October 27, 2015

Mr. Dennis Dellwo, President
City of Spokane Plan Commission
808 W. Spokane Falls Blvd.
Spokane, Washington 99201-3329

Re: Spokane Housing Ventures
Parcel Numbers 34032.0409, 34032.0492, and 34032.0489

Dear Mr. President and Plan Commission Members:

This letter is intended to provide background and information concerning the above annexation.

A. BACKGROUND.

1. Summer 2011, SHV and partnerships make request to be annexed to the City.
2. November 2011, matter deferred by City Council to allow City administration to evaluate boundaries for the annexation.
3. May 29, 2012, Mayor Condon recognizes partnerships affordable housing projects, but "rejects annexation at this time."
4. February 12, 2015, letter to Council President Ben Stuckart requesting annexation and providing background concerning installation of City water, sanitary sewer, and public street development to include execution of Connection/Annexation Agreements and payment of connection fees to the City.
5. April 20, 2015, Resolution No. 2015-0031. This City Council Resolution geographically modified the annexation proposal to include a statement that the City of Spokane will pursue this annexation in accordance with the direct petition method described in RCW 35.13.
6. August 26, 2015, letter to Interim Planning Director requesting that this annexation be placed before the City Plan Commission for consideration.

At the October 14, 2015, Plan Commission Meeting, City staff presented information suggesting that this annexation would not result in positive cash flow to the City general, EMS and utility funds. This was due in large part to the difference between the "in city" utility fees versus the
"out of city" utility fees. Notably, this exact same information was presented to the City Council.

Once again, the City presentation failed to take into consideration the significant capital investment by the proponent, which amounts to approximately $1,027,281.00. See Attachment A. This constructed public infrastructure, city utilities and streets, was required by the City, in order benefit, support, and expand planned growth of the urban area. There is no doubt this infrastructure allows the City to collect additional connection fees, service charges, and other costs in the operation of its public utilities. Not to mention, additional sales and property tax will be generated from these properties following the annexation.

B. THE CITY COMPREHENSIVE PLAN.

Goal LU 9 entitled "Annexation Areas" states that the City supports annexations that support logical boundaries and reasonable service areas within the City's urban grow area, where the city has the fiscal capacity to provide services. LU 9.6 qualifies the "negative fiscal impact on the city" with regard to utilities and states

Property owners in annexing areas should fund the public utility improvements necessary to serve new development in a manner that is consistent with applicable City of Spokane policies and regulations.

It is without question that this annexation has satisfied the goals and policies of annexation set forth in the City Comprehensive Plan. See Attachment B.

The Spokane Housing Ventures annexation also fulfills policies in the housing chapter of the Comprehensive Plan that recognizes "few new housing units are developed that are affordable to lower income households." H-19. Special needs populations to include the physically disabled are in great need of affordable and subsidized housing located throughout the community. H 2.6, SH 4.2, and SH 4.2. Along with the affordable housing studies cited in the February 12, 2015 letter to Ben Stuckart, this annexation supports the Comprehensive Plan's affordable housing goals.

Finally, this annexation supports the City's affordable housing studies conducted pursuant to HUD regulations, and compliance with five goals set forth in the November 2014 "talking points on needs" for the "Spokane Consolidated Plan 2015-2020."
C. CONCLUSION.

It is requested on behalf of Spokane Housing Ventures that the Plan Commission forward to the City Council a recommendation to approve the Spokane Housing Ventures annexation.

Very truly yours,

WITHERSPOON • KELLEY

[Signature]
Stanley M. Schwartz

SMS/kh
Enclosure
ATTACHMENT A
Annexation Request
Developer Constructed Improvements

Installed and Conveyed to the City the following Utilities:

   a) Approx. 1000 feet of 8” Sanitary Sewer in 53rd Ave: $160,000.00
   b) Approx. 600 feet of water main in 55th Ave: $50,000.00

Streets and Walking Path Construction:

   a) 600 feet of City Street/Sidewalk/Curb and Gutter in 53rd Avenue with fire access to remainder of $126,000.00
   b) 1400 feet of widening for City Street/Sidewalk/Curb and Gutter $133,000.00
   a) 680 feet City Street/Sidewalk/Curb and Gutter for Fiske St. (for connectivity requirements): $132,000.00
   b) 680 feet for Walking Path Connectivity: $61,000.00

ROW deeded to City/County:

   a) 53rd ROW dedicated for street $125,000.00
   b) Fiske ROW dedicated to meet City street connectivity $102,000.00
   c) Walking Path to meet City connectivity requirement $34,000.00

TOTAL COST and Public Benefit for Utilities, Streets and ROW $923,000.00

Hazel's Creek Regional Stormwater - Capital Cost Fees $104,287.00

TOTAL BENEFIT TO CITY: $1,027,281.00
ATTACHMENT B:

Develop a broad, community-based process that periodically reevaluates and directs city policies and regulations consistent with the Visions and Values.

LU 7.3 Historic Reuse
Allow compatible residential or commercial use of historic properties when necessary to promote preservation of these resources.

Discussion: Preservation of historic properties is encouraged by allowing a practical economic use, such as the conversion of a historic single-family residence to a higher density residential or commercial use. A public review process should be required for conversions to a use not allowed in the underlying zoning district. Special attention should be given to assuring that the converted use is compatible with surrounding properties and the zone in which the property is located. Recommendations from the Historic Landmarks Commission and the Historic Preservation Officer should be received by any decision-maker before a decision is made regarding the appropriateness of a conversion of a historic property.

LU 7.4 Sub-Area Planning Framework
Use the Comprehensive Plan for overall guidance and undertake more detailed sub-area and neighborhood planning in order to provide a forum for confronting and reconciling issues and empowering neighborhoods to solve problems collectively.

LU 8 URBAN GROWTH AREA
Goal: Provide an urban growth area that is large enough to accommodate the expected population growth for the next 20 years in a way that meets the requirements of the CWPPs.

Policies

LU 8.1 Population Accommodation
Accommodate the majority of the county’s population and employment in urban growth areas in ways that ensure a balance between livability, preservation of environmental quality, open space retention, varied and affordable housing, high quality cost-efficient urban services, and an orderly transition from county to city jurisdiction.

LU 8.2 Urban Growth Area Planning
Plan with Spokane County for the unincorporated portions of the urban growth area.

Discussion: Planning for the urban growth area should include the adoption of consistent land use designations, policies, and development standards, as well as the identification and preservation of natural environmental features.

LU 8.3 Growth Boundary Establishment
Establish an urban growth area boundary, consistent with the CWPPs, that provides enough land to accommodate the urban growth area’s projected growth for the next 20 years.

LU 8.4 Urban Land Supply
Regularly monitor the relationship between land supply and demand to ensure that the goals of the comprehensive plan are met.

Discussion: To assure that land supply is adequate, the land supply should be regularly monitored. Particularly important at the onset of the identification of an urban growth boundary, regular monitoring can allow the city and Spokane County to make adjustments as necessary.

LU 8.5 Growth Boundary Review
Review the urban growth area boundary at least once every five years relative to the current Office of Financial Management’s twenty-year population forecast and make adjustments, as warranted, to accommodate the projected growth.

LU 9 ANNEXATION AREAS

Goal: Support annexations that create logical boundaries and reasonable service areas within the city’s urban growth area, where the city has the fiscal capacity to provide services.

Policies

LU 9.1 Logical Boundaries

Encourage the annexation of areas that are logical extensions of the city.

Discussion: As much as possible, the city should avoid annexations that create “peninsulas” of unincorporated land within the city limits. The following policies shall apply to the size of an annexation and the location of boundaries:

A. The City Council will decide whether to require increases in the size of proposed annexations on a case-by-case basis.

B. City staff may recommend expansion of a proposed annexation prior to the first meeting with property owners required under RCW 35A.14.120. The City Council will consider whether a requirement that the initiator expand the proposed annexation up to the maximum allowed under state law would meet any of the following criteria:
   1. The expanded annexation would create logical boundaries and service areas.
   2. Without the proposed annexation, the area to be added would not likely be annexed within the foreseeable future.
   3. The area to be added would eliminate or reduce an unincorporated county peninsula.

C. If the City Council concludes that any of the criteria applies to a specific annexation proposal, it will require the initiator to expand the boundaries of the proposed annexation to the extent allowed by law and deemed appropriate by the City Council.

D. Service delivery should be a criteria in the formation of boundaries. Annexations should attempt to maximize efficiencies of urban services.

LU 9.2 Peninsula Annexation

Encourage and assist property owners in existing unincorporated “peninsulas” in the city’s urban growth area to annex to the city.

Discussion: Unincorporated “peninsulas” are land areas of any size that are located outside of the city limits that have at least eighty percent of their boundaries contiguous to the city. RCW 35.13.182, allows the cities to resolve to annex such areas (in existence before June 30, 1994) subject to referendum for forty-five days after passage following the adoption of the annexation ordinance.

LU 9.3 City Utilities

Require property owners requesting city utilities to annex or sign a binding agreement to annex when requested to do so by the city.
LU 9.4 Readily-Identifiable Boundaries
Use readily identifiable boundaries, such as lakes, rivers, streams, railroads, and highways, to define annexation areas wherever possible.

Discussion: Permanent physical features provide city limit boundaries that are easy to identify and understand. Streets or roads may be used where appropriate. However, streets and roads are generally less suitable boundaries because of utility access issues.

LU 9.5 Community Impacts
Evaluate all annexations on the basis of their short and long-term community impacts and benefits.

Discussion: If the annexation includes proposed development, consideration of the proposal should include an analysis of the short and long-term impacts on the neighborhood and city in terms of all services required, including water, sewer, urban runoff, roads, schools, open space, police and fire protection, garbage collection, and other services.

LU 9.6 Funding Capital Facilities in Annexed Areas
Ensure that annexations do not result in a negative fiscal impact on the city.

Discussion: In general, property owners in annexing areas should fund the public facility improvements necessary to serve new development in a manner that is consistent with applicable City of Spokane policies and regulations. If an area annexing to Spokane requires public facility improvements to correct health and safety related problems, the property owners within the annexed area should fund these improvements. If an area annexing to Spokane has public facilities that do not meet City of Spokane standards and the property owners or residents want to improve the facilities to meet city standards, the property owners should fund those improvements, or the proportion of those improvements, that do not have a city-wide benefit. Public facility improvements within annexed areas that have a citywide benefit should be considered for funding through city revenues as part of the Spokane capital facilities and improvements planning processes.

LU 9.7 City Construction Standards
Require utilities, roads, and services in the city's urban growth area to be built to city standards.

Discussion: Interlocal agreements are a mechanism that should be used to apply these standards to the urban growth area. Requiring these facilities to be built to city standards will assure that they meet city standards at the time of annexation of these areas to the city.

LU 9.8 City Bonded Indebtedness
Require property owners within an annexing area to assume a share of the city's bonded indebtedness.

Discussion: When property is annexed to the city, it becomes subject to all city laws. It is also assessed and taxed in the same way as the property already in the city. As a result, annexed areas are required to help pay for the outstanding indebtedness of the city approved by voters prior to the effective date of the annexation.
LU 10 JOINT PLANNING

Goal: Support joint growth management planning and annexation requests, which best meet the Comprehensive Plan’s development goals and policies.

Policies

LU 10.1 Land Use Plans

Prepare land use plans in cooperation with Spokane County for the urban growth area to ensure that planned land uses are compatible with adopted city policies and development standards at the time of annexation.

LU 10.2 Special Purpose Districts

Confer with affected special purpose districts and other jurisdictions to assess the impact of annexation prior to any annexation.

Discussion: Where possible, boundaries should be mutually resolved by the jurisdictions involved before any final action is taken on a formal annexation petition.

LU 10.3 Existing Plans

Recognize the interests of the residents of the annexing area and, in the absence of specific policies and standards adopted by the city, honor the intent of adopted county plans and ordinances for areas proposed to be annexed.

LU 10.4 Permitted Uses

Discourage annexations when the sole purpose is to obtain approval of uses not allowed by county regulations unless the proposal is consistent with an adopted joint plan and with city standards and policies.

LU 10.5 UGA Expansion

Establish a forty-year planning horizon to address eventual expansion of UGAs beyond the twenty-year boundary required by the Growth Management Act.

Discussion: The purpose of the longer planning period is to ensure the ability to expand urban governmental services and avoid land use barriers to future expansion of the twenty-year UGA boundary. Within the urban reserve areas, densities and land use patterns should be established that do not preclude later subdivision to urban densities.

To identify urban reserve areas, it is necessary for the city and Spokane County to work together to identify the amount of land necessary to support the next 40 years of growth. Factors that need to be considered include the ability to provide public services and facilities and carrying capacity issues, such as water quantity and air quality.
RE: Annexation Proposal

We are the owners of About Space Storage located at 3715 E 55th Ave, in Spokane County. This 3 acre parcel is located at the east end of the proposed annexation into the city. It is a triangular property surrounded by the Palouse Hwy., 55th Ave., and Freya. It is zoned Community Commercial. We have owned the property since 2002.

While we receive city water and sewer services, all other services i.e., fire protection, roads, snow removal; Sheriff, etc. are provided by Spokane County. Over the past couple of weeks, we have been in contact with many city and county departments trying to determine the impact the proposed annexation would have on our business. No one has been able to give us a definitive answer other than we would be required to obtain a city business license, that the tax levy rate probably would be about the same and that some of the city water fees would be reduced but other fees would be added to make that a draw. We have not been able to form a conclusion on the immediate financial impact based on the information we have received.

The one long term issue that we have researched and have formed an opinion on is zoning. If the annexation is approved we definitely want the property to be zoned General Commercial. This is a small family business which supports 4 families, in addition to ours, and it has been our hope for it to support us throughout our lives. A change to a more restricted zoning, such as center and corridors, would have a negative financial impact on our long term goals.

Thank you for considering our concerns.

Dale and Deanna Bright
November 16, 2015

Ms. Jo Anne Wright
Associate Planner
City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201

Re: Proposed City of Spokane Comprehensive Plan Land Use and Zoning Amendments for the Spokane Housing Ventures Annexation
Public Comments of The Moody Bible Institute of Chicago

Dear Ms. Wright:

On behalf of The Moody Bible Institute of Chicago ("Moody"), I submit this public comment in response to the Notice of SEPA Determination and Proposed City of Spokane Comprehensive Plan Land Use and Zoning Amendments for the Spokane Housing Ventures Annexation.

Moody is a non-profit Christian organization which operates a ministry in several states. This ministry includes religious higher education, operation of Christian radio stations, and operation of a Christian publisher. As part of its ministry, Moody owns and operates a radio tower and station located at 5408 S. Freya Street just outside the City’s boundaries on the South Hill. Moody owns approximately 9 acres of land at this address consisting of parcel numbers 34032.0405; 34032.0432; and 34032.0433. Moody has operated this station for more than forty (40) years.1

Under the Spokane County Zoning Code, Moody’s property is zoned Low Density Residential ("LDR"). In the proposed annexation, the City has stated it plans to zone the property as Residential Single Family ("RSF"). This change of zoning will restrict the range of uses for which this property can be used more than the current zoning under the Spokane County Zoning Code, and eliminate some entities who may otherwise have been interested in purchasing the land.

The specific uses that are allowed under the current County LDR zoning that will no longer be allowed under the City’s RSF zoning are as follows:

1 Moody also operates two (2) branches of its post-secondary higher education program in Spokane, WA where students can earn a four (4) years bachelor’s degree in multiple disciplines.
- Community residential facilities;
- Crisis residential center;
- Row housing;
- Family day-care provider;
- Child day-care center;
- Garden sales;
- Golf course;
- Home industry;
- Home profession; and
- Transit facilities.

As a non-profit religious organization, Moody relies heavily on donations and maintaining the value of its assets in order to fund its ministry. The proposed RSF zoning the City plans to impose through the annexation will negatively impact the value of Moody’s property, and have a corresponding detrimental impact on Moody’s ministry.

It is important to also note that the Spokane Transit Authority (“STA”) recently contacted Moody to indicate that it is exploring potential acquisition of the Moody property as a terminal for “park and ride” bus service. While Moody understands that STA is only in the preliminary planning phases for this project and no offer has been made to Moody regarding the acquisition of its property, we wish to make you aware that STA would be prevented from proceeding with this project under the proposed RSF zoning classification.

Upon review the City’s proposed annexation as a whole, it is readily apparent that the ministry’s parcels are the only property in the annexation area that will be zoned RSF. The other properties along 55th Avenue between Regal Street and Freya Street (as well as the parcel at the east corner of 55th Avenue and Freya Street) are zoned primarily Community Business (“CB”) and the parcel immediately adjacent to Moody’s land is zoned Residential Multi-Family (“RMF”). In other words, its RSF property will be sandwiched between RMF and CB on one side, and CB on the other side. It will be an island of RSF zoning stuck in a sea of CB and RMF properties. Moody submits that as part of the annexation, all three Moody parcels should receive similar zoning (i.e. either RMF or CB) consistent with the other properties impacted by
the annexation. Alternatively, Moody requests that the City exclude the Moody parcels from the annexation so that it can keep the current County zoning classification.

The current zoning of LDR will be restricted by a change to RSF. However, the next higher land use zone, RMF, will allow Moody all the uses it is currently allowed under the LDR zoning. For example, duplexes, community residential facilities, outdoor recreation (i.e. golf courses), and limited office (currently allowed under the current LDR zone) would all be allowed under the RMF zone, but not allowed under the RSF zone. Per Moody’s real estate broker, zoning the land RMF upon annexation will maintain the current value of Moody’s property.

This is consistent with the County’s current comprehensive plan. The County’s plan provides for Low Density Residential uses of the Moody property – its current zoning. Zoning the property as RMF will enable Moody to benefit from all the uses allowed under the County’s comprehensive plan, whereas the proposed RSF designation will not.

Similarly, zoning the property as RMF is consistent with the City’s Comprehensive Plan (“Comp Plan”) policies. There are no provisions in the Comp Plan which prevent the City from zoning Moody’s property as either RMF or CB. Indeed, DP 1.4 of the Comp Plan states the “development needs to take into account the context of the area and should result in an improvement to the surrounding neighborhood.” This policy supports comparable uses of property within the annexed zone. Having an RSF zone between lands zoned as CB on both sides of the Moody parcels is out of context with the CB zones.

Finally, this is consistent with the Revised Code of Washington. Pursuant to RCW 35.14.177, Spokane City can develop a comprehensive land use plan for areas outside the City limits, but inside its Urban Growth Area, to be effective upon annexation. In this case, it does not appear the City has gone through this procedure for the Moody property. Enclosed as Attachment A is that portion of the City’s Land Use Plan map which depicts the proposed annexation area (i.e. 55th Avenue between Regal Street and Freya Street). As can be seen, while the most western section of the annexed area has a pre-planned zoning designation, the remainder of the property inside the annexed area does not. There is no barrier to the City zoning the Moody property as either RMF or CB.

For the foregoing reasons, Moody Bible Institute respectfully requests the City of Spokane Planning Commission and City Council to allow for RMF or CB zoning for its land within the proposed area to be annexed into the City limits. Such zoning will enable Moody to maintain the value of an important asset, and will enable it to make all the uses currently available to it under the County’s current zoning. Alternatively, Moody requests the City to exclude the Moody parcels from the annexation.
Ms. Jo Anne Wright
November 16, 2015
Page 4

Very truly yours,

[Signature]
KELLY E. KONKRIGHT
KEK:kek
Memo

Planner: Jo Ann Wright, Planning and Development
From: Scott Engelhard, Spokane County Engineering
File #: 2015 SHV.
Date: November 18, 2015
RE: Comprehensive Plan Land Use Map and Zoning Map Changes

Jo Ann, thank you for chatting with me briefly on the phone this morning regarding the hearing status of the above referenced application.

Spokane County Engineering has no specific comments regarding the Planning Commission consideration of Comprehensive Plan and Zoning Map changes should the proposed area be annexed into the City of Spokane.

Spokane County Engineering would like to comment for the record that should the City of Spokane proceed with the annexation application, that the adjacent streets and roads surrounding the proposed area also be included as part of the final annexation. Specifically, the adjacent streets and roads surrounding the proposal are the Palouse Highway, 55th Avenue and Regal Street.

It is my understanding that there will be additional opportunity to comment on the annexation application as the process continues.

end
Spokane Housing Ventures Annexation
Comments from the Southgate Neighborhood Council

The Area

Land Use
One area of concern we have is the differentiation of the Land Use and Zoning designations in the alternative plan. The large CC parcels already in Southgate are designated CC-Core for Land Use and CC2-DC for zoning. We are wondering why the city-proposed alternative splits the Land Use and Zoning designations into General Commercial and CC2-DC. We would like to see them match the other CC zones in our neighborhood to maintain uniformity in their development. During discussions that led to the creation of the Southgate District Center back in 2005/06, it was explained to the Southgate Neighborhood Council that the city would not be creating any more General Commercial areas in Spokane and that dense, commercial development would happen only within the Center and Corridor designation. Why has the policy changed? When did it change?

Zoning
In an email on May 18, 2015, Acting Planning Director Louis Meuler stated that the department’s intention was to use Spokane Comprehensive Plan policy LU 10.3 as guidance when considering the zoning designation for these properties.

\textit{LU 10.3 – Existing Plans}
\textit{Recognize the interests of the residents of the annexing area and, in the absence of specific policies and standards adopted by the city, honor the intent of adopted county plans and ordinances for areas proposed to be annexed.}

Southgate finds it appropriate to follow this policy as the city considers how to integrate these properties into the Southgate neighborhood. The mix of developing mixed use, established community commercial, and open low-density designated parcels provides a good blend of new land to our neighborhood. Given that the majority of the proposed annexed area is currently in the County’s Mixed Use zoning, Southgate believes that the city should seek to maintain that designation as this land becomes part of our neighborhood.

According to County Zoning Code Chapter 14.608.100, the intent of Mixed Use zoning is to, “implement the Mixed-use Area, Community Center and Urban Activity Center categories of the Comprehensive Plan. These mixed-use categories encourage development that fosters pedestrian activity, supports transit, and provides for a mix of diverse land uses. \textbf{The Mixed-use zone supports many activities of daily life that can occur within easy walking distance, giving independence to those who do not drive.} Mixed-use areas support higher intensity
development, but compatibility of uses is ensured through special design standards. Mixed-use areas often provide a central focus point with transportation linkages to the broader community.”

When you compare this intent with the various zoning classifications in the Spokane Municipal Code (SMC) you see that it aligns most directly with our Center and Corridor Zoning as outlined in SMC 17C.122.010, “The intent of center and corridor regulations is to implement the goals and policies of the comprehensive plan for centers and corridors. These areas are intended to bring employment, shopping, and residential activities into shared locations and encourage, through new development and rehabilitation, new areas for economic activity. New development and redevelopment is encouraged in these areas that promotes a relatively cohesive development pattern with a mix of uses, higher density housing, buildings oriented to the street, screened parking areas behind buildings, alternative modes of transportation with a safe pedestrian environment, quality design, smaller blocks and relatively narrow streets with on-street parking.”

It is Southgate’s view that designating the Land Use and Zoning Center and Corridor is the best way to meet the intent of the Comp Plan policy cited by Mr. Meuler.

The Vision

In early September, the neighborhood met with city staff to discuss the annexation and proposed the following zoning for the parcels (see image below). The city can annex the Mixed Use properties and designate them as a combination of CC-2 and CC-4 to meet the intent of the County zoning and the reality of the projects in development. The CC-2 pedestrian enhanced/auto-accommodating zoning will encourage the development of pedestrian-oriented commercial projects in the 8-acres adjacent to Regal Street and the CC-4 zoning for the apartment parcels will accommodate those projects as well. This vision has been modified and incorporated into the City’s “alternative” option.

The total area of these CC designated parcels (27 acres) are larger than the CC zones found at 29th and Grand Ave., the Perry District, and 14th and Grand Ave. This area has the potential to align with our Comprehensive Plan’s vision for a high-density, mixed-use area. To zone it as purely commercial and residential is to violate LU 10.3 and fall short of the standards we have set for ourselves as a community.
A Bigger Vision
Beyond the current annexation question, Southgate would suggest the city expand its vision to look at the Southgate/Moran Prairie area as a whole. There are already three designated District Centers along Regal Street within 2 miles of each other: Lincoln Heights, Southgate, and 57th and Regal Street. The annexation of the properties at the southern edge of our neighborhood point to a need for broader planning for the future annexation of the land already in the Urban Growth Area which extends clear to 65th Ave. to the south and Glenrose Road to the east. In this immediate case, the city should look to see how these three Centers are connected or can be connected with a comprehensive and holistic plan that enacts the vision of our city as state in the Comprehensive Plan.
Two Alternatives

The city planning staff is proposing two alternatives to the land use and zoning of the proposed annexed area. One would create a Community Business zone along Regal Street, the other would reflect a version of the thoughts laid out by Southgate Neighborhood Council above which includes creating Center and Corridor zoning along Regal Street. The Southgate Neighborhood Council would recommend the Plan Commission and City Council adopt the “alternative” plan being proposed by the City. The Center and Corridor zoning is more in line with the intent of the County’s Mixed Use zoning (as outlined above). It could even recommend revising the Land Use and Zoning to match the mixed CC-2/CC-4 zoning the neighborhood once proposed back in September.

The Center and Corridor Land Use and Zoning is also better aligned with the city-adopted Southgate Neighborhood Connectivity Plan and would provide a better neighborhood commercial development for the large number of high-density residential developments nearby (over a dozen within a quarter mile). Pedestrian-oriented land use and zoning could help create the type of vibrant, walkable neighborhood that is the goal of the Spokane Comprehensive Plan and the stated goal of such lauded developments as Perry Street, Kendall Yards, and the East Sprague Redesign Project. In either case, the neighborhood urges the city to include ADA/Pedestrian access along 53rd and 55th clear to Regal Street. As the design stands right now, there is limited access along those streets for residents of the apartments along 55th to the transit corridor on Regal Street.

Creating desirable, livable neighborhoods is an intentional exercise, it cannot be achieved by maintaining or accepting the status quo. Pedestrian-oriented development at this location can be built up over time to connect with the growing Southgate District Center and the Comp Plan-designated Center at 57th and Regal Street. We thank you for your time and consideration and look forward to continued dialogue and input with the city as we work to implement our neighborhood plans.

Thank you,
Ted Teske, Chair, Southgate Neighborhood Council
Kerry Broooks, Chair, SNC Land Use Committee
December 1, 2015

Mayor David Condon  
Spokane City Hall  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201

Ms. Nancy Isserlis  
City Attorney  
Spokane City Hall  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201

Ms. Jo Anne Wright  
City of Spokane Planning & Development  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201

Via Hand Delivery

Via Hand Delivery

Via Hand Delivery

Re: Cyrus Vaughn and Vaughn’s 57th Avenue, LLC v. City of Spokane

ER 408 COMMUNICATION

Dear Mayor Condon, Ms. Isserlis, and Ms. Wright:

We represent Cyrus Vaughn and his company, Vaughn’s 57th Avenue, LLC, with regard to the City’s threatened regulatory taking of his company’s commercial retail property located at Regal and 57th Avenue. The City of Spokane has recently announced plans to hold a hearing to change land use zoning designations relating to the proposed annexation of land parcels in Spokane County to the City of Spokane. This proposed annexation includes property of Spokane Housing Ventures and property owned by Vaughn’s 57th Avenue, LLC, bounded by the Palouse Highway and Regal Street to the east and west, and 53rd Avenue and 55th Avenue to the north and south.
As you are aware, Mr. Vaughn’s company owns 8 acres of commercial property within the proposed annexation area. His company’s land currently has a Spokane County land use designation of Mixed Use. This of course allows Mr. Vaughn and his company to develop their property free of significant restrictions, including free of restrictions on where drive-through facilities can be located. This zoning designation and capability is critical to attracting tenants that require easy access and high-visibility from the street. Such capabilities and facilities are necessary to attract highly-desirable and profitable tenants such as fast-food restaurants and cafes, as well as other high-rent, major retailers eager to capitalize on the foot and vehicle traffic generated by such establishments.

The current land use and zoning designation allowing Mr. Vaughn and Vaughn’s 57th Avenue, LLC to develop such drive-through facilities was thus critical and foremost to Mr. Vaughn and his company’s original decision to acquire this property. In direct reliance on this capability, Vaughn’s 57th Avenue, LLC proceeded to purchase the property located at 5311 South Regal Street on October 29, 2013 for $685,000. Shortly thereafter on November 1, 2013, Mr. Vaughn’s company also purchased parcel numbers 34032.0412, 34032.0446, 34032.0447, and 34032.0481 located along 57th Avenue for the amount of $2,8253,000. The total purchase price for the aggregated parcels of property came to $3,510,000. Mr. Vaughn and his company thereafter proceeded to invest an additional $2,125,559.88 in developing this property for its intended retail use, again in direct reliance on the ability to develop the property in a manner consistent with the needs of the intended retail tenants requiring property that could accommodate drive-through facilities between the street and buildings.

Upon learning in April of this year that the City of Spokane was contemplating annexation including the property owned by Mr. Vaughn’s company, Mr. Vaughn immediately had his land use attorney contact the City of Spokane to inquire into whether and how any potential future annexation of the property might affect the property’s land use and zoning designation with respect to its intended retail uses. He was assured by City officials that if annexation were to be approved, his company’s property would be zoned for General Commercial or Community Business use, both of which he was advised would afford similar capabilities. He was also told neither designation would impact or restrict his ability to locate and develop any planned drive-through facilities.

Mr. Vaughn has invested nearly $6,000,000 in acquiring and developing this property in reliance on the uses permitted under the property’s current County zoning, including the ability to locate drive-throughs between the buildings and street. Mr. Vaughn and his company have further relied upon the City’s representations and
promises that any zoning change caused by a future annexation would have no significant
effect on their development plans with respect to this capability. Now, the City of
Spokane has recently advised Mr. Vaughn that the proposed Spokane Housing Ventures
annexation may in fact result in a Centers and Corridors Type 2 ("CC-2") City zoning
designation change. This is directly contrary to how he was told the property’s current
County designation of Mixed Use would be addressed. Unlike the current designation or
the General Commercial or Community Business designations which the City had
assured Mr. Vaughn would result from any annexation involving his company’s property,
a CC-2 designation drastically alters development plans prohibiting the location of drive-
throughs between buildings and the street.

This newly-proposed restriction is entirely unacceptable to our clients and to the
prospective tenants they seek to attract, as it deprives them of the uses for which they
originally purchased and invested in developing this property. Indeed, already, the mere
threat that this designation may be applied to the land owned by Vaughn’s 57th Avenue,
LLC has resulted in the loss of two prospective tenants unwilling to run the risk of even
considering leasing property that may be subject to drive-through restrictions as proposed
by a CC-2 designation. Mr. Vaughn has been further advised that absent the ability to
attract such tenants and establishments, other highly desirable and lucrative tenants will
likewise look to lease elsewhere. It is expected the direct result of a land use change to a
CC-2 zoning designation will be to diminish the value of Mr. Vaughn and his company’s
investment and improvements by approximately 50%.

Should the City of Spokane use this alternative proposed zoning designation of
CC-2 or otherwise zone or regulate Vaughn’s 57th Avenue, LLC’s land so as to restrict
uses, and especially the location of drive-through facilities, this constitutes an
unconstitutional taking of Mr. Vaughn and his company’s property. This threatened
regulatory taking is not only ill-advised, but there is also simply no need for this
restrictive designation with regard to the proposed annexation area. There is no factual or
legal justification for depriving Mr. Vaughn and his company of the property they
purchased and the value of the investments they have made in direct reliance on the
current use permitted, which the City subsequently assured them would not be affected or
hindered by any proposed annexation.

Accordingly, enclosed you will find a Claim for Damages identifying Mr. Vaughn
and Vaughn’s 57th Avenue, LLC’s demand for just compensation in the amount of not
less than $3,500,000 for the taking and damaging of their property implicated by the
City’s threatened annexation and alternative zoning designations. This claim obviously
becomes moot and will be withdrawn if the City simply confirms in writing that
December 1, 2015
Page 4

Vaughn’s 57th Avenue, LLC’s property will remain zoned consistent with its present designation, and the City’s prior representations that in the event of annexation, development will still be allowed in accordance with the same uses and capabilities permitted under the current Mixed Use County designation. If Mr. Vaughn does not receive these assurances by 12:00 p.m. on Monday, December 74, 2015, he will be forced to proceed accordingly.

Very truly yours,

DUNN & BLACK, P.S.

ALEXANDRIA T. JOHN
ROBERT A. DUNN

Enclosure
cc:  Cyrus Vaughn
CLAIM FOR DAMAGES
CITY OF SPOKANE, WASHINGTON

1. Claimant's Name: Cyrus Vaughn III & Vaughn's 57th Avenue, LLC
   Residence: 520 W. Main Ave.
   Spokane, Washington 99201
   (List full address: Street, City, State, Zip Code)
   Phone #: Home (509) 998-3508 Work (509) 747-3048 Birthdate: __________

2. Residence of claimant for six months prior to the time the claim of damages
   accrued (if different): ____________________________

3. Name, address and telephone of owner of any damaged property if not given above:
   TOTAL CLAIM: $ Not less than $3,500,000.00

4. CLAIM INCIDENT DATE: 11/25/2015 TIME: 10:00 a.m. PLACE: Regal & 57th Ave.
   DESCRIPTION OF INCIDENT: (Give full account; describe how the City was at fault. List defects causing loss
   and City acts or omissions) See attached.
   Attachments (Attach additional sheets if necessary.)

5. Give an itemization of your claim, listing specific losses actually sustained or expected: Damages of not less
   than $3,500,000 for the taking of Mr. Vaughn and Vaughn's 57th Avenue, LLC's property.
   Attachments (Attach bills, statements, estimates or other proof of your specific items of loss.)

6. Were any other persons involved in the incident? Give details with name, address and telephone: ______
   See attached.

7. Name, address and telephone of witnesses or persons with further information: __________________________
   See attached.

8. Is claimant willing to settle or compromise? If so, state amount acceptable as full settlement: $ 3,500,000.00

NOTE: Please see Spokane Municipal Code 4.02.030 for further information on claim requirements.

MEDICAL INFORMATION DISCLAIMER: Per chapter 42.56 RCW (Public Records Act), a filed Claim for Damages and
its attachments are subject to public disclosure. If you have any attachments to this claim containing medical information,
please enclose those attachments in a sealed envelope marked with your name and the phrase “Medical Contents.”

STATE OF WASHINGTON )
County of Spokane )

[Signature]
(print name), being first duly sworn, on oath, depose and say: That I have
read the foregoing claim, know the matter therein contained, and the same is true to the best of my knowledge.

SUBSCRIBED AND SWORN to before me this 25 day of November, 2015.

[Signature]
Claimant

[Signature]
Notary Public
State of Washington
MAUREEN E. COX-O'BRIEN
MY COMMISSION EXPIRES
FEBRUARY 01, 2019

FILE COMPLETED FORM WITH:
Spokane City Clerk's Office
Fifth Floor, Municipal Bldg.
808 W. Spokane Falls Blvd.
Spokane WA 99201-3342
509-625-6350

Notary Public in and for the State of Washington,
Residing at Spokane Valley
My commission expires 2-1-19

Rev. 02.12.2008
December 1, 2015

Mayor David Condon  
Spokane City Hall  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201  

Via Hand Delivery

Ms. Nancy Isserlis  
City Attorney  
Spokane City Hall  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201  

Via Hand Delivery

Ms. Jo Anne Wright  
City of Spokane Planning & Development  
808 W. Spokane Falls Blvd.,  
Spokane, WA 99201  

Via Hand Delivery

Re:  Cyrus Vaughn and Vaughn’s 57th Avenue, LLC v. City of Spokane

ER 408 COMMUNICATION

Dear Mayor Condon, Ms. Isserlis, and Ms. Wright:

We represent Cyrus Vaughn and his company, Vaughn’s 57th Avenue, LLC, with regard to the City’s threatened regulatory taking of his company’s commercial retail property located at Regal and 57th Avenue. The City of Spokane has recently announced plans to hold a hearing to change land use zoning designations relating to the proposed annexation of land parcels in Spokane County to the City of Spokane. This proposed annexation includes property of Spokane Housing Ventures and property owned by Vaughn’s 57th Avenue, LLC, bounded by the Palouse Highway and Regal Street to the east and west, and 53rd Avenue and 55th Avenue to the north and south.
December 1, 2015
Page 2

As you are aware, Mr. Vaughn’s company owns 8 acres of commercial property within the proposed annexation area. His company’s land currently has a Spokane County land use designation of Mixed Use. This of course allows Mr. Vaughn and his company to develop their property free of significant restrictions, including free of restrictions on where drive-through facilities can be located. This zoning designation and capability is critical to attracting tenants that require easy access and high-visibility from the street. Such capabilities and facilities are necessary to attract highly-desirable and profitable tenants such as fast-food restaurants and cafes, as well as other high-rent, major retailers eager to capitalize on the foot and vehicle traffic generated by such establishments.

The current land use and zoning designation allowing Mr. Vaughn and Vaughn’s 57th Avenue, LLC to develop such drive-through facilities was thus critical and foremost to Mr. Vaughn and his company’s original decision to acquire this property. In direct reliance on this capability, Vaughn’s 57th Avenue, LLC proceeded to purchase the property located at 5311 South Regal Street on October 29, 2013 for $685,000. Shortly thereafter on November 1, 2013, Mr. Vaughn’s company also purchased parcel numbers 34032.0412, 34032.0446, 34032.0447, and 34032.0481 located along 57th Avenue for the amount of $2,8253,000. The total purchase price for the aggregated parcels of property came to $3,510,000. Mr. Vaughn and his company thereafter proceeded to invest an additional $2,125,559.88 in developing this property for its intended retail use, again in direct reliance on the ability to develop the property in a manner consistent with the needs of the intended retail tenants requiring property that could accommodate drive-through facilities between the street and buildings.

Upon learning in April of this year that the City of Spokane was contemplating annexation including the property owned by Mr. Vaughn’s company, Mr. Vaughn immediately had his land use attorney contact the City of Spokane to inquire into whether and how any potential future annexation of the property might affect the property’s land use and zoning designation with respect to its intended retail uses. He was assured by City officials that if annexation were to be approved, his company’s property would be zoned for General Commercial or Community Business use, both of which he was advised would afford similar capabilities. He was also told neither designation would impact or restrict his ability to locate and develop any planned drive-through facilities.

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This newly-proposed restriction is entirely unacceptable to our clients and to the prospective tenants they seek to attract, as it deprives them of the uses for which they originally purchased and invested in developing this property. Indeed, already, the mere threat that this designation may be applied to the land owned by Vaughn's 57th Avenue, LLC has resulted in the loss of two prospective tenants unwilling to run the risk of even considering leasing property that may be subject to drive-through restrictions as proposed by a CC-2 designation. Mr. Vaughn has been further advised that absent the ability to attract such tenants and establishments, other highly desirable and lucrative tenants will likewise look to lease elsewhere. It is expected the direct result of a land use change to a CC-2 zoning designation will be to diminish the value of Mr. Vaughn and his company's investment and improvements by approximately 50%.

Should the City of Spokane use this alternative proposed zoning designation of CC-2 or otherwise zone or regulate Vaughn's 57th Avenue, LLC's land so as to restrict uses, and especially the location of drive-through facilities, this constitutes an unconstitutional taking of Mr. Vaughn and his company's property. This threatened regulatory taking is not only ill-advised, but there is also simply no need for this restrictive designation with regard to the proposed annexation area. There is no factual or legal justification for depriving Mr. Vaughn and his company of the property they purchased and the value of the investments they have made in direct reliance on the current use permitted, which the City subsequently assured them would not be affected or hindered by any proposed annexation.

Accordingly, enclosed you will find a Claim for Damages identifying Mr. Vaughn and Vaughn's 57th Avenue, LLC's demand for just compensation in the amount of not less than $3,500,000 for the taking and damaging of their property implicated by the City's threatened annexation and alternative zoning designations. This claim obviously becomes moot and will be withdrawn if the City simply confirms in writing that
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Enclosure
cc:  Cyrus Vaughn