

**STAFF REPORT ON
CONDITIONAL USE PERMIT FILE NO. Z17-364CUP3**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: The applicant is requesting a Conditional Use permit for a proposed 8,326 square foot sit down Restaurant (Thai Bamboo) in an Office-Retail zone. Any retail space exceeding 3,000 square feet in the Office Retail zone requires a Type III Conditional Use Permit.

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

II. GENERAL INFORMATION:

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|----|----------------------------|--|
| A. | Applicant: | Whipple Consulting Engineers
2528 N. Sullivan Rd.
Spokane Valley, WA 99216 |
| B. | Property Owner: | Grapetree Village, LLC
2017 E 29 th Ave
Spokane, WA. 99203 |
| C. | Agent: | Same as Applicant |
| D. | Location of Proposal: | 2203 E 29th Ave (Note: this site is currently the subject of a short plat, file no. Z17-037PSP & Z17-422FSP). |
| E. | Existing Zoning: | Office-Retail (OR-35) |
| F. | Land Use Plan Designation: | Office |
| G. | SEPA Status: | Exempt under SMC 17E.050.070 because it falls under the flexible thresholds. |
| H. | Enabling Zoning: | SMC 17C.120 Commercial Zones; 17C.320 Conditional Uses; 17G.060.170C Decision Criteria |
| I. | Hearing Date: | August 17, 2017 – 9:00am |
| J. | Staff Contact: | Donna deBit, Assistant Planner, 625-6637
ddebit@spokanecity.org |

III. FINDINGS OF FACT:

- A. **Site Description:** The subject property is located on the northwest corner of 29th Ave and Lee St. Currently there is an existing parking lot and an existing Office use (Massage Envy). This site is currently being processed through a 2 lot Short Plat application (Z17-037PSP & Z17-422FSP) that will result in the two businesses being on their own tax parcel.
- B. **Project Description:** The applicant is proposing a new 8,326 square foot restaurant that would include dining areas and outdoor seating. There will be on-site storm water treatment provided and landscaping.
- C. **Surrounding Zoning:** Residential Single Family (RSF) to the north, Residential Single Family (RSF) and Residential Multi-family (RMF) to the east, Centers and Corridors Type 1 (CC1-DC) to the south, and Office (O-35) to the west.
- D. **Zoning History:** Prior to 2006, the property was partially zoned R1 and R3-L. The property was rezoned to Office Retail through the City wide zone change in 2006.
- E. **Adjacent Land Use:** Land Use to the north is Residential 4-10, to the east is Residential 15-30, to the south is CC Core and Residential 15-30, and to the west is Office.
- F. **Applicable Zoning Regulations:** Spokane Municipal Code (SMC) 17C.120 Commercial Zones; SMC 17C.320.080 Conditional Use Decision Criteria, and SMC 17G.060.170 Land Use Application Procedures Decision Criteria.
- G. **Procedural Requirements:**
- A Community Meeting was held on April 12, 2017 and May 4, 2017;
 - Application was submitted on June 6, 2017;
 - A Request for Comments notice was sent to Departments and Agencies on June 15, 2017;
 - Applicant was notified on June 30, 2017 that the application was technically complete;
 - A combined Notice of Application and Public Hearing was mailed and posted on the subject property on July 12, 2017 which began the 15-day public comment period; and
 - The Public Comment Period closed on July 26, 2017.



IV. DEPARTMENT REPORTS:

Notice of this proposal was sent to City departments and outside agencies for their review and comments on June 15, 2017. Their comments are included with the file and are made part of this application by reference.

V. PUBLIC COMMENT:

Notice of this proposal was sent to property owners, tax payers, and tenants within 400 feet of the subject parcel. One public comment was received via email (July 26, 2017) opposed to the project. This comment has been included as part of the record.

VI. CONCLUSIONS:**A. 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:

This application, if approved through the Type III permit process from the Hearing Examiner, may be permitted under SMC 17C.120.100 Commercial Primary Uses. Table 17C.120-1 and 17C.120.110 Limited Use Standards states that a restaurant use that is larger than 3,000 square feet in the Office Retail zone must be approved through a Type III Conditional Use Permit.

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 LU 3 Efficient Land Use states: Promote the efficient use of land by the use of incentives, density and mixed-use development in proximity to retail businesses, public services, places of work, and transportation systems.*

**Policy LU 3.8 Shared Parking states: Encourage shared parking facilities for businesses and commercial establishments that have dissimilar peak use periods.*

**Goal LU 5 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.*

Staff Discussion: The applicant is proposing a sit-down restaurant use that will be complimentary to pedestrians, transit users, bicyclists, and those driving a vehicle. While there are residential uses to the north/northeast, it is not anticipated that the use will impact the neighborhood negatively since there will be a reciprocal parking agreement with the commercial uses to the west.

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 June 15, 2017 amongst all City departments and outside agencies with jurisdiction. Staff received 2 comments from City Staff, 1 comment from Spokane Tribes, and 1 comment from the neighborhood council. None of the comments indicated that concurrency could not be met.

Staff Discussion: The two comments that staff received from the Engineering Department discussed the request of right-of-way along the 29th Avenue frontage (Email from Inga Note,

6/16/17 and Memo from Eldon Brown, 8/4/17). Per Ms. Note's email, the City has a project on the Impact Fee List to construct a 5-lane section through 29th Avenue adjacent to the project site in the future. Per Mr. Brown's memo, the City is going to be *requiring* this right-of-way dedication through the final short plat that is also occurring at this site (File no. Z17-422FSP, still under review as of 8/8/17). This dedication of right-of-way can be used as a credit to offset the cost of Transportation Impact Fees required to do development of the site. Staff believes this requirement is best suited to be required through a platting action, but recommends as a condition of approval that the site plan and layout of the building footprint for the future building permit reflects the plat requirement of a 7.5 foot right-of-way dedication.

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: A site plan was routed for review during the Agency and Department comment period, and staff did not receive any adverse comments indicating that the site would not be suitable to the proposed use.

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.

Staff Comment:

As mentioned above in decision criterion 3, the site plan that was submitted with this application would need to be revised by the building permit intake to reflect the required dedication of right-of-way along 29th Avenue. The applicant also submitted a draft of a Reciprocal Parking Agreement that would allow the development to utilize the parking lot to the west, in the abutting Grapetree Village development. The reciprocal parking agreement will be required to be signed and recorded prior to any building permits being issued, as the site would not meet the parking requirements stated in SMC. 17C.230 Parking and Loading.

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: The applicant provided a Trip Generation Letter that concluded the trips created through the new development were not anticipated to degrade the Level of Service (LOS) below concurrency levels. The applicant anticipates the required City of Spokane Traffic Impact Fee, but as mentioned above that fee will be offset in the developers favor by the required dedication of right-of-way (per Eldon Browns Memo 8/4/17).

The application is categorically exempt from SEPA

Staff finds that this criterion is met.

B. Time Limitation.

A zoning Conditional Use Permit automatically expires and becomes void if the application fails to apply for a building permit within three years of the effective date of the Conditional Use Permit.

VI. RECOMMENDATION

TO APPROVE the Conditional Use Permit to allow the proposed restaurant at 2215 E 29th Avenue; substantially in conformance with the application on file in Planning and Development; and the following conditions of approval:

1. At the time of building permit intake, the site plan and layout of the building footprint for the future development reflects the plat (Z17-422FSP) requirement of a 7.5 foot right-of-way dedication.
2. A reciprocal parking agreement between the Grapetree Village development (2001 E 29th Ave. and 2101 E 29th Ave.) and the project site must be recorded with the Spokane County Auditor's office prior to any building permit issuance, to ensure that parking requirements for the proposed use are met.
3. 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.
4. 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.
5. 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.