

**STAFF REPORT ON COMPREHENSIVE PLAN
LAND USE AMENDMENT APPLICATION
FILE NO. Z2007-064-LU**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: This is an application by Dwight Hume, on behalf of H.A. Tombari LLC, for a proposed Comprehensive Plan Amendment. The proposed amendment is to the Land Use Plan Map of the City's Comprehensive Plan for a change from "Commercial and Residential 4-10" to "Commercial" for one parcel, approximately .52 acres in size and located at 3024 E. Fairview on parcel 35102.0901. If approved, the implementing zoning designation requested is GC-70 (General Commercial with a 70 foot maximum height).

Note: Site Maps, department and agency comments, and citizen comment letters are attached to this report.

II. GENERAL INFORMATION:

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|----|----------------------------|---|
| A. | Applicant/Agent: | Dwight J Hume
9101 N. Mt. View Lane
Spokane, WA 99218
Phone: (509) 435-3108 |
| B. | Property Owner(s): | H A Tombari LLC
2510 E. 37 th Ave
Spokane, WA 99223 |
| C. | Location of Proposal: | The subject property is located at 3024 E. Fairview
Spokane, WA.

The site consists of one parcel. |
| D. | Existing Zoning: | GC-70, RSF (split zone) |
| E. | Land Use Plan Designation: | Commercial, Residential 4-10 |
| F. | SEPA Status: | A SEPA threshold determination of Nonsignificance
was made on July 30, 2009. The appeal period will
close on August 14, 2009. |
| G. | Enabling Zoning: | SMC 17G. 020, Comprehensive Plan Amendment
Process |
| H. | Hearing Date: | Anticipated for September 9, 2009 depending upon
all factors of consideration |
| I. | Staff Contact: | Marla French, 625-6638 |

III. FINDINGS OF FACT:

A. Site Description: The site is developed with a new commercial building on the portion of the parcel that is zoned for general commercial. It is anticipated that the single family zoned portion of the parcel would be used for the additional parking. Building permits have been issued beginning on July 25, 2008.

B. Project Description: Authorized by Spokane Municipal Code Section 17G.020, "Comprehensive Plan Amendment Process," the applicant is requesting a Comprehensive Plan Land Use Map designation change from "Commercial and Residential 4-10" to "Commercial" for one parcel totaling approximately .52 acres located at 3024 E Fairview Avenue.

C. Surrounding Zoning and Comprehensive Plan Land Use Designations:

To the north: The properties are zoned RSF and GC-70 with a land use plan map designation of Residential 4-10 and Commercial.

To the northeast: The property is zoned GC-70 with a land use plan map designation of Commercial.

To the east: The property is zoned GC-70 with a land use plan map designation of Commercial.

To the south: The property is zoned GC-70 with a land use plan map designation of Commercial.

To the southwest: The property is zoned RSF, with a Comprehensive Plan Land Use Plan Map designation of Residential 4-10.

To the west: The property is zoned RSF, with a Comprehensive Plan Land Use Plan Map designation of Residential 4-10.

D. Zoning and Land Use Designation History:

The property has been zoned Residential Single-Family since May 2006. Prior to then the zoning was R2 (Two Family Residence Zone).

E. Adjacent Land Use:

To the north: The commercial parcel immediately to the north is developed as a drive through coffee stand, the residential parcel to the west is developed as a single family home.

To the northeast: The parcels to the northeast, across Market Street, are developed as a single story commercial use with associated parking.

To the east: A car wash and associated parking.

To the south: Knight's Diner with associated parking.

To the southwest: There are single family residences.

To the west: There are three sets of newer duplexes.

- F. Applicable Municipal Code: SMC 17G.020, Comprehensive Plan Amendment Process; SMC 17G.020.010(C): Amendments: Timing, Criteria
- G. Procedural Requirements:
- Application was submitted on October 31, 2008;
 - Applicant was provided Notice of Application on April 24, 2009;
 - Notice of Application was posted, published and mailed on May 13, 2009, which began a 30 day public comment period;
 - A SEPA Determination of Non Significance was issued on July 30, 2009;
 - Notice of Public Hearing will be posted and mailed by August 26, 2009;
 - Notice of Public Hearing will be published on August 26, 2009 and September 2, 2009;
 - Hearing Date is anticipated for September 9, 2009, in Council Chambers.

IV. DEPARTMENT REPORTS

Notice of this proposal was sent to City departments and outside agencies for their review. No significant department comments were reported.

V. CONCLUSIONS

Decision Criteria—SMC 17G.020.010(C)

SMC 17G.020.010C specifies the decision criteria for comprehensive plan amendments. For amendments, it states the following:

SMC 17G.020.010C. Amendments: Timing, Criteria

Starting in 2003, and thereafter no more often than once a year, the plan commission may recommend and the city council may adopt amendments to the land use plan map, or the text of the comprehensive plan or land use code, upon finding that each proposal meets all of following conditions and requirements. However, proposals that are not consistent with the comprehensive plan are addressed only within the context of the required comprehensive plan update cycle every seven years pursuant to RCW 36.70A.130(4)(c) and every other year starting in 2005.

Criterion 1. GMA: The change must be consistent with the goals and purposes of the state Growth Management Act.

Relevant facts:

The “Legislative findings” included in the Revised Code of Washington pertaining to GMA is essentially a call for coordinated and planned growth that is done cooperatively between citizens, government, and the private sector. The complete text of the “Legislative findings” follows:

RCW 36.70A.010, Legislative findings.

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.

The Growth Management Act contains 13 goals to guide the development and adoption of the comprehensive plans and development regulations (RCW 36.70A.020, “Planning Goals”). The proposed change is consistent with these goals.

Staff concludes that this criterion is met.

Criterion 2. Consistency: Unless the proposal is consistent with and implements the current version of the comprehensive plan and its supporting documents, adoption of the proposal must also include any other changes needed to regain overall compliance with GMA’s requirement for internal and regional consistency.

Relevant facts:

The applicant is proposing a General Commercial land use designation west of Market Street.

Comprehensive Plan Policy LU 1.8 “General Commercial Uses”

Contain general commercial areas within the boundaries occupied by existing business designations and within the boundaries of designated centers and corridors.

The policy states that the commercial areas within the boundaries occupied by existing business designations should be contained. In this case, the three underlying lots have been consolidated as one parcel since 1997. The land use plan map that was adopted along with the Comprehensive Plan in 2001 designated the west 1/3rd of the ownership as Residential 4-10 and the east 2/3rd as General Commercial. This has caused the parcel to have two land use plan map and zoning designations.

The intent of the requested amendment is to designate the whole parcel General Commercial. Although the site is located outside of the boundaries of a designated center, the approval of this amendment is justified as a cleanup activity to the Comprehensive Plan land use plan map. As such, it brings the land use plan map designation of the ownership into alignment with the land use plan map designation of the property to the south of the site and brings the whole ownership into a single land use plan map designation. It also allows the owner full utilization of his ownership.

Comprehensive Plan Policy LU 5.3 “Off-Site Impacts”

Ensure that off-street parking, access, and loading facilities do not adversely impact the surrounding area.

Discussion: Off-street parking, access, and loading facilities are usually associated with the development of higher density residential, office, and commercial uses. These features often have major impacts on single-family residential areas. The impacts are most significant when these facilities are next to or intrude between homes. When these facilities are accessory to a higher density residential or nonresidential use, they should be developed according to the same policies and zoning regulations as govern the primary use. New parking lots should also have the same zoning classification as the primary use. In addition, these facilities should be developed to minimize adverse impacts to adjacent properties. All parking lots should be paved. Parking lots and loading areas should have appropriate buffers to fully screen them from adjacent, less intensive uses. Access to business and higher density residential sites should be controlled to avoid impacts on adjacent uses, pedestrian movement, and street functions.”

This policy has laid the groundwork for the new zoning code that went into effect in 2006 that restricts accessory parking to be allowed in commercial zones only. This policy removed the ability for land owners to obtain a conditional use permit for parking in residential zones. However, due to the fact that this is a parcel with a split zone, and has been such for some time, that allowing the commercial use on the residential 4-10 portion of the site would not be in violation of this particular policy. Rather the split land use designation in existence on this parcel could be considered a clean up activity to the land use plan map. The existing General Commercial land use pattern shows general commercial directly to the south. This application would create a cleaner land use pattern of General Commercial along this portion of Market Street.

Staff concludes that the application is consistent with goals and policies adopted in the Comprehensive Plan and that this criterion has been met.

Criterion 3. Cumulative Effect: All amendments must be considered concurrently in order to evaluate their cumulative effects.

Relevant facts:

This proposal is a land use designation change for a site of approximately .516 acres, consisting of one split zoned parcel, the actual land use plan map change would affect 7,100 square feet. No other land use designations in the city would be changed or potentially changed by this proposal at this time. Thus, there would be no cumulative land use impacts related to this proposal.

Staff concludes that this criterion is met.

Criterion 4. SEPA: SEPA review must be completed on all amendment proposals.

Relevant facts:

The application has been reviewed in accordance with the State Environmental Policy Act (SEPA) that requires that the potential for adverse environmental impacts resulting from a proposal be evaluated during the decision-making process. On the basis of information contained with the environmental checklist, the written comments from local and State departments and agencies concerned with land development within the city, and a review of other information available to the Director of Planning Services, a Determination of Nonsignificance (DNS) was issued on July 30, 2009.

Staff concludes that this criterion is met.

Criterion 5. Adequate Public Facilities: The amendment must not adversely affect the City's ability to provide the full range of urban public facilities and services.

Relevant facts:

Because this proposed amendment applies only to a nearly developed parcel, and is adjacent to Market Street designated as a Principal Arterial Street in the Comprehensive Plan in Chapter 4 Transportation on the Planned Arterial Network Map, and would potentially result in a limited increase in intensity-the anticipated use would be a parking lot, it is unlikely that it will have an adverse impact on the City's ability to provide public facilities and services.

Staff concludes that this criterion is met.

Criterion 6. Public Benefit: The proposed changes will result in a net benefit to the general public.

Relevant facts:

This amendment is consistent with Policies LU 1.8 and Policy 5.3 and is within keeping the commercial use in the existing property ownership and will be developed under the commercial zoning code which provides for design and buffering between uses. The proposal would enable the site to provide more efficient use of a commercial property providing for convenient access for services to drive-by traffic along Market Street.

Staff concludes that this criterion is met.

Criterion 7. No Adverse Effect: The proposed changes will not have a significant adverse effect on the public.

Relevant facts:

As stated previously under Criterion 4, this application was reviewed in accordance with the State Environmental Policy Act (SEPA) and a Determination of Nonsignificance (DNS) was issued on July 30, 2009. All new development is required to meet development standards in the Spokane Municipal Code

Staff concludes that this criterion is met.

Review Criteria

SMC 17G.020.010 D. Amendments: Review Guidelines

The following is a list of considerations that shall be used, as appropriate, by the applicant in developing an amendment proposal, by planning staff in analyzing a proposal, and by the plan commission and city council in determining whether a criterion for approval has been met.

1. Regulatory Changes: Amendments to the comprehensive plan must be consistent with any recent state or federal legislative actions, or changes to state or federal regulations, such as changes to the Growth Management, or new environmental regulations.

Relevant facts: To the best of their knowledge, staff concludes that this amendment proposal is consistent with the above mentioned review guidelines.

2. Financing: In keeping with the GMA's requirement for plans to be supported by financing commitments, infrastructure implications of approved comprehensive plan amendments must be reflected in the relevant Six Year Capital Improvement Plan(s) approved in the same budget cycle.

Relevant facts: Since this amendment affects 7,100 square feet, which would be improved to City Standards by the applicant or developer, it will not create an impact on the Six Year Capital Improvement Plan(s).

Staff concludes that this criterion is met.

3. Funding Shortfall: If funding shortfalls suggest the need to scale back on land use objectives and/or service level standards, those decisions must be made with public input as part of this process for amending the comprehensive plan and Capital Facilities Program.

Relevant facts: Staff has concluded that this proposal will not have funding shortfall implications.

4. **Internal Consistency:** The requirement for internal consistency pertains to the comprehensive plan as it relates to all of its supporting documents, such as the development regulations, Capital Facilities Program, Shoreline Master Program, Downtown Plan, critical area regulations, and any neighborhood planning documents adopted after 2001. In addition, amendments should strive to be consistent with the Parks Plan, and vice versa. For example, changes to the development regulations must be reflected in consistent adjustments to the goals or policies in the comprehensive plan. As appropriate, changes to the map or text of the comprehensive plan must also result in corresponding adjustments to the zoning map and implementation regulations in the Spokane Municipal Code.

Relevant facts: If approved, this amendment would result in an automatic zone change from RSF to GC-70 to be consistent with the Comprehensive Plan Land Use Map change. Staff doesn't anticipate that there will be other consistency issues with any other adopted city policy or regulation if this proposal is approved.

5. **Regional Consistency:** All changes to the comprehensive plan must be consistent with the Countywide Planning Policies (CWPP), the comprehensive plans of neighboring jurisdictions, applicable capital facilities or special district plans, the regional Transportation Improvement Plan, and official population growth forecasts.

Relevant facts: To the best of their knowledge, staff concludes that this amendment proposal is consistent with the above mentioned review guidelines.

6. **Consistent Amendments:**

a. **Policy Adjustments:** Proposed policy adjustments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of adjustment might be supported by findings from feedback instruments related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

- i. Growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- ii. The capacity to provide adequate services is diminished or increased;
- iii. Land availability to meet demand is reduced;
- iv. Population or employment growth is significantly different than the plan's assumptions;
- v. Plan objectives are not being met as specified;
- vi. The effect of the plan on land values and affordable housing is contrary to plan goals;
- vii. Transportation and/or other capital improvements are not being made as expected;

viii. A question of consistency exists between the comprehensive plan and its elements and Chapter 36.70A RCW, the Countywide Planning Policies, or development regulations.

Relevant facts: This proposal is a request for a Comprehensive Plan Land Use Plan Map amendment, not a policy adjustment. Staff concludes that this criterion is not applicable to this proposal.

b. Map Changes: Changes to the land use plan map (and by extension, the zoning map) may only be approved if the proponent has demonstrated that all of the following are true:

i. The designation is in conformance with the appropriate location criteria identified in the comprehensive plan (e.g., compatibility with neighboring land uses, proximity to arterials, etc.);

Relevant facts: Three Comprehensive Plan Policies are applicable for this discussion:

Policy LU 1.8 “General Commercial Use”, mentioned in Criteria #2 above.

Policy LU 5.3 “Off-Site Impacts”, states: “*Ensure that off-street parking, access, and loading facilities do not adversely impact the surrounding area.*”

Section 3.5 Description of Land Use Designations gives the general characteristic for General Commercial as follows: “The General Commercial designation includes a wide range of commercial uses. Everything from freestanding business sites or grouped businesses (shopping centers) to heavy commercial uses allowing outdoor sales and warehousing are allowed in this designation. Higher density residential use is also allowed. Commercial designated land is usually located at the intersection of or in strips along principal arterial streets. In locations where this designation is near residential areas, zoning categories should be implemented that limit the range of uses that may have detrimental impacts on the residential area. Existing commercial strips are contained at their current boundaries with no further expansion allowed.

These policies support the location of the proposed commercial use to the area along Market Street just south on Fairview Avenue. The project, under the same ownership, is located along Market Avenue and shares a side property line with a developed duplex development that is now zoned for single family. Any improvements, as a result of this Comprehensive Plan Application will be designed so not to cause impacts to adjacent uses.

Staff concludes that this proposed amendment is consistent with the appropriate location criteria identified in the Comprehensive Plan.

ii. The map amendment or site is suitable for the proposed designation;

Given that this site is mostly developed, has existing commercial use to the south, north, and east, and supporting transportation designations on both Fairview Avenue and Market Street frontages, staff concludes this property is suitable for the proposed designation.

iii. The map amendment implements applicable comprehensive plan policies better than the current map designation.

Due to the development pattern established prior to the city wide rezone in 2006, this amendment would allow for commercial use on a portion of a parcel that is designated for residential use only. However, if the application is denied, the only economically feasible development alternative allowed currently would be a single family home. In looking at this potential build out scenario, you would see three duplexes, a single family home, and a commercial use in that order. Staff suggests this is not a feasible land use pattern and that this particular area be converted to either the proposed General Commercial use or to a Residential 10-20 designation.

Staff concludes that this amendment would implement the Comprehensive Plan better than the current land use plan map designation.

7. Inconsistent Amendments.

a. Review Cycle.

Because of the length of time required for staff review, public comment, and plan commission's in-depth analysis of the applicant's extensive supporting data and long-term trend analysis, proposals that are not consistent with the comprehensive plan are addressed only within the context of the required comprehensive plan update cycle every seven years pursuant to RCW 36.70A.130(4)(c) and every other year starting in 2005.

Relevant facts: When this application was submitted in 2007 it was determined to be an inconsistent amendment due to the potential expansion of a General Commercial designation outside of a center or corridor. However, based on the ownership pattern and the opportunity to do clean up activity to the land use plan map, staff concludes that this is an appropriate type of application to process during the current review cycle.

b. Adequate Documentation of Need for Change.

The burden of proof rests entirely with the applicant to provide convincing evidence that community values, priorities, needs and trends have changed sufficiently to justify a fundamental shift in the Comprehensive Plan. Results from various measurement systems should be used to demonstrate or document the need to depart from the current version of the comprehensive plan. Relevant information may include:

- i. growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- ii. the capacity to provide adequate services is diminished or increased;
- iii. land availability to meet demand is reduced;
- iv. population or employment growth is significantly different than the plan's assumptions;
- v. transportation and/or other capital improvements are not being made as expected;

- vi. conditions have changed substantially in the area within which the subject property lies and/or Citywide;
- vii. assumptions upon which the plan is based are found to be invalid; or
- viii. sufficient change or lack of change in circumstances dictates the need for such consideration.

Relevant facts: Staff concludes that this criterion is not applicable to this proposal. This is not a fundamental shift in the Comprehensive Plan. It is a clean up activity that is a logical adjustment to the land use plan map. The result will be a consistent land use plan map designation on a single ownership parcel that is consistent with the surrounding area.

c. Overall Consistency.

If significantly inconsistent with the current version of the comprehensive plan, an amendment proposal must also include wording that would realign the relevant parts of the comprehensive plan and its other supporting documents with the full range of changes implied by the proposal.

Relevant facts: Staff concludes that this situation is not a substantial enough change to warrant other changes to the text or maps of the Comprehensive Plan.

8. Cumulative Effect.

All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, neighborhood planning documents, adopted environmental policies and other relevant implementation measures.

a. Land Use Impacts.

In addition, applications should be reviewed for their cumulative land use impacts. Where adverse environmental impacts are identified, mitigation requirements may be imposed as a part of the approval action.

Relevant facts: No significant impacts are anticipated. A DNS was issued on July 30, 2009.

b. Grouping.

Proposals for area-wide rezones and/or site-specific land use plan map amendments may be evaluated by geographic sector and/or land use type in order to facilitate the assessment of their cumulative impacts.

Relevant facts: This is the only land use plan map amendment in this area of the city. It involves a portion of an ownership totaling 7,100 sq. ft. in area. There is not a need to evaluate cumulative impacts because of the minor nature of the proposal. All amendment application from 2007 and 2008 are being moved forward to City Council at the same time.

9. SEPA.

SEPA review must be completed on all amendment proposals.

a. Grouping.

When possible, the SEPA review process should be combined for related land use types or affected geographic sectors in order to better evaluate the proposals' cumulative impacts. This combined review process results in a single threshold determination for those related proposals.

Relevant facts: There were no other application in this immediate vicinity that would have changed the threshold determination of this proposal.

b. DS.

If a Determination of Significance (DS) is made regarding any proposal, that application will be deferred for further consideration until the next applicable review cycle in order to allow adequate time for generating and processing the required Environmental Impact Statement (EIS).

Relevant facts: Staff concludes that this criterion is not applicable to this proposal.

10. Adequate Public Facilities.

The amendment must not adversely affect the City's ability to provide the full range of urban public facilities and services (as described in CFU 2.1 and CFU 2.2) Citywide at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

Relevant facts: Because this proposed amendment applies only to a portion of a parcel to include 7,100 square feet and is adjacent to Market Street, and would potentially result in limited increase in intensity and use (parking lot), it is unlikely that it will have an adverse impact on the City's ability to provide public facilities and services.

11. UGA.

Privately initiated comprehensive plan amendment applications proposing changes to the urban growth area (UGA) will only be accepted during those years when the board of county commissioners (BoCC) reviews all UGAs countywide. Urban growth boundaries will be revised at least once every five years, per CWPP 1.19. Since the BoCC is the sole agency authorized to change the UGA, the city council's role is merely to review those suggested changes and make recommendations to the BoCC. A review of densities and population growth trends must indicate that such a change is needed, and the review shall conform to the requirements and guidelines contained in chapter 36.70A RCW and the relevant countywide planning policies.

Relevant facts: Staff concludes that this criterion is not applicable to this proposal.

VI. RECOMMENDATIONS

STAFF CONCLUSION: Staff recommends that this Comprehensive Plan Land Use Map Amendment request to change the land use designation of Residential 4-10 to General Commercial be approved.