



**PLANNING & DEVELOPMENT**  
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**CITY OF SPOKANE PLANNING DIRECTOR**

**Re:** Type II Conditional Use Permit  
Application by Whipple Consulting  
Engineers for the construction of a  
23 unit Cottage Housing  
development, with associated site  
work in the Vinegar Flats  
neighborhood.

**FINDINGS, CONCLUSIONS, AND  
DECISION**

**FILE NO. Z19-073CUP2**

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The applicant has requested approval of an Administrative Conditional Use Permit (Type II) from the City Planning & Development Director to allow the construction of a 23 unit cottage housing development on properties located at 1732, 1820, 1830 S. Inland Empire Way and 1801 Chestnut St., Spokane, WA (Parcel #'s 25251.1805, 25251.1807, 25251.1808, 25251.1806) in the City of Spokane, WA.

**Decision:** Approved, with conditions

**BACKGROUND INFORMATION**

**Applicant:** Whipple Consulting Engineers  
c/o Todd Whipple  
21 S. Pines Rd.  
Spokane Valley, WA 99206

**Property Owner:** KBM Development, LLC  
1732 S. Inland Empire Way  
Spokane, WA 99224

**Location of Proposal:** **1732 S Inland Empire Way, 1820 S Inland Empire Way, 1830 S Inland Empire Way, 1801 S Chestnut St.** - Parcel Numbers 25251.1805, 25251.1807, 25251.1808, 25251.1806

**Zoning:** Residential Agriculture (RA)

**Land Use Plan Designation:** Agriculture

**SEPA:** A DNS was issued on May 8, 2019

**STAFF REPORT ON TYPE II  
CONDITIONAL USE PERMIT APPLICATION  
FILE NO. Z19-073CUP2**

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

**DESCRIPTION OF PROPOSAL:** The applicant has requested approval of an Administrative Conditional Use Permit (Type II) from the City Planning & Development Director to allow the construction of a 23 unit cottage housing development on properties located at 1732, 1820, 1830 S. Inland Empire Way and 1801 Chestnut St., Spokane, WA (Parcel #'s 25251.1805, 25251.1807, 25251.1808, 25251.1806) in the City of Spokane, WA.

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

**II. GENERAL INFORMATION:**

- |    |                            |  |
|----|----------------------------|--|
| A. | Applicant:                 | Whipple Consulting Engineers<br>c/o Todd Whipple<br>21 S. Pines Rd.<br>Spokane Valley, WA 99206  |
| B. | Property Owner:            | KBM Development, LLC<br>1732 S. Inland Empire Way<br>Spokane, WA 99224   |
| C. | Location of Proposal:      | <b>1732 S Inland Empire Way, 1820 S Inland Empire Way, 1830 S Inland Empire Way, 1801 S Chestnut St. - Parcel Numbers 25251.1805, 25251.1807, 25251.1808, 25251.1806</b> |
| D. | Existing Zoning:           | Residential Agriculture (RA)   |
| E. | Land Use Plan Designation: | Agriculture  |
| F. | Environmental Overlays:    | Habitat and Species  |
| G. | SEPA Status:               | A DNS was issued on May 8, 2019  |
| H. | Enabling Zoning:           | SMC 17G.060.170 Decision Criteria; 17C.110.350 Cottage Housing   |



**Proposed Site Plan**

**III. BACKGROUND INFORMATION:**

**Project Description:** The applicant is proposing to construct a twenty-three (23) unit cottage style housing project on 4 adjacent parcels (slightly more than 2 acres) with associated common open space, driveways, parking and landscaping. The footprints will range from 704 square feet to 997 square feet, and the total gross floor area of each unit will range from 1168 square feet to 1200 square feet. This will be the sixth cottage housing project in the City of Spokane since the adoption of the current (June 2006) residential development code. The subject parcels total 3.18 acres. The existing greenhouse and nursery retail establishment that is located to the north east at 1732 S. Inland Empire Way will remain and be parceled off, therefore reducing the total acreage of the cottage development to 2.2 acres.

**Site Description:** The subject property is currently vacant, with exception to the existing greenhouse and nursery to the north (to remain). According to the applicant's project narrative, the site was historically used as "truck farming" for the property owners or their lessees. This proposal is located in the Latah/Hangman Neighborhood, and is approximately 300 feet from Latah Creek. The site is relatively flat, ranging in 0-8 percent slope.

**Applicable Zoning:** The subject properties are zoned Residential Agriculture (RA). SMC 17C.110.350 *Cottage Housing* allows cottage housing developments outright in the RA zone. Land Use Procedures used for Type II Conditional Use Permits are located in Spokane Municipal Code Chapter 17G.060.

**Public Comment:** Staff received 17 public comments in opposition of the project. Major concerns include the loss of agricultural/farmland character of the area, and increased traffic on Inland Empire Way, and increased building congestion.

**Procedural Requirements:**

- Application was submitted on 3/26/19;
- A Request for Comments from Agencies and Departments was sent 3/29/19;
- The application was deemed Technically Complete on 4/15/19;
- Combined Notice of Application and Public Hearing was mailed and posted on 5/23/19, which began the 15-day public comment period; and
- The Public Comment Period closed on 5/7/19
- A DNS was issued by the City of Spokane, lead agency, on 5/8/19.

**IV. DEPARTMENTAL & AGENCY REPORTS**

Notice of this proposal was sent to City departments and outside agencies for their review and comments on March 29, 2019. All comments are included with the file and are made part of this application by reference.

**V. FINDINGS AND CONCLUSIONS**

*A. SMC 17G.060.170.C Decision Criteria – Type II and Type III permit applications.*

*The intent of the below listed decision criteria procedure is to determine the conditions under which a use may be permitted. Type II or III applications are subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses permitted in the surrounding area. A conditional use permit may be granted only if the following facts and conditions are found to exist:*

1. *The proposal is allowed under the provisions of the land use codes.*

Relevant Facts:

Cottage Housing is allowed in the RA (Rural Agricultural) and RSF zones by Type II Conditional Use Permit (CUP), subject to the compliance of subsections (D) and (E) of SMC 17C.110.350 – Cottage Housing. Cottage housing developments are permitted on sites of one-half acre or larger with a minimum of six (6) units and maximum of twelve (12) units. A twenty percent density bonus is allowed based on the minimum lot size permitted in the base zone to a maximum of twelve (12) units in the development. That would allow up to twenty-six (26) units at this site. The applicant is proposing 23 units, making it 11 units per acre.

**Staff finds that criterion 1 is met.**

2. *The proposal is consistent with the Comprehensive Plan designation and goals, objectives and policies for the property;*

Relevant Facts:

Specific Comprehensive Plan Policy applicable and supportive of this application:

\*Policy LU 3.6 Compact Residential Patterns states: *Allow more compact and affordable housing in all neighborhoods, in accordance with design guidelines.*

\*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.*

\*Policy H 1.18 Distribution of Housing Options states: *Promote a wide range of housing types and housing diversity to meet the needs of the diverse population and ensure that this housing is available throughout the community for people of all income levels and special needs.*

Staff Discussion:

The Spokane Comprehensive Plan, adopted June 2017, designates the subject property as "Agricultural." LU 1.11 encourages the preservation of agriculturally designated lands since the areas have historically been farmed, contain highly productive agricultural soils, and have large enough parcel sizes for productive farming. LU 1.11 also states that development may be developed at a density of 10 units per acre. The applicant is not proposing to preserve any of the land for agricultural use, and is proposing 11 units per acre therefore making the proposal inconsistent with the intent of the designation. However, as stated in Decision Criteria 1 the proposal is consistent with the zoning regulations, creating a conflict between the Comprehensive Plan and zoning code. In a recent decision issued by the City of Spokane's Hearing Examiner (see COS file no. Z19-985SCUP) the following conclusion was made:

*"It must be acknowledged that the proposed development is not consistent with the stated purposes of the "Agriculture" designation. However, the zoning code specifically allows the proposed development. To the extent there is a conflict between the CP and zoning code in this regard, the conflict must be resolved in favor of the zoning code. Therefore, this criterion for approval is satisfied."*

Staff believes while this conclusion is not specific to this proposal, it's knowingly similar enough to apply the same analysis of the situation, therefore satisfying this criterion.

While most applicable goals and policies can be found within the Land Use element section of the Comprehensive Plan, there are numerous goals and policies that could be attached to this type of proposal, such as for design, economic development, transportation, etc., all of which would describe how it should fit into the public realm while safeguarding them from competing land uses. The intent of cottage housing is to support the diversity of housing, increase the variety of housing types for smaller households and provides the opportunity for small, detached single-family dwelling units within existing neighborhoods.

This site is free from critical areas according to available data and a site visit by the Department of Ecology and City staff. The proposal does not conflict substantially with adjacent land uses, is readily accessible to adequate transportation, utility, and service systems, as well as convenient to the labor force. All development will be required to meet any residential and applicable development standards as directed in the SMC 17C.110 –

Residential Zones. This proposal must also comply with any and all county, state, or federal regulations applicable currently or in the future. Conditions of approval will be listed at the end of this staff report. These and additional recommendations from agencies are located in the file of record

**Staff finds that criterion 2 is met.**

3. *The proposal meets the concurrency requirements of SMC Chapter 17D.010;*

Relevant Facts: The application was circulated on March 29, 2019 amongst all City departments and outside agencies with jurisdiction and there were no departments or agencies that reported that concurrency could not be achieved. This proposal was issued a Determination of Non-Significance after review of the SEPA Environmental checklist submitted.

**Staff finds that criterion 3 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;*

Relevant Facts: The site area is suitable for development according to all city departments and agencies that commented. All improvements required by development regulations in the SMC and those noted by all that commented are applicable. The applicant lists all physical and environmental elements located on the site, or in the vicinity, in the Environmental Checklist submitted. City departments and other agencies also reviewed this checklist for physical characteristics of the property.

Staff Discussion: City staff and the Department of Ecology met on the project site with the owner on 4/26/19, after City staff was notified of surface water that existed on the property. After testing the soils, it was determined that the area was not considered a jurisdictional wetland (see email from J. McCann on 4/26/2019). Ecology recommended that while there were no wetlands found, there is evidence of persistent water on site that should be addressed via a drainage plan to reduce onsite and offsite impacts from surface and storm water.

The site is designated "Agriculture" in the Comprehensive Plan, so it's acknowledged that this site has historically been used as farm land and may contain highly productive agricultural soils (at least SCS Class II soils or designated prime agriculture lands as defined by the Natural Resources Conservation Service [NRCS] United States Department of Agriculture, the CP). SMC 17C.110.350D requires common open spaces to be located in a central area to all dwelling units, and for critical and natural areas to be preserved through site design. The applicant is proposing to provide shared gardens in those common open space areas. While there are technically no critical or natural areas designated on the property, it's acknowledged that the applicant is taking advantage of the productive soils that may be on site for these shared common areas.

A Cultural Resources Survey was completed and submitted to city staff on 5/22/19. The report summarizes that there was no evidence of Native American or historic-era materials or features were observed during excavations.

**Staff finds that criterion 4 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 properties or the surrounding area, considering the design and intensity of the proposed use.*

Relevant Facts: While staff received numerous public comments opposed to the project, there was no evidence that the proposed project would have a significant adverse impact on the environment or the surrounding properties. The site plans submitted with this application indicate the project will meet the City's code requirements, including but not limited to, design (architectural elements, orientation, patio and porches), storm water, landscaping, open/common space, and buffer requirements. Traffic will be handled with an agreement to pay traffic impact fees associated with the development at the time of building permit(s) to meet concurrency. No light or glare from the project is anticipated as all light and glare will meet City requirements at property lines and will be down or reflective oriented. The existing nursery business will remain and operate on a regular basis, as it does today.

**Staff finds that criterion 5 is met.**

*B. SMC 17G.060.240 (D) Time Limitation.- A CUP (type II or type III) application automatically expires and becomes void if the applicant fails to apply for a building permit within three years of the effective date of the CUP approval unless the applicant has received an extension for the conditional use permit.*

**VI. RECOMMENDATIONS**

STAFF CONCLUSION: The City of Spokane Planning & Development Department recommends approval of the proposed 23 unit Cottage Housing Development subject to the conditions stated below and of the other agency permits.

1. The site shall be developed in substantial compliance with the plans submitted with the application, as well as comments received on the project from City Departments and outside agencies with jurisdiction.
2. Access
  - a. Street frontage improvements will be required along Chestnut and Inland Empire. Requirements include curb, full pavement section, separated sidewalk with planting strip and street trees, all proposed driveway approaches, and street drainage as applicable.
  - b. All parking and maneuvering areas must be hard surfaced.
  - c. Adequate access and maneuvering for refuse/emergency vehicles is required, per the City Standards, and must be maintained during construction.
  - d. *"The City shall collect impact fees, based on the schedules in SMC 17D.075.180, or an independent fee calculation provided for in SMC17D.075.050, from any applicant seeking development approval from the City."* An impact fee will be assessed for 30 SFR cottage housing calculated at \$693.66/unit = \$20,809.80 + \$625.29 administrative fee = \$21,434.09 in the South Service Area. This fee must be paid with the other permit fees prior to issuance of the building permit. Fee adjusted if fewer units are constructed.

- e. Because of the narrow width of the private roadways, no parking will be allowed in order for refuse and emergency vehicles to access all units. Because these roads are on private property, this no-parking restriction must be enforced by the Homeowner's Association. The City will not enforce this requirement.
3. Water
- a. A conceptual overall water plan has been submitted for review. This overall plan seems adequate to serve the proposed development. Final plans will need to be submitted to Developer Services for review and acceptance prior to construction.
  - b. This private system must be maintained by a Homeowner's Association/Condo Owners Association and a set of CC&R's must be established outlining maintenance responsibilities. The existing greenhouse to be served from the private water system must be a party to the shared maintenance.
4. Sewer
- a. A conceptual overall sewer plan has been submitted for this development. This overall plan seems adequate to serve the development. Final plans will need to be submitted to Developer Services for review and acceptance prior to construction.
  - b. The private sewer facilities must be maintained by a Homeowner's Association/Condo Owners Association and a set of CC&R's must be established outlining maintenance responsibilities.
5. Stormwater
- a. Compliance to SMC 17D.060 "Storm-water Facilities" for storm water is required and will be reviewed during the Construction Permit process. An approved Drainage Report with supporting geotechnical information will be required for the development of this property.
  - b. Prior to final plans acceptance, an Operation and Maintenance Manual will be required outlining best management practices for how the stormwater facilities are to be handled moving forward. This O&M manual must be submitted to engineering for review and concurrence prior to building permit.
6. General
- a. The proposed project is *not* within the General Facility Charge (GFC) Waiver Zone, so GFCs will be assessed for this project for new sewer/water service connections. Sewer GFC fees are listed in SMC 13.03.0732 and in SMC13.04.2042 for water.
  - b. A Homeowner's Association/Condo Association must be established for the maintenance of shared facilities and utilities. Maintenance of these facilities must be addressed in the CC&R's.
7. Further comments regarding the design of the access, sewer, water, stormwater, sidewalk, curb/gutter, etc., will be addressed outside of this Conditional Use Permit.
8. Per Avista, all easement areas be called out on on the final site plan in addition to dedication language pertinent to private roads.
9. Per the comments submitted by the Spokane Tribe of Indians and department of Archaeology and Historic Preservation, monitoring and an inadvertent discovery plan shall be implemented into the scope of work. If any artifacts or human remains are found upon excavation, The



Spokane Tribe of Indians and the City of Spokane shall 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.

10. Any signage erected will require a separate permit and be reviewed under the current sign code in place at the time of submittal.
11. Adhere to all City development standards, specifically those in 17C.110.350 Cottage Housing.
12. 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.

Prior to the issuance of building permits for the construction contemplated in this conditional use permit application, the applicant shall submit evidence to this file that the property owner has signed and caused the "Conditional Use Permit Agreement" to be recorded with the Spokane County Auditor's Office.

### **DECISION**

Based on the findings and conclusions above, the Planning Director grants approval of the proposed 23 unit Cottage Housing Development subject to the conditions stated above.

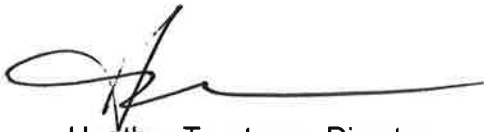
### **NOTICE OF RIGHT TO APPEAL**

Appeals of the Planning Director's decision are governed by Spokane Municipal Code 17G.060.210. Any party of record may file an appeal of this decision. Decisions of the Planning Director regarding administrative conditional use permits are final. They may be appealed to the City of Spokane Hearing Examiner within fourteen (14) calendar days of the date of this decision. The date of this decision is the 27th day of June, 2019.

**The date of the last day to appeal is the 11th day of July, 2019 at 5:00 P.M.**

The appeal fee (\$250.00) must be paid in full at the time the appeal is made. The form for filing an appeal is available from the Planning Services Department

Dated this 27th<sup>th</sup> day of June, 2019.



Heather Trautman, Director  
Office of Neighborhood and Planning Services

By: Donna deBit, Assistant Planner  
Planning & Development