



**CITY OF CENTRAL POINT
PLANNING COMMISSION AGENDA
February 7, 2017 - 6:00 p.m.**

I. MEETING CALLED TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Planning Commission members, Mike Oliver (chair), Tom Van Voorhees, Elizabeth Powell, Craig Nelson Sr., Kay Harrison, Amy Moore, John Whiting.

IV. CORRESPONDENCE

V. MINUTES

Review and approval of December 6, 2016 meeting minutes.

VI. PUBLIC APPEARANCES

VII. BUSINESS

- A. **Public Hearing** for Consideration of Resolution No. 840 Recommending Approval of an Ordinance to amend Chapter 17.05 – Applications and Development Review Procedures to clarify procedures for appeal of Type II and Type III decisions. (File No. 16025) Applicant: City of Central Point
- B. **Public Hearing** for Consideration of a Floodplain Development Permit Application/No-Rise Certification for construction of the Twin Creeks Railroad Crossing and related improvements within the Griffin Creek regulatory floodway (File No. FP-16002). Applicant: City of Central Point.

VIII. DISCUSSION

- A. Housing Element Update

IX. ADMINISTRATIVE REVIEWS

X. MISCELLANEOUS

XI. ADJOURNMENT

**City of Central Point
Planning Commission Minutes
December 6, 2016**

I. MEETING CALLED TO ORDER AT 6:00 P.M.

II. ROLL CALL

Commissioners Chuck Piland, Craig Nelson, Tom Van Voorhees, Rob Hernandez, Elizabeth Powell, Mike Oliver and Kay Harrison were present. Also in attendance were: Tom Humphrey, Community Development Director, Don Burt, Planning Manager, Stephanie Holtey, Community Planner, Molly Bradley, Community Planner, and Karin Skelton, Planning Secretary.

PLEDGE OF ALLEGIENCE

III. CORRESPONDENCE

None

IV. MINUTES

Rob Hernandez noted that page 2 of the minutes indicated he abstained regarding the motion to approve the Mobilite application when in fact he had made the motion. Craig Nelson made a motion to approve the minutes as amended, Tom Van Voorhees seconded the motion. ROLL CALL: Mike Oliver, abstained; Rob Hernandez, yes; Tom Van Voorhees, yes; Craig Nelson, yes; Kay Harrison, yes; Elizabeth Powell, yes. Motion passed.

V. PUBLIC APPEARANCES

None

VI. BUSINESS

A. Consideration of Resolution No. 836 Recommending Approval of a Type IV Legislative Comprehensive Plan Amendment to Update the Land Use Element and to Modify the Central Point Comprehensive Plan Map from Tourist and Office Professional to Thoroughfare Commercial on 4.87 acres at 4901 Biddle Road. The site is identified on the Jackson County Assessor's Map as 37S 2W 01C, Tax Lot 802. (File No. 16022). Applicant: Rogue Valley Microdevices/Tail Light Properties, LLC Agent: Jay Harland, CSA Planning Ltd.

Tom Humphrey explained that a Comprehensive Plan (Map) Amendment and Zone Change were initiated for the above referenced property to facilitate the establishment of a Corporate Headquarters and Light Fabrication Facility. The combined uses are a better match for the Commercial Thoroughfare designation than they are for Tourist and Office Professional. In the course of City staff's review it also became apparent that while the City has promoted Thoroughfare Commercial uses east of the freeway, it has failed to clarify this in the Land Use Element. Consequently, this amendment includes an update to the Commercial Land Use

section of the Comprehensive Plan. This action will document actions taken in the past to allow a wider range of employment uses and to facilitate greater job creation in Central Point. The Land Use Element will be revised in a more comprehensive manner in the future during the Department's next two year budget cycle.

Consistent with the City's Comprehensive Plan Amendment Criteria, the City Council Approved a Resolution of Intent (Resolution No. 1477) in October to initiate this land use amendment. The applicant's agent has submitted a set of Comprehensive Plan and Zoning Maps and Findings of Fact along with relevant approval criteria for the City's consideration. The Commission may rely upon the applicant's findings and conclusions with regard to the map amendment. Alternatively, staff is proposing a change to language used in the Land Use Element to affirm and clarify past City Council actions relative to commercial land use designations and their locations.

In the Economic Element of the Plan, Computer and electronic product manufacturing are identified as a trending Oregon industry. The Thoroughfare Commercial land use designation will accommodate the siting of Rogue Valley Microdevices on the Pine Street corridor. Mr. Humphrey stated that there were four issues relevant to this application:

1. **Comprehensive Plan Compliance.** Approval of the proposed amendment must be found consistent with the City's Comprehensive Plan Land Use Plan. If the Land Use language is revised and the Comprehensive Plan designation is changed to Thoroughfare Commercial on the property in question, then the two would immediately be consistent and compliant.
2. **Compatibility with Surrounding Land Uses and Zoning.** Two tax lots to the east of the applicant's property are designated Thoroughfare Commercial and zoned C-5. The property to the south is designated General Industrial. The properties to the west and north are designated Tourist and Office Professional.
3. **Zoning Map and Zoning Code Text Amendments, CPMC Chapter 17.10.** This municipal code section provides standards and procedures for major and minor amendments to the Central Point city zoning map. In this case, the zone change (map) proposal was initiated by the applicant for one tax lot and the action is considered a 'minor' amendment and a Type III process. The amendment should be based on the following criteria; 1) its consistency with the City's Comprehensive Plan, 2) findings demonstrating that adequate public services and transportation networks will serve the property and 3) compliance with the State's Transportation Planning Rule.
4. **Transportation Planning Rule (TPR) Compliance, OAR 660-012-0060.** Criteria for TPR compliance is addressed in both the Applicant's and the City findings demonstrating adequate public services and transportation networks.

THE PUBLIC PORTION OF THE HEARING WAS OPENED.

Jay Harland of CSA Planning stated that he was the agent for the applicant. He explained that this property would allow the applicant to construct a facility with appreciably more room than their current facility. He stated that the expansion from their current location

would suit their needs for quite some time and would allow for continued growth of the company. He gave an overview of the applicant's findings, including the traffic impact analysis. He added that the uses are compatible with the veterinary clinic and surrounding area, and he was requesting the Planning Commission to approve the application,

PUBLIC HEARING CLOSED

The commissioners wondered if in the future there might be retail businesses or restaurants in the area and if the uses would be compatible. Mr. Humphrey said they would be compatible. Additionally he suggested that the Planning Commission recommend the City Council direct staff to amend the Land Use Element during Fiscal Year 2017-2019 to include updates to goals and policies for Commercial Land Uses.

Mike Oliver Made a motion to approve Resolution No. 836 forwarding a favorable recommendation to the City Council to approve the Comprehensive Plan Amendment and land use redesignation of approximately 5 acres south of Biddle Road between Hamrick and Table Rock roads from tourist and office Professional to Thoroughfare Commercial. Kay Harrison seconded the motion. ROLL CALL: Mike Oliver, yes; Rob Hernandez, yes; Tom Van Voorhees, yes; Craig Nelson, yes; Kay Harrison, yes; Elizabeth Powell, yes. Motion passed.

Tom Van Voorhees made a motion to recommend the City Council direct staff to amend the Land Use Element during Fiscal Year 2017-2019 to include updates to goals and policies for commercial Land Uses. Kay Harrison seconded the motion. All Commissioners said "aye". Motion passed.

B. Consideration of a Zone (map) Change application from Tourist and Office Professional (C-4) to Thoroughfare Commercial (C-5) for a 4.87 acre parcel located at 4901 Biddle Road. The Project Site is identified on the Jackson County Assessor's map as 37S 2W 01C, Tax Lot 802. Applicant: Rogue Valley Microdevices/Tail Light Properties, LLC. Agent: Jay Harland, CSA Planning.

Mr. Humphrey stated that the applicant has requested a minor zone map amendment from C-4 to C-5 with the intent of developing a new tax lot for a Corporate Headquarters and a Light Fabrication Facility. The proposed zone change allows more permitted land uses and fewer conditional uses. However, the nature of the expanded list of permitted uses will not have an appreciable difference on traffic generation or impact and may even improve it

There are 4 issues/Notes relative to this application as follows:

1. **Zoning Map and Zoning Code Text Amendments, CPMC Chapter 17.10.** This municipal code section provides standards and procedures for major and minor amendments to the Central Point zoning map. In this case the application was submitted with the Comprehensive Plan Amendment and initiated jointly by the current and anticipated property owners once it is partitioned. The action is considered a 'minor' amendment and is being processed using Type III procedures. The amendment should be based on the following criteria; 1) its consistency with the City's Comprehensive Plan, 2) findings demonstrating that adequate public services

and transportation networks will serve the property and 3) compliance with the State's Transportation Planning Rule.

2. **Comprehensive Plan Compliance.** Approval of the proposed zone change must be found consistent with the City's Comprehensive Plan Land Use Plan Map. The subject property has a current Comprehensive Plan designation of Tourist and Office Professional but is proposed for amendment to Thoroughfare Commercial concurrent with this zone change. If the Comp Plan Amendment is approved, the zone change to C-5, Thoroughfare Commercial will be consistent and compliant.
3. **Compatibility with Surrounding Land Uses and Zoning.** The subject property is contiguous to lands zoned C-5, Thoroughfare Commercial to the east, and is compatible with M-2, General Industrial to the south and C-4, Tourist and Office Professional to the west.
4. **Transportation Planning Rule (TPR) Compliance, OAR 660-012-0060.** Criteria for TPR compliance is addressed in the traffic findings (Attachment B) demonstrating adequate public services and transportation networks.

Mr. Humphrey reviewed the differences between the C-5 Thoroughfare-Commercial zoning and the C-4 Tourist and Office Professional zoning. The commissioners noted that the Resolution referenced the 4901 Biddle Road address of the Veterinary Clinic currently under construction and suggested that it would be more appropriate to reference the map and tax lot for the subject parcel.

PUBLIC HEARING OPENED

Jay Harland stated that he agreed with the use of the map and tax lot numbers for identification of the parcel. There were no questions.

PUBLIC HEARING CLOSED

Mr. Humphrey recommended approval with the condition that approval of the zone change be contingent upon approval of the Comprehensive Plan (map) amendment.

Mike Oliver made a motion to approve Resolution No. 837 forwarding a favorable recommendation to the City council to approve the rezoning the parcel referred to as 37S2W01C Tax Lot 802 from Tourist and Office Professional (C-4) to Thoroughfare Commercial (C-5). Rob Hernandez seconded the motion. ROLL CALL: Mike Oliver, yes; Rob Hernandez, yes; Tom Van Voorhees, yes; Craig Nelson, yes; Kay Harrison, yes; Elizabeth Powell, yes. Motion passed.

C. Consideration of a Conditional Use Permit to allow Rogue Valley Microdevices to operate a light manufacturing facility which will serve as their corporate headquarters building. Rogue Valley Microdevices proposes to operate in the Thoroughfare Commercial (C-5) zoning district. The project site is located at 4901 Biddle Rd., and is defined on the Jackson County Assessor's map as 37S 2W 01C, Tax Lot 802

Molly Bradley informed the Planning Commission that Rogue Valley Microdevices is a microelectronics manufacturing facility. The proposed building will serve as a light fabrication facility that custom designs and produces microelectronics. The manufacturing process involves the use of chemicals and hazardous materials.

The Property is currently planned and zoned for Tourist and Office Professional (C-4) uses. Light fabrication is not a permitted use in the C-4 district. The Property is in the process of both a land use and zone change to Thoroughfare Commercial (C-5). Light fabrication is a permitted use in the C-5 zone per CPMC 17.43.020(F), and subject only to Site Plan & Architectural Review. However, because of the use of hazardous materials the Community Development Director has the authority per CPMC 17.46.030 to require the proposed use to be processed as a conditional use. The Conditional Use designation is necessary due to the chemical processes associated with the fabrication of electronic wafer boards. The conditional use permit is also required to address reduction in the maximum allowable parking, per CPMC 17.76.040(E)(3).

Ms. Bradley said that the proposed Rogue Valley Microdevices development is a 43,000 square foot manufacturing building, including a production area and two levels of office space. The proposed offices are positioned in the front of the building near Biddle Road, while the light fabrication operations are located in the rear. The main parking lot is located in the front of the building near Biddle Road, while a second parking lot is located in the rear, to also be used as a loading area and for truck circulation.

Access to the site will be from the private retail street that intersects with Biddle Road through a right-in/ right-out configuration and from another private access road to the south of the project site. The facility will receive multiple ground deliveries daily as well as 1-2 semi-truck deliveries per week. The building will be occupied by a maximum of 27 employees at one time. There will be limited customer interface at this facility, except for regular bi-monthly meetings.

The Property abuts C-4 property on the west, M-1 property on the south, C-5 property on the east and C-4 lands to the north. She said that there are three issues to address relative to this application:

1) Hazardous Materials: Rogue Valley Microdevices handles hazardous materials during their fabrication process. Because the use of hazardous materials could be construed to have adverse or dangerous characteristics, a potential safety concern may be posed to surrounding properties, including the Super 8 Motel located on property immediately adjacent to the west. In the Applicant's findings, it is noted that at their current facility in Medford, Microdevices conducts weekly self-inspections to ensure compliance with applicable local, state and federal health and safety requirements. Inspections are also regularly conducted by the Medford Fire Department, Medford's Regional Water Reclamation plant, and the DEQ. Since commencing operations in Medford, Microdevices has operated without violation of any local or state hazardous materials regulations or health and safety requirements. The Applicant indicates that they will continue with its current inspection process to assure the continued compliance with local, state and federal

health and safety requirements. The only change will be compliance inspection from Fire District No. 3 instead of the Medford Fire Department.

In accordance with procedure, this application was noticed to surrounding property owners within 100 feet of the project site to allow them an opportunity to comment. To date, no comments or concerns have been received. Additionally, interviews with affected agencies regarding hazardous material use have found no incidents or violations. Ms. Bradley said that Staff finds that the safety protocol required by local, state, and federal law regarding the use of hazardous materials, as well as the past compliance record of the applicant, are sufficient evidence to meet safety requirements that protect the facility and surrounding properties.

2) Parking Adjustment: Per Table 17.64.02B of the CPMC, the required amount of parking for a manufacturing facility is determined based on either the number of employees per shift or the square footage of gross floor area, whichever is greater. In this case, 86 parking spaces are required. This project proposes 46 parking spaces to serve the facility. The Applicant is requesting a reduction to the off-street parking standards as part of the Conditional Use Permit approval, asserting that strict application of the code would require significantly more parking spaces than are expected to be needed for the use. She said that per CPMC 17.76.040(E)(3), adjustments to parking requirements require approval of a conditional use permit in accordance with any unique characteristics of the proposed use. The Applicant proposes that 46 spaces will be sufficient for the use, maintaining that the building will occupy a maximum of 35 people at any given time, including employees and visitors. The Applicant's proposal falls within the range generated by the ITE manual and the Central Point Municipal Code, and is therefore considered acceptable.

3) Off-Street Loading Berths: The Applicant has indicated that the facility receives deliveries by van multiple times per day at varying intervals, while semi-trailer truck deliveries occur once or twice per week. Per CPMC 17.64.01 Off-Street Loading Requirements, a total of two loading berths are required based on the square footage of the facility. The Applicant proposes two central loading doors on the west side of the facility, as well as one berth on the south end, which is fenced off from the parking lot. In addition, a fourth loading door is located on the east side of the facility, to be accessed from the private retail street. This easterly door is intended for occasional equipment deliveries. Access to these four loading berths is a potential concern for traffic circulation. She said that daily van deliveries will be accommodated through the one-way loading drive on the facility's west side, so as to avoid obstructing surrounding roads or access drives. Semi-trailer truck deliveries will be accommodated at the south loading berth, either by backing into the loading drive or maneuvering within the south parking lot. The loading door located on the east side of the building has the potential to obstruct vehicle and pedestrian traffic on the private retail street when deliveries are made. As conditioned, the eastern loading berth shall be used only during restricted hours.

The Commissioners discussed the monitoring of safety requirements shifting to Fire District 3 and agreed that that would be a satisfactory change. They discussed the parking reduction and

clarified the parking requirements for a building this size. Additionally the Commissioners discussed access to the proposed facility. In response to their inquiry, Stephanie Holtey explained the purpose of a retail street.

PUBLIC HEARING OPENED

Jay Harland informed the Planning Commission that Fire District 3 had a history of experience with industrial inspections. He explained that the parking would be sufficient because the building was intended to house quite a lot of equipment rather than to expand for more employees. He also stated that the purpose of the third loading door was to get the large equipment into the building and requested that the Planning Commission revise the restriction on the use of the loading door to weekdays only, thus allowing the applicant to bring in the equipment on the weekend days while it was light.

Ms. Bradley recommended the Commissioners approve the Conditional Use Permit Application with the following conditions of approval.

1. The approval of this conditional Use Permit is contingent upon the approval of the zone change of 37S2W01C, Tax Lot 802 from C-4 to C-5.
2. The eastern loading berth located on the retail street shall not be used for deliveries during the hours of 7:30 a.m. – 5:30 p.m. Monday – Friday.
3. Prior to issuance of a building permit, the following conditions must be met:
 - a. Conditions as listed in the Rogue Valley Sewer Services memo, dated November 4, 2016.
 - b. Conditions as listed in the letter from the Airport, dated November 4, 2016.
 - c. Conditions as set forth in the Fire District #3 memo, dated November 10, 2016.
 - d. Submittal of a Hazardous Materials List and floor plan indicating the type of material, class, quantity, and storage as conditioned in the Building Department memo dated November 4, 2016.

PUBLIC HEARING CLOSED

Ms. Bradley said that potentially, restricting the loading berth access could impact future development. The Commissioners were unclear as to whether this meant they would be presented with a future application for modification based on how they conditioned the approval of this application. Stephanie Holtey stated that they would only have to hear it if it was a major modification. Minor modifications could be made administratively.

Rob Hernandez made a motion to approve Resolution no. 838 Consideration of a Conditional Use Permit to allow Rogue Valley Microdevices to operate a light manufacturing facility which will serve as their corporate headquarters building, subject to the conditions recommended by staff. Rogue Valley Microdevices proposes to operate in the Thoroughfare Commercial (C-5) zoning district located on the Jackson County Assessor's map as 37S 2W 01C, Tax Lot 802. Tom Van Voorhees seconded the motion. ROLL CALL: Mike Oliver, yes; Rob Hernandez, yes; Tom Van Voorhees, yes; Craig Nelson, yes; Kay Harrison, yes; Elizabeth Powell, yes. Motion passed.

7:45 p.m. Chair Chuck Piland announced a 5 minute break.

7:50 p.m. meeting resumed

D. Consideration of a Site Plan and Architectural Review application for the construction of a 43,000 square foot corporate headquarters and light fabrication facility for Rogue Valley Microdevices. Rogue Valley Microdevices proposes to operate in the Thoroughfare Commercial (C-5) zoning district. The project site is located at 4901 Biddle Rd., and is defined on the Jackson County Assessor's map as 37S 2W 01C, Tax Lot 802.

Stephanie Holtey briefly reviewed for the Planning Commission the description of the project, the necessity for the Comprehensive Plan Amendment, Zone Change and Conditional Use Permit. She informed the Commissioners that the Property has frontage on Biddle Road and adjoins a private retail street to the east and a private access drive to the south. The primary façade and main pedestrian entry front Biddle Road and the main parking area, which has 35 spaces. Access at this location is from the private retail street, which has limited access to Biddle Road which is right-in/right-out. Secondary parking of 11 spaces is behind the building with two points of access from the private retail street and access drive. The southerly private drive provides full access (right-in/left-in, right-out/left out) onto Hamrick Road. A one-way loading drive parallels the west building elevation and provides access to two loading bays.

Architecturally the structure has a modern design that provides variation in building materials to distinguish the manufacturing and office uses. Elements such as recessed windows, sun shades/canopies and inset panels mitigate building mass on the North, East and West elevations. The color palette is off-white, dark blue/black and matte stainless steel.

She stated that there are three issues relative to the application.

1. **Legal Lot Status.** At the time of this review, the 2.24 acre project site has been tentatively approved but not legally created. Since the Southern Oregon Specialty Veterinary Center occupies the parent parcel (Tentative Lot 1), construction activities may not commence until the final plat is recorded. The Applicant's findings state that the tentative plan improvements are underway with completion of the final plat anticipated within the next couple of months. She said that staff recommends the lot legality issue be

resolved with a condition of approval requiring final plat completion prior to building permit issuance.

2. **Parking Adjustment.** Per Table 17.64.02B of the CPMC, the required amount of parking for a manufacturing facility is determined based on either the number of employees per shift or the square footage of gross floor area, whichever is greater. In this case, 86 parking spaces are required. The Applicant's parking plan proposes 46 spaces. To meet the off-street parking interior landscape requirements, the applicant may lose one (1) space in the secondary parking lot south of the building resulting in 45 spaces. Provision of 45-46 spaces does not meet the minimum/maximum parking requirement. She said that as part of the Conditional Use Permit, the Applicant requested a parking reduction on the basis that strict application of the code requirement would significantly increase the number of parking spaces needed for the proposed use. The Applicant's Findings state that a maximum of 35 people will occupy the building at any time, including employees and visitors. Based on a Parking Demand Analysis using the Institute of Traffic Engineers Manual, the manufacturing use will generate 34 – 51 parking spaces. The parking plan with 45-46 spaces falls within the range generated by the Manual and the Central Point Municipal Code and is therefore considered acceptable.
3. **Off-Street Parking Landscape Requirements.** Proposed off-street parking lot landscaping improvements are not consistent with the requirements for interior islands and tree planting per CPMC 17.75.039(G)(2):
 - a. **Interior Islands.** CPMC 17.75.039(G)(2) requires landscape islands a minimum of 8-ft wide be placed within parking rows that contain ten or more spaces. Four interior islands that are 4-ft wide are dispersed throughout the front parking lot. The proposed islands do not meet the minimum width for interior landscape islands. The south parking lot behind the building has an 11 space parking row and does not meet the interior landscaping requirement for islands. She said that based on staff's review, the interior landscape requirements can be met with minor modifications to the parking lot configuration. The landscape islands within the north parking lot can be consolidated into two 8-foot islands without losing any parking spaces. However the addition of an interior island in the south parking lot appears to result in the loss of one space. As demonstrated in the Applicant's parking demand analysis, a total of 45 parking spaces would remain within the acceptable range of parking generated by the use. She added that Staff recommends a revised Site Plan be submitted at the time of building permit application demonstrating compliance with the interior landscape requirements of CPMC 17.75.039(G)(2).

- b. **Trees.** CPMC 17.75.039(G)(2)(a-c) provides the tree planting requirements for off-street parking lot interior landscape areas. The number of trees required is a function of the parking lot visibility from the public realm. Highly visible parking lots require more trees than those that are located away from public rights-of-way or behind buildings.

The north parking lot is between the primary building façade and Biddle Road and requires 1 tree for every four spaces. There are 35 spaces requiring eight trees; however, only two are shown on the landscape plan. The south parking lot is behind the building and requires one tree for every eight spaces resulting in one tree for the 10-11 space parking row. No trees are shown on the landscape plan at this location. She said that Staff recommends that a revised Landscape Plan be submitted at the time of building permit application demonstrating compliance with the interior landscape requirements for trees per CPMC 17.75.039(G)(2)(a) and (c).

Ms. Holtey recommended approval of the application with conditions:

1. Site Plan and Architectural Review approval is subject to designation of the project site as Commercial Thoroughfare and C-5; and approval of a Conditional Use Permit. Failure to obtain any of the required land use approvals shall result in the denial of this site plan and architectural review application.
2. At the time of building permit application, the applicant shall submit a revised site plan and landscape plan demonstrating compliance with the off-street parking lot landscape requirements in CPMC 17.75.039(G)(2). Modifications that alter the site layout may be subject to CPMC 17.09, Modifications to Approved Plans.
3. Prior to building permit issuance, the final plat for the Tail Light Properties Minor Partition shall be approved by the City of Central Point and recorded by the Jackson County Assessor.
4. The Applicant shall comply with agency conditions as listed in the:
 - a. Rogue Valley Sewer Services letter dated November 16, 2016.
 - b. Jackson County Roads letter dated November 16, 2016,

and contingent on the approvals of the Comprehensive Plan Amendment, the Zone Change Amendment, and Conditional Use Permit.

8:08 Commissioner Elizabeth Powell left the meeting.

PUBLIC HEARING OPENED

Jay Harland requested that the Planning Commission allow construction to begin on the project prior to issuance of Certificate of Occupancy rather than prior to issuance of Building Permits. He stated that his concern was that the final plat might not be recorded

before construction needed to begin. He also indicated that in Attachment "F", the comment from Jackson county Roads, numbers 8, 9 and 10 were not applicable to this application. The Commissioners reviewed the attachment and agreed.

PUBLIC HEARING CLOSED

Stephanie Holtey stated that she recommended approval with the understanding that any future modifications to the plan would be subject to code standards.

Craig Nelson made a motion to approve Resolution No. 839, Consideration of a Site Plan and Architectural Review application for the construction of a 43,000 square foot corporate headquarters and light fabrication facility for Rogue Valley Microdevices subject to staff conditions as modified by the Planning Commission. Rogue Valley Microdevices proposes to operate in the Thoroughfare Commercial (C-5) zoning district. The project site is located at 4901 Biddle Rd., and is defined on the Jackson County Assessor's map as 37S 2W 01C, Tax Lot 802. Kay Harrison seconded the motion. ROLL CALL: Mike Oliver, yes; Rob Hernandez, yes; Tom Van Voorhees, yes; Craig Nelson, yes; Kay Harrison, yes. Motion passed.

VII. DISCUSSION

VIII. ADMINISTRATIVE REVIEWS

None

IX. MISCELLANEOUS

X. ADJOURNMENT

Mike Oliver made a motion to adjourn. Kay Harrison seconded. All said "aye". Meeting was adjourned at 8:20 p.m.

The foregoing minutes of the December 6, 2016 Planning Commission meeting were approved by the Planning Commission at its meeting on the _____ day of _____, 2017.

Planning Commission Chair

Public Hearing for Consideration of Resolution No. B40 Recommending Approval of an Ordinance to amend Chapter 17.05 – Applications and Development Review Procedures to clarify procedures for appeal of Type II and Type III decisions.



STAFF REPORT

February 7, 2017

AGENDA ITEM: File No. 16025

Public Hearing to consider Resolution No. 840 forwarding a recommendation to the City Council regarding amendments to Chapter 17.05 Applications and Development Permit Review Procedures, adding 17.05.550 Appeal Procedure. Type II and Type III Decisions; **Applicant:** City of Central Point.

STAFF SOURCE:

Tom Humphrey AICP, Community Development Director

BACKGROUND:

In the wake of a recent appeal of a City decision to LUBA, the City Attorney noticed some unclear processes in Chapter 17.05 and recommended the City make changes to the appeal procedure for Type II and Type III land use decisions. Type II decisions are those made by the Community Development Director and appealable to the Planning Commission. Type III decisions are those made by the Commission and appealable to the City Council. Among other things the revisions offered in Attachment A; 1) provide clarity for public noticing; 2) define processing deadlines and 3) delineate the basis for which appeals may be made.

ISSUES:

Confusion that may be caused by a lack of specificity or clarity results in public frustration, unnecessary processing delays and costly legal fees. The proposed amendments are intended to reduce if not eliminate the issues cited above.

EXHIBITS/ATTACHMENTS:

Attachment "A" – Proposed Zoning Code Amendments
Attachment "B" – Resolution No. 840

ACTION:

Consider proposed zoning amendments and 1) forward the ordinance to the Council for approval, 2) make revisions and forward the ordinance to the Council or 3) deny the ordinance.

RECOMMENDATION:

Adopt Resolution No. 840 forwarding a favorable recommendation to the City Council to approve the proposed zoning code amendments.

Chapter 17.05
APPLICATIONS AND DEVELOPMENT PERMIT REVIEW PROCEDURES

Sections:

17.05.100 Purpose and applicability of review procedures.

17.05.200 Type I procedure.

17.05.300 Type II procedure.

17.05.400 Type III procedure.

17.05.500 Type IV procedure.

17.05.550 Appeal Procedure.

17.05.600 General procedural provisions.

17.05.700 Expedited land divisions.

17.05.800 Reserved.

17.05.900 Traffic impact analysis.

17.05.100 Purpose and applicability of review procedures.

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the city, the applicant, and the public to review development permit applications and participate in the local decision-making process in a timely and effective way consistent with the citizen's involvement element of the comprehensive plan. Table 17.05.1 provides a key to identify the review procedures, applicable regulations, and the approving authority for development permit applications.

B. Applicability of Review Procedures. All development permit applications identified in Table 17.05.1 shall be decided by using the appropriate procedures contained in this chapter. The procedural "type" assigned to each development permit application governs the decision-making process for that permit. There are four "types" of procedures: Type I, II, III, and IV, which are described as follows:

1. Type I. Type I procedures apply to administrative decisions made by the community development director or designee without public notice and without a public hearing. Type I procedures are used only when there are clear and objective approval standards and criteria, the application of which does not require the use of discretion.

A Type I decision is the city's final decision. There are no appeals to a Type I procedural decision.

2. Type II. Type II procedures apply to administrative decisions that involve clear and objective approval standards and criteria the application of which requires the use of limited discretion. Type II decisions are made by the community development director or designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is treated as a Type III procedure, except that ~~the scope of the hearing is limited as provided in subsection (B)(3) of this section, and is considered the city's final decision.~~ **appeal is to the Planning Commission, which is the final decision of the city.**

3. Type III. Type III procedures are quasi-judicial decisions that involve the application of existing policies. Type III decisions generally use discretionary approval criteria, and do not have a significant effect beyond the immediate area of the application. Type III decisions are based on special studies or other information which will serve as the factual basis to support the decision. Type III decisions, when made by the planning commission, may be appealed to the city council.

4. Type IV Procedure. Type IV decisions are legislative decisions that establish by law general policies and regulations for future land use decisions, such as the adoption or revision of the comprehensive plan, and revisions to the zoning and the land division ordinance that have widespread and significant impact beyond the immediate area, i.e., quantitative changes producing large volumes of traffic, or a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships. Unless otherwise noted, all Type IV decisions are considered initially by the citizens advisory committee and the planning commission, with final decisions made by the city council.

Table 17.05.1 provides a key to identify the review procedure for each land development permit.

TABLE 17.05.1

LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
Annexation				
Quasi-Judicial	Type III	Chapter 1.20	City Council	No
Legislative	Type IV	Chapter 1.20	City Council	No
Comprehensive Plan & UGB Amendments				
Major	Type IV	Chapter 17.96	City Council	No
Minor	Type III	Chapter 17.96	City Council	No
Conditional Use Permit	Type III	Chapter 17.76	Planning Commission	Yes
Conversion Plan	Type II	Chapter 16.32	Director	Yes
Extensions				
Type I Procedures	Type I	Section 17.05.200(G)	Director	Yes
Type II Procedures	Type II	Section 17.05.300(H)	Director	Yes
Home Occupation	Type I	Section 17.60.190	Director	Yes
Land Division				
Tentative Plan, Partition	Type II	Chapter 16.36	Director	Yes
Tentative Plan, Subdivision	Type III	Chapter 16.10	Planning Commission	Yes
Final Plat	Type I	Chapter 16.12	Director	No
Property Line Adjustment/Consolidation	Type I	Chapter 16.10	Director	Yes
Modification of Approval				
Major	Type III	Section 17.09.300	Planning Commission	Yes
Minor	Type II	Section 17.09.400	Director	Yes
Nonconforming Use Designation	Type III	Section 17.56.040	Planning Commission	No

TABLE 17.05.1				
LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
Planned Unit Development	Type III	Chapter 17.68	Planning Commission	Yes
Right-of-Way Vacation	Type III ^{IV}	Chapter 12.28	City Council	No
Site Plan and Architectural Review				
Minor	Type I	Chapter 17.72	Director	Yes
Major	Type II	Chapter 17.72	Director	Yes
TOD District/Corridor Master Plan	Type III	Chapter 17.66	Planning Commission	Yes
Tree Removal	Type II	Chapter 12.36	Director	Yes
Variance				
Class A	Type II	Section 17.13.300	Director	Yes
Class B	Type III	Section 17.13.400	Planning Commission	Yes
Class C	Type III	Section 17.13.500	Planning Commission	Yes
Zoning Map and Zoning and Land Division Code Text Amendments				
Minor	Type III	Chapter 17.10	City Council	Yes
Major	Type IV	Chapter 17.10	City Council	No

* An applicant may be required to obtain approvals from other agencies, such as the Oregon Department of Transportation, or Rogue Valley Sewer. The city may notify other agencies of applications that may affect their facilities or services.

(Ord. 1989 §1(part), 2014; Ord. 1941 §§1, 2, 3, 2010; Ord. 1874 §1(part), 2006).

17.05.300 Type II procedure.

A. Pre-Application Conference. A pre-application conference is optional for a Type II permit application. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the planning department for the land development permit requested.

2. Submittal Requirements. A Type II permit application shall include:

a. The information requested on the application form;

b. Findings addressing the applicable regulations per Table 17.05.1. Note: At the discretion of the community development director, additional information may be required during the application process;

c. One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in subsection C of this section. The records of the Jackson County assessor's office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application; and

d. The required fee.

3. Notice of Acceptance. Within fourteen days of submittal, the community development director or designee shall notify the applicant in writing of:

a. The procedural type used for the application. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, it shall be made at the time of notice of acceptance, after which the application shall be processed as a Type III application. When a Type II application is referred to a Type III application, no new application is required; and

b. Acceptance of the application; or

c. Non acceptance of the application with an itemization of the deficiencies and deadline for correction of the deficiencies.

C. Notice of Application for Type II Decision.

~~1. Before making a Type II decision, the community development director or designee shall mail notice to:~~

~~a. All owners of record of real property within a minimum of one hundred feet of the exterior boundaries of the subject site;~~

~~b. All city-recognized neighborhood groups or associations whose boundaries include the site;~~

~~c. Any person who submits a written request to receive a notice; and~~

d. 1. No less than 20 days before the community development director makes a decision, written notice of the application shall be mailed to all of the following:

a. Applicant;

b. Owners of record of the subject property;

c. Owners of record within a minimum of one hundred feet of the exterior boundaries of the site;

d. All city-recognized neighborhood groups or associations whose boundaries include the site;

e. Any person who submits a written request to receive a notice; and

f. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county or ODOT, and the rail authority, when there is a proposed development abutting or within one hundred feet of an affected transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

2. The notice of a pending Type II administrative decision application shall include:

~~a. Provide a fourteen-day period for submitting written comments before a decision is made on the permit;~~

a. The street address or other easily understood reference to the site;

b. List The relevant approval criteria by name and number of code sections;

c. State The place, date and time the comments are due, and the person to whom the comments should be addressed;

~~d. Include the name and telephone number of a contact person regarding the administrative decision;~~

d. A description of the proposal and identification the specific permits or approvals requested;

e. A statement of the issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision maker to respond to the issue;

f. The name and phone number of a city contact person;

g. A brief summary of the local decision making process for the decision being made;

~~g. State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the land use board of appeals or circuit court on that issue and that only comments on relevant approval criteria are considered relevant evidence;~~

h. State A statement that all evidence relied upon by the community development director or designee to make this decision is in the public record, available for public review. Copies of this evidence may be obtained at a reasonable cost from the city;

i. State A statement that, after the comment period closes, the community development director or designee shall issue a Type II administrative decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice; and

j. Contain the following notice:

Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.

3. The notice shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city by 5:00p.m. on that 14th-day.

D. Administrative Decision Requirements. The community development director or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the community development director or designee shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Decision.

1. Within five days after the community development director or designee signs the decision, a notice of decision shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;

b. Any person who submitted a written request to receive notice, or provides comments during the application review period;

c. Any city-recognized neighborhood group or association whose boundaries include the site;
~~and~~

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city, and other agencies that were notified or provided comments during the application review period; ~~and~~

e. Property owners located within 100 feet of the exterior boundaries of the subject property.

2. The community development director or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II notice of decision shall contain:

a. A description of the applicant's proposal and the city's decision on the proposal (i.e., may be a summary);

b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;

c. A statement of where a copy of the city's decision, and the complete planning file may be reviewed and the name and contact number of the city staff to contact about reviewing the file;

d. The date the decision shall become final, unless appealed;

e. A statement that ~~all persons entitled to notice~~ only the applicant and persons who submitted comments prior to the comment deadline may appeal the decision; and

f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

F. Effective Date. A Type II decision is final for purposes of appeal when the notice of decision per subsection E of this section is mailed by the city and becomes effective ten days from the date of mailing of the notice of decision. If an appeal is filed within the ten-day period, the decision does not become effective until the appeal is decided. Appeal process is governed by Section 17.05.550.

~~G. Appeal. A Type II decision may be appealed to the planning commission as follows:~~

~~1. Who May Appeal. The following people have legal standing to appeal a Type II decision:~~

- ~~a. The applicant or owner of the subject property;~~
- ~~b. Any person who was entitled to written notice of the Type II decision;~~
- ~~c. Any other person who participated in the proceeding by submitting written comments.~~

~~2. Appeal Filing Procedure.~~

~~a. Notice of Appeal. Any person with standing to appeal, as provided in subsection (G)(1) of this section, may appeal a Type II decision by filing a notice of appeal according to the following procedures;~~

~~b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten days from the date the notice of decision was mailed;~~

~~c. Content of Notice of Appeal. The notice of appeal shall contain:~~

- ~~i. An identification of the decision being appealed, including the date of the decision;~~
- ~~ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;~~
- ~~iii. A statement explaining the specific issues being raised on appeal;~~
- ~~iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and~~
- ~~v. The applicable filing fee.~~

~~3. Scope of Appeal. The appeal of a Type II decision by a person with standing shall be a hearing before the planning commission. The appeal shall be limited to the application~~

~~materials, evidence and other documentation, and specific issues raised in the Type II review.~~

~~4. Appeal Procedures. Type III notice, hearing procedures, and decision process shall be used for all Type II appeals, as provided in Sections 17.05.400(C) through (E).~~

~~5. Final Decision. The decision of the planning commission regarding an appeal of a Type II decision is the final decision of the city.~~

HG. Extensions. The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period, provided:

1. The land development permit authorizes extensions;

2. No changes are made to the original application as approved by the city;

3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:

a. Denied; or

b. At the discretion of the community development director, the request for extension may be re-reviewed as a modification per Section 17.09.300;

4. The extension request is filed on or before the expiration of the original or latest extension approval per subsection F of this section;

5. If the time limit expired and no extension request has been filed, the application shall be void. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

17.05.400 Type III procedure.

A. Pre-Application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

B. Application Requirements.

1. **Application Forms.** Type III applications shall be made on forms provided by the community development director or designee for the land development permit requested.

2. Submittal Requirements. When a Type III application is required, it shall include:

a. A completed application form with required attachments;

b. One copy of a narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: Additional information may be required under the specific applicable regulations for each approval as referenced in Table 17.05.1;

c. The required fee; and

d. One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in subsection C of this section. The records of the Jackson County assessor's office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application. The failure of a property owner to receive notice as provided in subsection C of this section shall not invalidate such proceedings provided the city can demonstrate by affidavit that such notice was given.

C. Notification Requirements.

1. Mailed Notice. The city shall mail the notice of the Type III hearing. Notice of a Type III hearing shall be given by the community development director or designee in the following manner:

a. At least twenty days before the hearing date, or if two or more hearings are allowed, ten days before the first hearing, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property on the most recent property tax assessment roll that is the subject of the application;

ii. All property owners of record on the most recent property tax assessment roll within one hundred feet of the site, including tenants of a mobile home or manufactured dwelling park;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county road authority, or ODOT, and rail authority for applications that are abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;

iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;

v. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;

vi. Any person who submits a written request to receive notice;

vii. ~~For appeals, the appellant and all persons who provided testimony in the original decision;~~
~~and~~

~~viii.~~ At the applicant's discretion, notice may also be provided to the Department of Land Conservation and Development.

b. The community development director or designee shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.

2. Content of Notice. Notice of a Type III hearing shall be mailed per subsection C of this section and shall contain the following information:

a. An explanation of the nature of the application and the proposed land use or uses that could be authorized for the property;

b. The applicable criteria and standards from the zoning and subdivision code and comprehensive plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue prior to the close of the final hearing means that an appeal based on that issue cannot be raised at the State Land Use Board of Appeals;

f. The name of a city representative to contact and the telephone number and email address where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at the city of Central Point City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;

i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

j. The following notice:

Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;

d. Before the conclusion of the first evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per subsection (D)(2) of this section, or by leaving the record open for additional written evidence or testimony per subsection (D)(3) of this section.

2. If the hearings body grants a continuance, the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven additional days, so that they can submit additional written evidence or testimony in response to the new written evidence.

3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the

city in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the hearings body shall reopen the record to allow rebuttal evidence.

a. If the hearings body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;

b. An extension of the hearing or record for a ~~limited land use granted~~ **Type III Application** pursuant to this subsection D is subject to the limitations of ORS 227.178 (“one-hundred-twenty-day rule”), unless the continuance or extension is requested or agreed to by the applicant;

c. If requested by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence. For limited land use decisions, the seven-day period shall not be subject to the limitations of ORS 227.178 and 227.179;

d. The record shall contain all testimony and evidence that is submitted to the city and that the hearings body has not rejected;

e. In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; ~~staff reports~~). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;

f. The city shall retain custody of the record until the city issues a final decision and all appeal deadlines have passed.

4. Participants in a ~~Type III~~ **quasi-judicial** hearing are entitled to an impartial review authority as free from potential conflicts of interest and prehearing ex parte contacts (see subsection (D)(5) of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

a. At the beginning of the public hearing, hearings body members shall disclose the substance of any prehearing ex parte contacts (as defined in subsection (D)(5) of this section) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to ex parte contacts and to object to their participation as provided in subsection (D)(5)(b) of this section;

b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

d. If all members of the hearings body abstain or are disqualified, the city council shall be the hearing body. If all members of the city council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

5. Ex Parte Communications.

a. Members of the hearings body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection (C) of this section;

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between city staff and the hearings body is not considered an ex parte contact.

6. Presenting and Receiving Evidence.

a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in subsection (D)(3) of this section;

c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under subsection (D)(5)(b) of this section.

E. The Decision Process.

1. **Basis for Decision.** Approval or denial of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the city as a whole;

2. **Findings and Conclusions.** Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

3. **Form of Decision.** The hearings body shall issue a ~~final written order~~ **decision** containing the findings and conclusions stated in subsection (E)(2) of this section, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;

4. **Decision-Making Time Limits.** ~~A final written order~~ **The written decision** for any Type III action **(including an appeal from a Type II decision)** shall be filed with the community development director or designee within ten days after the close of the deliberation;

5. **Notice of Decision.** Written notice of a Type III decision shall be mailed to the applicant and to all participants of record within ten days after the hearings body decision. Failure of any

person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any Type III application is final for purposes of appeal on the date it is mailed by the city. The decision is effective on the day after the local appeal period expires. If an appeal of a Type III decision is filed, the decision becomes effective on the day after the local appeal is decided by the city council hearings body. Appeal process is governed by Section 17.05.550. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within twenty-one days after the city council's written decision is mailed by the city.

~~F. Appeal. A Type III decision made by the planning commission may be appealed to the city council as follows:~~

~~1. Who May Appeal. The following people have legal standing to appeal a Type III decision:~~

- ~~a. The applicant or owner of the subject property;~~
- ~~b. Any person who was entitled to written notice of the Type III decision;~~
- ~~c. Any other person who participated in the proceeding by submitting written comments.~~

~~2. Appeal Filing Procedure.~~

- ~~a. Notice of Appeal. Any person with standing to appeal, as provided in subsection (F)(1) of this section, may appeal a Type III decision by filing a notice of appeal according to the following procedures;~~
- ~~b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten days of the date the notice of decision was mailed;~~
- ~~c. Content of Notice of Appeal. The notice of appeal shall contain:
 - ~~i. An identification of the decision being appealed, including the date of the decision;~~
 - ~~ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;~~
 - ~~iii. A statement explaining the specific issues being raised on appeal;~~~~

~~iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and~~

~~v. The applicable filing fee.~~

~~3. Scope of Appeal. The appeal of a Type III decision is limited to the issues and evidence in the record before the hearing body.~~

~~4. Appeal Procedures. Type III notice, hearing procedure and decision process shall also be used for all Type III appeals, as provided in subsections C through E of this section;~~

~~5. Final Decision. The decision of the city council regarding an appeal of a Type III decision is the final decision of the city.~~

G.F Extensions. The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period, provided:

1. The land development permit authorizes extensions;

2. No changes are made to the original application as approved by the city;

3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:

a. Denied; or

b. At the discretion of the community development director, the request for extension may be re-reviewed as a modification per Section 17.09.400;

4. The extension request is filed on or before the expiration of the original or latest extension approval per subsection (E)(6) of this section;

5. If the time limit expired and no extension request has been filed, the application shall be void. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

17.05.500 Type IV procedure.

A. Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the city of Central Point. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

B. Timing of Requests. Acceptance timing varies for Type IV applications (see Table 17.05.1 for applicable section reference).

C. Application Requirements.

1. Application Forms. Type IV applications shall be made on forms provided by the community development director or designee.

2. Submittal Information. The application shall contain:

a. The information requested on the application form;

b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);

c. The required fee; and

d. One copy of a letter or narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant approval criteria and standards applicable to the specific Type IV application.

D. Notice of Hearing.

1. Required Hearings. A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications.

2. Notification Requirements. Notice of public hearings shall be given by the community development director or designee in the following manner:

a. At least ten days, but not more than forty days, before the date of the first hearing, a notice shall be mailed to:

i. Any affected governmental agency;

ii. Any person who requests notice in writing;

b. At least ten days before the first public hearing date, and fourteen days before the city council hearing date, public notice shall be published in a newspaper of general circulation in the city.

c. The community development director or designee shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (D)(2)(a) of this section; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection (D)(2)(b) of this section.

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments within the time period prescribed by DLCD. The notice to DLCD shall include a DLCD certificate of mailing.

3. Content of Notices. The mailed and published notices shall include the following information:

a. The number and title of the file containing the application, and the address and telephone number of the community development director or designee's office where additional information about the application can be obtained;

b. The proposed site location, if applicable;

c. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the council and available at City Hall (see subsection E of this section).

E. Hearing Process and Procedure--Conduct of Public Hearing.

1. Unless otherwise provided in the rules of procedure adopted by the city council:

a. The presiding officer of the planning commission and of the city council shall have the authority to:

i. Regulate the course, sequence, and decorum of the hearing;

ii. Direct procedural requirements or similar matters;

iii. Impose reasonable time limits for oral presentations; and

iv. Waive the provisions of this chapter so long as they do not prejudice the substantial rights of any party.

b. No person shall address the commission or the council without:

i. Receiving recognition from the presiding officer; and

ii. Stating his or her full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission and of the council shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the city council, or the final decision of the city;

b. The community development director or designee's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The planning commission or the city council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Decision-Making Criteria Decision Process. The recommendations by the citizens advisory committee, the planning commission and the decision by the city council shall be based on the applicable criteria as referenced in Table 17.05-1.

H. Approval Process and Authority.

1. The citizens advisory committee and planning commission shall:

a. The citizens advisory committee: after notice and discussion at a public meeting, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

b. The planning commission: after notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

c. Within ten days of adopting a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the community development director or designee.

2. Any member of the citizens advisory committee or planning commission who votes in opposition to the majority recommendation may file a written statement of opposition with the community development director or designee before the council public hearing on the proposal. The community development director or designee shall send a copy to each council member and place a copy in the record;

3. If the citizens advisory committee or planning commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty days of its first public hearing on the proposed change, the community development director or designee shall:

a. Prepare a report to the city council on the proposal, including noting the citizens advisory committee's or planning commission's actions on the matter, if any; and

b. Provide notice and put the matter on the city council's agenda for the city council to hold a public hearing and make a decision. No further action shall be taken by the citizens advisory committee or planning commission.

4. The city council shall:

a. Consider the recommendation of the citizens advisory committee and planning commission; however, the city council is not bound by the committee's or the commission's recommendation;

b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application; and

c. If the application is approved, the council shall act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the citizens advisory committee present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
3. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five days after the city council decision is filed with the community development director or designee.

K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon the date of mailing of the notice of decision to the applicant.

L. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered and not rejected by the hearings body;
 - b. All materials submitted by the community development director or designee to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final decision;
 - e. All correspondence; and

f. A copy of the notices that were given as required by this chapter. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

17.05.550 Appeal procedure – Type II and Type III decisions.

A. Appeal. Type II decisions may be appealed to the planning commission. Type III decisions may be appealed to the City Council. All such appeals are subject to the following:

1. Who May Appeal. The following people have legal standing to appeal a Type II and/or Type III decision:

a. The applicant or owner of the subject property;

b. Any person who participated in the proceeding by submitting timely written and/or oral comments on the record prior to the decision.

2. Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in 17.05.550(A)(1), may appeal a decision by filing a notice of appeal according to the procedures in subsections 2(b) and 2(c) below:

b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten (10) days from the date the notice of decision was mailed;

c. Content of Notice of Appeal. The notice of appeal shall contain:

i. An identification of the decision being appealed, including the date of the decision;

ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;

iii. A statement explaining the specific issues being raised on appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review;

iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised in the record; and

v. The applicable filing fee.

B. Scope of Appeal. Type II and Type III appeals shall be on the record, which means the appeal is limited to the application materials, evidence, documentation, and specific issues raised in the initial proceeding. The decision maker shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence in the record to support the findings of the initial decision maker who heard the matter, or to determining whether errors of law were committed by such decision maker. Review shall in any event be limited to those issues set forth in the notice of appeal. The appellant is precluded from raising an issue on appeal if he or she could have raised the issue before the initial decision maker but failed to do so. Only the appellant and other parties who appeared in the initial proceedings may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the planning commission or city council, respectively, those portions of the record which the participant deems relevant to the appeal. If a party wishes the planning commission or city council, respectively, to review recorded testimony, the party shall present a written summary or transcript of such testimony to be reviewed.

C. Notice of Hearing and Staff Report

1. Upon timely receipt of the notice of appeal and filing fee, the community development director or his designee shall set the appeal for hearing before the planning commission for Type II appeals and city council for Type III appeals. The community development director or his designee shall notify the appellant and all parties who appeared in the initial proceedings of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal at least 20-calendar days before the date of the appeal hearing.

2. Not less than seven (7) calendar days before the date of the appeal hearing, the director or his designee shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the planning commission or city council and to the appellant. The director shall provide a copy of the staff report to all other parties and members of the public at reasonable cost upon request.

DE. Final Decision. The reviewing body shall make a written decision which either affirms, reverses, or modifies in whole or in part the decision or any conditions of such decision, that is under review. When the hearings body modifies or renders a decision that reverses a decision of the approving authority, said hearings body shall, in its written decision, set forth its findings and state its reasons for taking the action encompassed by such decision. The decision of the planning commission regarding an appeal of a Type II decision is the final decision of the city. The decision of the city council regarding an appeal of a Type III decision is the final decision of the city.

ED. Withdrawal of an Appeal.

1. Before the close of an appeal hearing in front of any appellate decision making authority, any appellant may withdraw his appeal.
2. Withdrawal of an appeal is subject to the following:
 - a. The party may withdraw the appeal on its own motion, which may be submitted to the appellate decision making authority orally or in writing.
 - b. No part of the appeal fee will be refunded.
 - c. No one may re-file a withdrawn appeal.
 - d. Where multiple people or parties sign and file a single appeal document, all must consent to the withdrawal of the appeal.
3. In addition to all the requirements of this section, if all appeals in a matter are withdrawn, the appellate decision making authority loses jurisdiction over the action. The underlying decision is automatically re-instated under its original date of final decision.

17.05.600 General procedural provisions.

A. One-Hundred-Twenty-Day Rule. In accordance with ORS 227.178, the city shall take final action on all land use decisions as identified in Table 17.05.1, including resolution of all appeals, within one hundred twenty days from the date the application is deemed as complete, unless the applicant requests an extension in writing. The total of all extensions may not exceed two hundred forty-five days. Any exceptions to this rule shall conform to the provisions of ORS 227.178.

B. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

C. Pre-Application Conferences.

1. **Participants.** When a pre-application conference is required, the applicant shall meet with the community development director or his/her designee(s) and such other parties as the community development director deems appropriate;

2. **Information Provided.** At such conference, the community development director or designee shall:

- a. Cite the comprehensive plan policies and map designations that appear to be applicable to the proposal;
- b. Cite the ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;
- c. Provide available technical data and assistance that will aid the applicant;
- d. Identify other governmental policies and regulations that relate to the application; and
- e. Reasonably identify other opportunities or constraints concerning the application.

3. Disclaimer. Failure of the community development director or designee to provide any of the information required in this subsection C shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

D. Acceptance and Review of Applications.

1. Initiation of Applications.

a. Applications for approval under this chapter may be initiated by:

- i. Order of city council;
- ii. Resolution of the planning commission;
- iii. The community development director or designee;
- iv. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may, at the option of the applicant, be consolidated for review and decision.

a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the respective approval authority having jurisdiction over each type procedure.

b. When proceedings are consolidated:

i. The notice shall identify each application to be consolidated;

ii. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and

iii. Separate findings shall be made for each consolidated application.

3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the city, the community development director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

i. The required form;

ii. The required fee;

iii. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

i. Review and Notification. After the application is accepted, the community development director or designee shall review the application for completeness. If the application is incomplete, the community development director or designee shall notify the applicant in writing of exactly what information is missing within thirty days of receipt of the application and allow the applicant one hundred eighty days to submit the missing information.

ii. Application Deemed Complete for Review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the community development director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For

the refusal to be valid, the refusal shall be made in writing and received by the community development director or designee.

iii. If the applicant does not submit all of the missing information or provide written notice that no further information will be provided (whether some of the additional information has been provided or not) within one hundred eighty days of the date the initial submittal was accepted per subsection (D)(3)(a) of this section, the application is void.

iv. Standards and Criteria That Apply to the Application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the comprehensive plan or land use regulations.

v. Coordinated Review. The city shall also submit the application for review and comment to the city engineer, road authority, and other applicable county, state, and federal review agencies.

4. Changes or Additions to the Application. Once an application is deemed complete per subsection (D)(3)(b) of this section:

a. All documents and other evidence relied upon by the applicant shall be submitted to the community development director or designee at least seven days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the community development director or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;

b. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination to the approving authority that a significant change in the application has occurred as part of the decision. In the ~~alternate~~ **alternative**, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change, and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;

d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the city shall take one of the following actions, at the choice of the applicant:

i. Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the one-hundred-twenty-day rule (subsection A of this section) on the existing application for a minimum of thirty (30) days from the date of the ~~amendment~~ **significant change** to allow the City to reprocess the revised application. If the applicant does not consent, the ~~city applicant may~~ **shall not** select this option

ii. Declare the application, based on the significant change, a new application and reprocess **as having been refiled as a new application as of the date the significant change was submitted accordingly; or**

iii. **Decide the application on the basis of the applicant's materials without the significant change.**

e. If a new application is submitted by the applicant, that applicant shall pay the applicable application fee and shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Community Development Director's Duties. The community development director or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions;

2. Accept all development applications that comply with this section;

3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria. The staff report may also provide a recommended decision of approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;

4. Prepare a notice of the ~~proposal~~ **proposed** decision:

a. In the case of an application subject to a Type I or II review process, the community development director or designee shall make the staff report and all case file materials available at the time that the notice of the decision is issued;

b. In the case of an application subject to a public hearing (Type III or IV process **or a Type II review on appeal**), the community development director or designee shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by Sections 17.05.300(C) (Type II), 17.05.400(C) (Type III), or 17.05.500(D) (Type IV);

5. Administer the application and hearings process;
6. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice, and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice, the application and all supporting information, the staff report, the final decision (including the findings, conclusions and conditions, if any), all correspondence, minutes of any meeting at which the application was considered, and any other exhibit, information or documentation which was ~~considered by the decision-maker(s) on the application~~ **made part of the record**; and
8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the community development director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.
2. The community development director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen business days after the original decision would have become final, but in no event beyond the one-hundred-twenty-day period required by state law. A new ten-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in Chapter 17.09. All other changes to decisions that are not modifications under Chapter 17.09 shall follow the appeal process.

G. Resubmittal of Application Following Denial. An application or proposal that has been denied, or that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve months from the date the final city action is made denying the

same, unless there is substantial change in the facts or a change in city policy that would change the outcome, as determined by the community development director or designee.

H. **City Council Review.** The city council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the city council calls up an application, the council shall, in its order of call-up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the council shall follow the procedures in Section **17.05.550** ~~17.05.400(F)~~, regarding appeals from Type III decisions. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

PLANNING COMMISSION RESOLUTION NO. 840

A RESOLUTION APPROVING A MINOR AMENDMENT TO TITLE 17 ZONING

FILE NO. 16025

Applicant: City of Central Point

WHEREAS, on February 7, 2017 the Planning Commission, at a duly scheduled public hearing, considered minor amendments to Chapter 17 Zoning of the Central Point Municipal Code (“CPMC”) as follows, and as specifically identified in Attachment “A – Staff Report dated February 7, 2017):

1. Section 17.05 Applications and Development Permit Review Procedures,
2. Section 17.05.550 Appeal Procedure – Type II and Type III Decisions; and

WHEREAS, it is the finding of the Planning Commission that the above referenced code amendments only serve to clarify administration of Chapter 17 and as such are considered minor amendments and as such do not alter current land use policy or modify standards.

NOW, THEREFORE, BE IT RESOLVED, that the City of Central Point Planning Commission, by this Resolution No. 840, does hereby forward a favorable recommendation to the City Council to approve the amendments as set forth in the Staff Report dated February 7, 2017 attached hereto by reference as Exhibit “A” and incorporated herein.

PASSED by the Planning Commission and signed by me in authentication of its passage this 7th day of February 2017.

Planning Commission Chair

ATTEST:

City Representative
Approved by me this 7th day of February 2017.

**Public Hearing for Consideration of a Floodplain Development Permit Application/No-Rise Certification
for construction of the Twin Creeks Railroad Crossing and related improvements within the Griffin Creek
regulatory floodway**



STAFF REPORT

February 7, 2017

AGENDA ITEM: File No. FP-16002

Consideration of a floodplain development application to construct Highway 99 roadway improvements within the Special Flood Hazard Area (SFHA) and regulatory floodway for Griffin Creek. **Applicant:** City of Central Point (Matt Samitore).

STAFF SOURCE:

Stephanie Holtey, CFM, Community Planner II

BACKGROUND

The City of Central Point ("Applicant") requests floodplain development approval to construct roadway improvements within the Special Flood Hazard Area (SFHA) and regulatory floodway for Griffin Creek (Attachment "A"). The proposed improvements are needed to complete construction of the Twin Creeks Railroad Crossing project, which is identified in the Twin Creeks Transit Oriented Development (TOD) Master Plan ("Master Plan") and the City's Capital Improvement Program (CIP)(Project No. 202) as a vital link between Twin Creeks and development east of the CORP railroad. To be approved, the Applicant must demonstrate that the proposed improvements do not aggravate flood conditions.

Project Description:

The Twin Creeks Rail Crossing project will extend Twin Creeks Crossing easterly across the CORP railroad tracks to create a new, signalized "T" intersection with Highway 99. Additional project improvements include the following:

- A new at-grade railroad crossing;
- Sidewalk, curb and gutter construction along the east side of Highway 99 to the north and south of the new intersection; and,
- Pavement reconstruction raising the grade along Highway 99 to match the grade elevation at the intersection.

A portion of the pavement reconstruction and sidewalk improvements, including curb and gutter, are within the Griffin Creek SFHA and regulatory floodway. In accordance with CPMC 8.24.200(A), the Applicant submitted a No-Rise Analysis and certification, which evaluates the effective and proposed flood conditions based on construction of the Twin Creeks Railroad Crossing project. According to the No-Rise documentation, the minor grade increases do not increase flood elevations consistent with the City's no-rise standard.

ISSUES

There are no issues associated with this application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The proposed floodplain development has been evaluated against the Central Point Municipal Code (CPMC) Chapter 8.24 requirements for Flood Damage Prevention and found to comply as evidenced by the Applicant's No-Rise documentation (Attachment "B").

CONDITIONS OF APPROVAL

No conditions of approval are recommended.

ATTACHMENTS

Attachment "A" – Floodway Development Project Location Map

Attachment "B" – No Rise Certificate and Analysis (Note: Appendices are included in the record and available for review upon request)

Attachment "C" – Floodplain Development Application, dated December 14, 2016

Attachment "D" – Resolution No. 841

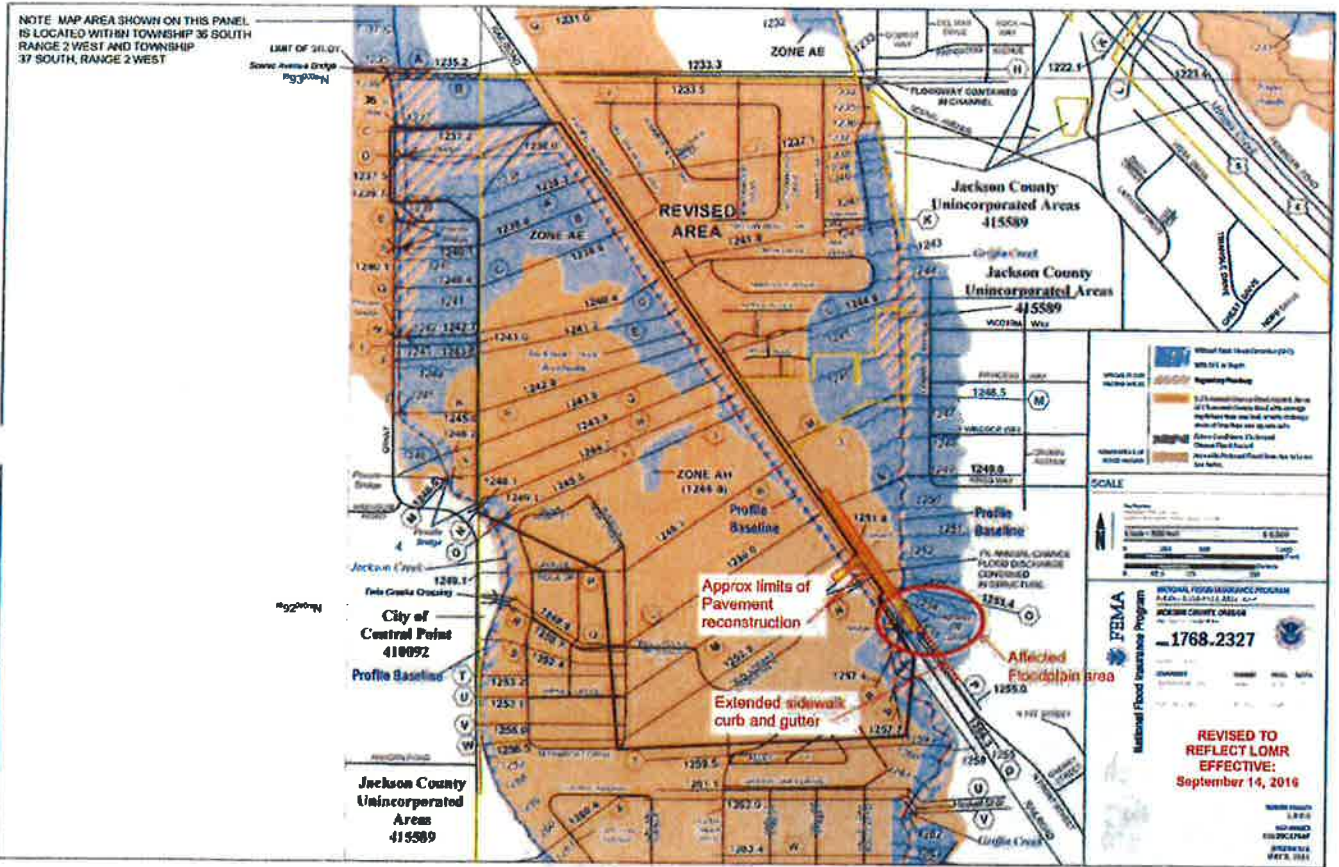
ACTION

Consider the floodplain development application and 1) approve; 2) approve with modifications; or 3) deny the application.

RECOMMENDATION

Approve Resolution No. 841 Approving a floodplain development application to construct Twin Creeks Railroad Crossing improvements within the regulatory floodway for Griffin Creek.

Twin Creeks Railroad Crossing Project Location & Flood Map



Twin Creeks Rail Crossing

Floodway Impact Hydraulic Step Analysis

September 2016 Revision 1

Prepared for:
City of Central Point

c/o ODOT Region 3

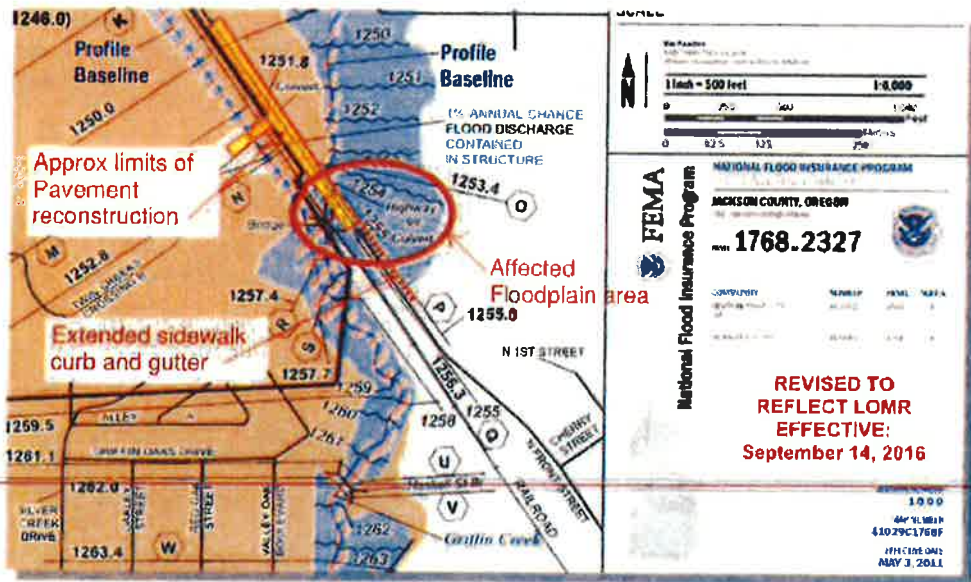
Prepared and Submitted by:

TYLININTERNATIONAL
engineers | planners | scientists

Purpose and Need

The City of Central point wishes to extend the Twin Creek Crossing from its current terminus west of the CORP railroad tracks to a T intersection with the Rogue Valley Highway (HWY 063). The project requires the grade of Hwy 063 be raised to match elevation at the intersection location, and will develop sidewalk along the east side of the highway in both directions to connect with approaching sidewalk termini.

The project re-constructs a portion of the highway over the twin box culvert passing Griffin Creek. Per the FEMA flood insurance map this development will be within the floodway where Griffin Creek overtops this culvert in the 1% probability (100year) flood event.



Floodplain Area Affected Hwy 063 Griffin Creek Culvert

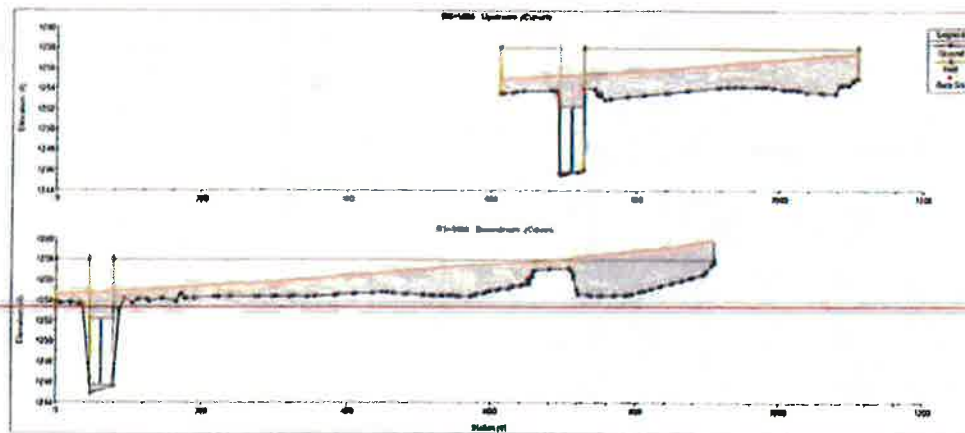
Analysis Procedures

The location under consideration is currently in public comment for map revision to capture modifications to the intersecting Jackson Creek drainage west of the CORP Railroad alignment. At flood stage Griffin creek overtops the bank to the north and flow is diverted northerly to the Jackson Creek basin. The proximity of this flow modification to the project site, illustrated above, leads to the step backwater analysis performed for that revision as the most current model capturing these already constructed modifications within the drainage system. Therefore, the current published insurance study, Number

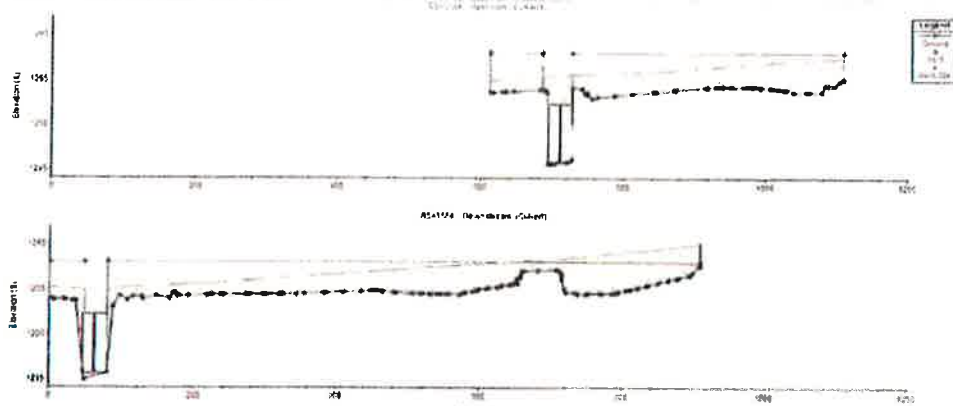
41029V000A effective May 3, 2011, is outdated, and the pending study analysis, to be fully effective September 2016 has been used as the basis for this no rise comparison.

The comparison analysis for this no effect documentation was acquired directly from the consultant performing the Letter of Map Revision (LOMR), which fully re-modeled the drainage basin including Griffin Creek. Therefore the cross sections compared do not exactly align with the 2011 effective insurance study, and therefore no annotation of the tabular values in that study can be provided. Fortunately, the work in question is centered about the culvert feature which provides cross sections at that location and can be aligned with all previous flood studies providing a basis of comparison and has established confidence in the existing conditions analysis.

The procedure uses the LOMR HEC RAS steady flow step backwater analysis model, expected to be effective September 2016 and as developed originally by Northwest Hydraulics Consultants under contract to the City of Central Point. No new cross section locations were developed for the proposed conditions analysis, hence no calibration of the existing conditions is needed. All modifications have been to the deck elevations to the existing culvert section modelled at River Sta 58+84. The culvert upstream and downstream deck elevations were modified to reflect the proposed road profile above the culvert location and compare to the previous existing condition.



Griffin Creek Culvert Existing Road Surface



Griffin Creek Culvert Proposed Road Surface

Notably minimal changes in roadway elevation occur, the primary modification to the proposed surface is the inclusion of drainage curb along both side of the highway. To complete the no rise the curb line required lowering from typical design height within the limits of the culvert passing below.

The modifications to the culvert section were prepared using the Bentley InRoads design package to model the location of the roadway gutter line. The gutter line establishes the parallel elevation and the various features of the new roadway are installed to re-define the roadway surface for the proposed conditions model.

Specifically the upstream culvert roadway was modified to capture drainage curb along the west edge of the roadway to the anticipated limits of the project. The existing points in the cross section were measured and modified to reflect the higher elevation. Downstream culvert roadway surface was similarly modified but extended to the limits of the cross section to reflect the full length installation of new sidewalk curb and gutter along the east side of the highway. In that case the elevations recorded are the greatest of the back of sidewalk (gutter line + 8 inches) or the centerline of the roadway crown. The location to the limits of the culvert required lowering of the sidewalk, similar to a driveway curb-cut, to prevent any calculated rise at the sections examined.

Additional cross section points at the road surface were added to both upstream and downstream sections to capture abrupt changes, for the curb along the west side of the highway (upstream) and for the concrete barrier at the culvert along the east side of the highway (downstream).

Upon completion of these modifications HEC-RAS software was executed and the resultant predicted water surface elevation differences compared at the local cross sections.

Results and Conclusions

Comparison of local cross sections:

X-Section Station	LOMR analysis	Proposed Surface	
	Water Surface 100 yr.	Water Surface 100 yr.	100 yr. Difference
5955.071	1256.4	1256.4	0.0
5884 Culvert U	1256.4	1256.4	0.0
5884 Culvert D	1255.6	1255.6	0.0
5807.13	1255.0	1254.9	-0.1

The analysis shows no rise for these four stations. Notably the rise at River Sta 58+07.13, just downstream of the culvert is -0.1 feet reflecting a slightly increased flow velocity of the overtopping flow at the downstream culvert end.

The final conclusion is that with the proposed sidewalk curb-cut geometry there is no calculated rise within the vicinity of the roadway modifications.

Disclaimer

The analysis prepared has relied on information in support of the current LOMR being considered by FEMA to become effective September 2016. Notably at this time it is our understanding that FEMA has accepted the modeling and the LOMR application is currently undergoing the required public review and comment period. While every effort has been expended to verify that this model is consistent with the results as illustrated in the currently effective insurance study, should this LOMR not be placed into effect as scheduled and the modelling subsequently changed it may affect the input into this analysis. With that understanding the goal of this analysis is to verify no rise to the floodway and demonstrate acceptable localized rise for the 100 year flood water surface due to the planned roadway development, and regardless of any modification to the supporting analysis it is reasonable to conclude that the specific results for this location will remain unchanged.

Date Received:

Floodplain Development Permit No.



City of Central Point Floodway Encroachment Analysis No-Rise Certification

PROPERTY INFORMATION

PROPERTY OWNER'S NAME
City of Central Point

PROPERTY ADDRESS (Including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. BOX NUMBER
140 South 3rd Street

CITY
Central Point

STATE
Oregon

ZIP CODE
97502

PROPERTY DESCRIPTION (Map and Taxlot Number)
37 2W 03DB No tax lot

BUILDING USE (e.g. Residential, Non-residential, Detached Garage, Addition, Accessory, etc.)
Highway

FLOODWAY ENCROACHMENT ANALYSIS AND NO-RISE INFORMATION

PROJECT/ENCROACHMENT DESCRIPTION (Please be specific. Attach site plan and include additional pages if necessary)

Raise of grade to accommodate intersection at Twin Creeks Crossing and highway 99 results in some adjustment to highway grade through the Griffin Creek floodway.

Structural encroachment

Yes No

Fill placement

Yes No

Quantity:

125 approx. cubic yards

Material Type:

Various - Concrete, ACWS and base aggregate

Material Source:

Commercial supplier TBD

FIRM COMMUNITY-PANEL NO.

EFFECTIVE/REVISED DATE

BASE FLOOD ELEVATION (NAVD 1988)

SUPPORTING TECHNICAL DOCUMENTATION

1. Report with analysis

2.

3.

COMMENTS: Analysis prepared from current LOMR model effective September 2016 to capture the most current effects at this location.

OREGON REGISTERED PROFESSIONAL ENGINEER CERTIFICATION

I certify that I am a duly registered professional engineer licensed to practice in the State of Oregon. I certify that the attached technical data supports the fact that the proposed development described herein will not impact the 100-year (1% annual chance) flood elevations, floodway elevations or floodway widths on the affected stream located both upstream and downstream of the proposed development, at published or unpublished crosssections in the FEMA Flood Insurance Study specified in Section B of this No-Rise Certification.

Scott M. Nettleton P.E.

CERTIFIER'S NAME
TY Lin International

COMPANY NAME
8625 SW Cascade Ave Suite 604 Beaverton OR 97008

ADDRESS CITY STATE ZIP CODE


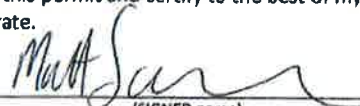
SIGNATURE

DATE
9/23/16



Expires 12/31/2016

140 South 3rd Street | Central Point, OR 97502 | (541) 664-7602
www.centralpointoregon.gov

 Floodplain Development Permit Application	OFFICE USE ONLY <input type="checkbox"/> EC <input type="checkbox"/> No-Rise <input type="checkbox"/> CLOMR <input type="checkbox"/> Attachments <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Subject to COA	
<p>Instructions: Complete all <u>unhighlighted</u> sections of this application form to provide a complete understanding of your development proposal. Highlighted sections are for office use only. Please include attachments to help clarify your proposal. These may include a site plan, elevation drawings, detailed drawings and photographs. Refer to the application checklist for a complete list of required supporting documentation. Incomplete applications will not be accepted. Contact the Floodplain Coordinator at 541.664.7602, Ext. 244 if you have any questions.</p>		
PROPERTY INFORMATION		
SITE ADDRESS: Highway 99 at Twin Creeks Crossing		
Map and Taxlot #: 37S 2W 03DB FIRM Map & Panel No.: 41029C 1768F		
Flood Zone: * Floodway BFE: 1255.0-1256.4 ft. NAVD88 Base Depth: N/A ft. Minimum DFE:		
OWNER & APPLICANT INFORMATION		
OWNER NAME: City of Central Point (Matt Samitore) APPLICANT/AGENT NAME: N/A		
MAILING ADDRESS: 140 South Third Street, CP 97502 MAILING ADDRESS:		
PHONE: 541.664.7602 E-MAIL: Matt.Samitore@centralpointoregon.gov PHONE: E-MAIL:		
PROJECT DESCRIPTION		
As part of the Twin Creeks Rail Crossing project (construct new intersection), highway grades must be raised to match the elevation at the new intersection and new sidewalks constructed. The highway grade adjustments and sidewalks will occur within the SFHA and regulatory floodway. A No-Rise Analysis has been prepared and demonstrates no adverse impact.		
STRUCTURAL DEVELOPMENT PROJECT INFORMATION		
Type of Use (Check one): <input type="checkbox"/> Residential <input type="checkbox"/> Mixed Use (residential and non-residential) <input type="checkbox"/> Non-residential (commercial, accessory) <input type="checkbox"/> Elevated <input type="checkbox"/> Floodproofed (attach certification) <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Located on individual lot <input type="checkbox"/> Located in manufactured home park	Type of Activity (Check one): <input type="checkbox"/> New structure <input type="checkbox"/> Replacement of existing structure <input type="checkbox"/> Relocation of existing structure ¹ <input type="checkbox"/> Addition to existing structure ² <input type="checkbox"/> Remodel to existing structure ² <small>¹ Relocated structures are treated as new construction ² Additions and remodels that exceed 50% of the market value of the existing structure are a substantial improvement, which requires full compliance with Ch. 8.24. Improvements are counted cumulatively over a 10-year period.</small>	Additions & Remodel Information: 1. Year Built: _____ 2. Existing Bldg. Valuation: \$ _____ Source: _____ 3. Proposed Const. Cost: \$ _____ Source: _____ 4(a). Addition Type: <input type="checkbox"/> Vertical <input type="checkbox"/> Lateral 4(b). If Lateral Addition, is it structurally connected? <input type="checkbox"/> Yes <input type="checkbox"/> No
Other Structural Project Information:		
1. Lowest habitable floor elevation: _____ feet, NAVD 88 2. Garage Slab Elevation: _____ feet, NAVD 88 3. Area of enclosed area below the BFE: _____ sq ft. 4. No. proposed flood openings: _____ ; Total Area: _____ sq ft		
NON-STRUCTURAL PROJECT INFORMATION		
Check all the proposed non-structural development activities associated with your project, as provided below.		
<input type="checkbox"/> Tree, vegetation and/or debris removal <input type="checkbox"/> Bridge or culvert replacement		
<input type="checkbox"/> Excavation Qty (cu yards): _____ <input type="checkbox"/> Stream bank stabilization		
<input checked="" type="checkbox"/> Fill placement Qty (cu. yards): ~125 <input type="checkbox"/> Watercourse alteration		
<input type="checkbox"/> Grading (attach project grading plan) <input type="checkbox"/> Subdivision with improvements in the SFHA		
<input type="checkbox"/> Fence or wall construction <input checked="" type="checkbox"/> Capital Improvement Project (Functionally dependent use)		
<input type="checkbox"/> Swimming pool installation <input type="checkbox"/> Other: _____		
SIGNATURE		
By signing below, I agree to the terms and conditions of this permit and certify to the best of my knowledge the information contained in this application is complete, true and accurate.		
Matt Samitore (PRINTED name)	 (SIGNED name)	12-14-2016 (Date)
_____ (PRINTED name)	_____ (SIGNED name)	_____ (Date)

RESOLUTION NO. 841

A RESOLUTION OF THE PLANNING COMMISSION APPROVING A FLOODPLAIN DEVELOPMENT PERMIT/NO-RISE CERTIFICATE FOR CONSTRUCTION OF TWIN CREEKS RAILROAD CROSSING ROADWAY IMPROVEMENTS WITHIN THE GRIFFIN CREEK FLOODWAY

(File No: FP 16002)

WHEREAS, the applicant has submitted a Floodplain Development application and No-Rise Certification to construct roadway improvements, including pavement reconstruction, and curb and gutter and sidewalk construction in the Griffin Creek regulatory floodway on a portion of Highway 99 in Central Point, OR 97502.

WHEREAS, the No-Rise Certification was prepared in accordance with FEMA's Guidance for "No-Rise/No-Impact" Certification for Proposed Developments in Regulatory Floodways; and

WHEREAS, the No-Rise Certification confirms that the proposed roadway improvements will not increase the base flood elevation or floodway profiles relative to the effective FEMA mapping; and

WHEREAS, on February 7, 2017, at a duly noticed public hearing, the City of Central Point Planning Commission considered the Applicant's request for floodplain development approval for the Twin Creeks Railroad Crossing Floodplain Development Permit/No Rise Certification (the "Project"); and,

NOW, THEREFORE, BE IT RESOLVED that the City of Central Point Planning Commission by Resolution No. 841 hereby approves the Twin Creeks Railroad Crossing Floodplain Development Permit/No-Rise Certification based on the Staff Report dated February 7, 2017, including attachments incorporated by reference (Exhibit "A"); and

PASSED by the Planning Commission and signed by me in authentication of its passage this 7th day of February 7, 2017

Planning Commission Chair

ATTEST:

City Representative