STAFF REPORT TO THE PLANNING COMMISSION

PUBLIC HEARING JULY 26 , 2012

PROPOSED ZONING CODE AMENDMENT

CUP IN RCV ZONE FOR RECREATIONAL AREA, COMMERCIAL

SPOKANE COUNTY

BUILDING AND PLANNING DEPARTMENT

Summary of Amendment

The proposal is a text amendment to the Spokane County Zoning Code, Chapter 14.618 Rural Zones Matrix Table 618-1, and Section 14.618.240(18); to allow Recreational Area, Commercial in the Rural Conservation Zone (RCV) as a Conditional use, subject to the Conditional Use Permit process and criteria in the Zoning Code Chapter 14.404. In general, the amendment would provide for the establishment of a Recreational Area, Commercial in the Rural Conservation Zone (RCV) subject to a Conditional Use Permit.

The Zoning Code defines Recreational Area, Commercial as: "An indoor and/or outdoor area or structure(s) operated for profit and devoted to facilities and equipment for recreational purposes, including, but not limited to, swimming pools, tennis courts, racquetball courts, dance and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee."

Application

On May15, 2012, Demars Family Trust c/o Richard Stewart submitted the Zoning Code Text Amendment application and June 28, 2012 the Planning Commission held a public briefing to introduce the proposed amendment. At the workshop, staff provided an overview of the proposed amendment along with comments by the applicant.

The amendment was proposed with a specific use in mind by the applicant and the application contains information about a business known as a Canopy Tour or Eco –Tour, a relatively new business type which is gaining popularity which uses more advanced "Zip Line" technology and has both an environmental/natural beauty and zip line ride element. The application details the facilities, structures, and other impacts of this type of land use. (See attached narrative). Based on this information and staff review, the Recreational Area, Commercial definition is generally consistent with the proposed use. Since Recreational Area, Commercial are already allowed as a Conditional Use Permit in the Rural Traditional (RT) and Rural Activity Center Zones.

Process

Public Notice

Notice of the proposed text amendment was published in the Legal Notice section of the Spokesman Review on July 11, 2012. The proposal was mailed to agencies of jurisdiction on June 29, 2012. State agencies were notified in accordance with RCW 36.70A.106 on June 29, 2012. The Public Hearing Notice, SEPA Environmental documents, and the proposed text amendment were posted to the County website and available for viewing/download in anticipation of the public hearing. The public hearing is scheduled for July 26, 2012, at 9:00 am or as soon as possible thereafter in the Public Works Hearing Room, located at 1026 West Broadway Avenue, Spokane, WA, 99260.

Environmental Review

A non-project environmental checklist was reviewed by Building and Planning Staff and a Determination of Non-Significance (DNS) was issued on June 29, 2012, with a comment and appeal period ending on July 25, 2012 as required by the Washington State Environmental Policy Act (SEPA). The DNS was circulated to agencies of jurisdiction and published in the Spokesman Review on July 11, 2012. Deadline for appeal of the DNS was July 25, 20121. No appeals or comments were received at the time of printing of this report (July 18, 2012).

Public/Agency Comments

No formal written comments had been received from the general public or any agencies in response to the proposal at the time this report was prepared.

Current Recreational Area, Commercial Provisions in the Zoning Code

Table 618-1, Rural Zones Matrix – continued

Business Uses	***Rural-5***	***Rural Traditional***	***Rural Activity Center***	***Urban Reserve***	***Rural Conservation***
Adult entertainment establishment	N	N	N	N	N
Adult retail use establishment	N	N	N	N	N
Animal health services	CU	P	CU	CU	P
Auto wrecking/recycling, junk and salvage yards	N	N	N	N	N
Billboard/video board	N	N	N	N	N
Child day-care center, 30 children or less	L	L	P	L	L
Child day-care center, more than 30 children	CU	CU	P	CU	CU
Commercial composting storage/ processing (EPF)	N	CU	N	N	N
Contractor's yard	CU	CU	N	CU	CU
Farm machinery sales and repair	N	L	L	L	L
Golf course	P	P	N	P	N
Gun and archery range	N	CU	N	N	N
Industrial development, major	L	L	N	L	L
Kennel	CU	CU	N	CU	CU
Kennel, private	L	L	L	L	L
Master planned resort	CU	CU	CU	CU	CU
Mining, rock crushing	CU	CU	CU	CU	CU
Neighborhood business	N	N	L	N	N
Recreational area, commercial	N	CU	CU	N	N
Recreational vehicle park/campground	N	N	CU	N	N
Recreational vehicle sales/services	N	CU	N	N	N
Self-service storage facility (mini-storage)	N	N	CU	N	N
Top soil removal	CU	CU	CU	CU	CU

14.618.240 Conditional Uses: Standards and Criteria

Conditional uses are illustrated in Table 618-1 with the letters "CU". Conditional uses require an approved conditional use permit as set forth in chapter 14.404, Conditional Use Permits. Conditional uses identified in Table 618-1 are subject to the corresponding specific standards as follows. In the case of inconsistencies between section 14.618.220 (Rural Zones Matrix) and section 14.618.240, section 14.618.240 shall govern.

18. Recreational area, commercial (RT, RAC zones)

a. The recreational use shall be consistent with maintaining rural character as defined in the Comprehensive Plan.
b. The use shall be subject to restrictions and conditions, as may be imposed by the Hearing Examiner under chapter 14.404.

Proposed Text Amendment Language

1) Table 618-1 Rural Zones Matrix of 14.618.220: Recreational area, commercial from "N" (Not permitted) to "CU" (Conditional Use Permit).
2) 14.618.240(18) Recreational area, commercial: Add the "RCV" zone.

Proposed Amendment(s): Shown in underline

14.618.220 Rural Zones Matrix Table 618-1, Rural Zones Matrix *(Proposed)*

Table 618-1, Rural Zones Matrix

Business Uses	***Rural-5***	***Rural Traditional***	***Rural Activity Center***	***Urban Reserve***	***Rural Conservation***
Adult entertainment establishment	N	N	N	N	N
Adult retail use establishment	N	N	N	N	N
Animal health services	CU	P	CU	CU	P
Auto wrecking/recycling, junk and salvage yards	N	N	N	N	N
Billboard/video board	N	N	N	N	N
Child day-care center, 30 children or less	L	L	P	L	L
Child day-care center, more than 30 children	CU	CU	P	CU	CU
Commercial composting storage/ processing (EPF)	N	CU	N	N	N
Contractor's yard	CU	CU	N	CU	CU
Farm machinery sales and repair	N	L	L	L	L
Golf course	P	P	N	P	N
Gun and archery range	N	CU	N	N	N
Industrial development, major	L	L	N	L	L
Kennel	CU	CU	N	CU	CU
Kennel, private	L	L	L	L	L
Master planned resort	CU	CU	CU	CU	CU
Mining, rock crushing	CU	CU	CU	CU	CU
Neighborhood business	N	N	L	N	N
Recreational area, commercial	N	CU	CU	N	~~N~~ CU
Recreational vehicle park/campground	N	N	CU	N	N

Recreational vehicle sales/services	N	CU	N	N	N
Self-service storage facility (mini-storage)	N	N	CU	N	N
Top soil removal	CU	CU	CU	CU	CU

18. Recreational area, commercial (RT, RAC RCV zones)
 a. The recreational use shall be consistent with maintaining rural character as defined in the Comprehensive Plan.
 b. The use shall be subject to restrictions and conditions, as may be imposed by the Hearing Examiner under chapter 14.404.

Text Amendment - Consistency with Comprehensive Plan

The proposed text amendment must be reviewed for consistency with applicable Spokane County Comprehensive Plan Goals and Policies. Chapter 3 of the Comprehensive Plan, Rural Land Use, provides a detailed definition of Rural Character which addresses rural densities. The relevant sections state:

Rural Character

Defining rural character is essential for development of rural goals and policies. Counties are required to include measures in the rural chapter that protect rural character. Through visioning and other citizen-participation efforts, the following principles for defining and preserving rural character have evolved:

- The rural landscape should reflect a traditional development setting with low population density.
- Interconnected open spaces and natural areas should be provided through clustering and other innovative techniques.
- Rural residents should be self-sufficient and accept a traditional lifestyle with low levels of governmental services.
- Rural towns and centers should provide a community focal point and offer opportunities for shopping and other services.
- Scenic roadways and vistas should be preserved by prohibiting billboards and strip commercial development.
- Agriculture and forestry uses within the Rural category should be accepted as being consistent with rural area lifestyles.
- Land use practices should be conducted in a way that protects the environment, providing for clean air and water.
- Rural lands should have low population densities, allowing much of the area to be retained in a natural state, providing wildlife habitat and the preservation of natural systems.

Rural Land Use Categories

Rural Conservation

The Rural Conservation category applies to environmentally sensitive areas, including critical areas and wildlife corridors. Criteria to designate boundaries for this category were developed from Spokane County's Critical Areas program and a study by the University of Washington titled *Wildlife Corridors and Landscape Linkages, An Approach to Biodiversity Planning for Spokane County, Washington.* The category will encourage low-impact uses and utilize clustering and/or other open space techniques to protect sensitive areas and preserve open space.

Density
The density of the Rural Conservation category is 1 dwelling unit per 20 acres, with a bonus density of 1 dwelling unit per 10 acres for preserving open space and environmentally sensitive areas through clustered housing.

Non-residential and accessory uses

RL.1.4
Nonresidential and accessory uses appropriate for the rural area include farms, forestry, outdoor recreation, education and entertainment, sale of agricultural products produced on-site, home industries and home businesses. New churches and schools in the rural area are encouraged to locate in rural cities or rural activity centers, provided adequate
services are available and the extension of urban services is not necessary.

Rural Governmental Services

Rural character embodies a quality of life based upon traditional rural lifestyles and aesthetic values. Included within this definition is an expectation and acceptance of low levels of governmental services. Rural residents generally seek to retain their traditional self-reliance within a supporting community framework. Typically, rural areas will be served by individual wells, on-site wastewater disposal, volunteer fire departments and low levels of police protection. Extension of public water is appropriate in rural areas in some cases. Some areas of development, established prior to plan adoption, will have existing sewer services.

Goal
RL.3 Provide a level of rural governmental service consistent with maintaining rural character.
Policies

RL.3.1 Designated rural lands shall have low densities which can be sustained by minimal infrastructure improvements, such as septic systems, individual wells and rural roads, without altering the rural character, degrading the environment or creating the necessity for urban level of services.

RL.3.2 Extension of storm and sanitary sewer services outside of Urban Growth Areas (UGAs) should only be provided to maintain existing levels of service in existing urban-like areas or for health and safety reasons or to accommodate a major industrial development approved pursuant to RCW 36.70A.365, provided that such extensions are not an inducement to growth.

RL.3.3 Rural governmental services shall include those public services and facilities historically and typically delivered at intensity usually found in rural areas and shall include domestic water service either through individual wells or public water service. Rural governmental services shall not include new storm and sanitary sewers except as provided for in RL.3.2.

Commercial Development

Commercial development in rural areas should be limited to those businesses serving rural residents and supporting natural resources and tourism-related uses. Most commercial uses will be located in rural towns or in designated rural activity centers. In some instances, the intensification of established commercial areas may be allowed; provided they are consistent with policy guidelines (see RL.5.2).

RL.5.3 Strip commercial development along state and county roads shall be prohibited.

RL.5.4 Use regulations in the Rural category for tourism and recreation-oriented uses shall be developed based on the following guidelines:

a) Resource-dependent tourism and recreation-oriented uses such as commercial horse stables, guide services, golf courses and group camps may be allowed in rural areas provided they do not adversely impact adjoining rural uses and are consistent with rural character.

Staff response: While the definition of Recreational Area, Commercial is very broad and would provide a wide range and intensity of commercial uses not currently allowed in the Rural Conservation Zone (RCV) these commercial uses would be limited or not allowed based on the Conditional Use Permit process. This process requires a public hearing as provided in the Zoning Code and the policies listed above will be considered by the Hearing Examiner when making decisions on specific proposals for a Recreational Area, Commercail. Key to the Hearing Examiner decision is maintaining rural character as defined by the Comprehensive Plan.

Related Zoning Code Sections

Chapter 14.618
Rural Zones

14.618.100 Purpose and Intent

The intent of the Rural Zones classifications is to provide for a traditional rural landscape including residential, agricultural and open space uses. Rural zones are applied to lands located outside the urban growth area and outside of designated agricultural, forest and mineral lands. Public services and utilities will be limited in these areas. Housing will be located on large parcels except for cluster development, which results in open space preservation. Small towns and unincorporated communities provide services for surrounding rural areas and the traveling public.

The Rural Conservation (RCV) zone applies to environmentally sensitive areas, including critical areas and wildlife corridors. Criteria to designate boundaries for this classification were developed from Spokane County's Critical Areas ordinance and Comprehensive Plan studies and analysis. This classification encourages low-impact uses and utilizes rural clustering to protect sensitive areas and preserve open space.

Zoning Code Definition: Recreational Area, Commercial: An indoor and/or outdoor area or structure(s) operated for profit and devoted to facilities and equipment for recreational purposes, including, but not limited to, swimming pools, tennis courts, racquetball courts, dance and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee.

Chapter 14.404
Conditional Use Permits

14.404.000 Purpose and Intent

The intent of a conditional use permit is to establish criteria for determining the conditions under which a conditional use(s) may be permitted in the zone. A conditional use is subject to specific review

during which conditions may be imposed to assure compatibility of the use with other uses in the area and the public welfare. A request for a conditional use may be denied if the use is not compatible with other permitted uses in the area or will be materially detrimental to the public welfare.

14.404.100 Conditions and Requirements

1. The Hearing Examiner may approve an application for a conditional use permit if all the following criteria are met.

   a. The special standards set forth for the conditional use in the underlying zone of the Zoning Code are met.
   b. Adequate conditions and restrictions on the conditional use are adopted to ensure that the conditional use will be compatible with other permitted uses in the area, and will not be materially detrimental to the public health, safety or general welfare.

2. In approving a conditional use permit, the Hearing Examiner may stipulate restrictions and conditions, including but not limited to any of the following provisions.

   a. Control of use.

   b. Provision for front, side, or rear setbacks greater than the minimum standards of the zone in which the property is located.

   c. Special landscaping, screening, fencing, signing, off-street parking, public transit and/or high occupancy vehicle facilities or any other general development standards.

   d. Requirements for street dedications and/or roadway and drainage improvements necessary as a result of the proposed use.

   e. Control of points of vehicular ingress and egress.

   f. Control of noise, vibration, odor, glare, and other environmental contaminants.

   g. Control of operating hours.

   h. Duration or time limitations for certain activities.

   i. Any other reasonable restrictions, conditions, or safeguards that will uphold the purpose and intent of the Zoning Code and the Comprehensive Plan and mitigate any adverse impact upon the adjacent properties by reason of the use, extension, construction, or alteration allowed.

Staff Response: The definition of Recreational Area, Commercial and the Conditional Use Permit Chapter would be applicable to future development proposals located within the Rural Conservation Zone if the amendment is approved. The Hearing Examiner has a broad range of consideration when reviewing these proposals as detailed above and the ability to mitigate impacts of specific proposals.

The Rural Conservation Zone covers approximately 332,934 acres in the County with about 239,850 acres of Rural Traditional and Rural Activity Zone currently allowing for Recreational Area, Commercial if a Conditional Use Permit is approved. If approved, the amendment would

result in an increase in land available for these uses through the Conditional Use process by approximately 139%.

Review Criteria for Zoning Text Amendments

The Zoning Code provides the following criteria regarding Zoning Code Text Amendments that must be considered:

14.402.040 Criteria for Amendment

The County may amend the Zoning Code when one of the following is found to apply.

1. The amendment is consistent with or implements the Comprehensive Plan and is not detrimental to the public welfare.
2. A change in economic, technological, or land use conditions has occurred to warrant modification of the Zoning Code.
3. An amendment is necessary to correct an error in the Zoning Code.
4. An amendment is necessary to clarify the meaning or intent of the Zoning Code.
5. An amendment is necessary to provide for a use(s) that was not previously addressed by the Zoning Code.
6. An amendment is deemed necessary by the Commission and/or Board as being in the public interest.

Staff response: The "Criteria for Amendment" listed above are the minimum necessary that must be found to support a Zoning Text Amendment. The amendment was proposed by a private entity and additional reasoning for the amendment is attached to this report as provided by the applicant. The amendment appears to be consistent with Criteria #1 and #4.

History of Conditional Use Permits in Rural Zones for Rural Commercial Uses

The current Zoning Code was adopted in May of 2004 and since that time Conditional Use Permits in the rural areas have been reviewed to understand the overall implications of the proposed amendment. Since 2004, the following Conditional Use Permits were approved for a Recreational Area. Commercial or similar recreational uses in rural zones.

File Number:

CU-1-2004, Adventure Dynamics, - approved with conditions as per the Youth Camp definition located in the RCV Zone.

CU-11-2004, Commercial Sports Field- approved with conditions under the Recreational Area Commercial definition in the Rural Traditional Zone.

CU-2-2007, Dirt Track Mud Bog- denied as a Recreational Area Commercial in the Rural Traditional Zone.

CU-5-2010, Archery Range, - approved with conditions as an Archery Range in the RCV and Small Tract Agricultural Zone.

Summary: The text amendment would allow Recreational Area, Commercial as a Conditional Use Permit to determine if a site-specific proposal can meet review criteria contained in the Zoning Code while requiring the proposal to maintain rural character as defined by the Comprehensive Plan.

To date, the department has received very few applications for Conditional Use Permits in Rural Zones for a Recreational Area, Commercial use.

Exhibits

A. Proposed Amendment to Spokane County Zoning Code Table 618-1 Rural Zones Matrix of 14.618.220: Recreational area, commercial from “N” (Not permitted) to “CU” and 14.618.240(18) Recreational area, commercial: Add the “RCV” zone.

B. Applicant’s Submittal –Proposed Language and Amendment Justifications.