CITY COUNCIL MEETINGS RULES – PUBLIC DECORUM

Strict adherence to the following rules of decorum by the public will be observed and adhered to during City Council meetings, including open forum, public comment period on legislative items, and Council deliberations:

- 1. No Clapping!
- 2. No Cheering!
- 3. No Booing!
- 4. No public outbursts!
- 5. Three-minute time limit for comments made during open forum and public testimony on legislative items!
- 6. No person shall be permitted to speak at open forum more often than once per month.

In addition, please silence your cell phones when entering the Council Chambers!

Further, keep the following City Council Rules in mind:

Rule 2.2 Open Forum

- 2.2.4 The open forum is a limited public forum and all matters discussed shall relate to affairs of the City. No person may use the open forum to speak on such matters and in such a manner as to violate the laws governing the conduct of municipal affairs. No person shall be permitted to speak on matters related to the current or advance agendas, potential or pending hearing items, or ballot propositions for a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not make personal comment or verbal insults about any individual.
- 2.2.6 In an effort to encourage wider participation in open forum so that the Council can hear a wide array of citizen comment, no person shall be permitted to speak at open forum more often than once per month. However, this limitation has no effect on the public comment rules concerning items on the Council's current legislative agenda, special consideration items, hearing items, and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature, as specified in Rules 5.3 and 5.4.

Rule 5.4 Public Testimony Regarding Legislative Agenda Items – Time Limits

- 5.3.1 Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- 5.3.2 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 and provide his or her address as a condition of recognition. In order for a council member to be recognized by the Chair for the purpose of obtaining the floor, the council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- 5.3.3 Each person speaking at the public microphone shall verbally identify him(her)self by name and, if appropriate, representative capacity.
- 5.3.4 Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- 5.3.5 In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, including but not limited to demonstrations, banners, applause, profanity, vulgar language, or personal insults will be permitted.
- 5.3.6 A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- 5.3.7 When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- 5.3.8 When any person, including members of the public, City staff and others are addressing the Council, council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order* shall extend to all speakers before the City Council. The council president pro-tem shall be charged with the task of assisting the council president to insure that all individuals desiring to speak, be they members of the public, staff or council members, shall be identified and provided the opportunity to speak.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, NOVEMBER 7, 2016

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 Breean Beggs Council Member Lori Kinnear Council Member Karen Stratton COUNCIL MEMBER MIKE FAGAN COUNCIL MEMBER CANDACE MUMM 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 THURSDAYS 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 entrance 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 <u>ccavanaugh@spokanecity.org</u>. 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.	Value Blanket Renewals with:	Approve All	
	a. BHS Specialty Chemical Products (Nampa, ID) for purchase of Sodium Hydroxide 50% Membrane (Caustic Soda)—not to exceed \$33,357.86 (incl. tax).		OPR 2014-0723 BID 4058-14
	 b. Eljay Oil (Spokane, WA) for Ultra Low Sulfur #2 Dyed Diesel and supporting equipment from October 1, 2016, through September 30, 2017–\$60,000. 		OPR 2014-0725 BID 4065-14
	Chuck Conklin		
2.	Contract Amendment with Helfrich Brothers Boiler Works (Lawrence, MA) for installation of Superheater pendants at the Waste to Energy Facility—\$107,468.97. Chuck Conklin	Approve	OPR 2015-0739 RFB 4161-15
3.	Contract Extensions for the Waste to Energy Facility from January 1, 2017 through December 31, 2017 with:	Approve All	
	a. Zampell Refractories Inc. (Newburyport, MA) for refractory installation and sandblasting services—\$640,000. Chuck Conklin		OPR 2015-0097 RFP 4069-14

4.

5.

6.

7.

8.

	 b. Online Cleaning Services (Marysville, CA) for boiler blast cleaning services—\$213,313.50. 		OPR 2015-0095
	c. Eastside Electric Motors, LLC, (Spokane Valley, WA) to Recondition Motors Off- site—\$48,000.		OPR 2015-0528
	d. Big Sky Industrial of Spokane for vacuum support services–\$150,000. Chuck Conklin		OPR 2015-0096 RFP 4090-14
	Loan Agreement & other documents with Basalt Rock, LLC (Spokane, WA) for rehabilitation of a house and construction of 3 additional units at 1808 East First Avenue–\$180,000 HOME funds (East Central Neighborhood). Melora Sharts	Approve	OPR 2016-0821
•	Ninety-day Contract termination notice for CAD/RMS Maintenance Contract with Northrop Grumman (McLean, VA). Justin Lundgren	Approve	OPR 2010-0535
•	Recommendation to list the Doran Building, 707 West 2nd Avenue, on the Spokane Register of Historic places. Megan Duvall	Approve & Auth. Mgmt. Agreement	OPR 2016-0867
•		Approve & Authorize Payment	CPR 2016-0002
	City Council Meeting Minutes:, 2016.	Approve All	CPR 2016-0013

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)

NO BOARDS AND COMMISSIONS APPOINTMENTS

ADMINISTRATIVE 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.

<u>Note</u>: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

LEGISLATIVE AGENDA

NO EMERGENCY BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

NO RESOLUTIONS

FINAL READING ORDINANCES

(Require <u>Four</u> Affirmative, Recorded Roll Call Votes)

- ORD C35447 (To be considered under Hearings Item H3.a.)
- ORD C35448 (To be considered under Hearings Item H3.b.)
- ORD C35449 (To be considered under Hearings Item H3.c.)

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

ORD C35450 Relating to earned sick and safe leave in the City of Spokane; amending sections 9.01.010, 9.01.020, 9.01.030, 9.01.060, 9.01.080, and 9.01.090 of the Spokane Municipal Code.

Council President Stuckart

ORD C35451 Relating to public records requests; amending SMC section 1.04A.030 and adopting a new section to chapter 17G.050 of the Spokane Municipal Code.

Mike Piccolo

ORD C35452 Regarding Roadway Naming and Addressing; amending SMC sections 17A.020.120; 17A.020.180; 17A.020.190; repealing section 17D.050; and enacting a new section 17D.050A to chapter 17D of the Spokane Municipal Code.

Tami Palmquist

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.	Hearing on possible revenue sources for the 2017 Budget. Tim Dunivant	Council Decision	FIN 2016-0001
H2.	Hearing on 2017 Proposed Budget.	Hold Hrg. & Cont. to	FIN 2016-0001
	Tim Dunivant	11/14/2016	
H3.	Comp Plan Amendment Hearings:		
	a. Final Reading Ordinance C35447 relating to application made by QueenB Radio Inc., planning file #Z1500085COMP and amending	•	ORD C35447

Com "Cen appro the gove Towr amer Singl Corri (By a	Land Use Plan Map of the City's prehensive Plan from "Open Space" to ters And Corridors Core" for oximately 1.9 acres total described as: South 150 feet of the east 600 feet of rnment lot 8, NE quarter of Section 4, nship 24 North, Range 43 east; and nding the zoning map from "Residential le Family" (RSF) to "Centers And dors Type 2 – District Center" (CC2-DC). a vote of 9 to 0, the Plan Commission mmends approval.)		
b. Final appli plann the Com to "I acres subd of 7 Subd Zonin (RMF to 0	Reading Ordinance C35448 relating to cation made by Avista Corporation, ning file #Z1500078COMP and amending Land Use Plan Map of the City's prehensive Plan from "Residential 15-30" Light Industrial" for approximately 2.78 s total described as: ross park, holes ivision lots 1-4, parts of 5 and 6, and all -12, as well as Ross Park, Wilkinson livision lots 6 and 7; and amending the ng Map from "Residential Multi-Family" 5) to "Light Industrial" (LI). (By a vote of 9 b, the Plan Commission recommends oval.)	•	ORD C35448
c. Final appli LLC, amer Com to "R for a Parce Addit 1-13, comp the Fami (RTF (By a	Reading Ordinance C35449 relating to cation made by Morningside Investments planning file #Z1500084COMP and nding the Land Use Plan Map of the City's prehensive Plan from "Residential 4-10" Residential 10-20" and "Residential 15-30" pproximately 45.5 acres described as: All els and tracts within the Windhaven First tion PUD, except Lots 1-8 Block 4, LOTS Block 5, Lots 1-5 Block 6 Which is prised of 260 Platted Lots; and amending zoning map from "Residential Single ly" (RSF) to "Residential Two Family)" and "Residential Multi-Family (RMF)". I vote of 4 to 3 with 1 abstention, the Plan mission recommends denial.) Lisa Key	•	ORD C35449

Motion to Approve Advance Agenda for November 7, 2016 (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.

<u>Note</u>: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

ADJOURNMENT

The November 7, 2016, Regular Legislative Session of the City Council is adjourned to November 14, 2016.

NOTES

SPOKANE Agenda Shee	t for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	OPR 2014-0723
		Renews #	
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFB#4058-14
Agenda Item Type	Purchase w/o Contract	Requisition #	VALUE BLANKET
Agenda Item Name	4490-VALUE BLANKET PURCHASE OF SODIUM HYDROXIDE 50% MEMBRANE		
Agenda Wording			

Renewal of Value Blanket with BHS Specialty Chemical Products (Nampa, ID) for purchase of Sodium Hydroxide 50% Membrane (Caustic Soda). Not to exceed \$33,357.86, tax included.

Summary (Background)

Sodium Hydroxide is required for the operation of the waste to energy facility. On October 6, 2014, four sealed bids were received for purchase of Sodium Hydroxide 50%. BHS Specialty was the lowest cost bidder. Sodium Hydroxide 50% Membrane (Caustic Soda) is used to regenerate the resin beds in the demineralization process. It is one of the chemicals used to further purify the City water for use in the boilers.

Fiscal Impact		Budget Account	
Expense \$ 33,357.86		# 4490-44100-37148-	53203
Select \$		#	
Select \$		#	
Select \$		#	
Approvals		Council Notificat	tions
Dept Head	CONKLIN, CHUCK	Study Session	PWC 10/24/16
Division Director	SIMMONS, SCOTT M.	<u>Other</u>	
Finance	ICE KECK, KATHLEEN Distribution List		
Legal	WHALEY, HUNT	ttauscher@spokanecit	y.org
For the Mayor	DUNIVANT, TIMOTHY	kkeck@spokanecity.or	g
Additional Appro	ovals	tprince@spokanecity.c	org
Purchasing	PRINCE, THEA	jsalstrom@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

While BHS Specialty was able to maintain their original pricing through 2016, the price for 2017 reflects a 24% increase due to price increase from their suppliers. The original bid was for 1 year, with 4 additional 1-year renewals. This is the 2nd of those renewals.

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

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24, 2016

<u>Subject</u>

Renewal of Value Blanket with BHS Specialty Chemical Products (Nampa, ID) for purchase of Sodium Hydroxide 50% Membrane (Caustic Soda). Not to exceed \$33,357.86, tax included.

Background

Sodium Hydroxide is required for the operation of the waste to energy facility. On October 6, 2014, four sealed bids were received for purchase of Sodium Hydroxide 50%. BHS Specialty was the lowest cost bidder.

While BHS Specialty was able to maintain their original pricing through 2016, the price for 2017 reflects a 24% increase due to price increases from their suppliers.

<u>Impact</u>

This purchase will allow for the continued uninterrupted operation of the WTE.

<u>Action</u>

Recommend approval.

Funding

Funding is included in the 2017 operations budget.

SPOKANE Agenda Sheet	t for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	OPR 2014-0725
		Renews #	
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK CONKLIN 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	BID #4065-14
Agenda Item Type	Requisition #	VB	
Agenda Item Name 4490-RENEWAL OF VB FOR ULTRA LOW		V SULFUR #2 DYED D	IESEL FOR WASTE
	TO ENERGY		

Agenda Wording

Renewal of Value Blanket with Eljay Oil (Spokane, WA) for Ultra Low Sulfur #2 Dyed Diesel and supporting equipment for October 1, 2016, through September 30, 2017. \$60,000.00

Summary (Background)

On October 20, 2014, sealed bids were received to provide the Waste to Energy facility with Ultra Low Sulfur #2 Dyed Diesel and supporting equipment. City Council approved the award of this value blanket on November 3, 2014. The bid called for 4 one-year renewals. This is the 2nd of those renewals. Eljay Oil will extend the firm pricing with no increase over the 2016 price.

Fiscal In	Fiscal Impact		Budget Account	
Expense	Expense \$ 60,000.00		# 4490-44100-37148-53303	
Select	\$		#	
Select	\$		#	
Select	\$		#	
Approva	ls		Council Notification	<u>S</u>
Dept Head	<u>d</u>	CONKLIN, CHUCK	Study Session	PWC 9/12/16
Division D	Director	SIMMONS, SCOTT M.	DNS, SCOTT M. Other	
Finance		KECK, KATHLEEN	Distribution List	
Legal		WHALEY, HUNT	ttauscher@spokanecity.or	g
For the M	ayor	DUNIVANT, TIMOTHY	kkeck@spokanecity.org	
Addition	al Approvals		tprince@spokanecity.org	
Purchasir	ng	PRINCE, THEA		

BRIEFING PAPER Public Works Committee Solid Waste Disposal September 12, 2016

Subject:

Renewal of Value Blanket with Eljay Oil Co., Inc., for purchase of Ultra Low Sulfur #2 Dyed Diesel and Supporting Equipment for October 1, 2016 through September 30, 2017. Cost not to exceed \$60,000.00

Background:

#2 Diesel is required for operation of the waste to energy facility

Eljay Oil Co., Inc., was determined to be the lowest respondent to Request for Bids #4065-14, opened on October 20, 2014. A Value Blanket was approved by Council on November 3, 2014. Eljay Oil Co. will extend the firm pricing with no increase over the 2016 price.

The original Request for Bids allowed for a one year term, with 4 one-year renewals. This is the second of those renewals.

Impact:

Approval of the Value Blanket Renewal will allow for uninterrupted operations of the waste to energy facility.

Action:

Recommend approval.

Funding:

Funding for this Value Blanket is included in the 2017 waste to energy operations budget.

SPOKANE Agenda Sheet	for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	OPR 2015-0739
		Renews #	
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFB#4161-15
<u>Agenda Item Type</u>	Contract Item	Requisition #	CR 17355
Agenda Item Name	4490-AMENDMENT TO CONTRACT FOR SUPERHEATER INSTALLATION		
Agenda Wording			

Amendment to Contract with Helfrich Brothers Boiler Works of Lawrence, MA, for Installation of Superheater pendants at the WTE. \$107,468.97

Summary (Background)

During routine outages, tubes are tested to find thin spots, which are cut out and replaced. The more the tubes wear, the greater the chance of boiler failure, additional negative impact to related pieces of equipment, and increased risk of unsafe working conditions. Additionally, there is a financial point when costs to replace sections are more than the pendant replacement. After 3 years of use, the pendants have reached that point and need to be replaced.

Fiscal Impact			Budget Account	
Expense	\$ 107,468.97		# 4490-44100-37148-54201	
Select	\$		#	
Select	\$		#	
Select	\$		#	
Approva	ls		Council Notification	<u>s</u>
Dept Hea	d	CONKLIN, CHUCK	Study Session	PWC 10/24/16
Division Director SIMMONS, SCOTT M.		SIMMONS, SCOTT M.	<u>Other</u>	
Finance		KECK, KATHLEEN	Distribution List	
Legal		WHALEY, HUNT	ttauscher@spokanecity.or	g
For the N	layor	DUNIVANT, TIMOTHY	kkeck@spokanecity.org	
Addition	al Approvals		tprince@spokanecity.org	
Purchasi	ng	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Three bids were received in response to RFB#4161-15, of which Helfrich Brothers Boiler Works was the lowest bidder. During the installation of the Superheater Pendants in boiler #1, unforeseen boilermaker work was discovered which was outside the original scope. This amendment is to cover that additional work. The newly installed superheaters will reduce costs during future outages and increase reliability of the boilers.

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

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24, 2016

<u>Subject</u>

Amendment to Contract with Helfrich Brothers Boiler Works of Lawrence, MA, for Installation of Superheater pendants at the WTE. \$107,468.97

Background

During routine outages, tubes are tested to find thin spots, which are cut out and replaced. The more the tubes wear, the greater the chance of boiler failure, additional negative impact to related pieces of equipment, and increased risk of unsafe working conditions. Additionally, there is a financial point when costs to replace sections are more than the pendant replacement. After 3 years of use, the pendants have reached that point and need to be replaced.

Three bids were received in response to RFB#4161-15, of which Helfrich Brothers Boiler Works was the lowest bidder.

During the installation of the Superheater Pendants in boiler #1, unforeseen boilermaker work was discovered which was outside the original scope.

<u>Impact</u>

The newly installed Superheaters will reduce costs during future outages and increase reliability of the boilers.

<u>Action</u>

Recommend approval of this amendment.

Funding

Funding for this amendment is included in the 2016 maintenance budget for the WTE.

City Clerk's No. OPR 2015-0739



City of Spokane

CONTRACT AMENDMENT

Title: INSTALLATION OF SUPERHEATER PENDANTS AT THE CITY'S WTE FACILITY

This Contract Amendment is made and entered into by and between the **City** of **Spokane** as ("City"), a Washington municipal corporation, **HELFRICH BROTHERS BOILER WORKS, INC.**, whose address is 39 Merrimack Street, Lawrence, MA 01843, as ("Contractor").

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide for the City INSTALLATION OF SUPERHEATER PENDANTS AT THE CITY'S WASTE TO ENERGY (WTE) FACILITY; and

WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The Contract, dated February 20, 2016, any previous amendments, addendums 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 on May 1, 2016.

3. COMPENSATION.

The City shall pay an additional amount not to exceed **ONE HUNDRED SEVEN THOUSAND FOUR HUNDRED SIXTY EIGHT AND 97/100 DOLLARS (\$107,468.97)**, for everything furnished and done under this Contract Amendment. IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Amendment by having legally-binding representatives affix their signatures below.

HELFRICH BROTHERS BOILER WORKS, INC. CITY OF SPOKANE

By		Ву		
Signature	Date	Signature	Date	
Type or Print Name		Type or Print Nar	ne	
Title		Title		
Attest:		Approved as to fo	orm:	
City Clerk		Assistant City Att	orney	

Attachments that are part of this Contract Amendment:

16-169

SPOKANE Agenda Sheet	t for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016	11/07/2016		OPR 2015-0097
		Renews #	
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	ct Name/Phone CHUCK 625-6524		
<u>Contact E-Mail</u>	CCONKLIN@SPOKANECITY.ORG		RFP#4069-14
<u>Agenda Item Type</u>	em Type Contract Item		
<u>Agenda Item Name</u>	4490-EXTENSION OF CONTRACT FOR REFRACTORY INSTALLATION		
Agenda Wording			

Extension of contract with Zampell Refractories, Inc., Newburyport, MA, for refractory installation and sandblasting services at the Waste to Energy Facility to December 31, 2017. \$640,000.00

Summary (Background)

During scheduled maintenance outages, sandblasting of tube areas in boilers, convection cavity, and superheater tubes, screen tubes, and generator tubes is needed. Also, refractory demolition, tile installation, and miscellaneous anchor welding must be performed. The term of the original contract was through 2015 with 4 additional one-year extensions. This is the second of those extensions

Fiscal Impact		Budget Account		
Expense	\$ 640,000.00		# 4490-44100-37148-54803	
Select	\$		#	
Select	\$		#	
Select			#	
Approvals			Council Notification	1 <u>S</u>
Dept Head	<u>d</u>	CONKLIN, CHUCK	Study Session	PWC 10/24/16
Division	Director	SIMMONS, SCOTT M.	<u>Other</u>	
Finance KECK, KATHLEEN		Distribution List		
Legal		WHALEY, HUNT	ttauscher@spokanecity.org	
For the Ma	<u>ayor</u>	DUNIVANT, TIMOTHY	kkeck@spokanecity.org	
Addition	al Approvals		tprince@spokanecity.org	
Purchasing PRINCE, THEA		PRINCE, THEA	jsalstrom@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Sandblasting services and removal and replacement of refractory material is essential to keep the boilers in good working order for the continued operation of the waste to energy facility. Failure of any of these items could result in a plant shutdown. The vendor has agreed to extend the contract with no changes to the price for materials, however labor rates will change in accordance with the changes in the Washington State prevailing wage rate schedule.

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

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24, 2016

<u>Subject</u>

Extension of contract with Zampell Refractories, Inc., Newburyport, MA, for refractory installation and sandblasting services at the Waste to Energy Facility to December 31, 2017. \$640,000.00

Background

During scheduled maintenance outages, sandblasting of tube areas in boilers, convection cavity, and superheater tubes, screen tubes, and generator tubes is needed. Also, refractory demolition, tile installation, and miscellaneous anchor welding must be performed.

Zampell Refractories, Inc., was the most qualified and lowest cost proposer responding to RFP #4069-14.

The vendor has agreed to extend the contract with no changes to the price for materials, however labor rates will change in accordance with the changes in the Washington State prevailing wage rate schedule.

The term of the original contract was through 2015 with 4 additional one-year extensions. This is the second of those extensions.

<u>Impact</u>

Sandblasting services and removal and replacement of refractory material is essential to keep the boilers in good working order for the continued operation of the waste to energy facility. Failure of any of these items could result in a plant shutdown.

<u>Action</u>

Approval of this extension is recommended.

Funding

Funding for the extension is included in the 2017 operation and maintenance budget

City Clerk's No. OPR 2015-0097



City of Spokane

CONTRACT EXTENSION 2 of 4

Title: REFRACTORY INSTALLATION AND SANDBLASTING SERVICES

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **ZAMPELL REFRACTORIES, INC.,** whose address is 3 Stanley Tucker Drive, Newburyport, Massachusetts 01950-4017, as ("Contractor").

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide for the City REFRACTORY INSTALLATION AND SANDBLASTING SERVICES AT THE CITY'S WASTE TO ENERGY FACILITY; and

WHEREAS, the initial contract provided for 4 additional one-year extensions, with this being the 2nd of those extensions.

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The Contract, dated April 6, 2015, and April 21, 2015, any previous amendments, addendums 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 Extension shall become effective on January 1, 2017.

3. EXTENSION.

The contract documents are hereby extended and shall run through December 31, 2017.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **SIX HUNDRED FORTY THOUSAND AND NO/100 DOLLARS** (**\$640,000.00**) for everything furnished and done under this Contract Extension. IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Extension by having legally-binding representatives affix their signatures below.

ZAMPELL REFRACTORIES, INC.	CITY OF SPOKANE		
By Signature Date	By Signature Date		
olghalaro Dalo	olghalaio Dalo		
Type or Print Name	Type or Print Name		
Title	Title		
Attest:	Approved as to form:		
City Clerk	Assistant City Attorney		
Attackments that are nort of this Contract Ev	· · · · · · · · · · · · · · · · · · ·		

Attachments that are part of this Contract Extension:

16-167

SPOKANE Agenda Sheet	for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016	11/07/2016		OPR 2015-0095
		Renews #	
Submitting Dept	tting Dept SOLID WASTE DISPOSAL		
Contact Name/Phone	ct Name/Phone CHUCK 625-6524		
<u>Contact E-Mail</u>	CCONKLIN@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR 17354
Agenda Item Name	4490-EXTENSION TO CONTRACT FOR BOILER BLAST CLEANING AT WASTE TO		
Agenda Wording			

Extension of contract with Online Cleaning Services, of Marysville, CA, for boiler blast cleaning services at the Waste to Energy Facility, through December 31, 2017. \$213,313.50.

Summary (Background)

Prior to maintenance outages blasting is done in the boilers to facilitate more efficient cleaning and repairs during the outages. Additional on-line blast cleaning may be required for the boilers or the expeller drop chute. Three responses to RFP #4062-14 were received on October 20, 2014. Online Cleaning Services was determined to be the most qualified and lowest cost proposer. The original contract was through 2015 with 4 additional one-year extensions. This is the second of those extensions.

Fiscal Impact		Budget Account		
Expense \$ 213,313.50		# 4490-44100-37148-54201		
Select \$		#		
Select \$		#		
Select \$		#		
Approvals		Council Notification	<u>15</u>	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 10/24/16	
Division Director	SIMMONS, SCOTT M.	<u>Other</u>		
Finance KECK, KATHLEEN		Distribution List		
Legal	WHALEY, HUNT	ttauscher@spokanecity.org		
For the Mayor	DUNIVANT, TIMOTHY	THY kkeck@spokanecity.org		
Additional Approvals	5	tprince@spokanecity.org		
Purchasing				

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24 2016

<u>Subject</u>

Extension of contract with Online Cleaning Services, of Marysville, CA, for boiler blast cleaning services at the Waste to Energy Facility, through December 31, 2017. \$213,313.50.

Background

Prior to maintenance outages blasting is done in the boilers to facilitate more efficient cleaning and repairs during the outages. Additional on-line blast cleaning may be required for the boilers or the expeller drop chute.

These blastings involve the use of explosives which can only be used by specially trained personnel. To secure these services an RFP was issued. Three responses to RFP #4062-14 were received on October 20, 2014; Precision Blasting, Inc. of Flatwoods, KY; Blasting Solutions, Inc. of Syracuse, UT, and Online Cleaning Services, of Marysville, CA. After review of the proposals Online Cleaning Services was determined to be the most qualified and lowest cost proposer.

The term of the original contract was through 2015 with 4 additional one-year extensions. This is the second of those extensions.

<u>Impact</u>

Blasting prior to a maintenance outage allows for more efficient cleaning and inspection of the boilers during the outage. This allows for easier identification of areas needing repair, more efficient repairs, and consequently more efficient operation.

<u>Action</u>

Recommend approval of this extension.

Funding

Funding for the extension is included in the 2017 operation and maintenance budget for the WTE.

City Clerk's No. OPR 2015-0095



City of Spokane

CONTRACT EXTENSION 2 of 4

Title: BOILER BLAST CLEANING SERVICES

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **ONLINE CLEANING SERVICES**, whose address is 2689 Highway 20, Marysville, California 95901, as ("Contractor").

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide for the City BOILER BLAST CLEANING SERVICES AT THE CITY'S WASTE TO ENERGY FACILITY; and

WHEREAS, the initial contract provided for 4 additional one-year extensions, with this being the 2nd of those extensions;

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The Contract, dated March 30, 2015, and July 3, 2015, any previous amendments, addendums 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 Extension shall become effective on January 1, 2017.

3. EXTENSION.

The contract documents are hereby extended and shall run through December 31, 2017.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **TWO HUNDRED THIRTEEN THOUSAND THREE HUNDRED THIRTEEN AND 50/100 DOLLARS** (\$213,313.50) for everything furnished and done under this Contract Extension.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Extension by having legally-binding representatives affix their signatures below.

ONLINE CLEANING SERVICES	CITY OF SPOKANE	
By Signature Date	By Signature	Date
olghalure Dale	Signature	Date
Type or Print Name	Type or Print Name	
Title	Title	
Attest:	Approved as to form:	
City Clerk	Assistant City Attorney	

Attachments that are part of this Contract Extension:

16-166

SPOKANE Agenda Shee	t for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	OPR 2015-0528
		Renews #	
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
<u>Contact E-Mail</u>	CCONKLIN@SPOKANECITY.ORG	Bid #	
<u>Agenda Item Type</u>	Contract Item	Requisition #	
Agenda Item Name	4490-EXTENSION OF CONTRACT FOR OFF-SITE MOTOR RECONDITIONING		
Agenda Wording			

Extension of contract with Eastside Electric Motors, LLC, of Spokane Valley, to Recondition Motors Off-site for the Waste to Energy. January 1 through December 31, 2017. \$48,000.00

Summary (Background)

Reconditioning of the various motors used at the WTE extends the life and allows them to be fully utilized. An Informal Request for Bids WTE-11 was issued for reconditioning of motors off-site. Eastside Electric Motors, LLC, was the lowest cost bidder.

Fiscal Impact		Budget Account			
Expense	\$ 48,000.00		# 4490-44100-37148-54803		
Select	\$		#		
Select	\$		#		
Select	\$		#		
Approva	al <u>s</u>		Council Notification	S	
Dept Hea	ld	CONKLIN, CHUCK	Study Session PWC 10/24/16		
Division	Division Director SIMMONS, SCOTT M.		Other		
Finance KECK, KATHLEEN		Distribution List			
Legal		WHALEY, HUNT	ttauscher@spokanecity.org		
For the N	For the Mayor DUNIVANT, TIMOTHY		kkeck@spokanecity.org		
Addition	nal Approvals		tprince@spokanecity.org		
Purchasing					



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The initial contract was for 1 year, and allowed for four 1-year extensions. This is the 2nd of those extensions. The original contract was \$44,000, and the first extension was \$48,000. This 2nd extension of \$48,000 will bring the total contract amount above the maximum allowed under the minor contract guidelines, so must be reviewed and approved by City Council.

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

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24, 2016

<u>Subject</u>

Extension of contract with Eastside Electric Motors, LLC, of Spokane Valley, to Recondition Motors Off-site for the Waste to Energy. January 1 through December 31, 2017. \$48,000.00

Background

The WTE Facility uses various motors throughout the plant. Reconditioning of these motors extends the life and allows them to be fully utilized. An Informal Request for Bids WTE-11 was issued for reconditioning of motors off-site for the WTE. Eastside Electric Motors, LLC, was the lowest cost bidder.

The initial contract was for 1 year, and allowed for four 1-year extensions. This is the 2nd of those extensions. The original contract was \$44,000, and the first extension was \$48,000. This 2nd extension of \$48,000 will bring the total contract amount above the maximum allowed under the minor contract guidelines, so must be reviewed and approved by City Council.

Impact

Reconditioning these motors extends their life and allows the WTE to continue uninterrupted operations at a lower cost than replacing the motors.

Action

Recommend approval.

Funding

Funding is included in the 2017 maintenance budget for the WTE.

City Clerk's No.



City of Spokane

CONTRACT EXTENSION #2 OF 4 WITH COST

Title: RECONDITION MOTORS OFF-SITE

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **EASTSIDE ELECTRIC MOTORS**, **LLC.**, whose address is 3712 North Flora Road, Spokane Valley, Washington 99216 as ("Contractor").

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide for the City RECONDITION MOTORS OFF-SITE FOR THE WASTE TO ENERGY FACILITY, in accordance with the Contractor's quote; and

WHEREAS, the original Contract allowed for four (4) additional one-year Contract Extensions, subject to mutual agreement, and thus the Contract time for performance needs to be formally extended by this written document.

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The Contract, dated May 1, 2015 and May 26, 2015, any previous amendments, addendums 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 Extension shall become effective on January 1, 2017.

3. EXTENSION.

The contract documents are hereby extended and shall run through December 31, 2017.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **FORTY EIGHT THOUSAND AND N0/100 DOLLARS (\$48,000)** for everything furnished and done under this Contract Extension.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Extension by having legally-binding representatives affix their signatures below.

CONTRACTOR

CITY OF SPOKANE

By		
Signature	Date	

By____ Signature

Date

Type or Print Name

Type or Print Name

Title

Approved as to form: Assistant City Attorney

Attest:

City Clerk

Attachments that are part of this Contract Extension:

N/A

U2016-108

SPOKANE Agenda Sheet	t for City Council Meeting of:	Date Rec'd	10/25/2016	
11/07/2016		Clerk's File #	OPR 2015-0096	
		Renews #		
Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #		
Contact Name/Phone	CHUCK CONKLIN 625-6524	Project #		
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFP#4090-14	
<u>Agenda Item Type</u>	Contract Item	Requisition #		
Agenda Item Name	4490 - EXTENSION OF CONTRACT FOR VACUUM SUPPORT SERVICES			

Agenda Wording

Extension of Contract with Big Sky Industrial of Spokane for vacuum support services at the WTE Facility for January 1 through December 31, 2017. \$150,000.00.

Summary (Background)

During maintenance outages at the WTE Facility sandblasting material is used throughout the boiler. Vacuum support services are needed for vacuuming sandblast sand and cleanup of various levels after sandblasting is complete. Also required is the vacuuming of sump and water jet transfer line in the ash house and vacuuming of carbon room and overflow areas, as well as water wash of air cooled condensers. All work must be done with no vacuum exhaust being released outside the building.

Fiscal Impact		Budget Account			
Expense	\$ 150,000.00		# 4490-44100-37148-54803		
Select	elect \$		#		
Select	ct \$		#		
Select	\$		#		
Approvals		Council Notifications			
Dept Hea	<u>d</u>	CONKLIN, CHUCK	Study Session	PWC 10/24/16	
Division	Director	SIMMONS, SCOTT M.	<u>Other</u>		
Finance		KECK, KATHLEEN	Distribution List		
Legal		WHALEY, HUNT	ttauscher@spokanecity.org		
For the M	ayor	DUNIVANT, TIMOTHY	tprince@spokanecity.org		
Additional Approvals		kkeck@spokanecity.org			
Purchasi	ng	PRINCE, THEA			

BRIEFING PAPER Public Works Committee Solid Waste Disposal October 24, 2016

<u>Subject</u>

Extension of Contract with Big Sky Industrial of Spokane for vacuum support services at the WTE Facility for January 1 through December 31, 2017. \$150,000.00.

Background

During maintenance outages at the WTE Facility sandblasting material is used throughout the boiler depending on work being performed. Vacuum support services are needed for vacuuming sandblast sand and cleanup of various levels after sandblasting is complete.

Also required is the vacuuming of sump and water jet transfer line in the ash house and vacuuming of carbon room and overflow areas, as well as water wash of air cooled condensers. All work must be done with no vacuum exhaust being released outside the building. All vacuum materials will be disposed on site at the waste to energy facility.

The original contract was for one year, with 4 additional one-year extensions. This is the second of those extensions.

<u>Impact</u>

The sandblasting of the boilers and other outage related cleaning produces sand, ash, and other materials that must be collected and disposed of for employee safety and environmental protection. This contract allows this work to be done in a safe and environmentally conscious manner.

<u>Action</u>

Recommend approval of this extension.

Funding

Funding is included in the 2017 operation and maintenance budget for the WTE Facility.

City Clerk's No. _OPR 2015-0096

C I T Y O F SPOKANE

City of Spokane

CONTRACT EXTENSION 2 of 4

Title: VACUUM SUPPORT SERVICES FOR CITY'S WTE

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, **BIG SKY INDUSTRIAL**, whose address is 9711 West Euclid Avenue, Spokane, Washington 99224, as ("Contractor").

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide for the City VACUUM SUPPORT SERVICES FOR VACUUMING SANDBLAST SAND WATER, WASH AIR COOLED CONDENSERS, VACUUM SUMP AND WATER JET TRANSFER LINES, AND VACUUM CARBON ROOM AND OVERFLOW AREAS AT THE CITY'S WASTE TO ENERGY FACILITY; and

WHEREAS, the initial contract provided for 4 additional one-year extensions, with this being the 2^{nd} of those extensions.

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The original Contract, dated March 5, 2015, and March 18, 2015, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written full and shall remain in full force and effect except provided in as herein.

2. EFFECTIVE DATE.

This Contract Extension shall become effective on January 1, 2017.

3. EXTENSION.

The contract documents are hereby extended and shall run through December 31, 2017.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00)**, for everything furnished and done under this Contract Extension.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Extension by having legally-binding representatives affix their signatures below.

BIG SKY INDUSTRIAL	CITY OF SPOKANE
By	
By Signature Date	Signature Date
Type or Print Name	Type or Print Name
Title	 Title
Attest:	Approved as to form:
 City Clerk	Assistant City Attorney

16-168

SPOKANE Agenda Sheet	Agenda Sheet for City Council Meeting of:		10/24/2016
11/07/2016		Clerk's File #	OPR 2016-0821
		Renews #	
Submitting Dept	HOUSING & HUMAN SERVICES	Cross Ref #	2016-0530
<u>Contact Name/Phone</u>	M SHARTS X6840	Project #	
Contact E-Mail	MSHARTS@SPOKANECITY.ORG	Bid #	
<u>Agenda Item Type</u>	Contract Item	Requisition #	
<u>Agenda Item Name</u>	1680 BASALT ROCK, LLC - 1808 E FIRST 4-PLEX		
	·		

Agenda Wording

Loan Agreement & other documents with Basalt Rock, LLC (Spokane) for rehabilitation of a house and construction of 3 additional units at 1808 East First Avenue - \$180,000 HOME funds (East Central neighborhood)

Summary (Background)

The City receives HOME grants from HUD for rental housing affordable to low-income households. The loan agreement requires 2 2-bedroom units benefit households at or below 30% of area median income (AMI) & 2 units (2-bdrm, 3-bdrm) benefit households at or below 50% AMI for at least 20 years. A \$17,500 loan at 3% interest will be paid over 20 years & a \$162,500 loan is potentially forgivable. Other financing is from a bank and the Vasilenkos, the members of the LLC. Lot was City surplus 2012-0068

Fiscal I	mpact		Budget Account	
Expense \$ 180,000.00		# 1710-95845-51010-54201-99999 HOME		
		HOME		
Select \$		#		
Select \$		#		
Select	\$		#	
Approva	al <u>s</u>		Council Notification	S
Dept Hea	<u>ld</u>	KINDER, DAWN	Study Session	CHE 5/2/16
Division	Director	MALLAHAN, JONATHAN	Other	
Finance KECK, KATHLEEN Distribution List				
Legal		WHALEY, HUNT	kkeck, sscheidegger, mdoval, sstopher, cbrown,	
For the N	layor	DUNIVANT, TIMOTHY	nbond, kkeenan, dkinder, msharts	
Additional Approvals		2306115@gmail.com		
Purchasi	ing			

PROPOSED BUDGET

BASALT ROCK, LLC VASILENKO 1808 EAST FIRST AVENUE

New Building	187,100	Owner	40,215
New Building Contingency	19,920	Potential permanent loan	100,000
Rehabilitation 85,380			
Rehabilitation Contingency	9,190	City HOME funds	180,000
Sales tax	18,625		
	220 215	TOTAL	220 215
TOTAL	320,215	TOTAL	320,215

Rehabilitation and updating of vacant single family residence and construction of 3 additional 2-bedroom townhouse-style units. The property is currently owned by the City. Work on the house is expected to include foundation repairs, new siding, roof, windows, electrical, plumbing, floors, insulation, appliances, rain gutters, and porches. Work will also include a new staircase to the second floor, addition of a second bathroom, replacement of the kitchen cabinets, and removal of the fireplace. Water and sewer lines may need to be replaced. The three new units will be behind the house. The project may include paving the alley, if required by the Building Department.

The completed house is expected to have about 1,824 sf and the new 3-bedroom and 2-bedroom units will have about 1,000.

HOME funds may be used for architectural and engineering and other professional series costs incurred within 24 months before commitment.

Owner may finance a portion of construction with a line of credit and refinance with a permanent loan, as long as the owner equity requirement is met.

OPR #2016-____

CITY OF SPOKANE BASALT ROCK, LLC

1808 EAST 1st AVENUE

HOME PROGRAM LOAN AGREEMENT

This HOME Program Loan Agreement (the "Loan Agreement") is made effective _____2016 ("Effective Date"), by and between the this ___ day of City of Spokane, Washington, a Washington municipal corporation (the "City"), whose address is City of Spokane, c/o Community, Housing and Human Services Department (the "Department"), 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, and Basalt Rock, LLC, a Washington limited liability company (the "Borrower"), whose address is 14 East Mission Avenue, #3, Spokane, WA 99202. Borrower and City are together referenced as the "Parties". This Loan Agreement is part of a transaction further reflected in two Promissory Notes ("Note 1" and "Note 2", or, collectively, the "Notes") and a HOME Program Loan Covenant Agreement ("Covenant Agreement"). The City's disbursements under the Loan Agreement are further secured by a Deed of Trust of even date herewith ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents." The capitalized terms in said documents shall have the same meaning in this Loan Agreement unless the context clearly suggests otherwise. In the event of conflict in the terms of any of these documents, the terms most favorable to the City shall apply.

WITNESSETH: The Parties hereby agree to diligently fulfill the following duties and to perform the following services in accordance with all of the conditions, terms, and requirements of this Loan Agreement.

I. <u>PURPOSE</u>

- A. The purpose of this Loan Agreement is to expand the supply of decent, safe, sanitary, and affordable housing for very low-income households pursuant to the HOME Investment Partnerships Program (24 CFR part 92 et seq., CFDA #14.239) ("HOME").
- B. To accomplish the purpose of this Loan Agreement, the City shall provide a portion of the financing for the Borrower's 1808 East First Avenue project, which includes the rehabilitation of a house and construction of 3 units at 1808 East First Avenue in Spokane, WA (the "Project"). The legal description of the Project is:

LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

Assessor's Parcel Number: 35212.1003 Property Address: 1808 East 1st Avenue, Spokane, WA 99202

The Project includes four (4) HOME-assisted units, including three twobedroom units and one three-bedroom unit. Borrower shall provide the City with the address (e.g., street address and apartment number) of each HOMEassisted unit no later than the time of initial occupancy.

C. The Project is expected to conform to the estimates noted in the Project Budget, attached hereto as "Attachment 1" and incorporated herein. All additional costs over and above the sum noted as compensation for this Loan Agreement shall be borne by the Borrower.

II. DURATION OF THE LOAN AGREEMENT

This Loan Agreement shall commence and be effective on the Effective Date and shall terminate on the later of the end of the HOME Affordability Period or full repayment and/or forgiveness of sums due under the Notes. The City and Borrower, upon mutual agreement, shall have the power to extend the term of this Loan Agreement. Any extension shall not increase the overall dollar amount loaned by the City pursuant to this Loan Agreement.

III. AMOUNT OF LOAN

The City shall loan the Borrower a sum not to exceed **ONE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$180,000.00)** from HOME funds, to be disbursed as provided herein, subject to the terms and conditions of this Loan Agreement and Related Documents.

IV. PRICING

This loan is subject to interest on the outstanding principal balance loaned at the rate of three percent (3%) per annum, such interest commencing on the time of disbursement(s) and compounding monthly or during the loan term. Payments shall be made pursuant to the Notes and Section XV herein below. If rents for any HOMEassisted in the Project are increased above the level of the Affordability Requirements defined in this Loan Agreement or any other provisions, covenants, terms, conditions or restrictions of this Loan Agreement are not adhered to, then the rate on the outstanding balance shall be increased to the prevailing prime lending rate as published in <u>The Wall Street Journal</u>, plus three percent (3%) for the remaining term of the loan, compounded monthly, and may be subject to accelerated repayment pursuant to XV.B. herein below.

DRAFT V. <u>SECURITY/SUPPORT</u>

- A. Borrower shall assure and maintain the City's security position on the underlying real estate as evidenced by the Deed of Trust, which will be subordinate only to a deed of trust from a bank. The sum of all loans against the Project, including the City's, cannot exceed ninety percent (90%) of the lesser of appraised value or estimated value upon completion, or cost.
- B. The Affordability Requirement outlined in this Loan Agreement shall be recorded as a *covenant running with the Project*, and shall apply without regard to the term of any loan or mortgage or transfer of ownership.
- C. Borrower shall keep in force, continuously, insurance covering the Project and property legally described above, listing the City of Spokane as policy beneficiary, pursuant to Section IX of this Loan Agreement.

VI. <u>FUNDING DISBURSEMENTS</u>

- A. The timing and disbursement of HOME funds shall be determined by the City in its sole discretion, consistent with the provisions of this Loan Agreement. Without limiting the forgoing, funding disbursements are subject to the following conditions:
 - 1. City HOME funds shall be disbursed only after completion of all requirements imposed by the United States Department of Housing and Urban Development ("HUD"), as determined by the City in its sole discretion, and upon completion of an environmental review by the City.
 - 2. All funds lent under this Agreement must be utilized by October 31, 2017.
 - 3. Borrower may not request disbursement of funds until needed for payment of eligible project costs, as defined by 24 CFR §92.206 and as further defined in the Program Description of the City's Multifamily Housing Program, and the amount of each request must be limited to the amount needed. Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups may be reimbursed if they were incurred not more than 24 months before the date of this Loan Agreement. In case of a dispute between the Parties regarding when the funds shall be disbursed, the determination of the Director of the Department of Community, Housing, and Human Services of the City of Spokane ("Director") shall govern.
- B. Notwithstanding any other provision of this Loan Agreement, except as approved by the City, prior to the drawdown or disbursement of any City HOME funds hereunder, the Borrower shall provide documentation, in a form reasonably acceptable to the City, that the following actions have been taken to the City's satisfaction:

- 1. Recording of the Covenant Agreement and Deed of Trust.
- 2. The Borrower has in place all applicable construction, land use, environmental, zoning permits and/or other federal, state and local governmental approvals as necessary for undertaking the activity for which the specific draw request is to be used.
- 3. For projects including acquisition of land and/or buildings, an appropriate assessment of fair market value must be reviewed and approved by the City.
- 4. Notwithstanding any provision in this Loan Agreement, the Borrower and the City hereto agree and acknowledge that Borrower shall not be entitled to any drawdown or disbursement of funds until satisfactory completion of environmental review and receipt by the City of a release of funds from the U.S. Department of Housing and Urban Development ("HUD") under 24 CFR Part 58. The Borrower and the City further agree that the provision of any funds to the Project shall be conditioned upon the City's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review. The Borrower shall not spend any funds on physical or choice-limiting actions, including property acquisitions, demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental clearance as described herein. Violation of this provision may result in the denial of any funds under this Loan Agreement. The Borrower shall perform all the required mitigation measures referenced in the environmental review record completed by the Citv.
- 5. As applicable, the Borrower shall demonstrate, to the City's satisfaction, full compliance with the minimum wage requirements set forth in Section XVIII herein below.
- D. Notwithstanding the foregoing, a retainage of ten percent (10%) of the total amount allocated under this Loan Agreement shall be held by the City until all permits have been received, final inspections are complete, a final Certificate of Occupancy is issued, the Borrower accepts the work, federal requirements are fully satisfied, and all other obligations under this Loan Agreement or related agreements are carried out to the satisfaction of the Director.

VII. INCOME DETERMINATIONS

- A. For purposes of this Loan Agreement, tenant "annual income" is defined pursuant to 24 CFR §92.203, and includes income from all persons in the household, less income adjustments pursuant to 24 CFR §5.611. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.
- B. Initial tenant annual income determinations shall be made by the Borrower pursuant to 24 CFR §92.203. Subsequent tenant income determinations shall be made by the Borrower pursuant to 24 CFR §92.203 and 24 CFR §92.252(h).

C. Rent increases and annual income recertifications shall be governed by the terms outlined in the Affordability Requirements.

VIII. AFFORDABILITY REQUIREMENTS

- A. <u>HOME Affordability Period</u>. The HOME Affordability Period, established pursuant to 24 CFR §92.252, is twenty (20) years, beginning after Project Completion, as determined by the Director. "Project Completion" means that all necessary title transfer requirements and construction work have been performed; the Project complies with the requirements of 24 CFR §92, including the property standards under 24 CFR §92.251; the final drawdown of HOME funds has been disbursed for the Project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of §92.502(d), project completion occurs upon completion of construction and before occupancy. Repayment of the loan during the HOME Affordability Period will not extinguish the requirements of the Related Documents.
- B. <u>City Affordability Period</u>. The City Affordability Period is thirty (30) years, beginning after Project Completion, as determined by the Director. The HOME Affordability Period and City Affordability Period shall run concurrently. Collectively, the two periods are hereinafter referred to as the "Affordability Period." Upon expiration of the HOME Affordability Period, the City Affordability Period shall continue, but HUD will no longer monitor compliance with Affordability Requirements, unless the City Affordability Period is coterminous with the HOME Affordability Period. The requirements of the Affordability Period and other conditions of the Related Documents shall apply, as long as there are funds owing under the Notes.
- C. <u>Rent Limit</u>. During the Affordability Period, rents on two (2) of the four (4) HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals fifty percent (50%) of Spokane area median income ("AMI"), as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include one (1) two-bedroom unit and one (1) three-bedroom unit. In addition, rents on two (2) of the HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals thirty percent (30%) of AMI, as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include two (2) two-bedroom units.

However, any HOME-assisted unit receiving federal or state project-based rental subsidy, where the tenant pays not more than thirty percent (30%) of the household's adjusted income as a contribution toward rent, shall be limited to the maximum rent allowed under the federal or state project-based rental assistance program.

Should the HUD rents decline below the initial project rents, the Borrower's rents do not need to be reduced below the initial rents. A table of initial HOME rents for the Project is attached to this Loan Agreement as Attachment 2.

The adjustment for tenant-paid utilities and tenant-supplied appliances is subject to 24 CFR §92.252. HUD requirements include that the adjustment for tenant-paid utilities and tenant-supplied appliances be based on the HUD Utility Schedule Model, twelve (12) months of documented actual utility costs as acceptable to the City's Community, Housing & Human Services Department, or other methods as determined by HUD. Currently, the HUD Utility Schedule Model can be found at: <u>http://huduser.org/portal/resources/utilmodel.html</u>.

The City will provide Borrower with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits exclusive of rent paid through project-based subsidies) in accordance with this Loan Agreement and §92.252(f)(2). The Borrower must annually provide the City with information on rents and occupancy of HOME-assisted units to demonstrate compliance with the Affordability Requirements of this Loan Agreement. The City will review rents for compliance and approve or disapprove them every year.

The Borrower must provide tenants of HOME-assisted units written notification of rent increases no less than 30 days prior to the beginning of the month in which the increase is intended to be implemented, subject to the provisions of a tenant's lease agreement, pursuant to \$92.252(f)(3).

- D. <u>LIHTC Rent Clause</u>. For tenants of low-income tax credit assisted units (if lowincome housing tax credits are awarded to the Project or portions of the Project), any increases in rent associated with tenant income shall be governed solely by section 42 of the Internal Revenue Code of 1986, as amended from time to time.
- E. Upon completion of the HOME Affordability Period, if the maximum rent and income limits are exceeded, the loan will be subject to repayment at the higher interest rate as provided for in Paragraph 2 of the Promissory Notes.
- F. <u>Income Limit.</u> At initial occupancy, tenants of two (2) of the four (4) HOMEassisted units shall have incomes not greater than fifty percent (50%) of AMI. In addition, tenants of two (2) of the HOME assisted units shall have incomes not greater than thirty percent (30%) of AMI at initial occupancy. If any of these tenants' incomes increases to a level exceeding fifty percent (50%) of AMI, then the next available HOME-assisted unit shall be made available to families at or below thirty percent (30%) of AMI. If the income of a tenant of a HOME-assisted unit increases and exceeds eighty percent (80%) of AMI, then the tenant's rent shall increase to the lesser of thirty percent (30%) of the tenant's adjusted monthly income or Fair Market Rent, subject to paragraph VIII.D hereof.

- G. <u>Income Certifications</u>. All tenants' incomes shall be recertified annually by the Borrower. Any applicable rent increases will be effective upon the next lease renewal, and are subject to thirty (30) days' written notice.
- H. <u>Additional Affordability Requirements</u>. The Project must comply with the affordable housing requirements of 24 CFR §92.252.
- I. <u>Relocation</u>. Tenants in occupancy prior to the Project are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), 42 USC 4601 et seq. and the regulations promulgated thereunder. All relocation payments and expenses shall be borne by the Borrower.
- Protection of Affordability Requirements City Purchase Option. J. The Affordability Requirements may terminate upon foreclosure or transfer in lieu of foreclosure at the sole election of the Director. In the event of a pending or threatened foreclosure, once applicable notice and cure periods have expired, the City is hereby granted an option and a right of first refusal to purchase the Project before foreclosure or deed in lieu of foreclosure to preserve affordability. The City may exercise its right to purchase the Project in any reasonable manner following the City's receipt of written notice of pending or threatened foreclosure proceedings and/or a possible deed in lieu of foreclosure, which notice Borrower hereby agrees to provide to City. The purchase price shall be the assessed value of the Project at the time of the City's exercise of its purchase rights, less any financial obligations assumed by the City at the time of the City's acquisition of the Project. The City further reserves the right to revive any affordability restrictions according to the original terms of this Loan Agreement if, during the HOME Affordability Period (as defined herein), the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or property.

IX. INSURANCE

The Borrower shall keep the Project and all improvements now existing or hereafter erected thereon continuously insured as required in the Deed of Trust, the Notes and the Covenant Agreement and this Loan Agreement, naming the City as mortgagee and/or loss payee. The insurance requirements apply during the Affordability Period, or during any such time as there are outstanding sums due under the Notes, whichever is longer.

X. PROPERTY STANDARDS

A. All HOME-assisted housing under this Loan Agreement shall meet the requirements of 24 CFR §92.251, which includes all applicable Federal, State and local code requirements and housing quality standards, rehabilitation standards, ordinances and zoning ordinances at the time of Project completion

and for the duration of the Affordability Period. Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with applicable State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.

- B. Any accessible HOME-assisted housing units under this Loan Agreement shall, for the duration of the Affordability Period, meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). The foregoing shall not be interpreted as limiting Borrower's obligation to comply with accessibility requirements applicable to the Project as whole.
- C. The Borrower shall comply with the provisions of 24 CFR §92.251.

XI. <u>ADDITIONAL MISCELLANEOUS COVENANTS</u>

Borrower shall:

- A. Comply with the Affordability Requirements described in this Loan Agreement and Related Documents.
- B. Maintain all required insurance, including without limitation the insurance required by the Deed of Trust.
- C. Maintain Project financial reports, Project financial records, and provide all other information and documentation that the City may reasonably request.
- D. Make prompt payment of all taxes and financial liabilities.
- E. Not hypothecate or encumber Project assets in any way, except to the extent provided for under this Loan Agreement or as approved of by the Director in writing. The Director may withhold such approval at his/her reasonable discretion.
- F. Promptly provide (i) rent and tenant income information at initial tenant occupancy and (ii) rent, occupancy, and tenant income information annually throughout the term of this Loan Agreement, in accordance with this Loan Agreement, or as otherwise requested by the City. If the Project has floating HOME units, the Borrower must provide the City with information regarding the unit substitution and filling vacancies so that the Project remains in compliance with HOME rental occupancy requirements.

- G. Promptly provide, upon request by the City, such documentation as is necessary (including financial statements) to enable the City to determine the financial condition and continued financial viability of the Project.
- H. During the Affordability Period, prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of Borrower) whether private, for-profit or nonprofit, (including a community housing development organization ("CHDO") when acting as an owner, developer or sponsor).
- I. Comply with all applicable federal, state, and local regulations and requirements, including, but not limited to Uniform Administrative Requirements, Federal Labor Standards, Davis-Bacon and Related Acts, Uniform Relocation Act requirements applicable as of the date of the execution of this Loan Agreement, and the provisions of the Lead-Based Paint Poisoning Prevention Act. The City's costs to administer Davis-Bacon Federal Labor Standards, and Related Acts shall be borne by the Borrower. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply.
- J. Comply with all HOME program project requirements pursuant to 24 CFR part 92 et seq.
- K. Maintain housing in compliance with the property standards of 24 CFR §92.251 and local code requirements throughout the term of this Loan Agreement.
- L. Upon Project completion, the Project shall obtain a final Certificate of Occupancy for new units and complete the final inspections and obtain final approvals on all construction permits for the rehabilitated unit, meet all licensing requirements needed to operate the facility as proposed by Borrower in its various funding applications, and meet the property standards of 24 CFR §92.251, minimum rehabilitation standards, and all applicable federal, state and local codes and ordinances. New construction projects must also meet HUD, state, and local requirements relating to accessibility and disaster mitigation.
- M. Cause each of the four (4) HOME-assisted units to be occupied by incomeeligible households within eighteen (18) months after the Project is completed. If any HOME-assisted units are not occupied by eligible tenants within 6 months following the date of Project Completion, Borrower shall submit to the City current marketing information and, if the City requests it, an enhanced marketing plan for leasing the unoccupied units as quickly as possible, which information the City will provide to HUD as required by 24 CFR §92.252. If any HOME-assisted unit has not been rented to eligible tenants within eighteen (18)

months after the date of Project Completion, Borrower shall repay the City \$45,000.00/unit for each such unit within thirty (30) days of the City's written request for repayment. This reflects the proportionate per unit share of HOME funds, i.e., \$180,000.00 HOME dollars/4 HOME units.

The Borrower shall cause the Covenant Agreement (which shall contain the foregoing covenants) to be recorded as a covenant running with the land and the Project.

Borrower shall pay at loan closing all costs associated with the negotiation, documentation and closing of the loan, including without limitation title premiums escrow fees, recording fees, appraisal fees and City's attorneys' fees.

XII. <u>PROJECT TIMETABLE</u>

- The Borrower agrees to complete work required in accordance with the A. timetable set forth in Attachment 3. Timely completion of the work is an integral and essential part of performance. The expenditure of HOME funds is subject to Federal deadlines and failure to meet deadlines could result in the loss of the Federal funds. By the acceptance and execution of this Loan Agreement, the Borrower agrees that the Project will be completed as expeditiously as possible and make every effort to ensure the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and revocation of HOME funds. Since it is mutually agreed that time is of the essence, the Borrower shall cause appropriate provisions to be included in all contracts or subcontracts relative to the work tasks in Attachment 3. It is intended that such provisions included in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City against the Borrower and its successors and assigns to the project or any part thereof or any interest therein.
- B. In the event the Borrower is unable to meet the above schedule or complete the above services due to delays resulting from Acts of God, untimely review and approval by the City and other governmental authorities having jurisdiction over the Project, or other delays that are not caused by the Borrower, the City shall grant a reasonable extension of time for completion of the work. It shall be the responsibility of the Borrower to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and delays related to the delay.

XIII. <u>DEFAULT</u>

A. The following shall be considered "Events of Default" for purposes of this Loan Agreement:

1. Failure of Borrower to make any principal and interest payment within fifteen (15) days after such payment is due.

- 2. Failure to perform, observe or comply with the Affordability Requirements, Income Determinations, or any other provisions, related covenants, terms, conditions or restrictions of this Loan Agreement or any agreement relating to the Project (i.e., the occurrence of an event of default under other indebtedness secured by the Project property) or any part thereof, and failure to fully cure the same within the period of time, if any, permitted for cure and, if no period for cure is otherwise provided for, within sixty (60) days of written notice from the City of such failure, requesting the same to be remedied; provided, after a second noncompliance of any provision in a five- (5-) year period, only fourteen (14) days written notice is needed.
- 3. Failure to perform required maintenance or performance of any act by Borrower which would, in the City's reasonable opinion, adversely affect the value of the Project.
- 4. Sale, transfer, lease, or other conveyance of the Project or any portion thereof, including assumptions and subordinations, without obtaining the prior written consent of the Director. Except as otherwise permitted under this Loan Agreement, the sale, transfer, lease, or other conveyance of the Project or any portion thereof, including assumptions and subordinations, without obtaining the prior written consent of the Director.
- 5. Filing a voluntary or involuntary petition not dismissed within ninety (90) days after filing under the United States Bankruptcy Code by or against the Borrower.
- 6. Any representation, warranty, or disclosure made to the City or any other Project lender which proves to be materially false or misleading as of the date made, whether or not such representation, warranty, or disclosure appears in this Loan Agreement.
- 7. Failure to maintain and keep in force adequate amounts of insurance as is usual in the business carried on by the Borrower, or as required herein.
- 8. Without limiting any of the foregoing, Borrower's failure to comply with the minimum wage requirements set forth in Section XVIII of this Loan Agreement.

XIV. <u>REMEDIES</u>

A. Upon the occurrence of an event of default not timely cured after notice, the City may, in addition to any other remedies which the City may have hereunder or under this Loan Agreement or by law or equity, at its option and upon written notice to the Borrower, take any or all of the following actions:

- 1. Immediately terminate any further advance of loan funds.
- 2. Declare the debt incurred hereunder and under the Related Documents immediately due and payable and commence collection proceedings against the Borrower.
- 3. Seek judicial appointment of a receiver.
- 4. Foreclose under the security documents or instruments, judicially or non-judicially.
- 5. File suit against the Borrower.
- 6. Seek specific performance or injunctive relief to enforce performance of the undertakings, duties, and agreements provided in this Loan Agreement or any related security document or instrument, whether or not a remedy at law exists or is adequate.
- B. All remedies of the City provided for herein are cumulative and shall be in addition to all other rights and remedies provided by law or in equity or by this Loan Agreement. The exercise of any right or remedy by the City shall not in any way constitute a cure or waiver of default under this Loan Agreement or any other related Project agreement, or invalidate any act done pursuant to any notice of default, or prejudice the City in the exercise of any of its rights unless, in the exercise of such rights, the City realizes all amounts owed to it by the Borrower.
- C. A failure to declare or a delay in declaring a default shall not constitute a waiver of any rights or remedies or excuse any failure by the Borrower to strictly comply with its obligations under this Loan Agreement or any other related Project agreement or document.

XV. <u>REPAYMENT</u>

- A. Payments of principal and interest for Note 1 shall be deferred for 12 months and payment of principal and interest for Note 2 shall be deferred during the HOME Affordability Period, so long as Borrower and the Project are in compliance with the Affordability Requirements per the terms of the Loan Agreement and Covenant Agreement together with all other provisions of the Notes and Related Documents.
- B. Following the HOME Affordability Period, and during the remaining City Affordability Period, the amounts due under Note 2 may be eligible for debt forgiveness. In exchange for complying with the Affordability Requirements during that period of the City Affordability that extends beyond the HOME Affordability Period (the "Forgiveness Period"), the principal and interest of Note 2 may be forgiven for each year of the Forgiveness Period, until it is fully forgiven or paid at the end of the Affordability Period. If, at the end of each year

during Forgiveness Period, the Borrower has complied, for that year, with the Affordability Requirements of this Loan Agreement and the Covenant Agreement and is in compliance with all other provisions of this Loan Agreement and Related Documents, then the loan payments for Note 2 shall be forgiven for that year; provided, no payments shall be forgiven for affordability periods of less than one (1) year. The amount of the annual loan forgiveness shall be the sum of twelve monthly payments; the monthly payments will be in an amount sufficient to amortize the principal and interest over the remaining term of the Affordability Period. During the Affordability Period, Borrower shall notify the City in writing if, for any reason, the Project will not comply with the Affordability Requirements, at which time any and all outstanding balance would become immediately due and payable in full.

- C. If Borrower elects not to comply with the Affordability Requirements beyond the end of the HOME Affordability Period, repayment of principal and interest under Note 2 shall be made monthly in an amount sufficient to amortize the loan over the remaining term of the Affordability Period.
- D. Repayment of Note 1 or Note 2 during the HOME Affordability Period described in Paragraph VIII.A of this Loan Agreement shall not extinguish the Affordability Requirements.
- E. Payment of principal, interest, and fees relating to the Notes shall be made in lawful money of the United States of America in immediately available funds to the City of Spokane, at the Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, or at such other place as the City may designate to Borrower in writing.

XVI. NONDISCRIMINATION/RENT SUBSIDY

Neither the Borrower nor any of its agents shall refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982 – Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

XVII. FAITH-BASED ACTIVITIES AND ORGANIZATIONS

- A. Borrower, in providing services supported in whole or in part with HOME program funds, shall not discriminate against current or prospective program beneficiaries (i.e., tenants) on the basis of religion, a religious belief, or a refusal to attend or participate in a religious practice.
- B. If Borrower engages in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or Loan Agreement 13 of 31

proselytization, Borrower must perform such activities and offer such services outside of and separately in time or location, from the activities or programs financed under this Loan Agreement, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HUDfunded programs or services (i.e., tenants).

- C. Whether or not Borrower is a faith-based organization, it may use the loan proceeds provided under this Loan Agreement as provided under relevant regulations and this Loan Agreement without impairing its independence, autonomy, expression of religious beliefs, or religious character. Borrower will retain its independence from Federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct HOME funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law. Borrower may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious In addition, Borrower retains its authority over its internal symbols. governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. The loan proceeds provided to Borrower pursuant to this Loan Agreement may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are or will be used for explicitly religious activities. Subject to other limitations in this Loan Agreement, loan proceeds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under HOME regulations. When a structure is or will be used for both eligible and explicitly religious activities, HOME funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the HOME program. Sanctuaries, chapels, or other rooms that Borrower uses as its principal place of worship, however, are ineligible for HOME-funded improvements. Disposition of real property after the term of the loan or grant, or any change in use of the property during the term of the loan or grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).
- E. This limitations in this Section XVII shall apply regardless whether the loan proceeds under this Loan Agreement includes local funds that the City has voluntarily contributed to supplement federally funded activities.

XVIII. COMPLIANCE WITH LAWS

A. The Borrower shall comply with all HOME Program requirements as outlined in 24 CFR part 92 et seq., as may be amended from time to time.

- B. The Borrower shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq.), E.O. 11063 (3 CFR, 1959-1963 Comp., p. 652), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD regulations issued pursuant thereto.
- C. The Borrower shall comply with the nondiscrimination and equal opportunity, disclosure requirements, debarred, suspended or ineligible contractors, and drug-free workplace, per 24 CFR §92.350.
- D. The Borrower shall comply with the affirmative marketing and minority outreach program of 24 CFR §92.351, and shall further comply with the tenant selection requirements set forth in 24 CFR 92.253(d).
- E. The Borrower shall comply with the National Environmental Policy Act of 1969, as outlined in 24 CFR 92.352 and Borrower agrees to implement City-identified conditions on safeguards to protect and enhance environmental quality or minimize adverse environmental impacts.
- F. Minimum Wages.
 - 1. <u>Federal Labor Standards/Davis-Bacon Act</u> [__] Applicable [XX] Not Applicable. If the "Applicable" box is checked, the following provisions apply:
 - a. The Borrower shall pay prevailing wages, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics employed in the development of the Project; provided, in the event the Project is subject to state minimum wage requirements, and if the state minimum wage rate exceeds the Department of Labor rate, the conflict will be resolved by applying the higher rate
 - b. All contracts relating to the Project shall contain a provision requiring the payment of such wages, as predetermined by the Secretary of Labor under the Davis-Bacon Act, 40 USC 276(a) under wage decision [DECISION #], modification [MODIFICATION #], dated
 - c. The Borrower shall pay overtime, as applicable, pursuant to the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).
 - d. The Borrower shall comply with all regulations issued under the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, all Federal laws and regulations pertaining to labor standards, Federal Labor Standards, HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), and 24 CFR §92.354, as applicable.
 - e. The Borrower shall provide contracts with the prime contractor and major subcontractors as soon as these contracts are available and the contracts shall evidence compliance with Federal Labor Standards.

- f. These prevailing wage requirements do not apply to volunteers or sweat equity pursuant to 24 CFR §92.354(a) and (b).
- g. Borrower shall reimburse the City for all costs incurred by the City in administering Borrower's compliance with applicable Davis-Bacon, Federal Labor Standards, and Related Acts.
- 2. <u>Labor Standards</u>. If applicable, the Federal Labor Standards Provisions (HUD 4010) are attached as Attachment <u>n.a.</u>
- 3. State Minimum Wage. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply. When Washington State prevailing wages apply, the contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the State Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the contractor's registration number; and (2) the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under chapter 60.28 RCW, the contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.
- G. <u>Conflict of Interest</u>. The Borrower shall comply with the conflict of interest provisions prescribed in 24 CFR §92.356(f). During the Affordability Period, Borrower shall prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the Borrower), whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor).
- H. The Borrower shall comply with the equal employment opportunities for lowand very low-income persons pursuant to 24 CFR part 135.
- I. The Borrower shall comply with the Fair Housing Act as implemented by 24 CFR parts 100-115, as applicable.

XIX. TENANT AND PARTICIPANT PROTECTIONS

A. There must be a written lease between the tenant and the Borrower that complies with 24 CFR 92.253 (Tenant Protections and Selection) and that is for

a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified.

- B. Leases between the Borrower and a tenant <u>shall not</u> contain any of the following provisions:
 - 1. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Borrower in a lawsuit brought in connection with the lease.
 - 2. Agreement by the tenant that Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the Borrower and tenant. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Borrower may dispose of this personal property in accordance with Washington state law.
 - 3. Agreement by the tenant not to hold the Borrower or the Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent.
 - 4. Agreement by the tenant that the Borrower may institute a lawsuit against a tenant or affecting a tenant's interests without notice to tenant.
 - 5. Agreement by the tenant that the Borrower may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the Borrower and tenant.
 - 6. Agreement by the tenant to waive any right to a trial by jury.
 - 7. Agreement by the tenant to waive the tenant's right to appeal, or otherwise challenge in court, a court decision in connection with the lease; and,
 - 8. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
 - 9. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
- C. Borrower may not terminate the tenancy or refuse to renew the lease of a tenant occupying a HOME-assisted unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other

good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, Borrower must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy.

- D. Borrower shall adopt and follow written tenant selection policies and criteria that:
 - 1. Limit the HOME-assisted units to very low-income and low-income families;
 - 2. Are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing, not to interfere with the rights and quiet enjoyment of other tenants);
 - 3. Limit eligibility or give a preference to a particular segment of the population if otherwise permitted in this Loan Agreement (and only if the limitation or preference is described in the City's consolidated plan).
- E. Borrower shall select tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and give prompt written notification to any rejected applicant of the grounds for any rejection.
- F. Borrower shall not charge fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that Borrower may charge: (i) reasonable application fees to prospective tenants; (ii) parking fees to tenants only if such fees are customary for rental projects in the neighborhood; and (iii) fees for services such as bus transportation or meals, as long as such services are voluntary and fees are charged for services provided.

XX. TENANT PARTICIPATION PLAN

If the Borrower is a Community Housing Development Organization ("CHDO") as defined by 24 CFR 92.2, the Borrower shall adhere to a fair lease and grievance procedure approved by the City and shall provide a plan for and follow a program of tenant participation in management decisions pursuant to 24 CFR §92.303.

XXI. UNIFORM ADMINISTRATIVE REQUIREMENTS/PROJECT REQUIREMENTS

- A. The Borrower shall comply with the applicable uniform administrative requirements of 24 CFR §92.505 if the Borrower is organized as a non-profit organization.
- B. The Borrower shall comply with all applicable Project requirements of Subpart F of 24 CFR part 92 et seq.
- C. The Borrower shall maintain all tenant and Project records for the most recent five- (5-) year period until five (5) years after the Affordability Period, terminates. Loan Agreement - 18 of 31

The Borrower shall permit the Department, the HUD, and the Comptroller General of the United States, or their authorized representatives, access to all books, records, and papers of the Borrower pertinent to the Project. The Borrower shall keep and retain records sufficient to document invoices of all expenditures, project beneficiary data, and all other records required to be kept pursuant to 24 CFR §92.508.

D. The Borrower shall permit the Department, HUD, the Comptroller General of the United States, or their authorized representatives, site visits at all times upon reasonable notice throughout the Affordability Period.

XXII. <u>TRANSFER/ASSIGNMENT</u>

The Borrower shall not assign, transfer, subordinate or sublet any obligation of this Loan Agreement nor shall it sell or otherwise transfer any property subject to this Loan Agreement without prior written consent of the Director, who may withhold consent at his/her discretion. The provisions of this Loan Agreement shall apply to all persons or entities performing obligations set forth by this Loan Agreement, including approved persons or entities to whom or to which the Borrower assigns, transfers, or sublets services as above. Such approved persons or entities shall be subject to the provisions for faith-based activities and organizations as outlined in this Loan Agreement, as applicable.

XXIII. HAZARDOUS SUBSTANCES/REPRESENTATIONS AND WARRANTIES

- A. The Borrower shall not cause or permit the presence, use, disposal, storage, or release of any "Hazardous Substances" (as defined below) on or in the Property. The Borrower shall not perform any act, nor allow, cause or permit the performance of any act, affecting the Property when such act constitutes a violation of any federal, state or local Environmental Law, ordinance or rule. As used in this provision, "Environmental Law" means federal laws, state laws and local codes, laws, and/or ordinances of the jurisdiction where the Property is located that relate to health, safety, or environmental protection.
- B. The Borrower shall promptly give the City written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law of which the Borrower has actual knowledge. If the Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any hazardous substance affecting the Property is necessary, the Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law and shall bear all costs and expenses thereof.
- C. The Borrower hereby represents and warrants that, to the best of the Borrower's knowledge and belief, and after reasonable investigation and inquiry, the Project has never been and is not being used to make, store, handle, treat, dispose of, generate, or transport Hazardous Substances in

violation of any applicable law, which Hazardous Substances have not been or will not be abated according to all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. To the best of Borrower's knowledge and belief, and after reasonable investigation and inquiry, there has not been a release of Hazardous Substances on, from, or near the Project, which release has not been or will not be abated to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. The Borrower has never received any notification, citation, complaint, violation, or notice of any kind from any person relating or pertaining to the making, storing, handling, treating, disposing, generating, transporting, or release of Hazardous Substances, for which there has not been or will not be abatement to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy. Borrower represents and warrants that any asbestos and lead-based paint found within the Project will be abated to levels acceptable under applicable law prior to tenant occupancy of the rehabilitated project. "Hazardous Substances" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) "oil, petroleum products and their by-products" as defined under Washington law as amended from time to time, and regulations promulgated thereunder; (iv) any "hazardous substance" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (v) any "asbestos material" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder and/or as defined by 40 C.F.R. Section 61.141, as amended from time to time; (vi) any "radon gas" in excess of levels recommended in U. S. Environmental Protection Agency Guidance Documents, as modified from time to time, or lower levels as provided by any applicable law or regulation now or hereafter in effect; (vii) any "infectious waste" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (viii) any substance the presence of which on any property attributable to the operations of the Borrower is prohibited, restricted or regulated by any law or regulation similar to those laws, regulations and/or documents set forth above, including without limitation, polychlorinated biphenyls ("PCBs") and lead-based paints; and (ix) any other substance which by law or regulation requires special handling in its collection, generation, storage, transportation, treatment or disposal.

XXIV. DEBARMENT AND SUSPENSION

The Borrower shall comply with the provisions of 24 CFR Part 24 that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency. Additionally, the Borrower shall not use, directly or indirectly, any of the funds provided by this contract to employ, award contracts to, or otherwise engage the services of, or fund any contractor/subcontractor during any

period that the contractor/subcontractor is debarred, suspended or ineligible under the provisions of 24 CFR Part 24. Using the System for Award Management (https://www.sam.gov), the City has determined, as of the date of this contract that the Borrower is not excluded from federal procurement and non-procurement programs. The Borrower has provided in Attachment 4 its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

XXV. ANTI-LOBBYING

Borrower certifies that, to the best of Borrower's knowledge and belief:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this loan;
- B. That if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or an employee of a Member of Congress in connection with this loan, Borrower shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instruction; and
- C. Borrower shall require that the language of paragraphs A and B of this antilobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such subrecipients shall certify and disclose accordingly.

XXVI. <u>SEVERABILITY</u>

The invalidity of any clause, part or provision of this Loan Agreement shall not affect the validity of the remaining portions thereof.

XXVII. NOTICES

All notices given pursuant to this Loan Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the Parties hereto at the addresses set forth below, or to such other place as a Party may from time to time designate in writing:

City of Spokane Community, Housing and Human Services Department 808 W. Spokane Falls Blvd. Spokane, WA 99201-3339 DRAFT Basalt Rock, LLC c/o Konstantin & Tatyana Vasilenko 14 East Mission Avenue, #3 Spokane, WA 99202

XXVIII. INDEMNIFICATION

The Borrower shall protect, defend, indemnify, and hold harmless the City, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Borrower, its officers, employees or agents, in its performance and/or non-performance of its obligations under this Loan Agreement. The Borrower agrees that its obligations under this indemnification shall extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. This agreement to indemnify is a separate agreement, shall survive any foreclosure action, attempted transfer or the like, is a legal obligation of the Borrower and action may be brought thereon independently of any other remedy at law or provided for herein.

XXIX. TERMINATION

In accordance with 24 CFR §85.43, this Loan Agreement may be suspended or terminated if the Borrower materially fails to comply with any term of this Loan Agreement. This Loan Agreement may be terminated for convenience in accordance with 24 CFR §85.44.

XXX. EXECUTION IN COUNTERPARTS

This Loan Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS LOAN AGREEMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the Parties have executed this Loan Agreement as of the Effective Date.

BASALT ROCK, LLC

By:

Date:

Konstantin Y. Vasilenko, Member

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By:

Date:

Tatyana A. Vasilenko, Member

STATE OF WASHINGTON)) ss. County of Spokane)

On this _____ day of ______, 2016, personally appeared before me **Konstantin Y. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person and the Grantor, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires_____

SS.

STATE OF WASHINGTON)

County of Spokane

On this _____ day of ______, 2016, personally appeared before me **Tatyana A. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person and the Grantor, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

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DRAFT NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires_____

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CITY OF SPOKANE

By:

David A. Condon, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

By: ______ Terri L. Pfister, City Clerk

) ss.

Assistant City Attorney

Date:

STATE OF WASHINGTON)

County of Spokane

On this _____ day of ______, 2016, personally appeared before me **David A. Condon** and **Terri L. Pfister**, to me known to be the **Mayor** and **City Clerk**, respectively, of and for the City of Spokane, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

By:

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at______ My Commission expires______

ATTACHMENT 1 PROPOSED BUDGET

VASILENKO 1808 EAST FIRST AVENUE

New Building	187,100	Owner	40,215
New Building Contingen	cy 19,920	Potential permanent loan	100,000
Rehabilitation	85,380		
Rehabilitation Continger	ncy 9,190	City HOME funds	180,000
Sales tax	18,625		
TOTAL	320,215	TOTAL	320,215

Rehabilitation and updating of vacant single family residence and construction of 3 additional 2-bedroom townhouse-style units. The property is currently owned by the City. Work on the house is expected to include foundation repairs, new siding, roof, windows, electrical, plumbing, floors, insulation, appliances, rain gutters, and porches. Work will also include a new staircase to the second floor, addition of a second bathroom, replacement of the kitchen cabinets, and removal of the fireplace. Water and sewer lines may need to be replaced. The three new units will be behind the house. The project may include paving the alley, if required by the Building Department.

The completed house is expected to have about 1,824 sf and 3 bedrooms and the new 2-bedroom units will have about 1,000.

HOME funds may be used for architectural and engineering and other professional series costs incurred within 24 months before commitment.

Owner may finance a portion of construction with a line of credit and refinance with a permanent loan, as long as the owner equity requirement is met.

Attachment 2 Initial Project Rents

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ATTACHMENT 3

TIMETABLE

Category	Milestone/Task	Deadline
		Month Yr/Status
Site control	Close on property.	October 2016
Financing	Funding documented by	October 2016.
	all lenders	
Design/Permits	Approval of zoning, site	November 2016.
	plan, construction plans.	
	Building permits issued.	November 2016.
Construction	Begin construction.	November 2016.
	Complete construction.	August 2017.
	Certificate of occupancy	August 2017.
	issued.	
Occupancy	Units occupied.	60 days from Certificate
		of Occupancy

ATTACHMENT 4

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

- 1. The undersigned (i.e., signatory for the Borrower) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the undersigned is unable to certify to any of the statements in this contract, it shall attach an explanation to this contract.

- 2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the City.
- 3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- 1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- 2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
- 4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this exhibit, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. The undersigned may contact the City for assistance in obtaining a copy of these regulations.
- 5. I understand that a false statement of this certification may be grounds for termination of the contract.

Basalt Rock, LLC	1808 East First Avenue
Name of Borrower (Type or Print)	Program Title (Type or Print)
Name of Certifying Official (Type or Print)	Signature

Title of Certifying Official (Type or Print)

Date (Type or Print)

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AFTER RECORDING MAIL TO: City of Spokane Department of Community, Housing and Human Services 808 W. Spokane Falls Blvd., Room 650 Spokane, WA 99201

OPR #2016-____

CITY OF SPOKANE BASALT ROCK, LLC

1808 EAST FIRST AVENUE

DEED OF TRUST

Grantor: Basalt Rock, LLC, a Washington limited liability company

Beneficiary: City of Spokane, a Washington state municipal corporation

Assessor's Parcel No.: 35212.1003

Legal Description: LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

THIS DEED OF TRUST, made this _____ day of _____, 2016, by and between **Basalt Rock, LLC**, a Washington limited liability company, referred to herein as GRANTOR, whose address is 14 E. Mission Avenue, Suite #3, Spokane, WA 99202, **First American Title Insurance Company**, TRUSTEE, whose address is 40 East Spokane Falls Blvd., Spokane, WA 99202 and the **City of Spokane**, Washington, a Washington state municipal corporation, BENEFICIARY, whose address is City of Spokane, c/o Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201.

This Deed of Trust is part of a transaction further reflected in a HOME Program Loan Agreement ("Loan Agreement"), HOME Program Loan Covenant Agreement ("Covenant Agreement"), and Promissory Note 1, and Promissory Note 2, secured by this Deed of Trust. Collectively, Promissory Note 1 and Promissory Note 2 may be referred to as "Promissory Notes." The terms of said agreements are incorporated into this Deed of Trust, and the capitalized terms in said agreements shall have the same meaning in this Deed of Trust unless the context clearly suggests otherwise. In the event of

conflict in the terms of any of these documents, the terms most favorable to Beneficiary shall apply.

WITNESSETH: Grantor hereby irrevocably grants and conveys to Trustee in trust, with power of sale, the following described real property (the "Property") in Spokane County, Washington:

LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

APN: 35212.1003

PROPERTY ADDRESS: 1808 EAST 1ST AVENUE, SPOKANE, WA 99202

which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, easements, fixtures and appurtenances now or hereafter thereunto belonging or in any way appertaining, and the rents, issues, and profits thereof.

This Deed of Trust is for the purpose of securing performance of each agreement of Grantor herein contained and as further contained in the Loan Agreement, Covenant Agreement, and Promissory Notes, secured by this Deed of Trust, and for the purpose of securing payment of the sum of **ONE HUNDRED EIGHTY THOUSAND ANDNO/100 DOLLARS (\$180,000.00)** with interest, in accordance with the terms of two Promissory Notes of even date herewith, payable to Beneficiary, and made by Grantor, and all renewals, modifications, and extensions thereof, and also such further sums as may be advanced or loaned by Beneficiary to Grantor, or any of his/her/their successors or assigns, together with interest thereon at such rate as shall be agreed upon. This Deed of Trust also secures to Beneficiary: (a) the payment of other sums, with interest, advanced to protect the security of this Deed of Trust; and (b) the performance of Grantor's covenants and agreements under this Deed of Trust and the Promissory Notes, Covenant Agreement and Loan Agreement of even date herewith.

GRANTOR COVENANTS that Grantor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property that the Property is unencumbered, except for encumbrances of record. Grantor warrants and will defend the title to the Property against all claims and demands, subject to any prior encumbrances of record.

COVENANTS: Grantor and Beneficiary covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST; PREPAYMENT AND LATE CHARGES. Grantor shall promptly pay when due the principal of and interest on the debt evidenced by the Promissory Notes and any late charges due under the Promissory Notes.

2. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Beneficiary under Paragraph 1 shall be applied: first, to any late charges due under the Promissory Notes; second, to interest; and third, to principal due under the Promissory Notes.

3. CHARGES; LIENS. Grantor shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property, which may attain priority over this Deed of Trust, including utility charges, whether or not reflected in a recorded lien. Grantor shall pay these obligations on time directly to the person or entity owed payment. Grantor shall promptly furnish to Beneficiary upon request copies of all notices of amounts to be paid under this Paragraph. If Grantor makes these payments directly, Grantor shall promptly furnish to Beneficiary upon request receipts evidencing the payments. Grantor shall promptly discharge any lien which has priority over this Deed of Trust unless: (a) Grantor agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (b) Grantor contests in good faith the lien in legal proceedings, or defends against enforcement of the lien in legal proceedings, which, in the Beneficiary's opinion, operate to prevent the enforcement of the lien; or (c) Grantor secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust, or (d) Beneficiary has executed an agreement subordinating its interest. If Beneficiary determines that any part of the Property is subject to a lien, which may attain priority over this Deed of Trust, Beneficiary may give Grantor a notice identifying the lien. Grantor shall satisfy the lien or take one or more of the actions set forth above within ten business (10) days of the giving of the notice. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, recorded or unrecorded liens, encumbrances, or other charges against the Property, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the Promissory Notes secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

4. HAZARD OR PROPERTY INSURANCE. A. Grantor shall keep the improvements now existing or hereafter erected on the Property continuously insured against loss by fire, hazards included within the term "extended coverage", and any other hazards, including floods or flooding, for which the Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods that Beneficiary requires in order to maintain adequate protection for the Property, but no act or omission by the Beneficiary shall relieve Grantor of the primary duty to procure In no event shall such insurance be less than the full adequate insurance. replacement cost of the Property (i.e., 100% of replacement cost). The insurance carrier providing the insurance shall be chosen by the Grantor subject to Beneficiary's approval. All policies shall be held by the Beneficiary, and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. If Grantor fails to maintain coverage as described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with Paragraph 7.

B. All insurance policies and renewals shall be acceptable to Beneficiary and shall include a standard mortgage clause. If Beneficiary requires, Grantor shall promptly

give to Beneficiary all receipts of paid premiums and renewal notices. In the event of loss, Grantor shall give prompt notice to the insurance carrier and to Beneficiary. Beneficiary may make proof of loss if not made promptly by Grantor.

Unless Beneficiary and Grantor otherwise agree in writing, insurance proceeds C. shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Beneficiary's security is not lessened thereby. If the restoration or repair is not economically feasible or if Beneficiary's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Grantor. If Grantor abandons the Property or does not answer within thirty (30) days notice from the Beneficiary that the insurance carrier has offered to settle a claim, then Beneficiary may collect the insurance proceeds. Beneficiary may, in its sole discretion, use the proceeds to restore or repair the Property or to pay sums secured by this Deed of Trust, whether or not then due. The 30-day period will begin when the notice is given. Such application of proceeds by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

D. Unless Beneficiary and Grantor otherwise agree in writing, any application of insurance proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraph 1 or change the amount of the payments. If under Paragraph 20, the Property is acquired by Beneficiary, Grantor's right to any insurance policies or proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

5. FLOOD INSURANCE. If the Property is located in a one hundred year FEMA Flood Zone, Grantor shall maintain flood insurance throughout the term of the Loan in an amount not less than the total amount of the Loan or the maximum amount of coverage available through the National Flood Insurance Program, furnishing proof of same upon request by Beneficiary.

6. OCCUPANCY, PRESERVATION, MAINTENANCE AND PROTECTION OF THE PROPERTY; LOAN APPLICATION; LEASEHOLDS. Grantor shall cause the Property to be occupied, established, and used as decent, safe, sanitary and affordable housing for low-income families pursuant to the HOME Investment Partnerships Program (24 CFR part 92 et seq.) throughout the term of the loan as described in the Promissory Notes and Covenant Agreement. Grantor covenants and agrees to keep the Property in good condition and repair, to permit no waste thereof, to complete any building, structure, or improvement being built now or hereafter thereon, to restore or replace promptly any building, structure, or improvement thereon which may be damaged or destroyed, and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property. Grantor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Grantor may cure

such a default and reinstate, as provided in Paragraph 17 by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of Grantor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Grantor shall also be in default if Grantor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the Promissory Notes. If this Deed of Trust is on a leasehold, Grantor shall comply with all the provisions of the lease. If Grantor acquires fee title to the property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

7. PROTECTION OF BENEFICIARY'S RIGHTS IN THE PROPERTY. A. If Grantor fails to perform the covenants and agreements contained in this Deed of Trust, the Loan Agreement and/or the Covenant Agreement, or there is a legal proceeding which, in the Beneficiary's good faith judgment, may affect Beneficiary's rights in the Property (including but not limited to proceedings in bankruptcy, probate, for condemnation or forfeiture, or to enforce laws or regulations), then Beneficiary shall have the right to take whatever action it deems reasonably necessary and appropriate to protect the value of the Property and Beneficiary's rights in the Property. Although Beneficiary may take action under this Paragraph 7, Beneficiary is not obligated to do so.

B. Any amounts caused to be disbursed by Beneficiary under this Paragraph 7 shall become additional debt secured by this Deed of Trust. Unless Grantor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Promissory Notes rates and shall be payable with interest upon notice from Beneficiary to Grantor requesting payment.

C. Grantor covenants and agrees to defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including the cost of title search and any and all attorney's fees actually incurred, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

D. Grantor further covenants and agrees to pay any and all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligations secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

8. INSPECTIONS. Beneficiary or its agent may make reasonable entries upon and inspections of the Property, subject to all applicable landlord/tenant laws. Beneficiary shall give Grantor notice at least 24 hours prior to an inspection; provided, however, such right to notice does not apply to Beneficiary when acting it its regulatory capacity or when exercising its police powers.

9. CONDEMNATION. A. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or any part thereof, or for conveyance in lieu of condemnation, are hereby assigned and

shall be paid to Beneficiary. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust and other liens as approved by the Beneficiary, whether or not then due, with any excess paid to Grantor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Grantor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (i) the total amount of the sums secured immediately before the taking, divided by (ii) the fair market value of the Property immediately before the taking. Any balance shall be paid to Grantor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Grantor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due.

B. If the Property is abandoned by Grantor, or if, after notice by Beneficiary to Grantor that the condemnor offers to make an award or settle a claim for damages, and Grantor fails to respond to Beneficiary within thirty (30) days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

C. Unless Beneficiary and Grantor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraph 1 or change the amount of such payments.

10. GRANTOR NOT RELEASED; FORBEARANCE BY BENEFICIARY NOT A WAIVER. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Grantor shall not operate to release the liability of the original Grantor or of Grantor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Grantor or Grantor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CO-SIGNERS. The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Grantor, except as otherwise provided for in this Deed of Trust. Grantor's covenants and agreements shall be joint and several.

12. LOAN CHARGES. If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan

exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit, and; (ii) any sums already collected from Grantor which exceeded permitted limits will be refunded to Grantor. Beneficiary may choose to make this refund by reducing the principal owed under the Promissory Notes or by making a direct payment to Grantor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Promissory Notes.

13. NOTICES. Grantor shall promptly give Beneficiary written notice of any and all Project defaults (regardless of whether the default is related to the financing provided by Beneficiary and the various agreements governing the terms of such financing, or whether the default is related to any of the various other parties or entities providing financing to the Project under their various agreements), investigations, claims, demands, lawsuits, licensing issues relating to the operation of the building or care facility, or other actions by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law (as defined in Paragraph 19 of this Deed of Trust) of which Grantor has actual or constructive knowledge. Any notice provided for in this Deed of Trust shall be given pursuant to the procedures outlined in the Loan Agreement.

14. GOVERNING LAW; SEVERABILITY. This Deed of Trust shall be governed by federal law and the laws of the State of Washington. In the event that any provisions of this Deed of Trust or the Promissory Notes conflict with applicable law, such conflict shall not affect other non-conflicting provisions of this Deed of Trust or the Promissory Notes, which shall continue in full force and effect.

15. GRANTOR'S COPY. Grantor hereby acknowledges receipt of a conformed copy of the Loan Agreement, Covenant Agreement, Promissory Notes, and of this Deed of Trust.

16. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN GRANTOR. A. Except as provided in the Promissory Notes, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest of Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent, or if any other default occurs under this Deed of Trust, the Promissory Notes, the Loan Agreement or the Covenant Agreement, Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the execution date of this Deed of Trust. By accepting payment of any sum secured by this Deed of Trust after payment is due, Beneficiary does not waive the right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

B. If Beneficiary exercises the above option, Beneficiary shall give Grantor notice of acceleration. The notice shall provide a cure period of not less than thirty (30) days from the date the notice is delivered or mailed within which Grantor must pay all sums secured by this Deed of Trust. If Grantor fails to pay these sums prior to the

expiration of this period, Beneficiary may invoke any and all remedies permitted by this Deed of Trust without further notice or demand on Grantor.

17. GRANTOR'S RIGHT TO REINSTATE FOLLOWING ACCELERATION. If Grantor meets the conditions outlined in this paragraph, Grantor shall have the right to have enforcement by acceleration of this Deed of Trust discontinued at any time prior to the earlier of: (i) 10 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (ii) entry of a judgment enforcing this Deed of Trust. The conditions which Grantor must meet are that Grantor shall: pay Beneficiary all sums which then would be due under this Deed of Trust and the Promissory Notes as if no acceleration had occurred; cure any default of any other covenants or agreements; pay all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees, and; take such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property, and Grantor's obligation to pay the sums secured by this Deed of Trust continue unchanged. Upon reinstatement by Grantor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration caused by Grantor's selling or transferring all or any part of the Property or any interest in it (or if a beneficial interest of Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent.

18. NO FURTHER ENCUMBRANCES. A. For the purposes of protecting Beneficiary's security and keeping the Property free from junior and subordinate financing liens, Grantor agrees and understands that any sale, conveyance, further encumbrance (including the granting of easements and any and all other matters affecting title or other transfer of title to the Property, or any interest therein (whether voluntary or by operation of law), without Beneficiary's prior written consent, shall be an Event of Default under this Deed of Trust.

B. Notice is hereby given to all third parties that any mortgage or other Deed of Trust that they may receive against the Property without the prior written approval and acknowledgment of the Beneficiary of this Deed of Trust shall be null and void and without force or effect.

19. HAZARDOUS SUBSTANCES; REPRESENTATIONS AND WARRANTY. A. Grantor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined in this Paragraph 19) on or in the Property, except for the presence, use, storage and disposal of reasonable quantities of such Hazardous Substances as are generally used in the ordinary course of operating, maintaining or developing properties such as the Property, all of which Indemnitor represents, warrants and covenants shall be used, stored and disposed of in accordance with commercially reasonable practices and all applicable laws. Grantor shall not perform any act, nor allow, cause or permit the performance of any act, affecting the Property when such act constitutes a violation of any federal, state, or local Environmental Law, ordinance, or rule. As used in this Paragraph 19, "Environmental Law" means federal laws, state laws and local codes, laws, and/or

ordinances of the jurisdiction where the Property is located that relate to health, safety, or environmental protection.

B. Grantor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law of which Grantor has actual knowledge. If Grantor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any hazardous substance affecting the Property is necessary, Grantor shall promptly take all necessary remedial actions in accordance with Environmental Law and shall bear all costs and expenses thereof.

C. The Grantor hereby represents and warrants that, to the best of the Grantor's knowledge and belief, and after reasonable investigation and inquiry, the Project has never been and is not being used to make, store, handle, treat, dispose of, generate, or transport Hazardous Substances in violation of any applicable law, which Hazardous Substances have not been or will not be abated according to all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. To the best of Grantor's knowledge and belief, and after reasonable investigation and inquiry, there has not been a release of Hazardous Substances on, from, or near the Property, which release has not been or will not be abated to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. The Grantor has never received any notification, citation, complaint, violation, or notice of any kind from any person relating or pertaining to the making, storing, handling, treating, disposing, generating, transporting, or release of Hazardous Substances, for which there has not been or will not be abatement to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy. Grantor represents and warrants that any asbestos and lead-based paint found within the Project will be abated to levels acceptable under applicable law prior to tenant occupancy of the rehabilitated project. "Hazardous Substances" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) "oil, petroleum products and their by-products" as defined under Washington law as amended from time to time, and regulations promulgated thereunder; (iv) any "hazardous substance" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (v) any "asbestos material" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder and/or as defined by 40 C.F.R. Section 61.141, as amended from time to time; (vi) any "radon gas" in excess of levels recommended in U. S. Environmental Protection Agency Guidance Documents, as modified from time to time, or lower levels as provided by any applicable law or regulation now or hereafter in effect; (vii) any "infectious waste" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (viii) any substance the presence of which on any property attributable to the operations of the Grantor is prohibited, restricted or regulated by any law or

regulation similar to those laws, regulations and/or documents set forth above, including without limitation, polychlorinated biphenyls ("PCBs") and lead-based paints; and (ix) any other substance which by law or regulation requires special handling in its collection, generation, storage, transportation, treatment or disposal.

20. **ACCELERATION: REMEDIES.** A. Beneficiary shall give notice to Grantor prior to acceleration, following Grantor's breach of any covenant or agreement noted in this Deed of Trust, the Loan Agreement, or the Covenant Agreement. The notice shall specify: (a) the nature of the default; (b) the action required to cure the default: (c) a date, not less than thirty (30) days from the date the notice is given to Grantor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property at public auction to the highest bidder, in accordance with the Deed of Trust Act of the State of Washington (RCW 61.24 or as hereafter amended). The notice shall further inform Grantor of applicable rights to reinstate after acceleration, rights to bring a court action to assert the nonexistence of a default or any other defense Grantor wishes to assert prior to acceleration and sale, and of any other matters required by applicable law to be included in the notice. If the default is not cured on or before the date specified in the notice, Beneficiary, at its option, may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted under the Loan Agreement, the Covenant Agreement, the Promissory Notes, this Deed of Trust or by applicable law. Beneficiary shall be entitled to collect from Grantor all expenses incurred in pursuing the remedies provided in this Paragraph 20, including, but not limited to, attorneys' fees and costs of title evidence.

B. If Beneficiary invokes the power of sale, Beneficiary shall give written notice to Trustee of the occurrence of an event of default. Upon instruction from the Beneficiary to do so, Trustee shall cause the trust Property to be sold, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Beneficiary or its designee may purchase the Property at any sale. Trustee and Beneficiary shall take such action regarding notice of sale and shall give such notices to Grantor and to other persons as applicable law may require.

C. Trustee shall deliver to the purchaser a Trustee's Deed conveying the Property without warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

D. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy. Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

21. RECONVEYANCE. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property to the person entitled

thereto and shall surrender this Deed of Trust and all Promissory Notes evidencing the debt secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

22. SUBSTITUTE TRUSTEE. In the event of the death, incapacity, disability, or resignation of Trustee, or at Beneficiary's reasonable discretion, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

23. USE OF PROPERTY. The Property is not used principally for agricultural or farming purposes.

24. BINDING EFFECT. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on his/her/their heirs, devisees, legatees, administrators, executors, and assigns. The term "Beneficiary" shall mean the holder and owner of the Promissory Notes secured hereby, whether or not named as Beneficiary herein.

25. ORAL AGREEMENTS OR ORAL COMMITMENTS. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS INSTRUMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

BY SIGNING BELOW, Grantor accepts and agrees to the terms and covenants contained in this Deed of Trust and in any riders executed by Grantor and recorded with it.

IN WITNESS WHEREOF, the Parties have executed this Deed of Trust as of the day and year first written above.

BASALT ROCK, LLC

By:

Date:

Konstantin Y. Vasilenko, Member

By: _____ Date: _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of ______, 2016, personally appeared before me **Konstantin Y. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of <u>said person</u> and the Grantor, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires_____

On this <u>day of</u>, 2016, personally appeared before me **Tatyana A. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person and the Grantor, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires

BENEFICIARY - CITY OF SPOKANE

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David A. Condon, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

By:

Terri L. Pfister, City Clerk

) ss.

Assistant City Attorney

Date:

STATE OF WASHINGTON)

County of Spokane

On this _____ day of ______, 2016, personally appeared before me **David A. Condon** and **Terri L. Pfister**, to me known to be the **Mayor** and **City Clerk**, respectively, of and for the City of Spokane, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

By:

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires

CITY OF SPOKANE BASALT ROCK, LLC

1808 EAST FIRST AVENUE

PROMISSORY NOTE 1

OPR #2016-____

Borrower:	Basalt Rock, LLC
	14 E. Mission Street, Suite #3
	Spokane, WA 99202

Lender: City of Spokane Community, Housing and Human Services Department 808 W. Spokane Falls Blvd., Room 650 Spokane, WA 99201

<u>Principal</u>: \$17,500.00

Date:

PROMISE TO REPAY: FOR VALUE RECEIVED, the undersigned Basalt Rock. 1. LLC, a Washington limited liability company, hereinafter referred to as "Borrower", promises to repay to the order of the City of Spokane, a Washington state municipal corporation, or its successors and assigns (hereinafter called "Lender") the maximum principal sum of SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS (\$17,500.00) or so much of said sum or sums as may now or hereafter be loaned or disbursed to the Borrower by the Lender, for the purpose of providing a portion of the financing for the Borrower's 1808 East First Avenue project, located at 1808 East First Avenue in Spokane, WA (the "Project"). This Promissory Note 1 (the "Note") is part of a transaction further reflected in Promissory Note 2, a HOME Program Loan Agreement ("Loan Agreement") and HOME Program Loan Covenant Agreement ("Covenant Agreement") of even date herewith. Promissory Note 1 and Promissory Note 2 are collectively referred to as "Notes." Lender's disbursements under the Loan Agreement and the Notes are further secured by a Deed of Trust of even date herewith ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents". The capitalized terms in said Related Documents shall have the same meaning in this Note unless the context clearly suggests otherwise. In the event of conflict or ambiguity in the terms of any of these documents, the terms most favorable to Lender shall apply.

2. INTEREST: In addition to repayment of principal sums loaned, Borrower agrees to pay interest, compounded monthly, commencing on the date the money is first disbursed under the Loan Agreement, at the rate of three percent (3%) per annum. If rents for any HOME-assisted unit of the Project are raised above the level of the

Promissory Note - 1 of 5

Affordability Requirement defined in the Loan Agreement, or any other provisions, covenants, terms, conditions or restrictions of the Loan Agreement are not adhered to, then the rate on the outstanding balance shall be increased to the prevailing prime lending rate as published in <u>The Wall Street Journal</u>, plus three percent (3%), compounded monthly, for the period of noncompliance, as determined by the Director of Community, Housing and Human Services for the City of Spokane (the "Director").

3. REPAYMENT; MATURITY:

A. <u>1-Year Deferral Period</u>: No payments of principal or interest for 12 months from the date of this Note, so long as Borrower and the Project are in compliance with the Affordability Requirements per the terms of the Loan Agreement and Covenant Agreement together with all other provisions of this Note and Related Documents.

B. <u>Payment Period</u>: Following the Deferral Period, principal and interest on this Note shall be payable in approximately equal amortized installments on the first day of each month (or the first business day thereafter if the first day of the month is a weekend or a holiday for the City), in the amount required to fully amortize the outstanding principal of and accrued interest on this Note over the remainder of a period of twenty (20) years commencing at Project Completion (as defined paragraph VIII.A. of the Loan Agreement). This loan term should coincide with the HOME Affordability Period, as defined in the Loan Agreement. During the Affordability Period, Borrower shall notify the City in writing if, for any reason, Borrower and/or the Project will not comply with the Affordability Requirements, at which time any remaining balance would become immediately due and payable in full.

C. <u>Prepayment</u>: The Borrower may pay all or any portion of the outstanding principal of the Note at any time, without penalty. Repayment during the HOME Affordability Period, as described in the Loan Agreement, shall not extinguish the Affordability Requirements.

D. <u>Late Charges</u>: A late charge of thirty dollars (\$30.00) will be added to any payment received after the 10th day of the month in which it is due in addition to any other remedy.

E. <u>Application of Payments</u>: Payments received will first be applied to late charges, then to interest, and finally to principal.

F. <u>Place of Payment</u>: Payments of principal, interest, and fees shall be made in lawful money of the United States of America in immediately available funds to the City of Spokane, at the Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, or at such other place as Lender may designate in writing according to the schedule noted above.

4. THIS NOTE IS secured by the Deed of Trust of even date herewith, duly filed for record in the County of Spokane, Washington.

5. THIS LOAN IS made for the purpose of financing a portion of the costs of the rehabilitation of a house and construction of 3 units on the property at 1808 East First Avenue and legally described in the Deed of Trust and Loan Agreement. As a condition of receiving this loan, Borrower agrees to abide by all of the terms and conditions of this Note, Note 2, the Deed of Trust, the Loan Agreement and associated Covenant Agreement, incorporated herein by reference as if fully set forth.

6. IF THE BORROWER SHALL default in the payment of any amount due under this Note, and such default is not cured within ten (10) days after such payment is due, or if any other Event of Default occurs under Note 2, the Deed of Trust, the Loan Agreement or the Covenant Agreement and such default is not cured within the cure period, if any, applicable thereto, the entire unpaid principal amount of this Note, together with accrued interest, shall immediately become due and payable, at Lender's option, upon notice to the Borrower. Failure of Lender to exercise such option shall not constitute a waiver of default. If Lender exercises its option to declare the entire amount of Borrower's loan immediately due and payable as provided above, Borrower agrees to pay Lender's cost and expenses of collection, including reasonable attorney's fees and court costs. If this Note is reduced to judgment, the judgment shall bear interest at the maximum rate permissible on judgments in the State of Washington.

7. IF THE BORROWER voluntarily sells, transfers, leases or otherwise conveys the Project or any portion thereof, to any person/persons or entity/entities (the "Transferee"), other than by leasing or renting for residential tenant use as contemplated by various provisions of the Loan Agreement, or for any other incidental use (to the extent permissible under all applicable federal and state laws and regulations), an Event of Default shall occur under the terms of this Note and the Related Documents unless the Borrower obtained prior written consent of the Director. The remedies provided for Default may be exercised at the discretion of the Director. An unauthorized transfer also occurs if Borrower grants a junior security interest without obtaining the prior written consent of the Director. Any sale, transfer, leasing or other disposition of the Project in violation of this Section 7 shall not relieve the Borrower of any obligation or obligations under this Note or any Related Document. The Borrower hereby agrees that upon any sale, transfer, lease or other disposition of the Project, the Borrower shall transfer all records, accounts, electronic data or other documents pertaining to the Project, including documents related to Borrower's compliance with this Note and any Related Document, to the Transferee or its designated agent. Failure by the City to exercise any of its rights and remedies under this Note or any Related Documents shall not be construed as a waiver of any kind. The Director's written consent may be conditioned upon the following, at the Director's sole discretion:

(a) reasonable evidence satisfactory to the Director that the Borrower is not then in default under any document related to this transaction beyond any applicable grace period or cure period;

(b) an opinion of counsel for the Transferee, delivered to the City, to the effect that the Transferee (i) has assumed in writing and in full, all duties and obligations of the Borrower under this Note, the Loan Agreement and the Covenant Agreement, and (ii)

that this Note and the Related Documents constitute the legal, valid and binding obligations of the Transferee;

(c) a showing that written assumption of the Transferee and/or the written agreement of the Transferee complies with all provisions of local, state and federal laws, ordinances and regulations applicable to the Borrower under this Note and Related Documents;

(d) a showing that the Borrower or the Transferee is not in arrears on any payments due and owing to the City or is in default under this Note or any of the Related Documents, beyond any applicable grace period or cure period;

(e) a showing that the Borrower or the Transferee do not have a history of instances of non-compliance with any non-monetary provision of this Note or any of the Related Documents, which were not cured after notice thereof and within the applicable cure period or grace period; and/or,

(f) a showing that the Borrower or the Transferee do not have a documented history of instances of failure to make payments due and owing to the City which are not paid within a reasonable period after notice thereof.

8. THIS NOTE IS not assignable or assumable without the express written consent of the Lender.

9. EACH MAKER AND endorser of this Note hereby waives demand and presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, bringing of suit, and diligence in taking action to collect any amounts called for hereunder and in the handling of properties, rights or collateral at any time existing in connection herewith. Each maker and endorser expressly agrees that this Note or any payment thereunder may be extended from time to time, and consent to the acceptance of further security for this Note, including other types of security, all without in any way affecting the liability of each maker and endorser hereof. The right to plead any statutes of limitation as a defense to any demand on this Note, or any guaranty thereof or to any agreement to pay the same or to any demand secured by the Deed of Trust or other security, securing the Note, or any and all obligations or liabilities arising out of or in connection with said Note or Deed of Trust by any parties hereto is expressly waived by each and every of the makers, endorsers, guarantors or sureties.

10. SEVERABILITY: If any provision, or a part thereof, of this Note is declared by a court of competent jurisdiction to be invalid, the invalid provision or part thereof shall be stricken, with the remainder of the provision and other provisions of this Note surviving with full force and effect.

11. BORROWER RATIFIES and reaffirms all information previously submitted in Borrower's loan application or financial statement, and by signing this Note, Borrower represents and warrants to Lender that the information provided is true and correct and that there has been no adverse change in Borrower's financial condition as disclosed to Lender in Borrower's most recent application or financial statement.

12. APPLICABLE LAW AND VENUE: This Note has been issued, executed and delivered in the State of Washington and shall be governed by and construed in accordance with the laws of the State of Washington, except to the extent that the laws of the United States of America may prevail. Venue to enforce any provision shall be in the Spokane County Superior Court.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS NOTE ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

PRIOR TO SIGNING THIS NOTE, BORROWER HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO ALL TERMS AND CONDITIONS OF THIS NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS NOTE.

IN WITNESS WHEREOF, the Borrower executed this Promissory Note on this _____ day of ______, 2016.

BASALT ROCK, LLC

By:

Konstantin Y. Vasilenko, Member

Date: _____

By:

Tatyana A. Vasilenko, Member

Date:

CITY OF SPOKANE BASALT ROCK, LLC

1808 EAST FIRST AVENUE

PROMISSORY NOTE 2

OPR #2016-____

Borrower:	Basalt Rock, LLC
	14 E. Mission Avenue, #3
	Spokane, WA 99202

Lender: City of Spokane Community, Housing and Human Services Department 808 W. Spokane Falls Blvd., Room 650 Spokane, WA 99201

<u>Principal</u>: \$162,500.00

Date:

1. PROMISE TO REPAY: FOR VALUE RECEIVED, the undersigned Basalt Rock, LLC, hereinafter referred to as "Borrower", promises to repay to the order of the City of Spokane, a Washington state municipal corporation, or its successors and assigns (hereinafter called "Lender") the maximum principal sum of ONE HUNDRED SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$162,500.00) or so much of said sum or sums as may now or hereafter be loaned or disbursed to the Borrower by the Lender, for the purpose of providing a portion of the financing for the Borrower's 1808 East First Avenue project, located at 1808 East First Avenue in Spokane, WA (the "Project"). This Promissory Note 2 (the "Note") is part of a transaction further reflected in Promissory Note 1, a HOME Program Loan Agreement ("Loan Agreement") and HOME Program Loan Covenant Agreement ("Covenant Agreement") of even date herewith. Promissory Note 1 and Promissory Note 2 are collectively referred to as "Notes." Lender's disbursements under the Loan Agreement and the Notes are further secured by a Deed of Trust of even date herewith ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents". The capitalized terms in said Related Documents shall have the same meaning in this Note unless the context clearly suggests otherwise. In the event of conflict or ambiguity in the terms of any of these documents, the terms most favorable to Lender shall apply.

2. INTEREST: In addition to repayment of principal sums loaned, Borrower agrees to pay interest, compounded monthly, commencing on the date the money is first disbursed under the Loan Agreement, at the rate of three percent (3%) per annum. If rents for any HOME-assisted unit of the Project are raised above the level of the

Promissory Note - 1 of 5

Affordability Requirement defined in the Loan Agreement, or any other provisions, covenants, terms, conditions or restrictions of the Loan Agreement are not adhered to, then the rate on the outstanding balance shall be increased to the prevailing prime lending rate as published in <u>The Wall Street Journal</u>, plus three percent (3%), compounded monthly, for the period of noncompliance, as determined by the Director of Community, Housing and Human Services for the City of Spokane (the "Director").

3. REPAYMENT; MATURITY:

A. <u>Deferral Period</u>: Payment of principal and interest shall be deferred during the HOME Affordability Period, as defined in the Loan Agreement and Covenant Agreement, so long as Borrower and the Project are in compliance with the Affordability Requirements per the terms of the Loan Agreement and Covenant Agreement together with all other provisions of this Note and Related Documents.

B. <u>Payment Period:</u> Principal and interest on this Note shall be payable in approximately equal amortized installments on the first day of each month (or the first business day thereafter if the first day of the month is a weekend or a holiday for the City), commencing immediately after the HOME Affordability Period ends, in the amount required to fully amortize the outstanding principal and accrued interest on this Note (including the interest accrued) during the remaining City Affordability Period, as defined in the Loan Agreement. During the Affordability Period, Borrower shall notify the City in writing if, for any reason, Borrower and/or the Project will not comply with the Affordability Requirements, at which time any remaining balance would become immediately due and payable in full.

C. <u>Prepayment</u>: The Borrower may pay all or any portion of the outstanding principal of the Note at any time, without penalty. Repayment during the HOME Affordability Period, as described in the Loan Agreement, shall not extinguish the Affordability Requirements.

D. <u>Late Charges</u>: A late charge of thirty dollars (\$30.00) will be added to any payment received after the 10th day of the month in which it is due in addition to any other remedy.

E. <u>Application of Payments</u>: Payments received will first be applied to late charges, then to interest, and finally to principal.

F. <u>Place of Payment</u>: Payments of principal, interest, and fees shall be made in lawful money of the United States of America in immediately available funds to the City of Spokane, at the Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, or at such other place as Lender may designate in writing according to the schedule noted above.

G. <u>Potential Debt Forgiveness</u>: Repayment shall further be subject to provisions and applicable sections of the Loan Agreement, which allows for debt forgiveness in exchange compliance with the Affordability Requirements during the

Forgiveness Period, as defined in the Loan Agreement, subject to conditions specified in the Loan Agreement.

4. THIS NOTE IS secured by the Deed of Trust of even date herewith, duly filed for record in the County of Spokane, Washington.

5. THIS LOAN IS made for the purpose of financing a portion of the costs of the rehabilitation of a house and construction of 3 units on the property at 1808 East First Avenue and legally described in the Deed of Trust and Loan Agreement. As a condition of receiving this loan, Borrower agrees to abide by all of the terms and conditions of this Note, Note 1, the Deed of Trust, the Loan Agreement and associated Covenant Agreement, incorporated herein by reference as if fully set forth.

6. IF THE BORROWER SHALL default in the payment of any amount due under this Note, and such default is not cured within ten (10) days after such payment is due, or if any other Event of Default occurs under Note 1, the Deed of Trust, the Loan Agreement or the Covenant Agreement and such default is not cured within the cure period, if any, applicable thereto, the entire unpaid principal amount of this Note, together with accrued interest, shall immediately become due and payable, at Lender's option, upon notice to the Borrower. Failure of Lender to exercise such option shall not constitute a waiver of default. If Lender exercises its option to declare the entire amount of Borrower's loan immediately due and payable as provided above, Borrower agrees to pay Lender's cost and expenses of collection, including reasonable attorney's fees and court costs. If this Note is reduced to judgment, the judgment shall bear interest at the maximum rate permissible on judgments in the State of Washington.

7. IF THE BORROWER voluntarily sells, transfers, leases or otherwise conveys the Project or any portion thereof, to any person/persons or entity/entities (the "Transferee"), other than by leasing or renting for residential tenant use as contemplated by various provisions of the Loan Agreement, or for any other incidental use (to the extent permissible under all applicable federal and state laws and regulations), an Event of Default shall occur under the terms of this Note and the Related Documents unless the Borrower obtained prior written consent of the Director. The remedies provided for Default may be exercised at the discretion of the Director. An unauthorized transfer also occurs if Borrower grants a junior security interest without obtaining the prior written consent of the Director. Any sale, transfer, leasing or other disposition of the Project in violation of this Section 7 shall not relieve the Borrower of any obligation or obligations under this Note or any Related Document. The Borrower hereby agrees that upon any sale, transfer, lease or other disposition of the Project, the Borrower shall transfer all records, accounts, electronic data or other documents pertaining to the Project, including documents related to Borrower's compliance with this Note and any Related Document, to the Transferee or its designated agent. Failure by the City to exercise any of its rights and remedies under this Note or any Related Documents shall not be construed as a waiver of any kind. The Director's written consent may be conditioned upon the following, at the Director's sole discretion:

(a) reasonable evidence satisfactory to the Director that the Borrower is not then in default under any document related to this transaction beyond any applicable grace period or cure period;

(b) an opinion of counsel for the Transferee, delivered to the City, to the effect that the Transferee (i) has assumed in writing and in full, all duties and obligations of the Borrower under this Note, the Loan Agreement and the Covenant Agreement, and (ii) that this Note and the Related Documents constitute the legal, valid and binding obligations of the Transferee;

(c) a showing that written assumption of the Transferee and/or the written agreement of the Transferee complies with all provisions of local, state and federal laws, ordinances and regulations applicable to the Borrower under this Note and Related Documents;

(d) a showing that the Borrower or the Transferee is not in arrears on any payments due and owing to the City or is in default under this Note or any of the Related Documents, beyond any applicable grace period or cure period;

(e) a showing that the Borrower or the Transferee do not have a history of instances of non-compliance with any non-monetary provision of this Note or any of the Related Documents, which were not cured after notice thereof and within the applicable cure period or grace period; and/or,

(f) a showing that the Borrower or the Transferee do not have a documented history of instances of failure to make payments due and owing to the City which are not paid within a reasonable period after notice thereof.

8. THIS NOTE IS not assignable or assumable without the express written consent of the Lender.

9. EACH MAKER AND endorser of this Note hereby waives demand and presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, bringing of suit, and diligence in taking action to collect any amounts called for hereunder and in the handling of properties, rights or collateral at any time existing in connection herewith. Each maker and endorser expressly agrees that this Note or any payment thereunder may be extended from time to time, and consent to the acceptance of further security for this Note, including other types of security, all without in any way affecting the liability of each maker and endorser hereof. The right to plead any statutes of limitation as a defense to any demand on this Note, or any guaranty thereof or to any agreement to pay the same or to any demand secured by the Deed of Trust or other security, securing the Note, or any and all obligations or liabilities arising out of or in connection with said Note or Deed of Trust by any parties hereto is expressly waived by each and every of the makers, endorsers, guarantors or sureties.

10. SEVERABILITY: If any provision, or a part thereof, of this Note is declared by a court of competent jurisdiction to be invalid, the invalid provision or part thereof shall be stricken, with the remainder of the provision and other provisions of this Note surviving with full force and effect.

11. BORROWER RATIFIES and reaffirms all information previously submitted in Borrower's loan application or financial statement, and by signing this Note, Borrower represents and warrants to Lender that the information provided is true and correct and that there has been no adverse change in Borrower's financial condition as disclosed to Lender in Borrower's most recent application or financial statement.

12. APPLICABLE LAW AND VENUE: This Note has been issued, executed and delivered in the State of Washington and shall be governed by and construed in accordance with the laws of the State of Washington, except to the extent that the laws of the United States of America may prevail. Venue to enforce any provision shall be in the Spokane County Superior Court.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS NOTE ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

PRIOR TO SIGNING THIS NOTE, BORROWER HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO ALL TERMS AND CONDITIONS OF THIS NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS NOTE.

IN WITNESS WHEREOF, the Borrower executed this Promissory Note on this _____ day of _____, 2016.

BASALT ROCK, LLC

By: _

Date:

Konstantin Y. Vasilenko, Member

By: _

Date: _____

Tatyana A. Vasilenko, Member

DRAFT WHEN RECORDED RETURN TO: CITY OF SPOKANE COMMUNITY, HOUSING AND HUMAN SERVICES DEPARTMENT 808 W. SPOKANE FALLS BLVD., ROOM 650 SPOKANE, WASHINGTON 99201-3339

OPR #2016-____

CITY OF SPOKANE BASALT ROCK, LLC

1808 EAST FIRST AVENUE

HOME PROGRAM LOAN COVENANT AGREEMENT

Grantor: Basalt Rock, LLC, a Washington limited liability company

Beneficiary: City of Spokane, a Washington state municipal corporation

Assessor's Parcel No.: 35212.1003

Legal Description: LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

This HOME Program Loan Covenant Agreement ("Covenant Agreement") is made this _____ day of _____, 2016, by and between the City of Spokane, Washington, a Washington municipal corporation (the "City"), whose address is City of Spokane, c/o Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, Washington 99201-3339 and **Basalt Rock, LLC**, a Washington limited liability company (the "Borrower" or "Grantor"), whose address is 14 East Mission Avenue, #3, Spokane, WA 99202.

I. STIPULATIONS

1. This Covenant Agreement is a condition of and part of the consideration for the financial assistance provided by the City to the Borrower for the Borrower's 1808 East First Avenue project, which includes the rehabilitation of a house and construction of 3 units at 1808 East First Avenue in Spokane, WA (the "Project"). All four (4) units will be HOME-assisted.

2. This Covenant Agreement is part of a transaction further reflected in two Promissory Notes ("Note 1" and "Note 2", or, collectively, the "Notes") and a HOME Program Loan Agreement ("Loan Agreement") of even date herewith. The City's disbursements under the Loan Agreement are further secured by a Deed of Trust ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents." The capitalized terms in said agreements shall have the same meaning in this Covenant Agreement unless the context clearly suggests otherwise. In the event of conflict in the terms of any of these documents, the terms most favorable to the City shall apply.

3. The Project is situated in the City and County of Spokane, State of Washington, and is legally described below:

LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

Assessor's Parcel Number: 35212.1003 Property Address: 1808 East 1st Avenue, Spokane, WA 99202

4. This Covenant Agreement shall be filed and recorded in the official public land records of Spokane County, Washington, and shall constitute a restriction upon the use of the property and Project described herein, subject to and in accordance with the terms of this Covenant Agreement during the Affordability Period described in Section IV herein below.

5. The covenants contained herein are to be taken and construed as **covenants running with the land** and shall pass to and be binding upon the Borrower, its successors in interest, assigns, heirs or lessees of the Project, beginning on the date this Covenant Agreement is executed. Each and every contract, deed or other instrument covering or conveying the property or Project, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants regardless of whether such covenants are set forth in such contract, deed or other instrument.

NOW, THEREFORE, it is hereby covenanted, that during the Affordability Period described in Section IV herein below, the Borrower agrees to the following covenants running with the land which shall bind the Borrower, its heirs, assigns, lessees and successors in interest through the Affordability Period.

II. COVENANTS

Borrower shall:

- A. Comply with the Affordability Requirements described in this Covenant Agreement and Related Documents.
- B. Maintain all required insurance, including without limitation the insurance required by the Deed of Trust.
- C. Maintain Project financial reports, Project financial records and provide all other information and documentation that the City may reasonably request.
- D. Make prompt payment of all taxes and financial liabilities.
- E. Not hypothecate or encumber Project assets in any way, except to the extent provided for under the Loan Agreement or as approved of by the Director of Community, Housing and Human Services of the City of Spokane (the "Director") in writing. The Director may withhold such approval at his/her reasonable discretion.
- F. Promptly provide (i) rent and tenant income information at initial tenant occupancy and (ii) rent, occupancy, and tenant income information annually throughout the term of the Loan Agreement, in accordance with the Loan Agreement, or as otherwise requested by the City. If the Project has floating HOME units, the Borrower must provide the City with information regarding the unit substitution and filling vacancies so that the Project remains in compliance with HOME rental occupancy requirements.
- G. Promptly provide, upon request by the City, such documentation as is necessary (including financial statements) to enable the City to determine the financial condition and continued financial viability of the Project.
- H. During the Affordability Period, prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of Borrower) whether private, for-profit or nonprofit, including a community housing development organization ("CHDO") when acting as an owner, developer or sponsor.
- I. Comply with all applicable federal, state, and local regulations and requirements, including, but not limited to, Uniform Administrative Requirements, Federal Labor Standards, Davis-Bacon and Related Acts, Uniform Relocation Act requirements applicable as of the date of the execution of this Covenant Agreement, and the provisions of the Lead-Based Paint Poisoning Prevention Act. City's cost to administer Davis Bacon Federal Labor Standard, and Related Acts shall be borne by the Borrower. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply.

- J. Comply with all HOME program project requirements pursuant to 24 CFR part 92 et seq.
- K. Maintain housing in compliance with the property standards of 24 CFR §92.251 and local code requirements throughout the term of the Loan Agreement.
- L. Upon Project completion, the Project shall obtain a final Certificate of Occupancy for new units and complete the final inspections and obtain final approvals on all construction permits for the rehabilitated unit, meet all licensing requirements needed to operate the facility as proposed by Borrower in its various funding applications, and meet the property standards of 24 CFR §92.251, minimum rehabilitation standards, and all applicable federal, state and local codes and ordinances. New construction projects must also meet HUD, state, and local requirements relating to accessibility and disaster mitigation.
- M. Cause each of the four (4) HOME-assisted units to be occupied by incomeeligible households within eighteen (18) months after the Project is completed. If any HOME-assisted units are not occupied by eligible tenants within 6 months following the date of Project Completion, Borrower shall submit to the City current marketing information and, if the City requests it, an enhanced marketing plan for leasing the unoccupied units as quickly as possible, which information the City will provide to HUD as required by 24 CFR §92.252. If any HOME-assisted unit has not been rented to eligible tenants within eighteen (18) months after the date of Project Completion, Borrower shall repay the City \$45,000.00/unit for each such unit within thirty (30) days of the City's written request for repayment. This reflects the proportionate per unit share of HOME funds, i.e., \$180,000.00 HOME dollars/4 HOME units.

The Borrower shall cause this Covenant Agreement to be recorded as a covenant running with the land and the Project.

Borrower shall pay at loan closing all costs associated with the negotiation, documentation and closing of the loan, including without limitation title premiums escrow fees, recording fees, appraisal fees and City's attorneys' fees.

III. INCOME DETERMINATIONS

- A. For purposes of this Covenant Agreement, tenant "annual income" is defined pursuant to 24 CFR §92.203), and includes income from all persons in the household, less income adjustments pursuant to 24 CFR §5.611. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.
- B. Initial tenant annual income determinations shall be made by the Borrower pursuant to 24 CFR §92.203. Subsequent tenant income determinations shall be made by the Borrower pursuant to 24 CFR §92.203 and 24 CFR §92.252(h).

C. Rent increases and annual income recertifications shall be governed by the terms outlined in the Affordability Requirements below.

IV. AFFORDABILITY REQUIREMENTS

- A. <u>HOME Affordability Period</u>. The HOME Affordability Period, established pursuant to 24 CFR §92.252, is twenty (20) years, beginning after Project Completion, as determined by the Director. "Project Completion" means that all necessary title transfer requirements and construction work have been performed; the Project complies with the requirements of 24 CFR §92, including the property standards under 24 CFR §92.251; the final drawdown of HOME funds has been disbursed for the Project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of §92.502(d), project completion occurs upon completion of construction and before occupancy. Repayment of the loan during the HOME Affordability Period will not extinguish the requirements of the Related Documents.
- B. <u>City Affordability Period</u>. The City Affordability Period is thirty (30) years, beginning after Project Completion, as determined by the Director. The HOME Affordability Period and City Affordability Period shall run concurrently. Collectively, the two periods are hereinafter referred to as the "Affordability Period." Upon expiration of the HOME Affordability Period, the City Affordability Period shall continue, but HUD will no longer monitor compliance with affordability requirements, unless the City Affordability Period is coterminous with the HOME Affordability Period. The requirements of the Affordability Period and other conditions of the Related Documents shall apply, as long as there are funds owing under the Notes.
- C. <u>Rent Limit</u>. During the Affordability Period, rents on two (2) of the four (4) HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals fifty percent (50%) of Spokane area median income ("AMI"), as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include one (1) three-bedroom units and one (1) two-bedroom unit. In addition, rents on two (2) of the HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals thirty percent (30%) of AMI, as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include two (2) two-bedroom units.

However, any HOME-assisted unit receiving federal or state project-based rental assistance, where the tenant pays not more than thirty percent (30%) of the household's adjusted income as a contribution toward rent, shall be limited to the maximum rent allowed under the federal or state project-based rental assistance program.

Should the HUD rents decline below the initial project rents, the Borrower's rents do not need to be reduced below the initial rents. A table of initial HUD rents for the Project is attached to the Loan Agreement as Attachment 2.

The adjustment for tenant-paid utilities and tenant-supplied appliances is subject to §92.252. New HUD requirements include that the adjustment for tenant-paid utilities and tenant-supplied appliances be based on the HUD Utility Schedule Model, twelve (12) months of documented actual utility costs as acceptable to the City's Community, Housing & Human Services Department, or other methods as determined by HUD. Currently, the HUD Utility Schedule Model can be found at: <u>http://huduser.org/portal/resources/utilmodel.html</u>.

The City will provide Borrower with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits exclusive of rent paid through project-based subsidies) in accordance with this Loan Agreement and §92.252(f)(2). The Borrower must annually provide the City with information on rents and occupancy of HOME-assisted units to demonstrate compliance with the Affordability Requirements of this Loan Agreement. The City will review rents for compliance and approve or disapprove them every year.

The Borrower must provide tenants of HOME-assisted units written notification of rent increases no less than 30 days prior to the beginning of the month in which the increase is intended to be implemented, subject to the provisions of a tenant's lease agreement, pursuant to \$92.252(f)(3).

- D. <u>LIHTC Rent Clause</u>. For tenants of low-income tax credit assisted units (if lowincome housing tax credits are awarded to the Project or portions of the Project), any increases in rent associated with tenant income shall be governed solely by section 42 of the Internal Revenue Code of 1986, as amended from time to time.
- E. Upon completion of the HOME Affordability Period, if the maximum rent and income limits are exceeded, the loan will be subject to repayment at the higher interest rate as provided for in Paragraph 2 of the Promissory Notes.
- F. <u>Income Limit</u>. At initial occupancy, tenants of two (2) of the four (4) HOMEassisted units shall have incomes not greater than fifty percent (50%) of AMI. In addition, tenants of two (2) of the HOME assisted units shall have incomes not greater than thirty percent (30%) of AMI at initial occupancy. If any of these tenants' incomes increases to a level exceeding fifty percent (50%) of AMI, then

the next available HOME-assisted unit shall be made available to families at or below thirty percent (30%) of AMI. If the income of a tenant of a HOME-assisted unit increases and exceeds eighty percent (80%) of AMI, then the tenant's rent shall increase to the lesser of thirty percent (30%) of the tenant's adjusted monthly income or Fair Market Rent, subject to paragraph IV.D hereof.

- G. <u>Income Certifications</u>. All tenants' incomes shall be recertified annually by the Borrower. Any applicable rent increases will be effective upon the next lease renewal, and are subject to thirty (30) days' written notice.
- H. <u>Additional Affordability Requirements</u>. The Project must comply with the affordable housing requirements of 24 CFR §92.252.
- I. <u>Relocation</u>. Tenants in occupancy prior to the Project are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), 42 USC 4601 et seq. and the regulations promulgated thereunder. All relocation payments and expenses shall be borne by the Borrower.
- J. Protection of Affordability Requirements - City Purchase Option. The Affordability Requirements may terminate upon foreclosure or transfer in lieu of foreclosure at the sole election of the Director. In the event of a pending or threatened foreclosure, once applicable notice and cure periods have expired, the City is hereby granted an option and a right of first refusal to purchase the Project before foreclosure or deed in lieu of foreclosure to preserve affordability. The City may exercise its right to purchase the Project in any reasonable manner following the City's receipt of written notice of pending or threatened foreclosure proceedings and/or a possible deed in lieu of foreclosure, which notice Borrower hereby agrees to provide to City. The purchase price shall be the assessed value of the Project at the time of the City's exercise of its purchase rights, less any financial obligations assumed by the City at the time of the City's acquisition of the Project. The City further reserves the right to revive any affordability restrictions according to the original terms of the Loan Agreement if, during the HOME Affordability Period (as defined herein), the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or property.

V. <u>DEFAULT</u>

If a violation of any of the foregoing covenants occurs, the City may, after thirty (30) days written notice, the default meanwhile not having been cured, institute and prosecute any proceeding at law or in equity or as otherwise provided for in this Covenant Agreement, or Related Documents, to abate, prevent, or enjoin any such violation or to compel specific performance by the Borrower of its obligations hereunder, including, without limitation of other remedies, the exercise of the City's purchase rights described herein. No delay in enforcing the provisions hereof as to

any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS AGREEMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the Parties have executed this Agreement on this _____ day of _____, 2016.

BASALT ROCK, LLC

By: _

Konstantin Y. Vasilenko, Member

Date:

By:

Tatyana A. Vasilenko, Member

Date: _____

STATE OF WASHINGTON)) ss. County of Spokane)

On this _____ day of ______, 2016, personally appeared before me **Konstantin Y. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company, executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person and the Grantor, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires_____

STATE OF WASHINGTON)) ss. County of Spokane)

On this _____ day of ______, 2016, personally appeared before me **Tatyana A. Vasilenko**, to me known to be a **Member** of **Basalt Rock, LLC**, a Washington limited liability company, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person and the Grantor, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of Washington, residing at_____ My Commission expires_____

CITY OF SPOKANE

By:

David A. Condon, Mayor

Date:	_	
Date:		

ATTEST:

APPROVED AS TO FORM:

By:	
-	Terri L. Pfister, City Clerk

Date:

By: ______Assistant City Attorney

STATE OF WASHINGTON)) ss. County of Spokane)

On this _____ day of _____, 2016, personally appeared before me David A. Condon and Terri L. Pfister, to me known to be the Mayor and City Clerk, respectively, of and for the City of Spokane, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of
Washington, residing at
My Commission expires

WHEN RECORDED RETURN TO:City of SpokaneCommunity, Housing and Human Services Dept.808 W. Spokane Falls Blvd.Spokane, WA 99201

OPR 2016-0821

QUIT CLAIM DEED

THE GRANTOR, CITY OF SPOKANE, a Washington municipal corporation, for and in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, conveys and quit claims to Basalt Rock, LLC, a Washington limited liability company ("Grantee"), the City's interest in the following described real estate, situated in the County of Spokane, State of Washington:

LOT 2, BLOCK 10, WADSWORTH AND MCDONALD'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGE 71;

SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

APN: 35212.1003

Provided; that if Grantee fails to comply with the Affordability Requirements set forth in that certain HOME PROGRAM LOAN COVENANT AGREEMENT, of even date herewith, wherein Basalt Rock, LLC is Grantor and the City of Spokane is Beneficiary, then the City may re-enter and repossess the Property.

DATED this _____ day of ______, 2016.

By:

David A. Condon, Mayor

Attest:

Approved as to form:

Terri L. Pfister, Clerk

Assistant City Attorney

STATE OF WASHINGTON)) ss.

)

County of Spokane

I certify that I know or have satisfactory evidence that David A. Condon and Terri L. Pfister are the persons who appeared before me and said persons acknowledged that they signed this document, and on oath stated that they were authorized to sign and acknowledged it as the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, a municipal corporation, to be the free and voluntary act of such party for the uses and purposes therein mentioned.

DATED: _____

Notary Public in and for Washington State Residing at ______ My appointment expires:

BRIEFING PAPER City of Spokane

Community, Housing and Human Services Department Community, Health, and Environment Committee May 2, 2016

<u>Subject</u>

Update on Spring 2016 Multifamily Housing Program RFP proposals for federal HOME-funds to develop affordable rental housing with long-term affordability covenants.

Background

A recent CHHS RFP offered about \$600,000 of HOME funds to develop affordable rental housing at three CHHS-owned properties. HOME-funded rental units must be affordable to households at or below 50% of Area Median Income and should include units for extremely low-income households, large families, and handicapped tenants. The three CHHS-owned properties (see attachment) had received a Single Family Rehabilitation program home repair loan but were later transferred to CHHS following foreclosure or borrower's death. HUD requires that these properties provide further benefit to low-income Spokane families.

CHHS received 4 proposals for HOME funding (see attachment). In early May, the CHHS Board will select projects to receive HOME funds, which are contingent upon Council approval. In June, CHHS staff plans to request that Council approve HOME funding contracts for the selected projects. This timeline helps CHHS meet a HUD July 31 HOME commitment deadline. Construction is expected to start in September 2016.

Impact

Selected proposals will create new rental housing with long-term affordability covenants for low-income families. Each project will deliver infill housing at underutilized lots. One property is located in the East Sprague TIP and all properties are in the East Central neighborhood.

Action

Discuss affordable housing proposals in preparation of Council consideration of HOME funding contracts (anticipated June/July 2016).

Funding

Approximately \$600,000 of federal HOME funds. Each proposal utilizes some additional funding from owner's funds or bank financing.

2016 SPRING FUNDING APPLICATIONS

SPONSOR	PRODUCT	HOME REQUEST	HOME \$/ HOME UNIT	TOTAL COST	COST/ UNIT
EAST CENTRAL COMMUNITY ORGANIZAT	6 total units	\$396,407	\$66,068	\$705,407	\$117,568
1st & Scott Rental Properties	6 HOME units	<i>\</i>	\$00,000	<i>\$100,101</i>	<i><i></i><i></i></i>
1808 E 1st - 1 duplex	HOME 30% 2 3bd				
611 S Scott - 2 duplexes	50% 4 3bd				
new construction					
Other funds: bank loan, FHLB					
INLAND EMPIRE RESIDENTIAL RESOURC	2 total units	\$260,000	\$130,000	\$261,500	\$130,750
Special Skills Duplex	2 HOME units				
2418 E 4th	HOME 30% 1 2bd, 1 3bd				
new construction					
includes 2 ADA accessible					
Other funds: Owner					
VASILENKO	1 total unit	\$75,000	\$75,000	\$110,060	\$110,060
	1 HOME unit				
1808 E 1st	HOME 50% 1 3bd				
rehab, potential for add'I 3 new construction					
Other funds: Owner					
VASILENKO	6 total units	\$395,000	\$65,833	\$528,358	\$88,060
	6 HOME units				
611 S Scott	HOME 30% 3 3bd				
rehab (1), new construction (5)	50% 2 2bd, 1 3bd				
includes 1 3bd ADA accessible					
Other funds: Owner					
TOTAL	14 total units	\$1,126,407	\$80,458	\$1,605,325	\$114,666
	14 HOME units				

Total HOME funds available:

Non-CHDO funds

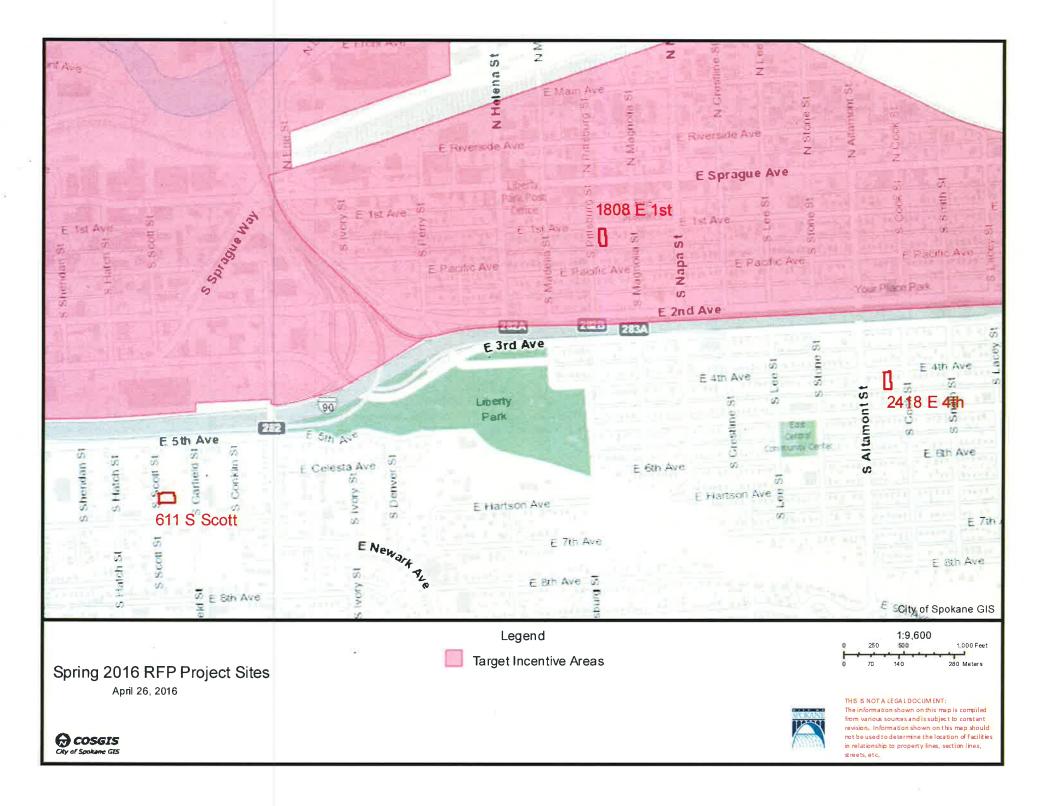
CHDO setaside

\$600,000

\$600,000 (Includes HOME MF, reprogrammed HOME, HOME PI)

-

\$0 (Minimum required allocation. Actual may be greater.)



SPOKANE Agenda Sheet	t for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	OPR 2010-0535
		Renews #	
Submitting Dept	POLICE	Cross Ref #	
Contact Name/Phone	JUSTIN LUNDGREN 835-4115	Project #	
Contact E-Mail	JCLUNDGREN@SPOKANEPOLICE.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	1510-CAD/RMS CONTRACT TERMINATION		
Agondo Wording	•		

Agenda Wording

90 Day Contract termination notice for OPR 2010-0535 CAD/RMS Maintenance contract with NORTHROP GRUMMAN (McLean, VA).

Summary (Background)

The Northrop Grumman (NG) CAD/RMS system has been operational for over 20 years, and is currently under a maintenance agreement with NG for software, and Hewlett Packard for hardware and operating systems. The maintenance contract has a 90 day termination notice that SPD and SRECS would like to take advantage of for the transition to New World Systems software which is replacing the CAD/RMS system. The New World System has been implemented and is running concurrently with the CAD/RMS system.

Fiscal Impact		Budget Account		
Neutral \$		#		
Select \$		#		
Select \$		#		
Select \$		#		
Approvals		Council Notificat	tions	
Dept Head	MEIDL, CRAIG	Study Session	Public Safety Committee 10/17/16	
Division Director	MEIDL, CRAIG	<u>Other</u>		
Finance KECK, KATHLEEN		Distribution List		
Legal	WHALEY, HUNT	achirowamangu		
For the Mayor	DUNIVANT, TIMOTHY	ewade		
Additional Approvals		slynds		
Purchasing		korlob		
		aschmidt		

Briefing Paper City of Spokane LEIS/Public Safety Committee October 17, 2016

Subject

90 Day Termination Notice to Northrop Grumman's Computer Aided Dispatch (CAD) and Records Management Systems (RMS) contract # OPR 2010-0535. Background

The Northrop Grumman CAD/RMS system has been operational for over 20 years, and is currently under a maintenance agreement with NG for software, and Hewlett Packard for hardware and operating systems. The maintenance contract has a 90 day termination notice that SPD and SRECS would like to take advantage of due to the transition to New World Systems software which is replacing the CAD/RMS system. The New World System has been implemented and is running concurrently with the CAD/RMS system.

Impact

The 90 day notice will give SPD and other agencies enough time to cross over to the New World System. The notice will save the City the 4th quarter fees and possibly part of 3rd quarter fees depending on the transition to New World.

<u>Action</u>

Need council approval to terminate OPR 2010-0535 with Northrop Grumman.

Funding

The maintenance costs are shared among all CAD/RMS/JMS users throughout the criminal justice system in Spokane County.

			Pa	yment Sched	ule			
	5/9	/16 - 8/8/16	8/9	/16 - 11/8/16	11/	9/16 - 2/8/17	2/9	/17 - 5/8/17
NG/HP HW	\$	14,637.50	\$	14,637.50	\$	14,637.50	\$	14,637.50
CAD/MIS	\$	7,482.50	\$	7,482.50	\$	7,482.50	\$	7,482.50
RMS/Oracle	\$	11,428.00	\$	11,428.00	\$	11,428.00	\$	11,428.00
Total	\$	33,548.00	\$	33,548.00	\$	33,548.00	\$	33,548.00

October 25, 2016

Northrop Grumman Systems Corporation 7555 Colshire Drive McLean, VA 22102

Dear Northrop Grumman

The City of Spokane's Police Department is writing this letter to formally provide the requisite ninety (90) days advanced notice of contract termination with Northrop Grumman for CAD/RMS maintenance services. This letter is dated October 25, 2016, and officially begins the 90 day notice of termination from the city of Spokane. Our City of Spokane CAD/RMS maintenance contract is: OPR 2010-0535. Our current contract term is due to expire on May 8th, 2017.

Please respond upon receipt of this formal termination notice and advise of any additional steps you need from the Spokane Police Department to terminate the existing contract.

Thank you,

Craig Meidl Chief of Police

SPOKANE Agenda Sheet	Date Rec'd	10/25/2016	
11/07/2016		Clerk's File #	OPR 2016-0867
		Renews #	
Submitting Dept	HISTORIC PRESERVATION	Cross Ref #	
Contact Name/Phone	MEGAN DUVALL 625-6543	Project #	
Contact E-Mail	MDUVALL@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	0780 - THE DORAN BUILDING - 707 W. 2ND AVENUE		

Agenda Wording

Recommendation to list the Doran Building, 707 W. 2nd Avenue, on the Spokane Register of Historic places.

Summary (Background)

SMC #17D.040.120 provides that the City/County Historic Landmark Commission can recommend to the City Council that certain properties in Spokane be placed on the Spokane Register of Historic Places. The Doran Building has been found to meet the criteria set forth for such designation and a management agreement has been signed by the owners.

Fiscal Ir	Fiscal Impact		Budget Account	
Neutral	\$		#	
Select	\$		#	
Select	\$		#	
Select	\$		#	
Approva	ls		Council Notification	<u>s</u>
Dept Hea	<u>d</u>	KEY, LISA	Study Session	
Division I	<u>Director</u>	MALLAHAN, JONATHAN	<u>Other</u>	
Finance		KECK, KATHLEEN	Distribution List	
<u>Legal</u>		PICCOLO, MIKE	Ikey@spokanecity.org	
For the M	layor	DUNIVANT, TIMOTHY	mduvall@spokanecity.org	
Addition	Additional Approvals		ylacoursiere@spokanecity.org	
Purchasi	ng			

Findings of Fact and Decision for Council Review Nomination to the Spokane Register of Historic Places

Doran Building – 707 W. 2nd Avenue

FINDINGS OF FACT

1. SMC 17D.040.090: "Generally a building, structure, object, site, or district which is more than fifty years old may be designated an historic landmark or historic district if it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, county, state, or nation."

• Completed in 1920, the Doran Building meets the 50-year age criteria established for listing on the Spokane Register of Historic Places.

2. SMC 17D.040.090: The property must qualify under one or more categories for the Spokane Register (A, B, C, D).

• The Doran Building has been nominated under Category A. The Doran Building meets Category A for its association with the automobile industry in Spokane, including both sales and service. Over the years, the building has been used as a dealership under John Doran's leadership offering Packards, Hudsons and the Essex; it was the location of Buchanan Chevrolet; and later became a parking garage. It was designed by architect Arthur Cowley, of the pioneer Cowley family and is a good example of the brick commercial style.

3. SMC17D.040.090: "The property must also possess integrity of location, design, materials,

workmanship, and association." From NPS Bulletin 15: "Integrity is the ability of a property to convey its significance...it is not necessary for a property to retain all its historic physical features...the property must retain, however, the essential physical features that enable it to convey its historic identity."

- The Doran Building is well-preserved and retains good integrity in terms of its location, design, workmanship, materials and association.
- Changes to the building over time have included a new storefront system, replacement of windows and a complete interior remodel. Original openings are intact, brick tapestry work and concrete appliques also remain from the original design.
- The property's period of significance is from 1920 -1927 when it was no longer associated with the John Doran Company.

4. Once listed, this property will be eligible to apply for incentives, including:

Special Valuation (property tax abatement), Spokane Register historical marker, and special code considerations.

RECOMMENDATION

The Spokane Historic Landmarks Commission evaluated the Doran Building according to the appropriate criteria at a public hearing on 10/19/16 and recommends that the Doran Building be listed on the Spokane Register of Historic Places.

After Recording Return to: Office of the City Clerk 5th Floor Municipal Bldg. 808 W. Spokane Falls Blvd. Spokane, WA 99201-3333

NOTICE OF MANAGEMENT AGREEMENT

NOTICE IS HEREBY GIVEN that the property legally described as:

(RAILROAD ADD L4 B34)

Parcel Number 35192.2203, is governed by a Management Agreement between the City of Spokane and the Owner(s), 707 Partners, LLC (John Doran Building), of the subject property.

The Management Agreement is intended to constitute a covenant that runs with the land and is entered into pursuant to Spokane Municipal Code Chapter 6.05. The Management Agreement requires the Owner of the property to abide by the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (36 CFR Part 67) and other standards promulgated by the Historic Landmarks Commission.

Said Management Agreement was approved by the Spokane City Council on ______. I certify that the original Management Agreement is on file in the Office of the City Clerk under File No.______.

I certify that the above is true and correct.

Spokane City Clerk

Historic Preservation Officer

Dated:

City Clerk No.__

MANAGEMENT AGREEMENT

The Management Agreement is entered into this <u>19th</u> day of <u>October 2016</u>, by and between the City of Spokane (hereinafter "City"), acting through its Historic Landmarks Commission ("Commission"), and <u>707 Partners, LLC</u> (hereinafter "Owner(s)"), the owner of the property located at <u>707 W. 2nd Avenue</u> commonly known as the <u>John Doran</u> <u>Building</u> in the City of Spokane.

WHEREAS, the City of Spokane has enacted Chapter 6.05 of the Spokane Municipal Code (SMC) and Spokane has enacted Chapter 1.48 of the Spokane County Code (SCC), both regarding the establishment of the Historic 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 and.

WHEREAS, both Ch. 17D.040 SMC and Ch. 1.48 SCC provide that the City/County Historic Landmarks Commission (hereinafter "Commission") is responsible for the stewardship of historic and architecturally significant properties in the City of Spokane and Spokane County; and

WHEREAS, the City has authority to contract with property owners to assure that any owner who directly benefits by action taken pursuant to City ordinance will bind her/his benefited property to mutually agreeable management standards assuring the property will retain those characteristics which make it architecturally or historically significant;

NOW THEREFORE, -- the City and the Owner(s), for mutual consideration hereby agree to the following covenants and conditions:

1. <u>CONSIDERATION</u>. The City agrees to designate the Owner's property an Historic Landmark on the Spokane Register of Historic Places, with all the rights, duties, and privileges attendant thereto. In return, the Owner(s) agrees to abide by the below referenced Management Standards for his/her property.

2. <u>COVENANT</u>. This Agreement shall be filed as a public record. The parties intend this Agreement to constitute a covenant that runs with the land, and that the land is bound by this Agreement. Owner intends his/her successors and assigns to be bound by this instrument. This covenant benefits and burdens the property of both parties.

3. <u>ALTERATION OR EXTINGUISHMENT</u>. The covenant and servitude and all attendant rights and obligations created by this Agreement may be altered or extinguished by mutual agreement of the parties or their successors or assigns. In the event Owner(s) fails to comply with the Management Standards or any City ordinances governing historic landmarks, the Commission may revoke, after notice and an opportunity for a hearing, this Agreement.

PROMISE OF OWNERS. The Owner(s) agrees to and 4. promises to fulfill the following Management Standards for his/her property which is the subject of the Agreement. Owner intends to bind his/her land and all successors and assigns. The Management "THE SECRETARY OF THE INTERIOR'S STANDARDS Standards are: FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS (36 CFR Part 67)." Compliance with the Management Standards shall be monitored by the Historic Landmarks Commission.

5. <u>HISTORIC LANDMARKS COMMISSION</u>. The Owner(s) must first obtain from the Commission a "Certificate of Appropriateness" for any action which would affect any of the following:

(A) demolition;

(B) relocation;

(C) change in use;

(D) any work that affects the exterior appearance of the historic landmark; or

(E) any work affecting items described in Exhibit A.

6. In the case of an application for a "Certificate of Appropriateness" for the demolition of a landmark, the Owner(s) agrees to meet with the Commission to seek alternatives to demolition. These negotiations may last no longer than forty-five (45) days. If no alternative is found within that time, the Commission may take up to forty-five (45) additional days to attempt to develop alternatives, and/or to arrange for the salvage of architectural artifacts and structural recording. Additional and supplemental provisions are found in City ordinances governing historic landmarks.

This Agreement is entered into the year and date first above written.

Corly R. Goouls Owner Owner

CITY OF SPOKANE

Historic Preservation Officer By: Title:__

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney

STATE OF WASHINGTON

County of Spokane

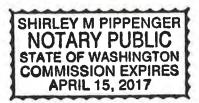
On this day of <u>October</u>, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared <u>Craig Thompson Crowley and Cody Richardson</u> Coombs

) SS

individual(s) described in and who executed the within and foregoing instrument, and acknowledged that they (he/she/they) signed the same as (his/her/their) free and voluntary act and deed, for the uses and purposes

therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day of _______, 2016.



Notary Public and for the State of Washington, residing at Spokane

My commission expires

STATE OF WASHINGTON

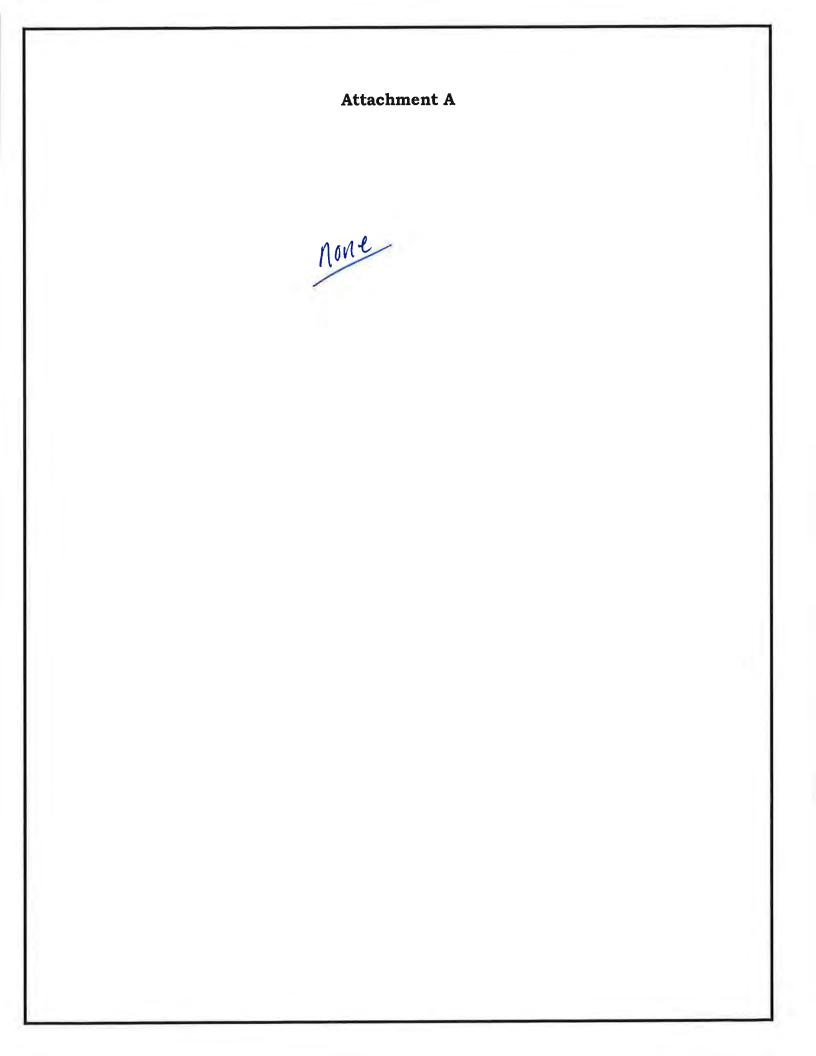
County of Spokane

On this ______ day of ______, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON, MAYOR and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

) SS.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of ______, 2016.

Notary Public in and for the State of Washington, residing at Spokane My commission expires_____



Secretary of The Interior's Standards

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color,

texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Spokane Register of Historic Places Nomination

Spokane City/County Historic Preservation Office, City Hall, Third Floor 808 Spokane Falls Boulevard, Spokane, Washington 99201-3337

1. Name of Property

Historic Name: John Doran Building And/Or Common Name: Buchannan Chevrolet/Evergreen Parking

2. Location

Street & Number: 707 W. 2nd Avenue City, State, Zip Code: Spokane WA 99201 Parcel Number: 35192.2203

3. Classification

Category ⊠building □site □structure	Ownership □public □both ⊠private	Status ⊠occupied □work in progress	Present Use □agricultural ⊠commercial □educational	□museum □park □residential
	Public Acquisition □ in process □ being considered	Accessible ⊠yes, restricted □yes, unrestricted □no	□entertainment □government □industrial □military	

4. Owner of Property

Name: 707 Partners, LLC Street & Number: 818 Stewart Street Suite 1000 City, State, Zip Code: Spokane WA 99201 Telephone Number/E-mail: Enter property owner's telephone number and email

5. Location of Legal Description

Courthouse, Registry of Deeds Street Number: City, State, Zip Code: County: Spokane County Courthouse 1116 West Broadway Spokane, WA 99260 Spokane

6. **Representation in Existing Surveys**

Title: Enter previous survey name if applicable

Date: Enter survey date if applicable□Federal□State□County□LocalDepository for Survey Records:Spokane Historic Preservation Office

7. Description			
Architectural Classification	Condition	Check One	
	⊠excellent	□unaltered	
	\Box good	⊠altered	
	□fair		
	deteriorated	Check One	
	□ruins	\boxtimes original site	
	□unexposed	moved & date	

Narrative statement of description is found on one or more continuation sheets.

8. Spokane Register Criteria and Statement of Significance

Applicable Spokane Register of Historic Places criteria: Mark "x" on one or more for the categories that qualify the property for the Spokane Register listing:

- A Property is associated with events that have made a significant contribution to the broad patterns of Spokane history.
- \square B Property is associated with the lives of persons significant in our past.
- C Property embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D Property has yielded, or is likely to yield, information important in prehistory history.

Narrative statement of significance is found on one or more continuation sheets.

9. Major Bibliographical References

Bibliography is found on one or more continuation sheets.

10. Geographical Data

Acreage of Property: Verbal Boundary Description: Verbal Boundary Justification: < one RAILROAD ADD L4 B34 Nominated property includes entire parcel and urban legal description.

11. Form Prepared By

Name and Title: Stephen Emerson, Director Organization: Archisto Enterprises Street, City, State, Zip Code: W. 212 Dawn Avenue, Spokane, WA 99218 Telephone Number: 509-466-8654 E-mail Address: semerson@ewu.edu Date Final Nomination Heard:

12. Additional Documentation

Additional documentation is found on one or more continuation sheets.

Coo

14. For Official Use Only:

Date nomination application filed: $\frac{9/19/16}{16}$
Date of Landmarks Commission Hearing: 16 /19/16
Landmarks Commission decision: approved

Date of City Council/Board of County Commissioners' hearing:

I hereby certify that this property has been listed in the Spokane Register of Historic Places based upon the action of either the City Council or the Board of County Commissioners as set forth above.

MKD

Megan Duvall **City/County Historic Preservation Officer** City/County Historic Preservation Office Third Floor - City Hall 808 W. Spokane Falls Blvd. Spokane, WA 99201

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

SUMMARY STATEMENT

The Doran Building was constructed in 1920, when the age of the automobile was just dawning in earnest. It was designed by early Spokane architect Arthur Cowley and constructed by builder, Abe Houle. The building originally housed one of the earliest and most successful automobile dealerships in Spokane. It continued its association with the automobile industry long after the untimely death of the original owner, John Doran

DESCRIPTION OF PROPERTY

The Doran Building is a 2-story commercial building with a rectangular plan, stretching from the south side of W. Second Avenue and back to the alley. It has a poured concrete superstructure, with brick infill and veneer walls. The roof has a shallow slope that conforms to the interior wood beam trusses. It is obscured from ground level by a straight parapet to the front and sides and a single step at the center of the rear parapet. All cornices are capped with simple metal flashing. The front (north) wall has a veneer of brick that has been painted with white paint on the upper half and a dark gray painted brick on the lower half. The ornamentation is simple. Just below the cornice is a stylized stringcourse featuring faux brick modillions below a faux cast concrete cornice with raised triangle-like pediments at each end. The windows below this consist of eight rectangular plate glass units with steel frames, with the windows at each end flanked by narrow windows of similar makeup. These second level windows are given a common sill by a cast concrete stringcourse directly below them. The space between the upper windows and the lower contains brick tapestry creating three panels delineated by soldier bricks and square cast concrete appliques at the corners, with a larger diamond-shaped concrete applique centered in each of the end panels. The panels include one large rectangle centered over the storefront with two smaller panels on each end. The windows and doors of the lower level are symmetrically placed within a framework created by steel I-beams. Double sets of steel frame plate glass windows with transom lights, four in all, are separated by brick pilasters. The front entry is recessed with sidewalls that are not canted. A single metal framed glass door is situated at the center of the entry. Above it is a transom window. It is flanked by glass sidelights, both with transom lights above.

The sidewalls of the entry also contain glass sidelights and transoms lights. The entire entry is surrounded by steel I-beams to ensure stability.

The rear (south) wall is clad with white painted brick in the upper level and dark gray painted brick below. The upper level features painted advertisements: "Mercedes Porsche BMW Jaguar" and "Master Mechanics," added in the 1990s when the business operated as Master Mechanics. A row of rectangular and square windows is situated on the upper level. These are plate glass units with steel frames and brick header sills. On window opening on the right side has been filled in with brick. The lower level, like the front, has been reinforced with a framework of steel I-beams. Fenestration includes a single-door pedestrian entry, a double-door pedestrian entry, a wide metal vehicle door, a covered window opening, and a ventilation louvre opening.

The west elevation upper level features a row of windows similar to that of the upper rear, while the lower level is obscured by an adjacent building. The east elevation is partially obscured by an adjacent 2-story building. Former rectangular window openings on this side have been filled in with concrete blocks.

The interior spaces of the building have been extensively remodeled, but in such a fashion as to leave many of the structural elements intact and visible. The forward portion of the first floor level is divided into an entry lobby and adjacent office spaces that were recently constructed. The lobby is partially defined by a curved wall that reaches to the ceiling. The other dividing walls rise short of the ceiling, leaving the interior structural framework and utilities installations exposed. The glass windows and doors of two additional spaces on the north side of the building on the first floor, used as a waiting area and a conference room, give the area an open feel. In the offices along the exterior walls the structural brick walls are uncovered. The poured concrete ceiling, as well as the concrete support columns and cross beams are left visible. In the southeast corner of the forward portion is the 2-level space that once contained an elevator that transported vehicles between the two floors. It now encloses an interior dog-leg staircase

Spokane City/County Register of Historic Places Nomination Continuation Sheet Doran/Buchannan Building Section 7 Page 3

constructed of metal rails, lattice, and steps that appear to be suspended in space, reinforcing the airy feeling. Here, again, the brick and concrete walls are left uncovered. The remaining portion of the first floor level is a wide open vehicle parking space, not visible from the lobby and office area at the front of the floor. Again, the poured concrete framework and walls are left uncovered. The concrete support columns and cross beams are visible. Several window spaces on the west wall have been filled in with concrete blocks. On the rear (south) wall are several metal pedestrian doors and a wide metal vehicle entry door.

Like the first-floor, the second floor level is divided into a forward and, larger, rear portion. The interior structural components of the roof are left visible, including the large pre-fabricated wood beam trusses, the network of rafters and purlins that support the roof. All of the wood trusses are in original condition except for the second truss in from the north wall, which has been replaced with a new but similar truss. Several skylights in the roof have original chicken wire glass panes. Again, utility components have been left uncovered. The northern portion of the upper level is an open space that contains lounging, recreational, and kitchen areas. The windows have been replaced by modern plate glass units, but the original openings have been retained, both in size and configuration. The larger, rear space of the upper level contains an open office area with individual work stations that are only nominally divided by short cubical walls, creating an open common space. The original windows in this space have been replaced with modern plate glass panes, but the openings are retained, except for the windows of the partially obscured east wall, and one window of the rear (south) wall. The windows covered on the east are bricked in, while the window of the south wall has only recently been filled with concrete blocks.

ORIGINAL APPEARANCE & SUBSEQUENT MODIFICATIONS

All of the original exterior multiple-pane windows of the front (north) façade's upper level have been replaced with modern single-pane plate glass units, but the original configuration, openings, and brick surrounds have been retained. The street level of the first floor façade has been rebuilt several times, but it retains some of the characteristics of street front display windows with transoms. However, the configuration has been completely altered when compared to historic photographs.

Originally, the entries were at each end of the building, a double set of pedestrian doors, with multi-pane windows, on the left, and a vehicle entry door on the right. Between these two entries was a long row of large display windows. Above both the entries and the display windows were vertically placed rectangular transom windows. A much more recent reconfiguration of the front retained all of the transom windows, but the entries were changed. At the center was a large vehicle entry door with multiple windows. The pedestrian door was located in the second panel from the left, while the remaining panels appear to contain display windows.

The addition of steel I-beam reinforcements above the front entry and windows were necessitated by seismic safety requirements. On the secondary elevations some windows have been filled in, while others have been replaced with modern plate glass units, although original openings have been retained. On the west elevation there are no windows at the first floor level, due to the presence of an adjacent building. The upper floor window openings of the west side are original but the windows themselves are modern but similar units. On the east elevation, the only two windows of the lower level, and two of the upper level windows, have been recently filled in for fire safety purposes. On the rear (south) elevation, one upper level window has been filled in. Most interior spaces have been reconfigured and original wall claddings have been removed. This, however, revealed many of the original concrete and brick structural features. The original vehicle elevator has been replaced with pedestrian stairs.

HISTORIC CONTEXT

The origins of Spokane can be traced to two ambitious settlers named J.J. Downing and S.R. Scranton, who arrived in the vicinity in the early 1870s. Recognizing the energy potential of the powerful falls of the Spokane River, they built a saw mill near a channel of the river west of Havermale Island. In 1874 they sold their holdings to a partnership that included James N. Glover, who would in time be hailed as the "Father of Spokane." Glover profited from the mill and other enterprises, as did other early entrepreneurs such as Fredrick Post, who built the first flourmill, A.M. Cannon, who started the first bank in town, J.J. Browne, who helped develop a new residential neighborhood west of wntown, and Francis Cook, who printed the first local newspaper in Spokane Falls. The Falls part of the name was later dropped. Another important early resident was Henry T. Cowley, father of future Spokane Architect Arthur Cowley. Using logs from Glover's mill, Cowley and carpenter William Pool, built the first school in town, an enterprise that eventually led to the establishment of elementary and high school education in the area.

The town grew rapidly during the 1880s, reaching a population of 2,000 by 1886. Prosperous businesses were amassing bank capital, attracting more investments and commercial enterprise. The construction of railroads through the area turned Spokane into a transportation and commerce hub. The Northern Pacific was the first intercontinental railroad to pass through Spokane, followed by the Great Northern, the Union Pacific and, later the Chicago, Milwaukee, and St. Paul. Smaller rail lines that connected with Spokane included the Spokane and Palouse, which were built into the rich wheat fields to the south, the Spokane Falls and Idaho, which reached toward Coeur d'Alene Lake and the nearby mining districts, and the Spokane Falls and Northern, which connected with Colville and Canada to the north. All of these lines brought further wealth into Spokane, spurring growth of both the economy and the population.

Into this scene of bustling prosperity, the threat of fire was occasionally interjected. The danger was great because the majority of structures within the rapidly growing community were built of wood, the cheapest and most easily acquired building material.

Several early conflagrations had prompted the establishment of a volunteer fire department in 1884, but neither the volunteers nor the inadequate water supply system could stop flames that raced through downtown on August 4, 1889. As illustrated in a map produced by R.B. Hyslop, between the Northern Pacific tracks to the south and the Spokane River to the north, the fire cut a swath through the center of the main business district. In all, about 300 buildings were destroyed, only about thirty of which were brick or stone. The community rebounded quickly, conducting business on the streets from tents for a time. Several lessons were learned; a professional fire department was created and builders determined that future construction in downtown Spokane would be of masonry - brick, stone and, later, glazed terra cotta.

Among the first to suffer from the Panic of 1893 in Spokane was pioneer A.M. Cannon, who had overextended his investments, some of which subsequently failed. When he was denied funding from local banks to recoup, the bank that Cannon had founded, the Bank of Spokane Falls, closed its doors on June 5, 1893, insolvent. Within just days, a chain reaction of panic closed other major banks and people's savings were snuffed out. Before things leveled out, many formerly rich men had lost their fortunes. But by 1896, the economy was well on its way to recovering. In that year, N.W. Durham wrote: "Spokane stands on the threshold of a new career. It is not a boast to say that the outlook, as we stand in the dawn of a new year, is better than ever for further progress and substantial development. With the planning here of national government interests, the establishment of new productive industries, and the rapid growth of mining interests, Spokane's future is assured."

During the first decade of the twentieth century, Spokane underwent a spate of growth unprecedented before or since. The population explosion was largely fueled by great numbers of blue collar workers who found employment in the climate of burgeoning industries and service businesses. This led to a boom in Single Room Occupancy (SRO) hotels. These, along with new financial, civic, and medical facilities, led to the rapid expansion of the central business district. Serendipitously, the booming Spokane economy of the 1910s coincided with the onset of the automobile age. Rising employment and incomes, juxtaposed with the growing availability and affordability of the motor car, allowed the populace to expend their disposable wealth on machines that were not only convenient, but just so much fun to ride in and drive. The American freedom of the open road was just being launched.

The 1881 construction of the Northern Pacific Railroad through the south portion of downtown Spokane led to the development of all kinds of businesses related to the transportation of people and goods. This was the beginning of the West Spokane Transportation Corridor, centered on First Avenue and stretched east to west between Washington and Jefferson streets. Robert Hyslop's map of Spokane, dated to the time of the 1889 fire, illustrates how the railroad attracted freight depots, small businesses, and SROs. But at this pre-automobile age date, there were many enterprises dedicated to the use of horses for transportation, including liveries, stables, harness shops, and blacksmiths. By the mid-1910s, this had begun to change, slowly at first, but picking up momentum rapidly. The wood framed horse and buggy oriented businesses began to give way to buildings devoted to showing, selling, and servicing automobiles. Many of the new buildings were brick commercial structures with cast stone or terra cotta highlights and glass storefronts designed to attract customers. Many of them were multi-story and often built of poured reinforced concrete to bear the weight of the cars. The use of automobiles even forced the Northern Pacific Railroad to raise its tracks. The 1915 Grade Separation project allowed for smother traffic flow through downtown. By November, 1923 the Spokane Daily Chronicle reported that 1,927 automobiles, with an estimated value of more than a million and a half dollars, had been sold by Spokane car dealerships. Fords and Chevrolets led the way. But one dealership, John Doran's Hudson-Essex store was tops among what were described as "medium priced" cars, with total sales of 110 cars in the same five month period.

The development of auto-related businesses and buildings West Spokane Transportation Corridor during the 1920s was never matched again. By the 1950s, spurred by the automobile, people were moving to the suburbs in droves. The service and gas stations, and the dealerships, followed. Many of the downtown auto-row buildings segued into parking garages to serve downtown employees and business customers. Some of these sturdy buildings became mere storage space. Recently, the corridor has been experiencing a revival, with the expansion of huge dealerships, most notably Larry H. Miller. Once more the term *Auto Row* is becoming appropriate.

The Doran/Buchannan Building was constructed in 1920 for John E. Doran, who planned to use it as a dealership for Packard, Hudson, and Essex automobiles. The year 1920 was at the very outset of the auto-related business boom described above. From the 1923 newspaper article noted above, we can see that he succeeded. Doran was president of the John Doran Company. He was married to Genevieve Doran. He opened his first dealership in 1914 at the corner of Wall Street and 3rd Avenue, selling Packards and Studebakers. He moved his business into the new building after its 1920 completion. The Hudson models thrived in the 1920s and so did Doran's business. Unfortunately, Doran died during appendix surgery in 1927. A partner, William Twohy continued the business, keeping the John Doran Company name and switching to used cars instead of new. But the onset of the Depression led to failure.

By 1930 the name had changed to Universal Auto Company, while Twohy continued to sell used cars at the old Wall Street and 3rd Avenue location. The Universal Auto Company remained until 1937, under management of Philip J. Garnett. During the 1940s, ownership changed hands several times between Ernie Majer Autos and Buchannon Chevrolet. After 1950, the place became the body and fender shop for Buchannon Chevrolet Company, which also took over the adjacent building at 715 W. Second Avenue. This situation continued until about 1973, when Buchannan appears to have moved out.

Subsequently, the Empire Lease Company, dealing in automobiles, took over at the 715 W. Second Avenue address, while the Pierce Towing Company, owned by Ron Pierson, moved into the 707 W. Second Avenue location. Between 1985 and 1987, the building was occupied by the Autobahn auto repair and body shop. In 1988, the Master Mechanics auto repair and body shop took over the building, staying for the next 10 years. It seems the building was only marginally used after that, until the Evergreen Parking Company took over, in 2002. Mr. Magic car wash operated in the building at the same time for several years.

In 2015, the building was purchased by DCI Engineers, a private consulting engineering firm that provides structural and civil engineering. The company is based in Seattle but has had a Spokane office since 1998. It currently has about 50 employees in Spokane, and 250 overall. The company understands the benefits of adaptive re-use of old and underutilized buildings in Spokane. After having provided engineering services for many of the renovations of downtown buildings over the past two decades, DCI decided to do the same for a building of their own.

The Doran/Buchannan Building was built by local contractor Abe Houle, and designed by Arthur W. Cowley, Spokane architect and member of a prominent pioneer family. His father, Henry Thomas Cowley, was an early Spokane missionary, who settled among the Spokane Indians at a site now occupied by Cowley Park on Sixth Avenue. Durham's 1912 *Spokane and the Inland Empire* credits the Henry Cowley Family with being "the fourth white family here, those preceding him being A.M. Cannon, J.J. Brown, and James N. Glover." Henry Cowley's only son, Arthur, was born in Spokane on October 9, 1878. He graduated from the Old South Central High School, and later attended Oberlin College and the University of Wisconsin, from which he received a degree in civil engineering in 1903. After returning to Spokane, he was associated with early local architect J.K. Dow, before opening his own office in 1906. In 1912, Arthur Cowley relocated to Edmonton, Alberta, but he came back to Spokane in 1914, where he designed many buildings during a career which lasted nearly until his death on January 18, 1949. Many of his creations were industrial or warehouse structures which have largely disappeared. He also designed a number of apartment and rooming houses, of which many have been demolished or altered. One of these, the old Gandy Hotel building, was razed in 1982, as was the original Crescent Block, to clear the way for expansion of the *Spokesman-Review* newspaper offices.

Today, the finest surviving example of Arthur Cowley's architectural creativity is the Altadena Apartments, located at S. 608 Stevens Street, which cost one hundred and twenty one thousand dollars when it was built in 1909. Cowley is also credited with the design of three Spokane fire stations, including No. 9, at S. 804 Monroe Street, No. 2, at E. 603 Indiana Avenue, and No. 16, at W. 2731 Northwest Boulevard. Other Cowley designs include the Buckman Apartments, at 1828 W. 1st Avenue, the Goodyear Tire and Rubber Store & Warehouse, at 123 E. Sprague Avenue and, with Archibald Rigg, the Willard (Otis) Hotel, at 1101-09 W. 1st Avenue. Cowley also designed a number of Spokane residences.

ELIGIBILITY STATEMENT

The Doran/Buchannan Building, built in 1920, is significant for listing on the Spokane Register of Historic Places under Category A for its association with the automobile industry in Spokane, including both sales and service. It was constructed in 1920, the first year of a decade of expansion for the auto industry in Spokane. Under John Doran, the building served as one of the early dealers to sell Packards and Hudsons, which were among the most popular cars in the nation during the 1920s, as well as the lesser known Essex. Later it would become one of the more prominent locations of the Buchannan Chevrolet automobile sales and services business. Still later, it would continue its association with the automobile as a parking garage. Although no longer associated with automobile sales and service, the building's appearance continues to exhort the feeling of its past legacy. It remains one of the anchoring properties of an expanded West Spokane Transportation Corridor.

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Various years Polk City Directories for the City of Spokane

Tinsley, Jesse

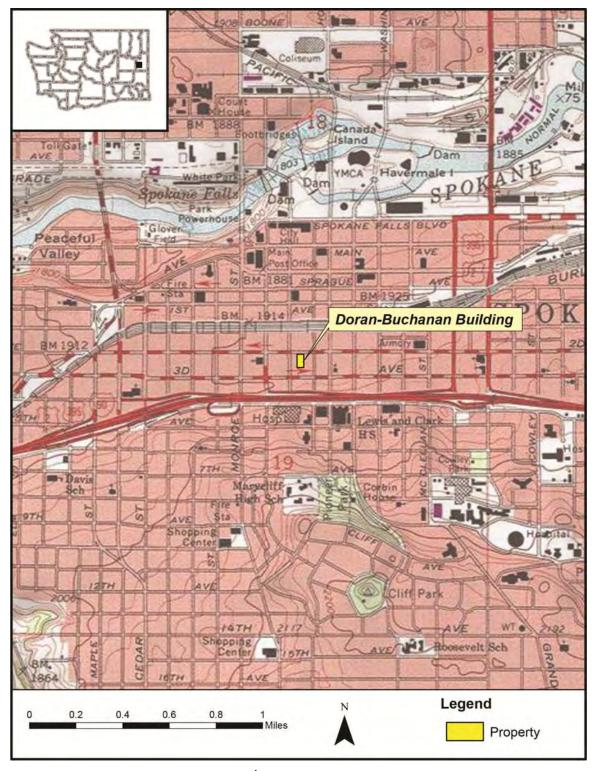
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Doran-Buchanan Building, 707 W. 2nd Avenue



DB-1 North elevation, view to the south.



DB-2 North elevation, view to the southwest.

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DB-3 North elevation, upper left side, view to the south.



DB-4 North elevation, street level, view to the southeast.

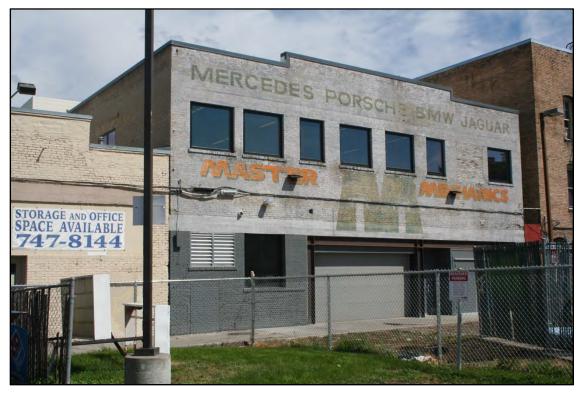
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DB-5 North elevation, right side, window and transom detail, view to the south.



DB-6 North elevation, entry, view to the southwest.



DB-7 South (rear) elevation, view to the northeast.



DB-8 South (rear) elevation, view to the north.



DB-9 First floor, curved wall at entry, view to the southeast.



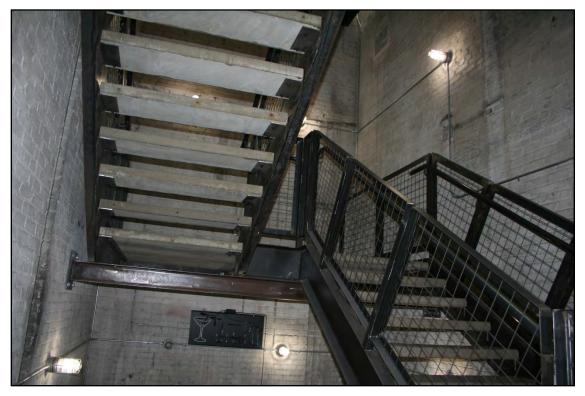
DB-10 First floor, typical office, view to the west.



DB-11 First floor, exposed concrete superstructure and utilities, view to the southwest.



DB-12 First floor, neon sign from front, view to the south.



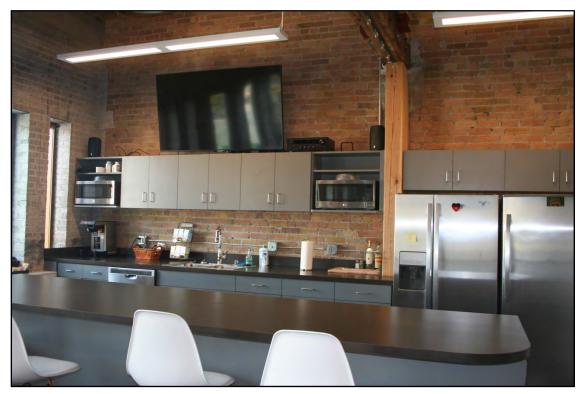
DB-13 First floor, stairs in former elevator shaft, view to the southeast.



DB-14 First floor, rear parking area, concrete column, view to the southeast.

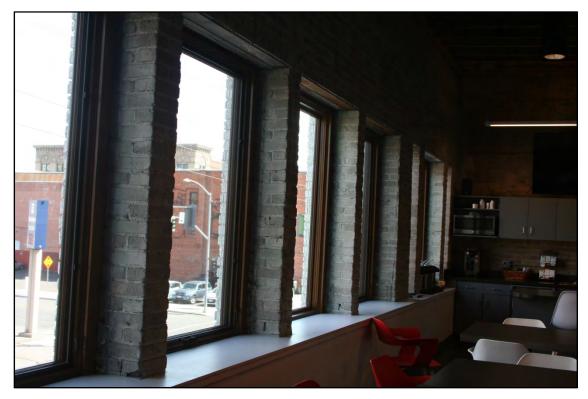


DB-15 First floor, rear parking area, filled in window, view to the east.

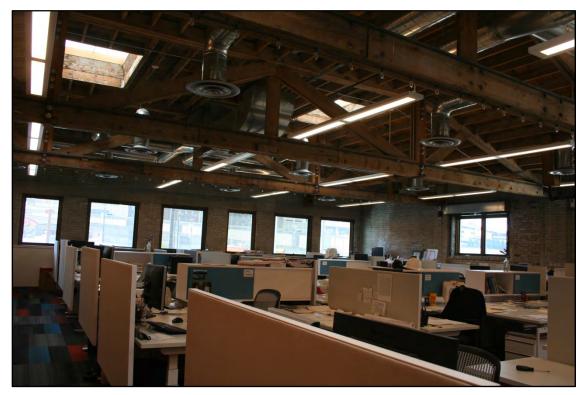


DB-16 Second floor, forward kitchen area, view to the northeast.

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DB-17 Second floor, window openings in kitchen/lounge, view to the northeast.



DB-18 Second floor, common office area, trusses, view to the southeast.



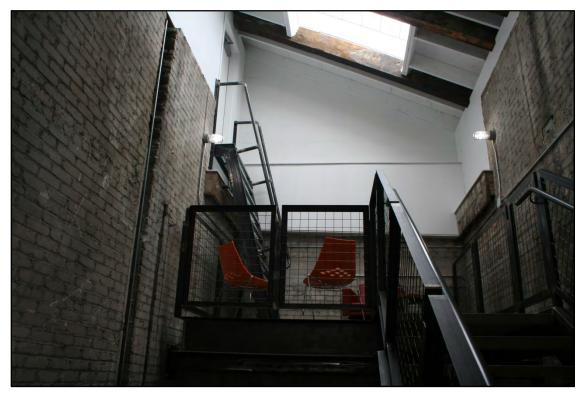
DB-19 Second floor, common office area, trusses, view to the southwest.



DB-20 Second floor, filled in window space on south wall, view to the south.



DB-21 Second floor, truss and exposed utilities detail, view to the northwest.



DB-21 Second floor, top of stairs in former elevator shaft, view to the east.

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DB-22 Historic photograph of the front (north) façade, Libby Collection, 1931, courtesy of the Eastern Washington Historical Society.

SPOKANE Agenda Shee	t for City Council Meeting of:	Date Rec'd	10/24/2016
11/07/2016		Clerk's File #	ORD C35450
		Renews #	
Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	BEN STUCKART 625-6258	Project #	
Contact E-Mail	BSTUCKART@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0320 - RELATING TO THE CITY'S EARNED SICK AND SAFE LEAVE ORDINANCE		
Agenda Wording			

<u>Agenda Wording</u>

This ordinance makes various amendments to the existing earned sick and safe leave ordinance, chapter 09.01 SMC.

Summary (Background)

As recommended by stakeholder groups, the earned sick and safe leave ordinance requires specific technical amendments, such as definition clarifications, the explanation of the enforcement agency and mechanism, and clarifications concerning the effect of paid time off (PTO) policies and front-loading hours in lieu of accrual on an hourly basis.

Fiscal Impact	iscal Impact Budget Account			
Expense \$ 204,373		# various	# various	
Select \$		#	#	
Select \$		#	#	
Select \$		#		
Approvals	vals Council Notifications		ions	
Dept Head	STUCKART, BEN	Study Session		
Division Director		<u>Other</u>	Pub. Wks. Comm., 10/24/16	
Finance	KECK, KATHLEEN	Distribution List		
Legal	PICCOLO, MIKE			
For the Mayor	DUNIVANT, TIMOTHY			
Additional Approvals				
Purchasing				

ORDINANCE NO. C35450

An ordinance relating to earned sick and safe leave in the City of Spokane; amending sections 09.01.010, 09.01.020, 09.01.030, 09.01.060, 09.01.080, and 09.01.090 of the Spokane Municipal Code.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1. That section 09.01.010 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.010 Definitions

For purposes of this chapter, the following definitions shall be applied. Words used in the singular shall include the plural, and vice-versa.

- A. "Adverse action" means any action taken <u>or threatened</u> by an employer <u>against an</u> <u>employee including without limitation:</u> ((to)) discharge from employment, ((suspend))suspension, discipline, transfer, ((demote))demotion, or ((deny))denial of promotion((, or to threaten to do any of the foregoing)).
- B. "Agency" means the City of Spokane ((department responsible for the enforcement of this chapter, as specified in the process described in SMC 09.01.080(A))) Contract and Business Standards Compliance Office within the City's Department of Grants Management and Financial Assistance, and its director, who is the "code enforcement officer" designated in SMC 01.05.020(B)(1).
- ((C. "Business" has the same meaning as stated in SMC 08.01.020(A).))
- ((D.))<u>C.</u> "Charging Party" means a person filing a claim of violation of this chapter with the Agency.
- ((E.))<u>D.</u> "City" means the City of Spokane.
- ((F.))<u>E. "Construction work" has the same meaning as that stated in WAC 296.155.012, as the same is amended from time to time.</u>
- ((F. "Contractor" or "Independent Contractor" means those persons meeting all the criteria stated in RCW 51.08.195(1)-(6))).
- ((G. "Domestic violence" has the same meaning as stated in RCW 10.99.020(5), and includes "stalking" as defined in RCW 9A.46.110 and in SMC 10.09.010(B).))
- ((H.))<u>F.</u> "Domestic Worker" has the same meaning as specified in RCW 51.12.020(1) and (2).
- ((L,))<u>G.</u>"Earned sick and safe leave" or "leave" means paid leave accrued, utilized, and compensated for as provided in this chapter.

- ((J.))<u>H.</u> "Employee" means an individual natural person who performs ((more than two hundred forty (240) hours of)) work in the City of Spokane for compensation ((foran Employer in a calendar year,)) but does not include seasonal or domestic workers, or independent contractors. For purposes of this chapter, immediate family members of business owners are not included within the definition of "employee".
- ((K.))<u>I.</u> "Employer" means any individual, partnership, association, corporation, business trust, <u>entity</u>, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, <u>having a permanent location in</u> <u>the City of Spokane</u>, and <u>having at least one employee</u> ((employing at least one person for compensation)) in the City of Spokane. For purposes of this chapter, "Employer" does not include:
 - 1. The United States government;
 - 2. The state of Washington;
 - 3. Any city, county, or local government; ((or))
 - Any business owned and operated by one person (or one person and his or her spouse) and having zero employees((-)); or
 - 5. Any federally-recognized Indian tribe.

((L-))J. "Family member" means a:

- 1. Spouse or domestic partner;
- 2. Child who is:
 - a. Under 18 years of age or;
 - b. 18 years of age or older and incapable of self-care due to a mental or physical disability;
- 3. Parent or guardian;
- 4. Grandparent; or
- 5. Grandchild.
- ((M.))K. "Person" ((has the same meaning as stated in SMC 01.02.100 and includes))means any individual, partnership, corporation, association, organization, trade or professional association, labor union, cooperative, legal representative, trustee, trustee in bankruptcy and receiver, firm, institution, or any other group of persons acting in concert; this definition also includes any owner, lessee, proprietor, manager, agent, or employee, whether consisting of one or more natural persons.
- ((N-))L. "Paid Time Off" ("PTO") means <u>a combined or universal</u> paid leave <u>program ((which accrues at a regular rate and</u>)) which can be used by an employee

for ((any purpose, provided it can also be used for all))the purposes stated in SMC 09.01.040(A) and which either accrues at the rate required by SMC 09.01.030(A) or is provided in the amounts required by SMC 09.01.030(B).

- ((O-))<u>M.</u> "Retaliation" means an adverse action taken by an employer against an employee because of an employee's status as a charging party or ((by))<u>because of</u> an employee's exercise of rights established by this chapter.
- ((P.))<u>N.</u> "Seasonal Worker" means a worker with a term of employment expected to last less than one year and which is intermittent or recurs annually.
- ((Q-))<u>O.</u> "Separation" means an involuntary discharge of employment, not for cause, including, without limitation, a business-related or seasonal layoff.
- ((R. "Staffing Agency" means any person who undertakes, with or without compensation, to recruit, refer or place individuals for employment, or to procure opportunities for work, or to with an employer.))

((S-))<u>P.</u> "Work-study students" means students engaged in a course of instruction and whose employment is included under the state work-study program (chapter 28B.12 RCW) or the federal work study program (42 U. S. C. 2751-2756b).

Q. "Year" means calendar year, fiscal year, benefit year, employment year, or any other fixed consecutive twelve-month period established by the employer and used in the ordinary course of the employer's business for the purpose of calculating wages and benefits.

Section 2. That section 09.01.020 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.020 Applicability

- A. This chapter applies to all employers in the City of Spokane who employ employees who physically perform ((more than two hundred forty (240) hours of)) work within the City of Spokane. Occasional employees who work fewer than 240 hours per year within the City of Spokane are not covered by this chapter.
- B. This chapter does not apply to work-study students, ((Independent Contractorsor)) seasonal workers, or those employed by firm(s) engaged in "construction work" as defined in ((WAC 296-155-012)) SMC 09.01.010(E).

Section 3. That section 09.01.030 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.030 Accrual Rates, Annual Cap, <u>Use of Leave, and Carry-Over</u>

- A. All employees shall, beginning with ((their))the first day of employment, accrue leave at the rate of at least one (1) hour of leave for every thirty (30) hours worked up to the total number of hours required according to employer size as described in paragraph B below((; provided that nothing in this chapter prohibits an)). An employer may choose to comply with this chapter by ((from)) providing earned sick and safe leave in advance of accrual such as by "front-loading" leave hours at the beginning of each year and/or a combined or universal paid leave program ("PTO") as defined in SMC 09.01.010(M).
- B. Use of leave.
 - Employees of businesses having fewer than ten (10) employees may use, in minimum increments of one (1) hour, up to twenty-four (24) hours of leave accrued under this chapter in any year. ((For purposes of this section, immediate family members of the business owners are not included in the employee count.))
 - 2. Employees of businesses with ten (10) or more employees may use, in <u>minimum increments of one (1) hour</u>, up to forty (40) hours of leave accrued under this chapter in any year.
 - 3. Earned sick and safe leave shall be provided by the employer upon the request of an employee. Whenever possible, the employee's request shall include a reasonable estimate of the expected duration of the absence.
- C. ((An Employee))Employees of employers having fewer than ten (10) employees may carry over into the next year <u>unused leave hours</u>, up to <u>a total of</u> twenty-four (24) hours((-of earned sick and safe leave which were not used in the prior year)). Employees of businesses having ten (10) or more employees may carry over into the next year unused leave hours, up to a total of forty (40) hours. This section does not apply to those employers choosing to "front-load" leave hours for employees at the beginning of each year in the applicable amount described in SMC 09.01.030(B)(1) and (2).
- D. Nothing in this chapter requires employers ((to allow employees returning from separation to)) reinstate a previously separated employee's ((the)) earned sick and safe leave balance which was accrued during a prior period of employment or to compensate an employee for the employee's accrued and unused earned sick and safe leave upon an employee's termination, resignation, retirement, or other separation from employment.
- E. No employer shall be required to accrue leave for employees who are exempt from overtime payment under 29 U.S.C. § 201 et seq and RCW 49.46.130(2) for hours worked beyond a 40-hour work week. If an exempt employee's normal work week is less than 40 hours, earned sick and safe leave for that employee shall accrue based on the employee's normal work week.

Section 4. That section 09.01.060 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.060 Employer Responsibilities

- A. Employers shall maintain records, consistent with the employer's usual and customary business practices, of each employee's earned sick and safe leave accrual and use, for three (3) years. In any enforcement action, an employer's failure to maintain such records shall create a rebuttable presumption of a violation of this chapter.
- B. ((No less frequently than once per quarter, and upon request by any Employee, each))Each employer shall provide information concerning the requesting employee's accrued earned sick and safe leave, including without limitation that employee's leave balance and amount of leave used by that employee during the current ((fiscal)) year, each time wages are paid.
- C. Beginning on the effective date of this chapter, when making application for a new business registration or a renewal of business registration, each applicant or registrant must certify its compliance with this chapter, in the manner prescribed by the Agency.

Section 5. That section 09.01.080 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.080 Administrative Enforcement

- A. ((The procedures for the enforcement of the rights, duties, and obligations created by this Chapter shall be jointly determined by the City Council and the Administration and shall be in effect no later than October 1, 2016.))The Agency shall receive, investigate, and make determinations concerning alleged violations of this chapter; conciliate and settle the same by agreement; monitor and enforce any agreements or orders resulting from enforcement actions; and have such other powers and duties in the performance of these functions as are defined in this chapter and otherwise necessary and proper in the performance of the same and provided for by law. From January 1, 2017 to December 31, 2017, the Agency's enforcement posture shall be that of informing employers and employees of their rights and obligations under this chapter and providing technical assistance to employers in order to increase compliance with this chapter.
 - B. Charge filing, timing, amendments, notice and investigation.
 - 1. A charge alleging a violation(s) of this chapter shall be filed with the Agency in writing on a form or in a format(s) determined by the Agency, signed by or on behalf of a charging party, and shall describe the facts and circumstances of the violation complained of including a statement

of the dates, places, and circumstances as well as the person(s) responsible for the alleged violation(s) of this chapter.

- 2. <u>Upon receipt of a charge of violation of this chapter, the Agency shall</u> proceed as specified in chapter 01.05, SMC (civil infraction system).
- 3. In addition to any other relief authorized by this chapter, a charging party may obtain full restitution of all wages the employee lost due to the unlawful withholding of earned sick and safe leave.
- 4. Administrative enforcement by the Agency as specified in this chapter and in chapter 01.05, SMC, shall be the sole and exclusive remedy for violations of this chapter.

((B.))<u>C.</u> Prohibited acts.

It shall be unlawful for any employer to retaliate against any employee covered by this chapter or to misrepresent its business activities in order to evade the requirements of this chapter.

((C-))D. Penalties for violation

- 1. A violation of this chapter is a class 1 civil infraction, as shown in SMC 01.05.170(B).
- ((The Agency or court (in the case of complaints which are resolved in a contested case hearing)))The Agency is authorized to triple the applicable penalty in cases where ((the Employer))an employer has been found to have retaliated against an ((Employee)) employee within the meaning of this chapter.
- For <u>repeat violations of this chapter by an employer</u>, ((each-subsequent violation of this chapter after the first,)) the ((Agency or court (in the case of complaints which are resolved in a contested case hearing)))<u>Agency</u> is authorized to double the penalty stated in SMC ((09.01.080(C)(1)))01.02.950(C)(1).

Section 6. That section 09.01.090 of the Spokane Municipal Code is amended to read as follows:

Section 09.01.090 No Waiver

Nothing in this chapter is or shall be construed to be a waiver, limitation, or preemption, <u>by the City or by any other person</u>, of any other rights, whether arising under state, federal, or local law or regulation, or ((by))due to the existence of any bona fide collective bargaining agreement entered into pursuant to chapters 41.56 or 41.80 RCW((, or RCW 74.39A.270, by the City or by any other person)).

PASSED by the City Council on ______.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

SPOKANE Agenda Sheet	for City Council Meeting of:	Date Rec'd	10/25/2016
11/07/2016		Clerk's File #	ORD C35451
		Renews #	
Submitting Dept	CITY ATTORNEY	Cross Ref #	
Contact Name/Phone	MIKE PICCOLO 625-6237	Project #	
Contact E-Mail	MPICCOLO@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0500 AMENDMENTS RE ETHICS CODE AND PRR APPEALS		

Agenda Wording

AN ORDINANCE relating to public records requests; amending SMC section 1.04A.030 and adopting a new section to chapter 17G.050 of the Spokane Municipal Code.

Summary (Background)

This ordinance will amend Section 1.04A.030 of the Ethics Code to provide that it is a violation for a City officer or employee to willfully and without just cause delay or fail to produce any city record in his or her possession in response to a public records request. This ordinance also provides that upon request, the City Hearing Examiner will review and render a decision on the legal validity of any claim of exemption to produce a city record asserted in response to a public records request.

Fiscal Impact		Budget Account		
Select \$		#		
Select \$	lect \$		#	
Select \$	Select \$		#	
Select \$	elect \$ #			
Approvals		Council Notifications		
Dept Head	DALTON, PAT	Study Session	10/31/16	
Division Director		<u>Other</u>		
<u>Finance</u>	KECK, KATHLEEN	Distribution List		
Legal	DALTON, PAT	mpiccolo@spokanecity.	org	
For the Mayor	DUNIVANT, TIMOTHY	nodle@spokanecity.org		
Additional Approva	ls	sdhansen@spokanecity	org	
Purchasing				

ORDINANCE NO. C35451

AN ORDINANCE relating to public records requests; amending SMC section 1.04A.030 and adopting a new section to chapter 17G.050 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC section 1.04A.030 is amended to read as follows:

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;
- 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/herself 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 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 of 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. A person who files a complaint with a good faith belief that a violation of the Code of Ethics has occurred shall be protected by the City's Whistleblower Protection policy as set forth in SMC 1.04A.180.

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.

P. Failure to Produce Public Records

No City officer or employee shall willfully and without just cause delay or fail to produce any city records in his or her possession or control in response to a public records request filed with the city pursuant to Chapter 42.56 RCW.

- 1. <u>A "city record" is a "public record" as defined by RCW 42.56.010(3).</u>
- 2. <u>"Just cause" to delay or fail to produce means:</u>
 - a. A reasonable belief that production of the record is exempt from public disclosure pursuant to Chapter 42.56 RCW or other statute which exempts or prohibits disclosure of specific information or records; and/or
 - b. The city record is subject to legal review to determine whether it is subject to an exemption from disclosure pursuant to Chapter 42.56 <u>RCW; and/or</u>
 - c. The requester has been notified in writing that additional time is required to produce the city record and/or determine whether it is subject to an exemption from disclosure pursuant to Chapter 42.56 <u>RCW.</u>

Section 2. That there is adopted a new section 17G.050.075 to chapter 17G.050 to read as follows:

17G.050.075 Review of Public Records Disclosures

- A. Upon request, the hearing examiner shall review and render a decision on the legal validity of any claim of exemption to produce a city record asserted in response to a records request filed with the city pursuant to Chapter 42.56 RCW.
- B. A request for a determination shall be made in writing with the office of the hearing examiner.
- C. No fee may be assessed for any request for a determination.
- D. A written determination on the legal validity shall be rendered within fourteen calendar days of the request.

E. The failure to request a legal determination with the office of the hearing examiner does not constitute a failure to exhaust administrative remedies for the purpose of seeking judicial review pursuant to RCW 42.56.550.

PASSED BY THE CITY COUNCIL ON _____, 2016.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

SPOKANE Agenda Sheet	for City Council Meeting of:	Date Rec'd	10/27/2016
11/07/2016		Clerk's File #	ORD C35452
		Renews #	
Submitting Dept	DEVELOPER SERVICES CENTER	Cross Ref #	
Contact Name/Phone	TAMI PALMQUIST 625-6157	Project #	
Contact E-Mail	TPALMQUIST@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	4700 - DEVELOPER SERVICES - ORDINANCE REGARDING ROADWAY NAMING		

Agenda Wording

An ordinance regarding Roadway Naming and Addressing; amending SMC sections 17A.020.120; 17A.020.180 17A.020.190; repealing section 17D.050; and enacting a new section 17D.050A to Chapter 17D of the Spokane Municipal Code.

Summary (Background)

The intent of this process was to develop a common countywide standard used by all addressing authorities within Spokane County to reduce addressing conflicts and enhance public safety agencies' abilities to provide emergency response.

Fiscal Impact		Budget Account	
Neutral \$	#		
Select \$	#		
Select \$		#	
Select \$		#	
Approvals		Council Notifications	
Dept Head	BECKER, KRIS	Study Session	
Division Director	MALLAHAN, JONATHAN	<u>Other</u>	P&ED 9/19/16
<u>Finance</u>	KECK, KATHLEEN	Distribution List	
Legal	RICHMAN, JAMES	Engineering Admin	
For the Mayor	DUNIVANT, TIMOTHY	jrichman@spokanecity.org	
Additional Approvals	ditional Approvals bwilliams@spokanecity.org		5
Purchasing		isacco@spokanecity.org	
		jeliason@spokanecity.org	
		IVonEssen@spokanecounty.org	
		tpalmquist@spokanecity.org	

ORDINANCE NO. C35452

AN ORDINANCE regarding Roadway Naming and Addressing; amending SMC sections 17A.020.120; 17A.020.180; 17A.020.190; repealing section 17D.050; and enacting a new section 17D.050A to chapter 17D of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That chapter 17D.050 of the Spokane Municipal Code is repealed.

Section 2. That there is enacted a new chapter 17D.050A of the Spokane Municipal Code to read as follows:

Chapter 17D.050A Roadway Naming and Addressing

Section 17D.050A.010 Purpose, Goals, and Intent

- A. The purpose and intent of this chapter is to establish a uniform method for naming roadways and assigning addresses for real property and structures within the City of Spokane.
- B. The goals of this chapter are as follows:
 - 1. To facilitate the expedient emergency response by medical, law enforcement, fire, rescue, and any other emergency services;
 - 2. To regulate the display of property address numbers and provide for accurate road name signage, installation, and maintenance thereof; and
 - 3. To provide property owners, the general public, emergency responders, and government agencies and departments with an accurate and systematic means of identifying and locating property and/or structures.

Section 17D.050A.020 Applicability

- A. This chapter applies to all public and private roadways, addresses for real property, and structures situated within the City of Spokane. The City of Spokane may name or rename roadways and assign or reassign addresses as necessary to further the purpose of this chapter.
- B. This chapter applies to the assignment of addresses to all new or existing buildings or properties within the City of Spokane.
- C. All non-conforming addresses may be changed to conform to this Code.

Section 17D.050A.030 Administration

The Development Services Center shall administer the provisions of this chapter, unless otherwise provided for herein.

Section 17D.050A.040 Definitions

- A. "Address" means a property location identification with the following format, and typically in the following order: address number, directional prefix, roadway name, roadway type, building designator, and unit designator (e.g., "123 W. Main St., Apt. 456"). The following elements are required: address number, roadway name, and roadway type. The following elements may be optional: directional prefix, building designator, and unit designator.
- B. "Addressing Authority" means the Development Services Center.
- C. "Address Number" means the numeric designation for an addressable structure or unit.
- D. "Addressable" means a property required to be assigned an address under this chapter.
- E. "Addressable Property, Addressable Structures, Addressable Sites or Addressable Units" means, generally, the habitable or legally occupied structure, or a lot, parcel, or tract, but may also include other structures or sites as determined necessary by the relevant addressing authority.
- F. "Addressing Database" means the computerized format for tracking assigned roadway names and addresses within the City of Spokane.
- G. "Addressing Grid System" is the address number and directional system in a particular area such as a grid system, block system, plat, or subdivision.
- H. "Administrator" means the Development Services Center Manager.
- I. "Building Designator" means a single character alphabetic descriptor for a single building within a multiple unit complex (e.g., "123 W. Main St., Bldg. A").
- J. "Department" means the Development Services Center.
- K. "Directional Prefix" means a single or double character alphabetic descriptor within a roadway name consisting of any combination of the cardinal directions of North, South, East, and West, generally used in specific roadway naming schemes (i.e., N, S, E, W, NE, NW, SE, SW).+
- L. "E911 Director" means the manager of the local 911 service.

- M. "Non-conforming Address or Roadway Name" means an address or roadway name that is not in compliance with this chapter.
- N. "Multiple Units" means the presence of two or more addressable structures, addressable sites, or addressable units on a single Spokane County tax parcel or group of undivided interest parcels.
- O. "Multiple Unit Complex" means an apartment, condominium, or business complex where there exist multiple buildings on a single site, and two or more buildings include multiple units.
- P. "Multiple Unit Structure" means a single structure which contains two or more units.
- Q. "Non-conforming Roadway Name Sign" means a roadway name sign that is not in compliance with this chapter.
- R. "Regional Public Safety Spatial Database" means the spatial format for tracking all assigned roadway names and addresses within Spokane County. This system is maintained by the Regional Public Safety Geographic Information Systems (RPSGIS) Committee for use in countywide public safety-related applications.
- S. "Roadway" means a public or private way on which vehicles travel, encompassing all roadway types.
- T. "Roadway Name" means the word or words either existing, or in the case of new or renamed roadways, which are approved by the Development Services Center, used in conjunction with a directional prefix, and/or a roadway type to identify a public or private roadway.
- U. "Roadway Type" means an abbreviated word used in conjunction with a roadway name to describe the character of the roadway and will be in accordance with USPS Publication No. 28 Appendix C1. The following are allowable roadway types:
 - 1. Alley (Aly): a narrow service roadway that serves rear lots and where platted width is less than twenty feet.
 - 2. Avenue (Ave): a through local, collector or arterial roadway generally running east-west.
 - 3. Boulevard (Blvd): a roadway with exceptional width, length and scenic value, typically with a landscaped median dividing the roadway; or an arterial or major collector roadway that lies diagonally to the east-west, north-south grid system.
 - 4. Circle (Cir): a local or collector roadway having ingress and egress from the same roadway. See also "Loop".

- 5. Court (Ct): a dead end or cul-de-sac that will not become an extension or a continuation of either an existing or future roadway, not longer than six hundred feet in length.
- 6. Drive (Dr): a lengthy collector or arterial that does not have a definite directional course.
- 7. Highway (Hwy): used to designate state or federal roadways only.
- 8. Lane (Ln): a roadway used as a private local access within a development.
- 9. Loop (Loop): a local or collector roadway having ingress and egress from the same roadway. See also "Circle".
- 10. Parkway (Pkwy): a thoroughfare designated as a collector or arterial, with a median reflecting the park-like character implied in the name.
- 11. Place (PI): a permanently dead-end roadway, terminating in a cul-de-sac, or short through roadway, not longer than six hundred fifty feet in length.
- 12. Road (Rd): typically reserved for roadways located outside the boundary of a city or town, and may be found within city/town limits due to past annexations or when a new roadway is in alignment with or within one hundred twenty five feet of an existing county road.
- 13. Street (St): a through local, collector or arterial roadway generally running north-south.
- 14. Way (Way): a curvilinear roadway.
- V. "Unit" means a specific dwelling or commercial space amongst a larger group of dwellings or commercial spaces (e.g., apartment, suites, etc.).
- W. "Unit Designator" means a secondary address number that is used to identify a separate unit on a single lot, parcel, tract of land, or within a multiple unit complex. A unit designator at a minimum shall consist of a unit type and a numeric identifier (e.g., 10126 W. Rutter Pkwy., Apt. 2). See also: "Multiple Units", "Multiple Unit Complex", "Multiple Unit Structure")
- X. "Unit Type" means an abbreviated word used in conjunction with a unit designator to describe the character of the unit and will be in accordance with USPS Publication No. 28 Appendix C2. The following are allowable unit types:
 - 1. "Apt" for Apartment,

- 2. "Bsmt" for Basement,
- 3. "Bldg" for Building,
- 4. "Dept" for Department,
- 5. "Dorm" for Dormitory,
- 6. "FI" for Floor,
- 7. "Frnt" for Front,
- 8. "Hngr" for Hanger,
- 9. "Lbby" for Lobby,
- 10. "Lot" for Lot,
- 11. "Lowr" for Lower Level,
- 12. "Ofc" for Office,
- 13. "Pier" for Pier,
- 14. "Rear" for Rear,
- 15. "Rm" for Room,
- 16. "Slip" for Slip,
- 17. "Spc" for Space,
- 18. "Stop" for Stop,
- 19. "Ste" for Suite,
- 20. "Trlr" for Trailer,
- 21. "Unit" for Unit,
- 22. "Uppr" for Upper Level.
- Y. "Utility Site" means a parcel containing any type of utility service, located on a legal parcel of land with no association to a building and, requiring periodic maintenance or readings by utility company personnel.

Section 17D.050A.050 Roadways to Which Naming Requirements Apply

- A. New or unnamed existing roadways providing access to four (4) or more addressable parcels, structures, or units shall be named.
- B. Existing roadways for which renaming has been authorized by the City to promote the purpose of this chapter shall be renamed as provided for in the City Charter and the Spokane Municipal Code.
- C. Preapproved road names shall be identified on plat documents at the time of Final Plat submittal.
- D. Only traveled ways that qualify as roadways may be named; except that alleys in the downtown zones may be named.
- E. All roadways shall be named regardless of whether the ownership is public or private. Without limitation, this includes all roadways that are created within plats, short plats, binding site plans, PUDs and manufactured/mobile home parks.
- F. Driveways, access to parking areas and other traveled surfaces that are not considered roadways may not be named, but may have directions identified with the following method:
 - 1. Arrow signs indicating building or address ranges within an apartment complex or campus may be placed at the entrances and along the non-roadway traveled ways to locate the buildings.

Section 17D.050A.055 Naming of Roadways

- A. Any project permit action that results in a name being created to identify a new roadway, whether public or private, shall comply with the requirements of this chapter. The applicant will designate proposed roadway names. The Development Services Center shall review the proposed roadway names for consistency with this chapter.
- B. Other than as provided in subsection (A) of this section, a roadway name shall be established or changed by ordinance upon recommendation of the plan commission. Any proposed roadway name change shall be consistent with the roadway naming standards of SMC 17D.050A.060.
- C. Before submitting a proposed roadway name change to the plan commission, the Development Services Center shall cause the applicant to give notice to the owners of property fronting on the roadway, the United States Postal Service and emergency dispatching personnel, for the purpose of eliciting comments. The Development Services Center shall also cause the applicant to post notice pursuant to SMC 17G.060.120.

Section 17D.050A.060 Roadway Naming Standards

All new, unnamed, or renamed roadways within the City of Spokane shall be named pursuant to this chapter and the following criteria:

- A. Roadway names shall be easy to read and pronounce.
- B. Roadway names shall not contain vulgarity or vulgar innuendo, nor insult to any person, group, or class of persons, or institution.
- C. Roadway names shall not sound similar to other roadway names within the City of Spokane, whether existing or currently proposed. (e.g., Links, Lynx)
- D. Duplicate roadway names will not be allowed.
 - 1. Any roadway name shall not duplicate any county roadway names unless the new roadway is in alignment with the existing county roadway.
 - 2. Roadways with the same root name but different suffix (that are not in reasonable alignment with the existing roadway) will be considered as a duplicate roadway name, e.g., Chesterfield Drive or Chesterfield Lane and thus disallowed.
- E. Roadway names shall conform to the most current M.U.T.C.D. and City of Spokane Standards for maximum letter usage, font style, font height, font stroke, and layout.
- F. Roadway names shall be based on the Modern English alphabet and shall not contain special characters (periods, dashes, underscores, apostrophes, quotes, diacritic, etc.) or have frivolous, complicated, or unconventional spellings, with the following exception:
 - 1. Alpha streets shall include quotation marks (e.g. "A" St.)
 - 2. Roadway names may contain a single space to separate two words (e.g. "Mount Spokane Dr.").
- G. Roadway names should not include abbreviations (e.g., "St Charles" vs. "Saint Charles").
- H. Articles (e.g., "The", "A", or "An") shall not be used to begin roadway names.
- I. Roadway names duplicating commercial or private facilities shall not to be used (e.g., "Bowling Alley" or "Tennis Court").

- J. Numbered or alphabetical roadway names shall continue in sequence (e.g., 1st adjacent to 2nd, and not adjacent to 3rd).
- K. Numbered Avenues shall be spelled out from First to Tenth. Numbered Avenues starting at 11th shall display numbers with an ordinal suffix, in lower case letters.
- L. A proposed roadway which is a continuation of, within one hundred twenty-five feet of another already existing and named roadway, or in alignment with an existing roadway, shall continue the roadway prefix direction, roadway name, and roadway type of the existing roadway whenever possible. If the proposed roadway will terminate at a cul-de-sac, the roadway type for the block containing the cul-de-sac may be Court (Ct).
- M. Roadway name integrity should be maintained for the entire length of the roadway whenever possible. Roadway names shall only change when there is a substantial intersection or significant "visual geometric cue." Generally continuous roadways shall not be subdivided into segments with different names.
- N. Roadway names shall not include a directional prefix (e.g., "W. West Washington Rd.").
- O. Roadway names shall not include words used as roadway types (e.g., "Circle St." or "Avenue Way").
- P. Roadway names shall not include the word highway (e.g., "Highway 2" or "Old Sunset Highway").
- Q. Alleys should not be named or assigned addresses, except as permitting in the Downtown.
- R. Roadways which meander from one predominant direction to another shall be assigned a directional prefix in one direction throughout the roadway length according to which general direction of such roadway is the predominant direction of travel.
- S. If a roadway forks into two roadways, the fork with the highest projected traffic volume should continue the same name.
- T. Two uniquely named roadways should not intersect more than once (e.g., Main St. should not intersect Pine Ln. at 200 W. Main St., and also intersect Pine Ln. at 400 W. Main St.). Loops and Circles will be reviewed on an individual basis and require approval from the Administrator.
- U. All proposed new or renamed roadway names which deviate from this document shall be subject to a review by the Addressing Authority and the E911 Director, or

designee, for ease of use within E911 computer-aided dispatch systems, and verified against the Regional Public Safety Spatial Database.

Section 17D.050A.070 Roadway Name Signs Required

- A. All private and public roadways shall have approved roadway name signs posted at every intersection in compliance with federal, state, and local laws and regulations. Roadway name signs shall be made and installed pursuant to this chapter.
- B. Prior to the filing of a final plat, the developer shall install proper roadway name signs to be located per the jurisdiction standards and in accordance with the specifications and requirements of this chapter and shall arrange for inspection by the Administrator or designee.

Section 17D.050A.080 Standards for Signage of Roadways

- A. All public and private roadways shall be designated by names or numbers on signs clearly visible and legible from the roadway. All roadway signs, both public and private, shall be constructed, located and maintained in accordance with standards adopted by the City of Spokane.
- B. Roadway signs shall be located at intersections and be legible from all directions of vehicle travel for a distance of not less than one hundred fifty five feet, unless otherwise required by the Administrator.
 - 1. All letters and numbers shall comply with the most current M.U.T.C.D Standards for font style, font height, and font stroke.
 - 2. Sign mounting height and lateral offset shall comply with the most current Standards of the City of Spokane.
 - 3. All required roadway signs placed at the intersection of a public and private roadway shall be placed outside of the public right-of-way, and constructed and maintained by the private roadway owner(s).
 - 4. On other than through-traffic roadways, signs identifying pertinent information shall be placed at the entrance to such roadways (e.g., "No Outlet").
 - 5. Signs shall be installed in a horizontal orientation and prior to final acceptance of roadway improvements.

Section 17D.050A.090 Addressing Grid Systems

A. The city of Spokane shall participate in the use of the addressing grid system described in this section.

- B. The City of Spokane addressing grid is defined as follows:
 - 1. Sprague Avenue or Sprague Avenue extended divides the City into north and south addresses and Division Street or Division Street extended divides the City into east and west addresses.
 - 2. North of Sprague Avenue, addresses have even numbers on the east side of the roadway and odd numbers on the west side; south of Sprague Avenue, even numbers are on the west side of the roadway and odd numbers are on the east. West of Division Street, addresses have even numbers on the north side and odd numbers on the south side of the roadway; east of Division Street, even numbers are assigned to the south side of the roadway and odd numbers are on the north side.
 - 3. The appropriate directional designation, or abbreviation of the word itself (e.g., "N." or "North"), is part of the address and follows the number. For example, the first lot south of Sprague Avenue on the west side of Division Street would have a street address of "10 S. Division Street."

Section 17D.050A.100 Addressing Standards

- A. Each property owner who has addressable property and has not been assigned an address has a responsibility to apply to the Addressing Authority for a physical address.
- B. Application for each address assignment prior to the issuance of a building permit shall include, at a minimum: a site map showing any proposed or existing structures, driveways, and road approach locations and shall be accompanied by an application, as determined by the Addressing Authority.
- C. The numbering of addressable properties or structures along each roadway shall begin at the appropriate grid point of origin and continue in sequence. No address shall be out of sequence in relation to the adjacent addresses.
- D. Each block along a roadway may have up to one hundred address numbers. The hundred series shall change upon crossing a roadway intersection or in best possible alignment with the established address grid if applicable, with the exception of intersecting driveways and/or alleys. The hundred series along a public roadway shall not change upon crossing a private roadway, unless deemed necessary by the Addressing Authority. Private roadways wholly contained within plats shall be assigned hundred series as if they were public roadways.
- E. Addresses along a roadway shall have even numbers on one side of the roadway and odd numbers on the other side as defined in the addressing grid.

- F. Individual address numbers shall be assigned to fit within the block range of the roadway segment to which the address is assigned (e.g. a new address that is assigned to the 200 block of Main St., must be assigned a number between 200 and 299). Individual addresses should be assigned to be consistent with adjacent blocks of the same N-S or E-W orientation.
- G. Properties only accessible via a shared driveway shall be assigned an address based on the point of origin of the driveway from the connecting roadway and shall be sequential, with the following exceptions:
 - 1. Commercial and Public Facility structures may be assigned an address based upon the roadway the main entrance faces and not necessarily the access roadway.
 - 2. Residential structures on corner lots may be assigned an address based upon the roadway the main entrance faces and not necessarily the access roadway.
- H. Fractional addresses shall not be used (e.g., "100 ½ W. Main St.").
- I. Address numbers shall not contain any non-numeric characters (e.g., "118a" or "118b").

Section 17D.050A.110 Change in Roadway or Address Status

- A. If a public or private roadway right-of-way is altered, the City shall review the alteration and may assign a corrected roadway name and/or address/addresses consistent with the provisions of this Code. If the access to an individual address is altered, the City shall assign a corrected address consistent with the provisions of this Code (e.g., the owners of 200 W. Cherry Ln. change the location of their driveway from Cherry Ln. to Spruce Ln. necessitating an address on Spruce Ln.).
- B. Roadway name changes should be approved only when they further the public interest or public safety, specifically in the dispatching of emergency vehicles. A change in the name of an existing roadway is subject to approval by the city council. The city council, subsequent to the recommendation of the plan commission, may grant a roadway name change if the proposed change is consistent with the policy for naming roadways found in SMC 17D.050A.060.

Section 17D.050A.120 Multiple Units

- A. Duplex/Triplex units shall be assigned one address for each unit when possible.
- B. Accessory dwelling units (ADU) whether attached or detached, shall be assigned a secondary address from the primary dwelling unit. The ADU shall be identified by the building designator "Unit" (e.g.; 123 W. Main St., Unit 1).

- C. Manufactured Home Parks which contain dwelling units fronting on a public or private roadway(s) shall be assigned one address for each dwelling unit. Manufactured home parks which contain dwelling units fronting on unnamed private access roadway(s) shall be assigned one address for the entire property, and a secondary address assigned for individual spaces by the manufactured home park owner subject to approval by the City (e.g.; "1520 W. Richland St., Spc. 1").
- D. Multiple unit complexes shall be assigned one address for the property based upon the roadway from which vehicular access to the structures is obtained whenever possible. If necessary, the addressing authority may assign an address based upon the roadway the main entrance faces (e.g., "1642 N. Sherman Rd., Spc. 10" or "1642 N. Sherman Rd., Bldg C").
- E. Structures within multiple unit complexes shall be assigned a building designator for each structure as opposed to a unique address (e.g., "123 W. Main St., Bldg. A") unless an exception is granted by the City.
- F. When unit designators are assigned to multiple unit structures with individual building designations, the unit designator shall include the building designation (e.g., 123 W. Main St., Apt. A200 or 123 W. Main St., Bldg. A, Apt. 200).
- G. When unit designators are assigned to buildings with multiple floors, all above ground units shall be assigned a three digit number (or higher) where the beginning number shall represent the floor upon which the unit is located (e.g., first floor units would be assigned a three digit number beginning with 1, "Apt. 101", fifteenth floor units would be assigned a four digit number beginning with 15, "Apt. 1501").
- H. Units within below grade stories shall include the alpha characters "Lowr" to indicate lower level and then be assigned a three digit number where the beginning number shall represent the floor upon which the unit is located (e.g. all units in the first level below grade would be assigned three digit numbers beginning with 1, "Apt. Lowr 101", units on the second level below grade would be assigned three digit numbers beginning with 2, "Apt. Lowr 201").
- I. Should a remodel of a multiple-unit structure alter the number or configuration of units, the addresses of units within said structure shall be updated to remain in compliance with this section.
- J. Should a remodel of a single-unit structure create a multiple-unit structure, the addresses of units within said structure shall be updated to remain in compliance with this section.
- K. When unit designators are assigned to individual multifamily dwellings (including apartments and condominiums) the units shall use the unit type for apartment: "Apt." or unit: "Unit".

- L. When unit designators are assigned to individual dwellings/spaces in manufactured home parks, the units shall use the unit type for space: "Spc.".
- M. When unit designators are assigned to individual commercial suites or tenant spaces within a commercial structure(s), the units shall use the unit type for suite: "Ste.".
- N. All other multiple unit structures not previously described shall contain a unit type which most closely identifies the unit's use and which is in accordance with current USPS Published Standards.

Section 17D.050A.130 Residential Final Plat Addresses

Prior to the filing of a residential final plat, all preliminary plat maps must be submitted and approved as required by the Spokane Municipal Code (SMC) 17G.080.050(C)(2), and the full physical addresses for all lots within or served by the development must be indicated on the final plat. Physical addresses will not be issued without an approved preliminary plat map.

Section 17D.050A.140 Display of Address

- A. On structures now existing or hereafter erected the owner of the property or structure shall conspicuously place the correct address, as required by this chapter.
- B. Addresses shall be displayed on all new and existing buildings. Letters, numbers, or symbols shall meet the following standards:
 - 1. The posted address shall be metal or other durable material.
 - 2. The numbering/lettering shall be at least four inches in height, and onehalf inch in stroke width minimum.
 - 3. The posted address shall contrast with its background.
 - 4. The address shall be placed on the structure plainly legible and visible from the roadway from which vehicular access is provided to the property or structure.
 - 5. Address is visible from all directions of travel.
- C. Structures in excess of 100 feet from the roadway fronting the property shall display the address on a sign, monument, or post not less than three feet, or more than six feet above the ground and located at the entrance to the property from the nearest roadway. The structure shall display additional posting at the structure location.

- D. If two or more addressable structures share a common primary access and any one of the addressable structures is located more than 100 feet from the roadway designated in the assigned address, the addresses for each structure shall be posted at the intersection of the shared access and the named roadway on a sign or post not less than three feet nor more than six feet above the ground, and each structure shall display additional posting at the structure location.
- E. If refuse collection is elsewhere than in the fronting street of a building, the owner and occupant shall conspicuously post and maintain the street address number near the refuse receptacles clearly legible from the place where the refuse is collected.
- F. Address numbers, signage, location, and sizing shall be maintained in a manner consistent with the provision, purpose and intent of this addressing standard by the responsible property owner, including all other local, state and federal laws.

Section 17D.050A.150 List of Established Roadway Names, Assigned Addressing, and Mapping

The City of Spokane - Spokane County RPSGIS committee shall maintain the Regional Public Safety Spatial Database comprised of all public and private roadways and addresses within all of Spokane County. The aforementioned spatial database is available for viewing either online from the Spokane County website or in person within the Spokane County Public Works Building during regular business hours.

Section 17D.050A.160 Deviations from Literal Compliance

The Administrator may grant minor deviations from literal compliance with the requirements of this chapter, with the approval of the Spokane City Council. Such deviations are intended to provide relief from literal compliance with specific provisions of this chapter in instances where there is an obvious practical problem with doing so, while still adequately addressing the property for location by emergency service providers and to promote the other purposes of this chapter.

Section 17D.050A.170 Appeals

- A. The Hearing Examiner shall hear appeals of roadway naming or renaming decisions by the City, pursuant to SMC 02.005.040(C).
- B. The Manager of the Development Services Center may approve roadway names for newly established roadways or sections thereof. The manager's decision is an administrative action that may be appealed to the hearing examiner under chapter 17G.050 SMC.
- C. An appeal must be filed prior to final plat approval.

- D. Appeals must be in writing on forms provided by the department. The applicant has the burden of demonstrating that the desired roadway name satisfies the requirements of this chapter.
- E. An appeal fee as specified in chapter 8.02 SMC must be submitted with the completed appeal form and any supporting documentation.

Section 17D.050A.180 Severability

If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

Section 3. That SMC section 17A.020.120 is amended to read as follows:

17A.020.120 "L" Definitions

- A. Land Surveyor.
 An individual licensed as a land surveyor pursuant to chapter 18.43 RCW.
- B. Land Use Codes. Those provisions of this code that relate to:
 - 1. zoning,
 - 2. subdivision,
 - 3. shorelines management,
 - 4. stormwater control,
 - 5. flood zones,
 - 6. critical areas,
 - 7. signs,
 - 8. skywalks, and

include chapter 17D.020 SMC, chapter 17D.050<u>A</u> SMC, chapter 17D.060 SMC, chapter 17D.090 SMC, chapter 17E.010 SMC, chapter 17E.020 SMC, chapter 17E.030 SMC, chapter 17E.040 SMC, chapter 17E.060 SMC, chapter 17E.070 SMC, and chapter 17G.080 SMC.

C. Landscape Plan.

A scale drawing showing site improvements and landscaping required under chapter 17C.200 SMC the following elements:

- 1. Footprint of all structures.
- 2. Final site grading.
- 3. All parking areas and driveways.
- 4. All sidewalks, pedestrian walkways, and other pedestrian areas.
- 5. Location, height, and materials for all fences and walls.
- 6. Common and scientific names of all plant materials used, along with their size at planting and location of all plant materials on the site.

D. Landslide.

Rapid sliding of large masses of rock, soil, or material on steep mountain slopes or from high cliffs.

E. Latah Formation.

Sedimentary layer of claystone to fine-grained sandstone in which very finely laminated siltstone is predominant. The fresh rock ranges in color from various shades of gray to almost white, tan and rust. Much of the finer grained layers contain leaf imprints and other plant debris. Because of its generally poorly consolidated state, the Latah rarely outcrops. It erodes rapidly and therefore is usually covered with later deposits or in steeper terrain hidden under the rubble of overlying basaltic rocks.

F. Launch Ramp.

An inclined slab, set of pads, rails, planks, or graded slope used for launching boats with trailers or by hand.

- G. "Ldn" means a day-night average sound level and serves as a basic measure for quantifying noise exposure, namely, the A-weighted sound level averaged over a twenty-four hour time period, with a ten decibel penalty applied to nighttime (ten p.m. to seven a.m.) sound levels.
- H. Leak Detection.

A procedure for determining if the material in a primary container has escaped into the outside environment or has invaded an interstitial space in a multiple containment system.

I. Levee.

A natural or artificial embankment on the bank of a stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

J. Level of Service Standard.

The number of units of capacity per unit of demand. The level of service standards used on concurrency tests are those standards specified in the adopted City of Spokane comprehensive plan.

- K. Lighting Methods.
 - 1. Direct.

Exposed lighting or neon tubes on the sign face. Direct lighting also includes signs whose message or image is created by light projected onto a surface.

2. Indirect.

The light source is separate from the sign face or cabinet and is directed to shine onto the sign.

- 3. Internal. The light source is concealed within the sign.
- L. Lighting Plan.

A general site plan that includes:

- 1. location of all lighting fixtures on the site;
- 2. manufacturer's model identification of each lighting fixture;
- 3. manufacturer's performance specifications of each fixture;
- 4. a photometric plan of the installed fixtures, which demonstrates that all illumination is confined within the boundaries of the site.
- M. Limited Industrial.

Establishments primarily engaged in on-site production or assembly of goods by hand manufacturing involving the use of hand tools and small-scale equipment and may have the incidental direct sale to consumers of those goods produced on-site. Typical uses include:

- 1. on-site production of goods by hand or artistic endeavor;
- 2. placement of digital or analog information on a physical or electronic medium;

- 3. manufacture, predominantly from previously prepared materials, of finished products or parts, provided the noise, light, smell, or vibration does not extend beyond the site; and
- 4. research of an industrial or biotechnical nature.

All activity must be conducted totally within the structure with no outdoor storage.

N. Listed Species.

A fish or wildlife species on a state or federal species of concern list. Possible designations could include endangered, threatened and sensitive.

O. Littoral Drift.

The natural movement of sediment, particularly sand and gravel, along shorelines by wave action in response to prevailing winds or by stream currents.

- P. Local Access Street.
 A street that provides access from individual properties to collector and minor arterials.
- Q. Lot.
 - 1. "Lot" is a parcel or tract of land so designated on a recorded plat or assessors plat, or:
 - a. in an unplatted area, a tract having frontage on a public street or private street within a planned unit development or binding site plan and having the minimum size and dimensions required for a building site by the zoning code; or
 - b. a building site designated as such on an approved planned development plan; or
 - c. an unplatted area, legally created, and having the minimum size and dimensions required for a building site by the zoning code, but that does not have frontage on a public street.
 - 2. A tract consisting of more than one contiguous lot may be considered as one lot for development purposes, subject to interpretation of the location of the front and rear yards.
 - 3. A "corner lot" is a lot bounded on two adjacent sides by intersecting public streets.
 - 4. An "inside lot" is a lot other than a corner lot.

- 5. A "through lot" is a lot bounded on opposite sides by parallel or approximately parallel public streets.
- R. Lot Depth.

The depth of a lot is the horizontal distance between the front lot line and the rear lot line measured in the mean direction of the side lot lines.

S. Lot Lines.

The property lines along the edge of a lot or site.

- 1. "Front lot line" means a lot line, or segment of a lot line, that abuts a street.
 - a. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front.
 - b. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length.
- 2. "Rear lot line" means a lot line that is opposite a front lot line.
 - a. A triangular lot has two side lot lines but no rear lot line.
 - b. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.
- 3. "Side lot line" means a lot line that is neither a front nor rear lot line.
- a. On a corner lot, the longer lot line, which abuts a street, is a side lot line.
 - 4. "Side street lot line" means a lot line that is both a side lot line and a street lot line.
 - 5. "Street lot line" means a lot line, or segment of a lot line, that abuts a street.
 - a. "Street lot line" does not include lot lines that abut an alley.
 - b. On a corner lot, there are two (or more) street lot lines.
 - c. Street lot lines can include front lot lines and side lot lines.
- T. Lot Width.

The width of a lot is the horizontal distance between the side lot lines measured on a line intersecting at right angles the line of the lot depth thirty feet from the front lot line.

- U. Low Impact Development (LID).
 - 1. LID is a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.
- V. Low Visual Impact Facility. For the purposes of administration of this code, a low visual impact facility includes a small diameter (three feet or less) antenna or antenna array located on top of an existing pole or on a replacement pole. (See also SMC 17A.020.010, Alternative Tower Structure.)
- W. Lowest Floor.

The lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of SMC 17E.030.140.

Section 4. That SMC section 17H.010.030 is amended to read as follows:

17H.010.030 Street Layout Design

- A. Street design is governed by the comprehensive plan and city design standards.
- B. Streets shall be designed in light of topography and existing and planned street patterns. It is encouraged that low impact development principles be considered, evaluated and utilized where practical as described in the Eastern Washington Low Impact Development Guidance Manual.
- C. Adequate access shall be provided to all parcels of land. The street system shall facilitate all forms of transportation including pedestrians, bicycles, vehicles and emergency services.
- D. When property is divided into large parcels, streets shall be laid out so as to allow the addition of future streets in a consistent pattern in the event of redivision.

- E. Street names should be logical, consistent and understandable to satisfy the needs of emergency and delivery vehicles. Street names must be approved by the City and comply with the requirements of chapter 17D.050<u>A</u> SMC, Roadway Naming.
- F. The layout of new streets shall provide for the continuation of existing streets in adjoining subdivisions. If a public street or right-of-way terminates at a plat boundary, provisions shall be made for the extension of the public street to the adjacent property or to another public street in a manner consistent with public mobility and utility infrastructure needs.
- G. Street layout shall provide for future extension of streets into areas which are presently not subdivided.
- H. Traffic generators within the project should be considered and the street system designed appropriately. Individual projects may require a traffic study subject to chapter 17D.080 SMC, Voluntary Impact Fees, chapter 17D.010 SMC, Concurrency Certification, or chapter 17E.050 SMC, SEPA.
- I. The minimum centerline distance between intersections shall be one hundred fifty feet.
- J. Bordering arterial routes should be considered and design continuity provided.
- K. When any parcels in a subdivision adjoin an existing or proposed arterial street, the hearing examiner may require access by way of frontage streets and may restrict access to the arterial.
- L. Subdivisions comprised of more than thirty lots shall include two access points acceptable to the city fire department and the director of engineering services.
- M. A grid pattern featuring more street intersections and shorter block lengths should be implemented wherever possible.
- N. Block lengths should not exceed six hundred sixty feet.
- O. A block width should allow for two tiers of lots between parallel streets and double frontage lots should be avoided.
- P. Permanent dead-end or cul-de-sac streets may be allowed when the property is isolated by topography or the configuration of existing platted

lots and streets. Dead-ends and cul-de-sacs will be reviewed in every case for connectivity

Section 5. That SMC section 17A.020.180 is amended to read as follows:

17A.020.180 "R" Definitions

A. RCW.

The Revised Code of Washington, as amended.

- B. Real Estate Sign.
 A sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent.
- C. Reasonable Cause. A reasonable basis to believe or suspect that there is storage, seepage, spillage, accumulation, or use of critical materials or the pursuit of critical materials activities at a site or premises.
- D. Reconsideration Request For.
 A request to the appeal body to consider again or reverse the decision on the permit application.
- E. Recreational Vehicle. A vehicle, which is:
 - 1. Built on a single chassis;
 - 2. Four hundred square feet or less when measured at the largest horizontal projection;
 - 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 - 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- F. Recycling Drop-off Center. A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries, and motor oil.
 - 1. Processing of materials is limited to glass breaking and separation.
 - 2. Recycling materials are not sold to a recycling drop-off center.

- 3. A recycling drop-off center is intended for household or consumer use.
- 4. Use by commercial or industrial establishments is not included.
- 5. Unattended drop-off stations for single materials, such as newsprint, are also not included.
- G. Recycling Operation.
 A use where one or more recycling materials are accumulated, stored, sorted, or processed.
 - 1. A recycling operation may get recycling materials from drop-off centers, from a household or business pick-up operation, or from commercial or industrial uses.
 - 2. Materials may be processed on site or accumulated in large quantities for eventual sale or transfer to other processors.
 - 3. Recycling operation does not include the processing of yard debris or other decomposable material except for clean paper products.

H. Redivision.

The redivision of a lot located within a previously recorded plat or short plat.

I. Regional Shopping Mall – Enclosed.

A group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large "anchor" stores, such as department stores. The common walkway or "mall" is enclosed, climate-controlled and lighted, usually with an inward orientation of the stores facing the walkway.

J. Registered Neighborhood Organization.

A community development block grant (CDBG) neighborhood steering committee, a neighborhood council, or other neighborhood or community group within the City that:

- 1. Represents a specifically designated geographic area;
- 2. Is governed by bylaws and has elected officers; and
- 3. Has registered as such with the City and is on the current list of registered neighborhood organizations.
- K. Regularly.

Occurring consistently and repeatedly on an ongoing basis.

- L. Regulated Substance. A critical material as referred to in 42 U.S.C. 6991(2).
- M. Related Persons.

One or more persons related either by blood, marriage, adoption, or guardianship, and including foster children and exchange students; provided, however, any limitation on the number of residents resulting from this definition shall not be applied if it prohibits the City from making reasonable accommodations to disabled persons in order to afford such persons equal opportunity to use and enjoy a dwelling as required by the Fair Housing Amendment Act of 1988, 42 U.S.C. 3604(f)(3)(b) and the Washington Housing Policy Act, RCW 35.63.220.

- N. Repair (see also "Maintenance"). An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design, and drain, dredge, fill, flood, or otherwise alter additional wetlands are not included in this definition.
- Reservoir.
 A body of water collected and stored in an artificial pool that is intended for future use.
- P. Residential Zone. Those zones from RA through RHD.
- Q. Responsible Party. A person who is either:
 - 1. The property owner or person authorized to act on the owner's behalf; or
 - 2. Any person causing or contributing to a violation of this chapter.
- R. Restoration. See "Compensatory Mitigation" (SMC 17A.020.030).

S. Revetment.

A sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to slow down bank erosion and minimize lateral stream movement.

T. Right-of-way. A public or private area that allows for the passage of people or goods.

- 1. Right-of-way includes passageways such as:
 - a. freeways,
 - b. streets,
 - c. bike paths,
 - d. alleys, and
 - e. walkways.
- 2. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and under the control of a public agency.
- U. Riparian.
 - 1. Riparian habitat is defined as an area that contains elements of both aquatic and terrestrial ecosystems, which mutually influence each other.
 - 2. It is the area where the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are influenced by perennial or intermittent water, and the biological and physical properties of the adjacent aquatic ecosystems are influenced by adjacent vegetation, nutrient, and sediment loading, terrestrial wildlife, and organic debris from the land.
 - 3. Riparian vegetation includes not only streamside vegetation that is dependent upon presence of water, but also on the upland vegetation that is part of the zone of influence in the riparian area.
 - 4. Riparian habitats have high wildlife density and high species diversity. They serve as important wildlife breeding and seasonal ranges. They are important movement corridors and are highly vulnerable to habitat alteration.
- Riparian Habitat Area (RHA).
 A defined area used to manage and buffer impacts to wildlife habitat and consists of landscape features that support fish and wildlife in areas near water bodies such as streams, rivers, wetlands and lakes.

W. Riparian Wetland.

Wetlands located at the shore of a lake or river. The transitional area between aquatic and upland ecosystems that is identified by the presence of vegetation

that requires or tolerates free or unbound water or conditions that are more moist than normally found in the area.

X. Riprap.

A layer, facing, or protected mound of stones placed to prevent erosion, scour, or sloughing of a structure of embankment; also, the stone so used.

Y. River Delta.

Those lands formed as an aggradational feature by stratified clay, silt, sand, and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels.

- Z. Riverine. Situated alongside or associated with a river.
- AA. Roadway.
 - 1. Curbed roadways within the City limits and other urbanized areas are commonly and generically referred to as "streets." Roadways outside the urban areas are most often not curbed, and are commonly and generically referred to as "roads."
 - 2. Within the context of this code, "roadway" refers to any traveled way, either public or private, that has been platted or otherwise specifically dedicated for the purpose of circulation and will require a name in accordance with chapter 17D.050<u>A</u> SMC.
- AB. Roadway Name. Roadway names consist of three parts:
 - 1. Direction.
 - 2. Root name; and
 - 3. Suffix.
- AC. Rock Shore. Those shorelines whose bluffs and banks are typically composed of natural rock formations.
- AD. Rockfall. The falling of rocks from near vertical cliffs.
- AE. Roof Line.

The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, chimneys, or other projections.

- AF. Roof Top Sign. A sign on a roof that has a pitch of less than one-to-four.
- AG. Root Name.

A maximum of two words, which are not considered part of the directional or suffix.

AH. Runoff.

Water that travels across the land surface, or laterally through the ground near the land surface, and discharges to water bodies either directly or through a collection and conveyance system. It includes stormwater and water from other sources that travels across the land surface.

AI. Runoff and Infiltration Controls. Measures adopted to prevent damage due to flooding and erosion problems.

Section 6. That SMC section 17A.020.190 is amended to read as follows:

17A.020.190 "S" Definitions

- A. Salmonid. Belonging to the family of Salmonidae, including the salmons, trouts, chars, and whitefishes.
- B. Sandwich Board Sign.

A self-supporting A-shaped freestanding temporary sign with only two visible sides that are situated adjacent to a business, typically on a sidewalk.

- C. Scrub-shrub Wetland. An area of vegetated wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height at the uppermost strata.
- D. Secondary Building Walls. Exterior building walls that are not classified as primary building walls.
- E. Secondary Containment. A means of spill or leak containment involving a second barrier or tank constructed outside the primary container and capable of holding the contents of the primary container.
- F. Sediment.

Mineral or organic matter deposited as a result of erosion.

G. Sedimentation.

The settling and accumulation of particles such as soil, sand, and gravel, suspended in water or in the air.

- H. SEPA Rules. Chapter 197-11 WAC adopted by the department of ecology.
- I. Service Area. A geographic area defined by the City, which encompasses public facilities that are part of a plan.
- J. Serviceable. Means presently useable.
- K. Setback.

The minimum distance required between a specified object, such as a building and another point. Setbacks are usually measured from lot lines to a specified object. In addition, the following setbacks indicate where each setback is measured from:

- 1. "Front setback" means a setback that is measured from a front lot line.
- 2. "Rear setback" means a setback that is measured from a rear lot line.
- 3. "Side setback" means a setback that is measured from a side lot line.
- 4. "Street setback" means a setback that is measured from a street lot line.
- L. Sex Paraphernalia Store.

A commercial establishment that regularly features sexual devices and regularly advertises or holds itself out, in any medium, as an establishment that caters to adult sexual interests. This definition shall not be construed to include:

- 1. Any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services; or
- 2. Any establishment located within an enclosed regional shopping mall.
- M. Sexual Device.

Any three dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

N. Shall.

Unless the context indicates otherwise, the term "shall" means:

- 1. In reference to the obligations imposed by this title upon owners or occupants of premises or their agents, a mandatory obligation to act, or when used with a negative term to refrain from acting, in compliance with this code at the risk of denial of approval or civil or criminal liability upon failure so to act, the term being synonymous with "must";
- 2. With respect to the functions of officers and agents of the City, a direction and authorization to act in the exercise of sound discretion; or
- 3. The future tense of the verb "to be."
- O. Shallow Groundwater.

Naturally occurring water within an unconfined (water table) aquifer, partially confined aquifer or perched groundwater aquifer, and which is present at depth of fifteen feet or less below the ground surface, at any time, under natural conditions.

P. Shorelands.

Or "shoreline areas" or "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high-water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the entire shoreline master program; the same to be designated as to location by the department of ecology.

- Q. Shoreline and Ecosystems Enhancement Plan and Program. See SMC 17E.020.090, Habitat Management Plans.
- R. Shoreline Buffer.
 - 1. A designated area adjacent to the ordinary high-water mark and running landward to a width as specified by this regulation intended for the protection or enhancement of the ecological function of the shoreline area.
 - 2. The buffer will consist primarily of natural vegetation or planted vegetation which maintains or enhances the ecological functions of the shoreline area.

- 3. The term "buffer area" has the same meaning as "buffer."
- s. Shoreline Enhancement.

Any alteration of the shoreline that improves the ecological function of the shoreline area or any aesthetic improvement that does not degrade the shoreline ecological function of the shoreline.

- T. Shoreline Environment Designations. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. The basic recommended system classifies shorelines into four distinct environments (natural, conservancy, rural, and urban). See WAC 173-16-040(4).
- U. Shoreline Habitat and Natural Systems Enhancement Projects.
 - 1. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for propriety species in shorelines.
 - 2. Provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline, projects may include shoreline modification actions such as:
 - a. Modification of vegetation,
 - b. Removal of nonnative or invasive plants,
 - c. Shoreline stabilization, dredging, and filling.
- V. Shoreline Jurisdiction. See "Shorelands."
- W. Shoreline Letter of Exemption. Authorization from the City which establishes that an activity is exempt from shoreline substantial development permit requirements under SMC 17E.060.300 and WAC 173-14-040, but subject to regulations of the Act and the entire shoreline master program.
- x. Shoreline Master Program.
 - 1. The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

- 2. For the City of Spokane, the shoreline master program includes the:
 - a. Shoreline Goals and Policies (Comprehensive Plan Chapter 14),
 - b. Shoreline Regulations (chapter 17E.060 SMC),
 - c. City of Spokane Shoreline Restoration Plan (stand-alone document), and
 - d. Shoreline Inventory and Analysis (Comprehensive Plan Volume III).
- Y. Shoreline Mixed Use. Combination of water-oriented and non-water oriented uses within the same structure or development area.
- z. Shoreline Modifications.

Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

- AA. Shoreline Protection.
 - 1. Structural and nonstructural methods to control flooding or address erosion impacts to property and dwellings or other structures caused by natural processes, such as current, flood, wind, or wave action.
 - 2. The terms "Shoreline protection measure" and this term have the same meaning.
 - 3. Substantial enlargement of an existing shoreline protection improvement is regarded as new shoreline protection measure.
- AB. Shoreline Recreational Development. Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Water-dependent, waterrelated and water-enjoyment recreational uses include river or stream swimming areas, boat launch ramps, fishing areas, boat or other watercraft rentals, and view platforms.
- AC. Shoreline Restoration.
 - 1. The re-establishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures

including, but not limited to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials.

- 2. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
- AD. Shoreline Stabilization.

Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the ordinary high-water mark. Other construction classified as shore defense works include groins, jetties, and breakwaters, which are intended to influence wave action, currents, and/or the natural transport of sediments along the shoreline.

AE. Shoreline Structure.

A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

- AF. Shorelines Hearings Board (SHB). The shorelines hearings board is a quasi-judicial body with powers of de novo review authorized by chapter 90.58 RCW to adjudicate or determine the following matters:
 - 1. Appeals from any person aggrieved by the granting, denying, or rescinding of a permit issued or penalties incurred pursuant to chapter 90.58 RCW.
 - 2. Appeals of department rules, regulations, or guidelines; and
 - 3. Appeals from department decisions to approve, reject, or modify a proposed master program or program amendment of local governments which are not planning under RCW 36.70A.040.
- AG. Short Plat Final. The final drawing of the short subdivision and dedication, prepared for filing for record with the Spokane county auditor and containing all elements and requirements set forth in this chapter and chapter 58.17 RCW.
- AH. Short Plat Preliminary.
 - 1. A neat and approximate drawing of a proposed short subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a short subdivision required by this title and chapter 58.17 RCW.

- 2. The preliminary short plat shall be the basis for the approval or disapproval of the general layout of a short subdivision.
- AI. Short Subdivision.

A division or redivision of land into nine or fewer lots, tracts, parcels, or sites for the purpose of sale, lease, or transfer of ownership. (RCW 58.17.020(6)).

- AJ. Sign.
 - 1. Materials placed or constructed or light projected, but not including any lawful display of merchandise, that:
 - a. Conveys a message or image, and
 - b. Is used to inform or attract the attention of the public
 - 2. Some examples of signs are materials or lights meeting the definition of the preceding sentence and which are commonly referred to as signs, placards, A-boards, posters, murals, diagrams, banners, flags, or projected slides, images, or holograms.
 - 3. The scope of the term sign does not depend on the content of the message or image conveyed.
- AK. Sign Animated Sign.
 A sign that uses movement, by either natural or mechanical means, to depict action to create a special effect or scene.
- AL. Sign Electronic Message Center Sign. An on-premises sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means including signs using a video display method.
- AM. Sign Face. The portion of a sign which contains lettering, logo, trademark, or other graphic representations. (See SMC 17C.240.140, Sign Face Area.)
- AN. Sign Flashing Sign.
 - 1. A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated in a strobe-like fashion for the purpose of drawing attention to the sign.
 - 2. Time and temperature signs are excluded from this definition.

- 3. For the purpose of this title, electronic message centers consistent with the standards of SMC 17C.240.240(J) shall not be considered flashing signs.
- AO. Sign Maintenance.

Normal care needed to keep a sign functional, such as cleaning, painting, oiling, and changing of light bulbs.

AP. Sign – Off-premises.

A sign relating, through its message and content, to a business activity, use, product, or service not available on the premises upon which the sign is erected.

AQ. Sign Repair.

Fixing or replacement of broken or worn parts. Replacement includes comparable materials only. Repairs may be made with the sign in position or with the sign removed.

- AR. Sign Structure. A structure specifically intended for supporting or containing a sign.
- AS. Significant Vegetation Removal.

The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation.

- 1. The removal of invasive or noxious weeds does not constitute significant vegetation removal.
- 2. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- AT. Single-family Residential Building. A dwelling containing only one dwelling unit.
- AU. Single-room Occupancy Housing (SRO).
 A structure that provides living units that have separate sleeping areas and some combination of shared bath or toilet facilities.
 - 1. The structure may or may not have separate or shared cooking facilities for the residents.
 - 2. SRO includes structures commonly called residential hotels and rooming houses.
- AV. Site.

Any parcel of land recognized by the Spokane County assessor's office for taxing purposes. A parcel may contain multiple lots.

- AW. Site Archaeological.
 - 1. A place where a significant event or pattern of events occurred. It may be the:
 - a. Location of prehistoric or historic occupation or activities that may be marked by physical remains; or
 - b. Symbolic focus of a significant event or pattern of events that may not have been actively occupied.
 - 2. A site may be the location of a ruined or now non-extant building or structure if the location itself possesses historic, cultural, or archaeological significance.

AX. Slump. The intermittent movement (slip) of a mass of earth or rock along a curved plane.

- AY. SMC. The Spokane Municipal Code, as amended.
- AZ. Soil.

The naturally occurring layers of mineral and organic matter deposits overlaying bedrock. It is the outer most layer of the Earth.

BA. Sound Contours.

A geographic interpolation of aviation noise contours as established by the 2010 Fairchild AFB Joint Land Use Study and placed on the official zoning map. When a property falls within more than one noise zone, the more restrictive noise zone requirements shall apply for the entire property.

BB. Sound Transmission Class (STC). A single-number rating for describing sound transmission loss of a wall, partition, window or door.

- BC. Special Drainage District (SDD). An area associated with shallow groundwater, intermittent standing water, or steep slopes where infiltration of water and dispersion of water into the soils may be difficult or delayed, creating drainage or potential drainage problems. SDDs are designated in SMC 17D.060.130.
- BD. Special Event Sign.

A temporary sign used to announce a circus, a carnival, festivals, or other similar events.

BE. Species of Concern.

Species native to Washington State listed as state endangered, state threatened, state sensitive, or state candidate, as well as species listed or proposed for listing by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.

- BF. Specified Anatomical Areas. They are human:
 - 1. Genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola, when such areas are less than completely and opaquely covered;
 - 2. Male genitals in a discernibly turgid state, even if completely and opaquely covered.
- BG. Specified Sexual Activities. Any of the following:
 - 1. Human genitals in a state of sexual stimulation or arousal;
 - 2. Acts of human masturbation, sexual intercourse, or sodomy; and
 - 3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- BH. Spokane Regional Stormwater Manual (SRSM).

A technical document establishing standards for stormwater design and management to protect water quality, natural drainage systems, and downgradient properties as urban development occurs.

BI. Spokane Register of Historic Places. The register maintained by the historic preservation office, which includes historic landmarks and districts in the City and County.

BJ. Sports Field.

An open area or stadium in which scheduled sports events occur on a regular basis. Sports events include both competitive and noncompetitive events such as track and field activities, soccer, baseball, or football games.

BK. Stabilization.

The process of establishing an enduring soil cover of vegetation or mulch or other ground cover and may be in combination with installation of temporary or permanent structures.

- BL. Standard Plans. Refers to the City of Spokane's standard plans.
- BM. Standard References. Standard engineering and design references identified in SMC 17D.060.030.
- BN. State Candidate Species. Fish and wildlife species that WDFW will review for possible listing as state endangered, threatened, or sensitive.
- BO. State Endangered Species. Any wildlife species native to the State of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.
- BP. State Register. The register maintained pursuant to chapter 195, Laws of 1977, 1st ex. sess., section 6 (chapter 27.34 RCW).
- BQ. State Sensitive Species. Any wildlife species native to the State of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats.
- BR. State Threatened Species. Any wildlife species native to the State of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.
- BS. Stealth Facilities.

Any cellular telecommunications facility that is designed to blend into the surrounding environment. Examples of stealth facilities include:

- 1. Architecturally screened roof-mounted antennas;
- 2. Building-mounted antennas painted to match the existing structure;
- 3. Antennas integrated into architectural elements; and
- 4. Antenna structures designed to look like light poles, trees, clock towers, bell steeples, or flag poles.
- BT. Stewardship.

Acting as supervisor or manager of the City and County's historic properties.

BU. Stormwater.

- 1. Any runoff flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- 2. "Stormwater" further includes any locally accumulating ground or surface waters, even if not directly associated with natural precipitation events, where such waters contribute or have a potential to contribute to runoff onto the public right-of-way, public storm or sanitary sewers, or flooding or erosion on public or private property.
- BV. Stormwater Management Program (SWMP). A set of actions and activities designed to reduce the discharge of pollutants from the regulated MS4 to the maximum extent practicable and to protect water quality, and comprising the components listed in S5 or S6 of the Eastern Washington Phase II Municipal Permit (WAR04-6505) and any additional actions necessary to meet the requirements of applicable TMDLs.

BW. Story.

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except:

- 1. The topmost story is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above;
- 2. That portion of a building between the eaves and the ridge, when over twenty feet in height, is considered a story;
- 3. That portion of a building below the eaves which exceeds fourteen feet in height is considered a story, each fourteen feet of height (or major part of fourteen feet) being an additional story; and
- 4. A basement or unused under-floor space is a story if the finished floor level directly above is either more than:
 - a. Six feet above grade for more than half of the total perimeter, or
 - b. Twelve feet above grade at any point.

BX. Stream.

A naturally occurring body of periodic or continuously flowing water where the:

- 1. Mean annual flow is greater than twenty cubic feet per second; and
- 2. Water is contained with a channel (WAC 173-22-030(8)).

- BY. Street. See "Public Way" (SMC 17A.020.160).
- BZ. Street Classifications.
 - 1. Arterial and local access streets are classified in section 4.5 of the comprehensive plan as follows:
 - a. Principal arterial.
 - b. Minor arterial.
 - c. Collector arterial.
 - d. Local access street.
 - e. Parkway.
 - 2. Definitions of all of the above classifications are included herein. Private streets are not classified but are defined under SMC 17A.020.160, "P" Definitions.
- CA. Street Frontage. The lot line abutting a street.
- CB. Strobe Light. A lamp capable of producing an extremely short, brilliant burst of light.
- CC. Structural Alteration.
 - 1. Modification of a sign, sign structure, or awning that affects size, shape, height, or sign location.
 - 2. Changes in structural materials; or
 - 3. Replacement of electrical components with other than comparable materials.
 - 4. The replacement of wood parts with metal parts, the replacement of incandescent bulbs with light emitting diodes (LED), or the addition of electronic elements to a non-electrified sign would all be structural alterations.
 - 5. Structural alteration does not include ordinary maintenance or repair, repainting an existing sign surface, including changes of message or

image, exchanging painted and pasted or glued materials on painted wall signs, or exchanging display panels of a sign through release and closing of clips or other brackets.

CD. Structure.

Any object constructed in or on the ground, including a gas or liquid storage tank that is principally above ground.

- 1. Structure includes:
 - a. Buildings,
 - b. Decks,
 - c. Fences,
 - d. Towers,
 - e. Flag poles,
 - f. Signs, and
 - g. Other similar objects.
- 2. Structure does not include paved areas or vegetative landscaping materials.
- CE. Structure Historic. A work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.
- CF. Subdivision.

A division or redivision of land into ten or more lots, tracts, or parcels for the purpose of sale, lease, or transfer of ownership (RCW 58.17.020).

- CG. Subject Property. The site where an activity requiring a permit or approval under this code will occur.
- CH. Sublevel Construction Controls. Design and construction requirements provided in SMC 17F.100.090.
- CI. Submerged Aquatic Beds. Wildlife habitat area made up of those areas permanently under water, including the submerged beds of rivers and lakes and their aquatic plant life.

CJ. Substantial Damage – Floodplain.

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-existing condition would equal or exceed fifty percent of the assessed value of the structure before the damage occurred.

- CK. Substantial Development. For the shoreline master program, shall mean any development of which the total cost or fair market value exceeds the dollar amount set forth in RCW 90.58 and WAC 173-26 for any improvement of property in the shorelines of the state.
- CL. Substantial Improvement Floodplain.
 - 1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored, before the damage occurred.
 - 2. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
 - 3. The term does not, however, include either any:
 - a. Project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Alteration of a structure listed on the National Register of Historic or State Inventory of Historic Places.
- CM. Suffix.

Describes the roadway type and is located after the root roadway name (i.e., street, avenue, court, lane, way, etc.). The appropriate suffix shall be used in accordance with SMC 17D.050A.040(U)((020(C))).

Passed by the City Council on _____

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

October 25, 2016

City Clerk File No.: FIN 2016-0001

COUNCIL ACTION MEMORANDUM

RE: SETTING PUBLIC HEARINGS: (1) ON POSSIBLE REVENUE SOURCES FOR THE 2017 BUDGET and (2) FOR REVIEW OF THE 2017 PROPOSED BUDGET

During its 3:30 p.m. Administrative Session held Monday, October 24, 2016, upon consideration of the October 24 Current Agenda items, the Spokane City Council unanimously approved the setting of public hearings for the following:

- on possible revenue sources for the 2017 Budget for November 7, 2016 and
- for review of the 2017 Proposed Budget beginning Monday, November 7, 2016, and continuing thereafter at the regular council meetings during the month of November.

Terri L. Pfister, MMC Spokane City Clerk

SPOKANE Agenda Shee	t for City Council Meeting of:	Date Rec'd	10/11/2016
10/24/2016		Clerk's File #	FIN 2016-0001
		Renews #	
Submitting Dept	FINANCE & ADMIN	Cross Ref #	
Contact Name/Phone	TIM DUNIVANT 625-6845	Project #	
Contact E-Mail	TDUNIVANT@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Hearings	Requisition #	
Agenda Item Name	0410 - SET REVENUE HEARING		
Agenda Wording	•		

Setting public hearing on possible revenue sources for the 2017 Budget for November 7, 2016.

Summary (Background)

A city such as Spokane that collects a regular property tax levy must hold a public hearing on possible revenue sources for the 2017 current expense budget, including consideration of possible increases in property tax revenues (RCW 84.55.120). This hearing must be held before the meeting at which the City Council considers levy adoption. The property tax ordinance will be on the Council's November 14th agenda.

Fiscal Impact		Budget Account	
Select \$		#	
Approvals		Council Notification	ns
Dept Head	DUNIVANT, TIMOTHY	Study Session	
Division Director	DUNIVANT, TIMOTHY	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	Distribution List	
Legal	DALTON, PAT	tdunivant@spokanecirty.	org
For the Mayor	CODDINGTON, BRIAN	cmarchand@spokanecity	.org
Additional Approvals	<u>S</u>		
Purchasing			



OFFICE OF THE CITY CLERK 808 W. Spokane Falls Blvd. Spokane, Washington 99201-3342 509.625.6350

October 25, 2016

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Terri L. Pfister, MMC Spokane City Clerk

Agenda Sheet for City Council Meeting of:		10/11/2016
	Clerk's File #	FIN 2016-0001
	Renews #	
FINANCE & ADMIN	Cross Ref #	
TIM DUNIVANT 625-6845	Project #	
TDUNIVANT@SPOKANECITY.ORG	Bid #	
Hearings	Requisition #	
0410 - SET BUDGET HEARINGS		-
	FINANCE & ADMIN TIM DUNIVANT 625-6845 TDUNIVANT@SPOKANECITY.ORG Hearings	Clerk's File # Clerk's File # Renews # FINANCE & ADMIN Cross Ref # TIM DUNIVANT 625-6845 Project # TDUNIVANT@SPOKANECITY.ORG Bid # Hearings Requisition #

Agenda Wording

Setting the hearings for review of the 2017 Proposed Budget beginning Monday, November 7, 2016 and continuing thereafter at the regular council meetings during the month of November.

Summary (Background)

As part of the annual budget process, the City Council will hold public hearings on the proposed 2017 budget for the City of Spokane. Public testimony is welcome on all sections of the budget at each hearing. The first hearing will be held on November 7, 2016 and are currently scheduled to continue each Monday during the month of November through November 21, 2016. The Council may continue the hearing up to the 25th day prior to the beginning of the next fiscal year.

Fiscal Impact		Budget Account	
Select \$		#	
Approvals		Council Notifications	
Dept Head	DUNIVANT, TIMOTHY	Study Session	
Division Director	DUNIVANT, TIMOTHY	Other	
Finance	KECK, KATHLEEN	Distribution List	
Legal	PICCOLO, MIKE	tdunivant@spokanecity.org	
For the Mayor	CODDINGTON, BRIAN	cmarchand@spokanecity.org	
Additional Approval	<u>S</u>		
Purchasing			

SPOKANE Agenda Sheet for City Council Meeting of: 10/31/2016		Date Rec'd	10/17/2016
		Clerk's File #	ORD C35447
		Renews #	
Submitting Dept	PLANNING	Cross Ref #	
Contact Name/Phone	L KEY / K 625-6184	Project #	
Contact E-Mail	KFRIEBOTT@SPOKANECITY.ORG	<u>Bid #</u>	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0650 - Z1500085COMP - QUEENB		
Agenda Wording			

An ordinance RELATING TO application made by QueenB radio, planning file #Z1500085COMP AND amending the Land Use Plan Map of the City's Comprehensive Plan from "open space" to "centers and corridors core" for approximately 1.9 acres total described

Summary (Background)

This Application for a Comprehensive Plan Land Use Map Amendment is being considered concurrently through the annual Comprehensive Plan Amendment cycle as required by the Growth Management Act. The application has fulfilled public participation and notification requirements. The Plan Commission held a Public Hearing on September 14, 21, and 28, 2016 to consider this amendment and has recommended approval of the amendment. Plan Commission Findings and Conclusions are attached.

Fiscal Impact		Budget Account		
Neutral \$		#		
Select \$		#		
Select \$		#		
Select \$		#		
Approvals		Council Notification	IS	
<u>Dept Head</u>	KEY, LISA	Study Session		
Division Director	MALLAHAN, JONATHAN	<u>Other</u>	PED 6/20/16 & 10/17/16	
Finance	KECK, KATHLEEN	Distribution List		
Legal	RICHMAN, JAMES	Engineering Admin		
For the Mayor	CODDINGTON, BRIAN	lkey@spokanecity.org		
Additional Approvals tblack@spokanecity		tblack@spokanecity.org		
Purchasing		kfreibott@spokanecity.org		
		jrichman@spokanecity.org		
		sms@witherspoonkelley.com		
		karinah@witherspoonkelley.com		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

as: the South 150 feet of the east 600 feet of government lot 8, NE quarter of Section 4, Township 24 North, Range 43 east; and amending the zoning map from "Residential Single Family" (RSF) TO "Centers and Corridors Type 2 - District Center" (CC2-DC).

Summary (Background)

Staff Report and SEPA Determination attached.

Fiscal Impact	Budget Account	
Select \$	#	
Select \$	#	
Distribution List		
jmallahan@spokanecity.org		

ORDINANCE NO. C35447

AN ORDINANCE RELATING TO APPLICATION MADE BY QUEENB RADIO INC., PLANNING FILE #Z1500085COMP AND AMENDING THE LAND USE PLAN MAP OF THE CITY'S COMPREHENSIVE PLAN FROM "OPEN SPACE" TO "CENTERS AND CORRIDORS CORE" FOR APPROXIMATELY 1.9 ACRES TOTAL DESCRIBED AS: THE SOUTH 150 FEET OF THE EAST 600 FEET OF GOVERNMENT LOT 8, NE QUARTER OF SECTION 4, TOWNSHIP 24 NORTH, RANGE 43 EAST; AND AMENDING THE ZONING MAP FROM "RESIDENTIAL SINGLE FAMILY" (RSF) TO "CENTERS AND CORRIDORS TYPE 2 – DISTRICT CENTER" (CC2-DC).

WHEREAS, the Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A); and

WHEREAS, the City of Spokane adopted a Comprehensive Plan in May of 2001 that complies with the requirements of the Growth Management Act; and

WHEREAS, the Growth Management Act requires continuing review and evaluation of the Comprehensive Plan and contemplates an annual amendment process for incorporating necessary and appropriate revisions to the Comprehensive Plan; and

WHEREAS, land use amendment application Z1500085COMP was timely submitted to the City for consideration during the City's 2016 Comprehensive Plan amendment cycle; and

WHEREAS, Application Z1500085COMP seeks to amend the Land Use Plan Map of the City's Comprehensive Plan for a change from "Residential 4-10" to "Residential 10-20" for 3.87 acres of the subject property and from "Residential 4-10" to "Residential 15-30" for 41.63 acres of the subject property. If approved, the implementing zoning designation requested is "Residential Two Family" (RTF) and "Residential Multifamily (RMF); and

WHEREAS, staff requested comments from agencies and departments on December 9, 2015, and a public comment period ran from May 10, 2016 to July 25, 2016; 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 August 31, 2016; and

WHEREAS, the Spokane City Plan Commission held a substantive workshop regarding the proposed Comprehensive Plan amendment on May 11, 2016; and

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 for the Comprehensive Land Use Plan Map and Zoning Map changes ("MDNS"). The public comment period for the SEPA determination ended on September 13, 2016; and

WHEREAS, notice of the SEPA Checklist and Determination, the Land Use Plan Map changes, and the Zoning Map changes, and announcement of the September 14, 21, and 28, 2016 Plan Commission Public Hearing was published in the Spokesman-Review on August 30, 2016 and September 6, 2016; and

WHEREAS, Notice of Plan Commission Public Hearing and SEPA Determination was posted on the property and 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 boundary of the subject property on August 30, 2016; and

WHEREAS, the staff report for Application Z1500085COMP reviewed all the criteria relevant to consideration of the application; and

WHEREAS, the Spokane Plan Commission conducted a public hearing and deliberated on September 14, 21 and 28, 2016 for the Application Z1500085COMP and other proposed amendments; and

WHEREAS, the Spokane Plan Commission found that Application Z1400085COMP is consistent with and implements the Comprehensive Plan; and

WHEREAS, the Plan Commission voted 9 to 0 to recommend approval of Application Z1500085COMP; 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:

- 1. <u>Approval of Application</u>. Application Z1500085COMP is approved.
- 2. <u>Amendment of Land Use Map</u>. The Spokane Comprehensive Plan Land Use Map is amended from "Open Space" to "Centers and Corridors Core" for 1.9 acres, as shown in Exhibit A.
- 3. <u>Amendment of Zoning Map</u>. The City of Spokane Zoning Map is amended from "RSF" to "CC2-DC" for this same area, as shown in Exhibit B.

PASSED BY THE CITY COUNCIL ON, 2016	
-------------------------------------	--

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

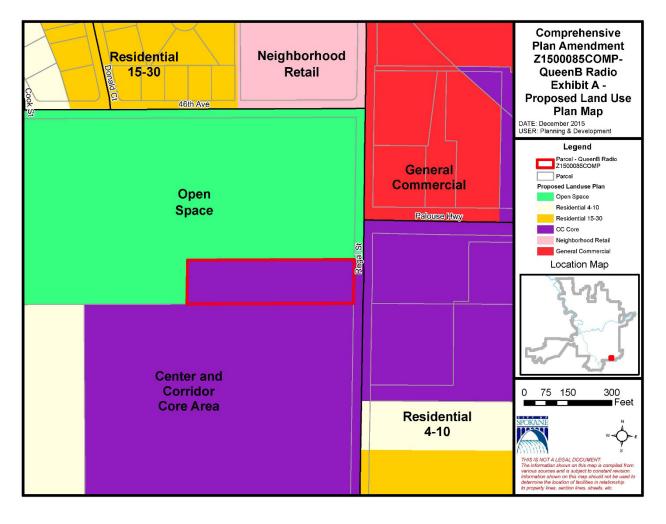
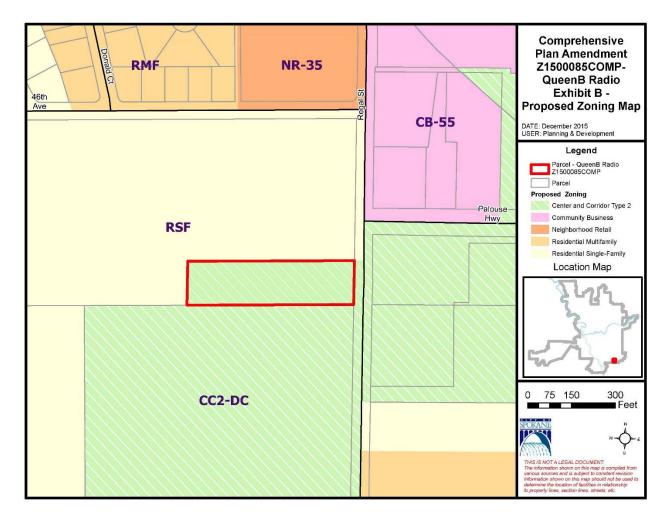


Exhibit B



CITY PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE COMPREHENSIVE PLAN LAND USE MAP AMENDMENT FILE NO. Z1500085COMP

A Recommendation of the City Plan Commission to the City Council in the matter of a proposed Comprehensive Plan Amendment application by Stanley Schwartz on behalf of QueenB Radio, Inc. to amend the land use plan designation from "Open Space" to "Centers and Corridors Core" on a 1.9 acre parcel located at 2651 E. 49th Avenue. The implementing zoning designations requested is "CC2-District Center".

FINDINGS OF FACT:

- A. The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- B. The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- C. Under GMA, comprehensive plans may be amended no more frequently than once per year. All amendment proposals must be considered concurrently in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations. Pursuant to Spokane Municipal Code 17G.020.020 all applications submitted by the deadline and found to be complete, excluding a single application that was withdrawn by the applicant prior to the public comment period, have been considered concurrently and constitute the only amendments to the Comprehensive Plan this calendar year.
- D. Comprehensive Plan amendment application Z1500085COMP (see **Exhibit A-1**) was submitted by the October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle, as required by Spokane Municipal Code 17G.020.060.C.
- E. The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan, which the application proposes to modify the land use designation of a single 1.9-acre property from "Open Space" to "Centers and Corridors Core".
- F. The subject property is a single parcel, constituting a part of Government Lot 8 in the northeast quarter of Section 4, Township 24 North, Range 43 East in the City of Spokane, Southgate Neighborhood. This property was annexed into the City of Spokane in 1960 in combination with a number of other parcels.
- G. The subject property is located immediately northwest of the existing Southgate District Center.
- H. The core of the Southgate District Center consists of approximately 48.5 acres with approximately 85.1 acres of adjacent higher density zoning, in all totaling 133.6 acres. If this application is approved, the subject property would add an additional 1.9 acres, or 1.4 percent, to the existing District Center.

- I. The subject property is accessed via S Regal Street, a minor arterial, with secondary access via an access drive leading west from the intersection of S Regal Street and the Palouse Highway, which is itself also classified as a minor arterial in this location.
- J. The requested implementing zoning designation is "Centers and Corridors Type 2 District Center" for the entire property.
- K. Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized as follows:
 - Scott Engelhard of the County of Spokane Public Works (see Exhibit PA-1);
 - Dave Kokot, P.E., of the City of Spokane Fire Department (see Exhibit PA-2); and,
 - Eldon Brown, P.E., of the City of Spokane Planning & Development Department (see **Exhibit PA-3**).
 - Karl Otterstrom, AICP, of the Spokane Transit Authority (see Exhibit PA-4)
- L. A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60 day comment period. Due to the date of submittal of technical analyses required of another Comprehensive Plan Amendment application, the public comment period was extended by 14 days, through July 25, 2016. Comments received from the public included the following:
 - John Murray, President of the Redhawk Homeowners Association (see Exhibit P-1);
 - Sandra Christensen of S Stone Street (see Exhibit P-2);
 - Tim and Paula Davenport of 2313 E 52nd Lane (see Exhibit P-3); and,
 - Ted Teske, Chair of the Southgate Neighborhood Council (see Exhibit P-4).
- M. The Southgate Neighborhood Council received a presentation from the applicant at their June 8, 2016 meeting.
- N. The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- O. The Spokane Plan Commission held substantive workshops to study the requested amendment on May 11, 2016.
- P. A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director and SEPA Responsible Official (see Exhibit S-1). The public appeal period for the SEPA determination ends at 5pm on September 13, 2016.
- Q. On August 26, 2016 the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.

- R. Notice of the SEPA Determination of Non-Significance, the Comprehensive Plan Land Use Map amendment, and announcement of the August 24, 2016 Plan Commission Public Hearing were published in the Spokesman Review on August 30, 2016 and September 6, 2016 and the Official City Gazette on August 31, 2016 and September 7, 2016.
- S. Notice of Public Hearing and SEPA Determinations was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane
 County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- T. The staff report provided an analysis of all the decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- U. The Plan Commission held a public hearing on the requested amendment on September 14, 2016, which was continued to September 21, 2016, with deliberations held on September 28, 2016.
- V. 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 opportunity to comment.

CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500085, the Plan Commission makes the following conclusions with respect to the review criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M):

- 1. The proposed amendment to the comprehensive plan **IS** 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.
- 2. The proposed change **IS** consistent with the goals and purposes of the state Growth Management Act.
- 3. Infrastructure implications of the proposed comprehensive plan amendment **IS** reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. The proposed amendment **IS** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.
- 5. The proposed amendment to the comprehensive plan **IS** 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.

- 6. The 2015/2016 proposed Comprehensive Plan amendments **HAVE** been reviewed 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.
- 7. Adverse environmental impacts association with this proposed amendment **HAVE NOT** been identified.
- 8. A SEPA review **HAS** been completed on the requested amendment.
- 9. The proposed amendment **DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.
- 10. The proposed land use 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.).
- 11. The proposed map amendment and site **ARE** suitable for the proposed designation.
- 12. The map amendment **DOES** implement applicable comprehensive plan policies better than the current map designation.
- 13. The proposed amendment IS consistent with the Comprehensive Plan policies.
- 14. The applicant **HAS** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 15. The proposed change to the Comprehensive Plan **IS NOT** more effectively or appropriately addressed through another aspect of the planning department's work program (neighborhood planning, writing new regulations, etc.).
- 16. The Plan Commission **DID** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

RECOMMENDATION:

In the matter of Z1500085COMP, a request by Stanley Schwartz on behalf of QueenB Radio, Inc. to amend the land use plan designation from "Open Space" to "Centers and Corridors Core" on a 1.9 acre parcel located at 2651 E. 49th Avenue, with a corresponding zoning designation of "CC2-District Center", as based upon the above listed findings and conclusions, by a vote of 9 to 0, the Plan Commissions recommends to City Council the **APPROVAL** of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

85

Dennis Dellwo, President Spokane Plan Commission September 28, 2016

STAFF REPORT ON COMPREHENSIVE PLAN LAND USE AMENDMENT APPLICATION 1.9 acres west of S Regal St; QueenB/South Regal; File Z150085COMP

<u>I.</u> SUMMARY OF REQUEST AND RECOMMENDATIONS:

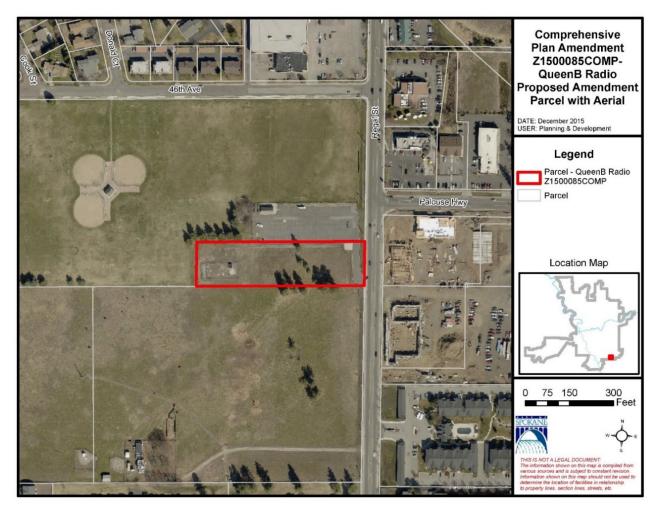
DESCRIPTION OF PROPOSAL:

The proposal is to change the land use of the properties from "Open Space" to "Centers and Corridors Core" with a concurrent change in zoning from "Residential Single Family" to "CC2-District Center." The property is approximately 1.9 acres in size. No specific development proposal is being approved at this time.

II. GENERAL INFORMATION

Agent:	Mr. Stanley Schwartz, Witherspoon Kelley		
Applicant/Property Owner(s):	Applicant: QueenB Radio, Inc. Property Owner: City of Spokane		
Location of Proposal:	The subject site is one property located at 2651 E 49th Avenue, on South Regal Street, southwest of the intersection of South Regal Street and the Palouse Highway (Parcel 34041.0038).		
Legal Description:	South 150 feet of the east 600 feet of government lot 8 in the NE1/4 of Section 4, T24N, R43E, Willamette Meridian, excepting the road.		
Existing Land Use Plan Designation:	"Open Space"		
Proposed Land Use Plan Designation:	"Centers and Corridors Core"		
Existing Zoning:	RSF (Residential Single Family)		
Proposed Zoning:	CC2-DC (Centers and Corridors Type 2 – District Center)		
SEPA Status:	A SEPA threshold Determination of Non- Significance was made on August 23, 2016. The appeal period closed on September 13, 2016 (see Exhibit S-1).		
Enabling Code Section:	SMC 17G.020, Comprehensive Plan Amendment Procedure.		
Plan Commission Hearing Date:	The Plan Commission hearing date is scheduled for September 14, 2016 which potential continuation to the next meeting(s) of the Plan Commission.		
Staff Contact:	Kevin Freibott, Assistant Planner; kfreibott@spokanecity.org		

III. BACKGROUND INFORMATION



<u>A.</u> <u>Site Description:</u> The subject property is a single parcel, 1.9 acres in size, located southeast of the intersection of S Regal Street and the Palouse Highway, immediately south of the Southeast Sports Complex. The subject property, shown in red above, is currently owned by the City of Spokane but is subject to a purchase agreement with QueenB Radio, Inc. who is seeking to purchase the property from the City.

The subject property contains a now blocked-off driveway access for the Southeast Sports Complex parking lot and a single small outbuilding within a security fence. Frontage improvements exist along S Regal Street, including a curb and sidewalk. No other improvements exist on the property.

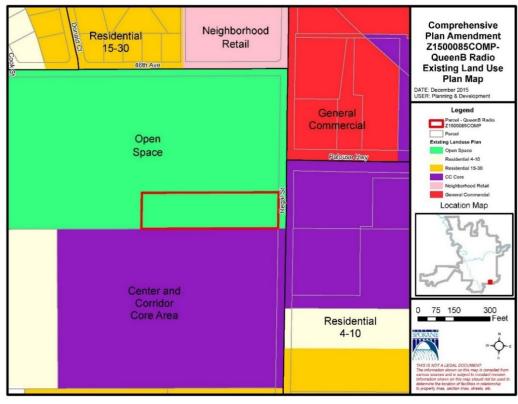
The blocked driveway on the property once provided the only access to the small 110-stall parking lot immediately north of the subject property, serving the Southeast Sports Complex. Not shown on the aerial photograph above are modifications made by others to the intersection of S Regal Street and the Palouse Highway to now provide access to those spaces directly from that intersection (see photograph on next page). Due to that new access, the driveway on the subject

property is no longer required and has been blocked off by large concrete planters and modification of frontage improvements on S Regal Street.

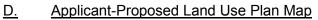


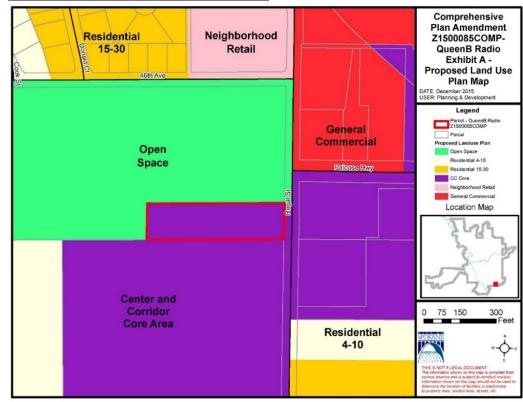
Recent Aerial Photograph – Subject Property Shown in Red.

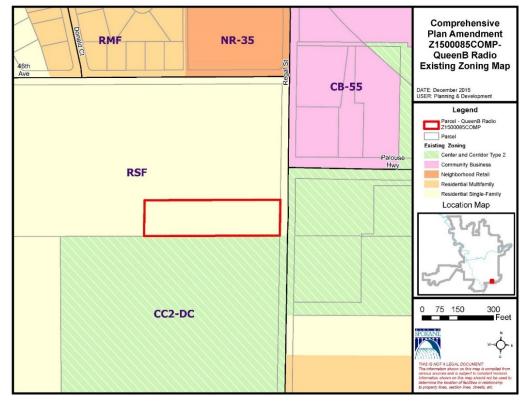
<u>B.</u> Project Description: Pursuant to the procedures provided in Spokane Municipal Code Section 17G.020, "Comprehensive Plan Amendment Procedure," the applicant is requesting a comprehensive plan land use plan map designation change from "Open Space" to "Centers and Corridors Core." If approved, the zoning would be changed from RSF (Residential Single Family) to CC2-District Center. The applicant's proposal does not include any specific plans for development or improvement to the property. Development and improvement of the site would be subject to all relevant provisions of the City's unified development code, including without limitation, Chapter 17D.010 SMC relating to concurrency. The Applicant also proposes to subject development of the site to the terms of a development agreement containing terms mirroring the terms in the development agreements required in connection with previous comprehensive plan amendments for the properties surrounding the site to the east and south (discussed further in paragraph L below).



C. Existing Land Use Plan Map Designations with Subject Area in Red

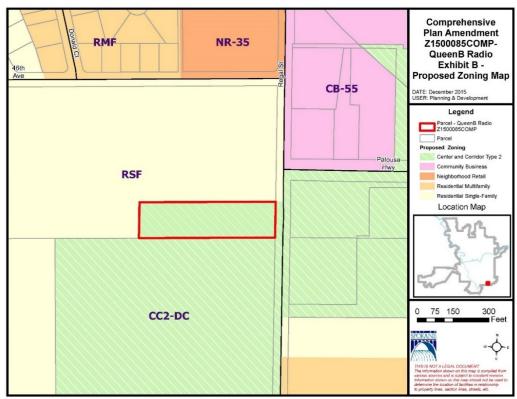






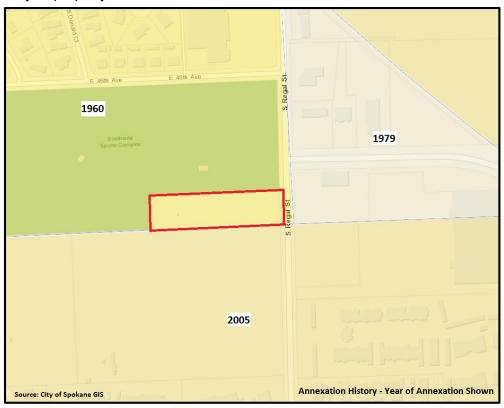
E. Existing Zoning Plan Map with Subject Parcels in Red

F. Proposed Zoning Plan Map



<u>G.</u> <u>Zoning and Land Use Designation History.</u>

The subject property was annexed into the City of Spokane in 1960 by Ordinance C16586, known as the Blankenship-Dixon Annexation. It is important to note that this name refers to more than one annexation in the city. In 1979 the properties across S Regal Street were annexed. In 2005 the properties to the south of the subject property were also annexed.



Prior to 2006, the zoning of the proposed property was R1 (One-Family Residence Zone). Since the establishment of the current zoning code in 2006, the location has been zoned RSF (Residential Single Family). When the Comprehensive Plan for the City of Spokane was rewritten in 2001 according to the newly adopted requirements of the Growth Management Act, the property was identified as "Open Space" on the Land Use Map. It has not been changed since that date.

H. Adjacent Land Uses and Improvements:

To the north:	Park/Sports Fields (Southeast Sports Complex)
To the west:	Park/Sports Fields (Southeast Sports Complex)
To the south:	Vacant Land
To the east:	Shopping Center

See the graphic on the following page for a general depiction of adjacent development and land uses.



- <u>I.</u> <u>Transportation Improvements.</u> The subject property lies immediately west of S Regal Street, which is designated as a Minor Arterial. The property is also immediately adjacent to Spokane Transit Authority Route 45, known as the "Regal" route, with 30-minute service on weekdays and 1-hour service on weekends between the downtown plaza and E 57th Avenue.¹
- <u>J.</u> Past Land Use Map Amendments in Vicinity. In 2005, the City received Comprehensive Plan amendment applications for the property immediately south of the subject property (and owned by applicant QueenB Radio, Inc.) and for properties immediately east of the subject parcel. The applications proposed to amend the existing land uses (all Residential) to Centers and Corridors Core. The 2006 Comprehensive Plan already designated this area for a "District Center," however no center planning had occurred and no center-type land use had been established for these parcels. During the next two years (the applications were held over for a year due to the complexity of the proposals), these applications were considered by the City. Ultimately, a majority of the Plan Commission voted

¹ www.spokanetransit.com/routes-schedules/route/45-regal, accessed July 21, 2016.

to recommend denial of the applications, because they believed center planning should involve a neighborhood planning process. For various reasons set forth in the ordinances approving the amendments, the City Council disagreed and approved the applications, subject to the condition that the applicants must enter into binding development agreements with the City addressing the matters set forth in the ordinances approving the amendments. Copies of those ordinances are attached to this report as **Exhibit S-3**. Thereafter, the applicant (along with the other 2005 applicants) entered into development agreements with the City addressing development of the properties. A copy of the agreement between the applicant and the City, which relates to the property lying south of and adjacent to the subject site, is attached to this report as **Exhibit A-5**.²

- <u>K.</u> <u>Purchase and Sale Agreement</u>. The subject property is currently owned by the City of Spokane. However, the applicant has entered into a Purchase and Sale Agreement with the City to buy the property (see **Exhibit A-3**). Closing of that sale agreement is subject to a number of conditions, including the following:
 - The purchaser securing from the Spokane Parks and Recreation Department an easement to allow access through Park property into the subject property;
 - Approval of a Comprehensive Plan Amendment to amend the land use and zoning of the site for Centers and Corridors; and
 - Approval of a development agreement identical to the one entered into for the adjacent properties (see discussion under Item J above).
- L. Draft Development Agreement. As discussed above, the applicant has initiated negotiations with the City Attorney's office to prepare a development agreement for the subject property. The most recent draft of the proposed agreement is attached to this report as **Exhibit A-4**. This agreement, largely identical to the previously approved development agreement, would place conditions on development on the subject property for the next ten years. As with the development agreement currently recorded for the properties in the District Center, the draft development agreement requires adherence to an integrated site plan, including provisions for:
 - Pedestrian connections;
 - Tree preservation;
 - Design theme;
 - A community plaza;
 - Viewscapes; and
 - Long-term development of the Center.

A copy of the previously approved development agreement regarding the adjacent property is attached to this report as **Exhibit A-5.** The existing Integrated Site Plan for the adjacent property is included in this Staff Report as **Exhibit A-6**.

² City of Spokane, Council Ordinance C34469, August 17, 2009

<u>M.</u> Past Neighborhood Planning Processes. Starting in 2008 the Southgate Neighborhood initiated a neighborhood planning process, utilizing the Neighborhood's planning allocation of \$21,150 from the Spokane City Council in 2007. In 2012 the Neighborhood completed this effort and adopted a multi-part plan for the Neighborhood, consisting of a Transportation & Connectivity Plan, a Parks and Open Space Element, and a number of maps. All the various parts were recognized by the City Council in Resolution 2012-0008 on January 30, 2012.

The Transportation & Connectivity Plan included discussion of the following items that relate to or could affect this proposal:

- The Typical Street/Arterial Character map indicated a "local access" street along the southern boundary of the subject property, providing access from S Regal Street in the east to S Crestline Street to the west. No such road exists at this time, nor is one shown in any City street map, existing or planned.
- The Ferris/Adams Student Trail map indicated a "primary route" student trail along the same alignment as the local access street discussed above. No such amenity currently exists within the subject property.

The Parks and Open Space Plan included discussion of the Southeast Sports Complex, including both the existing condition of the park (at the time of writing) and the Neighborhood's desire for future improvements to the Southeast Sports Complex. While at the time of writing the subject property was owned by the City of Spokane, none of the exhibits or discussions of the complex included changes to the subject parcel. The Parks and Open Space Plan included the following relevant provisions:

- Proposed enhancements to the Southeast Sports Complex including improved site access from S Regal St (which has since been completed);
- Increased pedestrian access and circulation, including new paved pedestrian connections west to east through the complex; and,
- A potential community center to be developed west of the existing parking lot and north of the subject parcel, located entirely within the existing complex property.

The subject property was not addressed in the Parks and Open Space Plan.

N. Southeast Sports Complex Master Plan.

On April 13, 2016 the City of Spokane Parks and Recreation Department gave a presentation to the Southgate Neighborhood regarding a Draft Master Plan for the Southeast Sports Complex. That draft plan provides a forward looking plan for the sports complex that includes new amenities, a reconfigured field layout, and a cooperative concept for additional fields on the western half of the KXLY property to the south of the existing complex. The new Master Plan graphic shows "future retail" uses on the subject property with shared parking on the western half of the property.



Excerpt from Southeast Sports Complex Draft Master Plan –Subject Property Shown in Red

- <u>O.</u> <u>Applicable Municipal Code Regulations.</u> SMC 17G.020, Comprehensive Plan Amendment Procedures.
- P. Application Process:
 - Application was submitted on October 31, 2015 and Certified Complete on December 1, 2015;
 - Agency Comment from Interested City Departments and Agencies was requested December 9, 2015 to be completed by February 8, 2016.
 - Notice of Application was posted, published, and mailed on May 10, 2016, which began a 60 day public comment period. The comment period, scheduled to end on July 11, 2016, was extended to July 25, 2016;
 - The applicant made a presentation regarding the proposal to the Southgate Neighborhood Council on June 8, 2016;
 - A SEPA Determination of Non-Significance was issued on August 23, 2016;
 - Notice of Plan Commission Public Hearing and SEPA Determination was posted and mailed by August 30, 2016;
 - Notice of Public Hearing and SEPA Determination was published on August 30, 2016 and September 6, 2016;

• Comprehensive Plan Amendment Hearing Date is scheduled with the Plan Commission for September 14, 2016, with continuance likely to September 21, 2016, and with deliberations likely continued to September 28, 2016.

IV. AGENCY, INTERESTED DEPARTMENT, & PUBLIC COMMENT

Notice of this proposal was sent to City departments and outside agencies for their review. Department and outside agency comments are included in this report as **Exhibits PA-1** through **PA-4**. Four agency/city department comments were received regarding this application:

- County of Spokane, Public Works
- City of Spokane, Fire Department
- City of Spokane, Planning & Development
- Spokane Transit Authority

The majority of comments received concerned requests for additional information once a future development proposal for the subject property is submitted. As this application does not include specific improvement proposals and only concerns the land use and zoning of the parcel these comments did not warrant additional study. The City of Spokane Planning & Development comments also included a statement that no conflict with City utilities is expected.

Notice of this proposal was also sent to all property owners within the notification area and was posted on the subject property, in the Spokesman Review, and in the local library branch. During the public comment period four comment letters were received from the following individuals (see **Exhibit P-1** through **P4**):

- Tim and Paula Davenport 2313 E 52nd Lane
- Sandra Christensen South Stone Street
- John Murray, President, and Karen Caton, Vice President Redhawk Homeowners Association.
- Ted Teske, Chair Southgate Neighborhood Council

Public comments received ranged from concerns about groundwater and traffic, to site access and parking, and, in the case of one commenter, objection to the change in character a change in Land Use designation and Zone might cause. In the case of the Neighborhood Council, their comments indicate support of the proposed change in land use designation and zoning.

V. TECHNICAL REPORTS & OTHER RELEVANT DOCUMENTS

No technical reports were requested by any commenting agency, nor were any required by the City.

VI. COMPREHENSIVE PLAN AMENDMENT PROCESS GUIDING PRINCIPLES

SMC 17G.020.010 provides the following guiding principles for the annual comprehensive plan amendment process:

- 1. Keep the comprehensive plan alive and responsive to the community.
- 2. Provide for simultaneous review of proposals to allow for cumulative impact analysis of all applications on a City-wide basis and in conjunction with budget decisions.
- 3. Make map adjustments based on a foundation in policy language, consistently applying those concepts citywide.
- 4. Honor the community's long-term investment in the comprehensive plan, through public participation and neighborhood planning processes, by not making changes lightly.
- 5. Encourage development that will enable our whole community to prosper and reinforce our sense of place and feeling of community, in an ecologically, economically and socially sustainable manner.
- 6. The proposed changes must result in a net benefit to the general public.

VII. REVIEW CRITERIA

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

<u>A.</u> <u>Regulatory Changes</u>. 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.

<u>Staff Analysis</u>: Staff has reviewed and processed the proposed amendment in accordance with the most current regulations of the Growth Management Act, the Washington State Environmental Policy Act (SEPA), and the Spokane Municipal Code. Staff is unaware of any recent state or federal or local legislative actions with which the proposal would be in conflict.

<u>B.</u> <u>GMA.</u> The change must be consistent with the goals and purposes of the state Growth Management Act.

<u>Staff Analysis</u>: 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 details 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, "Planning Goals"), including the following goals that are relevant to this application:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) 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.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

The Growth Management Hearings Board for Eastern Washington has indicated that these goals are to guide the development and adoption of comprehensive plans and development regulations. The goals are all created equal with no priority set forth by the legislature and with no goal independently creating a substantive requirement.³ The Board recognized that this lack of priority becomes problematic when jurisdictions are faced with competing goals, and indicated that, although the GMA does not permit the elevation of a single goal to the detriment of other equally important GMA goals, the GMA does permit local legislative bodies to give varying degrees of emphasis to the goals so as to allow them to make decisions based on local needs in order to harmonize and balance the goals (ibid).

GMA's goals guided the City's development of its comprehensive plan and development regulations. Application of the review criteria in Chapter 17G.020 SMC ensures that amendments to the comprehensive plan are also guided by and consistent with GMA's goals and purposes. The applicant has provided a discussion/analysis on this topic in their application materials which discusses all 13 goals and the proposal's relationship to each (see **Exhibit A-1**).

<u>C.</u> <u>Financing</u>. 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.

<u>Staff Analysis</u>: The City did not require, nor did any Agency comment request or require a traffic impact analysis for the proposal. Furthermore, as shown in **Exhibit PA-3**, any impacts to city utilities and non-transportation infrastructure would be mitigated by enforcement of City policies and development regulations. The subject property is already served by water, sewer, and transit service and lies immediately adjacent to existing local streets. Per State law, subsequent development of the site will be subject to a concurrency determination under SMC 17D.010.020. Staff is confident that, between enforcing the concurrency requirement and enforcement of transportation impact fees, any infrastructure implications associated with development of the site will be addressed concurrent with development of the site.

<u>D.</u> <u>Funding Shortfall</u>. 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.

<u>Staff Analysis</u>: As indicated in the previous section, staff is confident that, by enforcing concurrency, the City's development regulations, and by collecting appropriate transportation impact fees, the applicant will be required to cover the cost of mitigating the impacts of development of the site.

<u>E.</u> <u>Internal Consistency</u>. 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

³ City of Wenatchee v. Chelan County, EWGMHB Case No. 08-1-0015, FDO at 25 (March 6, 2009).

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.

Staff Analysis:

- 1. <u>Development Regulations</u>. As a non-project proposal, there are no specific plans for development of this site. Additionally, any future development on this site will be required to be consistent with the current Development Regulations at the time an application is submitted.
- 2. <u>Capital Facilities Program</u>. See discussion under paragraph C, above. As no additional infrastructure or capital expenditures by the City are anticipated for this non-project action, it is not anticipated that the City's integrated Capital Facilities Program would be affected by the proposal.
- 3. <u>Neighborhood Planning Documents Adopted After 2001</u>. The Southgate Neighborhood adopted a series of documents as part of their Neighborhood Planning effort in 2012 (see section III.M, above). While both the Transportation and Circulation Plan and the Parks and Open Space Element included desired/requested features adjacent to the subject property, they did not include any specific designs/plans/discussion of the subject parcel itself. The proposal to change land use/zoning for the subject property would not preclude the installation/development of those adjacent features.
- 4. <u>Miscellaneous Comprehensive Plan Goals and Policies</u>. Staff have compiled a group of Comprehensive Plan Goals and Policies which are excerpted from the Comprehensive Plan and contained in **Exhibit S-2** of this report. Further discussion of cogent Comprehensive Plan policies are included under criterion K.2 below.

The various factors related to internal consistency, as shown above, seem to indicate that the project would be consistent with internal requirements of the City. The Plan Commission will need to determine in their deliberations if this criteria has been met, or if it can adequately be addressed through conditions as may be imposed as a condition of the Comprehensive Plan amendment and any subsequent development application, in accordance with the provisions of SMC 17D.010.020(C)(2)(c).

<u>F.</u> <u>Regional Consistency</u>. 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.

<u>Staff Analysis</u>: No comments have been received from any agency, city department, or neighboring jurisdiction which seems to indicate that this proposal is not regionally consistent.

- <u>G.</u> <u>Cumulative Effect</u>. 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. <u>Land Use Impacts</u>. 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. <u>Grouping</u>. 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.

<u>Staff Analysis</u>: This application is being reviewed as part of the annual cycle of comprehensive plan amendments along with two other applications for Comprehensive Plan Amendments. The three applications under consideration are spread throughout the city and concern properties distant from and unconnected to any of the others under consideration. Each of the three applications lies in a different neighborhood and different City Council district. Each of the three is separated from the others by large swaths of pre-existing urban development. While all three applications concern proposed changes in land use and zoning, the conditions and exact modification(s) of land use and zoning are not likely to affect each other in any cumulative amount. As such, it appears that no cumulative effects are possible, nor do the potential for such effects need to be analyzed.

- H. <u>SEPA</u>. SEPA review must be completed on all amendment proposals.
 - 1. <u>Grouping</u>. 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.
 - <u>DS</u>. 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).

<u>Staff Analysis</u>: 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 decisionmaking 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, a Determination of Non-Significance (DNS) was issued on August 23, 2016; City of Spokane Planning, lead agency; Lisa D. Key, Planning Director, SEPA Responsible Official. The DNS is attached as **Exhibit S-1**. I. <u>Adequate Public Facilities</u>. 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.

<u>Staff Analysis</u>: All affected departments and outside agencies providing services to the subject properties have had an opportunity to comment on the proposal. No comments were received that would indicate that additional public facilities would be required to serve the subject property were the proposal approved.

<u>J.</u> <u>UGA</u>. 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.

<u>Staff Analysis</u>: The proposal does not involve amendment of the urban growth area boundary. Therefore, this criterion is not applicable to this proposal.

- K. Consistent Amendments.
 - 1. <u>Policy Adjustments</u>. 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.

<u>Staff Analysis</u>: 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. <u>Map Changes</u>. 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.);

<u>Staff Analysis</u>: As outlined by the applicant in their submitted materials (see **Exhibit A-1**) the inclusion of the subject property in the Center would allow for better circulation within the KXLY-owned properties of the Center and could likewise increase pedestrian and transit access to the subject property. Likewise, as shown in the Draft Southeast Sports Complex Master Plan (see section III.N, above), comments from the Southgate Neighborhood Council (see **Exhibit P-4**), and the arguments presented by the applicant in their application (see **Exhibit A-1**), the subject property integrates well with neighborhood plans, the Parks and Recreation Department's plans, and the Center as a whole.

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

<u>Staff Analysis</u>: Policy LU 3.2 "Centers and Corridors", states: "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."

A conceptual district center size is offered under the policy, stating, "As a general rule, the size of the district center, including the higher density housing surrounding the center, should be approximately 30 to 50 square blocks." Policy LU 4.5, Block Length, states in the discussion: "Block lengths of approximately 250 to 350 feet on average are preferable, recognizing that environmental conditions (e.g., topography or rock outcroppings) might constrain these shorter block lengths in some areas."

Assuming block sizes for the purpose of this discussion are 350 feet by 350 feet (the largest size discussed in Policy LU 4.5), the center area should range from roughly 84 to 141 acres. The existing center zoning, represented by CC zones on the Spokane Zoning Map, as well as the surrounding higher density housing is approximately 133.6 acres in size. As such, the District Center as it stands now is within the size envisioned by the Comprehensive Plan, assuming the larger block size. The addition of the subject properties to that center would constitute a 1.4 percent increase in area and would not exceed the maximum size for a District Center envisioned by the Comprehensive Plan.

Regardless of the assumed block size considered, the addition of the subject property's 1.9 acres to the District Center appears to further proper execution of the District Center designation already established by prior City actions (see sections III.J and III.M, above). Given the existing plans for development of adjacent parcels as well as the plans for the Southeast Sports Complex, it appears that Center-type development of the subject parcel would integrate well with the development character of the vicinity and would thus further the goals and policies of the Comprehensive Plan.

As discussed in the items above, there is no indication that the proposal would require additional infrastructure or capital facilities to serve it. Likewise, as discussed above, the proposal would appear to be appropriately scaled to fit into the designation of a Center as described by the Comprehensive Plan. Given the subject property's adjacency to a previously established Center and the fact that Center-type development on the site would conform to both the existing plans of adjacent development and the Draft Master Plan for the Southeast Sports Complex, it appears the site is suitable for the proposed designation.

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

<u>Staff Analysis</u>: As indicated above, a fundamental goal of the Comprehensive Plan is the efficient use of land and resources. The Comprehensive Plan seeks to implement this objective with a focused growth strategy known as "centers and corridors". As discussed in general in items a and b above, and in consideration of the policies listed in **Exhibit S-2**, the proposal appears to be supportive of the Center Land Use Designation and the Centers and Corridors Core zoning designation of the adjacent parcels. Likewise the proposal would not appear to interfere with the provision of park and recreational facilities and services on the adjacent Spokane Parks and Recreation properties.

In summary, the Plan Commission will need to determine if these three criteria have been met, or if they can adequately be addressed through conditions as may be imposed on the approval of the Comprehensive Plan amendment and any subsequent development application, in accordance with the provisions of SMC 17D.010.020(C)(2)(c).

3. <u>Rezones, Land Use Plan Map Amendment</u>. 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.

<u>Staff Analysis</u>: If the land use plan map amendment is approved as proposed, the zoning designation of the parcels will change from RSF (Residential Single Family) to CC2-District Center. No policy language changes have been identified as necessary to support the proposed land use plan map amendment. As such, it appears that this criterion would be met for the proposed land use designation change.

L. Inconsistent Amendments.

1. <u>Review Cycle</u>. 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.

<u>Staff Analysis</u>: The City of Spokane uses a method of "consistent" and "inconsistent" annual review, with "inconsistent" proposals only allowed to be reviewed every other year. This request is being considered under a "consistent" review cycle. No inconsistencies with the Comprehensive Plan have emerged during analysis [see discussion under criterion K.2 above], thus it appears to be appropriate to consider this proposal in the current year.

2. <u>Adequate Documentation of Need for Change</u>.

- 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.

<u>Staff Analysis</u>: This application is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criteria above do not appear to be applicable to this application.

3. <u>Overall Consistency</u>. 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.

<u>Staff Analysis</u>: This application is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criterion above do not appear to be applicable to this application.

If the Plan Commission were to find that the proposal is an "inconsistent amendment", they would need to determine if they had enough information to reach a decision, based upon the criteria detailed in the above discussion. If not, they could recommend denial of the application (as per SMC 17G.020.060 (M)(2).

VIII. DRAFT FINDINGS OF FACT

- <u>A.</u> The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- <u>B.</u> The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- <u>C.</u> Under GMA, comprehensive plans may be amended no more frequently than once per year. All amendment proposals must be considered concurrently in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations. Pursuant to Spokane Municipal Code 17G.020.020 all applications submitted by the deadline and found to be complete, excluding a single application that was withdrawn by the applicant prior to the public comment period, have been considered concurrently and constitute the only amendments to the Comprehensive Plan this calendar year.

- <u>D.</u> Comprehensive Plan amendment application Z1500085COMP (see **Exhibit A-1**) was submitted by the October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle, as required by Spokane Municipal Code 17G.020.060.C.
- <u>E.</u> The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan, which the application proposes to modify the land use designation of a single 1.9-acre property from "Open Space" to "Centers and Corridors Core".
- <u>F.</u> The subject property is a single parcel, constituting a part of Government Lot 8 in the northeast quarter of Section 4, Township 24 North, Range 43 East in the City of Spokane, Southgate Neighborhood. This property was annexed into the City of Spokane in 1960 in combination with a number of other parcels.
- <u>G.</u> The subject property is located immediately northwest of the existing Southgate District Center.
- <u>H.</u> The core of the Southgate District Center consists of approximately 48.5 acres with approximately 85.1 acres of adjacent higher density zoning, in all totaling 133.6 acres. If this application is approved, the subject property would add an additional 1.9 acres, or 1.4 percent, to the existing District Center.
- <u>I.</u> The subject property is accessed via S Regal Street, a minor arterial, with secondary access via an access drive leading west from the intersection of S Regal Street and the Palouse Highway, which is itself also classified as a minor arterial in this location.
- <u>J.</u> The requested implementing zoning designation is "Centers and Corridors Type 2 – District Center" for the entire property.
- <u>K.</u> Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized as follows:
 - Scott Engelhard of the County of Spokane Public Works (see Exhibit PA-1);
 - Dave Kokot, P.E., of the City of Spokane Fire Department (see Exhibit PA-2); and,
 - Eldon Brown, P.E., of the City of Spokane Planning & Development Department (see **Exhibit PA-3**).
 - Karl Otterstrom, AICP, of the Spokane Transit Authority (see Exhibit PA-4)
- L. A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60 day comment period. Due to the date of submittal of technical analyses required of another Comprehensive Plan Amendment application, the public comment period was extended by 14 days, through July 25, 2016. Comments received from the public included the following:

- John Murray, President of the Redhawk Homeowners Association (see Exhibit P-1);
- Sandra Christensen of S Stone Street (see Exhibit P-2);
- Tim and Paula Davenport of 2313 E 52nd Lane (see Exhibit P-3); and,
- Ted Teske, Chair of the Southgate Neighborhood Council (see Exhibit P-4).
- <u>M.</u> The Southgate Neighborhood Council received a presentation from the applicant at their June 8, 2016 meeting.
- <u>N.</u> The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- <u>O.</u> The Spokane Plan Commission held substantive workshops to study the requested amendment on May 11, 2016.
- <u>P.</u> A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director and SEPA Responsible Official (see **Exhibit S-1**). The public appeal period for the SEPA determination ends at 5pm on September 13, 2016.
- Q. On August 26, 2016 the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.
- <u>R.</u> Notice of the SEPA Determination of Non-Significance, the Comprehensive Plan Land Use Map amendment, and announcement of the August 24, 2016 Plan Commission Public Hearing were published in the Spokesman Review on August 30, 2016 and September 6, 2016 and the Official City Gazette on August 31, 2016 and September 7, 2016.
- <u>S.</u> Notice of Public Hearing and SEPA Determinations was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- <u>T.</u> The staff report provided an analysis of all the decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- <u>U.</u> The Plan Commission held a public hearing on the requested amendment on September 14, 2016, which was continued to September 21, 2016, with deliberations held on September 28, 2016.
- <u>V.</u> 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 opportunity to comment.

Additional findings of fact may be added by the Plan Commission during deliberations, based upon new information that may be introduced into the record through the course of the hearing proceedings.

IX. DRAFT CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500084, the Plan Commission will need to address the following conclusions with respect to the review criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M) in their deliberations:

- 1. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.
- 2. The proposed change **IS / IS NOT** consistent with the goals and purposes of the state Growth Management Act.
- Infrastructure implications of the proposed comprehensive plan amendment IS / IS NOT reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. The proposed amendment **IS / IS NOT** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.
- 5. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.
- 6. The 2015/2016 proposed Comprehensive Plan amendments **HAVE / HAVE NOT** been reviewed 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.
- Adverse environmental impacts association with this proposed amendment HAVE
 / HAVE NOT been identified. If adverse environmental impacts have been identified, adequate mitigation measures HAVE / HAVE NOT been identified as requirements for incorporation into a decision on the proposed amendment.
- 8. A SEPA review **HAS / HAS NOT** been completed on the requested amendment.
- 9. The proposed amendment **DOES / DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the

planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

- 10. The proposed land use designation **IS / IS NOT** in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.).
- 11. The proposed map amendment and site **ARE / ARE NOT** suitable for the proposed designation.
- 12. The map amendment **DOES / DOES NOT** implement applicable comprehensive plan policies better than the current map designation.
- 13. The proposed amendment **IS / IS NOT** consistent with the Comprehensive Plan policies.
- 14. The applicant **HAS / HAS NOT** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 15. The proposed change to the Comprehensive Plan **IS / IS NOT** more effectively or appropriately addressed through another aspect of the planning department's work program (neighborhood planning, writing new regulations, etc.).
- 16. The Plan Commission **DID / DID NOT** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

X. PLAN COMMISSION RECOMENDATION:

Following the close of public testimony and deliberations regarding conclusions with respect to the review criteria and decision criteria detailed in SMC 17G.020, Plan Commission will need to make a recommendation to City Council for approval or denial of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

If recommended for approval, the Plan Commission may incorporate conditions of approval into their recommendation, as may be identified in deliberations as necessary and/or appropriate to address the review criteria, decision criteria, and/or neighborhood compatibility issues.

XI. LIST OF EXHIBITS

Exhibit Description

- A-1 Application Materials
- A-2 SEPA Checklist
- A-3 Purchase and Sale Agreement
- A-4 Draft Development Agreement
- A-5 Development Agreement for Adjacent Parcels
- A-6 Integrated Site Plan
- S-1 SEPA Determination of Non-Significance
- S-2 Relevant Comprehensive Plan Policies
- S-3 Ordinances Relating to Adjacent Comprehensive Plan Amendments (Past)
- P-1 Public Comment John Murray, President, Redhawk Homeowners Association

Exhibit Description

- P-2 Public Comment Sandra Christensen
- P-3 Public Comment Tim and Paula Davenport
- P-4 Public Comment Southgate Neighborhood Council
- PA-1 Agency Comment County of Spokane, Public Works
- PA-2 Department Comment City of Spokane Fire Department
- PA-3 Department Comment City of Spokane Planning & Development
- PA-4 Agency Comment Spokane Transit Authority



ORD C35447 Exhibits (General application and attachments) are available for viewing at the following link:

https://my.spokanecity.org/projects/queen-b-southregal-comprehensive-plan-amendment/

In addition the Exhibits are available for viewing at the City Clerk's Office – 5th Floor, City Hall (<u>clerks@spokanecity.org</u> or 509.625.6350) and/or copies will be made available upon request.

SPOKANE Agenda Sheet for City Council Meeting of:		Date Rec'd	10/17/2016
10/31/2016		Clerk's File #	ORD C35448
		Renews #	
Submitting Dept	PLANNING	Cross Ref #	
Contact Name/Phone	L. KEY / K. 625-6184	Project #	
Contact E-Mail	KFRIEBOTT@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0650 - Z1500078COMP - AVISTA		
Agenda Wording			

An ordinance relating to application made by Avista Corporation, planning file #Z1500078COMP AND amending the Land Use Plan Map of the City's Comprehensive Plan from "Residential 15-30" to "Light Industrial" for approximately 2.78 acres total

Summary (Background)

This Application for a Comprehensive Plan Land Use Map Amendment is being considered concurrently through the annual Comprehensive Plan Amendment cycle as required by the Growth Management Act. The application has fulfilled public participation and notification requirements. The Plan Commission held a Public Hearing on September 14, 21, and 28, 2016 to consider this amendment and has recommended approval of the amendment. Plan Commission Findings and Conclusions are attached.

Fiscal Impact Budget Account				
Neutral \$	#			
Select \$	#			
Select \$		#		
Select \$		#		
Approvals	Approvals Council Notifications		S	
Dept Head	KEY, LISA	Study Session		
Division Director	MALLAHAN, JONATHAN	<u>Other</u>	PED 6/20/16 & 10/17/16	
FinanceKECK, KATHLEEN		Distribution List		
<u>Legal</u>	RICHMAN, JAMES	Engineering Admin		
For the Mayor	CODDINGTON, BRIAN	Ikey@spokanecity.org		
Additional Approvals	als tblack@spokanecity.org			
Purchasing		kfriebott@spokanecity.org		
		jrichman@spokanecity.org		
		robin.bekkedahl@avistacorp.com		
		jmallahan@spokanecity.org		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

described as: Ross Park, Holes Subdivision Lots 1-4, parts of 5 and 6, and all of 7-12, as well as Ross Park, Wilkinson Subdivision Lots 6 and 7; and amending the zoning map from "Residential Multi-Family" (RMF) to "Light Industrial" (LI).

Summary (Background)

Staff Report and SEPA Determination attached.

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

ORDINANCE NO. C35448

AN ORDINANCE RELATING TO APPLICATION MADE BY AVISTA CORPORATION, PLANNING FILE #Z1500078COMP AND AMENDING THE LAND USE PLAN MAP OF THE CITY'S COMPREHENSIVE PLAN FROM "RESIDENTIAL 15-30" TO "LIGHT INDUSTRIAL" FOR APPROXIMATELY 2.78 ACRES TOTAL DESCRIBED AS: ROSS PARK, HOLES SUBDIVISION LOTS 1-4, PARTS OF 5 AND 6, AND ALL OF 7-12, AS WELL AS ROSS PARK, WILKINSON SUBDIVISION LOTS 6 AND 7; AND AMENDING THE ZONING MAP FROM "RESIDENTIAL MULTI-FAMILY" (RMF) TO "LIGHT INDUSTRIAL" (LI).

WHEREAS, the Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A); and

WHEREAS, the City of Spokane adopted a Comprehensive Plan in May of 2001 that complies with the requirements of the Growth Management Act; and

WHEREAS, the Growth Management Act requires continuing review and evaluation of the Comprehensive Plan and contemplates an annual amendment process for incorporating necessary and appropriate revisions to the Comprehensive Plan; and

WHEREAS, land use amendment application Z1500078COMP was timely submitted to the City for consideration during the City's 2016 Comprehensive Plan amendment cycle; and

WHEREAS, Application Z1500078COMP seeks to amend the Land Use Plan Map of the City's Comprehensive Plan for a change from "Residential 4-10" to "Residential 10-20" for 3.87 acres of the subject property and from "Residential 4-10" to "Residential 15-30" for 41.63 acres of the subject property. If approved, the implementing zoning designation requested is "Residential Two Family" (RTF) and "Residential Multifamily (RMF); and

WHEREAS, staff requested comments from agencies and departments on December 9, 2015, and a public comment period ran from May 10, 2016 to July 25, 2016; 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 August 31, 2016; and

WHEREAS, the Spokane City Plan Commission held a substantive workshop regarding the proposed Comprehensive Plan amendment on May 25, 2016; and

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 for the Comprehensive Land Use Plan Map and Zoning Map changes ("MDNS"). The public comment period for the SEPA determination ended on September 13, 2016; and

WHEREAS, notice of the SEPA Checklist and Determination, the Land Use Plan Map changes, and the Zoning Map changes, and announcement of the September 14, 21, and 28, 2016 Plan Commission Public Hearing was published in the Spokesman-Review on August 30, 2016 and September 6, 2016; and

WHEREAS, Notice of Plan Commission Public Hearing and SEPA Determination was posted on the property and 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 boundary of the subject property on August 30, 2016; and

WHEREAS, the staff report for Application Z1500078COMP reviewed all the criteria relevant to consideration of the application; and

WHEREAS, the Spokane Plan Commission conducted a public hearing and deliberated on September 14, 21 and 28, 2016 for the Application Z1500078COMP and other proposed amendments; and

WHEREAS, the Spokane Plan Commission found that Application Z1400078COMP is consistent with and implements the Comprehensive Plan; and

WHEREAS, the Plan Commission voted 9 to 0 to recommend approval of Application Z1500078COMP; 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:

- 1. <u>Approval of Application</u>. Application Z1500078COMP is approved.
- 2. <u>Amendment of Land Use Map</u>. The Spokane Comprehensive Plan Land Use Map is amended from "Residential 15-30" to "Light Industrial" for 2.78 acres, as shown in Exhibit A.
- 3. <u>Amendment of Zoning Map</u>. The City of Spokane Zoning Map is amended from "RMF" to "LI" for this same area, as shown in Exhibit B.

PASSED BY THE CITY COUNCIL ON, 2016	
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Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

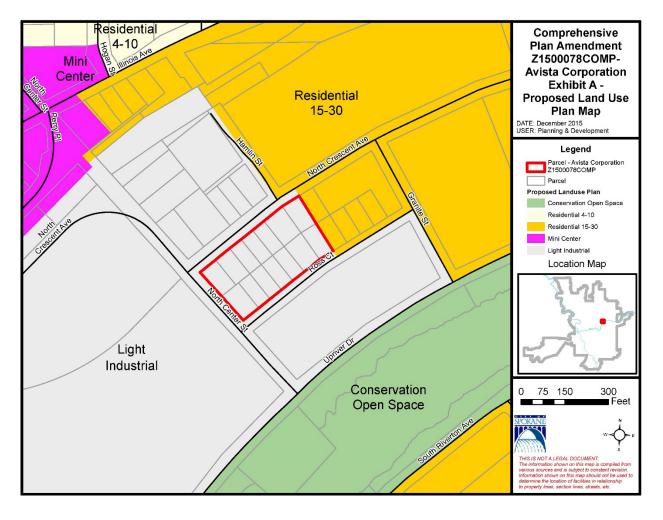
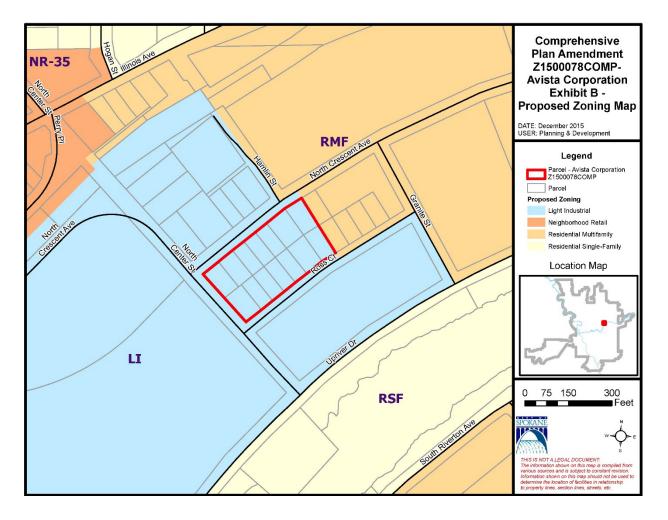


Exhibit B



CITY PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE COMPREHENSIVE PLAN LAND USE MAP AMENDMENT FILE NO. Z1500078COMP

A Recommendation of the City Plan Commission to the City Council in the matter of a proposed Comprehensive Plan Amendment application by Avista Corporation to amend the land use plan designation from "Residential 15-30" to "Light Industrial" on 14 parcels, totaling 2.78 acres bounded on the north by North Crescent Avenue, on the west North Center Street, and on the south by Ross Court. The implementing zoning designation requested is "Light Industrial".

FINDINGS OF FACT:

- A. The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- B. The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- C. Under GMA, comprehensive plans may be amended no more frequently than once per year. All amendment proposals must be considered concurrently in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations. Pursuant to Spokane Municipal Code 17G.020.020 all applications submitted by the deadline and found to be complete, excluding a single application that was withdrawn by the applicant prior to the public comment period, have been considered concurrently and constitute the only amendments to the Comprehensive Plan this calendar year.
- D. Comprehensive Plan amendment application Z1500078COMP (reference **Exhibit A-1**) was submitted by the October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle, as required by Spokane Municipal Code 17G.020.060.C.
- E. The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan, which the application proposes to modify the land use designation of fourteen properties totaling 2.78 acres from "Residential Multi-Family" to "Light Industrial".
- F. The subject properties comprise fourteen parcels within the southwest 1/4 of Section 9, Township 25 North, Range 43 East, Willamette Meridian, being further described as Ross Park, Holes subdivision lots 1 through 4, parts of lots 5 and 6, and lots 7 through 12, as well as Wilkinson subdivision lots 6 and 7, all in the City of Spokane, Logan Neighborhood. These properties were annexed into the City of Spokane in 1891 in combination with many other parcels.
- G. The subject properties are accessed via three streets designated by the City as "local" streets: E North Crescent Avenue, E Ross Court, and N North Center Street.
- H. The requested implementing zoning designation is "Light Industrial" for the entire property.
- I. Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized as follows:

- J. Scott Engelhard of the County of Spokane Public Works (reference Exhibit PA-1);
- K. Dave Kokot, P.E., of the City of Spokane Fire Department (reference Exhibit PA-2); and,
- L. Eldon Brown, P.E., of the City of Spokane Planning & Development Department (reference **Exhibit PA-3**).
- M. A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60 day comment period. Due to the date of submittal of technical analyses required of another Comprehensive Plan Amendment application, the public comment period was extended by 14 days, through July 25, 2016. Regardless, no public comments were received during the comment period.
- N. The Logan Neighborhood Council received a presentation from the applicant at their May 25, 2016 meeting.
- O. The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- P. The Spokane Plan Commission held a substantive workshop to study the requested amendment on May 25, 2016.
- Q. A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director and SEPA Responsible Official (see Exhibit S-1). The public appeal period for the SEPA determination ends at 5pm on September 13, 2016.
- R. On August 26, 2016 the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.
- S. Notice of the Public Hearing and Determination of Non-Significance for the proposed Comprehensive Plan Land Use Map amendment, was published in the Spokesman Review on August 30, and September 6, 2016 and the Official City Gazette on August 31, September 7, and September 14, 2016.
- T. Notice of Public Hearing and SEPA Determination was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- U. The staff report provided an analysis of all the decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- V. The Plan Commission held a public hearing on the requested amendment on September 14, 201, which was continued September 21, 2016, and deliberations were held on September 28.
- W. 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 opportunity to comment.

CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500084, the Plan Commission makes the following conclusions with respect to the review criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M):

- 1. The proposed amendment to the comprehensive plan **IS** 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.
- 2. The proposed change **IS** consistent with the goals and purposes of the state Growth Management Act.
- 3. Infrastructure implications of the proposed comprehensive plan amendment **IS** reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. The proposed amendment **IS** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.
- 5. The proposed amendment to the comprehensive plan **IS** 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.
- 6. The 2015/2016 proposed Comprehensive Plan amendments **HAVE** been reviewed 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.
- 7. Adverse environmental impacts association with this proposed amendment **HAVE NOT** been identified.
- 8. A SEPA review **HAS** been completed on the requested amendment.
- 9. The proposed amendment **DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.
- 10. The proposed land use 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.).
- 11. The proposed map amendment and site **IS** suitable for the proposed designation.

- 12. The map amendment **DOES** implement applicable comprehensive plan policies better than the current map designation.
- 13. The proposed amendment IS consistent with the Comprehensive Plan policies.
- 14. The applicant **HAS** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 15. The proposed change to the Comprehensive Plan **IS NOT** more effectively or appropriately addressed through another aspect of the planning department's work program (neighborhood planning, writing new regulations, etc.).
- 16. The Plan Commission **DID** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

RECOMMENDATION:

In the matter of Z1500078COMP, a request by Avista Corporation to amend the land use plan designation from "Residential 15-30" to "Light Industrial" on 14 parcels totaling 2.78 acres, with a corresponding change of the implementing zoning designation to "Light Industrial", as based upon the above listed findings and conclusions, by a vote of 9 to 0, the Plan Commissions recommends to City Council the **APPROVAL** of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

Dennis Dellwo, President Spokane Plan Commission September 28, 2016

STAFF REPORT ON COMPREHENSIVE PLAN LAND USE AMENDMENT APPLICATION

2.78 acres northeast of N North Center Street; Avista Corporation; File Z150078COMP

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

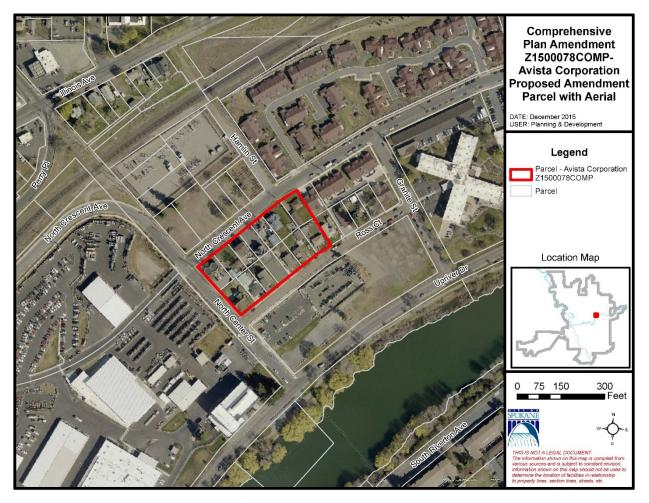
DESCRIPTION OF PROPOSAL:

The proposal is to change the land use of fourteen properties from "Residential 15-30" to "Light Industrial" with a concurrent change in zoning from "Residential Multi-Family" to "Light Industrial." The fourteen subject properties are approximately 2.78 acres in size. No specific development proposal is being approved at this time.

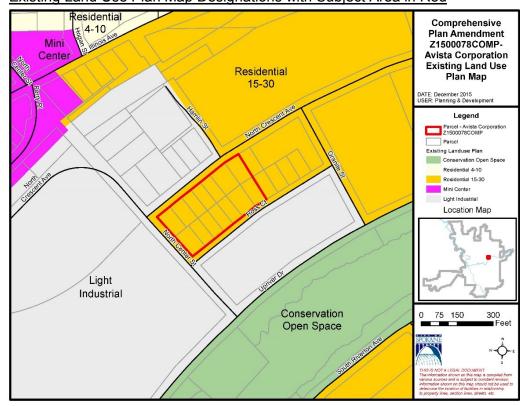
II. GENERAL INFORMATION

Agent:	Robin Bekkedahl, Avista Corporation		
Applicant/Property Owner(s):	Avista Corporation		
Location of Proposal:	The subject site includes 14 parcels bounded on the north by N. Crescent Ave, on the west by N. Center St. and on the south by Ross Ct., generally located NE of the existing Avista headquarters (parcels 35093.1106 to 1107, and 35093.1201 to 1212).		
Legal Description:	Ross Park, Holes Subdivision Lots 1-4, parts of 5 and 6, and all of 7-12, as well as Ross Park, Wilkinson Subdivision Lots 6 and 7, all within SW1/4, Section 9, Township 25 North, Range 43 East, Willamette Meridian.		
Existing Land Use Plan Designation:	"Residential, 15-30 units per acre"		
Proposed Land Use Plan Designation:	"Light Industrial"		
Existing Zoning:	RMF (Residential Multi-Family)		
Proposed Zoning:	Light Industrial		
SEPA Status:	A SEPA threshold Determination of Non- Significance was made on August 23, 2016. The appeal period closed on September 13, 2016 (reference Exhibit S-1).		
Enabling Code Section:	SMC 17G.020, Comprehensive Plan Amendment Procedure.		
Plan Commission Hearing Date:	The Plan Commission hearing date is scheduled for September 14, 2016 which potential continuation to the next meeting(s) of the Plan Commission.		
Staff Contact:	Kevin Freibott, Assistant Planner; <u>kfreibott@spokanecity.org</u>		

III. BACKGROUND INFORMATION

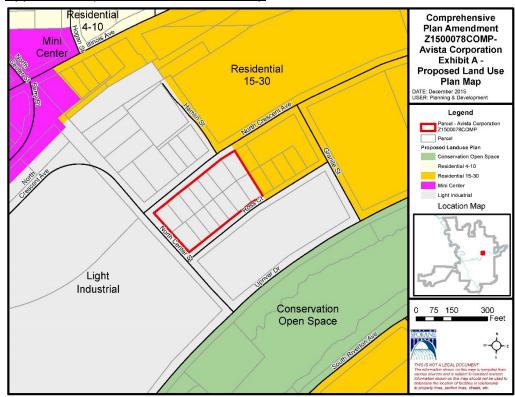


- <u>A.</u> <u>Site Description:</u> The subject property contains 14 parcels, totaling 2.78 acres in size, located east of the intersection of N Crescent Avenue and N Center Street, northeast of the existing Avista headquarters and southwest of property owned by the Riverview Retirement Community. The subject properties, shown in red above, are all owned by the Avista Corporation. While the aerial photograph above shows houses on those properties, the houses have since been removed. The site is currently vacant and used by Avista as an unimproved parking lot.
- <u>B.</u> <u>Project Description:</u> Pursuant to the procedures provided in Spokane Municipal Code Section 17G.020, "Comprehensive Plan Amendment Procedure," the applicant is requesting a comprehensive plan land use plan map designation change from "Residential 15-30" to "Light Industrial." If approved, the zoning would be changed from RMF (Residential Multi-Family) to Light Industrial. The applicant's proposal does not include any specific plans for development or improvement to the property. Development and improvement of the site would be subject to all relevant provisions of the City's unified development code, including without limitation, Chapter 17D.010 SMC relating to concurrency.

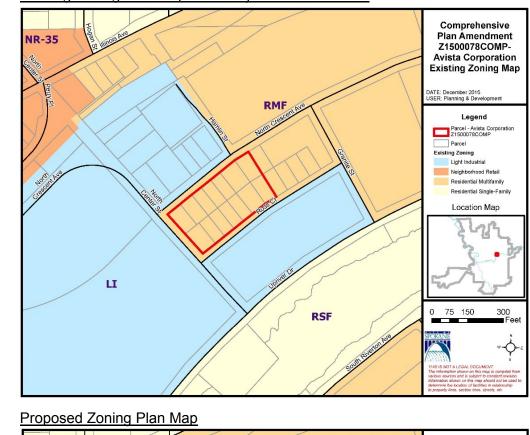


C. Existing Land Use Plan Map Designations with Subject Area in Red

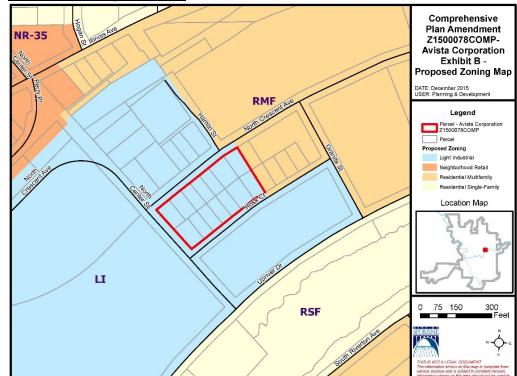
D. Applicant-Proposed Land Use Plan Map



<u>F.</u>



E. Existing Zoning Plan Map with Subject Parcels in Red



- <u>G.</u> Zoning and Land Use Designation History. The subject property was annexed into the City of Spokane in 1891 along with all properties in the vicinity. Prior to 2006, the zoning of the proposed property was R3-D (Multifamily Residence Design Zone 3), generally described as Medium-Density Residential. Since the establishment of the current zoning code in 2006, the location has been zoned RMF (Residential Multi-Family). When the Comprehensive Plan for the City of Spokane was rewritten in 2001 according to the newly adopted requirements of the Growth Management Act, the land use of the properties was identified as "Residential 15-30" on the Land Use Map. It has not been changed since that date.
- H. Adjacent Land Uses and Improvements:



To the northwest¹: Electrical substation operated by Avista Corporation. To the southwest: Light industrial uses (Avista Corporation Headquarters). To the southeast: Parking and fenced storage yard (Avista Corporation). To the northeast: Multi-family residential uses (Riverview Retirement Community).

¹ Because the parcels are lined up roughly southwest to northwest, similar cardinal directions were used to avoid confusion.

- I. <u>Transportation Improvements.</u> The subject properties are surrounded on three sides by N Crescent Avenue, N Center Street, and Ross Court. All three are classified by the City as "local" streets. The nearest transit service is Route 27, the "Hillyard Route," that lies approximately 730 feet to the northwest of the subject properties. Access to this route requires that pedestrians cross an uncontrolled rail crossing. However, a paved pathway leads to and from the crossing, improving pedestrian access. The nearest stop on the line is at the intersection of N North Center Street and E Illinois Avenue, approximately 800 feet walking distance from the subject properties.
- J. Past Land Use Map Amendments in Vicinity. The City received an application concerning the subject properties as well as properties to the northwest and southeast in October of 2010, requesting an identical land use and zoning change to what is proposed in this application. During processing of that application several properties were withdrawn from the overall request due to adverse neighborhood reaction and public comment. Included in that withdrawal were the fourteen properties that are now the subject of this application. The 2011 application continued without the subject properties and was approved by the City Council on November 28, 2012.

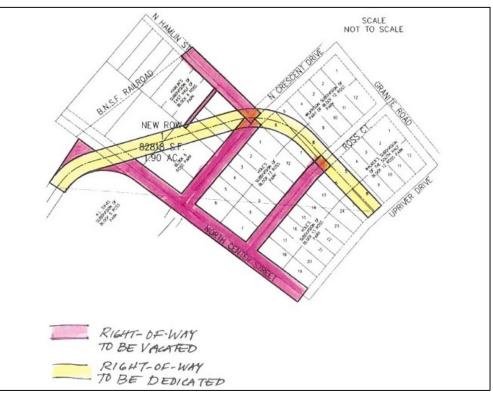


- K. Past Neighborhood Planning Processes. In 2011 the Logan Neighborhood chose to develop a set of new zoning districts and standards for the Hamilton corridor, using form-based zoning concepts. While the Hamilton Corridor zoning has been adopted by the City, the subject properties are too distant from that part of the neighborhood to have any implications on the Neighborhood's plans. The subject properties are outside the Hamilton Corridor zoning. Likewise, all parcels within the vicinity of the subject properties are outside the Hamilton Corridor.
- L. <u>Concurrent Requests by Applicant.</u> Concurrent with the requested Land Use and Zoning change, Avista Corporation is seeking two other approvals from the City. These other approvals are not dependent on this application – the approval or denial of those requests will have no effect on the approval/denial of the land use

and zoning change. However, they are worth noting as they reflect Avista Corporation's overall plans for the subject properties.

Street Vacation/Dedication

Avista Corporation requested that the City vacate portions of N Center Street, N Hamlin Street, and E Ross Court in the vicinity of the subject properties. Following approval of the vacation, the applicant (Avista) is expected to request an extension of N North Center Street to the east, curving southeast to create a new intersection with E Upriver Drive southeast of the subject properties (see figure below). The City Council approved the request for vacation of the roadways on August 15, 2016.²



Shoreline Conditional Use Permit

Avista Corporation requested that the City grant a Shoreline Conditional Use Permit for the construction of a new intersection at the termination of the extended E North Crescent Avenue. The Spokane Hearing Examiner held a hearing on this proposal on June 2, 2016. The request for a Shoreline Conditional Use Permit was approved by the Hearing Examiner on that date.³

<u>M.</u> <u>Applicable Municipal Code Regulations.</u> SMC 17G.020, Comprehensive Plan Amendment Procedures.

² Spokane City Orginance ORD C35423.

³ City of Spokane Planning File #Z1500071SCUP.

N. Application Process:

- Application was submitted on October 31, 2015 and Certified Complete on December 1, 2015;
- Agency Comment from Interested City Departments and Agencies was requested December 9, 2015 to be completed by February 8, 2016.
- Notice of Application was posted, published, and mailed on May 10, 2016, which began a 60 day public comment period. The comment period, scheduled to end on July 11, 2016, was extended to July 25, 2016;
- The applicant made a presentation regarding the proposal to the Logan Neighborhood Council on May 25, 2016;
- A SEPA Determination of Non-Significance was issued on August 23, 2016;
- Notice of Plan Commission Public Hearing and SEPA Determination was posted and mailed by August 30, 2016;
- Notice of Public Hearing and SEPA Determination was published on August 30, 2016 and September 6, 2016;
- Comprehensive Plan Amendment Hearing Date is scheduled with the Plan Commission for September 14, 2016, with continuance likely to September 21, 2016, and with deliberations likely continued to September 28, 2016.

IV. AGENCY, INTERESTED DEPARTMENT, & PUBLIC COMMENT

Notice of this proposal was sent to City departments and outside agencies for their review. Department and outside agency comments are included in this report as **Exhibits PA-1** through **PA-3**. Three agency/city department comments were received regarding this application:

- County of Spokane, Public Works
- City of Spokane, Fire Department
- City of Spokane, Planning & Development

The majority of comments received concerned requests for additional information, once a future development proposal for the subject property is submitted. As this application does not include specific improvement proposals and only concerns the land use and zoning of the parcel, these comments did not warrant additional study. The City of Spokane Planning & Development comments also included a statement that no conflict with City utilities is expected.

Notice of this proposal was also sent to all property owners within the notification area and was posted on the subject property, in the Spokesman Review and in the local library branch. No public comments were received during the public comment period.

V. TECHNICAL REPORTS & OTHER RELEVANT DOCUMENTS

No technical reports were requested by any commenting agency, nor were any required by the City.

VI. COMPREHENSIVE PLAN AMENDMENT PROCESS GUIDING PRINCIPLES

SMC 17G.020.010 provides the following guiding principles for the annual comprehensive plan amendment process:

- 1. Keep the comprehensive plan alive and responsive to the community.
- 2. Provide for simultaneous review of proposals to allow for cumulative impact analysis of all applications on a City-wide basis and in conjunction with budget decisions.
- 3. Make map adjustments based on a foundation in policy language, consistently applying those concepts citywide.
- 4. Honor the community's long-term investment in the comprehensive plan, through public participation and neighborhood planning processes, by not making changes lightly.
- 5. Encourage development that will enable our whole community to prosper and reinforce our sense of place and feeling of community, in an ecologically, economically and socially sustainable manner.
- 6. The proposed changes must result in a net benefit to the general public.

VII. REVIEW CRITERIA

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

<u>A.</u> <u>Regulatory Changes</u>. 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.

<u>Staff Analysis</u>: Staff has reviewed and processed the proposed amendment in accordance with the most current regulations of the Growth Management Act, the Washington State Environmental Policy Act (SEPA), and the Spokane Municipal Code. Staff is unaware of any recent state or federal or local legislative actions with which the proposal would be in conflict.

<u>B.</u> <u>GMA.</u> The change must be consistent with the goals and purposes of the state Growth Management Act.

<u>Staff Analysis</u>: 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 details 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, "Planning Goals"), including the following goals that are relevant to this application:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

The Growth Management Hearings Board for Eastern Washington has indicated that these goals are to guide the development and adoption of comprehensive plans and development regulations. The goals are all created equal with no priority set forth by the legislature and with no goal independently creating a substantive requirement. City of Wenatchee v. Chelan County, EWGMHB Case No. 08-10015, FDO at 25 (March 6, 2009). The Board recognized that this lack of priority becomes problematic when jurisdictions are faced with competing goals, and indicated that, although the GMA does not permit the elevation of a single goal to the detriment of other equally important GMA goals, the GMA does permit local legislative bodies to give varying degrees of emphasis to the goals so as to allow them to make decisions based on local needs in order to harmonize and balance the goals. Id.

GMA's goals guided the City's development of its comprehensive plan and development regulations. Application of the review criteria in Chapter 17G.020 SMC ensures that amendments to the comprehensive plan are also guided by and consistent with GMA's goals and purposes. The applicant has provided a discussion/analysis on this topic in their application materials which discusses all 13 goals and the proposal's relationship to each (reference **Exhibit A-1**).

<u>C.</u> <u>Financing</u>. 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.

<u>Staff Analysis</u>: The City did not require, nor did any Agency comment request or require a traffic impact analysis for the proposal. Furthermore, as shown in **Exhibit PA-3**, any impacts to city utilities and non-transportation infrastructure would be mitigated by enforcement of City policies and development regulations. The subject property is already served by water, sewer, and transit service and lies immediately adjacent to existing local streets. Per State law, subsequent development of the site will be subject to a concurrency determination under SMC 17D.010.020. Staff is confident that, between enforcing the concurrency requirement and enforcement of the City's development regulations and standards, including the collection of transportation impact fees, any infrastructure with development of the site.

<u>D.</u> <u>Funding Shortfall</u>. 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.

<u>Staff Analysis</u>: As indicated in the previous section, staff is confident that, by enforcing concurrency, the City's development regulations, and by collecting appropriate transportation impact fees, the applicant will be required to cover the cost of mitigating the impacts of development of the site.

<u>E.</u> <u>Internal Consistency</u>. 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.

Staff Analysis:

- 1. <u>Development Regulations</u>. As a non-project proposal, there are no specific plans for development of this site. Additionally, any future development on this site will be required to be consistent with the current Development Regulations at the time an application is submitted.
- 2. <u>Capital Facilities Program</u>. See discussion under paragraph C, above. As no additional infrastructure or capital expenditures by the City are anticipated for this non-project action, it is not anticipated that the City's integrated Capital Facilities Program would be affected by the proposal.
- 3. <u>Neighborhood Planning Documents Adopted After 2001</u>. The Logan Neighborhood adopted form-based zoning standards for the Hamilton Corridor, which were subsequently approved and adopted by the City. However, that corridor lies well outside the vicinity of the subject properties and would not affect the proposal.
- 4. <u>Miscellaneous Comprehensive Plan Goals and Policies</u>. Staff have compiled a group of Comprehensive Plan Goals and Policies which are excerpted from the Comprehensive Plan and contained in **Exhibit S-2** of this report. Further discussion of cogent Comprehensive Plan policies are included under criterion K.2 below.

The various factors related to internal consistency, as shown above, seem to indicate that the project would be consistent with internal requirements of the City. The Plan Commission will need to determine in their deliberations if this criterion has been met, or if it can adequately be addressed through conditions as may be imposed as a condition of the Comprehensive Plan amendment and any subsequent development application, in accordance with the provisions of SMC §17D.010.020(C)(2)(c).

<u>F.</u> <u>Regional Consistency</u>. 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.

<u>Staff Analysis</u>: No comments have been received from any agency, city department, or neighboring jurisdiction indicating that this proposal is not regionally consistent.

<u>G.</u> <u>Cumulative Effect</u>. 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. <u>Land Use Impacts</u>. 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. <u>Grouping</u>. 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.

<u>Staff Analysis</u>: This application is being reviewed as part of the annual cycle of comprehensive plan amendments along with two other applications for Comprehensive Plan Amendments. The three applications under consideration are spread throughout the city and concern properties distant from and unconnected to any of the others under consideration. Each of the three applications lies in a different neighborhood and different City Council district. Each of the three is separated from the others by large swaths of pre-existing urban development. While all three applications concern proposed changes in land use and zoning, the conditions and exact modification(s) of land use and zoning are not likely to affect each other in any cumulative amount. As such, it appears that no cumulative effects are possible, nor do the potential for such effects need to be analyzed.

- H. <u>SEPA</u>. SEPA review must be completed on all amendment proposals.
 - 1. <u>Grouping</u>. 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. <u>DS</u>. 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).

<u>Staff Analysis</u>: 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 decisionmaking 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, a Determination of Non-Significance (DNS) was issued on August 23, 2016; City of Spokane Planning, lead agency; Lisa D. Key, Planning Director, SEPA Responsible Official. The DNS is attached as **Exhibit S-1**.

I. <u>Adequate Public Facilities</u>. 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.

<u>Staff Analysis</u>: All affected departments and outside agencies providing services to the subject properties have had an opportunity to comment on the proposal. There were no comments received that would indicate a concern regarding the provision of public facilities and services to the subject property. The requested Comp Plan Amendment is a non-project action, however, so no concurrency determination is being made at this time. A concurrency determination would be required at the time of any development application on the subject property.

<u>J.</u> <u>UGA</u>. 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.

<u>Staff Analysis</u>: The proposal does not involve amendment of the urban growth area boundary. Therefore, this criterion is not applicable to this proposal.

- K. Consistent Amendments.
 - 1. <u>Policy Adjustments</u>. 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; and/or
 - 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.

<u>Staff Analysis</u>: 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. <u>Map Changes</u>. 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.);

<u>Staff Analysis</u>: Of specific application to this criteria is Comprehensive Plan policy LU 1.10 "Industry," which states that the City should provide a variety of industrial locations and site sizes for industrial development. The policy goes on to say that industrial locations should be:

- Free from critical areas;
- Not subject to conflicting adjacent land uses;
- Readily accessible to adequate transportation, utility, and service systems; and
- Convenient to the labor force.

Regarding critical areas, the subject properties are generally flat and do not contain any wetlands or wetland buffers, as shown on City of Spokane GIS maps. Likewise, the subject properties lie outside any flood zone or hazardous soils or geography.

Regarding adjacent land uses, the subject properties are surrounded on three sides by Light Industrial uses. Only properties to the northeast of the subject properties could potentially conflict with a Light Industrial designation on the subject properties. As was determined in the previous land use designation change for surrounding properties, those potential conflicts could be adequately addressed through the landscaping, screening, and frontage improvements required by the Spokane Municipal Code, most directly by the requirements of Spokane Municipal Code 17C.130. Furthermore, were the Avista Corporation application for the rerouting of E North Crescent Avenue approved, the nonindustrial uses to the northeast would be further separated from the proposed light industrial uses of the subject properties by a new street (see background information III.L above).

Lastly, regarding readily accessible transportation and convenience for the labor force, the subject properties are served adequately by three existing local streets. Furthermore, existing transit service is located within ¼ mile. The Plan Commission will need to determine if this criterion has been met, or if it can adequately be addressed through conditions as may be imposed as a condition of the Comprehensive Plan amendment and any subsequent development application, in accordance with the provisions of SMC 17D.010.020(C)(2)(c).

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

<u>Staff Analysis</u>: As discussed in the items above, there is no indication that the proposal would require additional infrastructure or capital facilities to serve it. Likewise, as discussed above, the proposal would appear to concern properties that would be sufficiently buffered from non-industrial uses to the northeast through application of Spokane Municipal Code standards at the time of development.

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

<u>Staff Analysis</u>: As discussed in general in items a and b above and in consideration of the policies listed in **Exhibit S-2**, the proposal would appear to be supportive of the Light Industrial zoning designation of the adjacent parcels. Likewise, application of Spokane Municipal Code requirements for landscaping, screening, and frontage improvement would ensure that conflicts with adjacent non-industrial uses would be minimized. The Plan Commission will need to determine in their deliberations if this criterion has been met, or if it can adequately be addressed through conditions as may be imposed as a condition of the Comprehensive Plan amendment and any subsequent development application, in accordance with the provisions of SMC §17D.010.020(C)(2)(c).

3. <u>Rezones, Land Use Plan Map Amendment</u>. 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.

<u>Staff Analysis</u>: If the land use plan map amendment is approved as proposed, the zoning designation of the parcels will change from RMF (Residential Multi-Family) to LI (Light Industrial). No policy language changes have been identified as necessary to support the proposed land use plan map amendment. As such, it appears that this criterion would be met for the proposed land use designation change.

L. Inconsistent Amendments.

1. <u>Review Cycle</u>. 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.

<u>Staff Analysis</u>: The City of Spokane uses a method of "consistent" and "inconsistent" annual review, with "inconsistent" proposals only allowed to be reviewed every other year. This request is being considered under a "consistent" review cycle. No inconsistencies with the Comprehensive Plan have emerged during analysis [see discussion under criterion K.2 above], thus it appears to be appropriate to consider this proposal in the current year.

2. <u>Adequate Documentation of Need for Change</u>.

- 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.

<u>Staff Analysis</u>: This application is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criterion above does not appear to be applicable to this application.

3. <u>Overall Consistency</u>. 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.

<u>Staff Analysis</u>: This is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criterion above does not appear to be applicable to this application.

If the Plan Commission were to find that the proposal is an "inconsistent amendment", they would need to determine if they had enough information to reach a decision, based upon the criteria detailed in the above discussion. If not, they could recommend denial of the application (as per SMC 17G.020.060 (*M*)(2).

VIII. DRAFT FINDINGS OF FACT

- <u>A.</u> The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- <u>B.</u> The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- <u>C.</u> Under GMA, comprehensive plans may be amended no more frequently than once per year. All amendment proposals must be considered concurrently in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations. Pursuant to Spokane Municipal Code 17G.020.020 all applications submitted by the deadline and found to be complete, excluding a single application that was withdrawn by the applicant prior to the public comment period, have been considered concurrently and constitute the only amendments to the Comprehensive Plan this calendar year.
- <u>D.</u> Comprehensive Plan amendment application Z1500078COMP (reference Exhibit A-1) was submitted by the October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle, as required by Spokane Municipal Code 17G.020.060.C.
- <u>E.</u> The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan, which the application proposes to modify the land use designation of fourteen properties totaling 2.78 acres from "Residential Multi-Family" to "Light Industrial".
- <u>F.</u> The subject properties comprise fourteen parcels within the southwest 1/4 of Section 9, Township 25 North, Range 43 East, Willamette Meridian, being further described as Ross Park, Holes subdivision lots 1 through 4, parts of lots 5 and 6,

and lots 7 through 12, as well as Wilkinson subdivision lots 6 and 7, all in the City of Spokane, Logan Neighborhood. These properties were annexed into the City of Spokane in 1891 in combination with many other parcels.

- <u>G.</u> The subject properties are accessed via three streets designated by the City as "local" streets: E North Crescent Avenue, E Ross Court, and N North Center Street.
- <u>H.</u> The requested implementing zoning designation is "Light Industrial" for the entire property.
- <u>I.</u> Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized as follows:
 - Scott Engelhard of the County of Spokane Public Works (reference Exhibit PA-1);
 - Dave Kokot, P.E., of the City of Spokane Fire Department (reference **Exhibit PA-2**); and,
 - Eldon Brown, P.E., of the City of Spokane Planning & Development Department (reference **Exhibit PA-3**).
- <u>J.</u> A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60 day comment period. Due to the date of submittal of technical analyses required of another Comprehensive Plan Amendment application, the public comment period was extended by 14 days, through July 25, 2016. Regardless, no public comments were received during the comment period.
- <u>K.</u> The Logan Neighborhood Council received a presentation from the applicant at their May 25, 2016 meeting.
- L. The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- <u>M.</u> The Spokane Plan Commission held a substantive workshop to study the requested amendment on May 25, 2016.
- <u>N.</u> A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director and SEPA Responsible Official (see **Exhibit S-1**). The public appeal period for the SEPA determination ends at 5pm on September 13, 2016.
- <u>O.</u> On August 26, 2016 the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.
- <u>P.</u> Notice of the Public Hearing and Determination of Non-Significance for the proposed Comprehensive Plan Land Use Map amendment, was published in the Spokesman Review on August 30, and September 6, 2016 and the Official City Gazette on August 31, September 7, and September 14, 2016.

- <u>Q.</u> Notice of Public Hearing and SEPA Determination was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- <u>R.</u> The staff report provided an analysis of all the decision criteria for approval of a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- <u>S.</u> The Plan Commission held a public hearing on the requested amendment on September 14, 201, which was continued September 21, 2016, and deliberations were held on September 28.
- <u>T.</u> 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 opportunity to comment.

Additional findings of fact may be added by the Plan Commission during deliberations, based upon new information that may be introduced into the record through the course of the hearing proceedings.

IX. DRAFT CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500084, the Plan Commission will need to address the following conclusions with respect to the review criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M) in their deliberations:

- 1. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.
- 2. The proposed change **IS / IS NOT** consistent with the goals and purposes of the state Growth Management Act.
- Infrastructure implications of the proposed comprehensive plan amendment IS / IS NOT reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. The proposed amendment **IS / IS NOT** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.
- 5. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.

- 6. The 2015/2016 proposed Comprehensive Plan amendments **HAVE / HAVE NOT** been reviewed 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.
- Adverse environmental impacts association with this proposed amendment HAVE
 / HAVE NOT been identified. If adverse environmental impacts have been identified, adequate mitigation measures HAVE / HAVE NOT been identified as requirements for incorporation into a decision on the proposed amendment.
- 8. A SEPA review **HAS / HAS NOT** been completed on the requested amendment.
- 9. The proposed amendment **DOES / DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.
- 10. The proposed land use designation **IS** / **IS NOT** in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.).
- 11. The proposed map amendment and site **ARE / ARE NOT** suitable for the proposed designation.
- 12. The map amendment **DOES / DOES NOT** implement applicable comprehensive plan policies better than the current map designation.
- 13. The proposed amendment **IS / IS NOT** consistent with the Comprehensive Plan policies.
- 14. The applicant **HAS / HAS NOT** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 15. The proposed change to the Comprehensive Plan **IS / IS NOT** more effectively or appropriately addressed through another aspect of the planning department's work program (neighborhood planning, writing new regulations, etc.).
- 16. The Plan Commission **DID** / **DID NOT** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

X. PLAN COMMISSION RECOMENDATION:

Following the close of public testimony and deliberations regarding conclusions with respect to the review criteria and decision criteria detailed in SMC 17G.020, Plan Commission will need to make a recommendation to City Council for approval or denial of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

If recommended for approval, the Plan Commission may incorporate conditions of approval into their recommendation, as may be identified in deliberations as necessary

and/or appropriate to address the review criteria, decision criteria, and/or neighborhood compatibility issues.

XI. LIST OF EXHIBITS

Exhibit Description

- A-1 Application Materials
- A-2 SEPA Checklist
- S-1 SEPA Determination of Non-Significance
- S-2 Relevant Comprehensive Plan Policies
- PA-1 Agency Comment County of Spokane, Public Works
- PA-2 Department Comment City of Spokane, Fire Department
- PA-3 Department Comment City of Spokane, Planning & Development



ORD C35448 Exhibits (General application and attachments) are available for viewing at the following link:

https://my.spokanecity.org/projects/avistacorporation-comprehensive-plan-amendment/

In addition the Exhibits are available for viewing at the City Clerk's Office – 5th Floor, City Hall (<u>clerks@spokanecity.org</u> or 509.625.6350) and/or copies will be made available upon request.

SPOKANE Agenda Sheet for City Council Meeting of:		Date Rec'd	10/14/2016
10/31/2016		Clerk's File #	ORD C35449
		Renews #	
Submitting Dept	PLANNING	Cross Ref #	
Contact Name/Phone	L. KEY/T. BLACK 625-6185	Project #	
Contact E-Mail	TBLACK@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0650 - Z1500084COMP - MORNINGSIDE		
Agenda Wording			

An ordinance relating to application made by Morningside investments LLC, planning file #Z1500084COMP AND amending the Land Use plan Map of the City's Comprehensive Plan from "Residential 4-10" to "Residential 10-20" and "Residential 15-30" for

Summary (Background)

This Application for a Comprehensive Plan Land Use Map Amendment is being considered concurrently through the annual Comprehensive Plan Amendment cycle as required by the Growth Management Act. The application has fulfilled public participation and notification requirements. The Plan Commission held a Public Hearing on September 14, 21, and 28, 2016 to consider this amendment and has recommended denial of the amendment. Plan Commission Findings and Conclusions are attached.

Fiscal Impact		Budget Account		
Neutral \$		#		
Select \$	elect \$		#	
Select \$		#		
Select \$		#		
Approvals		Council Notification	<u>15</u>	
Dept Head	KEY, LISA	Study Session		
Division Director	MALLAHAN, JONATHAN	<u>Other</u>	PED 6/20/16 & 10/17/16	
Finance	KECK, KATHLEEN	Distribution List		
Legal	RICHMAN, JAMES	Engineering Admin		
For the Mayor	CODDINGTON, BRIAN	tblack@spokanecity.org		
Additional Approva	ls	lkey@spokanecity.org		
Purchasing		jbonnet@jrbonnet.com		
		jrichman@spokanecity.org		
		jmallahan@spokanecity.org		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

approximately 45.5 acres described as: All Parcels and tracts within the Windhaven First Addition PUD, except Lots 1-8 Block 4, LOTS 1-13, Block 5, Lots 1-5 Block 6 Which is comprised of 260 Platted Lots; and amending the zoning map from "Residential Single Family" (RSF) to "Residential Two Family (RTF)" and "Residential Multi-Family (RMF)".

Summary (Background)

Staff Report and SEPA Determination attached.

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

ORDINANCE NO. C35449

AN ORDINANCE RELATING TO APPLICATION MADE BY MORNINGSIDE INVESTMENTS LLC, PLANNING FILE #Z1500084COMP AND AMENDING THE LAND USE PLAN MAP OF THE CITY'S COMPREHENSIVE PLAN FROM "RESIDENTIAL 4-10" TO "RESIDENTIAL 10-20" AND "RESIDENTIAL 15-30" FOR APPROXIMATELY 45.5 ACRES TOTAL DESCRIBED AS: ALL PARCELS AND TRACTS WITHIN THE WINDHAVEN FIRST ADDITION PUD, EXCEPT LOTS 1-8 BLOCK 4, LOTS 1-3, BLOCK 5, LOTS 1-5 BLOCK 6 WHICH IS COMPRISED OF 260 PLATTED LOTS; AND AMENDING THE ZONING MAP FROM "RESIDENTIAL SINGLE FAMILY" (RSF) TO "RESIDENTIAL TWO FAMILY (RTF)" AND "RESIDENTIAL MULTIFAMILY (RMF)".

WHEREAS, the Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A); and

WHEREAS, the City of Spokane adopted a Comprehensive Plan in May of 2001 that complies with the requirements of the Growth Management Act; and

WHEREAS, the Growth Management Act requires continuing review and evaluation of the Comprehensive Plan and contemplates an annual amendment process for incorporating necessary and appropriate revisions to the Comprehensive Plan; and

WHEREAS, land use amendment application Z1500084COMP (the "Application") was timely submitted to the City for consideration during the City's 2016 Comprehensive Plan amendment cycle; and

WHEREAS, the Application seeks to amend the Land Use Plan Map of the City's Comprehensive Plan for a change from "Residential 4-10" to "Residential 10-20" for 3.87 acres of the subject property and from "Residential 4-10" to "Residential 15-30" for 41.63 acres of the subject property. If approved, the implementing zoning designation requested is "Residential Two Family" (RTF) and "Residential Multifamily (RMF); and

WHEREAS, staff requested comments from agencies and departments on December 9, 2015, and a public comment period ran from May 10, 2016 to July 25, 2016; 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 August 31, 2016; and

WHEREAS, the Spokane City Plan Commission held substantive workshops regarding the Application on June 8, 2016 and June 22, 2016; and

WHEREAS, on or about August 23, 2016, the responsible official issued a State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance was for the Application ("MDNS"). The public comment period for the SEPA determination ended on September 13, 2016; and

WHEREAS, on or about September 13, 2016, the North Indian Trail Neighborhood Council filed an appeal of the MDNS with the Hearing Examiner's Office. The appeal was subsequently withdrawn; and

WHEREAS, notice of the SEPA Checklist and Determination, the Land Use Plan Map changes, and the Zoning Map changes, and announcement of the September 14, 21, and 28, 2016 Plan Commission Public Hearing was published in the Spokesman-Review on August 30, 2016 and September 6, 2016; and

WHEREAS, Notice of Plan Commission Public Hearing and SEPA Determination was posted on the property and 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 boundary of the subject property on August 30, 2016; and

WHEREAS, staff report for Application Z1500084COMP reviewed the criteria relevant to consideration of the Application; and

WHEREAS, the Spokane Plan Commission conducted a public hearing and deliberated on September 14, 21 and 28, 2016 for the Application Z1500084COMP and other proposed amendments; and

WHEREAS, the Spokane Plan Commission found that Application Z1400064COMP is inconsistent with the Comprehensive Plan; and

WHEREAS, the Plan Commission voted 4 to 3 to recommend denial of Application Z1500084COMP; and

WHEREAS, the City Council adopts the recitals set forth herein as its findings and conclusions in support of its adoption of this ordinance; --

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN:

1. <u>Approval of Application</u>. Application Z1500084COMP is approved.

 Amendment of Land Use Map. The Spokane Comprehensive Plan Land Use Map is amended from "Residential 4-10" to "Residential 10-20" for 3.87 acres and "Residential 4-10" to "Residential 15-30" for 41.63 acres as shown in Exhibit A. 3. <u>Amendment of Zoning Map</u>. The City of Spokane Zoning Map is amended from "RSF" to "RTF" and "RMF" for this same area as shown in Exhibit B.

PASSED BY THE CITY COUNCIL ON _____, 2016.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

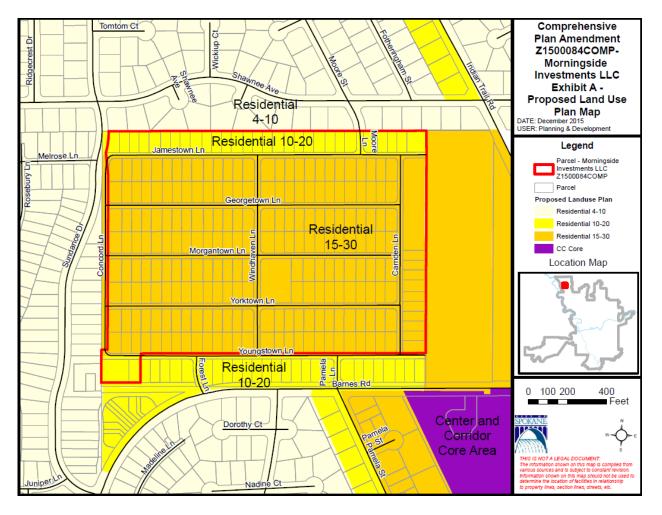
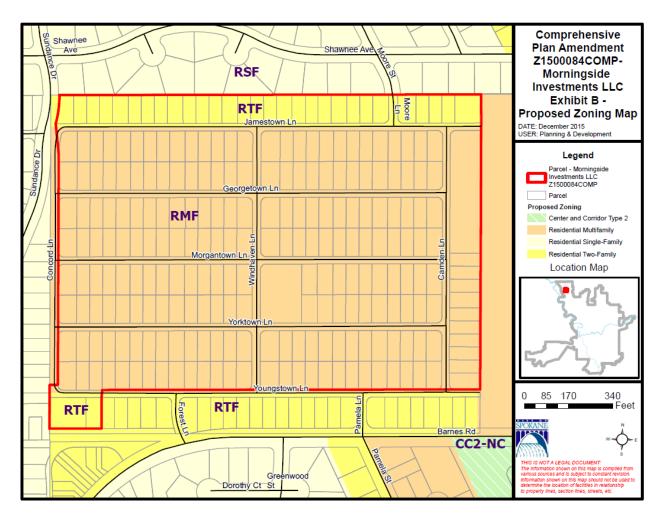


Exhibit B



CITY PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE COMPREHENSIVE PLAN LAND USE MAP AMENDMENT FILE NO. Z1500084COMP

A Recommendation of the City Plan Commission to the City Council in the matter of a proposed Comprehensive Plan Amendment application by Jay Bonnett, on behalf of Morningside Investments, LLC to amend the land use plan designation from "Residential 4 – 10" on 45.5 acres to "Residential 15 – 30" on 41.63 acres, and "Residential 10 – 20" on 3.87 acres. The implementing zoning designations requested are RMF and RTF, respectively.

FINDINGS OF FACT:

- A. The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- B. The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- C. Under GMA, comprehensive plans generally may be amended no more frequently than once per year. All amendment proposals must be considered concurrently, in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations.
- D. Comprehensive Plan amendment application Z1500084 (reference **Exhibit A-1**) was submitted by October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle.
- E. The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan to change the land use designation on 45.5 acres of 49.48 acres within the Windhaven First Addition PUD (the "Subject Property"). The applicant proposes amending 41.63 acres of "Residential 4 10" to "Residential 15 30", and 3.87 acres of "Residential 4 10" to "Residential 10 20".
- F. The subject property includes all parcels and tracts within the Windhaven First Addition PUD, except Lots 1 8, Block 4, Lots 1 13, Block 5, and Lots 1 5, Block 6. The Windhaven First Addition PUD was final platted in 2006, with private roads and utilities constructed, but no further development has taken place since the time of final plat.
- G. The subject property is located near the northwest corner of the Indian Trail Neighborhood Center.
- H. The core of the Indian Trail Neighborhood Center consists of approximately 37 acres with an adjacent 61.55 acres of property zoned for multifamily residential use, and 24.56 acres zoned for office use (which also allows high density residential use). Combined, the core of the neighborhood center and the surrounding property zoned for multifamily use comprises approximately 123 acres. If this application is approved, the subject property would create

the potential for an additional 45.5 acres of higher density housing in the vicinity of the neighborhood center.

- I. At the conclusion of an abbreviated neighborhood center planning process, in 2007, the City Council adopted Ordinance C34154, amending the City's Comprehensive Plan Land Use Plan Map and Official Zoning Map per the "North Indian Trail Neighborhood Center Land Use Plan Map Proposal." The Subject Property was zoned RSF as part of that abbreviated neighborhood center planning process.
- J. The subject property is accessed via W. Barnes Road, a local street, with secondary access from W. Shawnee Avenue, also a local street. Both local streets feed onto N. Indian Trail Road, which is classified as a minor arterial.
- K. The requested implementing zoning designation is Residential Multifamily on the area designated as "Residential 15-30", and Residential Two-Family on the area designated as "Residential 10-20".
- L. Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized in **Exhibit S-2**.
- M. A Traffic Impact Analysis (TIA) was requested by City of Spokane Streets Department staff on December 10, 2015. A draft of the TIA was submitted to the City dated May 2016, with the final report issued on July 11, 2016 (reference **Exhibit A-5**).
- N. A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60-day comment period. Due to the date of submittal of the final TIA by the applicant, the public comment periods was extended to July 25, 2016. Comments received from the public through July 25, 2016 are summarized in Exhibit P-1. The entire text of public comments is on file.
- O. The Indian Trail Neighborhood Council received a presentation from the applicant's traffic engineer on May 28, 2016, and a presentation by the applicant at their June 16, 2016 meeting.
- P. The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- Q. The Spokane Plan Commission held substantive workshops to study the requested amendment on June 8, 2016, and June 22, 2016.
- R. A Mitigated Determination of Non-Significance (MDNS) was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director, SEPA Responsible Official. (reference Exhibit S-1)). The North Indian Trail Neighborhood Council appealed the MDNS to the Hearing Examiner. Per the City's code, the appeal process runs concurrently with the Plan Commission hearing process.
- S. On August 26, 2016, the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.

- T. Notice of the Public Hearing and Mitigated Determination of Non-significance for the proposed Comprehensive Plan Land Use Map amendment, was published in the Spokesman Review on August 30, and September 6, 2016 and the Official City Gazette on August 31, September 7, and September 14, 2016.
- U. Notice of Public Hearing and SEPA Determination was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- V. The staff report provided an analysis of all the decision criteria for approval a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- W. The Plan Commission held a public hearing on the requested amendment on September 14, 2016 with continuation on September 21, 2016.
- X. 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 opportunity to comment.

CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500084, the Plan Commission makes the following conclusions with respect to the review criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M):

- 1. The proposed amendment to the comprehensive plan **IS** 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.
- 2. The proposed change **IS NOT** consistent with the goals and purposes of the state Growth Management Act.
- 3. Infrastructure implications of the proposed comprehensive plan amendment **ARE NOT** reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. Mitigations for the proposed amendment **DO NOT** result in a potential funding shortfall that suggests the need to scale back on land use objectives and/or service level standards.
- 5. The proposed amendment **IS NOT** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.

- 6. The proposed amendment to the comprehensive plan **IS** 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.
- 7. The 2015/2016 proposed Comprehensive Plan amendments **HAVE** been reviewed 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.
- Adverse environmental impacts associated with this proposed amendment HAVE been identified. If adverse environmental impacts have been identified, adequate mitigation measures HAVE been identified as requirements for incorporation into a decision on the proposed amendment.
- 9. A SEPA review **HAS** been completed on the requested amendment.
- 10. The proposed amendment **DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.
- 11. The proposed land use designation **IS NOT** in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.).
- 12. The proposed map amendment and site **ARE NOT** suitable for the proposed designation.
- 13. The map amendment **DOES NOT** implement applicable comprehensive plan policies better than the current map designation.
- 14. The proposed amendment **IS NOT** consistent with the Comprehensive Plan policies.
- 15. The applicant **HAS NOT** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 16. The proposed change to the Comprehensive Plan **IS** more effectively or appropriately addressed through another aspect of the planning department's work program, (such as neighborhood planning, writing new regulations, etc.).
- 17. The Plan Commission **DID** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

RECOMMENDATION:

In the matter of Z1500084COMP, a request by J.R. Bonnett Engineering on behalf of Morningside Investments, LLC to change the land use plan designation on 45.5 acres of 49.48 acres within the Windhaven First Addition PUD, to include changing 41.63 acres from "Residential 4 - 10" to "Residential 15 - 30", with a corresponding change of the implementing

zoning to Residential Multifamily; and, changing 3.87 acres of "Residential 4 - 10" to "Residential 10 - 20", with a corresponding change of the implementing zoning to Residential Two-Family, as based upon the above listed findings and conclusions, by a vote of 4 to 3 with 1 abstention, the Plan Commissions recommends to City Council the **DENIAL** of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

Dennis Dellwo, President Spokane Plan Commission September 28, 2016

STAFF REPORT ON COMPREHENSIVE PLAN LAND USE AMENDMENT APPLICATION 45.5 acres north of Barnes Road; Morningside Investments LLC; File Z150084COMP

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

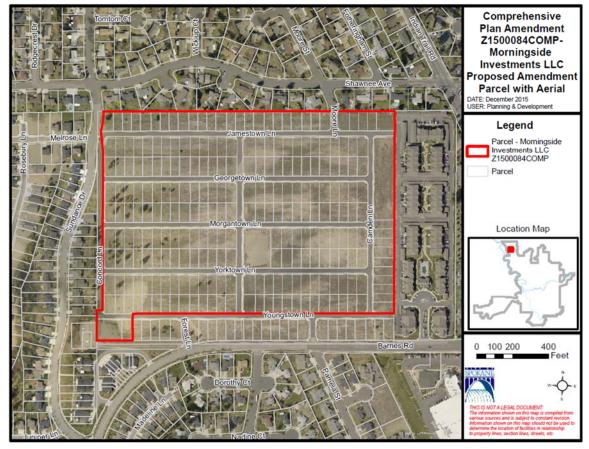
DESCRIPTION OF PROPOSAL: This proposal is to change the land use of a 45.5 acre area encompassed in the Windhaven First Addition PUD from "Residential, 4 to 10 units per acre" to "Residential 10-20 units per acre" and "Residential 15-30 units per acre". The proposed change to "Residential 10-20 units per acre" is for 3.87 acres. The balance of 41.63 acres is proposed to be changed to "Residential 15-30 units per acre". The applicant has proposed to limit development on the entirety of the undeveloped 49.5 acres of the Windhaven First Addition PUD (identified as "project site" in map below) to a maximum of 750 dwelling units. If the requested Comprehensive Plan amendment is approved, the zoning would be changed from RSF (Residential Single Family) to RTF (Residential Two Family) or RMF (Residential Multi Family). No specific development proposal is being considered at this time.

Agent:	Mr. Jay Bonnett, JR Bonnett Engineering
Applicant/Property Owner(s):	Morningside Investments LLC
Location of Proposal:	This proposal is located north of W. Barnes Road and is generally bounded by W. Youngstown Lane, N. Concord Lane, W Jamestown Lane, and N Camden Lane.
	 The location may also be described as: All parcels and tracts within the Windhaven First Addition PUD, except lots 1-8 Block 4, lots 1-13 Block 5, lots 1-5 Block 6. The area is comprised of 260 platted lots on approximately 45.5 acres. Located within SW ¼ 15-26-42; SE ¼ 16-26-42; NE ¼ 21-26-42: NW ¼ 22-26-42
Legal Description:	Windhaven First Addition PUD, except lots 1-8 Block 4, lots 1-13 Block 5, lots 1-5 Block 6.
Existing Land Use Plan Designation:	"Residential, 4 to 10 units per acre"
Proposed Land Use Plan Designation:	"Residential 10-20 units per acre" and "Residential 15-30 units per acre"
Existing Zoning:	RSF (Residential Single Family)
Proposed Zoning:	RTF (Residential Two Family) and RMF (Residential Multi Family)

II. GENERAL INFORMATION

SEPA Status:	A SEPA threshold determination of Mitigated Determination of Non-Significance (MDNS) was made on August 23, 2016. The appeal period closed on September 13, 2016. The MDNS is attached as Exhibit S-1 .
Enabling Code Section:	SMC 17G.020, Comprehensive Plan Amendment Procedure.
Plan Commission Hearing Date:	The Plan Commission hearing date is scheduled for September 21, 2016 which potential continuation to the next meeting(s) of the Plan Commission.
Staff Contact:	Tirrell Black, Associate Planner; tblack@spokanecity.org

III. BACKGROUND INFORMATION

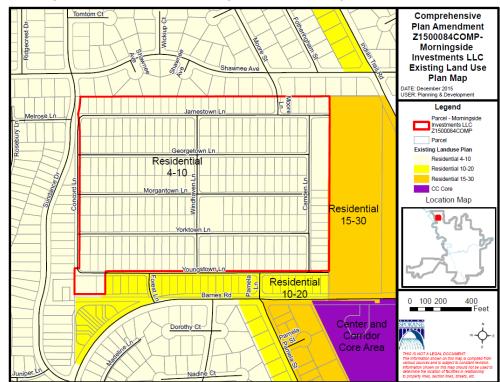


<u>A.</u> <u>Site Description</u>: The subject property is comprised of 286 single-family platted lots with a PUD Overlay. These lots are part of a preliminary plat known as Windhaven PP/PUD Z0097-51-PP/PUD. The preliminary plat approved 298 single family lots and one large multifamily lot which was approved for 212 multi-family apartments which are now constructed and known as the Lusitano Apartments. The subject area, shown in red in the figure above, is part of Final Plat Z0500112-FP/PUD (preliminary plat Z97-0051-PP/PUD).

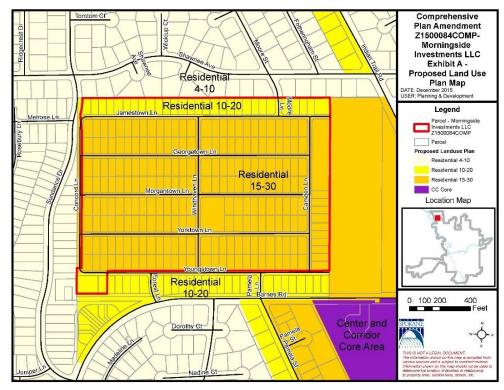
The streets within the Windhaven PP/PUD were approved as private streets built to private street standards, which is no longer permitted in the Spokane Municipal Code. Because there has been no home construction on the Windhaven site, the property owner has blocked the entrance streets to this subdivision and car travel is not permitted. Currently, local residents use this area for dog walking, running, and bike riding. Pathways also indicate that this is used as a logical access point to the shopping area located to the south of Barnes Road. Barnes Road is designated as a Collector Arterial and North Indian Trail Road is designated as a Principal Arterial on the Arterial Street Map.

<u>B.</u> <u>Description of Proposal</u>: Pursuant to the procedures provided in Spokane Municipal Code Section 17G.020, "Comprehensive Plan Amendment Procedure," the applicant is requesting a comprehensive plan land use plan map designation change from "Residential 4-10 units per acre" to "Residential 10-20 units per acre" and "Residential 15-30 units per acre". The proposed change to "Residential 10-20 units per acre" is for 3.87 acres. The balance of 41.63 acres is proposed to be changed to "Residential 15-30 units per acre". If approved, the zoning would be changed from RSF (Residential Single Family) to RTF (Residential Two Family) and RMF (Residential Multi Family).

Development and improvement of the site would be subject to all relevant provisions of the City's unified development code, including without limitation, Chapter 17D.010 SMC relating to concurrency.

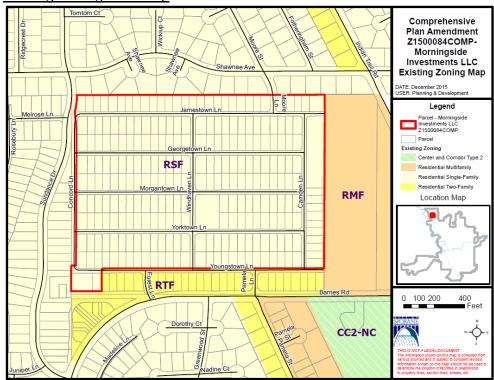


C. Existing Land Use Plan Map Designations with Subject Area in Red

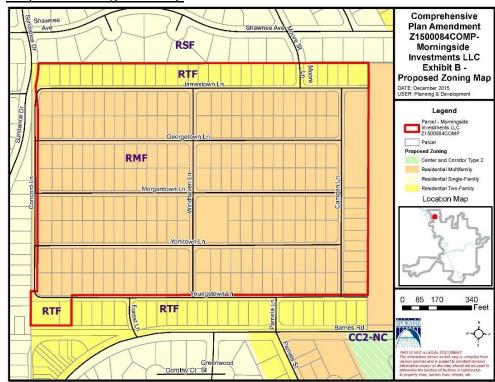


D. Applicant Proposed Land Use Plan Map





F. Proposed Zoning Plan Map



<u>G.</u> <u>Zoning and Land Use Designation History.</u> This area was annexed into the city of Spokane in 1966 by Ordinance C18611 known as the Blankenship-Dixon annexation.

In the staff report for Windhaven PP/PUD (Z0097-51-PP/PUD) this property is described, using the classification/zoning category at use at the time, as being zoned R1 which was a low density zoning category similar to what it is today with the RSF (Residential Single Family) designation. The final plat file number is Z0500112-FP/PUD and was filed with the Spokane County Auditor on September 27, 2006.

<u>H.</u> Recent North Indian Trail Neighborhood Planning and Comprehensive Plan Land <u>Use Map Amendments.</u> In 2007, the North Indian Trail Neighborhood and area property owners participated in an abbreviated neighborhood center planning process to plan for the "Neighborhood Center" designation which was applied to this general vicinity in the 2001 Comprehensive Plan adoption. This neighborhood planning process culminated in the City Council's adoption of Ordinance C34154, amending the City's Comprehensive Plan Land Use Plan Map and Official Zoning Map per the "North Indian Trail Neighborhood Center Land Use Plan Map Proposal." This ordinance is attached as **Exhibit S-1**

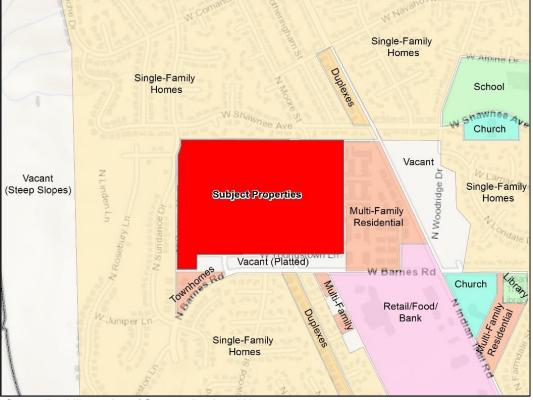
An additional change in the land use plan map, subsequent to the 2007 Ordinance C34154, was ORD C34931 which approved an application proposal to amend the Comprehensive Land Use Plan Map at the northeast corner of Indian Trail Road and Barnes Road for a Veterinarian Office. The change was from "R 4-10" category to both the "R 10-20" and "Office" category. A Development Agreement

was entered into in association with the ordinance and approved by OPR 2013-0905; Recitals E and F of OPR 2013-0905 reflect engagement of the neighborhood in the planning process, stating:

E. Whereas, the Owner has worked directly with the North Indian Trail Neighborhood Council (NITNC) and its representatives to inform them of the site plan and development schedule by offering regular progress reports in attendance at their regular scheduled monthly meetings;

F. Whereas, NITNC has agreed in principle to the Site Plan of Record and has been informed of the proposed Development Agreement;

I. Adjacent Land Uses and Street Designations:



Generalized Illustration of Surrounding Land Uses

To the north: single family residential use.

To the west: single-family residential use and a utility substation (for Williams Pipeline).

Immediately south (adjacent to the subject properties): a line of platted lots, zoned RTF but undeveloped.

To the south (across Barnes Road): residential use, predominately single-family but some multifamily to the west of Sundance Shopping Center.

To the southeast (across Barnes Road): Sundance Shopping Center.

To the east: multi-family residential use (Lusitano Apartments; owned by applicant).

North Indian Trail Road is served by STA Bus 23T which is the Maple/Ash route and provides limited service weekdays only according to the STA System Map effective September 2014.

North Indian Trail Road is designated as a Principal Arterial and Barnes Road is designated as a Collector Arterial. The "interior streets" to the Windhaven PUD which are Jamestown Lane, Georgetown Lane, Morgantown Lane, Yorktown Lane, Youngstown Lane, Concord Lane, Windhaven Lane and Camden Lane are categorized as private streets and were authorized as such in the decision on Windhaven preliminary plat and PUD (Z0097-51-PP/PUD).

- <u>J.</u> <u>Applicable Municipal Code Regulations</u>: SMC 17G.020, Comprehensive Plan Amendment Procedures.
- K. <u>Application Process</u>:
 - Application was submitted on October 31, 2015 and Certified Complete on December 1, 2015;
 - Agency Comment from Interested City Departments and Agencies was requested December 9, 2015 to be completed by February 8, 2016.
 - City of Spokane Streets and WSDOT requested a Traffic Impact Study be prepared by the applicant.
 - The applicant submitted a Draft Traffic Impact Study on May 9, 2016, a Sim Traffic Analysis requested by WSDOT dated May 23, 2016, and, a Safety/Collision Analysis for North Indian Trail (requested by the Neighborhood Council) submitted on June 8, 2016;
 - Results of the Traffic Impact Analysis were presented at a public meeting by study author Bill White, Morrison Maierle, Inc. on behalf of the applicant on May 25, 2016;
 - Notice of Application was posted, published, and mailed on May 10, 2016, which began a 60 day public comment period. The comment period, scheduled to end on July 11, 2016, was extended to July 25, 2016;
 - The applicant made a presentation regarding the proposal to the North Indian Trail Neighborhood Council on June 16, 2015;
 - The final, stamped Traffic Impact Analysis incorporating the additional analyses and recommending mitigations was submitted by the applicant on July 11, 2016 and posted on the city's website on July 12, 2016;
 - A SEPA Mitigated Determination of Non Significance was issued on August 23, 2016;

- Notice of Plan Commission Public Hearing and SEPA Determination was posted and mailed by August 30, 2016;
- Notice of Public Hearing and SEPA Determination was published on August 30, 2016 and September 6, 2016;
- Comprehensive Plan Amendment Hearing Date is scheduled with the Plan Commission for September 14, 2016, with continuance likely to September 21, 2016, and with deliberations likely continued to September 28, 2016.

IV. AGENCY, INTERESTED DEPARTMENT, & PUBLIC COMMENT

Notice of this proposal was sent to City departments and outside agencies for review on December 9, 2015. Agency and Interested City Department comments are included in this report as **Exhibit S-2**. The bulk of comment was conveyed to the applicant along with City Planning comments on February 16, 2016. Additional comments have been conveyed as received. Commenting City Departments included Streets, Integrated Capital Programs, Fire, Business & Development Services' Current Planning Department, and Business & Development Services' Engineering Department. Agency comments were received from Spokane County Public Works, Washington State Department of Transportation (WSDOT), Spokane School District 81, Spokane Transit Authority (STA), and Spokane Regional Transportation Council (SRTC). Additional comments were received later in the review period from School District 81, City of Spokane Business and Development Services' Current Planning Department, and WSDOT and are also included in **Exhibit S-2**.

During this comment period, the City of Spokane Streets Department and WSDOT asked the applicant to provide a Traffic Impact Analysis (TIA) for the amendment proposal. The results of the TIA, and the mitigations that are recommended as a result, are described in the following section, V. Technical Report(s).

The City has received extensive written public comment regarding this proposal. Comments have been received via email, letter, and through a survey taken by the North Indian Trail Neighborhood Council. The comments have been provided to the applicant, Plan Commission Members, and City Council Members. The comments received through July 25, 2016 are summarized in Exhibit P-1. The comment letters have been conveyed to the applicant, Plan Commissioners, and City Council in their entirety.

The City has received letters from the North Indian Trail Neighborhood Council, the Five Mile Neighborhood Council, the South Indian Trail Neighborhood Council, and the Audubon-Downriver Neighborhood Council opposing the amendment proposal. The Community Assembly also submitted a letter in support of the neighborhoods' opposition Neighborhood Council and Community Assembly letters are attached in **Exhibit P-2**.

V. TECHNICAL REPORTS

During the Public Agency Review, the City of Spokane and WSDOT requested a Traffic Impact Analysis (TIA) evaluating transportation impacts that could result from the potential increases in density that would be allowed if the requested Comprehensive Plan amendment and zone change were approved. City staff and WSDOT worked closely with the applicant's traffic engineering consultant to ensure agreement on the background trips,

trip distribution and traffic count methodologies used in the study. The applicant submitted two drafts of the traffic study and one final version dated 7/11/16.

The TIA prepared by the applicant's engineer assumes development will be limited to 750 dwelling units on the entire Windhaven First Addition PUD (an area greater than that of the amendment proposal), and assumed primary access to the site via Forest Lane and Pamela Street, with secondary access via Jamestown Lane. The TIA states that only pedestrian access will be allowed via Moore Street onto Shawnee Avenue from the development, as Shawnee Avenue is a pedestrian/school route. There is no sidewalk on Shawnee Avenue between Moore and Indian Trail Road, which would be the walk route to school and to the nearest STA stop. Potential development impacts to this pedestrian route will be further evaluated at time of project application, if this proposal for a land use change is approved, and the project described in the TIA moves forward.

The TIA utilized current traffic counts, with the addition of projected new trips from the Barnes-Strong Road connection and trips from 12 vested developments that are not reflected in today's traffic counts (including the 286 single-family dwelling units approved for the Windhaven First Addition PUD). The background traffic counts (the current traffic counts plus the vested trips and new trips from Barnes-Strong Road) were then projected to increase by an additional annual rate of 0.5% through to the forecast year of 2021 baseline (which is assumed to be the completion and occupancy year for the applicant's envisioned development) to reflect non-project growth anticipated to occur in the area, above and beyond those trips already included for vested developments.

The TIA evaluated level of service (LOS) for the a.m. and p.m. peak hours for the forecast year, both with and without the additional trips that would be generated from the applicant's envisioned development. Trip generation for this proposal (as well as the vested projects) was established using the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. The methodology for calculated LOS utilized the methodology established by the Highway Capacity Manual (TRB, 2010).

LOS was evaluated for the following intersections:

- Shawnee Avenue/Indian Trail Road
- Barnes Road/Indian Trail Road
- Strong Road/Indian Trail Road
- Indian Trail Road/Francis Avenue
- Alberta Street/Francis Avenue
- Ash Street/Francis Avenue
- Barnes Road/Forest Lane (Project Access)
- Barnes Road/Pamela Lane (Project Access)

The TIA also included a lane capacity analysis for North Indian Trail Road, as well as a Micro-simulation/Sim Traffic Analysis for the intersections of North Indian Trail/ Francis Avenue, Alberta Street/ Francis Avenue, Ash Street /Francis Avenue, and Maple Street/ Francis Avenue, in order to address uneven lane utilization and queue spillback between signalized intersections that was impacting the initial modelling for LOS at these study intersections.

Two areas of concern were identified in the TIA: lane capacity on North Indian Trail; and, intersection operations for the study intersections located on Francis Avenue.

The lane capacity analysis indicates, that if the application is approved, additional through lanes will be needed in both the north and south directions on North Indian Trail between Kathleen Avenue and Lowell Avenue to handle increases in traffic generated by potential future development on the subject property. The applicant's traffic consultant, in working with the city, has proposed a partial widening of Indian Trail Road that could be completed at the same time as the city's asphalt overlay scheduled for 2018. This widening project would provide two continuous southbound lanes from Barnes Road to Francis Avenue, and two continuous northbound lanes from Francis Avenue to Pacific Park Drive. A two-way left turn lane would be provided in the vicinity of Kathleen Avenue. The cost for the partial widening is estimated to be at least \$820,000.

It should be noted that the timing of the potential widening project is significant; it would need to occur in concert with the grind and overlay project, or it would otherwise need to be delayed until at least 2022, due to the City's three-year pavement cut moratorium policy.

The applicant has proposed to prepay the impact fees that the applicant estimates will be assessed on the apartment project that is anticipated if this application is approved (per Chapter 17D.075 SMC), which the City could apply towards the cost of the partial widening project. The city may also be able to utilize recently collected Northwest District impact fees towards the project.

Page 44 of the Traffic Impact Analysis states that the applicant has offered to prepay the capital cost of the partial widening project not covered by the impact fees to assure the timely completion of the proposed mitigation. The report goes on to indicate that the City has assured reimbursement for these capital funds through a latecomer's contribution and/or impact fee credits provided on future development proposals located within the Northwest service area. It should be noted that while these ideas can be explored as the application moves forward through the Plan Commission and City Council, at this time the City has not made any commitments regarding a latecomer agreement or any other reimbursement plan.

This proposed partial widening project has been included as a condition (i.e., mitigation) of the SEPA MDNS, with the specific terms and timing of the applicant's funding requirements to be detailed in a development agreement that will need to be incorporated as a condition of the Comprehensive Plan Land Use Map amendment and zone change, should they be approved by City Council. Full funding for the partial widening project will need to be in place as a condition precedent to a concurrency determination regarding any subsequent development applications on the subject property, if this application is approved by City Council. In addition, project permit applications will be subject to a concurrency determination prior to permit issuance per state law and Chapter 17D.010 SMC.

With regard to Francis Avenue intersection operations, the required signalized level of service is LOS E at intersections along principal or minor arterials, as outlined in administrative policy and procedure ADMIN 0370-08-01. This represents an average LOS for all movements at the intersection. Individual movements can be at LOS F as long as

the intersection average is LOS E or better. The LOS E standard applies to all signals along the Indian Trail and Francis corridors that are included in the study. The most current version of HCS (Highway Capacity Software) is required to be used for the analysis. However, the city may request the use of a different modeling software depending on the project proposal.

The traffic analysis shows that several intersections will be nearing the threshold between LOS E and F with the addition of the background trips and the Windhaven development traffic. Intersections of particular concern are Francis/Alberta during the AM and PM peaks and Francis/Maple during the PM peak. The Sim Traffic intersection analysis indicated that some intersections have issues with blocking and long queues. The intersection analysis shows that Indian Trail/Pacific Park-Strong will be operating at LOS E but capacity for this intersection can be expanded with developer frontage improvements. The intersections of Francis/Maple and Francis/Alberta are operating at LOS E and have some movements operating at LOS F and/or with long queues. Drivers on Francis often require multiple cycles to get through the signals. The intersections on Francis are essentially built-out, to the point where further expansions would be very costly and offer little in the way of additional capacity. The little remaining capacity will be needed to support other development already included in the comprehensive plan.

The impacts of the projected increases in traffic resulting from a rezone and subsequent development can be offset by implementing Travel Demand Management (TDM) strategies, which will shift existing and/or projected new trips from single occupant vehicle to transit. This method would preserve the remaining intersection capacity for other development. As mitigation, the applicant has proposed a monthly bus pass program that would be offered to apartment residents as a TDM offset.

TDM strategies are recognized in the city LOS policy (ADMIN 0370-01-01 Section 4.12), state law (WAC 365-196-840 (6)(a)(i)), and the SRTC Congestion Management Plan (Appendix D) as ways to mitigate for poor level of service. Commonly used TDM strategies include a bus pass program, vanpooling, providing bus stop amenities, establishing a park and ride, walking improvements and biking improvements. TDM as an approach to mitigation is also supported by the City of Spokane Comprehensive Policy TR 2.2, TDM Strategies, which states: "Use Transportation Demand Management strategies to reduce the demand for automobile travel."

The applicant's TIA identifies implementation of a TDM program providing a minimum of 80 bus passes on a monthly basis to residents of Windhaven, and/or the implementation of other TDM Strategies as may be identified in conjunction with STA, as a mitigation to be addressed through a development agreement, should the Comprehensive Plan Amendment request be approved.

The SEPA MDNS proposes implementation of TDM strategies, as agreed to by the City and STA, that would specifically mitigate the 89 new PM peak trips that are added to Francis Avenue (from Alberta eastward) as a result of the additional density from the rezone. Specific TDM strategies to be implemented by the applicant would need to be identified and incorporated into a development agreement that would need to be a condition of the Comprehensive Plan amendment and zone change, should they be approved by City Council. Should the Plan Commission recommend approval of the requested Comprehensive Plan Amendment, this requirement should also be incorporated as a condition of such recommendation.

VI. COMPREHENSIVE PLAN AMENDMENT PROCESS GUIDING PRINCIPLES

SMC 17G.020.010 provides the following guiding principles for the annual comprehensive plan amendment process:

- 1. Keep the comprehensive plan alive and responsive to the community.
- 2. Provide for simultaneous review of proposals to allow for cumulative impact analysis of all applications on a City-wide basis and in conjunction with budget decisions.
- 3. Make map adjustments based on a foundation in policy language, consistently applying those concepts citywide.
- 4. Honor the community's long-term investment in the comprehensive plan, through public participation and neighborhood planning processes, by not making changes lightly.
- 5. Encourage development that will enable our whole community to prosper and reinforce our sense of place and feeling of community, in an ecologically, economically and socially sustainable manner.
- 6. The proposed changes must result in a net benefit to the general public.

VII. REVIEW CRITERIA

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

<u>A.</u> <u>Regulatory Changes</u>. 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.

<u>Staff Analysis</u>: Staff has reviewed and processed the proposed amendment in accordance with the most current regulations of the Growth Management Act, the Washington State Environmental Policy Act (SEPA), and the Spokane Municipal Code. Staff is unaware of any recent state or federal or local legislative actions with which the proposal would be in conflict.

<u>B.</u> <u>GMA</u>. The change must be consistent with the goals and purposes of the state Growth Management Act.

<u>Staff Analysis</u>: The "Legislative findings" included in the Revised Code of Washington pertaining to GMA essentially 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 details 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, "Planning Goals"), including the following goals that are relevant to this application:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) 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.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

The Growth Management Hearings Board for Eastern Washington has indicated that these goals are to guide the development and adoption of comprehensive plans and development regulations. The goals are all created equal with no priority set forth by the legislature and with no goal independently creating a substantive requirement. City of Wenatchee v. Chelan County, EWGMHB Case No. 08-1-0015, FDO at 25 (March 6, 2009). The Board recognized that this lack of priority becomes problematic when jurisdictions are faced with competing goals, and indicated that, although the GMA does not permit the elevation of a single goal to the detriment of other equally important GMA goals, the GMA does permit local legislative bodies to give varying degrees of emphasis to the goals so as to allow them to make decisions based on local needs in order to harmonize and balance the goals. Id.

GMA's goals guided the City's development of its comprehensive plan and development regulations. Application of the review criteria in Chapter 17G.020 SMC ensures that amendments to the comprehensive plan are also guided by and consistent with GMA's goals and purposes. The applicant has provided a discussion/analysis on this topic in their application materials which discusses all 13 goals and the proposal's relationship to each (reference **Exhibit A-1 and Exhibit A-3**).

<u>C.</u> <u>Financing</u>. 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.

Staff Analysis: The TIA indicates that increased traffic from the proposal would have impacts on North Indian Trail Road and specific intersections on Francis Avenue. The TIA proposes mitigations in order to address these transportation impacts that are likely to occur if this application is approved. The SEPA MDNS for the application incorporated the following mitigations in order to address those impacts:

- Mitigate capacity impacts to North Indian Trail Road via partial widening of Indian Trail Road that could be completed at the same time as the city's asphalt overlay scheduled for 2018. This widening project would provide two continuous southbound lanes from Barnes to Francis, and two continuous northbound lanes from Francis to Pacific Park. The cost for the partial widening is estimated to be at least \$820,000. The developer has proposed to pre-pay the impact fees that are estimated to be owed on the apartments, with the specific terms and timing of the applicant's funding requirements to be detailed in a development agreement that will need to be incorporated as a condition of the Comprehensive Plan amendment and zone change, should they be approved by City Council.
- Mitigate potential loss of capacity to intersections on West Francis Avenue by implementing a TDM strategy as agreed to by the City and STA, that would specifically mitigate the 89 new PM peak trips that would be added to Francis Avenue (from Alberta eastward) as a result of the additional

density contemplated by the application. Specific TDM strategies to be implemented by the developer will need to be identified and incorporated into a development agreement that will need to be a condition of the Comprehensive Plan amendment and zone change, should they be approved by City Council.

TDM mitigations regarding intersection operational issues reflect a cost to be borne by the applicant at the time of development or as an operating cost, should the application be approved, and therefore, would not be required to be reflected on the 6-year capital improvement plan, but rather, would be required as a condition of approval for any subsequent development applications.

The proposed widening of North Indian Trail is not reflected in the City's six-year capital improvement plan, as detailed in the City's 2017 – 2022 Six Year Comprehensive Street Program.). The North Indian Trail Widening Project is identified on the Impact Fee Projects lists contained in the Comprehensive Street Program¹, although this report also provides the context for the impact fee project list, stating:

"The City will be seeking additional funds from local, State and Federal sources since Impact Fees, in accordance with RCW 82.02.050, cannot pay for 100% of project costs. Impact Fee related projects will be placed in the Program once funding has been obtained. The list of Impact Fee Projects below indicates generally what timeframe the projects are intended to be constructed within, funding dependent."²

As indicated in the above excerpt, if the partial widening project is fully funded, the City Council could add it to the 6-year capital improvement program. Funding would need to be in place prior to the design of the overlay project (mid-2017), for the partial widening to be included in the grind and overlay project. If not completed in concert with the planned grind and overlay project, cost for the widening will be substantially higher than the estimated \$820,000. It should also be noted that, once the grind and overlay project is completed, this roadway section will be subject to the three-year pavement cut moratorium.

As it stands now, the partial widening project is not on the 6-year capital improvement plan. The MDNS acknowledges that the threshold determination does not address concurrency, and as per State law and SMC §17D.010.020, any subsequent development permit applications will require a concurrency determination.

The MDNS identifies a development agreement as a mechanism for addressing the terms of funding for the partial widening of North Indian Trail, as well as the previously identified TDM strategies. The development agreement could limit subsequent development on the subject property to that generating no more than 271 p.m. peak trips (the vested trip generation associated with the approved 286

¹ City of Spokane 2017 – 2022 Six Year Comprehensive Street Program, pg. 123.

² City of Spokane 2017 – 2022 Six Year Comprehensive Street Program, pg. 121.

single-family homes), until such time as the partial widening project for North Indian Trail is fully funded, and the project has officially been added to the City's six-year capital improvement plan.

<u>D.</u> <u>Funding Shortfall</u>. 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.

<u>Staff Analysis</u>: The applicant has offered to cover the entire cost of mitigating the transportation impacts identified in the TIA. Between the MDNS and a development agreement, it appears that development of the property can be conditioned to ensure that adequate transportation facilities are in place concurrent with development.

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.

Staff Analysis:

- 1. <u>Development Regulations</u>. This is a non-project proposal. Any future development on this site will be required to be consistent with the Development Regulations in effect at the time an application is submitted.
- 2. <u>Capital Facilities Program</u>. See discussion under Criteria C and D above.
- 3. <u>Neighborhood Planning Documents Adopted After 2001</u>. This application, if approved, would amend the results of the 2007 North Indian Trail Neighborhood Center planning process discussed in Section (III)(H) above (See **Exhibit S-4**, Ordinance C34154). While the Comprehensive Plan and the SMC do not offer specific guidance on when it is appropriate to undertake additional planning in a designated center, Chapter 11 of the Comprehensive Plan relating to Neighborhoods calls for consistency between neighborhood planning documents and the Comprehensive Plan(see Policy N 8.4), and the Land Use Chapter anticipates an inclusive process for determining the significant features of a neighborhood center, as reflected in several policies, including:
 - Policy LU 3.3, Planned Neighborhood Centers, provides:

"The exact location, boundaries, size, and mix of land uses in a potential neighborhood center should be determined through the neighborhood planning process.

• Policy LU 3.5, Mix of Uses in Centers, states in the discussion section:

"The ultimate mix of land uses and appropriate densities should be clarified in a site-specific planning process in order to address site-related issues such as community context, topography, infrastructure capacities, transit service frequency, and arterial street accessibility. Special care should be taken to respect the context of the site and the character of surrounding existing neighborhoods.

The North Indian Trail Neighborhood Council, the Five Mile Neighborhood Council, the South Indian Trail Neighborhood Council, and the Audubon-Downriver Neighborhood Council have all submitted letters stating their opposition to the application. Additionally, the Community Assembly has indicated its support for the neighborhoods' position on this application.

- 4. <u>Miscellaneous Comprehensive Plan Goals and Policies</u>. The applicant provided a discussion of the applicable Goals and Policies from the Comprehensive Plan which supports their request for the Land Use Plan Map Amendment (reference **Exhibit A-1**). Staff have compiled a group of relevant Comprehensive Plan Goals and Policies excerpted from the Comprehensive Plan, and contained in **Exhibit S-3** of this report.
- 5. <u>Centers and Corridors Policies</u>. The application seeks to amend the City's land use plan map and zoning map to allow for additional high density multi-family housing in proximity to the Indian Trail Neighborhood Center. In the materials submitted by the applicant in support of the proposal, the applicant contends that its proposal is consistent with the comprehensive plan, and particularly the plan's centers and corridors policies.

One of the principal goals of the comprehensive plan is the efficient use of land and resources (see Goal LU 3, Efficient Land Use). When the City adopted the comprehensive plan, it sought to achieve this goal by implementing a focused growth strategy known as "centers and corridors". The comprehensive plan identifies a variety of center types, including a "neighborhood center." The subject property is situated near the northwest corner of the North Indian Trail Neighborhood Center which is designated on the Land Use Plan Map LU1 as a "neighborhood center."

The comprehensive plan describes a Neighborhood Center (in LU 3.2, Centers and Corridors), as follows:

Neighborhood centers designated on the Land use Plan map have a greater intensity of development than the surrounding residential areas. Businesses primarily cater to neighborhood residents, such as convenience businesses and services....

The most dense housing should be focused in and around the neighborhood center. Density is high enough to enable frequent transit service to a neighborhood center and to sustain neighborhood businesses. Housing density should decrease as the distance from the neighborhood center increases....

The size and composition of neighborhood centers, including recreation areas, vary by neighborhood, depending upon location, access, neighborhood character, local desires, and market opportunities.... The size of the neighborhood center, including the higher density housing surrounding the center, should be approximately 15 to 25 square blocks.³ The density of housing should be about 32 units per acre in the core of the neighborhood center and may be up to 22 units per acre at the perimeter. (Emphasis provided.)

Several goals and policies in the comprehensive plan encourage new higher density residential uses to designated centers and corridors. In the introduction of Section 3.4 (Goals and Policies) of Chapter 3, Land Use, the comprehensive plan indicates that much of the City's future growth will occur within concentrated areas in neighborhood centers, district centers, employment center and corridors designated on the land use plan map, but indicates that established single-family residential neighborhoods will remain largely unchanged. Section 3.4 further provides that centers and corridors contain a mix of uses, including higher density housing. Higher density housing within and around the centers supports business in the center and allows for enhanced transit service between centers, along corridors and to the downtown area. Accordingly, Section 3.4 indicates that new higher density housing should be directed to centers and corridors.

Likewise, Policy LU 1.4, Higher Density Residential Uses, directs new higher density residential uses to centers and corridors designated on the land use map.

Higher density housing of various types is the critical component of a center. Without substantially increasing population in a center's immediate vicinity, there is insufficient market demand for goods and services at a level

³ See Section (VII)(K)(2)(a) herein below discussing size of the Indian Trail Neighborhood Center.

to sustain neighborhood-scale businesses. Higher density residential uses in centers range from multi-story condominiums and apartments in the middle to small-lot homes at the edge. Other possible housing types include townhouses, garden apartments, and housing over retail space.

To ensure that the market for higher density residential use is directed to centers, future higher density housing generally is limited in other area. The infill of Residential 15+ and Residential 15-30 residential designations located outside centers are confined to the boundaries of existing multi-family residential designations where the existing use of land is predominantly higher density residential. (Discussion excerpt LU 1.4 Higher Density Residential Uses)

Comprehensive Plan Policy LU 1.1, Neighborhoods, provides:

Many neighborhoods have a neighborhood center that is designated on the land use plan map. The neighborhood center, containing a mix of uses, is the most intensive activity area of the neighborhood. It includes higher density housing mixed with neighborhood-serving retail uses, transit stops, office space, and public or semi-public activities, such as parks, government buildings, and schools.

A variety of compatible housing types are allowed in a neighborhood. The housing assortment should include higher density residences developed in the form of small scale apartments, townhouses, duplexes, and rental units that are accessory to single-family homes, as well as detached single-family homes.

Other chapters of the Comprehensive Plan, such as Chapter 4 Transportation, provide policy support for intensification of land uses in centers, a selection of policy related to this discussion are listed in **Exhibit S-3**. See also, 6.4 Goals and Policies from Chapter 6 of the Comprehensive Plan (Housing), and specifically H 2.1 (Distribution of Housing Options) which encourages a wide range of housing types and housing diversity to meet the needs of a diverse population and ensure that this housing is available throughout the community for people of all income levels and special needs.

In support of their application, the applicants contend that their proposal is consistent with the foregoing policies, and also argue that land in and around the Indian Trail Neighborhood Center is underutilized for housing, and that land zoned to accommodate higher density housing has been developed in a relatively low-density pattern. See application and supporting materials.

Staff notes that based upon assessors' records, there is approximately 32 acres of undeveloped land with a zoning designation that would allow for multifamily development in and around the center. These parcels are in the zoning categories of RMF, Office and CC2-NC.⁴

In addition, applicants contend that there is need for additional multifamily housing in Spokane. Indeed, a July 5, 2016 article in the Spokesman Review provides support for their claim. That article indicates:

> Spokane's apartment vacancy rate is at a near-historic low of 1.3 percent, according to the Washington Center for Real Estate Research's report released this spring. A 5 percent vacancy rate is typical for a robust, healthy rental market, but Spokane's rate was last above 5 percent in March 2012, past reports show. . . .

> The roots of Spokane's rental shortage lie in the Great Recession, as well as demographic shifts that have increased the number of people looking for rentals.

http://www.spokesman.com/stories/2016/jul/05/renters-inthe-spokane-area-face-a-tight-market-hi/

As the foregoing policies and arguments indicate, there is support in the comprehensive plan for directing new multi-family housing to centers and for the idea that the most dense housing should be in and around designated centers. These polices, however, are tempered by other policies in the comprehensive plan that anticipate thoughtful planning around centers and corridors. For example, Policy LU 3.5, Mix of Uses in Centers, indicates:

> The ultimate mix of land uses and appropriate densities should be clarified in a site-specific planning process in order to address site-related issues such as community context, topography, infrastructure capacities, transit service frequency, and arterial street accessibility. Special care should be taken to respect the context of the site and the character of surrounding existing neighborhoods.

See also Chapter 11, Policy N 8.4 (consistency of plans in neighborhood planning process), which anticipates consistency between neighborhood planning documents and the comprehensive plan.

⁴ Reference Spokane County Assessor's records for parcels 26222.0005, 26222.0704, 26225.0152, 26225.0150, 26225.0149, and 26224.0104.

The foregoing comprehensive plan goals and policies, as well as those discussed in other sections of this report, encourage new higher density housing options in neighborhood centers. The goals and policies also suggest, however, that neighborhood centers, as well as higher density housing in centers, should be planned pursuant to an inclusive process, and should be scaled according to several criteria, including access, neighborhood character, and local desires. See e.g., section (VII)(K)(2)(a) herein below, discussing size of the Indian Trail Neighborhood Center.

<u>F.</u> <u>Regional Consistency</u>. 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.

<u>Staff Analysis</u>: No comments have been received from any agency, city department or neighboring jurisdiction which indicate that this proposal is not regionally consistent.

- <u>G.</u> <u>Cumulative Effect</u>. 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. <u>Land Use Impacts</u>. 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. <u>Grouping</u>. 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.

<u>Staff Analysis</u>: This application is being reviewed as part of the annual cycle of comprehensive plan amendments along with two other applications for Comprehensive Plan Amendments. The three applications under consideration are spread throughout the city and concern properties distant from and unconnected to any of the others under consideration. Each of the three applications lies in a different neighborhood and different City Council district. Each of the three is separated from the others by large swaths of pre-existing urban development. While all three applications concern proposed changes in land use and zoning, the conditions and exact modification(s) of land use and zoning are not likely to affect each other in any cumulative amount. As such, it appears that no cumulative effects are possible, nor do the potential for such effects need to be analyzed.

Potential impacts to the capital facilities program, neighborhood planning documents have been discussed previously in the report.

- H. SEPA. SEPA review must be completed on all amendment proposals.
 - 1. <u>Grouping</u>. 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. <u>DS</u>. 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).

<u>Staff Analysis</u>: The application has been reviewed in accordance with the State Environmental Policy Act (SEPA), which requires that the potential for adverse environmental impacts resulting from a proposal be evaluated during the decisionmaking 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, a Mitigated Determination of Non-Significance (MDNS) was issued on August 23, 2016; City of Spokane Planning, lead agency; Lisa D. Key, Planning Director, SEPA Responsible Official. The MDNS is attached as **Exhibit S-1**.

If the proposed Comprehensive Plan Amendment is recommended for approval, mitigations as identified in the MDNS will need to be incorporated as conditions of approval.

I. <u>Adequate Public Facilities</u>. 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.

<u>Staff Analysis</u>: All affected departments and outside agencies providing services to the subject properties have had an opportunity to comment on the proposal. City of Spokane Integrated Capital Management Department, City of Spokane Streets Department and WSDOT offered comments suggesting study of the proposal was necessary to determine if the increased density resulting from the proposed land use change would have the potential to 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. Their comments are attached as **Exhibits S-2**

Historically, there has been an interest in widening North Indian Trail Road. For example, the preliminary plat for McCaroll East (Decision on Remand from City Council File No 9400073PP/ZC/R) in 1996 discusses the need to improve North Indian Trail Road to four lanes (see Decision, General Conditions, #3) in order to provide the necessary infrastructure for anticipated increases in traffic. Indeed, many planning documents discuss the possibility of improvements to North Indian Trail Road through widening and improving the pedestrian and bicycle facilities.

The widening of North Indian Trail is not reflected in the City's six-year capital improvement plan, as detailed in the City's 2017 – 2022 Six Year Comprehensive Street Program, though it is identified on the Impact Fee Projects lists, as not fully funded and is contemplated in the unfunded portion of the Capital Facilities Plan as a future project.

As previously discussed, placing a limit on the density of development on the subject property, funding for the partial widening of North Indian Trail Road, implementation of TDM strategies to address congestion on West Francis Avenue, and concurrency requirements have been identified as potential mitigations/conditions of approval that are necessary to address the adequacy of public facilities.

It should be noted that the Bicycle Master Plan calls for additional bike lanes on North Indian Trail. Such improvements have not been entertained as part of the identified project mitigations, and funding is not in place to address such improvements. Topographic concerns and feasibility questions regarding the implementation of a bike lanes on North and West Indian Trail seem to suggest that a more practical solution may be a separated bike path on the west side of the street, to be shifted to N. Fotheringham Street via Excel Avenue at the southern end of Indian Trail. The applicant may wish to consider dedication of ROW adequate to support a 14 foot shared bike-pedestrian lane along property under their control in this corridor to address this requirement. Ultimately, the concurrency determination, and any specific site development impacts will need to be addressed at time of application for development, when actual site development is proposed, should this request be approved.

Additionally, while the applicant's TIA indicates that any future development on the subject property will only include pedestrian access onto Shawnee Avenue, that roadway is identified as a pedestrian/school route. There is no sidewalk on Shawnee Avenue between Moore and Indian Trail Road, which would also be the walk route to school and to the nearest STA stop.

<u>J.</u> <u>UGA</u>. 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.

<u>Staff Analysis</u>: The proposal does not involve amendment of the urban growth area boundary. Therefore, this criterion is not applicable to this proposal.

K. Consistent Amendments.

- 1. <u>Policy Adjustments</u>. 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; and/or
 - 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.

<u>Staff Analysis</u>: 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. <u>Map Changes</u>. 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.);

<u>Staff Analysis</u>: Policy LU 3.2 "Centers and Corridors", states: "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."

The discussion in this section is lengthy but suggests that higher density residential use in the center is an important component to the success of a neighborhood center. The opening sentences in the policy discussion state: "Suggested centers are designated where potential for center development exists. Final determination is subject to the neighborhood planning process".

The comprehensive plan's discussion regarding the neighborhood center designation describes a conceptual neighborhood center size. "The size of the neighborhood center, including the higher density housing surrounding the center, should be approximately 15 to 25 square blocks. The density of housing should be about 32 units per acre in the core of the neighborhood center and may be up to 22 units per acre at the perimeter."

Policy LU 4.5 Block Length provides: "Block lengths of approximately 250 to 350 feet on average are preferable, recognizing that environmental conditions (e.g., topography or rock outcroppings) might constrain these shorter block lengths in some areas."

Assuming block sizes for the purpose of this discussion are 350 feet by 350 feet (the upper limit of LU 4.5's suggested block size), the center area including the higher density zoning surrounding the center, should range from roughly 42 acres to roughly 70 acres.

The currently zoned CC2-NC in the North Indian Trail Neighborhood is 37 acres, with 61.55 acres of adjacent multifamily, and 24.56 acres of office. The subject property would add an additional 42.99 acres of RMF, and 3.87 acres of RTF in the vicinity of the neighborhood center. The combined area of the existing CC2-NC, RMF, and Office Zoning in the vicinity of the neighborhood center totals in excess of 123 acres.⁵ The area proposed for rezoning to RMF by this application would bring the total area of the neighborhood center, including the higher density zoning, to over 165 acres, or roughly 236% of the recommended size for a 25-block neighborhood center. It should be noted, however, that the Comprehensive Plan Policies LU 3.2 and 3.5 indicate that the size and mix of land use in a center should be determined through a site-specific neighborhood planning process.

⁵ This represents an estimated 175% of the recommended size for a 25 block neighborhood center.

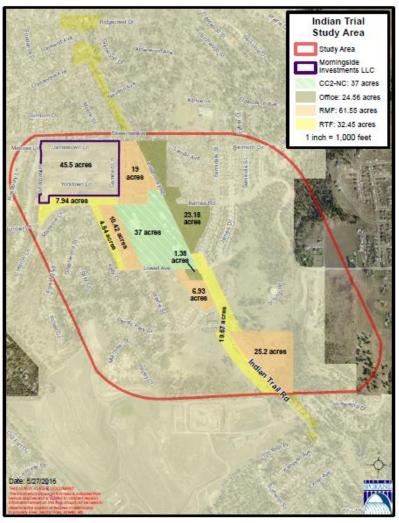


Illustration of Surrounding Zoning with Acreage Estimates

Additional discussion regarding Comprehensive Plan location criteria, including center and corridor location and planning criteria, and consistency with neighborhood plans were previously discussed in paragraphs E(3) and E(5) of this section.

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

<u>Staff Analysis</u>: As indicated previously, the subject property is presently zoned and developed for single-family residential use, and is located adjacent to the northwest corner of the Indian Trail Neighborhood Center. Section 3.4 (Goals and Policies) of the Comprehensive Plan Chapter 3 indicates that much of the City's future growth will occur within concentrated areas in centers, including neighborhood centers, but also indicates that established single-family residential neighborhoods will remain largely unchanged. As discussed previously, the Comprehensive Plan anticipates that centers and corridors will contain a mix of uses, including higher density housing. Higher density housing within and around the centers supports business in the center and allows for enhanced transit service between centers, along corridors and to the downtown area. Accordingly, Comprehensive Plan Chapter 3, Section 3.4 indicates that new higher density housing should be directed to centers and corridors.

Excerpts from the Discussion in policy LU 1.1 Neighborhoods:

Many neighborhoods have a neighborhood center that is designated on the land use plan map. The neighborhood center, containing a mix of uses, is the most intensive activity area of the neighborhood. It includes higher density housing mixed with neighborhood-serving retail uses, transit stops, office space, and public or semi-public activities, such as parks, government buildings, and schools.

A variety of compatible housing types are allowed in a neighborhood. The housing assortment should include higher density residences developed in the form of small scale apartments, townhouses, duplexes, and rental units that are accessory to single-family homes, as well as detached single-family homes.

The foregoing passages and Comprehensive Plan policies, as well as those discussed in previous sections, express support for accommodating high density housing in neighborhood centers, but indicate that neighborhood centers, as well as higher density housing in and around the center, should be scaled according to several criteria, including access, neighborhood character, and local desires.

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

<u>Staff Analysis</u>: As indicated above, a fundamental goal of the Comprehensive Plan is the efficient use of land and resources. The Comprehensive Plan seeks to implement this objective with a focused growth strategy known as "centers and corridors". As discussed above, the subject property is situated near the northwest corner of the North Indian Trail Neighborhood Center which is designated on the Land Use Plan Map LU1 as a "neighborhood center". The Comprehensive Plan expresses strong support for accommodating high density housing in and around neighborhood centers. The Plan also expresses support for neighborhood planning, and indicates that neighborhood centers, as well as higher density housing in the center, should be scaled according to several criterial, including access, neighborhood character, and local desires. 3. <u>Rezones, Land Use Plan Map Amendment.</u> 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.

<u>Staff Analysis</u>: If the land use plan map amendment is approved, the zoning designation of the parcels will change from RSF (Residential Single Family) to RTF (Residential Two Family) and RMF (Residential Multi Family). No policy language changes have been identified as necessary to support the proposed land use plan map amendment.

- L. Inconsistent Amendments.
 - 1. <u>Review Cycle</u>. 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.

<u>Staff Analysis</u>: The City of Spokane uses a method of "consistent" and "inconsistent" annual review with "inconsistent" proposals being allowed to be reviewed every other year. This request is being considered under a consistent review cycle. Any inconsistencies with the Comprehensive Plan have emerged during analysis.

- 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.

<u>Staff Analysis</u>: This is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criterion above does not appear to be applicable to this application.

3. <u>Overall Consistency</u>. 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.

<u>Staff Analysis</u>: This is not being reviewed as an inconsistent Comprehensive Plan Land Use Map Plan amendment request. As such, the criterion above does not appear to be applicable to this application.

If the Plan Commission were to find that the proposal is an "inconsistent amendment", they would need to determine if they had enough information to reach a decision, based upon the criteria detailed in paragraphs 2 and 3, above. If not, they could recommend denial of the application (as per SMC 17G.020.060 (M)(2).

VIII. DRAFT FINDINGS OF FACT

- <u>A.</u> The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- <u>B.</u> The City of Spokane adopted a Comprehensive Plan in May of 2001, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- <u>C.</u> Under GMA, comprehensive plans generally may be amended no more frequently than once per year. All amendment proposals must be considered concurrently, in order to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations.
- <u>D.</u> Comprehensive Plan amendment application Z1500084 (reference **Exhibit A-1**) was submitted by October 31, 2015 deadline for Plan Commission review during the 2015/2016 amendment cycle.

- <u>E.</u> The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan to change the land use designation on 45.5 acres of 49.48 acres within the Windhaven First Addition PUD (the "Subject Property"). The applicant proposes amending 41.63 acres of "Residential 4 10" to "Residential 15 30", and 3.87 acres of "Residential 4 10" to "Residential 10 20".
- F. The subject property includes all parcels and tracts within the Windhaven First Addition PUD, except Lots 1 8, Block 4, Lots 1 13, Block 5, and Lots 1 5, Block 6. The Windhaven First Addition PUD was final platted in 2006, with private roads and utilities constructed, but no further development has taken place since the time of final plat.
- <u>G.</u> The subject property is located near the northwest corner of the Indian Trail Neighborhood Center.
- <u>H.</u> The core of the Indian Trail Neighborhood Center consists of approximately 37 acres with an adjacent 61.55 acres of zoned for multifamily residential use, and 24.56 acres zoned for office use (which also allow high density residential use). Combined, this makes up an approximately 123 acres. If this application is approved, the subject property would add an additional 41.63 acres of RMF, and 3.87 acres of RTF in the vicinity of the neighborhood center.
- I. At the conclusion of an abbreviated neighborhood center planning process, in 2007, the City Council adopted Ordinance C34154, amending the City's Comprehensive Plan Land Use Plan Map and Official Zoning Map per the ""North Indian Trail Neighborhood Center Land Use Plan Map Proposal." The Subject Property was zoned RSF as part of that abbreviated neighborhood center planning process.
- <u>J.</u> The subject property is accessed via W. Barnes Road, a local street, with secondary access from W. Shawnee Avenue, also a local street. Both local streets feed onto N. Indian Trail Road, which is classified as a minor arterial.
- <u>K.</u> The requested implementing zoning designation is Residential Multifamily on the area designated as "Residential 15-30", and Residential Two-Family on the area designated as "Residential 10-20".
- L. Staff requested comments from agencies and departments on December 9, 2015. Comments received are summarized in **Exhibit S-2**.
- <u>M.</u> A Traffic Impact Analysis (TIA) was requested by City of Spokane Streets Department staff on December 10, 2015. A draft of the TIA was submitted to the City dated May 2016, with the final report issued on July 11, 2016 (reference **Exhibit A-5**).
- <u>N.</u> A public comment period was originally set to run from May 10, 2016, to July 11, 2016 to provide a 60-day comment period. Due to the date of submittal of the final TIA by the applicant, the public comment periods was extended to July 25, 2016. Comments received from the public through July 25, 2016 are summarized in Exhibit P-1. The entire text of public comments is on file.

- <u>O.</u> The Indian Trail Neighborhood Council received a presentation from the applicant's traffic engineer on May 28, 2016, and a presentation by the applicant at their June 16, 2016 meeting.
- <u>P.</u> The Community Assembly received a presentation regarding the proposed 2015/2016 Comprehensive Plan amendment applications at their June 2, 2016 meeting.
- <u>Q.</u> The Spokane Plan Commission held substantive workshops to study the requested amendment on June 8, 2016, and June 22, 2016.
- <u>R.</u> A Mitigated Determination of Non-Significance (MDNS) was issued on August 23, 2016 by City of Spokane Planning; Lisa Key, Planning Director, SEPA Responsible Official. (reference **Exhibit S-1**)) The public appeal period for the SEPA determination ends at 5pm on September 13, 2016.
- <u>S.</u> On August 26, 2016, the Washington State Department of Commerce and appropriate state agencies were given the 60-day notice before adoption of any proposed changes to the Comprehensive Plan.
- <u>T.</u> Notice of the Public Hearing and Mitigated Determination of Non-significance for the proposed Comprehensive Plan Land Use Map amendment, was published in the Spokesman Review on August 30, and September 6, 2016 and the Official City Gazette on August 31, September 7, and September 14, 2016.
- <u>U.</u> Notice of Public Hearing and SEPA Determination was posted on the subject property and mailed to all property owners and tax payers of record, as shown by the most recent Spokane County Assessor's record, and occupants of addresses of property located within a 400 foot radius of any portion of the boundary of the subject property on August 30, 2016.
- <u>V.</u> The staff report provided an analysis of all the decision criteria for approval a Comprehensive Plan amendment as prescribed by SMC 17.G.020, Comprehensive Plan Amendment Procedure.
- <u>W.</u> The Plan Commission held a public hearing on the requested amendment on September 14, 2016 with continuation on September 21, 2016.
- X. 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 opportunity to comment.

Additional findings of fact may be added by the Plan Commission during deliberations, based upon new information that may be introduced into the record through the course of the hearing proceedings.

IX. DRAFT CONCLUSIONS:

Based upon the application materials, technical studies, staff analysis, SEPA review, agency and public comments received, and public testimony presented regarding the requested Comprehensive Plan Amendment application File No. Z1500084, the Plan Commission will need to address the following conclusions with respect to the review

criteria, as detailed in SMC 17G.020.030, and the decision criteria, as detailed in SMC 17G.020.060(M) in their deliberations:

- 1. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.
- 2. The proposed change **IS / IS NOT** consistent with the goals and purposes of the state Growth Management Act.
- Infrastructure implications of the proposed comprehensive plan amendment IS / IS NOT reflected in the relevant six-year capital improvement plan(s) approved in the same budget cycle.
- 4. Mitigations for the proposed amendment **DO/ DO NOT** result in a potential funding shortfall that suggests the need to scale back on land use objectives and/or service level standards, such a decision **HAS /HAS NOT** been made with public input as part the requested comprehensive plan amendment, along with corresponding changes proposed to the capital facilities program.
- 5. The proposed amendment **IS / IS NOT** internally consistent with development regulations, capital facilities program, shoreline master program, the 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.
- 6. The proposed amendment to the comprehensive plan **IS / IS NOT** 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.
- 7. The 2015/2016 proposed Comprehensive Plan amendments **HAVE / HAVE NOT** been reviewed 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.
- Adverse environmental impacts association with this proposed amendment HAVE
 / HAVE NOT been identified. If adverse environmental impacts have been identified, adequate mitigation measures HAVE / HAVE NOT been identified as requirements for incorporation into a decision on the proposed amendment.
- 9. A SEPA review **HAS / HAS NOT** been completed on the requested amendment.
- 10. The proposed amendment **DOES / DOES NOT** adversely affect the City's ability to provide the full range of urban public facilities and services citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

- 11. The proposed land use designation **IS / IS NOT** in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.).
- 12. The proposed map amendment and site **ARE / ARE NOT** suitable for the proposed designation.
- 13. The map amendment **DOES / DOES NOT** implement applicable comprehensive plan policies better than the current map designation.
- 14. The proposed amendment **IS / IS NOT** consistent with the Comprehensive Plan policies.
- 15. The applicant **HAS / HAS NOT** presented enough evidence to justify the need for the proposed change to the Comprehensive Plan.
- 16. The proposed change to the Comprehensive Plan **IS / IS NOT** more effectively or appropriately addressed through another aspect of the planning department's work program (neighborhood planning, writing new regulations, etc.).
- 17. The Plan Commission **DID / DID NOT** receive enough information from the applicant to be able to reach a decision based on the merits of the proposal.

X. PLAN COMMISSION RECOMMENDATION:

Following the close of public testimony and deliberations regarding conclusions with respect to the review criteria and decision criteria detailed in SMC 17G.020, Plan Commission will need to make a recommendation to City Council for approval or denial of the requested amendment to the Land Use Plan Map of the City's Comprehensive Plan.

If the Plan Commission favors approval of the Comprehensive Plan amendment and zone change, in order to incorporate the terms of the MDSN, the following conditions are recommended:

The Plan Commission recommends that any subsequent decision by City Council to approve the requested Comprehensive Plan and zone change incorporate the following conditions of approval, at a minimum:

- A. The applicant shall enter into a development agreement with the City that limits any subsequent development on the entirety of the 49.5 acres of Windhaven First Addition PUD to a maximum of 750 dwelling units, as detailed in the amended application and SEPA checklist.
- B. The applicant shall enter into a development agreement with the City that provides funding adequate to allow for the partial widening of North Indian Trail concurrently with the scheduled 2018 City grind and overlay project.
- C. The applicant shall enter into a development agreement with the City requiring the implementation of specific TDM strategies, as agreed to by the City and STA, that would mitigate the 89 new PM peak trips that are added to Francis Avenue (from Alberta eastward) as a result of the additional density from the rezone.

- D. All future development permit applications shall require a concurrency determination.
- E. Future development on the subject property shall be limited to allowed uses generating no more than 271 vested PM peak trips, until such time as the partial widening of North Indian Trail Road is fully funded and included on the City's six-year capital improvement plan.

Additionally, the Plan Commission may add additional conditions of approval, as may be identified in deliberations as necessary or appropriate to address review criteria, decision criteria, or neighborhood compatibility concerns.

XI. LIST OF EXHIBITS

Exhibit Description

- A-1 Application Materials
- A-2 SEPA Checklist
- **A-3** Additional submittal July 16, 2016 by applicant
- A-4 Washington Apartment Market Survey Spring 2016
- A-5 Traffic Impact Analysis, July 2016, Morrison Maierle, Inc.
- P-1 Summary of Public Comment through July 25, 2016
- P-2 Letters from Neighborhood Councils and Community Assembly (through August 26, 2016)
- **S-1** SEPA MDNS, August 23, 2016
- **S-2** Agency & Interested City Department Comments
- **S-3** Comprehensive Plan Policy, policies cited in full for reference
- S-4 North Indian Trail Land Use Changes, 2007, City of Spokane ORD C34154



ORD C35449 Exhibits (General application and attachments) are available for viewing at the following link:

https://my.spokanecity.org/projects/morningsideinvestments-llc-comprehensive-plan-amendment/

In addition the Exhibits are available for viewing at the City Clerk's Office – 5th Floor, City Hall (<u>clerks@spokanecity.org</u> or 509.625.6350) and/or copies will be made available upon request.