

**STAFF REPORT ON
CONDITIONAL USE PERMIT APPLICATION
FILE NO. Z20-021CUP3**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: With the adoption of City Ordinance C35535 (allowing existing neighborhood structures in residential zones to operate as a commercial use), the applicant is proposing to convert a previous commercial use building into a small neighborhood mini-market/grocery store located at 3205 N. Lidgerwood St., Spokane, WA. No addition to the existing footprint (approximately 3,405 square feet) is proposed. This application has been reviewed as a Type III Conditional Use Permit. **NOTE:** This application was set to be heard by the City Hearing Examiner at a Public Hearing on March 19, 2020, however due to a procedural error it was cancelled.

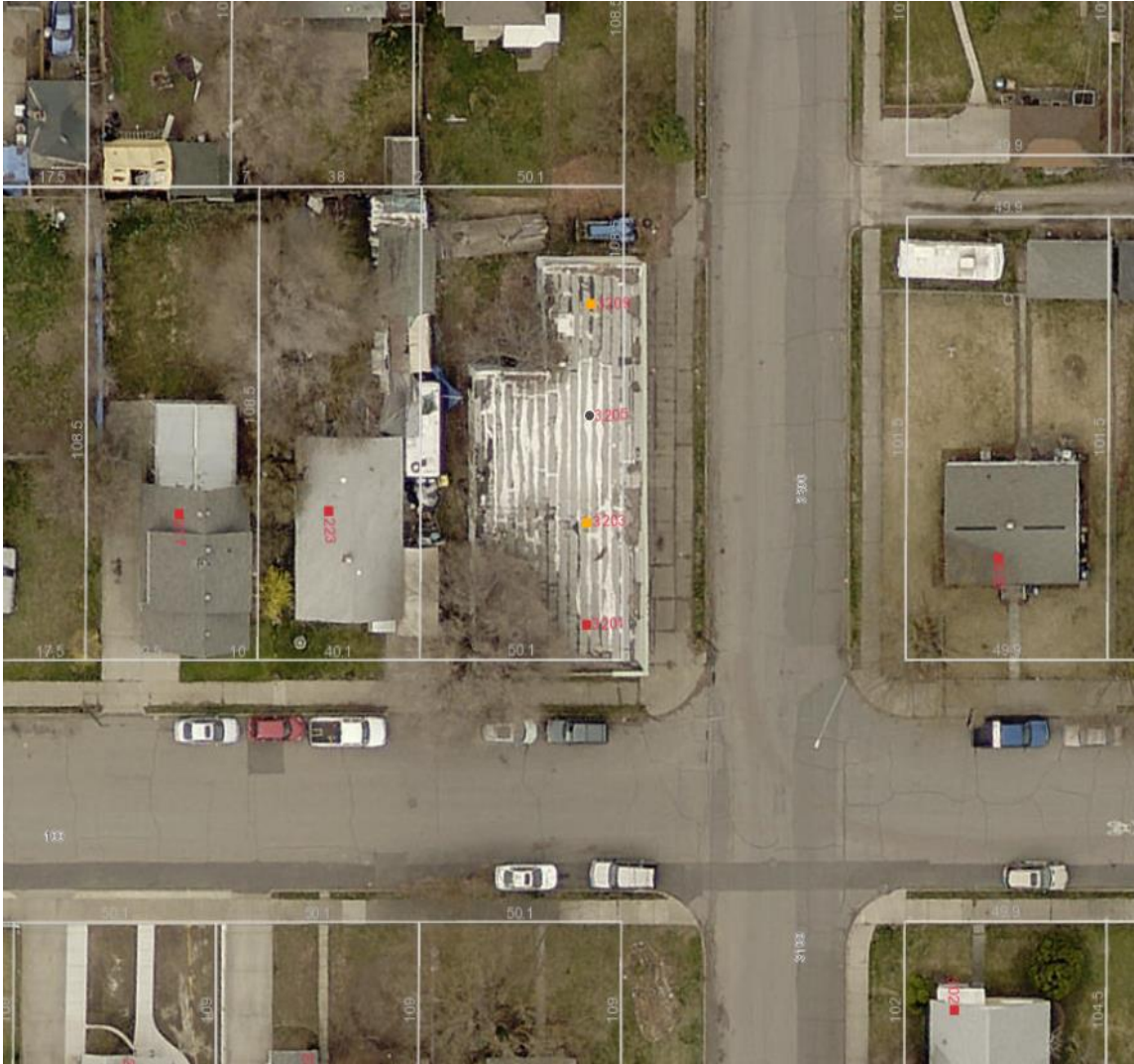
Recommendation: Staff recommends approval of this application, with conditions.

II. GENERAL INFORMATION:

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|-------------------------------|---|
| A. Applicant: | Daniel Ghebreab
5125 S. Julia Street
Spokane, WA 99223 |
| B. Property Owner: | Same as Applicant |
| C. Location of Proposal: | 3205 N. Lidgerwood St., Spokane WA
(Parcel No. 35053.3022) |
| D. Existing Zoning: | Residential Single Family (RSF) |
| E. Land Use Plan Designation: | Residential (4-10 units) |
| F. SEPA Status: | This application is categorically exempt under the
State Environmental Policy Act (SEPA) |
| G. Enabling Zoning: | SMC 17C.110 Residential Zones; SMC 17C.370
Existing Neighborhood Structures in Residential
Zones |
| I. Hearing Date: | December 3, 2020 - 9:00 a.m. (Virtual Hearing) |
| H. Staff Contact: | Dave Compton, Assistant Planner, 625-6089
dcompton@spokanecity.org |

III. FINDINGS OF FACT:

- A. Site Description: The site is located on the southeast corner of E. Liberty Ave. and N. Lidgerwood St. in the Nevada/Lidgerwood neighborhood.



- B. Project Description: The applicant is proposing to convert a previous commercial use building into a small neighborhood mini-market/grocery store. Based on historical records, previous uses of the structure included a grocery store, meat market, temporary apartments for war workers, beauty shop and lastly an upholstery shop within the last year, therefore allowing this new proposed use to be eligible. Updates include a tenant improvement to the interior, aesthetic improvements to the façade and new dumpster enclosure. No enclosed building additions are proposed.
- C. Surrounding Zoning: The surrounding zoning is residential single family (RSF) to the east, south, west, and north.
- E. Adjacent Land Use: The adjacent land use designation to the east, south, west and north is Residential 4-10.

- F. Applicable Zoning Regulations: Spokane Municipal Code (SMC) 17C.110, SMC 17C.370 Existing Neighborhood Structures in Residential Zones.
- G. Procedural Requirements:
- A second Community Meeting (Virtual) was presented by the applicant on September 15, 2020. The initial one was held on January 11th, 2020 at 3:00 p.m. on the proposal site at 3205 N. Lidgerwood St.
 - Application was submitted on January 17th, 2020;
 - A second Request for Comments was sent to Departments and Agencies on September 25th, 2020, the first sent January 22nd, 2020;
 - A second Notice of Application and Public Hearing was posted on the subject property on November 3, 2020. The first was posted on the proposal site on February 27th; and mailed to all property owners/taxpayers on February 28th, 2020, which began the 15-day public comment period; and
 - The second Public Comment period closed on November 18th, 2020, the first March 16th, 2020.

IV. DEPARTMENT REPORTS:

Notice of this proposal was sent to City departments and outside agencies for their review and comments on January 22, 2020 and again on September 25th, 2020. Their comments are included with the file and are made part of this application by reference.

V. PUBLIC COMMENT:

Staff received seven (7) comments from the public on the proposal initially and only one during the second period, both of opposition and support. Most comments of opposition were related to not wanting the commercial use in the neighborhood due to the increase in traffic, the proposal's lack of on-site parking for customers and delivery vehicles, potential alcohol sales and increased waste debris generated in the neighborhood. Those in support welcome a business in the neighborhood and the conversion of this abandoned building which is currently seen an eyesore and hub for sketchy/unlawful activity.

VI. CONCLUSIONS:

SMC 17G.060.170 Decision Criteria

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

Relevant Facts:

In the Residential Single Family (RSF) zone, existing structures that can provide documentation that the structure once contained a legal non-residential use, may apply for a conditional use permit to establish a non-residential use in accordance with the standards in SMC. 17C.370.

1. Staff Discussion: An upholstery shop is a repair oriented retail use where a convenience store is a sales oriented retail use. Per SMC 17C.210.060.B. *In the residential, O, OR, NR, and NMU zones, a nonconforming use may, by conditional use permit from the hearing examiner, be changed to an equal or more compatible use so long as no new building, enlargement or extensive alteration is involved.*

City Building records indicate the following uses have been at this location:

- i. 1923 - Rosenbaum Grocery
- ii. Hanson Bros. Meat Market
- iii. 1942 - Store converted to temporary apartments for war workers

- iv. 1951 - Liberty Food Shop
- v. 1974 - Corner Curl Beauty Shop
- vi. 1974 - A&E Upholstery Shop (operating until June/July 2019)

In 1925, the City had not yet adopted a zoning code, but the records do appear to indicate that the building was built with a permit. When the zoning code was adopted in 1929, it appears the zoning of the property was R1, which would have made that structure “legal non-conforming” (legally built, but non-conforming to the current zoning standards). It continued with that zoning designation until June 2006 when it was changed to RSF. Subsequent building permit records show both residential and commercial uses in this building which has had up to four (4) separate addresses and has received certificates of occupancy for the commercial uses indicating they were considered legal at the time those permits were pulled. The applicant is proposing to renovate the structure to a neighborhood mini-mart, which would be categorized as retail sales and service. Per 17C.370, the documentation provided would allow for this application.

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:

In Chapter 3 Land Use, of the City’s Comprehensive Plan:

*Goal LU5 Development Character states: *Promote development in a manner that is attractive, complementary, and compatible with other land uses.*

*Policy LU 5.5 Compatible Development states: *Ensure that infill and redevelopment projects are well-designed and compatible with surrounding uses and building types.*

*Policy ED 3.5 states: *Support opportunities to expand and increase the number of locally-owned business in Spokane.*

*Policy ED 3.6 states: *Recognize the significant contributions of small businesses to the City’s economy and seek to enhance small business opportunities.*

*Policy DP 1.2 states: *Encourage new development that is of a type, scale, orientation, and design that maintains or improves the character, aesthetic quality, and livability of the neighborhood.*

*Policy DP 2.12 states: *Encourage infill construction and area redevelopment that complements and reinforces positive commercial and residential character.*

Staff Discussion: The business proposed for the building is intended to be a mini-market to serve the neighborhood. The structure has been vacant for approximately six (6) months give or take. One comment from the public sent in noted the abandoned structure was an attraction for possible illegal activity and hopes to see the applicant clean up the building and property to deter this. Staff believes the use would contribute to the community in a positive way.

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: The application was circulated on January 22, 2020 amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved.

Staff Discussion: No comments, other than boilerplate agency comments were received.

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: The structure on site is existing and there are no exterior additions proposed. All proposed work is inside the building except building a new trash enclosure. Exterior façade improvements will also be completed to include new signage. If any additional improvements are made to the site in the future, the applicant will be required to contact the Spokane Development Services Center and adhere to all development standards.

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

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: This project is categorically exempt from SEPA review. The business will be required to abide by the City Noise ordinance stated in SMC Title 10 (10pm-7am quiet hours).

Staff finds that this criterion is met.

Additional Decision Criteria for Institutional and Other Uses in Residential Zones are described in SMC 17C.320.080(F), what follows is a review of these criteria.

Chapter 17C.320.080 (F) Decision Criteria for Institutional and Other Uses in Residential Zones. *These approval criteria apply to all conditional uses in RA through RHD zones. The approval criteria allow institutional uses (including expansions of existing facilities), allow increases to the maximum occupancy of group living, and permit other non-residential household living uses in a residential zone. These types of uses must maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:*

1. *Proportion of Residential Household Living Uses.*
The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the residential household living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the residential household living category and is specifically based on the:
 - a. *number, size and location of other uses not in the residential household living category in the residential; and*
 - b. *intensity and scale of the proposed use and of existing residential household living uses and other uses.*

Relevant Facts:

Over the year the property became dilapidated, unfortunately causing blight to the surrounding neighbors. The applicant plans to refresh the exterior façade to make the site more attractive and complimentary to the neighborhood. The pedestrian oriented Perry District is roughly two blocks away, making this another walkable business that will serve the East Central neighborhood.

Staff finds this criterion is met.

2. *Physical Compatibility.*

- a. *The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks and landscaping; or*
- b. *The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping and other design features.*

Relevant Facts:

If exterior façade improvements are proposed, the applicant will be required to integrate Institutional Design Standards in Residential Zones, SMC 17C.110.500, at the time of building permit. The existing structure was built in 1909 and is currently one story with a flat roof building and occupies 3,405 square feet of the total 5,450 square feet total lot size. There are no plans for structural expansion other than a dumpster enclosure area that will require screening. Street trees will be required to be planted in the existing planting strips on Lidgerwood Street.

Staff finds this criterion is met.

3. *Livability.*

The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

- a. *noise, glare from lights, late-night operations, odors and litter; and*
- b. *privacy and safety issues.*

Relevant Facts:

- Noise: No additional noise is anticipated outside of the hours of operation. The City's noise ordinance requires compliance with SMC Title 10 (10pm-7am quiet hours).
- Glare from lights: Any new overhead lighting is required to be contained on the site per SMC 17C.110.520 Lighting.
- Late Night Operations: Proposed operating hours: 7:00 a.m. to 10:00 p.m.
- Odor and litter: No odor is anticipated. Refuse produced will have weekly pick up services unless additional collection is needed.
- Parking: SMC 17C.370.030.F.5 states that the parking requirements shall follow the standards in 17C.230.130. B, which states that in the Neighborhood Retail zone, any existing building...has a floor area of five thousand square feet or less, the parking requirement will be determined after deducting the three thousand square foot exemption from the building's floor area. Therefore, one parking stall is required for this use in this location with the approval of the Conditional Use Permit.
- Alcohol Sales: There were concerns expressed through some public comments about the potential of alcohol sales (as a part of a mini-market business) at the site. Per 17C.190.270.C.1, the Retail Sales and Service use category identifies Sales-oriented: Stores selling, leasing or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvement products, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed

material, stationary and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks and other recreational vehicles...as examples of uses that would fall in this category and does not differentiate between them. SMC 17C.370.030.E.2.b identifies that allowed uses for this application type include Retail Sales and Service Uses found in 17C.190.270 and doesn't impose any additional limitations dependent on the specific use.

Staff finds this criterion is met.

4. *Public Services.*

- a. *The proposed use is in conformance with the street designations of the transportation element of the Comprehensive Plan.*
- b. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include:*
 - a) *street capacity, level of service and other performance measures;*
 - b) *access to arterials;*
 - c) *connectivity;*
 - d) *transit availability;*
 - e) *on-street parking impacts;*
 - f) *access restrictions;*
 - g) *neighborhood impacts;*
 - h) *impacts on pedestrian, bicycle and transit circulation;*
 - i) *safety for all modes; and*
 - j) *adequate transportation demand management strategies.*
- c. *Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems concept are acceptable to the engineering services department.*

Relevant Facts: The proposal does not decrease the level of service on any adjacent street. The site has access to all City of Spokane public services, and will not require any additions to be made in order to fully accommodate the proposed site development.

Staff finds this criterion is met.

VI. RECOMMENDATION

TO APPROVE the Conditional Use Permit to allow a retail sales and service use at this residentially zoned site located at 3205 N. Lidgerwood Street; substantially in conformance with the plans and application on file in Planning and Development, and the following conditions of approval:

- 1. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with, and limit the negative impacts on surrounding residential areas.
- 2. Department of Ecology requires proper hazardous waste disposal for any waste generated on site, as well as proper erosion and sediment control practices to be used on the construction site and adjacent areas to prevent upland sediments from entering surface water for any site improvements.
- 3. If any artifacts or human remains are found upon excavation, DAHP, the Spokane Tribe of Indians and the Planning & Development Department should be immediately notified and the

work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.

4. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County, Washington State, and/or any Federal agency to include landscaping and screening, signage, parking, building code, etc.