <logan-subarea-proposed-zoning-map-11-12-2014.pdf>

Borisov, Boris

From: flyrod3@comcast.net
Sent: Sunday, November 09, 2014 6:36 PM
To: Borisov, Boris
Subject: Hamilton Formed Based Code

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Boris,

1. We are glad the minimum and maximum height requirements have been eliminated. This would have a hardship on many property owners and nothing would have been gained from it.
2. We think drives thrus are a good thing if they are done properly and they are a service to the public.
3. Why did you not have more pictures of property north of Sharp? Example Clarks Cleaners. That is one of best looking properties on Hamilton. He has a drive thru.

Thanks,

Rod & Glenice Scroggin

Borisov, Boris

From: Borisov, Boris
Sent: Monday, November 10, 2014 1:25 PM
To: 'Marguerite Clarity'
Subject: RE: Hamilton zoning change

Dear Margie,

Thank you for the email. The change proposed are part of a neighborhood planning process that began in 2012. We worked with the neighborhood on creating this proposal before the McDonald's project. What this proposal does is try to create an urban, pedestrian friendly, and walkable environment along Hamilton. Part of this is having buildings closer to the street and creating a streetscape with amenities like trees, benches, lighting, etc. The changes that affect the property next to yours include the measures I mentioned above. You can get full project details at:
<https://beta.spokanecity.org/projects/logan/>

If you have further questions, don't hesitate to contact me directly.

Best,

Boris Borisov | Assistant Planner | Planning & Development Services
509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

-----Original Message-----

From: Marguerite Clarity [<mailto:clarity007@hotmail.com>]
Sent: Sunday, November 09, 2014 9:17 PM
To: Borisov, Boris
Subject: Hamilton zoning change

Hi,

My house is next to the change, but looks like it is not affected. 918 E Boone. Can you tell me why the changes are needed? Is it because people were upset McDonald's went in? What are people trying to control by these proposed changes?

Thanks,
Margie

Sent from my iPad

Borisov, Boris

From: Fagan, Mike
Sent: Thursday, November 20, 2014 9:00 AM
To: Borisov, Boris
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Boris,

Thank you once again.

The area that I am keying on is outside of the FBC boundary area.

Regards,

Mike Fagan

From: Borisov, Boris
Sent: Thursday, November 20, 2014 8:55 AM
To: Fagan, Mike
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Councilman Fagan,

Attached is the project map. This proposal does not call for angle parking or any change to the streets from curb-to-curb. We scaled back the project to control the environment from the back of the curb to the building. This is more of an incremental approach.

You can find the updated code document and other related maps here: <https://beta.spokanecity.org/projects/logan/> (look under Form Based Code Subarea Plan Documents).

Thank you,

Boris

From: Fagan, Mike
Sent: Thursday, November 20, 2014 8:46 AM
To: Borisov, Boris
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Boris,

Thank you for the update.

One more thing; Please forward a copy of the project map.

I have an issue with regards to angle parking and I am wanting to see if the request is coming from inside or outside.

Thank you

Mike Fagan

From: Borisov, Boris
Sent: Thursday, November 20, 2014 8:38 AM
To: Fagan, Mike
Cc: McGrath, Sheryl; Meuler, Louis; Etter, Zoraida
Subject: RE: LOGAN MEETING LAST NIGHT

Good Morning Councilman Fagan!

The traffic numbers are too high to support narrowing Hamilton. There has been some conversation about doing on street parking on Hamilton during off-peak hours. However, the proposal as it stands now only gives guidance to the form, mass, and bulk of the buildings and the space from the back of the curb to the building frontage.

Let me know if I can be of further assistance.

Best Regards,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: Fagan, Mike
Sent: Wednesday, November 19, 2014 8:17 AM
To: Borisov, Boris
Cc: McGrath, Sheryl
Subject: LOGAN MEETING LAST NIGHT

Boris,

Good Morning !

Do you know what the reason(s) are that prompted Logan to drop the road diet ?

Regards,

Mike Fagan

Mike Fagan

Spokane City Councilman

City of Spokane

808 W. Spokane Falls Blvd.

Spokane, WA 99201-3335

509-625-6257

fax 509-625-6550

mfagan@spokanecity.org

PLEASE NOTE THIS EMAIL IS PUBLIC RECORD AND WILL BE RETAINED ACCORDING TO THE CITY OF SPOKANE DOCUMENT POLICY

Borisov, Boris

From: dempseymc@comcast.net
Sent: Monday, November 24, 2014 9:34 AM
To: Borisov, Boris
Cc: pete anderson; dempsey, curran; Mark J. Rosenblum
Subject: Comments by Carmela Dempsey and Pete Anderson on SEPA review of draft HFBC
Attachments: 20141124091157347.pdf

Boris,

Please find attached a letter from me submitted on behalf of Carmela Dempsey and Pete Anderson, who own the lot at the northwest corner of Hamilton and Mission; regarding SEPA review on the draft HFBC.

If you have any questions, please free to contact me by email or by telephone at 979-5328.

Thank you for all the courtesies that you have extended to our group.

Mike Dempsey

November 24, 2014

Boris Borisov
Spokane Planning Services
808 W. Spokane Falls Boulevard #3
Spokane, WA 99201

RE: SEPA Review of Hamilton Form Based Code-Subarea Plan, Ordinance #s 1 and 2;
Comments submitted by Carmela Dempsey and Peter Anderson

Dear Mr. Borisov:

I submit these comments on the September 30, 2014 draft of the Hamilton Form Base Code ("HFBC") that is currently under SEPA review; at the request of my mother, Carmela Dempsey, and my cousin Peter Anderson. They strongly oppose the draft, based on the adverse impacts that the regulations in the draft would have on the commercial lot they own at the northwest corner of Hamilton Street and Mission Avenue.

The chief concerns of the owners are the mandatory minimum building height of 42 feet and three (3) stories, including an 18-foot high ground floor, applicable in the CA-1 context area along both Mission and Hamilton as "Shopfront" streets; as well as the ban on drive-through facilities in the CA-1 context area (and the other context areas in the HFBC).

None of the City's zones mandate a minimum building height for commercial uses or other development. Further, the Center and Corridor 1 (CC1) zone that currently applies to the owners' property, and the City's other main commercial zones, do not ban drive-through facilities on Principal Arterial streets such as Mission or Hamilton.

The November 3, 2014 redraft of the HFBC discussed at the November 6, 2014 stakeholder meeting deleted Mission Avenue as a Shopfront street, and removed the minimum building heights; from the HFBC. The owners endorse such changes. However, the draft retained the 18-foot minimum ground floor height, which appears excessive to them; and still banned drive-through facilities in all context areas.

You indicated at the stakeholder meeting that City Planning staff recently attended a conference on form-based codes in Salt Lake City, and received comments critical of the HFBC draft from other jurisdictions. This included the fact that most local jurisdictions do not impose a minimum building height, no other streets in the corridor besides Hamilton should be designated as a Shopfront street, single-story commercial buildings can work in the corridor, an economic feasibility study would be needed to justify requiring commercial buildings to be higher than single story, both the height minimums and height maximums in

the HFBC appear excessive, incentives could be used to encourage building height rather than minimum heights, transitions in height are needed between commercial buildings/parking lots and nearby residential uses to avoid adverse impacts, and market forces along the corridor should be considered by the code.

You advised that City legal staff had weighed in on the building height minimums in the HFBC; and was uncomfortable supporting them based on the lack of an economic feasibility study that supports such minimums, and legal taking issues that could be raised by commercial property owners along Hamilton. The comments from City legal staff, and from the Salt Lake City conference, drove the revisions contained in the November 3, 2014 draft.

You advised that the recently adopted Cincinnati Form Based Code was used as a model for the HFBC. I note that the Main Street Transect (T5MS) zone in the Cincinnati FBC requires a 14-foot minimum ground floor ceiling, considerably lower than the 18-foot minimum floor in the HFBC; and does not prohibit drive-through facilities, although it requires that drive-through lanes not be located between buildings and adjacent streets.

The impetus for the drafting of the HFBC was the desire of the Logan Neighborhood to reduce Hamilton from five (5) lanes down to (3) lanes, to allow a more pedestrian friendly corridor. City Traffic Engineering logically found this proposal impossible; since Hamilton is the second busiest north-south arterial in the City for traffic volumes, has a busy freeway interchange at Interstate 90, and is unlikely to see any traffic mitigation until the North Spokane Corridor is extended to Interstate 90 (at least several years down the road).

Form-based codes primarily regulate an intended physical form, regulate use secondarily, and attempt to enhance the form and character of a place.

The property at Hamilton and Mission has been in the family for generations, and once housed a 13-room mansion lived in by my great grandfather, C.C Dempsey; a Spokane pioneer who was one of the first elected Sheriffs of Spokane County (1898-1899), and owned the Dempsey Hotel and Restaurant downtown on Trent Avenue that closed prior to Expo '74. After the mansion was removed, the property was used as a Shell Station for many years; and then for a carwash the last 30 years, until the carwash was removed earlier this year.

The owners have an attachment to the property, would like to leave it to their heirs, and prefer to find a new tenant rather than sell the property.

The traffic along Hamilton makes the property highly desirable for retail uses that can attract the pass-by traffic, including drive-through uses. Traffic can enter the site on Mission and

Dempsey/Anderson
SEPA Review Comments on HFBC
November 24, 2014
Page 3

exit onto Hamilton, and a drive-through lane could be put on the side of the building away from the street if necessary.

The small lot lying west of the property is improved with an older residence, but is zoned for commercial use. The lot to the north has already been developed with McDonald's, which was allowed to have a drive-through along Hamilton. Safeway dominates the land across Hamilton to the east. Most of the commercial buildings along Hamilton are single-story, with some being 2-story.

Clarks Cleaners located across Mission to the south is a desirable use in the neighborhood, and has a drive-thru service (see enclosed photo). A great neighborhood use like Starbuck's, or Einstein Bros Bagels, cannot locate on the property without a drive-through feature.

A viable retail use that doesn't depend on drive-through service cannot economically locate on the property with the mandatory minimum building height contained in the September 30, 2014 draft of the HFBC. There is no off-street parking available along Mission and Hamilton near the property to serve multi-story use, and this 15,600-square foot lot is too small to construct a parking structure. Residential use of the site is undesirable, because the lot is at the crossing of two busy arterials.

The HFBC can make the corridor pedestrian friendly in this location through the requirement that the building be constructed along the street, together with the other performance standards in the draft that do not mandate height or ban drive-through facilities.

The owners respectfully request that the minimum building heights and the prohibition on drive-through facilities in the draft HFBC be removed, as unwarranted and unwise restrictions on development rights.

Thank you for consideration.

Sincerely,



Michael C. Dempsey
For Carmela Dempsey and Peter Anderson

c: Carmela Dempsey, Peter Anderson
Curran Dempsey, Attorney at Law
Mark Rosenblum, Attorney at Law, Eisenhower Carlson PLLC

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Created by the Web Design students of Interface College

Borisov, Boris

From: Greg Byrd <greg@byrdrealestategroup.com>
Sent: Tuesday, November 25, 2014 4:30 PM
To: Borisov, Boris
Attachments: HFBC.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please see the attached and add it to my previous comments regarding the Hamilton Form Based Code.

Greg Byrd
509-326-8080
509-994-4345 (cell)
greg@byrdrealestategroup.com



Byrd Real Estate Group LLC
PRODUCING PROPERTY SOLUTIONS
1912 N. Division St., Suite 201
Spokane WA 99207

November 25, 2014
Boris Borisov
Spokane Planning & Development Services
808 W. Spokane Falls Boulevard #3
Spokane, Washington 99201

RE: Hamilton Form Based Code ("HFBC")

Dear Mr. Borisov,

I have attended numerous meetings regarding the "HFBC". These meetings have included a preliminary meeting with Studio Cascade, a couple of open houses, meetings with stakeholders, meetings at Spokane Planning, and numerous Logan Neighborhood meetings. I am the manager of an LLC that owns 17 parcels along the Hamilton corridor south of Sharp. The LLC clearly has a vested interest in any new regulations and restrictions along this corridor.

The original sales pitch for a form based code was that it allowed more flexibility for good development. I am sorry that this is not what I find in the final "HFBC". This plan dictates or regulates height, placement, facade treatment, lighting and the look of any new buildings. It also prohibits some uses and eliminates all drive-through facilities. Where is the flexibility?

I often feel like we are trying to hit a moving target as the plan changes. The original plan at the open houses had recommended height minimums and somehow those were turned into regulated minimum height standards. No one has been able to tell me how this happened. I attended a planning meeting and was questioning the height minimum and asking for the economic analysis to show that this was feasible. I felt like this landed on deaf ears until you met the same response at the Salt Lake City Form Based Code session. I am pleased that the height minimum has been removed from the latest "HFBC".

The original design of this code was predicated on reducing Hamilton into a 3 lane boulevard. This discussion was shut down at least for the time being yet all the other plans that coincided with this did not change even though traffic on Hamilton will not be reduced or slowed down. I understand the desire to make Hamilton more pedestrian friendly, yet I find it difficult to imagine if there is no change in the traffic. Orienting the buildings closer to the street will have very little impact on pedestrians feeling more comfortable walking along Hamilton.

The property owners along Hamilton have not received a satisfactory answer as to why drive-through facilities are not allowed. When the topic is broached at a meeting it is not discussed or answered except for a statement that "we disagree and that property owners are able to bring it up at the hearing before City Council and the Planning Commission". In a private phone conversation you tell me the restriction is to make Hamilton more pedestrian friendly. Hamilton with the existing traffic is not pedestrian friendly and

prohibiting drive-through facilities is not going to improve this. A car coming out of a parking lot is not any different than a car coming out of a drive-through. I think proper planning should and can improve the streetscape by orienting the drive-through on the back side of the buildings. I understand and can appreciate that the new McDonalds on Hamilton with the drive through on the street side is not a desirable look. Clarks Cleaners on the corner of Hamilton and Mission is an attractive building that has a drive-through. Someone has yet to tell me how this orientation and architecture is objectionable as most would not even know the drive-thru is there. There are solutions other than prohibiting a use.

I had a discussion with you last week regarding the 18-foot minimum height requirement for the ground floor. You did not know how this requirement came about and could not tell me the justification for this minimum. It is more expensive to build and would certainly be more expensive to heat and cool this additional space. I can understand a more reasonable and common 14-foot minimum. You told me you would get back to me with clarification as to why and where this requirement came from. As of today, I have not heard back from you.

We know that it would be beneficial to all to have new development along the Hamilton corridor. Removing the minimum height requirement was a positive step in the right direction. My concern is that the other regulations and requirements will have a negative impact on developer interest. We are not convinced that prohibiting a future drive-thru facility and requiring 18 foot ground floor store fronts are beneficial to this neighborhood that is in need of new development.

Thank you for your attention and consideration regarding these matters.

Sincerely,

Greg Byrd
Byrd Real Estate Group LLC
Manager LLC & M,L.L.C.
509-994-4345

Comments after Official Public Comment Period

November 26, 2014 - Present

Borisov, Boris

From: Borisov, Boris
Sent: Wednesday, December 03, 2014 4:31 PM
To: 'nomotumos@comcast.net'
Subject: Re: Form Code Meeting

Hi Greg,

Thanks for meeting up about questions related to Form Code. Here's what I captured from our discussion:

1. 35' height max in CA4. You were asking if the code would be flexible if that went over by a couple of feet
2. Impervious Surface coverage percentages: your comment is to increase the CA4 standard of 50% to either 60% or 70%
3. Porches: You were concerned about the language. I informed you these were guidelines

Let me know if you this sums it up. I'll include these comments in our documentation. Please remember we have a Plan Commission Hearing December 10, 2014 at 4pm in the City Council Chambers, 808 W. Spokane Falls Blvd.

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



Borisov, Boris

From: dempseymc@comcast.net
Sent: Wednesday, December 10, 2014 1:04 PM
To: Borisov, Boris
Cc: pete anderson; dempsey, curran; Mark J. Rosenblum
Subject: Dempsey/Anderson comments to City Planning Commission, on amendments to SMC to implement HFBC
Attachments: 20141210124755111.pdf

Boris,

Please find attached a scanned copy of a 6-page letter from me to the City Planning Commission, on behalf of Carmela Dempsey and Peter Anderson, commenting on the proposed changes to the Spokane Municipal Code that seek to implement the November 12, 2014 draft of the Hamilton Form Based Code.

I will bring the original letter to the Planning Commission's hearing today at 4:00 p.m., and plan to testify at the hearing.

Thank you for all the courtesies that you have shown to me, my mother and my cousin during this process.

Mike Dempsey

December 10, 2014

Spokane City Planning Commission
c/o City of Spokane Planning & Development, Attn: Boris Borisov
808 W. Spokane Falls Boulevard
Spokane, WA 99201

RE: Amendment of SMC, to implement Hamilton Form Based Code (HFBC)
Comments submitted by Carmela Dempsey and Peter Anderson

Dear Planning Commission Members:

I respectfully submit the following comments on the amendments proposed to the Spokane Municipal Code (SMC), to implement the November 12, 2014 draft of the Hamilton Form Based Code ("HFBC"); at the request of my 79-year old mother, Carmela Dempsey, and my cousin Peter Anderson.

Mrs. Dempsey and Mr. Anderson own the 15,600-square foot lot located at the northwest corner of the intersection of Hamilton and Mission, which is currently zoned Type 1 Center and Corridor (CC1). The carwash that was located on the property for over 28 years was removed this past spring, and the owners are searching for a new commercial tenant.

I have been an attorney for 36 years. For the past 34 years, I have practiced in the field of drafting, interpreting, applying and/or enforcing land use regulations for local governments in Spokane County and other counties in Washington. This includes the last 18 years as a hearing examiner for counties and cities; and the previous 16 years as a deputy prosecuting attorney, including nine (9) years as a senior deputy.

The owners oppose some of the proposed changes to the SMC, based on the adverse impacts they would have on the use and market value of their commercial lot. Their chief concerns are the arbitrary ban on drive-through facilities in the CA-1 context area that would apply to the property, and the minimum 18-foot ground floor required under the building height maximum specified in the CA-1 context area.

The owners also strongly oppose any attempt to reinsert the draconian minimum building heights that were present in earlier drafts of the HFBC. This included a minimum building height of 54 feet (4 stories with 18-foot ground floor) along shopfront streets in the CA-1 context area, in the July 11, 2014 draft; and a still whopping minimum building height of 42 feet (3 stories with 18-foot ground floor) in the September 30, 2014 draft. The existing commercial buildings along the Hamilton corridor are mostly single story, along with some 2-story structures.

None of the City's zones mandate a minimum building height for commercial uses or other development. Further, the CC1 zone and the City's other main commercial zones do not ban drive-through facilities on Principal Arterial streets such as Mission or Hamilton.

The model HFBC drafted in March 2013, and adopted at the June 26, 2013 stakeholder's meeting, planned for the reduction of Hamilton from five (5) lanes to three (3) lanes, called for a 10-foot sidewalk section, required buildings along "shopfront streets" to abut the sidewalk, and imposed minimum building heights along shopfront streets. However, the draft contained no restrictions on drive-through facilities.

On April 14, 2014, the City Council adopted Ordinance No. C-35093; which imposed a moratorium on all land use applications for drive-through facilities, and new construction of commercial buildings set back from the street, in all CC1 and CC2 zones on the Hamilton corridor between Trent and North Foothills Drive. The moratorium has been extended into 2015, pending consideration of the HFBC.

Ordinance No. C-35093 found that drive-through facilities that are "automobile-oriented", or set back from the street, contradict the "pedestrian orientation" of CC1 and CC2 zones and the pending form-based code; and would have a detrimental impact on the implementation and goals for form-based development on the Hamilton corridor, and render moot many of the goals of form-based development. However, such findings were not well supported because the model HFBC under consideration at the time did not call for a prohibition on drive-through facilities; the CC1 and CC2 zones have performance standards for, but do not prohibit drive-through facilities; and all drive-through facilities are by nature "automobile-oriented."

To the owners, the main impetus for the City's adoption of the Hamilton moratorium on April 14, 2014 appeared to be the recent issuance of a building permit for the construction of a McDonald's drive-in restaurant along Hamilton Street, directly north of the Dempsey/Anderson lot, without any interior seating and with drive-through lanes located between the building and the street; the Logan Neighborhood's unsuccessful campaign to prevent the construction of the McDonald's use; the pending redevelopment of the Dempsey/Anderson lot, where the carwash had just closed; and the Logan Neighborhood's desire to prevent a drive-through facility from being constructed on the Dempsey/Anderson lot, even one that did not propose drive-through lanes between the building and the sidewalk.

The draft of the HFBC presented at the May 28, 2014 stakeholder's meeting, held after the passage of City Ordinance No. C-35093, also did not ban drive-through facilities. However, Section 17C.XXX.080 of the draft required that access and stacking lanes serving drive-

through businesses not be located between the building and any adjacent street, and be designed to minimize the impact to the sidewalk environment; and that drive-through facilities be designed to minimize pedestrian conflicts both on and off the site, and comply with the additional standards for drive-through facilities set forth in SMC Chapter 17C.325.

The drafts of the HFBC prepared on July 11, 2014 through November 12, 2014 no longer planned for the reduction of Hamilton Street from five (5) lanes to three (3) lanes; but banned drive-through uses, and required buildings along shopfront streets to be located adjacent to a wider 12-foot sidewalk.

The November 3, 2014 redraft of the HFBC discussed at the November 6, 2014 stakeholder meeting deleted Mission Avenue as a shopfront street, and removed the minimum building heights, from the HFBC. The owners strongly endorsed such changes.

City Planning staff at the November 6, 2014 stakeholder meeting advised that they had recently attended a conference on form-based codes in Salt Lake City, and received comments critical of the HFBC draft from other jurisdictions. This included comments that most local jurisdictions do not impose minimum building heights, no other streets in the corridor besides Hamilton should be designated as a “shopfront” street, single-story commercial buildings can work in the corridor, an economic feasibility study would be needed to justify requiring commercial buildings to be higher than single story, both the height minimums and height maximums in the HFBC appear excessive, incentives could be used to encourage building height rather than minimum heights, transitions in height are needed between commercial buildings/parking lots and nearby residential uses to avoid adverse impacts, and market forces along the corridor should be considered in the HFBC.

City Planning staff also advised that the City Attorney’s Office had weighed in on the building height minimums in the HFBC; and was uncomfortable supporting them based on the lack of an economic feasibility study that supports such minimums, and taking issues that could be raised by commercial property owners along Hamilton. The comments from City legal staff, and from the Salt Lake City conference, drove the revisions contained in the November 3, 2014 and November 12, 2014 drafts of the HFBC.

City Planning staff further advised that the recently adopted Cincinatti Form Based Code was used as a model for the HFBC. I note that the Main Street Transect (T5MS) zone in the Cincinatti FBC, which appears comparable to the CA-1 context area in the HFBC, requires a 14-foot minimum ground floor ceiling, considerably lower than the 18-foot minimum floor in the HFBC; and does not prohibit drive-through facilities, although it requires that drive-through lanes not be located between buildings and adjacent streets.

City Planning staff has provided no rationale for a minimum 18-foot building height for the first floor of a building, in the CA-1 context area or other context areas of the HFBC. Such mandatory height could significantly increase the cost of building the first floor of a commercial use on the owners' property, with speculative gain to the neighborhood.

Over the past several months, I have consulted with licensed real estate brokers from three (3) different brokerages that represent or market property in the Hamilton corridor, as well as a prominent local land use attorney in Spokane, about the minimum building heights that were in the earlier drafts of the HFBC. They all agree that such standards would likely work a taking of the owners' small lot; because it would next to impossible to find a marketable commercial use that would want or try to build this high on the property, considering economics and the low profile of most other buildings in the corridor. They were also critical of the ban on drive-through uses, since this significantly devalues the use of this property located along a high-traffic corridor and at the juncture of two principal arterials.

The impetus for the drafting of the HFBC was the desire of the Logan Neighborhood to reduce Hamilton from five (5) lanes down to (3) lanes, to allow a more pedestrian friendly corridor. City Traffic Engineering logically found this proposal impossible; since Hamilton is the second busiest north-south arterial in the City for traffic volumes, has a busy freeway interchange at Interstate 90, and is unlikely to see any traffic mitigation until the North Spokane Corridor is extended to Interstate 90 (at least several years down the road). Where else would the traffic go that currently congests Hamilton Street during peak hours?

Form-based codes primarily regulate an intended physical form, regulate use secondarily, and attempt to enhance the form and character of a place. The ban on drive-through facilities in the moratorium and the draft HFBC has had a chilling effect on the marketing and development of the owners' property, which has been sitting vacant without a new tenant for months.

The ban on drive-through facilities would work a significant downzone of the owners' property from the current CC1 zoning. The downzoning of property along Sprague Avenue in the form-based code adopted by the City of Spokane Valley a few years ago eventually led to its wholesale repeal, not the form-based performance standards adopted in such code.

The property at Hamilton and Mission has been in the family for generations, and once housed a 13-room mansion resided in by my great grandfather, C.C Dempsey; a Spokane pioneer who was one of the first elected sheriffs of Spokane County (1898-1899), and owned the Dempsey Hotel and Restaurant downtown on Trent Avenue that closed prior to Expo '74. After the mansion was removed, the property was used as a Shell Station for many years; and then for a carwash the last 28 plus years, before it was removed this past spring.

The owners have an attachment to the property, would like to leave the property to their heirs, care about what uses are developed on the property, and prefer to find a new tenant rather than sell the property.

The traffic along Hamilton makes the owners' property highly desirable for retail uses that can attract the pass-by traffic, including drive-through uses. Traffic can enter the site on Mission and exit onto Hamilton, and a drive-through lane could be put on the side of the building away from the street if needed for the commercial use.

The small lot lying west of the property is improved with an older residence, but is zoned for commercial use. The lot to the north has already been developed with McDonald's, which was allowed to have a drive-through lane along Hamilton. Safeway dominates the land across Hamilton to the east.

Clarks Cleaners located across Mission to the south is a desirable use in the neighborhood, and has drive-thru service (see enclosed photo). A great neighborhood use like Starbuck's or Einstein Bros Bagels, or a pharmacy or bank branch with a drive-through feature, could not be developed on the owners' property if drive-through facilities are banned.

There is no off-street parking available along Mission and Hamilton near the property to serve multi-story use, and the 15,600-square foot lot is too small to construct a parking structure. Residential use of the site is undesirable, because the lot is located at the crossing of a high capacity traffic corridor and another busy arterial.

The proposed amendments to the SMC can make the Hamilton corridor "pedestrian friendly" through the requirement that the building be constructed adjacent to the 12-foot sidewalk along shopfront streets like Hamilton; together with the other performance standards in the amendments that do not mandate height or ban drive-through facilities, and the existing performance standards for drive-through facilities in the SMC.

The owners respectfully request that the 18-foot minimum building height for first floor construction along shopfront streets, and the prohibition on drive-through facilities, be deleted from the proposed amendments; as unwarranted and unwise restrictions on development rights.

Thank you for consideration.

Dempsey/Anderson
Comments to Planning Commission on HFBC
December 10, 2014
Page 6

Sincerely,



Michael C. Dempsey
Attorney at Law

c: Carmela Dempsey, Peter Anderson
Curran Dempsey, Attorney at Law
Mark Rosenblum, Attorney at Law, Eisenhower Carlson PLLC

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Created by the Web Design students of Interface College

Borisov, Boris

From: Borisov, Boris
Sent: Tuesday, December 09, 2014 3:15 PM
To: 'kraftproperties@comcast.net'
Cc: Meuler, Louis
Subject: RE: 929 E Boone Ave

Mr. Kraft,

I cannot change the boundaries at this point as we are going to Plan Commission hearing tomorrow. You are welcome to come and testify at the hearing. I will also forward your comments to the Plan Commission. Details below:

Plan Commission Hearing
4pm
City Hall, City Council Chambers
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Thank you,



Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org



From: kraftproperties@comcast.net [mailto:kraftproperties@comcast.net]
Sent: Tuesday, December 09, 2014 2:13 PM
To: Borisov, Boris
Subject: RE: 929 E Boone Ave

Boris,

Thank you for getting back to me with the requested change and the map as well. I think it benefits the neighborhood in the long run.

One other thing that I feel strongly enough to write a follow-up email to, is that the area on the west side of Columbus St, between Boone and Desmet should be included in the CA3. These five homes are all rentals and furthermore, the huge bland asphalt parking area, which is rarely used by the way, comes inbetween. This half

block is an eyesore, and does not need to be preserved as some single family area. Disclosure: I am an owner (aka the guy who pays the mortgage and taxes and manages the place, etc) of two of the places, 929 E. Boone and 917 E. Desmet.

What is your opinion on this at this time?

Stephen

----- Original Message -----

From: Boris Borisov <bborisov@spokanecity.org>

To: Cho <kraftproperties@comcast.net>

Sent: Thu, 20 Nov 2014 21:55:38 -0000 (UTC)

Subject: RE: 929 E Boone Ave

Hi Stephen,

Please take a look at the attached map. We've added 929 E Boone do the CA4 transition area. Also, assessor info indicated the owner of this property is Olivia, LLC. Is that your LLC? Thanks for the assistance.

Best,

Boris Borisov

Assistant Planner

509-625-6156

-----Original Message-----

From: Cho [<mailto:kraftproperties@comcast.net>]

Sent: Thursday, October 30, 2014 8:48 AM

To: Borisov, Boris

Subject: Re: 929 E Boone Ave

Boris

Thank you for your reply. Please talk to Scott Chesney as he already said the city agrees with me on the 929 E. Boone and neighboring vacant land to the west of it.

I've been stating this since Nikole Coleman first had the meeting February 2013!

Stephen Kraft

On Oct 30, 2014, at 8:17 AM, "Borisov, Boris" <bborisov@spokanecity.org> wrote:

> Hi Stephen,

>

> Thank you for the email and follow-up. When we last spoke the entire proposal was being submitted for review under State Environmental rules. That review lasted 2 weeks. Following this review we are required to kick off what is called a public comment period during which we send out letters to every property owner (the one you received). We must send out the draft that was submitted for review originally (thus the letter you received does not yet include those changes). The letter you received kicks off a public comment period in which we will continue to get feedback about the proposal.

>

> We then take this feedback and look at possible changes to the code and map and have it reviewed by the Plan Commission and City Council as part of an adoption process. We plan on making the changes you requested after the public comment period expires on November 26th, before the draft goes to the Plan Commission and City Council.

>

> There is a lot of process involved in these type of changes and we appreciate your feedback as we work towards incorporating feedback.

>

> If you have any questions, don't hesitate to contact me.

>

> Best,

>

>

>

> Boris Borisov | Assistant Planner | Planning & Development Services

> 509.625.6156 bborisov@spokanecity.org www.spokaneplanning.org

>

>

>

>

>

> -----Original Message-----

> From: Cho [<mailto:kraftproperties@comcast.net>]

> Sent: Wednesday, October 29, 2014 5:37 PM

> To: Borisov, Boris

> Cc: Borisov, Boris; thekraftfamily1@comcast.net

> Subject: Re: 929 E Boone Ave

>

> Boris

>

> Hello, I sent this earlier this month to Scott Chesney as well and he responded that the city agreed that it should be within the boundaries of the transition and should not be the lone part of that block left out.

>

> The map that I just received a letter from the City Of Spokane planning still does not show it within the project site. When will the map reflect what you've agreed to do?

>

> He did say at the time that the very next map coming out wouldn't reflect it but It's now been four weeks. As a property owner I need something a little more definite please.

>

> Sincerely,

>

> Stephen Kraft

>

> On Oct 3, 2014, at 3:43 PM, Stephen Kraft <kraftllc@hotmail.com> wrote:

>

>> Hello Mr Borisov

>>

>> We are the owners of 929 East Boone Ave., which includes the almost two city lots (one parcel) to the west of it.

>>

>> Back when this whole project started with the meeting that was held at Gonzaga University on February 6, 2013, I noticed an immediate problem with the project study area, as it did not include our families lot at the south and east part of that block--which includes Jack and Dan's.

>>

>> As I stated in an email on February 20, 2013 after attending the meeting organized by Nikole Coleman, "with Jack and Dans just down the alley to the west and GU dorms and properties to the east, this area is already in transition.

>> To exclude it from a higher intensity development area is not right, and probably just an oversight. It would be terrible to be the only less developed island on the block so to speak."

>>

>> Nikole stated in response "the boundary needs to be drawn somewhere for this model, but that doesn't mean that the eventual rezone can go no further. Your comments and others that we've received will certainly inform what the city decides to do..."

>>

>> I just examined the latest draft of September 30, 2014 and my property is still not considered within the transitional area even. I want to know why it is not included?

>>

>>

>> Sincerely

>>

>> Stephen Kraft

>> 509-990-0869

>>

>>

>>

>>

>>

Borisov, Boris

From: Greg Kuntz <nomotumos@comcast.net>
Sent: Monday, December 08, 2014 3:22 PM
To: Borisov, Boris
Subject: Re: Form Code Meeting

Looks good.

More reasoning for amending would be that the way the percentages are written now are in line with RSF. If FBC 4 is truly transition. Percentages should be higher.

When I look at the areas that allow FBC 4 development they all stop at street intersections so you will have the width of street 60ft or so of buffer between RSF. Also if increased density is a goal of this code change then subject properties should have less restriction then current zoning.

Again

RSF allows to 35ft and a .5 FAR which essential is 50% impervious coverage. If you can achieve the required setback from property line why should it matter? Kind of a catch 22. No problem with building big attractive buildings with design standards.

Just thoughts thanks again for your time.

Greg

Sent from my iPhone

On Dec 3, 2014, at 4:30 PM, Borisov, Boris <bborisov@spokanecity.org> wrote:

Hi Greg,

Thanks for meeting up about questions related to Form Code. Here's what I captured from our discussion:

1. 35' height max in CA4. You were asking if the code would be flexible if that went over by a couple of feet
2. Impervious Surface coverage percentages: your comment is to increase the CA4 standard of 50% to either 60% or 70%
3. Porches: You were concerned about the language. I informed you these were guidelines

Let me know if you this sums it up. I'll include these comments in our documentation. Please remember we have a Plan Commission Hearing December 10, 2014 at 4pm in the City Council Chambers, 808 W. Spokane Falls Blvd.

Thank you,

<image001.jpg>

Boris Borisov | Assistant Planner | Planning & Development Services

509.625.6156 | bborisov@spokanecity.org | www.spokaneplanning.org

<image002.gif>

<image003.gif><image004.gif><image005.gif>

HAMILTON

FORM-BASED CODE

SUBAREA PLAN

Additional Resources



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: MAY 10, 2010

FROM: Planning Services

PD-024-10

DATE: April 19, 2010

SUBJECT: Drive-Through Facilities Zoning By-Law Amendment

LOCATION: Town wide

WARD: Town wide

Page 1

RECOMMENDATION:

That Zoning By-law Amendment 2010-047, a by-law to amend the Town's Comprehensive Zoning By-law 1984-63, as amended, regarding drive-through facilities, be passed.

KEY FACTS:

- On November 10, 2008, Planning and Development Council passed Interim Control By-law 2008-177 to prohibit drive-through facilities in order to provide staff the opportunity to undertake a study in respect of land use planning policies for drive-throughs and to prepare recommendations for amendments to the Zoning By-law as necessary.
- On September 14, 2009, Planning and Development Council brought forward a report entitled "Drive-through Facilities Study and Proposed Directions" which was received. Planning Services staff were directed to proceed with additional public consultation and also requested to review the setback requirements of drive-throughs from residential zones.
- Planning Services staff has held additional consultation with the public, further assessed the issues raised and prepared updated recommendations to the Town's Zoning By-law relating to drive-throughs.
- Planning Services staff are recommending amendments to the Town's Zoning By-law to define drive-throughs, restrict them from the Central Business District and Growth Area locations as provided for in Livable

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

Oakville, require locational criteria and setbacks in C1, C2 and C6 zones; and define additional regulations for buffers and stacking spaces.

BACKGROUND

On November 10, 2008, Planning and Development Council passed Interim Control By-law 2008-177 to prohibit drive-through facilities in order to provide staff with the opportunity to undertake a study in respect of land use planning policies for drive-throughs and to prepare recommendations for amendments to the Zoning By-law as necessary.

Planning Staff completed the Drive-Through Study in the summer of 2009 and it was presented to Planning and Development Council on September 14, 2009 for endorsement. Due to time limitations the drive-through study was not dealt with at the September 14th meeting and was forwarded onto the September 28, 2009 meeting for consideration. Discussions at that meeting focused largely on the proposed 15m separation distance from residential areas as suggested in the staff report and the need for further consultation on the proposed recommendations in general. There was consensus that further consultation should be undertaken and that an extension to the Interim Control By-law be passed to allow additional time for this consultation to be undertaken. The Interim Control By-law was therefore extended at the September 28, 2009 and the following motion was passed by Council:

- "1 The Planning Services Report #PD-072-09 entitled "Drive-Through Facilities Study and Proposed Direction" be received.*
- 1. That Planning Services be requested to review the setback requirements from residential zones taking into consideration the comments received at the public meeting and the setback requirements of other municipalities.*
 - 2. That Planning Services be requested to undertake further consultation and prepare a draft Zoning By-law for consideration at a future Planning and Development Council meeting."*

Following the Council resolution, staff undertook a further review of the setback requirements by updating its analysis of the regulations and setback requirements of other municipalities. Staff also undertook further consultation with the industry stakeholders and the community.

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Subject: Drive-Through Facilities Zoning By-Law Amendment

POLICY FRAMEWORK

The policy framework applicable to drive-throughs was set out in detail in PD-072-09. It is summarized again to provide the policy context in which the analysis has taken place.

Official Plan

The Town's current Official Plan does not provide specific policies related to drive-through facilities. The Livable Oakville Plan prohibits new drive-through facilities within all of the Growth Areas:

- Downtown Oakville;
- Kerr Village;
- Uptown Core;
- Palermo Village;
- Bronte Village; and,
- Midtown Oakville.

These areas represent the majority of the areas where Mixed Use land use designations are applied. There are also some commercially designated areas, outside of the Growth Areas where the Mixed Use land use designations apply and as such drive-through facilities are not permitted. These areas include the Central Business District south of Kerr Village and west of the Downtown.

The Livable Oakville Plan also provides for a hierarchy of commercial land use designations to allow for a distribution of commercial centres to serve the community. Drive-throughs are generally permitted within the Core Commercial and Community Commercial centres as well as Business Commercial nodes which are predominantly located along arterial roads. The Livable Oakville Plan also contains numerous urban design policies which will work in conjunction with the Drive-Through Urban Design Guidelines to provide further direction for drive-through facilities throughout Oakville. The new urban design policies in the Livable Oakville Plan contain direction regarding site access, circulation, landscaping, parking, service, loading and storage areas, and signage and lighting.

The Urban Design Guidelines for drive-throughs will be updated as part of the comprehensive review being undertaken to develop a town-wide set of urban design guidelines which will further implement the Livable Oakville Plan.

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Existing Zoning Regulations

The Town of Oakville Zoning By-law permits drive-through facilities in the majority of commercial and employment zones subject to varying regulations. Drive-throughs are currently permitted within the C1, C2, C6 and C3R zone subject to certain regulations. They are permitted through interpretation as “take-outs” in these zones (as noted by the “x” in the chart). Drive-throughs are also permitted within the C3, C3A, E1, E2 and T1 zones. However they are not permitted on a lot abutting a residential zone within these zones. The table below provides a summary of the current zoning regulations pertaining to drive-throughs.

Zone	Take outs	Drive-through	Regulation
Commercial			
C1	✓	X	9m side yard abutting a residential zone 13.5m rear yard abutting a residential zone 7.62m buffer strip abutting a residential zone
C2	✓	X	15m side and rear yard abutting a residential zone 7.62m buffer strip abutting a residential zone
C3	✓		Not permitted on a lot abutting a residential zone
C3R	✓		3m side and rear yard abutting a residential zone
C3A	✓		Not permitted on a lot abutting a residential zone
C4			Not a permitted use
C5			Not a permitted use
C6	✓	X	15m abutting a residential zone
C7			Not a permitted use
	Take outs	Drive – through	Regulation
Employment			
E1		✓	Not permitted on a lot abutting a residential zone
E2		✓	Not permitted on a lot abutting a residential zone
T1		✓	Not permitted on a lot abutting a residential zone

North Oakville Secondary Plans and Zoning By-law

From: Planning Services
Date: April 19, 2010
Subject: Drive-Through Facilities Zoning By-Law Amendment

The North Oakville East Secondary Plan specifically restricts drive-throughs in the Trafalgar Urban Core Area. The North Oakville West Secondary Plan does not have any specific references to drive-throughs. The North Oakville Zoning By-law defines drive-throughs but they are not identified as a permitted use in any of the existing zones.

Since the North Oakville lands were not part of the Interim Control By-law, any changes to the regulations for drive-throughs in the North Oakville Zoning By-law would have to come from a separate amendment. It is recommended that any resulting regulations approved through this Interim Control By-law study process be implemented into the North Oakville Zoning By-law by separate amendment to ensure a consistent approach to drive-throughs is applied to all areas of Town.

COMMENTS/DISCUSSION

Review of setback requirements

Planning staff have undertaken a further review of setback requirements imposed by other municipalities, particularly those located within the GTA, as directed by Council. Staff has compiled these regulations within a table which is attached to this report as Appendix "A". As shown in the table the setbacks vary among the municipalities surveyed and generally range anywhere from 10 meters to 60 metres. There is also a significant difference with respect to setbacks required from a residential zone to a building containing a drive through or to an intercom ordering station. It was also noted that some municipalities have provided for unique situations which could result in a reduction to the setback being considered such as the installation of noise attenuation barriers and/or landscaped buffers.

The review undertaken by planning staff reveals that there is not a consistent setback utilized by municipalities in dealing with drive-through facilities. In fact the setback requirements imposed by other municipalities vary greatly and are based on a variety of factors including the specific context of each community.

Additional Public Consultation

In total six meetings have been held to receive input from the public on drive-through facilities. In addition to the public meetings, an informal qualitative on-line survey was undertaken to collect information on the views and attitudes towards drive-throughs. The on-line survey responses are not reliable as a source of statistically valid data by which to develop future policy on drive-through facilities and were only used to consider views and opinions..

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Subject: Drive-Through Facilities Zoning By-Law Amendment

The first public meeting hosted by Planning Staff was a public open house held on May 7, 2009 to hear the views of the community on drive-throughs. Two residents and several stakeholders attended this open house. The second meeting was a statutory public meeting on September 14, 2009 before Planning and Development Council. Members of the public and stakeholders groups were present at this meeting and expressed their comments and concerns to Council.

As directed by Council at the September 14th, 2009 Planning and Development Council meeting additional meetings were held to further consult with the community. Four additional meetings were held to provide further opportunity for discussion and clarification of the issues. A summary of the additional meetings is provided as follows:

Stakeholder Consultation Meeting

The first meeting was a stakeholder meeting held on January 14, 2010. It was a well attended meeting with representatives from the Ontario Restaurant Hotel and Motel Association, McDonalds and Tim Horton's. There was a review of the current policies and design guidelines and there was discussion on the proposed directions as presented to the Planning and Development Council meeting on September 14, 2010. The stakeholders were concerned that any further regulations and restrictions would compromise the interests of local businesses in providing drive-through facilities which they believe are an essential customer service. The industry stakeholders also stressed the need to use evidentiary based noise and impact setbacks. The provision of a minimum site size was also discussed and the industry stressed that smaller sites can be very efficient if appropriately located. The industry further presented and discussed the RWDI study on air emissions and noted that the science was clear to show drive-throughs had less impact on air emissions than parking lots.

Public Workshop Session

The second meeting was a facilitated workshop session for those members of the public who attended and addressed Council at the September 14th P/D Council meeting as well as representatives from resident/neighbourhood groups were also invited to attend this meeting. The session provided an update on the drive-through study and generated considerable input from those who attended using the POWER tool for consultation. The discussion was focused around what people thought about the recommendations from the September 14th meeting including the positive aspects, objections to the recommendations, what else was important to people (other ideas and questions) as well as enhancements and other remedies. A summary of the session is found in Appendix "B". Among the many concerns expressed throughout the meeting the main issue was that drive-throughs should

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not be permitted within residential neighbourhoods and should be directed away from residential uses.

Second Stakeholder Meeting

The third consultation meeting was held with the Canadian Petroleum Products Institute and followed the same format as the meeting held on January 14, 2010 with the larger stakeholders group. The main issues conveyed to staff by the group were similar to those expressed in the first industry meeting and those outlined in the Institute's letter to the Town dated March 18, 2010.

Public Open House

A fourth consultation meeting was a Public Open House held on April 7th, 2010. There were approximately 80 people in attendance at this meeting. A brief presentation was followed by a question and answer period and an opportunity for attendees to express their comments and concerns to the group as a whole and on an individual basis with staff. A request was also made for written comments using the POWER tool. A summary of the comments provided at this meeting is attached to this report as Appendix "B".

Summary of Additional Comments and Information

The focus of the additional consultation was in relation to the original six recommendations proposed within the Drive-Through Facilities Study and Proposed Directions report as presented to Planning and Development Council on September 14th, 2009, specifically:

1. that drive-throughs be restricted from locating within the C3R (commercial/residential) zones of Downtown Oakville, Bronte and Kerr Villages and further the Midtown Core, Palermo Village and the Uptown Core growth areas.
2. that a minimum 15m (50') setback be required for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone.
3. that a 7.62m (15') wide landscaped buffer and 1.8m (6') high board or masonry wall be provided along all property boundaries abutting a residential zone.
4. that a minimum of 10 vehicle stacking spaces for a restaurant and a minimum of 4 vehicle stacking spaces for all other drive-throughs be required.
5. that a minimum site size of 0.3 hectares be established.
6. that new definitions for "*drive-through facility*" and "*stacking lane*" be provided.

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Stakeholders and Industry Representative Input and Responses

In the meetings with the stakeholders and industry representatives there was general discussion regarding existing zoning regulations for drive-throughs and the design guidelines that were approved in 2003. It was noted by the industry representatives that the Town's Urban Design Guidelines function relatively well when assessing site plan applications for drive-throughs and they felt that additional zoning regulations relating to setbacks and buffer areas were not necessary. They did agree that clarification on the definition of drive-throughs in the zoning by-law would be useful. They recognize that drive-throughs are not permitted in the Growth Areas through the Livable Oakville Plan and strongly disagree with this position. However, there are only two site specific appeals to the Livable Oakville Plan related to this restriction.

Although planning staff acknowledge that the Urban Design Guidelines have been an effective mechanism in the past by which to assess applications they are still only guidelines which are not mandatory and may not be adhered to on a site by site basis. Planning staff therefore remain of the opinion that Urban Design Guidelines need to be strengthened through an amendment to the Zoning By-law which will implement the guidelines.

Another concern expressed from the industry stakeholders was with respect to the proposed minimum site size for drive-throughs of 0.3 ha. They felt that requiring a minimum site size may be contrary to the Town's commitment to making the most efficient use of land as possible and may restrict flexibility in site design. Staff noted that a minimum site size requirement may not be necessary if all the other regulations proposed by staff in the initial report were approved. Based on these discussions staff have given this matter some further consideration and are not recommending a minimum site size requirement be added to the Zoning By-law. Staff recognizes the industry's efforts to continue to improve drive-through functions and efficiencies to reduce impacts and minimize idling. While the RWDI study identifies less impact from idling than parking lots, the fundamental direction for redevelopment through the Livable Oakville Plan and the plans for North Oakville are to reduce car usage and increase active transportation in communities.

Community and Public Input and Responses

In the meetings with the public the primary concern expressed was with respect to the incompatibility of drive-through facilities in close proximity to residential uses and neighbourhoods. Many clearly stated that drive-throughs do serve a function by providing a convenience choice to consumers but the impacts associated with the operations and functions of drive-throughs as well as the built form they represent do not make them suitable land uses to be developed within or adjacent to stable

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residential areas. Many referred to the protection and enhancement of Oakville's stable residential areas being provided in the Livable Oakville Plan and the need for future development to uphold that principle. Most agreed that clarification of the definition of drive-throughs was needed. They also agreed that where drive-throughs are appropriate, zoning regulations should be in place to address stacking lanes and design and setbacks.

Setback Regulations

As noted earlier in the report, the setbacks imposed in the zoning regulations of other municipalities vary greatly. The intent of a setback used to separate a use or building from another use or building should ensure the area between the uses and/or buildings is utilized in a way that mitigates impacts. Setbacks alone, however, do not ensure impacts are completely mitigated. Impacts related to traffic are best addressed through the zoning of uses at site locations that have adequate traffic capacity to provide for the use. The information provided through the Interim Control By-law study identified that most drive-throughs are located on major arterials to maximize usage and accommodate traffic volumes. Staff is recommending that this locational criteria be implemented in the zoning regulations in addition to the setbacks.

Staff Analysis and Recommendations

Through the Interim Control By-law study a review of existing official plan policies, zoning regulations, drive-through guidelines and other municipalities' policies and guidelines was undertaken. Staff also reviewed the location of existing facilities and existing conditions. This review, in addition to the public consultation, identified a number of issues with respect to drive-through facilities which can generally be classified into the following categories:

- *Compatibility of drive-throughs and Impacts on adjacent residential land uses;*
- *Traffic and noise;*
- *Streetscape and urban design; and.*
- *Air quality.*

Drive-through facilities are dependent on a high volume of vehicular traffic and a high turnover of customers. As such they can have significant traffic impacts with respect to site access, stacking or queuing lanes, and can create conflicts between internal traffic, parking areas, and pedestrian traffic. Drive-through fast food restaurants also require outdoor speakers/ ordering boards which may create visual and noise impacts.

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Issues relating to drive-through facilities are often addressed through land use planning policies, provisions and regulations to ensure impacts are minimized and uses are adequately separated from residential uses. The Town's Urban Design Guidelines have proven to be an effective mechanism by which to mitigate the negative impacts associated with drive-through facilities in many cases. While the Town's Drive-Through guidelines provide assistance on these issues, the Town's current Zoning By-law does not implement the approved guidelines.

In addition, the Livable Oakville Plan is intended to move the Town towards greater sustainability. Sustainability is not just about reducing current environmental impacts but must address a change in policy to affect behaviour to eliminate such impacts. Staff understands there is a need to provide the community with a choice for convenience but also recognizes the importance of ensuring development within the stable residential communities and the commercial centres within those communities is in a form that is appropriate and one that moves away from car dependency. It is therefore being proposed that the zoning by-law be amended to implement the policies and direction as set out in the Livable Oakville Plan, as well as the implementation of the existing design guidelines on sites where drive-throughs would be permitted.

1. Locational criteria

Staff has investigated numerous ways to address the land use compatibility issue associated with drive-through facilities. While many municipalities have addressed compatibility through setback requirements, staff believes that the most appropriate method of regulating drive-throughs in Oakville is to address compatibility through locational criteria. The most acceptable and the most appropriate location for drive-through facilities, even by admission of the industry stakeholders, is along major arterial roads where traffic volumes are significant. This locational criterion has been reviewed and considered in accordance with the current drive-through facility locations and the Town's Livable Oakville Plan as well as the current zoning provisions for drive-through facilities.

The drive-through guidelines currently discourage the location of drive-throughs in certain areas of the Town such as the downtowns where a traditional main street with a pedestrian streetscape is encouraged. In addition downtown locations have lot sizes and lot patterns that are generally not conducive to drive-throughs. The Growth Areas and Central Business Districts are all evolving urban areas. They are not appropriate areas in which to locate drive-throughs. It is recommended that the Zoning By-law be amended to prohibit the location of new drive-throughs in these areas to be consistent with the Town's Livable Oakville policies.

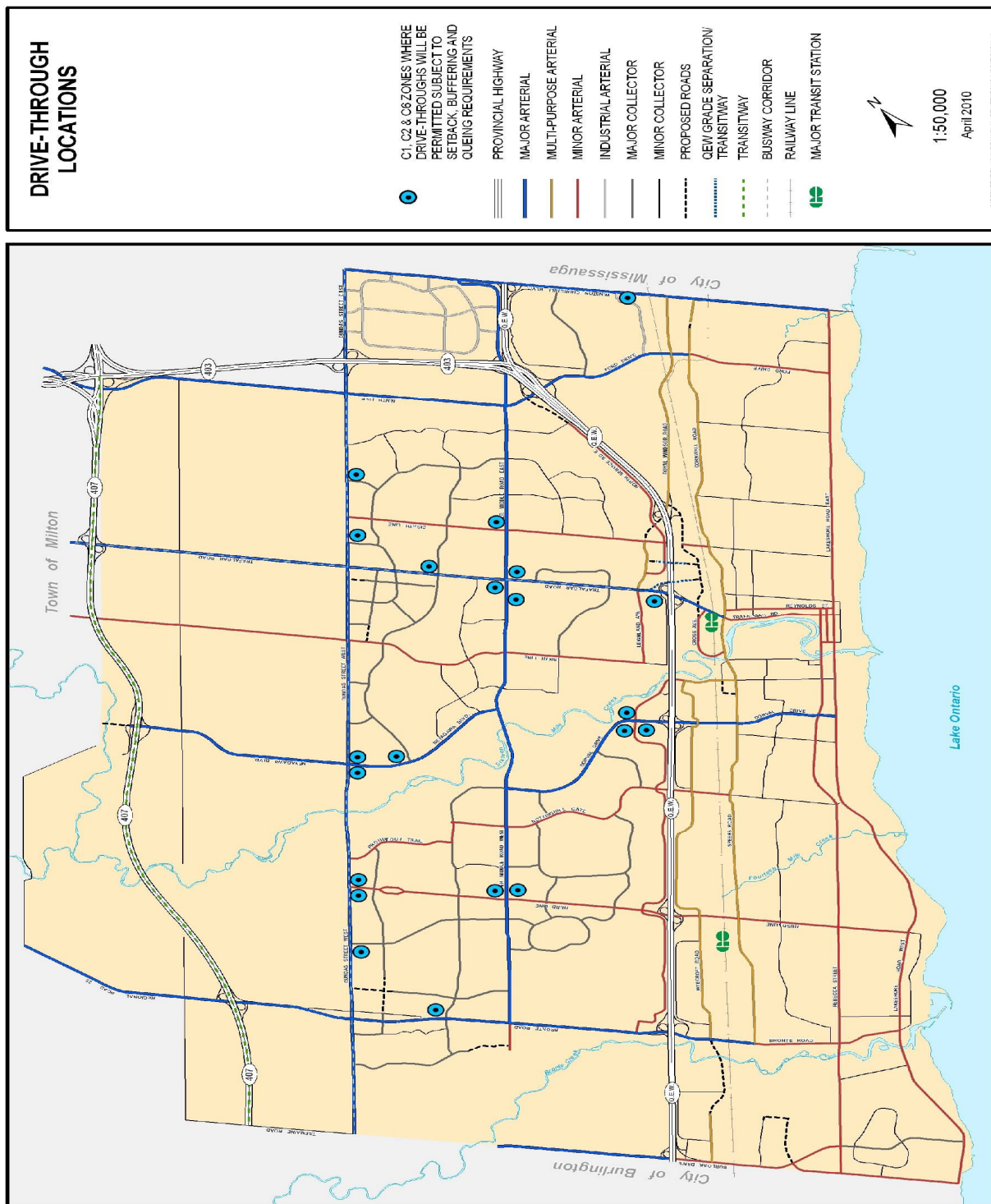
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Staff are proposing to allow drive-throughs to continue to be permitted within the C1, C2 and C6 zones, but with the added requirement that they only be permitted in these zones where the sites are on roadways which are classified as major arterials within the Town's Official Plan. These locations are designed to facilitate large volumes of traffic moving between communities. Limiting drive-through facility locations within the C1, C2 and C6 zones to only major arterials will direct them away from residential neighbourhood areas.

Drive-throughs therefore would only be permitted to locate within the C1, C2 and C6 commercial zones on the following roads as depicted on the following map:

- Burloak – north of the Q.E.W.
- Bronte Road – north of Speers Road
- Dorval Drive-north of Lakeshore Road to Upper middle Road
- Neyagawa Blvd. – entire length
- Trafalgar – north of the Q.E.W.
- Ford Drive/ Ninth Line – north of Cornwall
- Winston Churchill Blvd.
- Upper Middle Road – entire length
- Dundas Street – entire length

Drive-throughs at these locations would also continue to be subject to all the additional regulations which implement the design guidelines



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Existing drive-throughs which are not at these locations would be deemed legal non-conforming and would be permitted to continue and could also apply to enlarge or expand in accordance with the applicable regulations.

2. Separation distance from adjacent residential uses

The existence of drive-through facilities adjacent to residential uses creates a number of concerns, particularly regarding noise and traffic impacts related to fast food restaurants. Drive-through facilities are traffic intensive, with a large amount of vehicles driving through the site during the day and evening hours and as such has the potential to affect adjacent residential areas with exhaust fumes, noise and traffic congestion. An additional tool by which to reduce the negative impacts on drive-through facilities is to provide a separation distance from abutting residential uses. A 15 m separation distance has proven in the past to be an effective separation distance from residential uses when used in conjunction with landscaped buffers and acoustic fencing. A minimum 15m setback is therefore being recommended for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone. Again, this setback would only apply in those areas where the use would be permitted which is in the C1, C2 and C6 zones on major arterial roads.

3. Landscaped buffers and fencing

As previously mentioned one of the main concerns of drive-throughs next to residential uses is the noise related to the order station of fast food restaurants and the idling of vehicles awaiting service. In order to offset these concerns order stations and stacking lanes should ideally be located as far away from the abutting residential uses as possible. In addition, acoustic and visual barriers in the form of fencing and landscaped buffers should be provided along property lines abutting residential uses. Staff are proposing a 7.62m wide landscaped buffer be required for all yards abutting a residential zone, and further, that a 1.8m high solid board fence or masonry wall be provided along all property boundaries abutting a residential zone for the purpose of screening the drive-through use. Again, this setback would only apply in those areas where the use would be permitted which is in the C1, C2 and C6 zones on major arterial roads.

4. Stacking or queuing spaces

Adequate vehicle stacking spaces is critical to preventing on and off-site traffic problems. Typically for fast food eating establishments, there are two component parts of a stacking lane as follows:

- The area between the beginning of the stacking area and the order station

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- The area between the order station and the pick up window.

There is a marked difference between the stacking requirements for fast food establishments and others such as financial institutions. Generally, drive-throughs for financial institutions require less stacking spaces as there is no need for an order board for a bank machine patron. A number of municipalities have studied this issue and found that different uses require different amounts of stacking spaces.

Oakville's urban design guidelines for drive-throughs require fast food establishments provide 10 stacking spaces whereas 4 are required for banking institutions. The primary objective is to ensure that the queuing spaces are all maintained on private property and do not back up onto the public road allowance. These stacking space requirements have proven to be appropriate for effective vehicular traffic flow since the adoption of the guidelines in 2003. Staff is recommending that a minimum of 10 vehicle stacking spaces be provided for fast food eating establishments, 7 of which shall be accommodated between the entrance to the stacking lane and the order station, and further, that for all other drive-throughs a minimum of 4 vehicle stacking spaces shall be provided. It should be noted that the 10 and 4 requirement is a minimum requirement set out in the drive through guidelines. Through the development process the Town has the right to request a queuing study to confirm minimum lengths are appropriate.

5. Definitions

The Zoning by-law contains two definitions pertaining to drive-through facilities. It is being proposed to create one consistent drive-through definition to be applied Town-wide and also to provide a definition of stacking lane for clarity of interpretation of the by-law regulations as follows:

"drive-through facility" means the use of land, buildings or structures, or parts thereof, to provide or dispense products or services through an attendant or a window or an automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be in combination with other uses. A drive-through facility does not include a car washing establishment, automobile service station or a gas bar.

"stacking lane" means a continuous on-site queuing lane that includes stacking tandem spaces for motorized vehicles which is separated from other vehicular traffic and pedestrian circulation by barriers, markings or signs."

CONCLUSION

Permitting drive-through facilities in certain locations with restrictions is an effective way of minimizing their impacts on surrounding land uses, particularly residential uses, while providing a needed service to the community. It is also a balanced approach that meets the needs of the business community and the traveling public while at the same time addressing the concerns of residents regarding noise, air quality, traffic and litter.

The prohibition of drive-throughs in the downtown areas of the Town and the Growth Areas will help maintain and promote these areas as urban centres consistent with the Livable Oakville Plan. The restriction of drive-throughs within the residential communities by requiring them to be located on major arterial roads will also implement the direction of Livable Oakville to maintain and protect stable residential areas and address sustainability.

In summary, the proposed recommended zoning amendments are as follows:

- that drive-throughs be restricted from locating within the C3R (commercial/residential) zones of the Central Business Districts including Downtown Oakville, Bronte and Kerr Villages, the Midtown Core, Palermo Village and the Uptown Core.
- That drive-through only continue to be permitted in the C1, C2 and C6 zones abutting a residential zone if they are located on a classified as a major arterial within the Town's Official Plan.
- that a minimum 15m (50') setback be required for all yards of a drive-through facility, including the order station (intercom ordering station) which abuts a residential zone.
- that a 7.62m (15') wide landscaped buffer and 1.8m (6') high board or masonry wall be provided along all property boundaries abutting a residential zone.
- that a minimum of 10 vehicle stacking spaces for a restaurant and a minimum of 4 vehicle stacking spaces for all other drive-throughs be required.
- that new definitions for "*drive-through facility*" and "*stacking lane*" be provided.

CONSIDERATIONS:**(A) PUBLIC**

A statutory public meeting to gather public input was held on September 14th, 2009 and May 10th, 2010.

(B) FINANCIAL

There have been costs associated with the drive-through study which have been accommodated through the Planning Services Department budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Other Town Departments and agencies were consulted through the study process and had no comments within the proposed directions contained within the report. The Environmental Policy staff responded that in summary they were in support of the proposed enhanced regulations and were pleased with the direction the Planning Department was moving on this issue although they would prefer to see a complete ban on drive-throughs.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

The proposed amendments for drive-throughs have been evaluated in the context of the Town's Corporate Strategic Goals to ensure that they address the principles of responsible land use planning and promotion of a vibrant, attractive and healthy community.

(E) COMMUNITY SUSTAINABILITY

This report addresses the pillars of environmental and social sustainability by recommending the development of appropriate regulations for drive-through facilities in the Town.

APPENDICES:

Appendix A - Setbacks and stacking spaces required in other municipalities

Appendix B - Notes from public consultation

From: Planning Services

Date: **April 19, 2010**

Subject: **Drive-Through Facilities Zoning By-Law Amendment**

Prepared by:

Ramona Boddington, MCIP, RPP
Long Range Planning

Recommended by:

Diane Childs, MCIP, RPP
Manager, Long Range Planning

Submitted by:

Dana Anderson, MCIP, RPP
Director of Planning Services

Setbacks and stacking spaces required in other municipalities

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Aurora	10m	--	--	--
Burlington	30m	15m	--	
Caledon	10.5m-12m -- side yard 19.5m -- rear yard	--	10 - restaurant 3 - other	There is a Council direction to prepare a zoning by-law amendment to establish a 90 m setback for new drive-throughs from a residential zone or lot containing a residential use. This is expected to occur in the spring of 2010.
Kitchener	1.2m -- 6.0m for a side yard 4.0 – 14.0 m for a rear yard **refer to notes section for further details	--	--	<p>All commercial uses having a drive-through facility which contains an intercom order station shall comply with the Ministry of the Environment's noise levels for stationary sources of noise. Where a drive-through facility contains an intercom order station and is situated within 60 metres of a Residential Zone, or an Institutional Zone the drive-through facility shall not be permitted unless:</p> <ul style="list-style-type: none"> a) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels specified by the Ministry of the Environment in publication NPC-206 as amended from time to time; b) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels set out in clause a) above by the employment of measures to mitigate noise and such measures are employed prior to occupancy of the drive-through facility; or c) a noise wall certified by a professional engineer is installed prior to occupancy of the drive-through facility which will ensure that noise levels do not exceed the maximum levels set out in clause a) above.

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
London	6m-15m for side and or rear yard depending on zone in which it is situated	15m with a 2.4m nose attenuation fence 30m with a privacy fence Note: these setbacks also apply to stacking lanes	12 -- restaurant 4 - other	SEPARATION DISTANCE - INTERIOR AND REAR YARD The minimum separation distance, measured from the edge of the drive-through lane or speaker location, whichever is closer, to the closest residential/facility/institutional use lot line and/or zone line shall be 30 metres. This setback may be reduced to 15 metres if a 2.4 metre high noise attenuation barrier is installed between the residential/facility/institutional use and the drive-through lane. Further reductions to the setback may be considered upon the City's review and acceptance of mitigation measures identified by a noise study prepared by a qualified noise consultant. A minimum 3 metre wide landscaped strip is required consisting of new and/or existing vegetation immediately adjacent to any noise barrier.
Milton	5m to 6m depending which zone they are located in however buildings containing a drive-through service use are required to be located an additional 2.0m from the front lot line or exterior side lot line	7.5 m Note: these setbacks also apply to stacking lanes	10 - restaurant 3 - other	

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Mississauga	60m for a convenience restaurant which includes a drive through window		10 - restaurant 5 - other	
Newmarket	9m to 15m – rear yard setback 9m– side yard setback		12- restaurant 2 to 5 -- other	
Orangeville	30m	30m for outdoor speakers and or order boxes but <i>not</i> including stacking lanes		
Ottawa	3m – side yard 6m – rear yard	3m including stacking lanes ** please refer to notes	11 - restaurant 3 - other	where a queuing line, drive-through window or order board is located 3 metres or more from a residential zone, but is still within a yard abutting a residential zone, it must be screened from view from that residential zone by an opaque screen with a minimum height of 1.5 metres.
Toronto	30m	30m	10 - restaurant 4 - other	

Municipality	Setbacks from building containing a drive through	Setbacks from intercom ordering station	Number of stacking spaces	Notes
Windsor	15m Please refer to note *	30m	12 - restaurant 5 - other--	*Where there is a noise barrier wall having a minimum height of 1.8m or a building wall located between the stacking spaces and the dwelling unit, a minimum separation shall be 15m

Notes of meeting held with drive-through stakeholders**Thursday January 14, 2010 – Trafalgar Room****10 – 12 noon****Attendees:**

Michelle Saunders, Manager of Government Relations	ORHMA
Maurice Luchich, Planning Manager	Tim Hortons
Paul Hewer	McDonalds
Victor Labreche, Planner	Labreche Patterson & Ass. On behalf of ORHMA+
Dana Anderson	Planning Director
Diane Childs	Acting Manager of Long Range Planning
Lynn Rogers	Traffic Engineering Co-ordinator
Trisha Collingwood	Transportation Planner
Ramona Boddington	Polciy Planner,
Brenda Stan	Current Planner

Regrets:

Jean Roy, Engineer	Canadian Petroleum Products Institute
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1. Welcome and Introductions

The meeting commenced with a brief welcome and introduction session.

2. Overview of progress to date

- Planning Report went to Council September 14, 2009 outlining proposed directions (report was distributed at meeting)
- Council passed a motion to defer recommendation of report to allow for additional consultation with both the stakeholders and the general public and also to allow for further research of other municipalities practices
- This meeting is the first step in the additional consultation directed by Council
- Comment, concerns and additional input would be appreciated at this time.

3. Overview of progress to date

There was a general discussion regarding existing zoning provisions for drive-throughs and the design guidelines that were approved in 2003.

4. Discussion on directions from September 14, 2009 staff report

Each of the six directions were discussed as follows:

a) Direction 1 – Locational Criteria

There was a lengthy discussion regarding the prohibition of drive-throughs in the C3R zones and the growth areas. It was conveyed that Livable Oakville prohibited the location of drive-throughs in these areas and therefore the by-law must be updated to implement Livable Oakville – the new official plan.

b) Direction 2 – Separation Distance from adjacent residential uses

A table was distributed outlining other municipality's setback requirements for drive throughs abutting residential uses. Staff undertook to review the table based on the discussion which evolved and update the table as necessary.

Staff also explained the rationale used in arriving at the 15m from residential as proposed in the staff report.

c) Direction 3 – Landscape Buffers and fencing

It was noted that the landscape buffer was an existing requirement in the by-law however the 1.8 m high fencing would be a new requirement for such uses.

d) Direction 4 – Stacking or queuing spaces

There was little discussion on this topic. The issue of reduced parking standards for drive-throughs was also discussed. The rationale was brought forward that drive-throughs require less parking spaces as the cars using the drive through portion of the facility would not require a parking space. The Ottawa example, which allows for a 20% reduction in required spaces for drive throughs, was used as an example. Staff agreed to investigate this example further and give it further consideration.

e) Direction 5 – Minimum site size

It was noted by the industry representatives that a minimum site size may not be required if the previous 4 directions were implemented. Requiring a minimum site size may be contrary to the Town's commitment to making the most efficient use of land as possible and may also restrict flexibility in site design. Staff agreed and will give consideration to removing this direction.

f) Direction 6 – Definitions

There is currently no definition in the zoning by-law for drive-through facilities. A definition will provide clarity for interpretation purposes.

5. Next Steps

A number of possibilities for the manner in which the next public meeting might be undertaken. Input from the group was solicited and will be given consideration.

6. Adjournment

The meeting adjourned at 11:40am.

Notes taken by Ramona Boddington

Drive Through Study — March 4/10 Information Meeting

Summary of Flip-Chart Notes

Noted Questions and Information Requests:

- What is the separation distance requirement between restaurant patios and residential areas in Oakville? [Note: Question was addressed later in the meeting.]
- What were the protocols/data quality protection mechanisms/overall methodology used in the online survey? Can the survey data be proven to be reliable and statistically accurate? Can the respondent e-mail addresses be checked for multiple questionnaire completions; the residential address of the respondent (to ensure the person resides in Oakville); time of survey completion; etc.? If the survey cannot be proven to be reliable and an accurate picture of community sentiment — and not over-weighted with industry-generated responses — then less emphasis should be placed on it.
- What are the profiles of drive-through facility users — what demographic or other segments of the public use them...and for what and how frequently?

Positives (noted ‘likes/strengths’ of the Town’s proposed directions)

- The explicit Town understanding that drive through facilities do require some level of restriction and regulation.
- The attempt — though as yet inadequate — to provide some measure of protection for neighbourhoods.
- The Town’s ongoing work on the drive through issue and the determination to finalize an approach (including a By-law or By-laws).
- The 0.3 hectare site requirement may help reduce drive through applications.
- The drive through prohibitions identified in the locational criteria (i.e. not allowing drive throughs in certain parts of the Town).
- Willingness to consider community input.

Objections (noted ‘dislikes/weaknesses’ of the Town’s proposed directions)

- No explicit reference to or policies concerning the tendency for drive throughs to attract rodents/raccoons/other animals — there is nothing explicit in the directions concerning the storage of garbage/waste.
- Failure to fully consider the safety issues associated with drive throughs — from vehicle egress/ingress (criteria re: safely

entering/exiting the site), to potential car-jackings, to accidents caused by distracted drivers.

- The 15m setback is inadequate — this distance does not allow for appropriate mitigation of noise (voice-box chatter, car stereos, general in vehicle chatter, vehicle/motor sounds, etc.), air pollutants, etc, [the participant recommended minimum distance was 75-100 metres].
- Insufficient requirements re: screening/buffers around drive through facilities — and consideration of such things as fences, lighting, etc.
- Allowing drive throughs in C2 zoned areas, particularly in cases where they abut residential areas — drive throughs shouldn't be allowed in C2 zones; such zones were never intended to accommodate them.
- The proposed 10 vehicle stacking spaces are insufficient — vehicles will back-out on roads or otherwise cause congestion/safety issues [a minimum of 20 spaces was proposed].
- The need to add extra stacking spaces means a site size requirement larger than 0.3 hectares.
- The 7.62 metre landscaped buffer is insufficient in size [there was a suggestion to quadruple the size of the buffer or remove the need for a buffer by ensuring that no drive through is placed adjacent to a residential area].
- The directions insufficiently speak to the Town's anti-idling By-law — this By-law needs to be more aggressively enforced.
- The directions are too permissive — they should be seeking to reduce or eliminate drive throughs in keeping with the spirit and intent of Livable Oakville.
- In there totality, the directions do not do enough to keep drive throughs out of Oakville or minimize their number.
- This second report from the Town is too liberal/soft with regard to allowing the placement of drive-throughs in some parts of Oakville (the requirements to be met are fewer/lesser) — the first report was more restrictive.
- There is an absence of retailer justification for the use of drive throughs.
- The Town's approach places no cap on the number of drive throughs permitted in a particular area or territory.
- The directions place no time limits on the use of the external intercoms ('squawk boxes') — other municipalities do this.
- The Town's directions are not as enlightened as those in place in other jurisdictions — Oakville is not showing enough leadership...there is an opportunity to do so.
- There is an absence of references to or directions in support of attractive streetscaping.
- There is a need for more official and consistent terminology — for example, the term 'restaurant drive through' should be used if the establishment serves any food or beverages; there should be different terms for food-related drive throughs, banking-related drive throughs, etc.

- The directions do not adequately challenge assumptions and the status quo — there is an opportunity for the Town to remove the choice for people to use drive throughs (particularly in residential areas).

Enhancements and Remedies (noted ideas for addressing objections and strengthening the directions — beyond those already noted above)

- Require mandatory emissions and noise sensors at drive through locations — periodically measure performance against standards (successful performance should be a pre-condition of annual renewal of the ability to offer a drive through service at the location).
- Use site-specific drive through zoning for new areas of the Town — establish a minimum/maximum number for a particular population size and, in so doing, provide certainty to both residents and industry re: locations and available drive through spots.
- Place a tax on those businesses offering drive throughs or on the products they sell through the drive through (simply put, make it either more expensive to offer a drive through or to use a drive through).
- Tie allowance of drive throughs to road requirements — i.e. make drive throughs acceptable or unacceptable based on certain road characteristics.

What Else? (noted additional ideas and questions)

- Setbacks from residential areas are the key issue.
- Look at trends in other jurisdictions regarding drive throughs — and allow Oakville to set new trends.
- Look at whether drive throughs can be restricted to a single type of business or service.
- Should consumers who use drive throughs require a license (for example, a person with a disability or parent with young children would have to obtain a license that permits their use of a drive through)?
- License drive throughs — subject to annual renewals based on performance against established criteria.
- Consider banning drive throughs altogether in the Town of Oakville.

CPPI meeting with Town of Oakville, March 17, 2010

CPPI summary comments for consideration regarding Drive-through Facilities:

1. Drive-through Facilities serve a useful purpose if designed and located properly within the Town.
2. The Oakville Drive-through Facilities guidelines (# 25, 32) may reflect the preference for not having drive-Through Facilities located between the building and the street but should indicate that it can be an alternative which may be accommodated if necessary with proper siteplan design and landscaping. (Refer to existing drawing examples)
3. In general the zoning bylaw should be modified to focus the minimum 15 m setback distances on the area of the stacking lane which is located between the order box and the pick-up window (or automated machine) as opposed to the full length of the stacking lane.
4. The minimum setback for the remaining portion of the stacking lane should be as per existing commercial Buffer Strip abutting residential zone as stated in section #42 of the zoning bylaw which may vary between 3m and 7.62m.
5. The 15m minimum setback to residential should be flexible to contemplate a possible relief down to a minimum of 7.5m if supported by some site specific noise mitigation measures identified by a noise study prepared by a qualified noise consultant and acceptable to the Town.
6. The minimum 1.8m fence required immediately adjacent to any lot line abutting a lot in a residential zone should be limited to the area of the stacking lane which is within the minimum setback area of the stacking lane which is located between the order box and the pick-up window (or automated machine) as opposed to the full length of the full lot line.
7. In part III, Section 41 1) within the permitted use table on the drive-through facilities line; the footnote #1 (“not permitted on a lot abutting a residential zone”) should be deleted as it is somewhat inconsistent (and/or confusing) with regards to footnote #13

Notes from April 7th, 2010 Public Open House

Trafalgar Room, Town Hall

7:00pm – 9:00pm

There were approximately 80 people in attendance.

The meeting commenced with a brief presentation followed by a question and answer session. Many viewpoints, comments and concerns regarding drive throughs were expressed which included but not limited to:

- Emissions from vehicles idling excessive
- air quality concerns
- Restricting drive throughs excessively
- Drive throughs are a growing trend
- No regard for how residents are affected
- Need to find middle ground between residents and drive through operators
- Convenience for the average person, disabled individuals, and mothers with young children
- There is a demand for drive throughs that is why they exist
- Prefer at least a 60m separation distance
- traffic congestion
- Efficient use of land to facilitate a large amount of customers in a short period of time
- Average person gets through in 17 seconds
- Average wait is no longer than 45 seconds

Approximately 30 written responses were received by staff which largely reiterated the above comments.

Resources/Studies on Drive-Through Facilities

From: Carol Tobin

Sent: Tuesday, November 25, 2014 9:48 AM

To: Jim Doherty

Subject: Drive-through facilities and walkability

Jim,

I didn't find any studies, but perhaps the following might be useful:

- Quotation from Andres Duany (nationally known traditional neighborhood development pioneer) - <http://walkablestreets.wordpress.com/roaddiets/>
 - There are components of modern life that are necessary but which intrinsically create bad street frontage: They are the parking lot, the drive-through, and the solid walls of certain businesses and institutions that can't have windows. So there is a certain percentage of modern street frontage that will not deliver pedestrian quality. The only questions are: what percentage of your city must you give over to these uses and where do you locate them. – Andres Duany
- Phoenix Walkable Urban Code - <https://www.phoenix.gov/pdds/Document/FINAL%20DRAFT%20Walkable%20Urban%20Code.pdf> – Includes limits on drive-through facilities
- Montgomery County, PA New Town Mixed-Use District (walkable) <http://www.montcopa.org/DocumentCenter/View/4101> (See p. 25 – Drive-through prohibited)
- Guide to Creating Walkable Communities (May 9, 2012) - http://www.wrcog.cog.ca.us/uploads/media_items/guide-to-walkable-communities.original.pdf (See p. 26) "Discourage automobile-oriented users such as drive-through businesses, auto sales, and large retail outlets."
- "Take A Walk," *Green Living Arizona* - <http://www.greenlivingaz.com/2014/09/18/take-a-walk/> (see paragraph 2)
- "To Drive-Through or Not to Drive Through," *CalcoastNews.com*, April 3, 2014 - <http://calcoastnews.com/2014/04/drive-drive/>
- "West Hollywood Named Most Walkable in California," *NBC News* - <http://www.nbclosangeles.com/news/local/West-Hollywood-Named-Most-Walkable-126210613.html> (City prohibits drive-through facilities)

Carol

Carol Tobin

Planning Consultant

206.625.1300 | MRSC.org | [Local Government Success](#)

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/22/2014
<u>Clerk's File #</u>	ORD C35214
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	JON SNYDER 509-625-6254	<u>Project #</u>	
<u>Contact E-Mail</u>	JSNYDER@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Final Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 LANDMARKS COMMISSION ORDINANCE		

Agenda Wording

An ordinance relating to historic preservation and the landmarks commission, adopting a new chapter 4.35 to title 4 of the Spokane Municipal Code, amending SMC sections 17D.040.230 and 17D.040.300,

Summary (Background)

This ordinance removes provisions under Chapter 17D.040 regarding the Landmarks Commission from title 17D, which is part of the development code, to a new chapter in SMC 4.35, which relates to similar boards and commissions. The ordinance also revises the membership provision to provide that nine of the eleven Commission member are to be appointed solely by the City Council. The remaining two would be appointed by the County Commissioners.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	STUCKART, BEN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

adopting a new section 17D.040.310 to chapter 17D.040 of the Spokane Municipal Code amd repealing SMC section 17D.040.010, 17D.040.020, 17D.040.030, 17D.040.040, 17D.040.050, 17D.040.060, 17D.040.070 and 17D.040.080.

Summary (Background)

The ordinance specifically provides that the City appointees do not have to be city residents. The appointees would still have to meet the qualifications set forth in the ordinance. The ordinance makes other procedural and technical amendments recommended by the Historic Preservation Officer.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

Draft Date: Dec. 8, 2014

ORDINANCE NO. C35214

An ordinance relating to historic preservation and the landmarks commission, adopting a new chapter 4.35 to title 4 of the Spokane Municipal Code, amending SMC sections 17D.040.230 and 17D.040.300, adopting a new section 17D.040.310 to chapter 17D.040 of the Spokane Municipal Code and repealing SMC section 17D.040.010, 17D.040.020, 17D.040.030, 17D.040, 17D.040.050, 17D.040.060, 17D.040.070 and 17D.040.080.

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 4.35 to title 4 of the Spokane Municipal Code to read as follows:

Chapter 4.35

Landmarks Commission

4.35.010	Findings and Purpose
4.35.020	Establishment – Membership
4.35.030	Terms – Appointment
4.35.040	Compensation
4.35.050	Rules and Regulations
4.35.060	Funding
4.35.070	Commission Staff
4.35.080	Duties

4.35.010 Findings and Purpose

- A. Findings.
The City and Spokane County find that the establishment of a landmarks commission with specific duties to recognize, protect, enhance and preserve those buildings, districts, objects, sites and structures which serve as visible reminders of the historical, archaeological, architectural, educational and cultural heritage of the City and County is a public necessity.
- B. Purpose.
The purpose of this chapter is to establish a city/county historic landmarks commission responsible for the stewardship of historic and architecturally significant properties in the City, unincorporated areas of the County, and, upon request, incorporated towns, in order to effect the recognition and preservation of such properties.

4.35.020 Establishment – Membership

- A. There is created the city/county historic landmarks commission (herein called the “commission”) consisting of eleven ~~((residents of Spokane County))~~ total members; nine members nominated by the mayor and appointed by the city council and two members appointed at large by the County board all who have demonstrated experience and/or interest in historic preservation. ~~((as follows))~~ Seven members should have the following expertise:

~~((1. There shall be appointed jointly by the city council and the board of county commissioners)):~~

1. an architect who is registered in the state of Washington;
2. a state-certified general real estate appraiser;
3. two historians with appropriate degrees or equivalent experience;
4. a professional archaeologist or anthropologist with appropriate degrees;
5. an owner or managing agent in a fiduciary capacity of real estate in Spokane's central business district; and
6. an experienced preservation construction specialist.

~~((2. There are appointed by the board two County residents at large.~~

~~3. There are appointed by the city council two City residents at large.))~~

- B. ~~((Exception to the residency requirement for commission members may be granted with approval of the commission for members under subsection (A)(1) of this section, a maximum of two nonresidents may serve on the commission at any one time.))~~ The City appointments to the commission may include non-residents of the City.

4.35.030 Terms – Appointment

The term of office is three years. No member will be deemed to have served one term if he/she resigns or is removed after appointment or if he/she serves an unexpired term of less than two years. All members hold their offices at the pleasure of the respective appointing authority. No member may serve more than two consecutive terms of three years, unless the appointing authority ~~((council and/or board))~~ shall so designate.

4.35.040 Compensation

All members of the commission shall serve without compensation.

4.35.050 Rules and Regulations

- A. The commission by rule prescribes the selection and function of officers, including at least a chair and vice chair. A quorum is seven members. Any action of the commission requires a majority vote. The commission uses Robert's Rules of Order as the established rules for the conduct of its meetings and the transaction of business.
- B. The commission through rules and regulations adopts standards to guide the various activities provided in SMC 4.35.080.

4.35.060 Funding

The City and the County shall by interlocal cooperative agreement provide, at a minimum, funds for an historic preservation officer and operational support.

4.35.070 Commission Staff

The commission staff consists of the historic preservation officer and such ancillary staff as is available.

17D.040.080 Duties

The commission sets historic preservation policies for the City and County of Spokane.

- B. The major responsibilities of the commission are to:
 - 1. identify and actively encourage the conservation of City and County historic resources;
 - 2. recommend the designation of historic landmarks and districts;
 - 3. raise community awareness of historic resources; and
 - 4. advise the council and board on matters of history, historic planning and preservation.
- C. In carrying out these responsibilities the commission engages in, but is not limited to, the following activities:
 - 1. Registers of Historic Places.
 - a. Submit nominations to the state and national registers of historic places.
 - b. Review nominations to the Spokane register according to criteria in SMC 17D.040.090.
 - c. Initiate and maintain the Spokane register of historic places to encourage efforts by owners to maintain, rehabilitate and preserve

- properties. This official register compiles buildings, districts, objects, sites and structures identified by the commission as having historic significance worthy of recognition by the council or board
- d. Review proposals (as provided in SMC 17D.040.200) to construct, change, alter, modify, remodel, move, demolish and significantly affect properties or districts on the register.
 - e. Review all applications for alterations to buildings on which the City or county owns a facade easement, and make recommendations to the appropriate building officials concerning the approval or denial of a permit. The building official does not issue a permit for any alteration to a building which is encumbered by a facade easement until the commission or its designee has made its recommendation. The building official's decision may be appealed to the hearing examiner.
 - f. Review all applications for the special permit under SMC 11.19.270 and make recommendations concerning the approval or denial of the special permit and suggest conditions, if appropriate, to the Spokane hearing examiner.
2. Public Plans and Programs.
- a. Conduct and maintain a comprehensive inventory of historic resources within the boundaries of the City and Spokane County and publicize and periodically update inventory results. Properties listed on the inventory are recorded on official zoning records but this designation does not change or modify the underlying zoning classification.
 - b. Implement and maintain the City's historic preservation plan, upon the direction of the city plan commission and council.
 - c. Review and comment to the council or board on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of City or County government, other neighboring communities, the state or federal governments, as they relate to historic resources in Spokane and Spokane County
 - d. Establish liaison support, communication and cooperation with federal, state and other local government entities which will further historic preservation objectives, including public education, within the City of Spokane and Spokane County (~~area~~)).
3. Tax Valuation.
- a. Serve as the local review board for special valuation of historic property in Spokane (Resolution 85-66, November 4, 1985), and:
 - i. make determinations concerning the eligibility of historic properties for special valuation,

- ii. verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance,
 - iii. enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2),
 - iv. approve or deny applications for special valuation,
 - v. monitor the property for continued compliance with the agreement and statutory eligibility requirements during the ten-year special valuation period, and
 - vi. adopt administrative rules and comply with all other local review board responsibilities identified in chapter 84.26 RCW.
- ~~((b. Comply with obligations as stated in the Spokane County open space and timberland current use taxation application (Resolution 80-1342, November 3, 1980).))~~
- 4. Public Education.
 - a. Participate in, promote and conduct public informational, educational and interpretive programs pertaining to historic resources; and provide, by way of pamphlets, newsletters, workshops and similar activities, information to the public on methods of maintaining and rehabilitating historic properties.
 - b. Be informed about and provide information to the public and city and county departments on the use of various federal, state, local and private funding sources available to promote historic resource preservation and other incentives for preservation of historic resources, including legislation, regulations and codes which encourage the use and adaptive reuse of historic properties.
 - c. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts and new construction in historic areas; and encourage appropriate measures for such recognition.
- 5. Historic Building Code Review.

With certification of the state historic preservation officer, the historic preservation officer/landmarks commission is the local government historic preservation program for reviewing qualified historic rehabilitation projects.
- 6. Other.
 - a. Provide for the review, either by the commission or its staff, of all applications for approvals, permits, environmental assessments or impact statements and other similar documents pertaining to identified historic resources or adjacent properties.
 - b. Advise the council or board generally on matters of City of Spokane and Spokane County history and historic preservation.

- c. Conduct all commission meetings in compliance with chapter 42.30 RCW, the Open Public Meetings Act, to provide for adequate public participation.
- d. Perform other related functions assigned to it by the board or council.
- e. Provide historic preservation services pursuant to interlocal cooperation agreements entered into by the city council and county commissioners.

Section 2. That SMC section 17D.040.230 is amended to read as follows:

SMC 17D.040.230 Demolition Permits for Historic Structures in the Downtown Boundary Area and National Register Historic Districts

A. Demolition Permits.

No demolition permits for structures that are listed or eligible to be listed on the ~~((National or))~~ Local Register of Historic Places located in the area shown on Map 17D.040.230-M1, Downtown Boundary Area ~~((, and in all National Register Historic Districts))~~ shall be issued unless the structure to be demolished is to be replaced with a replacement structure that meets the following criteria:

1. The replacement structure shall have a footprint square footage equal to or greater than the footprint square footage of the landmark structure to be demolished. The square footage of the footprint may be reduced:
 - a. to accommodate parking serving the replacement structure or for public benefit, such as public green space and/or public art; or
 - b. if the owner submits plans in lieu for review and approval by the City's design review board subject to applicable zoning and design guidelines.
2. The replacement structure satisfies all applicable zoning and design guidelines.
3. A building permit has been issued for the replacement structure prior to the issuance of the demolition permit. In the alternative, the owner may obtain a demolition permit prior to the issuance of the building permit if the owner either:
 - a. submits to the City a performance and surety bond in the amount of the full cost of the replacement structure; or
 - b. demonstrates to the satisfaction of the director of building services, in consultation with the City's historic preservation officer, that the owner has a valid and binding commitment or commitments for financing sufficient for the replacement use subject only to unsatisfied contingencies that are beyond the control of the owner other than another commitment for financing; or has other financial

resources that are sufficient (together with any valid and binding commitments for financing) and available for such purpose.

B. Eligibility.

Eligibility shall be determined by the historic landmarks commission within fourteen days of the submission of the application for a demolition permit. The applicant shall be responsible to submit a determination of eligibility demonstrating the ineligibility of the structure based upon the National Register Criteria for Evaluation (36 CFR 60). Applications for structures that are determined not to be listed or eligible to be listed on ~~((a National or))~~ the Local Register of Historic Places shall be processed pursuant to existing regulations.

C. Economic Hardship.

The requirements of SMC 17D.040.230 shall not apply and the owner may obtain a demolition permit without the requirement of constructing a replacement structure if the owner can demonstrate to the satisfaction of the ad hoc committee on economic hardship that maintaining the historic structure would impose an economic hardship on the property owner that was created beyond the owner's control.

1. The ad hoc committee on economic hardship shall be appointed by the mayor and confirmed by the city council, and will consist of at least seven members as follows:
 - a. one member of the real estate development community or association such as CCIM Institute, Institute of Real Estate Management, the Society of Office and Industrial Realtors, and Building Owners and Managers Association;
 - b. one member from a banking or financial institution;
 - c. one licensed architect registered in Washington State;
 - d. one member from the property management industry;
 - e. one member representative of property developers;
 - f. one member of the landmarks commission; and
 - g. one member representing the neighborhood council where the historic structure is located.
2. The ad hoc committee's decision shall be made by majority vote and within thirty days of the submission of the material demonstrating an economic hardship by the property owners.
 - a. The property owner has the burden of demonstrating the economic hardship.
 - b. Evidence of economic hardship is limited to instances when preservation will deprive the owner of reasonable economic use of the property.
 - c. An owner's financial status is not evidence of economic hardship.
 - d. The decision of the ad hoc committee may be appealed to the hearing examiner within thirty days of the committee's decision.

3. The ad hoc committee will be a standing committee with one revolving member representing the specified neighborhood in which the property resides.
 - a. There is a preference for developer and architects who participate on the ad hoc committee to have both new building construction and historic renovation experience.
 - b. There is a preference for the neighborhood representative who participates on the ad hoc committee to have experience in development, appraising, construction, and/or related skills.
 - c. Members of the ad hoc committee shall serve for two-year terms and may be reappointed for additional two-year terms.
- D. Factors to Determine Reasonable Economic Use.

A reasonable economic use would be one that provides a greater return on the underlying land value (land with improvements) than the land alone could generate. The following four steps will be taken to determine reasonable economic use:

 1. The market value of the land, as vacant, is to be estimated.
 - a. The sales comparison approach to value is an approved method.
 - b. The land residual technique is an approved method, but only allowable when accompanied by and reconciled with the sales comparison approach method.
 2. The first year market rate of return on leased land is to be estimated.
 3. Market data supporting this rate of return must be provided.
 4. Based on applying the rate of return to the land value estimate, an annual market return on the underlying land results. This is the base figure or threshold for the analysis.
 5. Provide an estimate of the annual market net operating income for the property as is, and under any reasonable modifications thereof. Note that any required capital investment in the property would increase the basis from which the return is estimated.
 - a. The sales comparison approach, income approach, cost approach, and development approach to value are all approved techniques.
 - b. Under valuation scenarios where an additional capital investment is required, the expected market return on the capital investment will be subtracted from the annual return, with the residual income being the return on the land.
- E. Request by Owner for Advance Determination of Status.

An owner may request an advance determination of economic hardship exemption qualification by the City as to whether a property subject to this

ordinance may be demolished without the constraints of this SMC 17D.040.230, so that the owner may market for sale or refinance the property knowing its status. Upon receipt of a written request from a property owner, the owner shall be entitled to an economic hardship hearing at the owner's expense, pursuant to SMC 17D.040.230(D) and represent the findings as binding upon the property owner and City to third parties including but not limited to prospective purchasers and lenders.

- F. Building Official or Fire Marshal Orders.
The requirements of this section shall not apply to orders of the building official or fire marshal regarding orders that a structure be demolished due to public health, safety, or welfare concerns.
- G. Additional Parking.
This section shall not apply if the owner demonstrates to the satisfaction of the building official, in consultation with the historic preservation officer, that the property will be used as parking associated with the renovation of an adjacent structure listed or eligible to be listed on the National or Local Register of Historic Places.

Section 3. That SMC section 17D.040.300 is amended to read as follows:

SMC 17D.040.300 Waiver of Review

The commission, at the request of the owner, may waive review under SMC 17D.040.240 through 17D.040.290 of those actions which may require a certificate of appropriateness or which may be within the scope of agreed management standards when the action will be reviewed by the Washington State ~~((Office))~~ Department of Archaeology and Historic Preservation or the National Park Service and will be subject to the ~~((standards for rehabilitation of the))~~ Secretary of the Interior's Standards for Treatment of Historic Properties. The commission may choose to deny said request should it be determined by the Washington State Department of Archaeology and Historic Preservation or the National Park Service that the proposed action does not meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Section 4. That there is adopted a new section 17D.040.310 to chapter 17D.040 of the Spokane Municipal Code to read as follows:

17D.040.310 Review and Monitoring of Properties for Special Property Tax Valuation

- A. Time Lines
 - 1. Applications shall be forwarded to the commission by the assessor within 10 calendar days of filing.

2. Applications shall be reviewed by the commission before December 31 of the calendar year in which the application is made.
3. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within 10 calendar days of issuance.

B. Procedure

1. The assessor forwards the application(s) to the commission.
2. The commission reviews the application(s), consistent with its rules of procedure, and determines if the application(s) are complete and if the properties meet the criteria set forth in WAC 254-20-070(1) and listed in SMC 17D.040.090.
 - a. If the commission finds the properties meet all the criteria, then, on behalf of the City, it enters into a Historic Preservation Special Valuation Agreement (set forth in WAC 254-20-120) with the owner. Upon execution of the agreement between the owner and commission, the commission approves the application(s).
 - b. If the commission determines the properties do not meet all the criteria, then it shall deny the application(s).
3. The commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor.
4. For approved applications:
 - a. The commission forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090 (4) to the assessor,
 - b. Notifies the state review board that the properties have been approved for special valuation, and
 - c. Monitors the properties for continued compliance with the agreements throughout the 10-year special valuation period.
5. The commission determines, in a manner consistent with its rules of procedure, whether or not properties are disqualified from special valuation either because of
 - a. The owner's failure to comply with the terms of the agreement or

- b. Because of a loss of historic value resulting from physical changes to the building or site.
 - 6. For disqualified properties, in the event that the commission concludes that a property is no longer qualified for special valuation, the commission shall notify the owner, assessor, and state review board in writing and state the facts supporting its findings.
- C. Criteria
- 1. Historic Property Criteria:

The City attained Certified Local Government (CLG) status in 1986. As a CLG, the City determines the class of property eligible to apply for Special Valuation. Eligible property types in Spokane mean only properties listed on Spokane Register of Historic Places or properties certified as contributing to a Spokane Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.
 - 2. Application Criteria:

Complete applications shall consist of the following documentation:

 - a. A legal description of the historic property,
 - b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation,
 - c. Architectural plans or other legible drawings depicting the completed rehabilitation work, and
 - d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the commission upon request, and
 - e. For properties located within historic districts, in addition to the standard application documentation, a statement from the appropriate local official, as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.
 - 3. Property Review Criteria:

In its review the commission shall determine if the properties meet all the following criteria:

- a. The property is historic property;
- b. The property is included within a class of historic property determined eligible for Special Valuation by the City;
- c. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within twenty-four months prior to the date of application; and d. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in 17D.040.210 of this ordinance).

4. Rehabilitation and Maintenance Criteria:

The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

D. Agreement:

The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).

E. Appeals:

Any decision of the commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under Chapter 34.05.510 -34.05.598 RCW in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the County Board of Equalization.

Section 5. That SMC sections 17D.040.010, 17D.040.020, 17D.040.030, 17D.040, 17D.040.050, 17D.040.060, 17D.040.070 and 17D.040.080 are repealed.

Draft Date: Dec. 8, 2014

PASSED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/22/2014
<u>Clerk's File #</u>	ORD C35215
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	CANDACE 509-625-6256	<u>Project #</u>	
<u>Contact E-Mail</u>	CMUMM@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Final Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 QUALIFICATIONS FOR PLANNING AND DEVELOPMENT SERVICES		

Agenda Wording

Relating to qualifications for the City Planning and Development Services Director; amending section 3.01A.365 of the Spokane Municipal Code.

Summary (Background)

This ordinance establishes minimum qualifications for the position of Planning and Development Services Director.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	PCED 12/15/2014
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT		
<u>For the Mayor</u>			
<u>Additional Approvals</u>			
<u>Purchasing</u>			

ORDINANCE NO. C35215

An ordinance relating to qualifications for the planning and development services director; amending SMC section 3.01A.365 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC 3.01A.365 be amended to read as follows:

3.01A.365 Planning and Development

- A. The planning and development department is responsible for preparation and maintenance of the comprehensive plan to guide the community's long-term physical, economic and social growth and for other matters of neighborhood and City planning, including regional coordination and urban design. The department supports plan implementation measures using development regulations, capital improvement plans and annexation programs; administers current planning activities such as rezoning, planned unit developments, subdivisions, environmental review, and variances; and reviews development permits for compliance with land use codes.
- B. The department reviews and approves land use, civil, and building plans, makes zoning interpretations, issues building and occupancy permits and inspects building projects for compliance with building and other construction codes. It also enforces land use regulations and works with various city, county and state agencies in the regulation of property use requirements. The "building official" is in the department and oversees all building code interpretations. The department addresses the community's business needs and coordinates revitalization programs with an emphasis on sustainable economic growth. The department reviews transportation and traffic planning, street improvement proposals and transportation-related development issues.
- C. Through the administration section, the department serves as staff to the plan commission, design review board and bicycle advisory board.
- D. Any applicant offered the position of director of planning and development services for the City of Spokane shall meet or exceed the following qualifications at the time the offer of employment is made:
 - 1. bachelors or masters degree in urban planning, public administration or a related field;
 - 2. American Institute of Certified Planners (AICP) certification;
 - 3. minimum of eight years of progressively responsible planning experience;
 - 4. minimum of four years of experience in a supervisory capacity, including significant experience managing complex projects and management experience related to long-range planning or land use planning;
 - 5. demonstrated responsibility for budgets exceeding one million dollars;

6. demonstrated substantial coursework in land use and urban planning principles;
7. demonstrated knowledge of federal, state and local laws and regulations as they apply to urban planning, particularly with regard to of the State of Washington's Growth Management Act;
8. demonstrated record of implementing projects consistent with a comprehensive plan or other adopted plans;
9. demonstrated knowledge of real estate terminology, laws, practices, principles, and regulations;
10. demonstrated knowledge of basic environmental function and values;
11. demonstrated skills in oral and written communication to individuals and groups in a public setting; and
12. demonstrated ability to work across departments and disciplines.

Equivalent combination of education and experience may substitute for the requirements 3-10.

E. The planning director shall be appointed by the mayor, with approval by a majority of city council, pursuant to section 24 A of the city charter.

PASSED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/22/2014
<u>Clerk's File #</u>	ORD C35216
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact</u>	BEN 625-6269	<u>Project #</u>	
<u>Contact E-Mail</u>	AMCDANIEL@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	First Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 VEHICLE IMPOUNDMENT FOR PATRONIZING A PROSTITUTE		

Agenda Wording

An ordinance relating to vehicle impoundment and declaring an area within East Central as an area within which vehicles are subject to impoundment if used to patronize a prostitute and related offenses;

Summary (Background)

This ordinance will amend SMC 10.06.037 to provide that the east central area located between the Hamilton overpass and Fiske Street, and between the rail road tracks and Interstate 90 will be declared an area of high prostitution activity. Within these boundaries, vehicles will be subject to impoundment if 1) used to patronize a prostitute, promote prostitution or promote travel for prostitution;

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
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<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	Public Safety
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

amending SMC section 10.06.037 of the Spokane Municipal Code.

Summary (Background)

and 2) the person arrested for such activity is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465. This amendment is required before the City can impound vehicles that met the requirements set forth in the amendment.

Fiscal Impact

Select \$

Select \$

Budget Account

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Distribution List

ORDINANCE NO. C35216

An ordinance relating to vehicle impoundment and declaring an area within East Central as an area within which vehicles are subject to impoundment if used to patronize a prostitute and related offenses; amending SMC section 10.06.037 of the Spokane Municipal Code.

WHEREAS, the City of Spokane has received a high volume of complaints from Spokane citizens concerning heavy criminal activity related to prostitution along East Sprague Avenue; and

WHEREAS, the Spokane Police Department has had ongoing dialogue with various groups over the concern of prostitution related criminal activity, including the East Sprague Business Association (ESBA), the Lutheran Community Services Northwest (LCSNW) SAFeT Response Center, the Inland Northwest Task Force on Human Trafficking; and

WHEREAS, community safety and personal security are high priority standards for all residents in Spokane and in the East Central community; and

WHEREAS, a thriving business environment and a consumer friendly commercial district enables the community to grow and develop in ways that positively impact the economic health of the neighborhood; and

WHEREAS, a specific area within the East Sprague business district has historically been an area with a disproportionately high occurrence of prostitution activity as compared with other districts in the Spokane metropolitan area; that area being located in the East Central Neighborhood between the Hamilton overpass as the western boundary and Fisk as the eastern boundary, the rail road tracks as the northern boundary and Interstate 90 as the southern boundary; and

WHEREAS, the Spokane Police Department, over the course of the past several years, has made an inordinately high number of arrests in the East Sprague Business District for criminal activity related to prostitution and patronizing a prostitute; and

WHEREAS, current Crime Analysis Data shows that prostitution related criminal activity continues to plague the East Sprague Business District at rates much higher than other parts of Spokane; and

WHEREAS, concerned citizens and business owners in East Central have searched for solutions to clean up the criminal activity and to restore public safety, health and vitality to the area; and

WHEREAS, state law authorizes an arresting law enforcement officer to impound a person's vehicle upon an arrest for a suspected violation of a prostitution-related offense under RCW 9A.88.140 if the offense was committed within an area designated

by the local governing authority as an area within which vehicles are subject to impoundment; and

WHEREAS, there is ample evidence indicating that the East Central Neighborhood area between the Hamilton overpass and Fisk, and between the rail road tracks and Interstate 90 has a disproportionately higher number of arrests for the prostitution offenses including patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution, as compared to other areas within the same jurisdiction; and

WHEREAS, the preamble to this ordinance the Prostitution Analysis 2009-2014 and the material and date submitted to the City Council constitute the legislative record for this ordinance.

The City of Spokane does ordain:

Section 1. That SMC 10.06.037 be amended to read as follows:

10.06.37 Patronizing a Prostitute – Vehicle Impoundment

A. The City Council finds that many patrons of prostitutes use motor vehicles in order to obtain the services of prostitutes and that successful prevention of prostitution involves efforts to curtail the demand for services offered by prostitutes. It is the intent of the City Council to decrease the demand for prostitution services and thereby eliminate the economic foundation for the prostitution industry. It is also the intent of the City Council to eliminate traffic congestion and other concerns to neighborhoods and business areas caused by patrons cruising in motor vehicles in areas of high prostitution activity.

((A))B. Upon an arrest for suspected violations of patronizing a prostitute under RCW 9A.88.110, promoting prostitution in the first degree under RCW 9A.88.070, promoting prostitution in the second degree under RCW 9A.88.080, promoting travel for prostitution under RCW 9A.88.085 or patronizing a juvenile prostitute under RCW 9.68A.100, the arresting law enforcement officer may impound the person's vehicle if the:

1. motor vehicle was used in the commission of the crime;
2. person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and
3. person arrested has previously been convicted of patronizing a prostitute under RCW 9A.88.110, promoting prostitution in the first degree under RCW 9A.88.070, promoting prostitution in the second degree under RCW 9A.88.080, promoting travel for prostitution under RCW 9A.88.085 or patronizing a juvenile prostitute under RCW 9.68A.100.

C. The East Central designation area,, as established in the map set forth in Attachment A, is hereby declared an area of high prostitution activity based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in subsection B as compared to other areas within the same jurisdiction. Within this designated area:

1. Upon an arrest for suspected violations of patronizing a prostitute under RCW 9A.88.110, promoting prostitution in the first degree under RCW 9A.88.070, promoting prostitution in the second degree under RCW 9A.88.080, promoting travel for prostitution under RCW 9A.88.085 or patronizing a juvenile prostitute under RCW 9.68A.100, the arresting law enforcement officer may impound the person's vehicle if the:

a. motor vehicle was used in the commission of the crime;

b. the person arrested for such activity is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and

c. the local governing authority has posted signs at the boundaries of the designated area to indicate that the area has been designated under this section.

~~((B-))~~ D. Impoundments performed under this section shall be in accordance with chapter 46.55 RCW.

PASSED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/05/2015

Date Rec'd

12/22/2014

Clerk's File #

ORD C35217

Renews #Submitting Dept

CITY ATTORNEY

Cross Ref #Contact Name/Phone

TIM SZAMBELAN 625-6225

Project #Contact E-Mail

TSAMBELAN@SPOKANECITY.ORG

Bid #Agenda Item Type

First Reading Ordinance

Requisition #Agenda Item Name

ORDINANCE AMENDING ANIMAL CONTROL CODE AND SERVICES

Agenda Wording

An ordinance relating to animal control and amending Spokane Municipal Code Sections 10.03.020, 10.03.033, SMC 10.03.035, SMC 10.03.050, and adopting a new chapter 10.24A to the Spokane Municipal Code.

Summary (Background)

The City entered into a regional animal control program with Spokane County that went into effect in January 2014 and with the implementation of the regional animal control system certain changes to the current Spokane Municipal Code must be made for the animal control agency and municipal court operate in an efficient manner together.

Fiscal ImpactBudget Account

Neutral \$

#

Select \$

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Select \$

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Select \$

#

ApprovalsCouncil NotificationsDept Head

DALTON, PAT

Study SessionDivision DirectorOtherFinance

DOLAN, PAM

Distribution ListLegal

DALTON, PAT

tszambelan@spokanecity.org

For the Mayor

SANDERS, THERESA

rriedinger@spokanecity.org

Additional Approvals

jmallahan@spokane city.org

Purchasing

shill@spokanecounty.org

ORDINANCE NO. C35217

An ordinance relating to animal control and amending SMC sections 10.03.020, 10.03.033 , 10.03.035, and 10.03.050, and adopting a new chapter 10.24A to title 10 of the Spokane Municipal Code.

WHEREAS, the City entered into a regional animal control program with Spokane County that went into effect in January 1, 2014; and

WHEREAS, with the implementation of the regional animal control system certain changes to the current Spokane Municipal Code need to be amended to operate efficiently for all parties involved; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC 10.03.020 is amended to read as follows:

10.03.020 Dangerous Dog Declaration and Registration

- A. When an animal protection officer has probable cause, based upon the officer's records or investigation of an incident, to believe that a dog is a dangerous dog, the officer declares the dog to be a dangerous dog by the issuance of a dangerous dog declaration.
- B. Upon issuance of the dangerous dog declaration, the animal protection officer shall immediately confiscate the dog and place the dog in the animal control authority's custody pending final disposition. For the purposes of the City Code, "owner and keeper" has the same definition as the "owner, handler, or keeper as definition in SCC 5.04.020 (17).
 1. The animal protection officer serves the owner or keeper of the dog with notice of the dangerous dog declaration either in person or by regular and certified mail, return receipt requested.
 2. Service, if by mail, shall be considered completed three days after mailing of the notice.
 3. The notice shall state:
 - a. ~~((the basis for the dangerous dog declaration))~~ The person receiving the notice is the owner or keeper of a dangerous dog as defined in Section 5.04.020 (9),
 - b. ~~((the applicable ordinance invoked to support the dangerous dog declaration))~~ The breed, color, sex, and license number (if known) of the dog,

- c. ~~((the reason(s) the animal control authority considers the dog to be dangerous))~~ A copy of the records relied upon by the director that forms the basis for declaring the dog to be a dangerous dog; which records may be supplemented with additional information as it becomes available,
 - d. That receipt of the notice renders final the declaration of dangerous dog unless the owner or keeper of the dog submits a request for an administrative appeal hearing before the city hearing examiner in writing to the director on a form provided with the notice within fifteen (15) days of the receipt of the notice,
 - e. If an appeal hearing is requested, such appeal will be held and adjudicated pursuant to the requirements set out in this chapter; that at the hearing the records of the director and any supplementary material shall be admissible to prove the dog is a dangerous dog; that the owner or keeper of the dog may upon request require the officer compiling the record or alternatively an officer with personal knowledge of the record to be present at the hearing; unless such officer is unavailable; that the owner or keeper of the dog, and the director, may call witnesses, present evidence, examine witnesses present, and be represented by counsel at the hearing; and that the burden shall be on the director to establish by a preponderance of evidence that the dog is a dangerous dog;
 - f. a statement that the dog is subject to registration and controls required by this chapter; and
 - g. an explanation of the owner's or keeper's rights and the proper procedure to appeal the declaration.
- C. No owner or keeper may keep a dangerous dog, except a dog currently used by law enforcement officers for police work, without a certificate of registration issued under this chapter. The certificate of registration must be acquired within fifteen days of service of the dangerous dog notice unless the owner or keeper has appealed the dangerous dog declaration pursuant to subsection (F) of this section.
- D. The animal control authority of the City issues a certificate of registration to the owner or keeper of a dangerous dog upon payment of the fee set forth in SMC 8.02.081 if the owner or keeper presents to the authority sufficient evidence of:
- 1. a proper enclosure, approved by SCRAPs, to confine a dangerous dog; and
 - 2. the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, and the conspicuous display of a sign with a warning symbol that informs children of the presence of a dangerous dog; and
 - 3. a surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at

- least two hundred fifty thousand dollars, which provides for prior written notification to the animal control authority of cancellation or material change, payable to any person for personal injuries or property damage caused by the dangerous dog regardless of whether the personal injury or property damage occurs on or off the owner's or keeper's premises; or
4. a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least two hundred fifty thousand dollars with a maximum five hundred dollar deductible and which provides for prior written notification to the animal control authority of cancellation or material change, insuring the owner or keeper for any personal injuries and property damage inflicted by the dangerous dog regardless of whether the personal injury or property damage occurs on or off the owner's or keeper's premises; and
 5. The owner or keeper of a dangerous dog shall furnish to SCRAPS a complete copy of the surety bond of insurance specified in this subsection and shall allow SCRAPS reasonable time to review the bond or policy to determine whether the surety bond or certificate of insurance is sufficient, prior to issuing the certificate of registration.
 6. a permanent microchip implanted and the microchip shall be injected in accordance with policy established by SCRAPS and the owner or keeper will be charged a fee for the microchip; and
 7. The dangerous dog must be spayed/neutered at the owner's expense in order to complete the registration. Any impounded dangerous dog will be transported to SCRAPS to a veterinarian for spaying/neutering as part of the registration process or documentation demonstrating that the dangerous dog has been spayed or neutered; and
 8. a muzzle and leash approved by the animal control authority, as to strength and fit, for the dangerous dog; and
 9. additional conditions determined by the animal control authority to be necessary to protect the public health, safety, and welfare.
- E. Appeal of Dangerous Dog Declaration.
1. A dangerous dog declaration by the animal control authority may be appealed to the City's hearing examiner.
 2. An appeal must be filed with the hearing examiner's office within fifteen days of service of the dangerous dog notice.
 3. An appeal does not proceed until the owner or keeper has complied with the requirements of SMC 10.03.050.
 4. At the appeal hearing, the records of the animal control director, or the director's designee, and any supplemental material shall be admissible to prove the dog is a dangerous dog. The owner or keeper of the dog may present evidence and examine witnesses present.
 5. It is the animal control agency's burden to provide the hearing examiner with evidence which establishes the dangerous dog determination by a preponderance of the evidence. The hearing examiner shall apply a

preponderance of the evidence standard at the dangerous dog determination appeal. It is an affirmative defense that the owner must prove by a preponderance of the evidence that the person or domestic animal attacked or bitten by the owner's or keeper's dog provoked the owner's or keeper's dog without justification or excuse.

6. The hearing examiner will provide upon request to an individual all rules and procedures applicable to the appeal.
 7. The hearing examiner either:
 - a. affirms the decision of the animal control authority in issuing the dangerous dog declaration,
 - b. dismisses the declaration, or
 - c. reduces a dangerous dog declaration to a potentially dangerous dog declaration based upon the evidence presented during the appeal.
 8. The hearing examiner's decision may be appealed to the Spokane County superior court within ~~((fifteen))~~ twenty days from the date the decision is issued.
- F. If an owner or keeper fails to register the dog as a dangerous dog within fifteen days of service of the animal control authority's notice, or of the hearing examiner's decision affirming the animal control authority's determination, and no restraining order has been served upon the animal control authority, the dog shall be euthanized.

The animal control director may issue a provisional registration certificate where: (a) the dangerous dog declaration has been appealed, provided all the conditions of maintaining a dangerous dog have been met under this section with the exception subsection D (7) requiring spay or/neuter; or (b) the owner is relocating the dangerous dog outside of the City and all conditions of this section have been met with the exception of subsection D(3)-(5) requiring a surety bond or insurance policy. Any provisional permit issued pursuant to this section shall expire (15) days following the decision on the appeal of the dangerous dog declaration. Any provisional permit issued under G (b) of this subsection shall be valid for the sole purpose of immediate transport and relocation of the dog from the shelter to a location outside of the City.

- G. Dogs deemed dangerous by other jurisdictions in the State of Washington will be subject to the same regulations as if they have been deemed dangerous in the City. Any owner or keeper of a dog deemed dangerous by jurisdictions outside the State of Washington relocating to the City, Spokane County Washington shall present the dog to SCRAPS within 30 days of their arrival in Spokane to be evaluated by the Director or his/her designee on an individual basis to determine whether the dog should be deemed a dangerous dog, taking into account the criteria set forth in SCC 5.04.020 (8).

H. An owner or keeper of a dog previously deemed dangerous by the City or SCRAPS and subsequently relocated outside of the City, must register the dog pursuant to section (C) of this section prior to bringing the dangerous dog into the City; such dogs are prohibited from re-entering the City without prior written consent from SCRAPS and/or full registration.

I.

An owner or keeper of a dog declared dangerous shall be responsible for meeting and maintaining the requirements set forth in this section at all times. A violation of conditions imposed under this section is a gross misdemeanor.

J. Dangerous dog" means any dog that (a) inflicts severe injury or multiple bites on a human being without provocation on public or private property, (b) inflicts severe injury, multiple bites, or kills an animal without provocation while the dog is off the owner's or keeper's property, or (c) has previously been declared potentially dangerous pursuant to SMC 10.03.033, and after the owner or keeper received notice of such declaration the dog engages in behavior that meets the definition of "potentially dangerous dog" in subsection SCC 5.04.020 (19) of this section; provided, a declaration of dangerous dog under part (c) of this subsection cannot become a final determination under SMC 10.03.020 unless and until the previous declaration of potentially dangerous dog has become final under this Code or a previous version of this Code. If two or more dogs jointly engage in any conduct described in parts (a) or (b) of this subsection, thereby rendering proof of the individual dog that inflicted any particular injury difficult to ascertain, then regardless of the degree of participation by the individual dog(s), all such dogs shall be deemed dangerous dogs.

Section 2. That SMC 10.03.050 is amended to read as follows:

10.03.050 Dangerous Dog – Confiscation

- A. An animal protection officer shall immediately confiscate a dangerous dog if:
1. it is not validly registered under SMC 10.03.020; or
 2. it is not maintained in the proper enclosure; or
 3. its owner does not have the surety bond or liability insurance required by SMC 10.03.020; or
 4. it is ~~((outside the dwelling of its owner or keeper, or outside the proper enclosure, and not under the appropriate physical restraint of a responsible person))~~ at large as defined in SCC 5.04.020.(6); or
 5. it, after being declared and registered as a dangerous dog, engages in subsequent conduct that would ~~((constitute))~~ qualify the dog as a potentially dangerous dog or dangerous dog as prescribed in SCC section 5.04.020.

- B. If a dangerous dog has been confiscated because it is in violation of subsection (A)(4) or (A)(5) of this section, the animal control authority quarantines the dog for fifteen days and thereafter causes the dog to be destroyed in an expeditious and humane manner unless the owner or keeper files an appeal pursuant to subsection (D) of this section. The animal protection officer (~~((serves))~~) shall serve the owner or keeper of the dog with notice that the dog has been confiscated, either in person or by regular and certified mail, return receipt requested. Service, if by mail, shall be considered completed three days after mailing of the notice. The notice shall state:
1. the reason(s) for the confiscation,
 2. a statement that the dog will be quarantined for the fifteen days and thereafter euthanized in an expeditious and humane manner, and
 3. an explanation of the owners or keeper's rights and proper procedure to appeal the confiscation and pending euthanasia.
- C. If a dangerous dog is confiscated because it is in violation of subsection (A)(1), (A)(2) or (A)(3) of this section, and if the animal is licensed, the animal control authority (~~((serves))~~) shall serve the owner or keeper of the dog with notice that the dog has been confiscated, either in person or by regular and certified mail, return receipt requested. Service, if by mail, shall be considered completed three days after mailing of the notice. The notice shall state:
1. the reason(s) for the confiscation,
 2. that the owner or keeper is responsible for payment of the costs of confinement and control prior to the dog being released,
 3. that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within fifteen days, and
 4. an explanation of the owners or keeper's rights and proper procedure to appeal the confiscation and pending euthanasia.
- D. Appeal of Dangerous Dog Confiscation and/or Pending Euthanasia.
1. The owner or keeper of a dangerous dog may appeal the confiscation and/or pending euthanasia of his dog to the City's hearing examiner.
 2. An appeal must be filed with the hearing examiner's office within fifteen days of service of notice that the dog has been confiscated.
 3. If the confiscation is for violations of subsection (A)(4) or (A)(5) of this section, the sole issue to be appealed to the hearing examiner is whether the dog was in violation of subsection (A)(4) or (A)(5) of this section. It shall not be relevant to the appeal whether the owner has been charged and/or convicted pursuant to RCW 16.08.100(2) or (3).
 4. The hearing examiner's decision may be appealed to the Spokane County superior court within twenty days from the date the decision is issued.
- E. If a dangerous dog is at large as defined in SCC 5.04.020 (6) in violation of (~~((SMC 10.03.030))~~) SCC 5.04.070 (12), in addition to confiscation of the dog as provided in subsection (A) of this section, the owner is guilty of a gross

misdemeanor ~~((and punishable as provided in RCW 9A.20.024))~~, as set forth in SCC 5.04.071 (12).

- F. In the event the director, or designee, has sufficient information to determine a dog is dangerous and may pose a threat of serious harm to human beings or animals, the director, or designee, shall seize and impound the dog pending notice, hearings, appeals and other determinations hereunder. The owner or keeper of the dog shall be liable to the animal control authority for the costs and expenses of keeping such dog, unless a finding is made that the dog is neither a dangerous dog nor a potentially dangerous dog.

Section 3. SMC 10.03.033 is amended to read as follows:

10.03.033 Potentially Dangerous Dog Declaration

- A. When ~~((an animal protection officer has probable cause based upon his records or investigation of an incident to believe that a dog is a potentially dangerous dog, the officer declares the dog a potentially dangerous dog by the issuance of a potentially dangerous dog declaration.))~~ the director or his or her designee has sufficient information to determine that a dog is a potentially dangerous dog as defined in SCC 5.04.020(19), the director or his or her designee shall declare the dog potentially dangerous and shall notify the owner or keeper of the dog in writing of such determination, either in person or by regular mail. Any notice or determination mailed pursuant to this section shall be deemed received by the party to whom it is addressed on the third day after it is placed in the mail, as set forth by declaration of the sender. The notice shall contain the following information:
- B. ~~((If the animal is licensed, the animal control authority serves the owner or keeper of the dog with notice of the potentially dangerous dog declaration, either in person or by regular mail. Service, if by mail, shall be considered completed three days after mailing of the notice.))~~
- C. ~~((The notice shall contain the following information))~~
1. That the person receiving the notice is the owner or keeper of a potentially dangerous dog as defined in SCC section 5.04.020 (19);
 2. The breed, color, sex, and license number (if known) of the dog;
 3. The facts upon which the ~~((determination))~~ declaration of potentially dangerous dog is based;
 4. That if there are future similar incidents with the dog, the dog could be declared a dangerous dog pursuant ~~((SCC section 5.04.032))~~, to SMC 10.03.020 and required to be registered as provided in ~~((SMC 10.03.020 SCC section 5.04.035;))~~
 5. That the owner or keeper must comply with restrictions set forth in the notice as a condition of continued ownership or keeping of the dog and that restrictions may include, but are not limited to, those which may be imposed on the owner or keeper of a potentially dangerous dog pursuant to section 5.04.032 (6);

6. That the notice (~~((constitutes))~~) renders a final determination that the dog is a potentially dangerous dog, unless the owner or keeper of the dog requests an administrative review meeting in writing on a form provided with the notice within fifteen days of the receipt of the notice. For purposes of this section, if the notice is mailed, it shall be deemed received on the third day after the notice is placed in the mail.
 7. The administrative review meeting shall be informal, open to public view, and at the option of the director or designee, held telephonically and the administrative meeting officer shall be someone who did not participate in making the potentially dangerous dog determination.
- 8.

Following an administrative review meeting, the director or designee may affirm or reverse the (~~((director's))~~) original determination that the dog is potentially dangerous. If the determination is affirmed, the director may impose the same reasonable conditions as may be imposed on the owner or keeper of a potentially dangerous dog pursuant to SMC 10.03.033 C.

9. That pursuant to (~~((SCC section 5.04.033))~~) this section, a failure by the dog owner or keeper to request and attend an administrative review meeting with the animal control director or designee shall constitute a failure to exhaust all administrative remedies, and that such failure to exhaust all administrative remedies shall preclude any appeal of the administrative determination to the City hearing examiner.
- B. The notice of a potentially dangerous dog declaration constitutes a final determination that the dog constitutes a potentially dangerous dog, unless the owner or keeper requests (~~((a hearing))~~) an appeal hearing before the City hearing examiner within fifteen days of service of the notice.
- C. In the event the owner or keeper requests an appeal hearing before the hearing examiner, the appeal hearing shall be held within thirty days of the request.
1. The City Hearing Examiner's Office will ((animal control authority notifies notify)) the owner or keeper of the date, time and place of the hearing, as well as the right to present evidence as to why the dog should not be found potentially dangerous.
 2. (~~((The hearing is conducted by the director of the animal control authority or his designee as the hearing officer.))~~) The hearing examiner (~~((recommendation shall be to))~~) may affirm, reverse or modify the potentially dangerous dog declaration issued by the director. If the recommendation is to affirm the declaration, the examiner shall recommend requirements listed below be imposed upon the owner of keeper as a condition of continued ownership or keeping of the dog. If the

~~((recommendation))~~ hearing examiner's decision is to modify the declaration, the examiner may ~~((recommend))~~ determine that the dog be deemed potentially dangerous and that reasonable conditions be imposed on the owner or keeper as a condition of continued ownership or keeping of the dog. Reasonable conditions may include but are not limited to the following measures:

- (a) Erection of new or additional fencing to keep the dog within the confines of the owner's or keeper's premises.
- (b) Construction of a run consistent with the size of the dog within which the dog must be kept.
- (c) Keeping the dog on a leash adequate to control the dog or securely fastened to a secure object when left unattended.
- (d) Keeping the dog indoors at all times, except when on a leash adequate to control the dog and under the actual physical control of the owner or keeper or a competent person at least fifteen years of age.
- (e) Keeping the dog muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration, but will prevent it from biting any person or animal when outside a proper enclosure.
- (f) Spaying/neutering of the dog.
- (g) Microchip implanting of the dog for identification purposes.

The examiner may alternatively recommend that the director be given the authority to establish the reasonable conditions from the measures listed above, or from revisions or additions to such measures that the director deems necessary to effectuate the purposes of this chapter.

- ~~((3. The hearing officer shall be someone who did not participate in making the potentially dangerous dog determination.))~~
- D. The City hearing examiner ~~officer~~ notifies, in writing, the owner or keeper of his decision within twenty ~~((ten))~~ days of the hearing. ~~((The decision of the hearing officer is final unless a timely request for an administrative appeal is made in the same manner as provided in SMC 10.03.020 (E).))~~ The owner or keeper of the dog may appeal the City hearing examiner's decision on the potentially dangerous dog appeal within ~~((twenty))~~ fifteen days to the Spokane County superior court.
- E. An owner or keeper of a potentially dangerous dog who violates any of the conditions imposed under this section shall be guilty of a misdemeanor as set forth in SCC 5.04.071(b) and (j).

Section 4. SMC 10.03.035 is amended to read as follows:

10.03.035 Potentially Dangerous Dog at Large

- A. No owner may cause or permit a potentially dangerous dog to be or run at large within the City or to roam or stray from the building or enclosure where harbored unless:
 - 1. restrained by a sufficient collar, harness or halter, and on a leash eight feet or less in length and in the control of a person physically able to restrain the dog; or
 - 2. confined safely within a vehicle.
- B. No person may release, or allow the escape from confinement or the control of another, any potentially dangerous dog.
- C. A violation of this section is a misdemeanor.

Section 5. That there is adopted a new chapter 10.24A to title 10 of the Spokane Municipal Code to read as follows:

SMC 10.24A Animal Control

- 10.24A.010 Potentially Dangerous Wild Animal**
- 10.24A.020 Enforcement – Law enforcement agencies and animal control agencies**
- 10.24A.030 Transporting or confining in unsafe manner — Penalty.**
- 10.24A.040 Removal of animals for feeding and care –Examination-Notice-Euthanasia**
- 10.24A.050 Confinement without food and water- Intervention by others**
- 10.24A.060 Poisoning animals – Penalty**
- 10.24A.070 Sentences – Forfeiture of animals – Liability for costs – Penalty – education, counseling**
- 10.24A.080 Animal cruelty in the second degree – Penalty**
- 10.24A.090 Dog breeding – Limit on the number of dogs – Required conditions – Penalty – Limitation of section Definitions**
- 10.24A.100 When deemed Abandoned**
- 10.24A.110 Disposition of abandoned animal by person having custody**
- 10.24A.120 Dangerous Wild Animals**
- 10.24A.130 Potentially Dangerous Wild Animals**
- 10.24.140 Adoption of Revised Code of Washington by reference**

10.24A.010 Potentially Dangerous Wild Animal

A. ~~((1))~~ A person shall not own, possess, keep, harbor, bring into the state, or have custody or control of a potentially dangerous wild animal, except as provided in subsection (3) of this section.

B. ~~((2))~~ A person shall not breed a potentially dangerous wild animal.

C. ~~((3))~~ A person in legal possession of a potentially dangerous wild animal prior to July 22, 2007, and who is the legal possessor of the animal may keep possession of the animal for the remainder of the animal's life. The person must maintain veterinary records, acquisition papers for the animal, if available, or other documents or records that establish that the person possessed the animal prior to July 22, 2007, and present the paperwork to an animal control or law enforcement authority upon request. The person shall have the burden of proving that he or she possessed the animal prior to July 22, 2007.

10.24A.020 Enforcement — Law enforcement agencies and animal care and control agencies.

A. ~~((1))~~ Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

B. ~~((2))~~ Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce chapter SMC 10.24~~((r))~~ A and other criminal laws of the state of Washington.

C. ~~((3))~~ Animal control officers have the following enforcement powers when enforcing this chapter or a violation of chapter SMC 10.03 :

1. ~~((a))~~ The power to issue citations based on probable cause to offenders for civil infractions and misdemeanor and gross misdemeanor violations of this SMC 10.03 or RCW 9.08.070 through 9.08.078 or 81.48.070;

2. ~~((b))~~ The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or 81.48.070. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

3. ~~((c))~~ The power to carry nonfirearm protective devices for personal protection;

4. ~~((d))~~ The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or 81.48.070, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or 81.48.070, a law enforcement agency officer may arrest the alleged offender.

10.24A.030 Transporting or confining in unsafe manner — Penalty.

Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor. And whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant therefore by any officer or authorized person, such officer or person may take charge of the animal or animals; and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered; and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty.

10.24A.040 Removal of animals for feeding and care — Examination — Notice — Euthanasia.

A. ~~((1))~~ If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued under SMC 10.24A.040 (4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

B. ~~((2))~~ If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter or a violation of chapter SMC 10.03 has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

C. ~~((3))~~ Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies

available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

D. (((4))) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the Municipal court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with a similar animal under SMC 10.24A.040 (4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

E. (((5))) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the Municipal court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

F. (((6))) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

G. (((7))) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

10.24A.050 Confinement without food and water — Intervention by others

If any domestic animal is impounded or confined without necessary food and water for more than thirty-six consecutive hours, any person may, from time to time, as is necessary, enter into and open any pound or place of confinement in which any domestic animal is confined, and supply it with necessary food and water so long as it is confined. The person shall not be liable to action for the entry, and may collect from the

animal's owner the reasonable cost of the food and water. The animal shall be subject to attachment for the costs and shall not be exempt from levy and sale upon execution issued upon a judgment. If an investigating officer finds it extremely difficult to supply confined animals with food and water, the officer may remove the animals to protective custody for that purpose.

10.24A.060 Poisoning animals — Penalty.

A. ~~((1))~~ Except as provided in subsections (2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree as defined in RCW 16.52.205.

B. ~~((2))~~ Subsection (1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.

C. ~~((3))~~ Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term "rodent" includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in *chapter 17.16 RCW. The term "pest" as used in this section includes any pest as defined in RCW 17.21.020.

D. ~~((4))~~ A person violating this section is guilty of a gross misdemeanor.

10.24A.070 Sentences — Forfeiture of animals — Liability for costs — Penalty — Education, counseling.

A. ~~((1))~~ The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.50.320 and 3.50.330, however the probationary period shall be two years.

B. ~~((2))~~ In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive; however the probationary period shall remain two years.

C. ~~((3))~~ In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

D. ~~(((4)))~~ Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

1. ~~(((a)))~~ Two years for a first conviction of animal cruelty in the second degree under SMC 10.24A.045;

2. ~~(((b)))~~ Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

3. ~~(((c)))~~ Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

E. ~~(((5)))~~ If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

1. ~~(((a)))~~ The person's prior animal cruelty in the second degree convictions;

2. ~~(((b)))~~ The type of harm or violence inflicted upon the animals;

3. ~~(((c)))~~ Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

4. ~~(((d)))~~ Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and

5. ~~(((e)))~~ Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

F. ~~(((6)))~~ In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

G. ~~(((7)))~~ If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

H. ~~((8))~~ If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

1. ~~((a))~~ Shall pay a civil penalty of one thousand dollars for the first violation;
2. ~~((b))~~ Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and
3. ~~((c))~~ Is guilty of a gross misdemeanor for the third and each subsequent violation.

I. ~~((9))~~ As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

10.24A.080 Animal cruelty in the second degree — Penalty.

~~((1))~~ A. A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

~~((2))~~ B. An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

1. ~~((a))~~ Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;
2. ~~((b))~~ Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or
3. ~~((c))~~ Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

~~((3))~~ C. Animal cruelty in the second degree is a gross misdemeanor.

~~((4))~~ D. In any prosecution of animal cruelty in the second degree under subsection (1) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

10.24A.090 Dog breeding — Limit on the number of dogs — Required conditions — Penalty — Limitation of section — Definitions.

A. ~~((1))~~ A person may not own, possess, control, or otherwise have charge or custody of more than fifty dogs with intact sexual organs over the age of six months at any time.

B. ~~((2))~~ Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

1. ~~((a))~~ Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

2. ~~((b))~~ Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure specified in (a) of this subsection allowing the dog free mobility for the entire exercise period, but may not include use of a cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

3. ~~((c))~~ Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:

a. ~~((i))~~ Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must have a means of fire suppression, such as functioning fire extinguishers, on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

b. ~~((ii))~~ Housing facilities must enable all dogs to remain dry and clean;

c. ~~((iii))~~ Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

d. ~~((iv))~~ Housing facilities must provide sufficient shade to shelter all the dogs housed

in the primary enclosure at one time;

e. ~~(((v)))~~ A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;

f. ~~(((vi)))~~ Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

g. ~~(((vii)))~~ Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and

h. ~~(((viii)))~~ All dogs in the same enclosure at the same time must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must never be placed in an enclosure with another animal, except for breeding purposes. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision.

4. ~~(((d)))~~ Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.

5. ~~(((e)))~~ Provide veterinary care without delay when necessary. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.

C. ~~(((3)))~~ A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor.

D. ~~(((4)))~~ This section does not apply to the following:

1. ~~(((a)))~~ A publicly operated animal control facility or animal shelter;

2. ~~(((b)))~~ A private, charitable not-for-profit humane society or animal adoption organization;

3. ~~(((c)))~~ A veterinary facility;

4. ~~(((d)))~~ A retail pet store;

5. ~~((e))~~ A research institution;

6. ~~((f))~~ A boarding facility; or

7. ~~((g))~~ A grooming facility.

E. ~~((5))~~ Subsection (1) of this section does not apply to a commercial dog breeder licensed, before January 1, 2010, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. Sec. 2131 et seq.).

F. ~~((6))~~ For the purposes of this section, the following definitions apply, unless the context clearly requires otherwise:

1. ~~((a))~~ "Dog" means any member of *Canis lupus familiaris*; and

2. ~~((b))~~ "Retail pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals to be kept as household pets and is regulated by the United States department of agriculture.

10.24A.100 When deemed abandoned

An animal is deemed to be abandoned under the provisions of this chapter when it is placed in the custody of a veterinarian, boarding kennel owner, or any person for treatment, board, or care and:

A. ~~((1))~~ Having been placed in such custody for an unspecified period of time the animal is not removed within fifteen days after notice to remove the animal has been given to the person who placed the animal in such custody or having been so notified the person depositing the animal refuses or fails to pay agreed upon or reasonable charges for the treatment, board, or care of such animal, or;

B. ~~((2))~~ Having been placed in such custody for a specified period of time the animal is not removed at the end of such specified period or the person depositing the animal refuses to pay agreed upon or reasonable charges for the treatment, board, or care of such animal.

10.24A.110 Disposition of abandoned animal by person having custody.

Any person having in his or her care, custody, or control any abandoned animal as defined herein SMC 10.24A.055, may deliver such animal to any humane society having facilities for the care of such animals or to any pound maintained by or under contract or agreement with any city or county within which such animal was abandoned. If no such humane society or pound exists within the county the person with whom the

animal was abandoned may notify the sheriff of the county wherein the abandonment occurred.

10.24A.120 Dangerous Wild Animals

A. Definitions.

1. "Animal control authority" means an entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals.

2. "Potentially dangerous wild animal" means one of the following types of animals, whether bred in the wild or in captivity, and any or all hybrids thereof:

(a) Class mammalia

(i) Order carnivora

3. ~~(((A)))~~ Family felidae, only lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, and clouded leopards;

4. ~~(((B)))~~ Family canidae, wolves, excluding wolf-hybrids;

5. ~~(((C)))~~ Family ursidae, all bears;

6. ~~(((D)))~~ Family hyaenidae, such as hyenas;

(ii) Order perissodactyla, only rhinoceroses;

(iii) Order primates, all nonhuman primate species;

(iv) Order proboscidae, all elephants [elephant] species;

(b) Class reptilia

(i) Order squamata

(A) Family atractaspididae, all species;

(B) Family colubridae, only dispholidus typus;

(C) Family elapididae, all species, such as cobras, mambas, kraits, coral snakes, and Australian tiger snakes;

(D) Family hydrophiidae, all species, such as sea snakes;

(E) Family varanidae, only water monitors and crocodile monitors;

(F) Family viperidae, all species, such as rattlesnakes, cottonmouths, bushmasters, puff adders, and gaboon vipers;

(ii) Order crocodilia, all species, such as crocodiles, alligators, caimans, and gavials.

(3) "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

(4) "Possessor" means any person who owns, possesses, keeps, harbors, brings into the state, or has custody or control of a potentially dangerous wild animal.

(5) "Wildlife sanctuary" means a nonprofit organization, as described in RCW

84.36.800, that cares for animals defined as potentially dangerous and:

(a) No activity that is not inherent to the animal's nature, natural conduct, or the animal in its natural habitat is conducted;

(b) No commercial activity involving an animal occurs including, but not limited to, the sale of or trade in animals, animal parts, animal by-products, or animal offspring, or the sale of photographic opportunities involving an animal, or the use of an animal for any type of entertainment purpose;

(c) No unescorted public visitations or direct contact between the public and an animal; or

(d) No breeding of animals occurs in the facility.

B. Exceptions

1. ~~((1))~~ The provisions of this chapter do not apply to:

(a) Institutions authorized by the Washington department of fish and wildlife to hold, possess, and propagate deleterious exotic wildlife pursuant to RCW 77.12.047;

(b) Institutions accredited or certified by the American zoo and aquarium association or a facility with a current signed memorandum of participation with an association of zoos and aquariums species survival plan;

(c) Duly incorporated nonprofit animal protection organizations, such as humane societies and shelters, housing an animal at the written request of the animal control

authority or acting under the authority of this chapter;

(d) Animal control authority, law enforcement officers, or county sheriffs acting under the authority of this chapter;

(e) Veterinary hospitals or clinics;

(f) A holder of a valid wildlife rehabilitation permit issued by the Washington department of fish and wildlife;

(g) Any wildlife sanctuary as defined under SMC 10.24A.070 (5);

(h) A research facility as defined by the animal welfare act, 7 U.S.C.A. 2131, as amended, for the species of animals for which they are registered. This includes but is not limited to universities, colleges, and laboratories holding a valid class R license under the animal welfare act;

(i) Circuses, defined as incorporated, class C licensees under the animal welfare act, 7 U.S.C.A. 2131, as amended, that are temporarily in this state, and that offer performances by live animals, clowns, and acrobats for public entertainment;

(j) A person temporarily transporting and displaying a potentially dangerous wild animal through the state if the transit time is not more than twenty-one days and the animal is at all times maintained within a confinement sufficient to prevent the animal from escaping;

(k) Domesticated animals subject to this title or native wildlife subject to Title 77 RCW;

(l) A person displaying animals at a fair approved by the Washington department of agriculture pursuant to chapter 15.76 or 36.37 RCW; and

(m) A game farm meeting the requirements of WAC 232-12-027(1).

2. ~~(((2)))~~ This chapter does not require a city or county that does not have an animal control authority to create that office.

C. Confiscation— Duties of animal control authority or law enforcement officer.

1. ~~(((1)))~~ The animal control authority or a law enforcement officer may immediately confiscate a potentially dangerous wild animal if:

(a) The animal control authority or law enforcement officer has probable cause to believe that the animal was acquired after July 22, 2007, in violation of RCW [16.30.030](#);

(b) The animal poses a public safety or health risk;

(c) The animal is in poor health and condition as a result of the possessor; or

(d) The animal is being held in contravention of the [this] act.

2. ~~((2))~~ A potentially dangerous wild animal that is confiscated under this section may be returned to the possessor only if the animal control authority or law enforcement officer establishes that the possessor had possession of the animal prior to July 22, 2007, and the return does not pose a public safety or health risk.

3. ~~((3))~~ The animal control authority or law enforcement officer shall serve notice upon the possessor in person or by regular and certified mail, return receipt requested, notifying the possessor of the confiscation, that the possessor is responsible for payment of reasonable costs for caring and providing for the animal during the confiscation, and that the possessor must meet the requirements of subsection (2) of this section in order for the animal to be returned to the possessor.

4. ~~((4))~~ If a potentially dangerous wild animal confiscated under this section is not returned to the possessor, the animal control authority or law enforcement officer may release the animal to a facility such as a wildlife sanctuary or a facility exempted pursuant to RCW 16.30.020. If the animal control authority or law enforcement officer is unable to relocate the animal within a reasonable period of time, it may euthanize the animal.

5. ~~((5))~~ An animal control authority or law enforcement officer may euthanize a potentially dangerous wild animal under this section only if all known reasonable placement options, including relocation to a wildlife sanctuary, are unavailable.

6. ~~((6))~~ This section applies to animal confiscations on or after July 22, 2007.

D. Violations – Civil Penalty

A person who violates SMC 10.24A.010 is liable for a civil penalty of not less than two hundred dollars and not more than two thousand dollars for each animal with respect to which there is a violation and for each day the violation continues.

E. Enforcement of Provisions.

1. ~~((1))~~ The animal control authority and its staff and agents, local law enforcement agents, and county sheriffs are authorized and empowered to enforce the provisions of SMC10.24A.015.

2. ~~((2))~~ If a locality does not have a local animal control authority, the department of fish and wildlife shall enforce the provisions of this chapter.

10.24A.140 Adoption of Revised Code of Washington by Reference.

The City of Spokane adopts by reference the following Revised Code of Washington sections: 9.08.070, 9.08.070, 9.08.072, 9.08.074, 9.08.076, 9.08.080, 81.48.070 involving animals and crimes relating to animals.

Passed by the City Council on _____ 2015.

Council President

Attest:

Approved as to form:

City Clerk

City Attorney

Mayor

Date

Effective Date

"Dangerous dog" means any dog that (a) inflicts severe injury or multiple bites on a human b being without provocation on public or private property, (b) inflicts severe injury, multiple bites, or kills an animal without provocation while the dog is off the owner's or keeper's property, or (c) has previously been declared potentially dangerous pursuant to SMC 10.03.033, and after the owner or keeper received notice of such declaration the dog engages in behavior that meets the definition of "potentially dangerous dog" in subsection (19) of this section; provided, a declaration of dangerous dog under part (c) of this subsection cannot become a final determination under SMC 10.03.020 unless and until the previous declaration of potentially dangerous dog has become final under this Code or a previous version of this Code. If two or more dogs jointly engage in any conduct described in parts (a) or (b) of this subsection, thereby rendering proof of the individual dog that inflicted any particular injury difficult to ascertain, then regardless of the degree of participation by the individual dog(s), all such dogs shall be deemed dangerous dogs.

**Agenda Sheet for City Council Meeting of:**

01/05/2015

<u>Date Rec'd</u>	12/22/2014
<u>Clerk's File #</u>	ORD C35218
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	CANDACE 509-625-6256	<u>Project #</u>	
<u>Contact E-Mail</u>	CMUMM@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	First Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 DRIVEWAY OBSTRUCTION ORDINANCE		

Agenda Wording

An ordinance amending Spokane Municipal Code section 10.10.025 regarding vehicular interference.

Summary (Background)

The Spokane Municipal Code currently prohibits pedestrian obstruction of a sidewalk. SMC also prohibits obstruction of the free flow of vehicular traffic on public roadways. However there is no prohibition to obstruction of a driveway within the public right-of-way. This ordinance would preserve access to businesses and homes.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MEIERS, BRANDON	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	PCED 1/5/2015
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

ORDINANCE NO. C35218

An ordinance relating to vehicular interference; amending SMC section 10.10.025.

The City of Spokane does ordain:

Section 1. That SMC section 10.10.025 is amended to read as follows:

10.10.025 Interference with Pedestrian or Vehicular Traffic

- A. Consistent with the findings of other Washington State cities, the city council finds that it is important to the general welfare of the citizens and residents of the City to protect and preserve the public safety of pedestrians and to ensure the safe and efficient movement of pedestrian and vehicular traffic in public places. The city council further finds that public places as defined in this section serve the primary purpose of enabling pedestrian and vehicular traffic to safely and efficiently move about from place to place and that public places in the urban core have become increasingly congested and should be maintained to serve their primary purpose. Spokane, as well as other cities in Washington, has experienced an increase in the number of incidents of aggressive solicitation by individuals towards pedestrians and that pedestrian interference in public places deteriorates from the primary purpose and threatens public health, safety and welfare. The City has a compelling interest in protecting its citizens from threatening, intimidating or harassing behavior caused by aggressive solicitations, in preserving the quality of life in its urban center and in protecting and preserving the public health, safety and welfare.
- B. The following definitions apply in this section:
1. "Aggressively solicit" means to solicit anything of value and intentionally engage in conduct that would likely intimidate a reasonable person, including but not limited to touching, following, persistently soliciting anything of value after being refused, using violent or threatening language or gestures, or taking similar actions for the purpose of inducing another person into giving anything of value regardless of the solicitor's purpose.
 2. "Enter" means to cross the vertical plane of the edge of a prohibited roadway, which includes crossing the vertical plane of the roadway by any part of a person's body or any extension

thereof or by use of any device used to extend a person's ability to reach into the roadway.

3. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his person or property or feel threatened.
4. "Obstruct pedestrian traffic" means to intentionally walk, stand, sit, lie, or place an object in such manner as to obstruct or impede, or a person of ordinary sensibilities would conclude it tends to obstruct or impede, the free passage of pedestrians through the area; or that requires, or would require, evasive action by a pedestrian to avoid physical contact.
 - a. If the impediment or obstruction is caused by the size of a particular group of persons, all persons within the group are equally subject to this section.
 - b. Acts committed as a valid exercise of one's constitutional rights, which incidentally interfere with pedestrian traffic in order to exercise that right, or acts authorized by a special events permit or an obstruction permit issued pursuant to chapter 10.39 SMC, SMC 17G.010.210(D), SMC 12.02.0706, or SMC 12.02.0730 do not constitute obstruction of pedestrian traffic.
5. "Obstruct vehicular traffic" means:
 - a. To solicit from the occupants of any vehicle and be physically present within or subsequently enter a prohibited roadway; or
 - b. To intentionally engage in any conduct that would obstruct or impede the free flow of vehicular traffic on any public roadways or in a driveway located in the public right-of-way.

The following are not considered obstructing vehicular traffic:

- c. a person summoning aid in an emergency situation;
 - d. solicitation from the occupant of a vehicle that is legally parked.
6. "Prohibited roadway" means all on-ramp or off-ramp to Interstate 90 and all state routes and principal arterials located within the boundaries of the map set forth in Attachment A, and also the first one hundred feet of a road that intersects any on-ramp or off-

ramp to Interstate 90, or any state route or principal arterial located within the boundaries of the map set forth in Attachment A, as measured from the edge of the state route, on-ramp or off-ramp to Interstate 90, or principal arterial.

a. Prohibited roadway:

- i. includes any portion of a road traveled by vehicles;
- ii. includes paved shoulders and bike lanes;
- iii. includes medians, which may be denoted by a physical barrier or solid yellow pavement markings;
- iv. excludes all sidewalks and curbs; and
- v. includes both sides of the road.

b. Prohibited roadways, with the exception of roadway within one hundred feet of any on-ramp or off-ramp to Interstate 90, or any state route or principal arterial, established herein are delineated upon Attachment A, entitled "Prohibited Roadway," as adopted as part of this section as if contained herein. It shall be the duty of the director of the planning department to cause the official map to be updated and maintained by having changes entered that the city council may approve.

7. "Public place" means an area generally open to the public and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public, including those that serve food or drink or provide entertainment, and the doors and entrances to buildings or dwellings and the grounds enclosing them.

8. "Solicit" and all derivative forms of "solicit" means:

- a. to ask, beg, or plead whether orally, non-verbally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person; or
- b. either orally, non-verbally or in a written or printed manner, to sell or offer for immediate sale goods, services or publications;

- c. to distribute without remuneration goods, services, or publications or
 - d. to solicit signatures on a petition or opinions for a survey.
- C. A person is guilty of interference with pedestrian traffic if, in a public place, the person intentionally:
 - 1. obstructs pedestrian traffic, or
 - 2. aggressively solicits.
- D. A person is guilty of interference with vehicular traffic if the person intentionally obstructs vehicular traffic except as permitted by state law or chapter 16A.02 of the Spokane Municipal Code.
- E. Interference with pedestrian or vehicular traffic is a misdemeanor.
- F. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

PASSED by the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	ORD C35220
<u>Renews #</u>	

<u>Submitting Dept</u>	PLANNING & DEVELOPMENT	<u>Cross Ref #</u>	RES 2014-0115
<u>Contact Name/Phone</u>	ELDON BROWN 625-6305	<u>Project #</u>	
<u>Contact E-Mail</u>	EBROWN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Hearings	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0560 - HEARING - PEARL STREET VACATION		

Agenda Wording

Vacation of Pearl St. from North line of Sharp Ave. to South line of Sinto Ave.; Pearl St. from North line of Sinto Ave. to South line of alley between Sinto Ave. and Mission Ave. requested by Vincent Dressel and Harlan Douglass, proponents.

Summary (Background)

At its legislative session held December 8, 2014 the City Council set a hearing on the above vacation for January 12, 2015. Since that time, Staff has solicited responses from all concerned parties.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MEULER, LOUIS	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	PCED 11/3/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	ebrown@spokanecity.org	
<u>Additional Approvals</u>		edjohnson@spokanecity.org	
<u>Purchasing</u>		jsaywers@spokanecity.org	
		mnilsson@spokanecity.org	
		sbishop@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

and other jurisdictions to develop a new Commute Trip Reduction (CTR) Plan. The City now needs to formally adopt the revised Commute Trip Reduction Implementation Plan Update: 2015 - 2019.

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

City of Spokane
Planning and Development
808 West Spokane Falls Blvd.
Spokane, WA 99201-3343
(509) 625-6300

ORDINANCE NO. C35220

An ordinance vacating Pearl Street from the North line of Sharp Avenue to the South line of Sinto Avenue and Pearl Street from the North line of Sinto Avenue to the South line of the alley between Sinto Avenue, and Mission Avenue, in Section 17, Township 25 North, Range 43 East, Willamette Meridian, Spokane, Washington, as requested by Vincent Dressel and Harlan Douglass.

WHEREAS, a petition for the vacation of Pearl Street from the North line of Sharp Avenue to the South line of Sinto Avenue and Pearl Street from the North line of Sinto Avenue to the South line of the alley between Sinto Avenue and Mission Avenue, in Section 17, T25N, R43E, W.M., Spokane, Washington, has been filed with the City Clerk representing 68.25% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That Pearl Street from the North line of Sharp Avenue to the South line of Sinto Avenue and Pearl Street from the North line of Sinto Avenue to the South line of the alley between Sinto Avenue and Mission Avenue, in Section 17, T25N, R43E, W.M., Spokane, Washington, as requested Vincent Dressel and Harlan Douglass is hereby vacated. Parcel number not assigned.

Section 2. An easement is reserved and retained over and through the East 20 feet of Pearl Avenue, from Sharp Avenue to the alley that is North of Sharp Avenue and South of Sinto Avenue, for the utility service of Avista to protect existing utilities.

Section 3. An easement is reserved and retained over and through Pearl Street, 16 feet in width, where the alley between Sharp Avenue and Sinto Avenue crosses Pearl Street, for the construction, repair, and maintenance of utilities for Comcast, CenturyLink, and the City of Spokane.

Section 4. An easement is reserved and retained over and through Pearl Street, 30 feet in width, for the entire length of the vacated area, and is centered 15 feet east of the centerline of Pearl Street, as platted by Sinto Addition, for the maintenance of an existing

City of Spokane stormwater mainline.

Section 5. That this ordinance shall not become effective until the owners of property abutting upon the area to be vacated shall have compensated the City of Spokane in an amount equal to the full assessed value of the area herein vacated.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

Mayor

Date: _____

Effective Date: _____



CITY OF SPOKANE
PLANNING AND DEVELOPMENT SERVICES
808 West Spokane Falls Blvd., Spokane WA 99201-3343
(509) 625-6700 FAX (509) 625-6349

STREET VACATION REPORT (P1401791VACA)
December 1, 2014

LOCATION: Street Vacation of Pearl Street from North line of Sharp Avenue to South line of Sinto Avenue; Pearl Street from North line of Sinto Avenue to the South line of alley between Sinto Avenue and Mission Avenue

PROPONENT: Vincent Dressel and Harlan Douglass.

PURPOSE: To aggregate parcels for future development purposes. To increase safety by assisting in crime prevention by limiting public access to private commercial properties during non-business hours.

HEARING: **To Be Determined.**

REPORTS:

AVISTA UTILITIES – Request for easement be reserved for our electric lines between the North line of Sharp Avenue and South line of Sinto Avenue. If the northern portion of the vacation extends to the North line of the Mission-Sinto Alley, then we need that reserved for our electric lines. Provide a copy of the final recorded Ordinance for our records.

COMCAST – There are communication facilities in both of the alleys crossing the vacation area. No objection, retain access easement for communication facilities in this area to be vacated.

CENTURYLINK – There are aerial cable crossing Pearl Street at the Alley north of E. Sharp Avenue. No objection, retain easement for communication facilities in this area to be vacated. These rights should provide for maintenance, construction, and reconstruction as needed.

INTEGRATED CAPITAL MANAGEMENT – Pearl currently drains to the south onto Sharp Avenue. The property owner will be responsible to manage stormwater and associated sediment to current City Standards. This means the runoff needs to be managed within their own property. The City may be reconstructing Sharp Avenue in the next 2 years with

permeable pavement and sediment from Pearl Street may not drain to Sharp Avenue.

FIRE DEPARTMENT – No comment.

NEIGHBORHOOD SERVICES – No comment.

PARKS DEPARTMENT – No comment.

PLANNING & DEVELOPMENT – DEVELOPER SERVICES – There is an eight-inch sewer line in the alley between Sinto Avenue and Sharp Avenue. The City will require a “No Build” easement for the entire length of the sewer where it crosses the vacated area in Pearl Street.

Vehicular access will need to be maintained for the alley between Sinto Avenue and Sharp Avenue. If no alley through access is preferred by the applicant at Pearl Street, turnarounds meeting current City standards would be required where it meets Pearl Street. These turnarounds may require reserving right of way in Pearl Street or dedication of private property.

PLANNING & DEVELOPMENT – TRAFFIC DESIGN – No comment.

PLANNING & DEVELOPMENT – PLANNING – No objections. Pearl Street does not continue to the north of future vacated area.

POLICE DEPARTMENT – No comment.

SOLID WASTE MANAGEMENT – No comment.

STREET DEPARTMENT – No comments.

WASTEWATER MANAGEMENT – No comments.

All storm water for the area should be collected and treated on-site.

WATER DEPARTMENT – No comments.

RECOMMENDATION: That the petition be granted and a Vacating Ordinance be prepared subject to the following conditions:

1. The ordinance will provide that the City of Spokane retain an easement, 16 feet in width, across the vacated land where the east-west alley crosses the vacated land for the construction, repair, and maintenance of utilities for Comcast, CenturyLink, and the City of Spokane.

2. The ordinance will provide that the City of Spokane retain a 30' easement, to protect an existing storm mainline in Pearl St. The easement will be 15 feet on each side of centerline, of the existing storm main to protect the existing main.
3. If the existing storm main that runs in Pearl St. is built over, it must be sleeved underneath any foundations and 10' outside the foundations with C900 PVC piping or equivalent as approved by the City of Spokane.
4. Avista currently has a pole on the northwest corner of Pearl and Sharp. From this pole there is a connecting wire that goes across Pearl to a pole in the alley on the east side. Applicant must work with Avista to move this pole to the northeast corner of Pearl and Sharp, prior to the finalization of the street vacation.
5. The ordinance will provide that Avista retain a 20' easement along the east side of Pearl from Sharp to the alley north of Sharp, for the repair and maintenance of private utilities.
6. On-site stormwater runoff must be collected and treated on the site.
7. The plans for termination and closure must be submitted and accepted by Planning and Development – Developer Services, prior to construction, and the improvements must be satisfactorily constructed before final vacation approval. This will be required at the north side of Sharp Avenue, south and north side of Sinto Avenue, and south side of the Alley between Sinto Avenue and Mission Avenue. If the closure work cannot be finished before the vacation is finalized a bond must be in place for the work.
8. The proponent shall pay to the City of Spokane the assessed valuation for the vacated land as defined by the latest information from the County Assessor's Office. This is calculated to be \$301,546.61.
9. That the final reading of the vacation be held in abeyance until all of the above conditions are met, and that the above conditions are met by December 31, 2015.



Eldon Brown, P.E.
Principal Engineer – Developer Services



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VACATION OF PEARL ST. FROM NORTH LINE OF SHARP AVE. TO SOUTH LINE OF SINTO AVE.; PEARL ST. FROM NORTH LINE OF SINTO AVE. TO SOUTH LINE OF ALLEY BETWEEN SINTO AVE. AND MISSION AVE.

POLICE DEPARTMENT

ATTN: SGT JOHN GATELY

FIRE DEPARTMENT

ATTN: LISA JONES
MIKE MILLER

CURRENT PLANNING

ATTN: TAMI PALMQUIST
DAVE COMPTON

WATER DEPARTMENT

ATTN: DAN KEGLEY
JAMES SAKAMOTO
ROGER BURCHELL
CHRIS PETERSCHMIDT
HARRY MCLEAN

STREETS

ATTN: MARK SERBOUSEK
DAUN DOUGLASS

TRANSPORTATION OPERATIONS

ATTN: BOB TURNER

PLANNING & DEVELOPMENT

ATTN: ERIK JOHNSON
ELDON BROWN
JOHN SAYWERS

CONSTRUCTION MANAGEMENT

ATTN: KEN BROWN

INTEGRATED CAPITAL MANAGEMENT

ATTN: KATHERINE MILLER

WASTEWATER MANAGEMENT

ATTN: BILL PEACOCK

PARKS & RECREATION DEPARTMENT

ATTN: LEROY EADIE

NEIGHBORHOOD SERVICES

ATTN: JACKIE CARO
JONATHAN MALLAHAN
ROD MINARIK
HEATHER TRAUTMAN

BICYCLE ADVISORY BOARD

ATTN: LOUIS MEULER

CITY CLERK'S OFFICE

ATTN: JACQUELINE FAUGHT

PUBLIC WORKS

ATTN: RICK ROMERO
MARCIA DAVIS

AVISTA UTILITIES

ATTN: DAVE CHAMBERS
RANDY MYHRE

COMCAST DESIGN & CONSTRUCTION

ATTN: BRYAN RICHARDSON

CENTURY LINK

ATTN: KAREN STODDARD

ADAMS, KATHLEEN H
1629 W TONI RAE DR
SPOKANE WA 99218-2453

BUDIG, KEVIN P
12228 N MORTON DR
SPOKANE WA 99218

BURRELL, JOE G
P O BOX 532
NEWPORT WA 99156

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LINE OF SINTO AVE.; PEARL ST. FROM NORTH LINE OF SINTO AVE. TO
SOUTH LINE OF ALLEY BETWEEN SINTO AVE. AND MISSION AVE.

BYRD GREGORY J & KAREENA M
304 E SINTO AVE
SPOKANE WA 99202

MCBRIDE, VICTOR
18021 N JUDY DR
COLBERT WA 99005-9357

BYRD, GUY D & SHAWNA L
6205 S SHELBY RIDGE RD
SPOKANE WA 99224

MCKEIRNAN, THOMAS L & CHERE B
235 E 9TH AVE
SPOKANE WA 99202-1212

CHARON, BARRY & LUANN
221 E SINTO AVE
SPOKANE WA 99202

MISSION AVENUE PROPERTIES LLC
202 E MISSION AVE
SPOKANE WA 99202

CHARON, G O
229 E SINTO AVE
SPOKANE WA 99202

SHIMAHARA, RUSSELL REI
P O BOX 1555
TRUTH OR CONSEQUENCES NM 87901

COLONIAL CITY INC
P O BOX 3464
SPOKANE WA 99220-3464

TANGVALD, LEIF A
P O BOX 30691
SPOKANE WA 99223

CORPORATION OF GONZAGA UNIVERSITY
J PADDEN
502 E BOONE AVE
SPOKANE WA 99258

COLONIAL FUEL CO
P O BOX 3464
SPOKANE WA 99220-3464

DOUGLASS, HARLAN D
815 E ROSEWOOD AVE
SPOKANE WA 99208-5507

DRESSEL, VINCENT G & JANET
17920 N LITTLE SPOKANE DR
COLBERT WA 99005-9615

FOX FINANCIAL CORP
1310 N RUBY ST
SPOKANE WA 99202

GAINES, WILLIAM J
4820 QUEEN AVE S
MINNEAPOLIS MN 55410

KIMMEL ATHLETIC SUPPLY CO INC
202 E MISSION AVE
SPOKANE WA 99202