

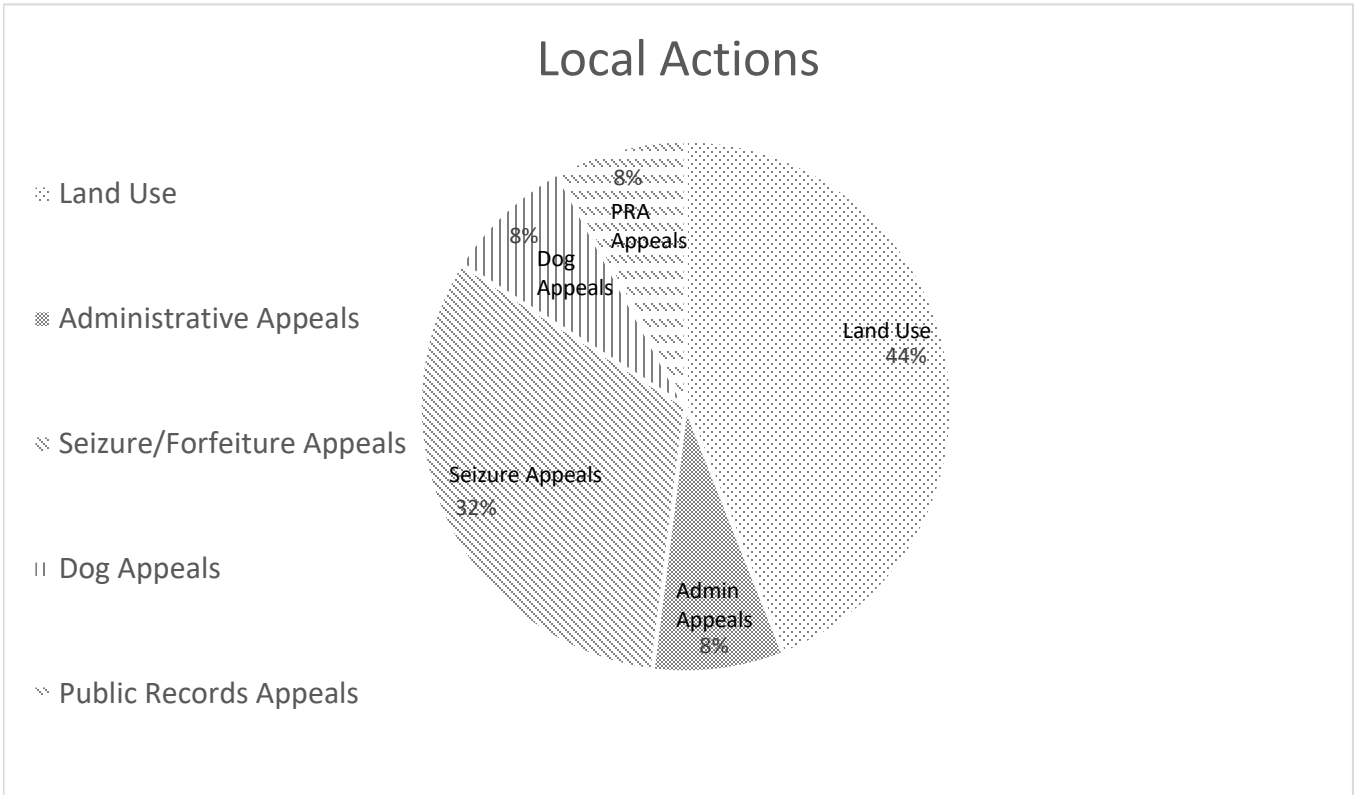
# **Office of the Hearing Examiner 2020 Annual Report**

Brian T. McGinn  
Hearing Examiner

## Summary

| Local Actions Requiring Hearings | 23 |
|----------------------------------|----|
| Land Use                         | 11 |
| Administrative Appeals           | 2  |
| Seizure/Forfeiture Appeals       | 8  |
| Dog Appeals                      | 2  |

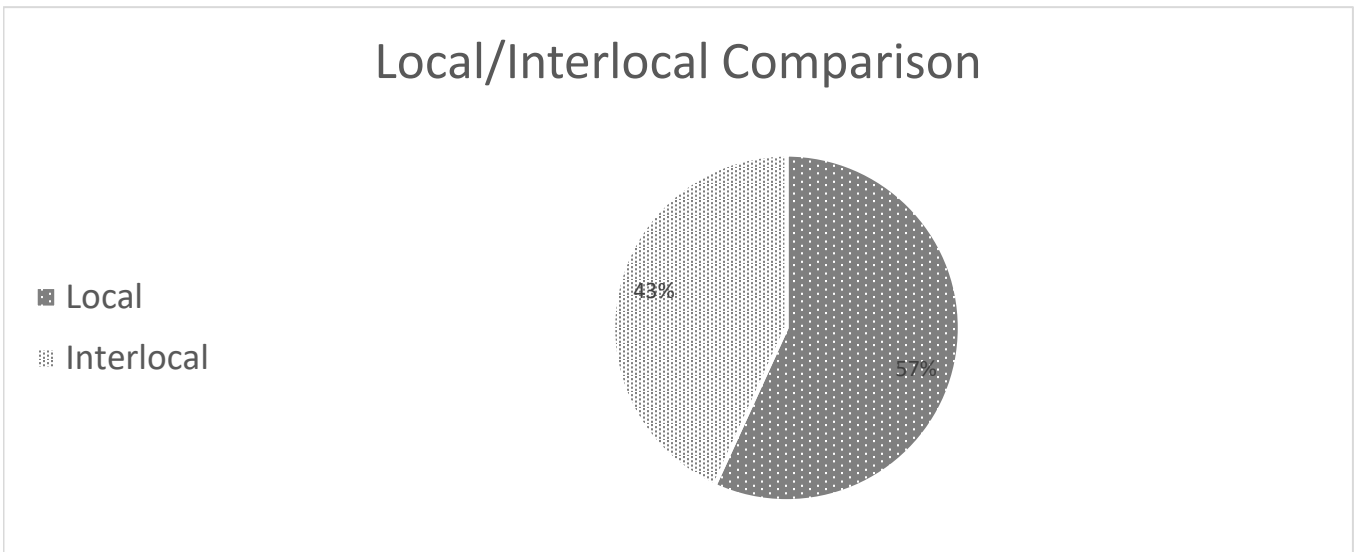
| Local Actions Not Requiring Hearings | 2         |
|--------------------------------------|-----------|
| Public Records Appeals               | 2         |
| Initiative Opinions                  | 0         |
| <b>Total Local Actions</b>           | <b>25</b> |



| Interlocal Hearings | 19 |
|---------------------|----|
| Airway Heights      | 2  |
| Cheney              | 0  |
| Chewelah            | 3  |
| Liberty Lake        | 1  |
| Medical Lake        | 2  |

|                |    |
|----------------|----|
| Millwood       | 0  |
| Sound Transit  | 0  |
| Spokane Valley | 11 |
| Spokane County | 0  |

**Total Local and Interlocal Actions      44**



## Five-Year Trends

### Local Actions Requiring Hearings

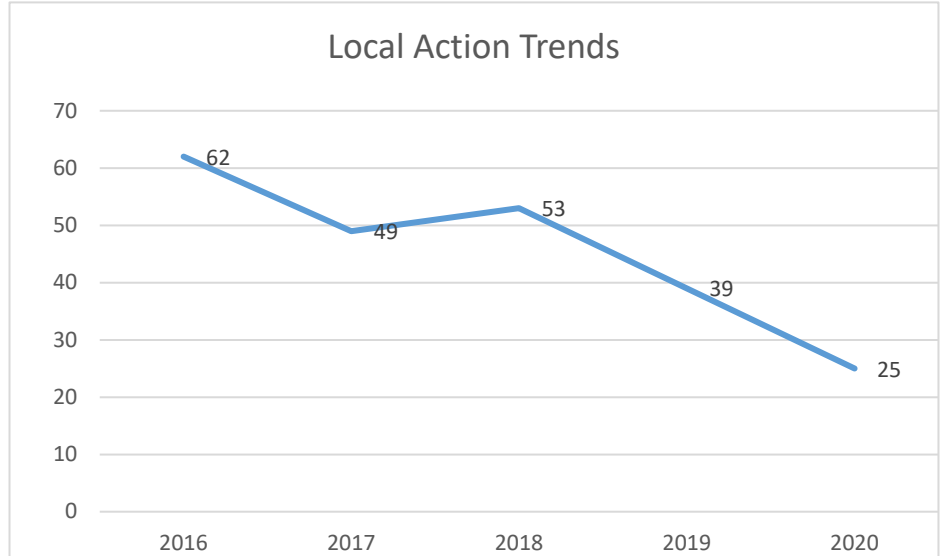
|      |    |
|------|----|
| 2016 | 47 |
| 2017 | 35 |
| 2018 | 49 |
| 2019 | 30 |
| 2020 | 23 |

### Local Actions Not Requiring Hearings

|      |    |
|------|----|
| 2016 | 15 |
| 2017 | 14 |
| 2018 | 4  |
| 2019 | 9  |
| 2020 | 2  |

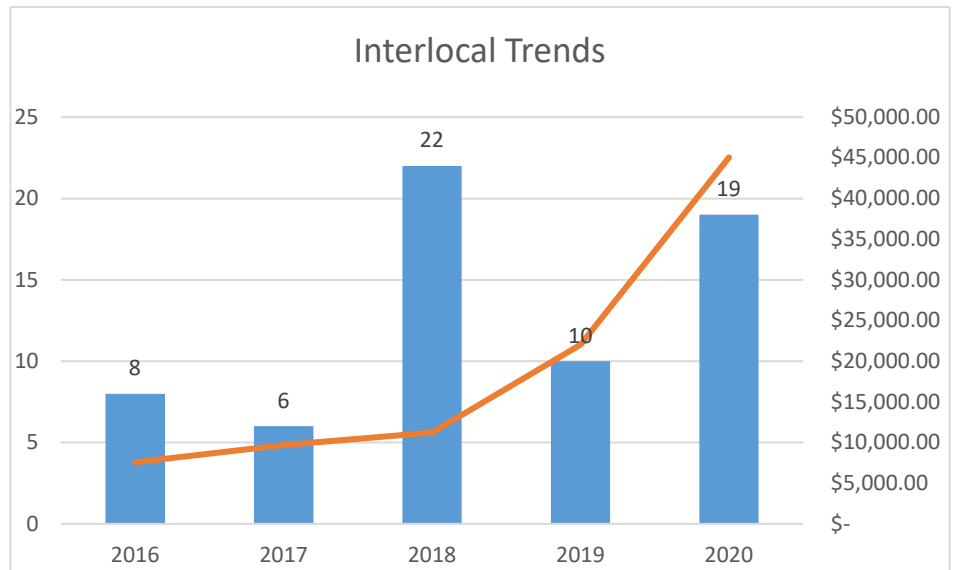
### Total Local Actions by Year

|      |    |
|------|----|
| 2016 | 62 |
| 2017 | 49 |
| 2018 | 53 |
| 2019 | 39 |
| 2020 | 25 |



### Interlocal Actions by Year

|        |    |
|--------|----|
| 2016   | 8  |
| 2017   | 6  |
| 2018 * | 22 |
| 2019   | 10 |
| 2020   | 19 |



### Revenue by Year (based on invoicing)

|         |              |
|---------|--------------|
| 2016    | \$ 7,572.04  |
| 2017    | \$ 9,688.44  |
| 2018 ** | \$ 11,236.95 |
| 2019    | \$ 22,055.09 |
| 2020    | \$ 45,043.09 |

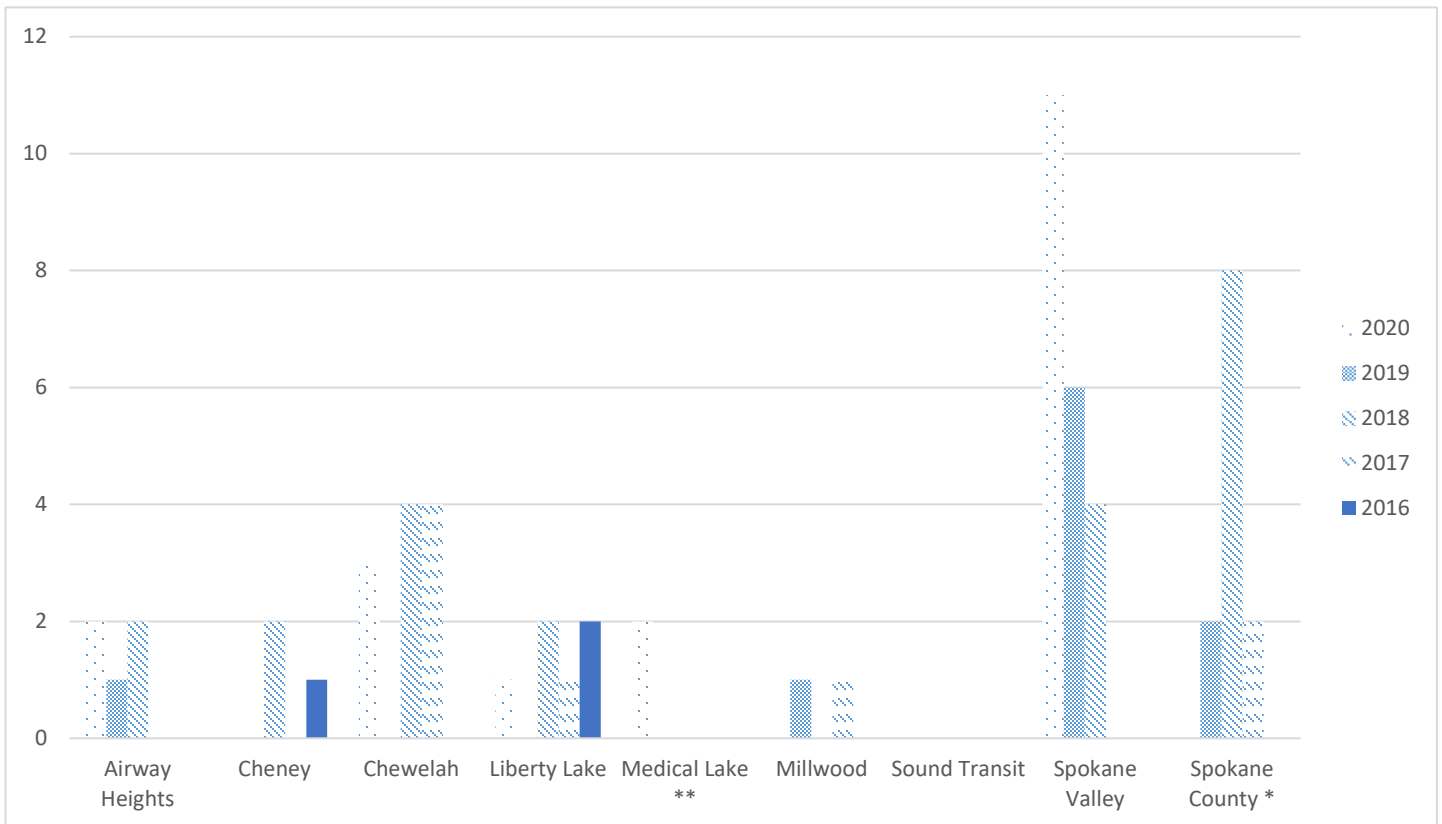
### Notes:

\* 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 due to international travel (September) and a death in the family (November).

\*\* The dramatic increase in Spokane County hearings in 2018 is not reflected in revenue because the interlocal agreement exchanges "services in kind." In other words, we do not bill each other for these services.

## Trends by Jurisdiction

|                  | 2020 | 2019 | 2018 | 2017 | 2016 | TOTAL         |
|------------------|------|------|------|------|------|---------------|
| Airway Heights   | 2    | 1    | 2    | 0    | 0    | 5             |
| Cheney           | 0    | 0    | 2    | 0    | 1    | 3             |
| Chewelah         | 3    | 0    | 4    | 4    | 0    | 11            |
| Liberty Lake     | 1    | 0    | 2    | 1    | 2    | 6             |
| Medical Lake **  | 2    | 0    | 0    | 0    | 0    | 2             |
| Millwood         | 0    | 1    | 0    | 1    | 0    | 2             |
| Sound Transit    | 0    | 0    | 0    | 0    | 0    | 0             |
| Spokane Valley   | 11   | 6    | 4    | 0    | 0    | 21            |
| Spokane County * | 0    | 2    | 8    | 2    | 0    | 12            |
|                  | 19   | 10   | 22   | 8    | 3    | <b>AVG: 7</b> |



### Currently Scheduled for 2021 (as of January 4, 2021)

|                |   |                |   |
|----------------|---|----------------|---|
| Airway Heights | 1 | Millwood       | 0 |
| Cheney         | 1 | Sound Transit  | 1 |
| Chewelah       | 1 | Spokane Valley | 5 |
| Liberty Lake   | 1 | Spokane County | 0 |
| Medical Lake   | 0 |                |   |

**Total Scheduled to Date for 2021 10**

### Notes:

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\*\* Medical Lake is a new interlocal agreement as of 2020.

## City of Spokane Land Use

| Hearing Date | File Number | Description  | Decision   |
|--------------|-------------|--|--|
| 1/9/2020     | Z190145PPLT | Woodridge View 3rd Addition Preliminary Plat Application by Whipple Consulting Engineers, Inc. to subdivide a portion of one parcel into 138 new single-family lots on roughly 53.69 acres.  | Approved with <i>Revised</i> Conditions  |
| 1/16/2020    | Z190228PPLT | The Summit Preliminary Plat Application by Whipple Consulting Engineers, Inc. to subdivide approximately 21 acres into 98 new single-family lots on property located at 6820 S. Cedar Road.  | Approved with <i>Revised</i> Conditions  |
| 2/13/2020    | Z190545CUP3 | Conditional Use Permit Application for a new single-story 13,000 square foot public library in the Residential Two Family Zone.  | Hearing conducted by pro tem (Spokane County Hearing Examiner)<br><br>Approved with Conditions |
| 3/5/2020     | Z200012CUP3 | Conditional Use Permit Application for an expansion to the existing Shadle Library in the Residential Single Family Zone.  | Approved with <i>Revised</i> Conditions  |
| 5/21/2020    | Z200009SCUP | Shoreline CUP for the North Spokane Corridor (NSC) Project. WSDOT is proposing to build two new vehicular bridges over the Spokane River, at Green Street. The NSC Project limited access highway will begin at I-90 and end in the Wandermere vicinity to the north. The project will also include a pedestrian bridge and the realignment of South Riverton. | Approved with Conditions   |
| 6/4/2020     | Z200035CUP3 | Conditional Use Permit application by Avista to relocate and expand an existing substation.  | Approved with Conditions   |
| 6/11/2020    | Z190550CUP3 | Conditional Use Permit application by Verizon Wireless to allow the construction of a wireless communication tower in the side yard of a professional office building located at 1620 W. Wellesley Avenue.   | Approved with Conditions   |
| 8/13/2020    | Z200108CUP3 | Conditional Use Permit Application by Andrey Chumov to reduce the buffer of a wetland for the construction of a single family home, shop, well and septic system.  | Approved with Conditions   |

## City of Spokane Land Use

| Hearing Date | File Number | Description   | Decision                         |
|--------------|-------------|---|----------------------------------|
| 8/20/2020    | Z200079SCUP | Application for Shoreline Conditional Use Permit for River Bend Phase II by Sagamore Spokane, LLC, to construct approximately 134 residential units in two buildings with inside and outside parking on property zoned HI and GC-150. | Approved with Conditions         |
| 10/29/2020   | Z200145SCUP | Application for Shoreline Conditional Use Permit by the City of Spokane to replace the Hatch Road bridge deck over Latah Creek, along with other features.  | Approved with Conditions         |
| 12/3/2020    | Z200021CUP3 | Conditional Use Permit Application to convert a previous commercial use building into a small neighborhood mini-market grocery store located in Residential Single Family zone at 3205 N. Lidgerwood Street.                          | Approved with Revised Conditions |

## City of Spokane Administrative Appeals

| Hearing Date | File Number  | Description  | Decision                                       |
|--------------|--------------|--|--|
| 1/28/2020    | B1921620BOAP | Appeal by Jon C. and Paula Broadwell of an Order of the Building Official regarding property located at 812 W. Maxwell Avenue.   | Building Official Decision Upheld              |
| 7/9/2020     | Z200100APPL  | Appeal of DNS 5/1/2020 for 2021-2026 Six-Year Comprehensive Street Program, File No. 2020015, Project No. 2017080; STR 2017-17 Centennial Trail - Summit Blvd. Gap and its approval by the Planning Commissioner of 5/13/2020. | Appeal Denied and Dismissed<br>Hubert, pro tem |

## City of Spokane Administrative Appeals/Reconsiderations on Redaction of Records

| Decision Date | File Number  | Description  | Decision  |
|---------------|--|--|---|
| 8/17/2020     | P003539-082219<br>C000323-032719<br>C000324-032719<br>P004171-100819<br>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 issued a decision on 12/31/19 sustaining that appeal and directing the release of specific records. Shortly thereafter, the City of Spokane submitted a request for reconsideration of the Hearing Examiner's decision. The City contended that, contrary to the Hearing Examiner's findings, the City actually produced unredacted copies of all the relevant records to Mr. Turplesmith, with the exception of a handful of body camera videos that were redacted to protect the privacy interests of third parties. | The Hearing Examiner concluded the City provided unredacted copies of the relevant records once it learned that Mr. Turplesmith was acting as the legal representative of the Estate of David Novak and/or member(s) of the Novak family. |
| 7/4/2020      | C000179-02180  | Annette Owens submitted an appeal of the redaction of email text related to the Centennial Trail Gap Project.  | The Hearing Examiner Pro Tem (D. Hubert) concluded that the text at issue was properly withheld.  |



## City of Spokane Initiative Opinions

| Opinion Date | Initiative Number | Description | Opinion |
|--------------|-------------------|-------------|---------|
|              |                   | None        |         |

# SCRAPS

| <b>Hearing Date</b> | <b>File Number</b> | <b>Description</b>            | <b>Decision</b>    |
|---------------------|--------------------|-------------------------------|--------------------|
| 5/7/2020            | 2020-0202          | Krous Dangerous Dog Appeal    | Designation Upheld |
| 11/6/2020           | 2020-0626          | Sargent Dangerous Dogs Appeal | Designation Upheld |

## Forfeiture Appeals

| Hearing Date | File Number                | Description  | Decision   |
|--------------|----------------------------|--|--|
| 12/19/2019   | 19-053                     | Eric Benzo and B&P Auto Sales submitted claims to ownership to a maroon 2007 Dodge Ram truck seized by the SPD under RCW 10.105.010 from Eric Benzo as an instrument in the commission of a felony.  | The seizure of property was upheld and the property was ordered forfeited. |
| 1/23/2020    | 19-042<br>19-046<br>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 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). | The seizure was upheld by default as the claimant failed to appear.        |
| 1/23/2020    | 19-045<br>19-046<br>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 proceeds from trafficking in illicit drugs. 2003 Silver Dodge Ram 1500 (Seizure No. 19-046) was also claimed by James Ethrington (see above).  | The seizure of property was upheld and the property was ordered forfeited. |
| 1/23/2020    | 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 proceeds from trafficking in illicit drugs. 2007 Silver Audi S4 (Seizure No. 19-058) was also claimed by James Ethrington (see above).  | Claim was withdrawn during the hearing.                                    |
| 1/30/2020    | 19-061                     | Jesse Woodward 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.   | The seizure of property was upheld and the property was ordered forfeited. |
| 2/27/2020    | 17-008                     | Kay L. Delesdernier submitted through her attorney, Scott Richard Hill, a claim of ownership of several seized items by the SPD under USCA as being used to facilitate or the proceeds from trafficking in illicit drugs. Neither the claimant nor her attorney appeared for the hearing.  | The seizure was upheld by default as the claimant failed to appear.        |
| 6/4/2020     | 20-011                     | Devin Stubblefield 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. The claimant did not appear for the hearing.  | The seizure was upheld by default as the claimant failed to appear.        |

## Forfeiture Appeals

| Hearing Date | File Number | Description  | Decision   |
|--------------|-------------|--|--|
| 6/11/2020    | 20-015      | Cindy Driver submitted a claim to ownership of a white 2007 Ford F250 seized from her son, James L. Driver, having been employed as an instrumentality in the commission of multiple felonies. Claimant alleged she had her son sign over the vehicle as payment of money owed that she paid for bail on his behalf. | The seizure of property was upheld and the property was ordered forfeited. |

## Other Jurisdictions

| Hearing Date | File Number                    | Jurisdiction   | Description  | Decision  |
|--------------|--------------------------------|----------------|--|---|
| 1/15/2020    | SUB-2019-0002                  | Spokane Valley | Summerfield East 10th Addition Preliminary Plat Application by KJT, LLC to subdivide 818 acres into 37 residential lots on property in the R-3 zone.                               | Approved with Conditions  |
| 1/29/2020    | LUA 2019-0009                  | Airway Heights | Cascade Columbia Distribution Conditional Use Permit to operate an industrial chemical warehouse and distribution facility on property located in the Heavy Industrial (I-2) zone. | Approved with <i>Revised</i> Conditions                         |
| 5/19/2020    | RZ1-2020                       | Medical Lake   | Application by A&K Development, Inc to rezone Parcel 140744103, located on North Stanley Road, from General  | Approved with Conditions  |
| 5/19/2020    | RZ2-2020                       | Medical Lake   | Rezone and variance application for 208 South Lefevre Street changing the zone from General Commercial to Single Family Residential and allowing a single-family residence.        | Approved with Conditions  |
| 5/27/2020    | CUP-2020-0002                  | Spokane Valley | Conditional Use Permit to operate a medical detoxification facility serving up to 12 patients at 10305 E. Montgomery   | Approved with Conditions  |
| 5/27/2020    | CUP-2020-0001                  | Spokane Valley | Conditional Use Permit to construct a 44,000 square foot substance abuse treatment facility for 64 patients at 13110 E.  | Approved with Conditions  |
| 6/3/2020     | LUA 2020-0006                  | Airway Heights | Conditional Use Permit to add additional uses including a daycare and preschool, as well as a multi-use community event space at the future location of The Heights Church.        | Approved with Conditions  |
| 6/3/2020     | APP-2020-0004<br>SUB-2019-0004 | Spokane Valley | Appeal of SEPA Determination (APP-2020-0004) on SUB-2019-0004, an application by Whipple Consulting Engineers on behalf of Viking Builders, LLC, for Riverbend at Mission          | Plat Approved with <i>Revised</i> Conditions<br>Appeal Affirmed |
| 6/10/2020    | APP-2019-0002                  | Spokane Valley | Appeal of SEPA Determination (SEP-2018-0001) for Engineered Grading Permit (EGR-2018-0074).  | Appeal Denied   |
| 6/24/2020    | SUB-2020-0001                  | Spokane Valley | Preliminary plat application for White Addition by KJT, LLC to subdivide 4.7 acres into 26 residential lots on property in the R-3 zone.   | Approved with Conditions  |
| 7/21/2020    | SPR-05-2020                    | Chewelah       | Site Plan Review Application by Adam Cares to construct three duplexes, one on each lot on property in the R-1 zone.   | Approved with <i>Revised</i> Conditions                         |

## Other Jurisdictions

| Hearing Date | File Number                    | Jurisdiction   | Description   | Decision   |
|--------------|--------------------------------|----------------|---|--|
| 7/21/2020    | ZTA-02-2020                    | Chewelah       | Zone Text Amendment Application by the City of Chewelah to amend three sections of the Chewelah Municipal Code associated with a conditional permit process for mini-storage facilities in the R-B Zoning District. | Approval Recommended                                   |
| 8/26/2020    | APP-2020-0001                  | Spokane Valley | Appeal by Budget Arbor & Logging of Code Enforcement Orders Imposing Civil Penalties.   | Appeal Denied  |
| 9/2/2020     | APP-2020-0005<br>SUB-2020-0002 | Spokane Valley | Application by Inland Pacific Development, LLC, for Willow View Subdivision to divide one parcel into 21 residential lots on approximately 3.46 acres in an R-3 zone with SEPA                                      | Plat Approved with Revised Conditions<br>Appeal Denied |
| 9/9/2020     | SUB-2020-0003                  | Spokane Valley | Preliminary Plat Application by Gordon Finch Homes for Sam's Ranch to subdivide 6.2 acres into 76 residential lots on   | Approved with Conditions                               |
| 10/21/2020   | APP-2019-0003                  | Spokane Valley | Appeal Blaine Dutton of an Order of the Building Official determining that 7918 East Utah Avenue constitutes a nuisance.  | Appeal Denied  |
| 10/28/2020   | SUB-2020-0004                  | Spokane Valley | Preliminary Plat Application by Jerry and Linda Klein to subdivide 2.19 acres into 13 residential lots on property in the R-3 zone.   | Approved with Conditions                               |
| 12/1/2020    | ZTA-09-2020                    | Chewelah       | Zone Text Amendment regarding Duplex development in airport overly zone.  | Remanded to Planning Department                        |
| 12/15/2020   | LUA-2020-0030                  | Liberty Lake   | City of Spokane Valley v. City of Liberty Lake re: Appeal of MDNS issued for GRD-2020-0003.   | Settled after preparing for Hearing                    |