Comprehensive Plan Amendments: 2017-2018 Docket (Item 12)
Spooner (formerly Toft) Land Use Plan Amendment and Redesignation

Date: February 22, 2018
Public Hearing Date: To Be Determined
Prepared by: Krosbie Carter, Associate Planner
Proponent/Applicant: Tim and Sue Spooner
Action Requested: Amend the Land Use Plan and change the land use from MGSA to NC (Title 20) and rezone appropriately
Location: 8025 Yelm Highway SE, bordered by Spurgeon Creek Road on the east side of the parcel
APN: 11702430402
Acres: 3.75± of a 5± acre parcel
Current Land Use and Zoning: Vacant, MGSA

☑ Map Changes ☐ Text Changes ☐ Both ☑ Affects Comprehensive Plans/documents
☐ Affected Jurisdictions

BACKGROUND

Application: The applicant requests approval of a site-specific Comprehensive Plan amendment and associated rezoning for 3.75± acres of a 5± acre site located at 8025 Yelm Hwy SE on the corner of Yelm Hwy SE to the north and Spurgeon Creek Rd to the east. The request would change the land use and zoning from McAllister Geologically Sensitive Area (MGSA) to Neighborhood Convenience District (NC). Approximately 1.25± acres of the 5± acre property is already designated as NC.

The original request was to change the land use on only one (1) additional acre of the parcel, creating 2.2± acres of NC on the 5-acre parcel. The applicant is now requesting the land use of the entire parcel be changed to NC, expanding this designation to the full 5± acres.

The amendment would amend Map M-15 Future Land Use in the Thurston County Comprehensive Plan. The “Official Zoning Map, Thurston County Washington” will be amended to be consistent with the Comprehensive Plan future land use map.

Property History: This property is located in the area known as Kelly’s Corner, named after the Kelly family and Kelly Resort that spanned from the subject property and adjacent properties, to the southern edge of Lake Pattison. The Kelly Resort had a small store, log cabins, 125 rowboats,
and a 100-foot slide. In 1924 the owner of the resort, A.G Kelly, built a large seven-bedroom craftsman-style house on the subject property. Near the house, the family also operated a racetrack and rodeo. Historical records indicate that the subject property was also used as a lumber camp, and the Kellys made their own boats for the resort from the cedar on this property. The Kelly Resort was operated until the early 1980s, when the resort was closed and the property sold.

The original house, called the Kelly House, was located on the northeast corner of subject the parcel, in the area designated as NC. This home was original listed on the Thurston County Historic Resources inventory. The house was vacant for many years and deemed uninhabitable, and was demolished in 2004. The property is now vacant and unused.

Records indicate the NC designation was in place on one acre of the subject property in 1984. At this time, there were only three commercial designations: Neighborhood Convenience Commercial, Highway Commercial and Arterial Commercial. In addition to the NC designation on the subject property, the property adjacent to this parcel on the east has been designated Neighborhood Convenience Commercial since prior to 1979. The total acreage designated NC on this corner of Yelm Highway and Spurgeon Creek is 2.6± acres.

The 1984 land use and zoning designation change appears to be related to the development of Kelly’s Kustom Meat shop, just south of the home. This business was opened in 1983 and was a commercial use. The meat shop, along with a barn and a garage, were both abandoned and subsequently demolished in 2004, along with the house. There are currently no structures on the property.

As of July 1 1990, the 1.25± acres on the northeast corner of the lot was designated NC. The image below (Figure 1) shows the former location of the residential home, meat shop, garage and barn.

![Aerial photo of 8025 Yelm Highway SE, circa 1996](image)

Figure 1. Aerial photo of 8025 Yelm Highway SE, circa 1996
DEPARTMENT ANALYSIS

The applicant’s argument for requesting a Future Land Use map and associated zoning map change is that it will improve the community and provide economic development in this portion of rural Thurston County. No specific site plan has been proposed as part of this Land Use Plan amendment request.

1. **Sewer and Water:**

   - The property is in the rural area just outside of the Lacey UGA. Wastewater treatment and potable water would be provided onsite. Records from Thurston County Environmental Health (TCEH) indicate the presence of a domestic well on the property, as well as two on-site sewage systems. There are no records indicating the systems have been property abandoned.

   - According to TCEH, all future development must comply with the Thurston County Sanitary Code. TCEH notes that the proposed change in land use designation does not alter or eliminate any Environmental Health requirements, including approved drinking water supplies, sewage disposal, solid waste and hazardous materials, and food service permits.

   - Specifically, TCEH reports that a building site approval may only be issued for uses other than residential if the designed on-site sewage system flow is no greater than 450 gallons per five acres per day, and the wastewater strength entering the on-site sewage system is equivalent to a typical residential strength.

   - Additionally, TCEH notes that a hydrogeological report may be required at the time of future development to assess nitrate loading from on-site sewage system effluent to the underlying aquifer. Development proposals may be unacceptable if a hydrogeological report concludes that it will reduce the Assimilative Capacity of the aquifer by more than 10 percent.

2. **Environmental Concerns:**

   - This property is mapped with Nisqually loamy fine sand, 0 to 3% slopes soils, indicating a more preferred (high priority) habitat for the Mazama Pocket Gopher (MPG). This glacial outwash soil is known to support rare prairie plants protected in the Thurston County Critical Areas Ordinance (CAO), Tables 24.25-7 and 24.25-8, Appendix 24.25-1 in Chapter 24.25 Thurston County Code. According to the CAO, the presence of at least three of the listed prairie plant species indicates prairie habitat on a property. A site-specific analysis according to the most current prairie review process will be performed when a specific development application is submitted.

   - In 2012, Washington Department of Fish and Wildlife (WDFW) identified Mazama Pocket Gopher (MPG) mounds in the southern portion of the 5-acre parcel. In 2013, WDFW used the parcel as a MPG capture site for genetic hair sampling. The entire 5-acre parcel is within 600 feet of an observed MPG sighting, according to data from WDFW.
• The property contains Oregon White Oak/Garry Oak Woodlands, which are protected under the Thurston County CAO. WDFW submitted a comment letter stating that the oaks present on the subject parcel are mature oaks and possess the qualities that make them priority habitat. A site-specific critical areas analysis will be performed when a specific development application is submitted which will use the most current review process at the time the development application is submitted.

• No wetlands are noted on the property.

• This property is in the McAllister Geologically Sensitive Area, which is a drinking water (wellhead) protection area. This Geologically Sensitive Area was formed in 1990 to minimize the potential for contamination or the loss of groundwater recharge to a vulnerable groundwater source.

3. **Access:**

• According to the Thurston County Public Works Development Review Section, access to the property is provided from Yelm Hwy SE and Spurgeon Creek Rd SE (see Figure 2). Access spacing means the minimum distance from the corner edge of the lot to where a driveway (or access) can be permitted on a parcel.

• Public Works Development Review Section reports that Yelm Highway is classified as an Arterial road, with 10,007 average daily trips. Minimum access spacing is 500 feet, meaning the entrance to the property must be no less than 500 feet from the corner of the lot. Access would not be available from Yelm Highway, as the NC boundary is only 243± ft. and the total parcel boundary is 414± ft.

• Spurgeon Creek Road is classified as a Collector road with 3,499 average daily trips. Minimum access spacing is 300 feet. From Spurgeon Creek, the existing NC boundary is only 217± feet.

• MGSA does not allow parking as a regular permitted use or as a special use; however, an access driveway may be permitted to allow access to the NC zone. Once a site plan has been submitted for review, access mitigation would be required to allow access from Spurgeon Creek road or Yelm Highway road to the commercial use.
4. Consistency with Comprehensive Plan Uses and Characteristics and Zoning District (Title 20)

A. Attachment A-1 shows the primary uses and characteristics for the MGSA designation in the Thurston County Comprehensive Plan and the zoning district in the Thurston County Zoning Ordinance (Title 20).

Although TCC 20.54.70 Special Uses outlines a number of potential permitted uses in the MGSA, they are limited in scope and would be inconsistent with the allowed uses in the existing NC portion of the property. This creates inconsistent development boundaries and uses.

The TCEH notes that the proposed change in land use designation does not alter or eliminate any Environmental Health requirements for MGSA, including approved drinking water supplies, sewage disposal, solid waste and hazardous materials, and food service permits. This is pursuant to Article I, Section 20 of the Thurston County Sanitary Code, which outlines the requirements for uses in the MGSA, as discussed previously.
B. **Attachment A-2** shows the primary uses and characteristics for the NC designation in the Thurston County Comprehensive Plan and zoning district in the Thurston County Zoning Ordinance (Title 20).

Of note, the Comprehensive Plan Chapter 2 Land Use sets a maximum size of one acre for areas designated as NC on the Comprehensive Plan Future Land Use Map M-15. Additionally, Section 20.22.040 TCC Design Standards indicates that legal lots in the NC zone must have a minimum of one half acre.

In rural Thurston County, there are 25 areas with properties designated as NC.

- 15 of these areas are greater than one acre, the largest of which is 6.49± acres of NC, off Old Pacific Highway.
- Seven (7) areas meet the size requirement of a minimum half acre legal lot size (TCC code), and maximum one acre (Comp Plan).
- Additionally, there are four (4) isolated Assessor’s Parcels that are smaller than one-half acre.

If this land use plan amendment is approved, the total size of the area on the Comprehensive Plan Future Land Use Map designated as NC off Spurgeon Creek Road and Yelm Highway would be 6.26± acres. This would include the applicant’s 5± acre property, and the existing 1.2± acre property to the east of Spurgeon Creek Rd.

Additionally, the Comprehensive Plan indicates that areas designated as NC should serve a population of less than 5,000 people. Traffic counts provided by Public Works indicate that this corner has the potential to serve more than 5,000 people on a daily basis.

C. **Applicability of Rural Commercial Center (RCC) Designation: Attachment A-3** shows the primary uses and characteristics for the RCC designation in the Thurston County Comprehensive Plan and zoning district in the Thurston County Zoning Ordinance (Title 20).

In 1984 when the northern one-acre corner of the property was designated as NC, there were only three commercial designations: Neighborhood Convenience Commercial, Highway Commercial and Arterial Commercial. Rural Commercial Center was not an option at the time, but could be applicable to this location today.

The main difference between RCC and NC are the specific designation standards in the Comprehensive Plan and the specific standards and permitted uses in each zoning district in the Thurston County Zoning Ordinance (Title 20 TCC). Additionally, RCC is also considered a Commercial LAMIRD in our Comprehensive Plan.

In the Comprehensive Plan the RCC designation does not have a maximum size. As previously discussed, the Comprehensive Plan limits the NC area to one acre. Given that the surrounding properties are primarily commercial use, an RCC designation would fit the existing rural character and could match the given purpose of an RCC zone, as explored in Attachment A-3.
While RCC provides expanded types and sizes of commercial use, future development would still need to be reviewed and approved by all departments through the permitting process, namely Environmental Health. As previously stated, any change in land use or designation would not alter or eliminate any TCEH requirements for the MGSA, including drinking water supplies, sewage disposal and solid waste and hazardous materials. Specifically, all commercial use would be subject to a sewage flow of no greater than 450 gallons per 5 acres per day, per Article I, Section 20 of the Thurston County Sanitary Code.

5. **Surrounding Land Use and Zoning:**

**East:** The property on the northeast corner of Yelm Hwy SE and Spurgeon Creek Rd SE is a gas station and convenience store. There is also a single-family home on a ¾-acre lot, and then Johnson’s Nursery on 1 acre just south of this.

**Land Use Designation and Zoning:** 1 acre of NC at the gas station, and MGSA below that (Title 20 Thurston County Zoning Ordinance)

**West:** The adjacent property to the west is Tom’s Golf Center and Vans drive-thru burger and espresso stand. This property is 34.47 acres, and owned by the applicant (Spooner). Vans Burgers is operated by the Van Lierop’s, on the Spooner’s property. The Golf Center is oriented so that the golf balls fly north, toward the 5-acre subject property. West of the Golf Center is the 89.5 acre Country Green Turf Farm, owned by the Van Lierop’s.

**Land Use Designation and Zoning:** MGSA (Title 20 Thurston County Zoning Ordinance)

**North:** Lacey UGA. Single-family residential development on lot sizes of 0.33 acres and higher. The estimated density is 1.5 to 2 dwelling units per acre. The subdivision to the north backs onto Pattison Lake.

**Land Use Designation and Zoning:** MGSA (Title 21 Zoning Ordinance for the Lacey Urban Growth Area)

**South:** To the south is a 4.56-acre property with a single-family home, owned by the Van Lierop’s. The property just south of this is a recently closed Gravel Pit and active Lacey Oaks Stables, a full care horse boarding and training facility.

**Land Use Designation and Zoning:** MGSA (Title 20 Thurston County Zoning Ordinance)
6. **Consistency with Comprehensive Plan Goals, Chapter 2 Land Use**

A redesignation of NC would be consistent with the goals and policies in the Comprehensive Plan. **Chapter 2—Land Use**

*No clear adverse effect would be created on the surrounding residential uses or rural character. There is already substantial commercial use on the properties surrounding the subject property, and the surrounding business owners own the residential houses in the immediate vicinity. As previously discussed, any future commercial use would still be restricted to residential sewage flow rates and an assessment of nitrate loading to the underlying aquifer.*

- **Goal 1, Objective A, Policy 7:** Isolated commercial and industrial businesses in the rural area, legally established on or before July 1, 1990, that may not be principally designed to serve the existing or projected rural population and nonresidential uses, but do provide job opportunities for rural residents, should be allowed to expand or change use provided the expansion or conversion does not constitute new urban development in the rural area, is contained on the same lot as the existing use, is visually compatible with the surrounding rural area, and detrimental impacts to adjacent properties will not be increased or intensified.

  *Comment: The one acre of NC designation on this parcel was in place prior to July 1, 1990. The expansion of a commercial use is consistent with this goal, as the new*
commercial use would provide additional jobs and services to the rural residents. As discussed in the history of the property, the original use of the subject property and adjoining properties was commercial until the early 1980s. Any future proposed development or commercial activity would serve the rural community, offer additional rural employment, and be subject to all design standards of the zone, as noted by Environmental Health for the McAllister GSA.

- **Goal 1, Objective A, Policy 9:** Neighborhood convenience commercial uses should be permitted throughout rural areas, located at road intersections and taking access from collector or arterial roads.

  **Comment:** This property is located on the corner of Yelm Highway (an arterial road) and Spurgeon Creek (a collector road).

- **Goal 1, Objective A, Policy 10:** Rural commercial centers should be designated as limited areas of more intensive rural development (LAMIRDs) using the criteria established in RCW 36.70A.070(5)(d). Rural commercial centers should be designated only for identified rural community areas, like Rochester and Steamboat Island Road at Highway 101. These centers should serve a larger rural community than neighborhood convenience and have a greater variety of uses, while maintaining a rural character.

  **Comment:** Given the proximity to the Lacey UGA and increasing traffic flow of Yelm Highway, an RCC designation for the entire corner may be applicable, given the primarily commercial use of adjacent properties as well. RCC would allow this existing commercial corner to serve a larger rural community than NC, have a greater variety of use and rural economic impact, while still being held to the development standards and restrictions of the McAllister GSA in regards to water and sewage.

- **Goal 1, Objective B, Policy 10:** Rezoning of any parcel with a rural designation to a different designation should only occur when:

  a. Circumstances have substantially changed since the current land use designation/zoning was adopted and the definition, characteristics or locational guidelines for the current district no longer apply;
  
  b. The rezone would promote the general welfare of the affected community;
  
  c. The rezone would maintain or enhance environmental quality; or
  
  d. Thurston County pursues a legislative rezone.

  **Comment:** The residential designation and zoning district of MGSA may not be the most applicable designation, given the increased rural commercial activity already in this intersection and surrounding the parcel. Increasing the commercial zone would promote the welfare of the local community by adding economic and community vitality to a growing rural intersection.
**Goal 1, Objective B, Policy 11:** If rezoning is requested for a portion of a land use designation:

- a. The impact of a proposed rezone on landowners remaining in the original designation should be evaluated and considered;

- b. The proposed rezone should only be allowed if there is projected to be minimal adverse impact on neighboring landowners and on the continued use of a rural district for natural resource-based industries or conservation purposes;

- c. Regular, easily definable boundaries should be maintained; and

- d. The rezoning should not increase the demand for urban levels of service.

**Comment:** The largest property adjacent to the property in question is owned by the applicant, and currently has Toms Golf Center and Vans Drive Thru Burgers. The remaining landowners in the vicinity will be notified, as required. Additionally, the redesignation would create easily definable boundaries, as the current partial NC designation could cause difficulties in future permitting, building and access requests.

**OPTIONS FOR CONSIDERATION**

**Option 1:**

No change: maintain the current future land use and zoning.

**Pro:**

- Maintains integrity of the MGSA zone and limits potential impacts to the aquifer.

- Limits impacts to identified critical areas and sensitive species on property, including oak and Mazama Pocket Gopher.

**Con:**

- Significantly limits any commercial use on the property, as one acre of NC leaves little development options.

- Maintains confusing boundaries for future development plans.

**Option 2:**

Amend the Comprehensive Plan Future Land Use Map to change the designation and associated zoning of one (1) additional acre of the parcel, creating 2.2± acres of NC on the 5-acre parcel, as was originally requested.

**Pro:**

- Expands the physical area of NC to accommodate additional development, while preserving the majority of acreage as MGSA.

- Provides rural-based economic development in this portion of rural Thurston County, while maintaining rural character.
• Provides revitalization of an underdeveloped area.
• Encourages small business.
• Creates additional opportunities for residents to live, work and gather in this rural area.
• Creates additional future taxable business and revenue for the County.

Con:
• Maintains confusing boundaries for future development plans.
• Exceeds 1-acre maximum size limitation in Comprehensive Plan for Neighborhood Commercial designation.
• Per the comment letters submitted for this application, future commercial development may be faced with environmental mitigation and the MGSA water and sewage constraints, as well as any access spacing concerns.
• Potential impact to identified critical areas and habitat

Option 3:
Amend the Comprehensive Plan Future Land Use Map to change the designation and associated zoning of the full 5 acres from MGSA to NC.

Pro:
• Creates a consistent Future Land Use Map designation and associated zoning.
• Provides rural-based economic development in this portion of rural Thurston County, while maintaining rural character.
• Provides revitalization of an underdeveloped area.
• Encourages small business.
• Creates additional opportunities for residents to live, work and gather in this rural area.
• Creates additional future taxable business and revenue for the County.

Con:
• Exceeds the 1-acre maximum size limitation in the Comprehensive Plan for Neighborhood Commercial designation.
• Per the comment letters submitted for this application, future commercial development may be faced with environmental mitigation and the McAllister GSA water and sewage constraints, as well as any access spacing concerns.
• Potential impact to identified critical areas and habitat

Option 4:
Amend the Comprehensive Plan Future Land Use Map to change the designation and associated zoning of the full 5 acres to Rural Commercial Center (RCC), and consider expanding the designation to the adjacent properties as well.

Pro:

- Creates a consistent Future Land Use Map designation and associated zoning.
- Maintains consistency with Comprehensive Plan designation and size criteria.
- Provides rural-based economic development in this portion of rural Thurston County, while maintaining rural character.
- Provides revitalization of an underdeveloped area.
- Encourages small business.
- Creates additional opportunities for residents to live, work and gather in this rural area.
- Creates additional future taxable business and revenue for the County.

Con:

- Would allow for a larger commercial use and permitted building size in a sensitive area.
- Per the comment letters submitted for this application, future commercial development may be faced with environmental mitigation and the McAllister GSA water and sewage constraints, as well as any access spacing concerns.
- Potential impact to identified critical areas and habitat

AFFECTED AGENCY, JURISDICTION AND DEPARTMENT COMMENTS

The application and SEPA checklist were sent to the agencies, jurisdictions and Thurston County departments listed on the attached distribution list. Staff received comment from the following:

<table>
<thead>
<tr>
<th>Agency, Jurisdiction or Department</th>
<th>Summary of Comments</th>
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<tr>
<td>Nisqually Indian Tribe</td>
<td>No objections to the site-specific comprehensive plan and land use amendment.</td>
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<tr>
<td>City of Lacey</td>
<td>Recent City of Lacey traffic counts find that more than 13,000 vehicles travel this stretch of Yelm Highway on an average weekday. An expanded commercial site with a high volume of pass-by traffic would serve well beyond a population of 5,000 (the limitation set by the NC zone) based solely on the number of pass-by trips by commuters between Yelm and Lacey. Not only would an expansion of this zone to five acres be inconsistent with the site size characteristics identified in</td>
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The Thurston County Comprehensive Plan, but it would also be inconsistent with the intent to serve only nearby residents.

The Land Use and Economic Development Elements for Lacey and the Lacey Urban Growth area identifies commercial lands throughout the Lacey Urban Growth Area sized to provide employment and serve residents for the next 20 year planning horizon. Should rezones to add additional commercial lands within the rural county directly adjacent to the UGA be approved, then adjustments may have to occur to the amount of commercial land designated within the Lacey UGA.

The purpose of the existing McAllister Springs Geologically Sensitive Area zone is to prevent impacts to a vulnerable groundwater source where the Cities of Lacey and Olympia get much of their drinking water supply. The City is concerned about the impacts that an on-site septic system may have that serves a large commercial area.

<table>
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<tr>
<th>Washington Department of Fish and Wildlife (WDFW)</th>
<th>Mazama Pocket Gopher: Data for the Spooner property and the surrounding area has shown documented gopher presence since 2003. One historic record dated 1966 is less than ¼ mile from the property. The parcel is part of a large area containing suitable gopher habitat and supporting continuous presence. Oregon white oak: The oaks present on the Spooner parcel are mature oaks of a significant diameter at breast height and with large canopies. They possess the qualities that make them priority habitat. They are also adjacent to other groups of mature Oregon white oaks on the parcels immediately to the west and to the east (across Spurgeon Creek Road). The proximity of all these mature oaks increases their habitat value over that of a single mature tree.</th>
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<tr>
<td>Public Health and Social Services Environmental Health Division</td>
<td>The proposed change in land use designation does not alter or eliminate any Environmental Health requirements, including approved drinking water supplies, sewage disposal, solid waste and hazardous materials, and food service permits. Therefore, all future development must comply with the Thurston County Sanitary Code, associated policies, and applicable Washington Administrative Codes.</td>
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Records indicate the property was previously served by two on-site sewage systems. There are no records indicating the systems have been property abandoned.

In addition to other requirements imposed by the Thurston County Sanitary Code, additional requirements apply within the McAllister GSA. It should be noted that building site approvals may be issued for uses other than single or multi-family residential within the McAllister GSA only if the designed on-site sewage system flow is no greater than 450 gallons per five acres per day, and the wastewater strength entering the on-site sewage system is equivalent to typical residential waste strength.

A hydrogeological report may be required at the time of future development to assess nitrate loading from on-site sewage system effluent to the underlying aquifer. Development proposals may be unacceptable if a hydrogeological report concludes that it will reduce the Assimilative Capacity of the aquifer by more than ten percent.

The property is also located within a Category I Aquifer Recharge Area as defined by the Thurston County Critical Areas Ordinance, within a Group A public water system wellhead protection area, and within a mapped area of EDB (ethylene dibromide) pesticide contamination and elevated nitrates in the underlying aquifer.

| Public Works Development Review Section | Roadway Classification and Access Spacing:  
Yelm Highway is classified as an Arterial with 10,007 average daily trips (2009 count) and access spacing of 500’ minimum.  
Spurgeon Creek Rd is classified as a Collector with 3499 average daily trips (2013 count) and access spacing of 300’ minimum. |

ATTACHMENTS
Attachment A1-3: Primary uses and characteristics for the MGSA, NC and RCC
Attachment B: Comment Letters
Attachment C: Application Materials