

**STAFF REPORT ON  
CONDITIONAL USE PERMIT APPLICATION  
FILE NO. Z20-108CUP3**

**I. SUMMARY OF REQUEST AND RECOMMENDATIONS:**

**DESCRIPTION OF PROPOSAL:** The applicant, Andrey Chumov, is seeking to reduce the buffer of a wetland for the construction of a single family home, shop, well and septic system.

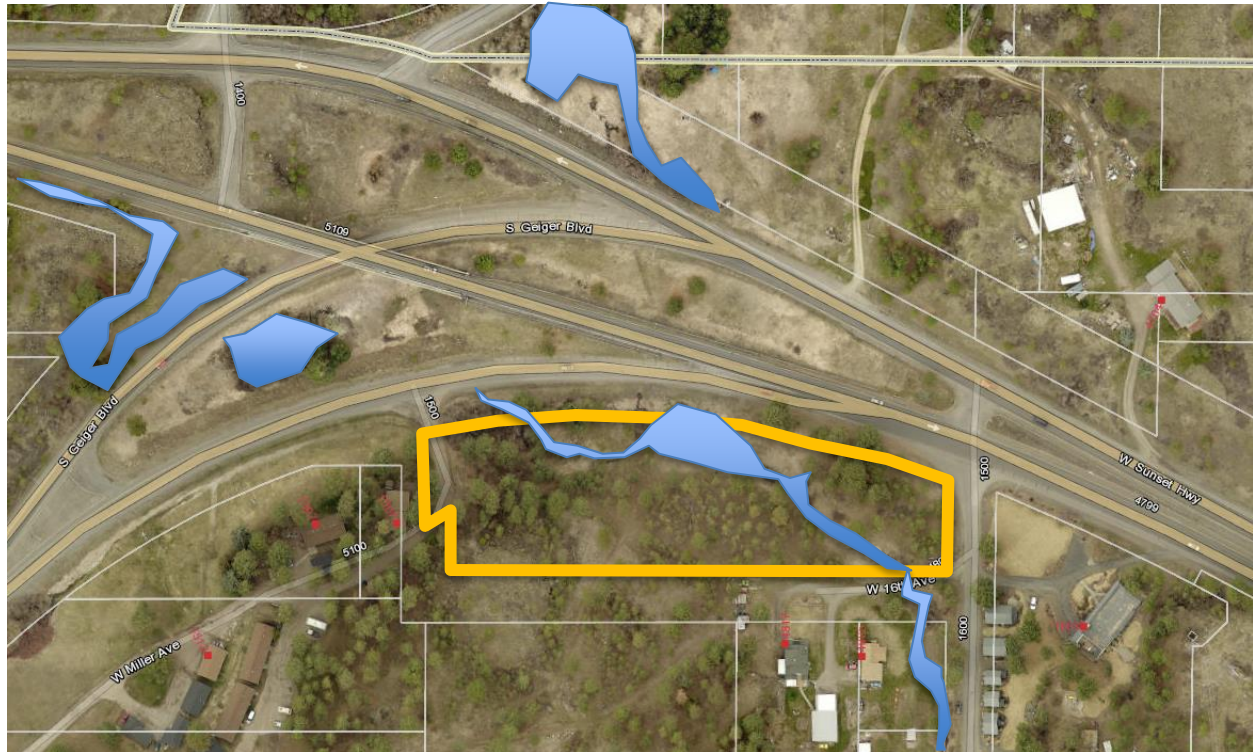
Recommendation: Staff recommends approval of this application, with conditions.

**II. GENERAL INFORMATION:**

- A. Applicant: Andrey Chumov  
4127 E Hartson Ave  
Spokane, WA 99202  
(509) 991-7827  
andchumov@yahoo.com
  
- B. Location of Proposal: 1455 S Geiger, Spokane, WA 99201  
Parcel No. 25271.1901. S27 T25N R42E
  
- C. Existing Zoning: RSF (Residential Single Family)
  
- D. Land Use Plan Designation: Residential 4-10
  
- E. SEPA Status: Categorically Exempt
  
- F. Enabling Zoning: SMC 17C.110 Residential Zones; 17C.320  
Conditional Uses; 17E.070 Wetland Protection;  
17G.060.170C Decision Criteria
  
- G. Hearing Date: August 13, 2020 – 1:30 PM
  
- H. Staff Contact: Tami Palmquist, Principal Planner, 625-6157  
[tpalmquist@spokanecity.org](mailto:tpalmquist@spokanecity.org)

### **III. FINDINGS OF FACT:**

- A. **Site Description:** The subject site consists of approximately 2.5 acres located south of Geiger Blvd and Sunset Hwy, between Royal Street on the east, Miller Ave to the west and 16<sup>th</sup> Ave to the south. The site is sloped and a wetland runs through the site from west to east.



Project Parcel

Wetlands

- B. **Project Description:** This project proposal is for a wetland buffer reduction from 150 feet to 75 feet to allow the construction of a home, shop, well and septic tank.
- C. **Surrounding Zoning:** Single Family Residential (RSF) surrounds the parcel. Commercial zoning is across Geiger to the west and approximately ½ block to the east.
- E. **Adjacent Land Use:** Land Use is Residential 4-10 units per acre surrounding the parcel.
- F. **Applicable Zoning Regulations:** Spokane Municipal Code SMC 17C.110, Residential Zones; SMC 17C.320.080 (F), Conditional Use Decision Criteria and SMC 17E.070 Wetlands Protection.
- G. **Procedural Requirements:**
- A Community Meeting was held virtually on June 2, 2020;
  - Application was submitted on June 8, 2020;
  - A Request for Comments notice was sent to Departments and Agencies on June 16, 2020;
  - Applicant was notified on July 10, 2020 that the application was technically complete;

- A combined Notice of Application and Public Hearing was mailed and posted on the subject property on July 15, 2020, which began the 15-day public comment period; and
- The Public Comment Period ended on August 3, 2020.

#### **IV. DEPARTMENT REPORTS:**

Notice of this proposal was sent to City departments and outside agencies for their review and comments on June 16, 2020. Their comments are included with the file and are made part of this application by reference.

Most notably is the requirement from the Spokane Tribe of Indians requesting a cultural resource survey be completed on the site prior to any ground disturbing activities. This comment was passed on the application on June 29, 2020.

The applicant had begun some preliminary grading of the site but was informed to stop all work until after all necessary permits had been obtained.

#### **VI. PUBLIC COMMENT:**

As of August 3<sup>rd</sup>, 2020, staff had received public comments concerning the use of 16<sup>th</sup> Avenue and the use of large equipment on this road, as the road is gravel and unimproved. Concerns were raised about running a business at the location, and the effects of construction on the wildlife in the area. Photos of wildlife observed on the site and surrounding area were provided.

#### **VI. CONCLUSIONS:**

##### **SMC 17C.320.080 Decision Criteria**

1. *The proposal is allowed under the provisions of the land use codes. SMC 17G.060.170(C)(1)*

##### Relevant Facts:

SMC Chapter 17E.070 Spokane Wetlands Protection Code provides standards for preserving, protecting and restoring wetlands through the regulation of development and other activities within wetlands and their buffers. The code is established to meet the required goal of no net loss of wetland areas, functions and values.

Regulated activities listed under SMC 17E.070.040.A. include: Removal, excavation, grading or dredging of soil, sand, gravel; construction, reconstruction, demolition, or expansion of any structure; removal, cutting, clearing, harvesting, shading or intentional burning of any vegetation, including removal of snags or dead or downed woody material, or planting of non-native vegetation that would degrade the wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; and, activities that restrict, increase or otherwise measurably alter the hydrology, water quality or limnology of the wetland.

The applicant has submitted an application in accordance with SMC 17E.070.080 including a wetlands report, site plan information and a proposed wetland mitigation plan. A topographic survey was not provided.

The existing wetlands are classified as a Category II wetland according to SMC17E.070.100.C. Category II wetlands are described as "...Category II wetlands are difficult, although not impossible, to replace and provide high levels of some functions. These

wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include forested wetlands in the floodplains of rivers; mature and old-growth forested wetlands over one-fourth acre with fast growing trees; vernal pools; and wetlands that perform functions well (scores between nineteen and twenty-one points).”

This Category II wetland with moderate land use impact has a buffer width of 150 feet and a functional score of 6. As such the applicant has proposed a reduction down to 75 feet. A combination of buffer reduction and buffer averaging may be utilized to achieve a buffer setback of 75 feet. SMC17E.070.110 does allow for the reduction of standard buffer zone widths and standard buffer width averaging. The City may reduce the standard wetland buffer zone width on a case-by-case basis as determined by the director, consistent with Wetlands in Washington State, Volume 2, Protecting and Managing Wetlands, Guidance on Buffers and Ratios (Appendix 8-D) as revised. Wetlands that score moderate or high (five points or more for the habitat functions) the width of the buffer can be reduced if the following criteria are met:

1. A relatively undisturbed vegetative corridor of at least one hundred feet in width is protected between the wetland and any other priority habitats; and
2. The protected area is preserved by means of easement, covenant, or other measure;
3. Measures identified in SMC 17E.070.110(C)(2) (Table 17E.070.110-5) are taken to minimize the impact of any proposed land use or activity.

Standard wetland buffer zones may be modified by averaging buffer widths or a combination of averaging and reduction. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

1. Averaging will provide the necessary biological, chemical and physical support necessary to protect the wetland in question, taking into account the type, intensity, scale and location of the proposed land use;
2. The land uses causing the least disturbance would be located adjacent to areas where buffer width is reduced and that such land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;
3. The total area contained within the wetland buffer after averaging is not less than that contained with the standard buffer prior to averaging. In no instance shall the buffer width be reduced by more than fifty percent of the standard buffer or be less than twenty-five feet.

Buildings and other accessory structures shall be set back a distance of ten feet from the edges of all delineated critical area buffers protecting fish and wildlife habitat conservation and wetland protection areas. The following uses may be allowed in the structural setback area:

1. Landscaping;
2. Uncovered decks;
3. Roof eaves and overhangs, maximum of twenty-four inches;
4. Pervious unroofed stairways and steps;
5. Impervious ground surfaces, such as driveways and patios.

Subject to the conditions contained in this decision, the application is allowed under the provisions of the land use codes.

**Staff finds this criterion is met.**

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. SMC 17G.060.170(C)(2)*

Relevant Facts:

SMC Chapter 17E.070 Wetlands Protection is based on and implements the City of Spokane Comprehensive Plan. The purpose of the standards is to protect the public health, safety and welfare by preserving, protecting and restoring wetlands through the regulation of development and other activities within wetlands and their buffers.

The property is designated Residential 4-10 on the Comprehensive Plan Land Use Plan Map. The site will be developed as a single family home.

Subject to the conditions contained in this decision and development of the site in compliance with the requirements of the Spokane Municipal Code, the proposal is consistent with the Comprehensive Plan.

**Staff finds that this criterion is met.**

3. *The proposal meets the concurrency requirements of chapter 17D.010 SMC. (SMC 17G.060.170(C)(3))*

Relevant Facts: There is no concurrency requirements associated with this application. However, concurrency will be addressed at the time of building permit application for new development on the site.

**Staff finds this criterion is met.**

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features. SMC 17G.060.170(C)(4)*

Relevant Facts: Per SMC 17E.070.030, the applicant must perform a field investigation by a qualified professional Wetland Scientist to determine the Wetland Boundary, which determines the associated buffers. The applicant's biologist performed a wetland delineation report which is included as part of the record.

After consultation with the Department of Ecology the wetland report was updated to reflect the current regulations and proper functional rating.

The Spokane Tribe of Indians note that this is considered to be in a high risk area which would be impacted by the proposed ground disturbing actions. They recommend a cultural survey be completed by a professional archaeologist. This request has been noted as a condition of this report. This shall be completed and submitted to the Planning department prior to any ground disturbing activities.

This site is located within the Aquifer Sensitive Area and the Aquifer Critical Area Recharge Zone and must comply with SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection.

The applicant has been informed that he cannot run a commercial business from this location as it is zoned residential single family. Home occupations are permitted, but must be located within the primary residence and cannot occur in accessory structures. This site may not be used to store commercial vehicles or industrial machinery.

**Staff finds that this criterion is met.**

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.*

Relevant Facts: SMC17E.070.130 provides standards for wetland mitigation in order to offset the impacts resulting from proposed activities such as those involved in this application. According to this section of the SMC, wetland mitigation “means the use of any or all of the following action listed in descending order of preference (mitigation sequencing):

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment.
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; or
6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation may include a combination of the above measures.”

This application includes a wetland mitigation plan and outlines mitigation measures to provide a mitigation area of 6,646 square feet, meeting the required 3:1 ratio. The wetland report and mitigation plan submitted with the conditional use permit application are consistent with the requirements of SMC Chapter 17E.070 Wetlands Protection. Wetland monitoring reports will be completed each year for 4 years. The applicant shall mark the areas of the wetland buffer and mitigation area prior to any ground disturbing activities so that these areas are not encroached into by construction equipment. Subject to the conditions contained in this decision, the application is allowed under the provisions of the land use codes.

**Staff finds that this criterion is met.**

## **VI. RECOMMENDATION**

TO APPROVE the Conditional Use Permit to allow the reduction of the wetland buffer to 75 feet for the construction a new single family home located at 1455 S Geiger, Spokane, WA 99201; substantially in conformance with the plans and application on file in Planning and Development, and the following conditions of approval:

1. The site shall be developed in compliance with the plans on record and comments received on the project from City Departments and outside agencies with jurisdiction.

2. The proposal will be developed in conformance with the findings of the Wetland Report on file with this application, specifically with respect to the Wetland's ratings, assigned buffers and mitigation plan.
3. A vegetated corridor of at least 100 feet in width shall be protected between the wetland and any other priority habitat, the protected area shall be preserved by means of an easement, covenant or other means, and measures identified in SMC Table 17E.070.110-5 shall be taken to minimize the impact of the proposed land use activities on this site.
4. The applicant shall mark the boundaries of the wetland buffer and mitigation area prior to any ground disturbing activities so that these areas are not encroached into by construction equipment.
5. Buildings and other accessory structures shall be set back a distance of ten feet from the edges of all delineated wetland protection areas.
6. Spokane Tribe of Indians requests a cultural survey be completed by a professional archaeologist, and if any artifacts or human remains are found upon excavation, this office should be immediately notified and the work in the immediate area cease. The survey shall be completed before any ground disturbing activities begin.
7. The property may not be used for commercial or industrial activities.
8. Wetland buffer zones shall be retained in their natural condition and free from mowing or other cutting activity, except for the removal of noxious weeds. Where buffer disturbances have occurred before or during construction, revegetation with native vegetation shall be required.
9. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County Washington State, and any Federal agency.
10. This approval does not waive the applicant's obligation to comply with all of the requirements of City Departments and outside agencies with jurisdiction over land development.