

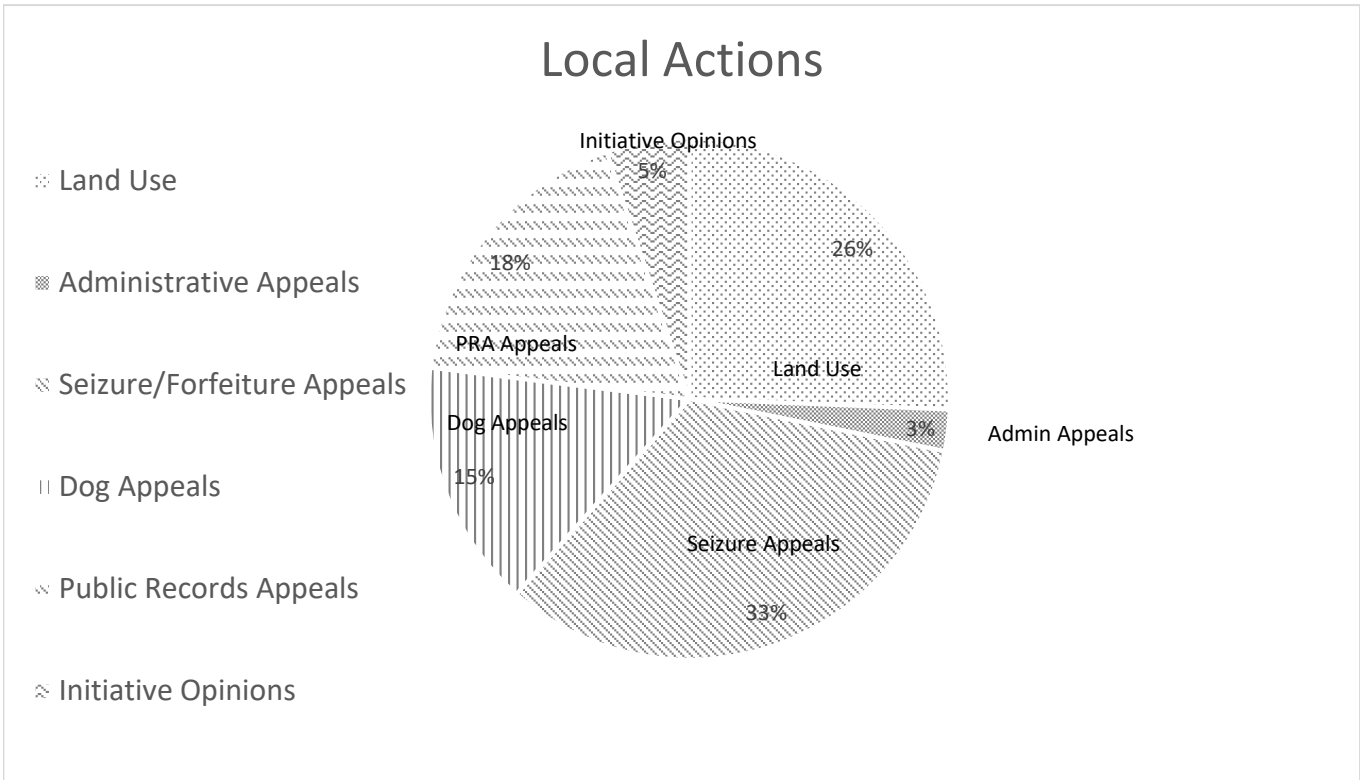
City of Spokane
Office of the Hearing Examiner
2019 Annual Report

Brian T. McGinn
Hearing Examiner

2019 Summary

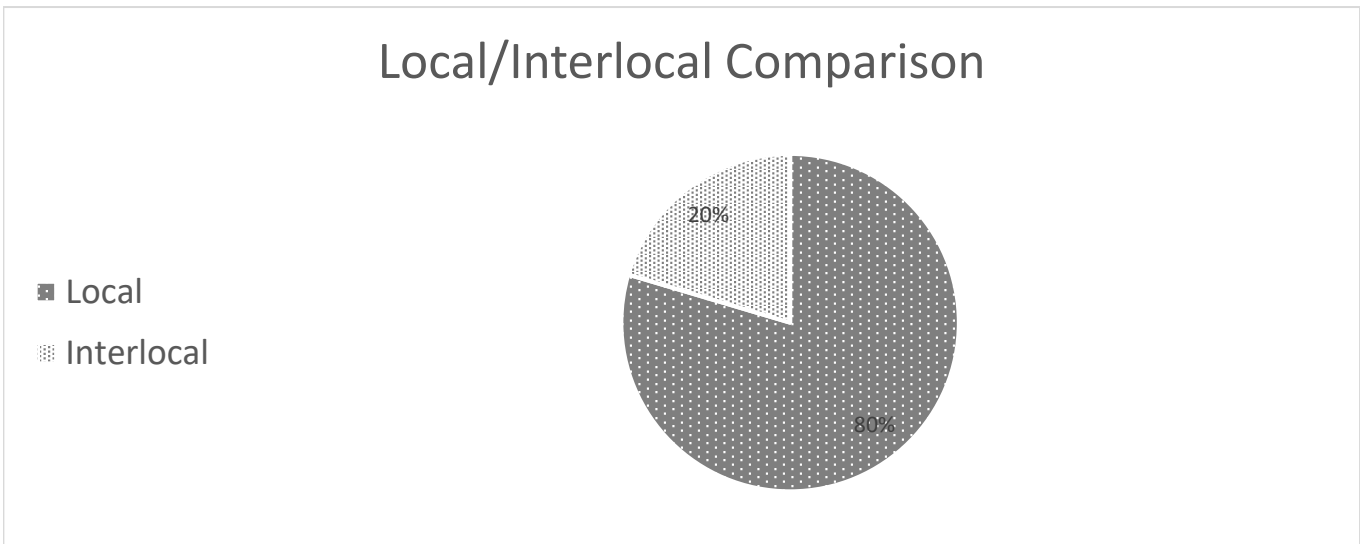
Local Actions Requiring Hearings	30
Land Use	10
Administrative Appeals	1
Seizure/Forfeiture Appeals	13
Dog Appeals	6

Local Actions Not Requiring Hearings	9
Public Records Appeals	7
Initiative Opinions	2
Total Local Actions	39



Interlocal Hearings	10
Airway Heights	1
Cheney	0
Chewelah	0
Liberty Lake	0
Millwood	1
Spokane Valley	6
Spokane County	2

Total Local and Interlocal Actions	49
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Five-Year Trends

Local Actions Requiring Hearings

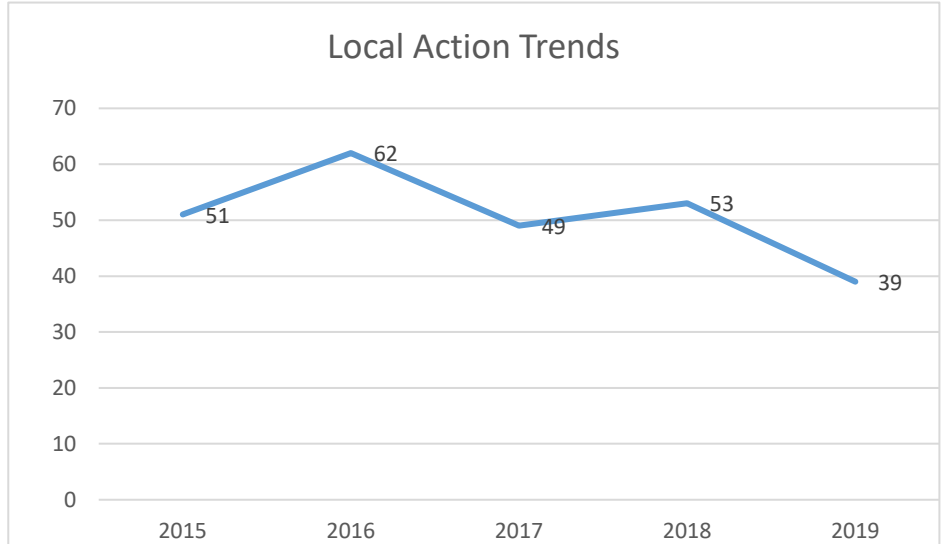
2015	37
2016	47
2017	35
2018	49
2019	30

Local Actions Not Requiring Hearings

2015	14
2016	15
2017	14
2018	4
2019	9

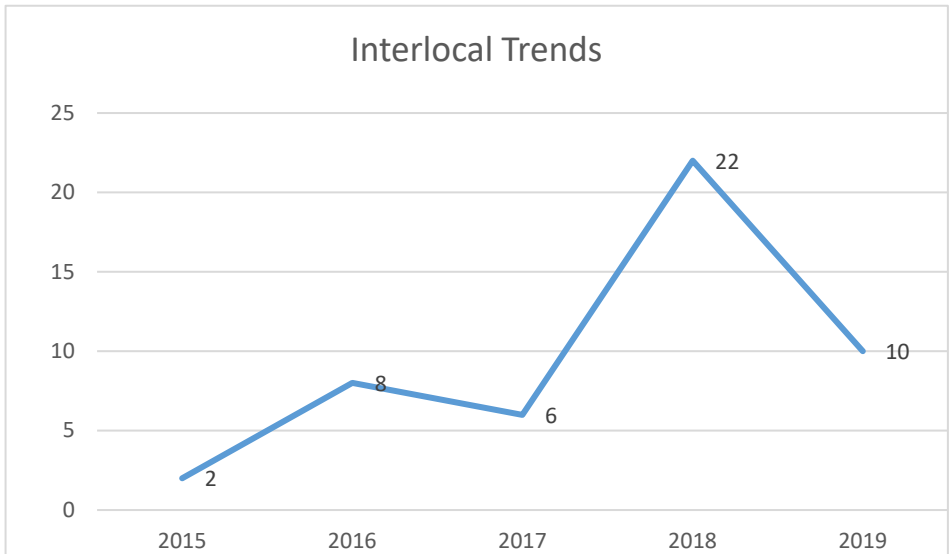
Total Local Actions by Year

2015	51
2016	62
2017	49
2018	53
2019	39



Interlocal Actions by Year

2015	2
2016	8
2017	6
2018 ***	22
2019	10



Note:

*** The significant increase in interlocal actions in 2018 is a result of covering Spokane County hearings after Mike Dempsey retired at the end of 2017 and before Dave Hubert started in February 2018. This coverage accounts for 3 hearings in early 2018. In addition, we covered 2 Spokane Valley hearings for Dave Hubert as a result of a conflict of interest with a significant developer in Spokane Valley. Because of this conflict, we entered into an interlocal with Spokane Valley in 2019. We also covered 6 hearings for Mr. Hubert in September and November due to international travel and a death in the family.

**CITY OF SPOKANE HEARING EXAMINER
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LAND USE

Hearing Date	File Number	Description	Decision
1/24/2019	Z180835PPLT	Appletree Court, LLC sought a preliminary plat to subdivide 8 vacant lots into 13 lots for residential single-family homes in a portion of a previously approved PUD - Waterford at Grapetree. The replat would create four additional single-family lots resulting in 64 total lots in the total PUD in a Residential Single-Family (RSF) zone the hearing was continued from December 13, 2018, due to applicant noticing deficiencies.	Approved w/ Conditions
1/24/2019	Z180901CUP3	Riverview Retirement Duplexes sought a conditional use permit (CUP) for construction of three, one-story, 3,700 sq. ft. duplexes, which are a part of the expansion to the existing Riverview Retirement Center community. Together the duplexes will house up to 36 memory care residents. The project is located in the Residential Multi-Family (RMF) zone.	Approved w/ Conditions
2/14/2019	Z180951CUP3	The City of Spokane Engineering Services sought a CUP for a basic utility (Booster Station) in an RSF zone in order to construct a new 3,200 sq. ft. (40 ft. x 80 ft.) concrete masonry booster station and necessary piping, electrical, and landscape restoration.	Approved w/ Conditions
2/21/2019	Z180920SCUP	The Guild School sought a shoreline conditional use permit (SCUP) for the construction of a 52,000 sq. ft. child development center. Five of the six buildings on site will be removed. The property to be developed is located within the 200-ft. shoreline jurisdiction in the RMF zone.	Approved w/ Revised Conditions Hearing conducted by pro tem (Spokane County Hearing Examiner)
3/7/2019	Z190001CUP3	Conditional Use Permit and Variance Applications by the City of Spokane Engineering Services to construct a water tower at 2105 E. 32nd Avenue.	Approved w/ Conditions
4/11/2019	Z190008SCUP	Shoreline Conditional Use Permit (SCUP) Application by the City of Spokane Department of Engineering Services for the construction of a stormwater treatment swale, a buried stormwater storage tank, and associated pipes and pumps, adjacent to the Spokane River, along N. Erie Street.	Approved w/ Conditions

**CITY OF SPOKANE HEARING EXAMINER
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LAND USE

Hearing Date	File Number	Description	Decision
4/11/2019	Z190085CUP3	Conditional Use Permit Application by the Martin Luther King Jr. Outreach Center for an expansion of an existing community service use in a Residential Two Family zone.	Approved w/ Conditions
5/2/2019	Z160985SCUP	Preliminary Plat, Planned Unit Development, and Shoreline Conditional Use Permit to subdivide 48 acres into 94 single-family lots on property located at 3515 S. Inland Empire Road - Deep Pine Overlook.	Approved w/ Conditions
5/23/2019	Z190083CUP3	Conditional Use Permit for a change of use of a nonconforming structure under 17C.210.060. The building was historically used in conjunction with the City of Spokane's fleet services operations, which was classified as an Industrial Service use, was a nonconforming use in the OR-150 zone. The applicant proposed to change the use of the building to another use in the Industrial Use Category.	Approved w/ Conditions
11/7/2019	Z190382CUP3	Conditional Use Permit Application for the expansion of a mini-storage site from 7 acres to 16 acres in the Light Industrial zone	Approved w/ Conditions

**CITY OF SPOKANE HEARING EXAMINER
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ADMINISTRATIVE APPEALS

Hearing Date	File Number	Description	Decision
11/21/2019	P1905549TREE	Appeal by Brenda Strange of the City of Spokane Urban Forestry Department's decision, dated September 18, 2019, denying a permit for the removal of a tree located within the right-of-way abutting 204 W. 17 th Avenue	Appeal denied

**CITY OF SPOKANE HEARING EXAMINER
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ADMINISTRATIVE APPEALS/RECONSIDERATIONS ON REDACTION OF RECORDS

Decision Date	File Number	Description	Decision
1/8/2019	C000-00-111218	Joshua Duke appealed the City Clerk's decision to redact information from The Spokane Police Department Defensive Tactics Manual.	The Hearing Examiner concluded that the redaction of the records was justified.
1/23/2019	PRR A00808 & A01281	Asher Becker submitted an appeal of the City Clerk's decision to redact names of those parties involved in an investigation.	The Hearing Examiner concluded that the redaction of the records was justified.
3/8/2019	C000741-100218	Brianne Howe submitted an appeal of the City Clerk's decision to exempt certain documents related to a bullying/harassment complaint filed by her.	The Hearing Examiner concluded that the documents at issue were properly withheld.
NA Appeal Withdrawn	C000370-040519	Brian Breen submitted an appeal of the Spokane Police Department's decision to redact names related to report made by SPD Lt. David Staben to Capt. Brad Arleth on 07/27/17 regarding allegations that PACT was violating civil rights.	Withdrawn by Appellant
12/30/2019	P003539-082219 C000323-032719 C000324-032719 P004171-100819 P004170-100819	David Turplesmith, Attorney at Law, submitted an appeal on behalf of the "Family and Estate of David Novak" of the redaction of body camera footage related to the death of David Novak.	The Hearing Examiner concluded that the family and estate of Mr. Novak was entitled to unredacted copies of any information that was directly related to Mr. Novak. Redactions of information related to individuals other than Mr. Novak were affirmed.

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ADMINISTRATIVE APPEALS/RECONSIDERATIONS ON REDACTION OF RECORDS

NA Appeal Withdrawn	C000794-071219	Brian Breen submitted an appeal of the Spokane Police Department's (SPD's) decision to redact the contents of the email interaction between SPD Officer Shane Oien and Spokane County Deputy Prosecuting Attorney Treppiedi on April 15, 2019.	Withdrawn by Appellant
NA Appeal Withdrawn	P004603-110719	Jared Brown, Spokesman Review, submitted an appeal of the redaction of photographs related to arrest of Shane Wilson by officers Erickson, Christensen, and Arrendondo	Withdrawn by Appellant

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INITIATIVE OPINIONS

Opinion Date	Initiative Number	Description	Opinion
4/23/2019	2019-1	Michael Cathcart, Better Spokane, filed a proposed initiative to amend the Charter of the City of Spokane (the "Charter") to require all collective bargaining negotiations to be open to public observation, requiring public notification of such meetings pursuant to the Washington Open Public Meetings Act, providing that bargaining-related documents exchanged between the parties be posted to the City's website in a timely manner, and requiring that all completed contracts be available for public review on the City's website.	The proposed measure is the proper subject of an initiative. The proposal does not run afoul of any of the threshold questions under Washington's initiative law. The proposed measure is subject to legal challenge on the grounds that Section 40(A) of the initiative conflicts with the Public Employees Collective Bargaining Act ("PECBA").
4/23/2019	2019-2	Michael Cathcart, Better Spokane, filed a proposed initiative to amend the Charter of the City of Spokane (the "Charter") to prohibit the City of Spokane from imposing an income tax on wages, salaries, investments, the sale of goods or services, or any other income source.	The proposed measure is the proper subject of an initiative. The proposal does not run afoul of any of the threshold questions under Washington's initiative law. Absent some specific legal limitation, direct legislation may be utilized to adopt any law in furtherance of the public health, safety, and welfare. Thus, the initiative process may be used to adopt new tax policy, including by Charter amendment. Finally, the proposed measure does not undermine or infringe upon any exclusive authority vested in city government.

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SCRAPS

Hearing Date	File Number	Description	Decision
1/29/2019	2019-0008	Jacob Bowles appealed a dangerous dog determination regarding his female German Shepherd who, without provocation, attacked and bit a neighbor's dog causing severe injury that resulted in the victim dog's death.	Upheld SCRAPS determination
3/14/2019	2018-0257	David and Katrina Athos appealed a dangerous dog determination regarding their male black Labrador mix who, without provocation, attacked and killed several of a neighbor's chickens.	Upheld SCRAPS determination
5/28/2019	2019-0266	Amanda Cross appealed a dangerous dog determination regarding her red, male German Shepherd who, without provocation, attacked and bit a neighbor's dog causing severe injury.	Upheld SCRAPS determination
5/30/2019	2019-0262	Jerry and Donna Kiefel appealed a potentially dangerous dog determination regarding their blue merle, neutered male Australian Shepherd who, while off leash at a public park and without provocation, chased and bit a cyclist.	Upheld SCRAPS determination
6/13/2019	2019-0374	Mercedes Buffin appealed a dangerous dog determination regarding her brown and white, male Pitbull who, with another female Pitbull (now euthenized), without provocation, attacked and killed a neighbor's dog.	Upheld SCRAPS determination
8/6/2019	2019-0518	Donovan Johnson appealed a dangerous dog determination regarding his black and white, female Akita who, while of its property and without provocation, attacked and killed another dog.	Upheld SCRAPS determination

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FORFEITURE APPEALS

Hearing Date	File Number	Description	Decision
2/21/2019	18-091	Niccole Armour submitted a claim to ownership of a Samsung cell phone and \$386.00 in U.S. Currency seized by the Spokane Police Department (SPD) under UCSA as being used to facilitate or the proceeds from trafficking in illicit drugs.	The seizure was upheld by default as the claimant failed to appear. Hearing conducted by pro tem (Spokane County Hearing Examiner).
2/28/2019	18-024	James Thomas submitted a claim to ownership of a White 2001 Ford F350, WA-B52177Z, VIN: 1FTSW31L71EB46210 seized by the SPD under UCSA as being used to facilitate the commission of a felony (arson).	The claimant's claim to the property was sustained and the property returned to him.
3/21/2019	18-095	Tanner Edwards submitted a claim to ownership to a number of items seized by the SPD under UCSA as being used to facilitate or the proceeds from trafficking in illicit drugs.	The seizure was upheld by default as the claimant failed to appear.
4/25/2019	18-100	Kevin Smith submitted a claim to ownership of \$2185.00 in U.S. Currency seized by SPD under UCSA as being used to facilitate or the proceeds from trafficking in illicit drugs.	The seizure was upheld and the property forfeited to SPD.
9/5/2019	19-038	Joshua Eubanks submitted a claim to ownership of \$749.54 in U.S. Currency seized by SPD under UCSA as being used to facilitate or the proceeds from trafficking in illicit drugs.	The seizure was upheld by default as the claimant failed to appear.
9/12/2019	19-036	David Middleton submitted a claim to ownership of a Gray 2002 BMW 540 seized by the SPD under UCSA as being used to facilitate or the proceeds from trafficking in illicit drugs.	The seizure was upheld by default as the claimant failed to appear.

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FORFEITURE APPEALS

Hearing Date	File Number	Description	Decision
10/24/2019	19-042 19-046 19-058	James Ethrington submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the the proceeds from trafficking in illicit drugs. 2003 Silver Dodge Ram 1500 (Seizure No. 19-046) was also claimed by Thomas J. Jones (see below). 2007 Silver Audi S4 (Seizure No. 19-058) was also claimed by Gabriel Eyer (see below).	Continued to 1/23/20
10/24/2019	19-045 19-046 19-056	Thomas J. Jones submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the the proceeds from trafficking in illicit drugs. 2003 Silver Dodge Ram 1500 (Seizure No. 19-046) was also claimed by James Ethrington (see above).	Continued to 1/23/20
10/24/2019	19-058	Gabriel Eyer submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the the proceeds from trafficking in illicit drugs. 2007 Silver Audi S4 (Seizure No. 19-058) was also claimed by James Ethrington (see above).	Continued to 1/23/20
12/5/2019	19-037	Tyler Michels submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the proceeds from trafficking in illicit drugs. Delaney Reynolds also submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the proceeds from trafficking in illicit drugs. Several items were claimed by both claimants. Namely \$32,350.00 U.S. Currency and 25 gold and silver coins.	Continued to 3/12/20
12/12/2019	19-049	Tyrone Pier submitted a claim to ownership of several items seized by the SPD under USCA as being used to facilitate or the proceeds from trafficking in illicit drugs.	Continued to 3/5/20
12/19/2019	19-053	Eric Benzo submitted a claim to ownership of a 2007 Dodge Ram truck seized by the SPD under RCW 10.105.101. The truck was also claimed by B&P Auto Sales (see below).	Decision will be rendered in 2020
12/19/2019	19-053	B&P Auto Sales submitted a claim to ownership of a 2007 Dodge Ram truck seized from Eric Benzo by the SPD under RCW 10.105.101. The truck was also claimed by Eric Benzo (see above).	Decision will be rendered in 2020

**CITY OF SPOKANE HEARING EXAMINER
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OTHER JURISDICTIONS

Hearing Date	File Number	Jurisdiction	Description	Decision
1/16/2019	PE-2061-18/ PUDE-01-18	Spokane County	Preliminary Plat of Adams & 28th to divide 9.81 acres into 75 lots for single-family, duplex, and row house residences in the LDR zone with a PUD overlay zone and a request for bonus density.	Approved w/ Revised Conditions
3/6/2019	SUB-2018-0008	Spokane Valley	Preliminary plat application by Skyline Homes LLC to subdivide 5.17 acres into 14 residential lots in an R-3 zone.	Approved w/ Conditions
3/27/2019	SUB-2018-0007	Spokane Valley	Preliminary Plat of 12th & Best to subdivide 8.66 acres into 43 residential lots in an R-3 zone.	Approved w/ Conditions
3/27/2019	PW-2073-18	Spokane County	Preliminary Plat of West Terrace 5th-3rd Addition to divide 18.66 acres into 52 lots for single-family residences in the LDR zone.	Approved w/ Revised Conditions
5/15/2019	SUB-2019-0001	Spokane Valley	Preliminary Plat of Plante's Ferry Place to subdivide Lot 9 of SHP-2018-0006 into five residential lots on 0.77 of an acre.	Approved w/ Conditions
5/22/2019	APP-2019-0001	Spokane Valley	Appeal by Barbara Howard of the City of Spokane Valley administrative code enforcement determination for PRO-2019-0004	Appeal denied
9/18/2019	LUA 2019--0008	Airway Heights	Conditional Use Permit to change the use of existing structures from commercial uses to church services, on property located in the General Commercial (C-2) zone	Approved w/ Revised Conditions
10/1/2019	VAR-01-19	Millwood	Variance Application by Kodiak General Contracting to allow construction of either a multi-family development with reduced frontage, or a commercial warehouse/ contractor's office and storage facility without direct access to Trent Avenue, on property located in the C-1 zone.	Variance for reduced frontage for a multi- family development approved with conditions. Variance for warehouse without direct access to Trent Avenue denied.

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OTHER JURISDICTIONS

Hearing Date	File Number	Jurisdiction	Description	Decision
10/30/2019	CUP-2019-0001	Spokane Valley	Conditional Use Permit to operate a residential treatment facility in a converted, existing single-family residence located at 3607 S. Mercy Court	Application denied
11/6/2019	SUB-2019-0003	Spokane Valley	Preliminary Plat Application by Inland Pacific Development LLC to subdivide 5.85 acres into 31 residential lots on property in the R-3 zone	Approved w/ Conditions