

**STAFF REPORT ON REZONE
FILE NO. Z2009-024-REZN**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: The applicant, West Central Development, LLC, has requested approval of a rezone from the Hearing Examiner to allow the construction of a 100,000 sq feet of office space, by proposing a zone change from O-35 to O-150 for office, parking, and associated uses on property located at 1301, 1309, 1315, 1321 & 1325 W. Mallon Ave., 817 N. Adams St., and 1324 & 1328 W. Broadway Ave., City of Spokane, WA.

Recommendation: Staff recommends approval of this application with conditions.

II. GENERAL INFORMATION:

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| A. | Applicant: | West Central Development, LLC
901 N. Monroe, Suite 250
Spokane, WA
(509) 329-9000 |
| B. | Property Owner: | Same as Applicant |
| C. | Agent: | Luann Padgham
(509) 993-6700 |
| D. | Location of Proposal: | See Above In Description of Proposal
City of Spokane |
| E. | Existing Zoning: | "O-35" (Office) |
| F. | Land Use Plan Designation: | Office |
| G. | SEPA Status: | Amended Mitigated Determination of
Non- Significance (MDNS) – 10-16-07
accepted on 9-22-09 |
| H. | Enabling Zoning: | SMC 17G.060.170, Decision Criteria |
| J. | Hearing Date: | October 27, 2009 - 9:00 a.m. |
| K. | Staff Contact: | Dave Compton |
| L. | Date Prepared: | October 16, 2009 |

III. FINDINGS OF FACT:

- A. Site Description: The subject property currently is vacant. The topography is relatively flat in this area. Retaining walls are present on the southern and eastern boundaries because the site is approximately 4 feet above the street.
- B. Project Description: Rezone 8 parcels (approximately 45,000 sq feet) from O-35 to O-150 that would allow the construction of a proposed 100,000 sq. foot structure to accommodate office, parking, and associated uses.
- C. Surrounding Zoning: Office-35 to the north, south, and half a block to the west, with CC1-NC being the other half block on the west. CB-150 borders the entire east side across Adams Street.
- D. Zoning History: The subject property has been zoned O-35 since July 6, 2005 with the adoption of the current Commercial development regulations. Prior to that it was designated Office. Note: The Office category falls within the Commercial zoning structure.
- E. Adjacent Land Use: The adjacent land uses follow the same boundaries as the above mentioned zoning categories with the proposal site and that to the north, south, and half block to the west (northern portion) being Office, the southern half block portion on the west being CC Core, and the entire eastern border being Commercial. The physical uses surrounding this proposal are predominately multi-family and office uses. Several one or two-family residential units are present.
- F. Applicable Zoning Regulations: SMC 17C.120, Commercial Zones; SMC 17G.050.110 Hearing Required; and SMC 17G.060.170 Decision Criteria.
- G. Procedural Requirements:
- A Community Meeting was held on May 22, 2009 as required for this application per SMC 17G.060.050;
 - Application was submitted on July 10, 2009;
 - Applicant was notified in writing on August 19, 2009 of technically complete status of application;
 - Notice of Application was mailed and the subject property posted on September 5, 2009, which began the 15 day public comment period;
 - A Mitigated Determination of Non-Significance (MDNS) issued on October 16, 2007 for an identical project was adopted on September 22, 2009;

- Notice of Public Hearing was mailed and the subject property posted on October 7, 2009.

IV. DEPARTMENT REPORTS:

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

V. CONCLUSIONS

SMC 17G.060.170 Decision Criteria

A. Criteria.

The intent of the rezone 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 rezone 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.*

Office and associated uses are allowed outright in this zone, as well as other uses permitted with limitations or through a Conditional Use Permit (CUP). There are development standards set forth in the Spokane Municipal Code's (SMC) Unified Development Code that must be adhered to, however can be modified through certain land use actions, a rezone being one. This application is for an increase in building height which can only be accomplished through a rezone. In accordance with SMC 17C.120.230 - Height, exceptions to the maximum structure height are designated on the official zoning map by a dash and a height listed after the zone may symbol (i.e. CB-150) and any changes to the height limits require a rezone. Height limits are thirty-five feet, forty feet, fifty-five feet, seventy feet, or one hundred feet depending on location. In addition, it states that buildings and structures over fifty feet in height must follow the design, setback, and dimensional standards found in SMC 17C.250. There are other standards that apply if the building or structure is adjacent to single-family or two-family residential zones, however neither of those zones are within the distance requirement that would trigger any additional standards. It is to be noted that the applicant had previously requested this exact proposal for office use and a height zone change, however with an added retail component in 2007. The retail component was requested by a majority of residents in the neighborhood at their community meeting, however this application is still being reviewed through the appeal court system for both the requested height and retail use.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property.*

The applicant lists 8 Comprehensive Plan policies that they feel are applicable to this proposal on the rezone application; all within the Land Use element section (see applicant's responses #1 and #2 on the rezone application). There are many other 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. This proposal is free from critical areas, 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 commercial and applicable development standards as directed in the SMC 17C.120 – Commercial Zones. This proposal must also comply with any and all county, state, or federal regulation applicable it 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.

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

All applicable city departments and agencies had the opportunity to review this proposal with no one denying concurrency. As mentioned, an MDNS was issued to mitigate the transportation impacts anticipated through fee collection. Reference either the amended MDNS or memorandum from Developer Services - Traffic Planning dated July 24, 2009 that outlines the details of the Final Traffic Impact Analysis. In addition, the applicant gives comments within the rezone application submitted on how they relate their proposal to concurrency and existing infrastructure systems within the rezone application submitted.

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.*

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 also notes how this proposal will be conducive to the surrounding neighborhood and adjacent physical structures. The applicant misstates that the taller buildings within close proximity had

variances to achieve the height they were allowed. All mentioned are within the CB-150 zoning category, meaning they could go up to 150 feet in height. No known historical or cultural features are known to exist within the site area.

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.*

Please reference the applicant's response to this (#5) on the rezone application. Several letters, mainly from adjacent property owners, both business and residential, were received during the public comment period of this application. The majority questioned the 150 foot height level proposed, shadowing effects, view obstructions, etc. Though there are residential uses within the area, there is no residential zoning within 1275 feet of the proposal and that is RHD (Residential High Density). There are no defined development standards that affect the height requested through a rezone application other than if adjacent or within 150 feet of a Single-Family or Two-Family Residential Zone as outlined in SMC 17C.120.220 – Height for commercial zones.

B. Time Limitation.

A zoning (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 rezone approval unless the applicant has received an extension for the conditional use permit as provided in SMC Section 17G.060.240 (D).

STAFF CONCLUSION: The staff recommends approval of the requested Conditional Use Permit.

VI: Recommendations

The staff recommends approval of the proposal subject to the following conditions:

1. Conditions of the adopted and amended MDNS must be met to mitigate transportation impacts identified.
2. Limit the height of any structure proposed to be no higher than the adjacent Spokane County Courthouse and Jail.

3. A Boundary Line Adjustment (BLA) must be completed to aggregate all separate parcels within this proposal prior to receiving any building permits.
4. Depending on the height level allowed, all development must adhere to the Tall Building Standards outlined in SMC 17C.250 if applicable.
5. All parking areas must be hard surfaced.
6. Recommend that the final design go before the Design Review Committee for recommendations and approval.
7. All surface drainage must be disposed of on-site in accordance with all "208" recommendations. Any required landscaping cannot impede or encroach with the drainage design.
8. All broken, heaved, or sunken sidewalk adjacent to this site shall be replaced to City standards whether existing or caused during construction.
9. Provide any amenities that would benefit both occupants and visitors of any future building erected by providing such as bicycle racks and a covered transit bus shelter on Broadway Avenue if permissible by Spokane Transit Authority.
10. 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.