



Medford City Council Meeting

Agenda

July 21, 2016

12:00 Noon and 7:00 p.m.

**Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon**

10. Roll Call

Employee Recognition

Employee of the Quarter

20. Approval or Correction of the Minutes of the July 7, 2016 Regular Meeting

30. Oral Requests and Communications from the Audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

40. Consent Calendar

50. Items Removed from Consent Calendar

60. Ordinances and Resolutions

60.1 COUNCIL BILL 2016-83 A resolution affirming the Planning Commission's denial of a request for an Exception for the elimination of sidewalk, curb, gutter, and street paving improvements on 0.74 acres located south of the intersection of E. Main Street, Fair Oaks Drive and White Oak Drive.

60.2 COUNCIL BILL 2016-84 An ordinance authorizing execution of an Amendment to the Disposition and Development Agreement (DDA) between the City of Medford and Sky Park, LLC.

60.3 COUNCIL BILL 2016-85 An ordinance adding sections 5.606, 5.607, 5.608, and 5.609 of the Medford Code to prohibit feeding wildlife within the City of Medford.

70. Council Business

80. City Manager and Other Staff Reports

80.1 Lien payoff update

80.2 Oregon Investment Advantage Certification

80.3 Further reports from City Manager

90. Propositions and Remarks from the Mayor and Councilmembers

90.1 Proclamations issued: None

90.2 Further Council committee reports

90.3 Further remarks from Mayor and Councilmembers

100. Adjournment to the Evening Session

EVENING SESSION
7:00 P.M.

Roll Call

110. Oral Requests and Communications from the Audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

120. Public Hearings

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

120.1 Public hearing to consider allowing social gaming in Medford.

120.2 COUNCIL BILL 2016-86 An ordinance adding section 8.180 to the Medford Code to allow social gaming.

130. Ordinances and Resolutions

130.1 COUNCIL BILL 2016-87 An ordinance authorizing execution of an Employment Agreement with Rob Patridge for the position of City Manager.

140. Council Business

150. Further Reports from the City Manager and Staff

160. Propositions and Remarks from the Mayor and Councilmembers

160.1 Further Council committee reports

160.2 Further remarks from Mayor and Councilmembers

170. Adjournment

RESOLUTION NO. 2016-83

A RESOLUTION affirming the Planning Commission's denial of a request for an Exception for the elimination of sidewalk, curb, gutter, and street paving improvements on 0.74 acres located south of the intersection of E. Main Street, Fair Oaks Drive and White Oak Drive.

WHEREAS, the Planning Commission's denial in this matter was appealed to the City Council; and

WHEREAS, the City Council reviewed the applicable criteria and heard legal arguments from the parties on July 7, 2016; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON: that:

Section 1. The Council finds that there is substantial evidence in the record to support the Planning Commission's decision that the appellant failed to demonstrate how the exception request is in harmony with the general purpose and intent of the Medford Development Code.

Section 2. The Council further finds that there is substantial evidence in the record to support the Planning Commission's decision that the Appellant failed to demonstrate that strict applications of the standards for which an exception is being requested would result in undue hardship of the owner.

Section 3. This decision is based upon the Executive Summary and finding and conclusions contained in the Planning Commission Report both attached as Exhibit A, which are incorporated by reference as the findings and conclusions of the City Council.

Section 4. The actions of the Planning Commission are hereby affirmed and the appeal is denied.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

Executive Summary

Consideration of an appeal of the Planning Commission denial of an Exception request for the elimination of sidewalk, curb, gutter and street paving improvements on 0.74 acres located south of the intersection of E Main Street, Fair Oaks Drive and White Oak Drive within the SFR-4 (Single Family Residential – 4 dwelling units per gross acre) zoning district. The Appellant contends that the Planning Commission erred in its decision that Criteria 1 and 3 were not adequately addressed. (File No. E-16-034)

Dated: June 30, 2016

Vicinity Map



What are the issues before the City Council?

Did the Planning Commission err in its denial of the Exception request for the elimination of sidewalk, curb, gutter and street paving improvements? (Notice of Appeal, Exhibit 1)

CITY OF MEDFORD
EXHIBIT # A
File # E-16-034
APPEAL

Executive Summary
Appeal of Planning Commission Decision
Adderson Builders, Inc., Appellant (E-16-034)
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City Council Scope of Review

The City Council's scope of review is listed in Medford Land Development Code Section 10.053 and is summarized below.

Upon review, the City Council:

- *Shall not re-examine issues of fact, and*
- *Shall limit its review to determining:*
 - *Whether there is substantial evidence to support the findings of the tribunal which heard the matter, or*
 - *If errors in law were committed by such tribunal.*
- *Review shall be limited to those issues set forth in the notice of appeal.*
- *Review shall be based on the record of the initial proceedings.*

Chronology

1. On February 15, 2016, a Land Division application for a three-lot partition on the south side of the intersection of E Main Street, Fair Oaks Drive and White Oak Drive was submitted by Adderson Builders, Inc. (Applicant) (file no. LDP-16-012).
2. On March 10, 2016, the Land Division application was deemed incomplete.
3. On March 16, 2016, Applicant submitted the Exception application that is the subject of this appeal (file no. E-16-034).
4. On March 18, 2016, both the Land Division and Exception applications were deemed complete. The 120th day is July 16, 2016.
5. On April 28, 2016, the Planning Commission held a public hearing on LDP-16-012/E-16-034. The Commission heard testimony from Applicant and other interested parties. The Commission voted to conditionally approve the three-lot partition (LDP-16-012) and deny the Exception application (E-16-034).
6. On May 12, 2016, the Planning Commission adopted the Final Orders conditionally approving LDP-16-012 and denying E-16-034.
7. On May 13, 2016, the action letter was mailed, setting the final appeal date of May 27, 2016.
8. On May 27, 2016, the City received an appeal on the decision to deny the Exception application E-16-034 from Polaris Land Surveying LLC on behalf of Adderson Builders, Inc. (Applicant, now Appellant) (Exhibit 1). Appellant has standing in this matter. No

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appeals were filed on the decision to conditionally approve the three-lot partition application LDP-16-012.

9. Per Medford Land Development Code Section 10.052, the appeal hearing before the City Council must be set at its next regular meeting that falls not less than 14 days after the date the appeal is filed. The appeal hearing date would have been June 16, 2016; however, on May 27, 2016, the Appellant requested that the appeal hearing be scheduled for July 7, 2016. The request extends the 120th day by 21 days. The 120th day is now August 6, 2016.

Medford Land Development Code Criteria

The applicable approval criteria are found in Medford Land Development Code (MLDC) Section 10.253.

10.253 Criteria for an Exception.

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

- (1) *The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.*
- (2) *The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.*
- (3) *There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.*
- (4) *The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.*

Project Summary

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Land Division

The Appellant submitted a Land Division application to create three parcels on approximately 0.74 acres developed with one single family residence. The Land Division application was approved and is not the subject of this appeal.

Exception

As shown in the Vicinity Map above, the site has frontages on White Oak Drive, E Main Street and Fair Oaks Drive. The Exception application addresses two Code requirements. The first request is for relief from street improvement standards found in MLDC 10.430 (paving, curb, gutter, sidewalk and planter strips) on all three street frontages. The Public Works Department Staff Report notes that Fair Oaks Drive lacks only sidewalks. At the public hearing, Appellant agreed to install the sidewalk across the property frontage on Fair Oaks Drive (Exhibit 3, p. 5 of 19).

The second Exception request is for relief from deferred street improvement financial deposit requirements found in MLDC 10.432. This section authorizes the Public Works Director to defer required street improvements when certain criteria are met. The Code requires a financial deposit in the amount of 125 percent of the City Engineer's estimate of the costs for the deferred street improvements, in lieu of the developer constructing the street improvements. The Public Works Department Staff Report states, in part, "If approved as requested, then no public improvements would be provided with this development. Public Works requests that if the Exception is approved, that the Developer be required to enter into a Deferred Improvement Agreement (DIA) for the frontage improvements to White Oak Drive/E Main Street as stated below, reference MLDC Section 10.432."(Page 2 of Exhibit F to Exhibit 2)

Since this hearing, the Legal Department has concluded that a DIA cannot be broken into a financial requirement and an agreement to participate in future street or other public improvements. Stated another way, an exception cannot be granted only to the requirement of a DIA to post a financial deposit related to the cost of the deferred improvements.

Generally, the bases for the appeal are the cost of the Code-required improvements and neighborhood preservation. From Appellant's Exception Findings of Fact (Exhibit E to Exhibit 2):

One particularly unusual circumstance related to this exception request exists along the north and easterly sides of the subject property, whereas the existing street pavement on East Main Street and White Oak Road erratically transects the right of way, especially on the curvature of White Oak Drive right-of-way, where the current street pavements cuts in a straight southeasterly alignment through the reverse curve, which could be troublesome for half street improvements within the right-of-way without re-aligning

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and re-constructing the entire street which would severely alter and destroy many of the mature trees and landscaping along the property street frontages...

As an alternative to posting the 125 percent deposit, Appellant offered to sign a perpetual agreement in favor of forming a Local Improvement District (LID) by petition in the future (Page 2 of Exhibit E to Exhibit 2). This alternative would compel future owners of these three parcels to pay for their share of street improvements if an LID were to be formed rather than the Appellant constructing or financially securing the improvements now. The Planning Commission did not accept this alternative.

Notice of Appeal

A single Notice of Appeal was filed by Polaris Land Surveying, LLC on behalf of Adderson Builders, Inc., on May 27, 2016, which is within 14 days of the date the notice of the Planning Commission action was mailed, as required in MLDC 10.051.

Allegations of Error

Four allegations of error are identified in the appeal (Exhibit 1). Each is included below with a staff response.

1. The Appellant contends, *"City Planning Staff agreed with the Applicants Findings and Conclusions, as amended, and recommended approval of the Exception request finding that all the Criteria for the Exception had been met."*

Staff Response:

In MLDC 10.122, the Planning Commission is designated as the approving authority for several Class C application types, including Exceptions and Land Divisions. Staff has the duty to analyze applications for compliance with the requirements of the *Comprehensive Plan* and the MLDC and report its findings to the deciding body in MLDC 10.223(4). Staff makes recommendations and acts as a resource to the Planning Commission, but has no decision making authority in Exception or any other Class C applications. The fact that the Planning Commission did not adopt the staff recommendation does not constitute an error on the part of the Commission.

2. The Appellant contends, in part, *"The Planning Commission erred in their decision that Criterion No.1 was not adequately met which the Applicant respectfully disagrees with... the current street configuration as constructed and accepted by the City of Medford many years ago, meanders significantly within the existing 60 foot wide right-of-way limits of White Oak Road and its intersection with East Main Street..."*

Staff Response:

The language of Criterion 1, found in MLDC 10.253, is repeated below. Note that this criterion requires two determinations, “*harmony with the general purpose and intent*” and “*not be injurious to the general area*”.

- (1) *The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.*

Appellant’s Exception Findings of Fact for Criterion 1 rely on the street improvement deferral criteria in MLDC 10.432 as a basis for the Exception (Exhibit E to Exhibit 2). Staff agrees that the current street alignment is not centered within the existing right-of-way and does not follow the dedicated, curved right-of-way. However, the Appellant’s Findings are off-base. As noted above, the Public Works Director has authority in deferring street improvements; it is a separate administrative process that follows when street improvements are required. A street may meet the deferral criteria and not the Exception criteria and vice versa; they are not the same question.

As stated in the Public Works Department Staff Report, “The purposes for these dedications and improvements are found throughout the Medford Code, Medford Transportation System Plan, and the Statewide Planning Rule and are supported by sound public policy. Those purposes and policies include, but are not limited to: development of a balanced transportation system addressing all modes of travel, including motor vehicles, transit, bicycles, emergency services and pedestrians. Further, these rights-of-way are used to provide essential services such as sanitary sewer, domestic water and storm drains to serve the developed parcels...” (Page 4 of Exhibit F to Exhibit 2)

The Planning Commission heard oral and written testimony from several surrounding property owners regarding existing storm drainage issues (Exhibits P – KK to Exhibit 2 and Exhibit 3). There is not an existing storm drain system in the area; rain water flows on the surface until it reaches the street side gutters and is directed to public facilities located downstream. Appellant proposes to capture storm drainage on the site, and detain and treat the water before releasing it to Fair Oaks Drive. The Appellant demonstrated that this issue could be addressed as required by the Code, without the need for an exception.

The Planning Commission also heard from a number of residents who walk in the area. They commented on the speed of traffic, visibility, and the un-walkable nature of the street.

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Appellant states that, "A number of the large, mature White Oaks along White Oak Road would be required to be removed on both sides of the street, as well as existing landscaping. This would be *"injurious to the general area or otherwise detrimental to the health safety and welfare or adjacent natural resources"* and would not be *"in harmony with the general purpose and intent of regulations imposed by this code"* as specified in Criterion No. 1..." (Exhibit 1, p. 1) Planning staff supported the Appellant on this issue as a matter of neighborhood preservation; however, the Appellant did not demonstrate the location, size or number of existing trees on the subject site, or those that might be displaced by the required street improvements. He also did not mention that planter strips are required, providing space to new trees to be planted.

Further, if one were to take the Applicant's findings to a logical conclusion, why would he agree to defer to a future date the very requirements that are required today? One could make the same argument in the future that realigning the street would be injurious to the general area because, by its very nature, it will change the existing conditions. Agreeing to participate in a future reconstruction seems to undermine the basis for the exception.

As noted above, this criterion is a two-pronged test. The Appellant failed to address the first test, the *general purpose and intent of the regulations*. The Appellant neither identified nor addressed the purpose of street improvements. The Commission heard testimony that storm drainage facilities are inadequate in the area, but that with the design of the required stormwater detention facilities "there should be no more water leaving the site than there is today and potentially less." (Page 11 of Exhibit 3) The Commission also heard that pedestrian facilities are inadequate in the area. This issue was not addressed.

The second test is to "not be injurious". The Appellant stated that the Code required street improvements would cause the removal of native White Oak trees. The Appellant supplied no evidence to support this statement. Also, as noted earlier, new trees could be planted to replace any that may be removed. It is true that it will take years for the trees to grow large; nevertheless a mechanism is in place to provide for new street trees.

As described earlier, the Appellant's Findings are off-base in using the Deferred Improvement Agreement (DIA) criteria in MLDC 10.432(1) as a basis for the Exception for relief from the Code required 125 percent deposit in MLDC 10.432(2) (Page 3 of Exhibit E to Exhibit 2). The DIA is a mechanism used to obtain financial security for deferred improvements. There is not any kind of discussion about how the first Exception criterion is met on this particular Code requirement. This does not constitute an error on the part of the Planning Commission.

3. The Appellant contends, in part, *"The Planning Commission erred in their decision that Criterion No. 3 was not adequately met which the Applicant respectfully disagrees with. As stated in the Applicant's Findings of Fact for Criterion No. 3, some of the same Findings*

addressed in Criteria No. 1 also apply to this criterion, especially “regarding the unique and unusual circumstances by the meandering street location within the right-of-way.”

Staff Response:

The language of Criterion 3, found in MLDC 10.253:

- (3) *There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.*

The Appellant’s Findings note that many of the findings for Criterion 1 also apply to this criterion regarding the unique and unusual circumstance of the meandering existing street location within the right-of-way (Page 4 of Exhibit E to Exhibit 2). The Appellant notes that, “This particular lot and street right-of-way is arguably, one of the most “*unique or unusual*” configurations in the entire city. Therefore, being required to go well beyond the typical *usual* requirement for constructing street improvements by having to relocate the entire street to a completely different alignment and configuration...would absolutely be “*a peculiar, exceptional, and undue hardship on the owner*” to construct.” (Exhibit 1, p. 2)

The Code requires half plus 12 feet of street improvements in MLDC 10.442 (may be reduced to half plus eight feet in MLDC 10.443). That means the developer is responsible for constructing half of the street (curb, gutter, sidewalk and paving), plus paving 12 feet beyond the center of the street along the project frontage. This is a requirement of the Code and not unique to this development. Typically, constructing street improvements on an existing street requires some transitioning from the new, wider street to the existing narrower asphalt. That occurs within the existing right-of-way and not off-site as the Appellant indicates (Page 4 of Exhibit E to Exhibit 1).

The plain language of this criterion cites circumstances that apply to *this site*. The configuration of the street improvements within the existing public right-of-way does is not part of the *site*. However, MLDC 10.251 states, in part:

The purpose of Sections 10.251 to 10.253 is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article III... as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of exceptional narrowness or shape of a parcel; for reasons of exceptional topographic conditions, extraordinary and exceptional building restrictions on a piece of property; or if strict applications of the public

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improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional and undue hardship on the owner.

Staff agrees with the Appellant that the design of the existing improvements within the right-of-way is unusual. The constructed centerline of E Main Street/White Oak Drive is not coincident with or parallel to the dedicated centerline, which is the standard practice. The Commission heard testimony that an option would be to keep the current alignment and reduce the curve Code requirements (MLDC 10.448) (Exhibit 3, p. 12 of 19). In the Findings, the Appellant stated but did not demonstrate that the entire street would have to be removed and reconstructed to match the form of the dedicated right-of-way. Based on the testimony of the City Engineer, it appears that other design options exist. Because of the lack of evidence provided by the Appellant and the fact that other design options may exist, the Planning Commission did not find that the conditions in this application were unusual enough to grant the exception.

4. The Appellant contends, in part, *"At the May 12, 2016 Planning Commission meeting, there was a considerable turnout of citizens from the neighborhood who gave testimony that was not in favor of approval for the Land Partition or the Exception request, although none seemed to speak to the specific criterion in the MLDC. But they were almost unanimous in their objection to altering the existing streetscape and configuration of White Oak Road and East Main Street, some calling it a treasure and the gateway to "Old East Medford" that should be preserved, which would be contrary to being against the Exception request."*

Staff Response:

This appears to be an observation of the Appellant. The written and verbal testimony received during the hearing process is contained in the record (Exhibits P – KK to Exhibit 2 and Exhibit 3). No response is required.

Summary

The Planning Commission found that the Exception application did not meet Criteria 1 and 3. Based on the analysis of the record provided above, the Appellant did not provide sufficient persuasive evidence to support approval of the application.

City Council Options

The City Council will need to determine if there is substantial evidence in the record to support the decision of the Planning Commission. The options are:

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1. If the Council finds that there is substantial evidence in the record to conclude that the Planning Commission decision was correct and that the evidence in the record supports the Commission's findings, then the Council should affirm the decision.
2. If the Council finds that the evidence in the record supports the Appellant's contention that the decision was in error or that there is not substantial evidence to support the decision, then based upon substantial evidence in the record the City Council should:
 - a. Reverse the decision. If the Council does this, the Council must specify the reasons for reversal; or
 - b. Modify the decision and specify the reasons for such modification; or
 - c. Remand the decision back to the Planning Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the Appellant concurs and agrees to extend the 120-day limit.

Recommendation

There is a single question before the Council: Did the Planning Commission err in its decision to deny the Exception application?

The City Council can find that the Planning Commission did not err in its decision to deny E-16-034 because no legal error was committed and there is sufficient evidence in the record to support the Planning Commission decision to deny the Exception application.

- With regard to the criterion at MLDC 10.253(1), staff recommends that the Council find the Appellant failed to demonstrate how not improving E Main Street/White Oak Drive is in harmony with the general purpose and intent of the regulations. Additionally, the Appellant failed to demonstrate with any specificity how natural resources would be affected by the construction of the improvements.
- With regard to the criterion at MLDC 10.253(3), staff recommends that the Council find the Appellant failed to demonstrate that there is an undue hardship because other design options, in addition to that discussed by the applicant, are available.

EXHIBITS

- 1 Notice of Appeal received May 27, 2016
- 2 Planning Commission Final Orders dated May 12, 2016, with the Planning Commission Report dated April 28, 2016

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- 3 Excerpts from the Planning Commission Minutes of April 28, 2016**
- 4 Excerpts from the Planning Commission Minutes of May 12, 2016**
- 5 PowerPoint Presentation to the Planning Commission dated April 28, 2016**
- 6 Action Letter dated May 13, 2016**

RECEIVED

May 27 2016

CITY OF MEDFORD
CITY RECORDER'S OFFICE

NOTICE OF APPEAL

APPLICATION: Appeal of the Order of Denial of an Exception to Adderson Builders, Inc., (File No. E-16-034) that requested an exception to standard street improvements along the frontage of East Main Street and White Oak Road for the Minor Land Partition that was approved by the Medford Planning Commission on May 12, 2016 (File No. LDP-16-012).

APPLICANT/OWNER: Adderson Builders, Inc.

AGENT: Polaris Land Surveying LLC
P.O. Box 459
Ashland, OR 97520

SUPPORTING INFORMATION:

The Applicant wishes to appeal the Medford Planning Commission Order of Denial of the Exception Request in File No. E-16-034, that was made at the Medford Planning Commission meeting on May 12, 2016 which is a Type C quasi-judicial decision. At the same meeting, prior to the Denial of the Exception request, the Commission approved the Applicant's Tentative Plat for a three parcel Land Partition, File No. LDP-16-012.

The Applicant's Agent, Shawn Kampmann of Polaris Land Surveying LLC was present in the initial proceedings orally and in writing, therefore has standing for this Appeal per MLDC 10.051(B).

The Applicant requests that the Medford City Council review the Planning Commission's Denial of said Exception Request E-16-034 on the specific grounds listed below:

1. City Planning Staff agreed with the Applicants Findings and Conclusions, as amended, and recommended approval of the Exception Request finding that all the Criteria for the Exception had been met.
2. The Planning Commission erred in their decision that Criterion No. 1 was not adequately met which the Applicant respectfully disagrees with. As stated in the Applicant's Findings of Fact for Criterion No. 1, the current street configuration as constructed and accepted by the City of Medford many years ago, meanders significantly within the existing 60 foot wide right of way limits of White Oak Road and its intersection with East Main Street. As stated by the Medford Public Works Director at the Commission meeting, any street improvements would be required to be aligned with the current right-of-way which would adversely impact landowner's frontage on both sides of the street, not just within the Applicant's side of the street. A number of the large, mature White Oak's along White Oak Road would be required to be removed on both sides of the street, as well as existing landscaping. This would be "*injurious to the general area or otherwise detrimental to the health, safety and welfare or adjacent natural resources*" and would not be "*in harmony with the general purpose and intent of regulations imposed by this code*" as specified in Criterion No. 1. The Exception approval would maintain harmony in the neighborhood and "retain consistency with the current nature and esthetics of the area without introducing incongruity with the existing mature streetscape." Criterion No. 1 was adequately met.

CITY OF MEDFORD

EXHIBIT # 1

File # E-16-034

APPEAL

3. The Planning Commission erred in their decision that Criterion No. 3 was not adequately met which the Applicant respectfully disagrees with. As stated in the Applicant's Findings of Fact for Criterion No. 3, some of the same Findings addressed in Criteria No. 1 also apply to this criterion, especially "regarding the unique and unusual circumstances by the meandering existing street location within the right-of-way." The Criterion states "*There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict interpretation of the standard(s) for which an exception is being requested would result in a peculiar, exceptional, and undue hardship on the owner.*" The complete relocation of this portion of White Oak Road and the intersection with East Main Street to be placed in a parallel relationship with the right-of-way is absolutely a "*unique or unusual circumstances which.....do not typically apply elsewhere in the City.*" This particular lot and street right-of-way is arguably, one of the most "*unique or unusual*" configurations in the entire city. Therefore, being required to go well beyond the typical, *usual* requirement for constructing street improvements by having to relocate the entire street to a completely different alignment and configuration, especially considering the "*unique or unusual*" length of street frontage for a single lot would absolutely be "*a peculiar, exceptional, and undue hardship on the owner*" to construct.

This would go well beyond any other simple land partition requirements for street improvements which would not require such expense or adverse effects to properties on the opposite side of the "*half*" street being improved. This is one of only two lots in the original Country Club Park subdivision that have *NOT* yet been subdivided, therefore it is extremely unlikely that other land divisions requiring standard street improvements will take place in this neighborhood to get connectivity to the nearest fully improved street in any direction without an LID in the future being created. This is exactly why the Applicant is requesting that the exception apply to the DIA deposit of 125% of the deferred cost and proposing in lieu, to record a deed restriction which runs with the land, to agree to any future Local Improvement District (LID) if one is ever initiated. It is not the Applicant's intent to avoid paying their fair share of any street improvement costs in the future, but to only have to pay their fair share when that time comes. If that time does not come, the Applicant is essentially forfeiting close to \$450,000 which is 125% of the engineers estimate, which is an "*undue hardship on the owner.*" When answering a Commissioner's question about the DIA, the Public Works Director stated that the 125% DIA deposit is stated in the code, but there was some confusion on whether the Commission could grant the Exception because of that. City Senior Planner Kelly Akin, clarified to the Commissioners that they could waive the DIA deposit in lieu of the LID deed restriction agreement that was proposed in the Exception request, although it wasn't apparent that everyone understood that. Criterion No. 3 was adequately met.

4. At the May 12, 2016 Planning Commission meeting, there was a considerable turnout of citizens from the neighborhood who gave testimony that was not in favor of approval for the Land Partition or the Exception request, although none seemed to speak to the specific criterion in the MLDC. But they were almost unanimous in their objection to altering the existing streetscape and configuration of White Oak Road and East Main Street, some calling it a treasure and the gateway to "Old East Medford" that should be preserved, which would be contrary to being against the Exception request.

With the approval of the Land Partition, and if the denial of the Exception is upheld, the Applicant will build the street improvements in order to comply with the Conditions of Approval of the Partition, rather than pay the 125% DIA "deposit." The Applicant would prefer to keep the current streetscape in harmony with the neighborhood as well, which is what the local homeowners indicated was important to them, and keep the ambiance of "Old East Medford." By approving the Applicant's Exception request, the Council is recognizing the *"unique or unusual circumstances which apply to this site."*

CONCLUSION

The Planning Department Staff and the Applicant concludes all criterion for this Exception request has been adequately met to defer the street improvements at this time for a three parcel land partition and is consistent with the relevant decisional criteria found in Section 10.251 of Medford's Land Development Code.

With all due respect to the dedication of the Medford Planning Commission, the Applicant requests that the City Council overturn the Commission's Denial of the Exception request.

Respectively Submitted,



Shawn Kampmann PLS, Agent

Polaris Land Surveying LLC
P.O. Box 459
Ashland, Oregon 97520
(541) 482-5009 (Office)
(541) 488-0797 (Fax)

Date: May 26, 2016

BEFORE THE MEDFORD PLANNING COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF TENTATIVE PLAT APPROVAL OF)
)
 ADDERSON BUILDERS INC. [LDP-16-012]) ORDER

ORDER granting approval to create three lots on a 0.74 acre parcel located south of the intersection of East Main Street, Fair Oaks Drive and White Oak Drive, within the SFR-4 (Single-Family Residential – 4 dwelling units per gross acre) zoning district, of File No. LDP-16-012.

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with the Medford Land Development Code, Sections 10.265 through 10.267; and
2. The Medford Planning Commission has duly held a public hearing on the request for consideration to create three lots on a 0.74 acre parcel located south of the intersection of East Main Street, Fair Oaks Drive and White Oak Drive, within the SFR-4 (Single-Family Residential – 4 dwelling units per gross acre) zoning district, with a public hearing a matter of record of the Planning Commission on April 28, 2016; and
3. At the public hearing on said tentative plat, evidence and recommendations were received and presented by the developer and Planning Department Staff; and
4. At the conclusion of said hearing, after consideration and discussion, the Medford Planning Commission, upon a motion duly seconded granted tentative plat approval and directed staff to prepare a final order with all conditions and findings set forth for the granting of the tentative plat approval.

THEREFORE LET IT BE HEREBY ORDERED that the tentative plat for Adderson Builders Inc., stands approved per the Planning Commission Report dated April 28, 2016, and subject to compliance with all conditions contained therein.

AND LET IT FURTHER BE OF RECORD, that the action of the Planning Commission in approving this request for tentative plat approval is hereafter supported by the findings referenced in the Planning Commission Report dated April 28, 2016.

BASED UPON THE ABOVE, the Planning Commission determined that the tentative plat is in conformity with the provisions of law and Section 10.270 Land Division Criteria of the Land Development Code of the City of Medford.

Accepted and approved this 12th day of May, 2016.

CITY OF MEDFORD PLANNING COMMISSION



Planning Commission Chair

ATTEST:



Planning Department Representative

CITY OF MEDFORD
EXHIBIT # 2
File # E-16-034
APPEAL

COPIED

24

BEFORE THE MEDFORD PLANNING COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF DENIAL OF AN EXCEPTION FOR)
)
ADDERSON BUILDERS INC. [E-16-034]) ORDER

ORDER denying a request for an exception for the elimination of sidewalk, curb, gutter and street paving improvements. The parcel is located south of the intersection of East Main Street, Fair Oaks Drive and White Oak Drive, within the SFR-4 (Single-Family Residential – 4 dwelling units per gross acre) zoning district

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with the Medford Land Development Code, Section 10.251 and 10.252; and
2. The Medford Planning Commission has duly held a public hearing on the request for consideration of an exception for the elimination of sidewalk, curb, gutter and street paving improvements. The parcel is located south of the intersection of East Main Street, Fair Oaks Drive and White Oak Drive, within the SFR-4 (Single-Family Residential – 4 dwelling units per gross acre) zoning district, with the public hearing a matter of record of the Planning Commission on April 28, 2016.
3. At the public hearing on said exception, evidence and recommendations were received and presented by the developer and Planning Department Staff; and
4. At the conclusion of said hearing, after consideration and discussion, the Medford Planning Commission, upon a motion duly seconded, denied the exception and directed staff to prepare a final order with findings set forth for the denial of the exception approval.

THEREFORE LET IT BE HEREBY ORDERED that the exception for Adderson Builders Inc. stands denied per Planning Commission Report dated April 28, 2016.

AND LET IT FURTHER BE OF RECORD, that the action of the Planning Commission in denying this request for exception is hereafter supported by the findings referenced in the Planning Commission Report dated April 28, 2016.

BASED UPON THE ABOVE, the Planning Commission determined that the exception is not in conformity with the provisions of law and Section 10.253 Exception Criteria of the Land Development Code of the City of Medford.

Accepted and approved this 12th day of May, 2016.

CITY OF MEDFORD PLANNING COMMISSION



Planning Commission Chair

ATTEST:



Planning Department Representative

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PLANNING COMMISSION REPORT

for a type-C quasi-judicial decision: Land Division – Partition / Exception

PROJECT 2 White Oak Partition & Exception
Applicant: Adderson Builders, Inc.
Agent: Shawn Kampmann - Polaris Land Surveying, LLC

FILE NOS. LDP-16-012 / E-16-034

DATE April 28, 2016

BACKGROUND

Proposal

Proposed tentative plat to create three lots on a 0.74 acre parcel, and an exception request for the elimination of sidewalk, curb, gutter and street paving improvements. The parcel is located south of the intersection of East Main Street, Fair Oaks Drive and White Oak Drive, within an SFR-4 (Single-Family Residential – 4 dwelling units per gross acre) zoning district.

Subject Site Characteristics

Zoning: SFR-4 (Single-Family Residential – 4 dwelling units per gross acre)
GLUP: UR (Urban Residential)
Use: Single family residence

Surrounding Site Characteristics

North	SFR-4	Single family homes
South	SFR-4	Single family homes
East	SFR-4	Single family homes
West	SFR-4	Single family homes

Applicable Criteria

Medford Land Development Code §10.270, Land Division Criteria

The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that, the proposed land division together with the provisions for its design and improvement:

SCANNED

- (1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;
- (2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;
- (3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;
- (4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property unless the approving authority determines it is in the public interest to modify the street pattern;
- (5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;
- (6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

Medford Land Development Code §10.253, Exception Criteria

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority (Planning Commission/Site Plan and Architectural Commission) having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

- (1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The Planning Commission/Site Plan and Architectural

Commission shall have the authority to impose conditions to assure that this criterion is met.

- (2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.
- (3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.
- (4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.

ISSUES AND ANALYSIS

Project Summary

The subject site is partially developed with a single family residence on the northern portion, fronting on White Oak Road. The applicant seeks to partition the property into three separate parcels. The applicant also requested an Exception for the elimination of standard street improvements on White Oak Drive, East Main Street and Fair Oaks Drive, and relief from the bonding requirements related to deferred street improvements.

Code Compliance

Density

The standard density calculation for the SFR-4 zone is between two and a half and four dwelling units per gross acre. The permitted density range for the subject subdivision is between three to four dwelling units. The applicant is proposing three lots (and three dwelling units), which meets the minimum and does not exceed the maximum number of dwelling units (Exhibit J).

Street Dedications

An Exception request to eliminate standard street improvements for this development has been filed concurrently with the Land Division request. If approved, no public

improvements would be provided for this development, but Public Works has requested that should this occur, the developer be required to enter into a Deferred Improvement Agreement (DIA) for the frontage improvements to White Oak Drive/East Main Street. However, if the Exception request does not get approved, standard street improvements will be required as described below.

The Public Works Department Staff Report (Exhibit F) identifies White Oak Drive/East Main Street as a Standard Residential Street, which requires a total right-of-way width of 63 feet. The developer shall provide sufficient width of right-of-way for the half street width of a Standard Residential Street, which is 31.5 feet. The amount of right-of-way to be dedicated appears to be 1.5 feet, based on 30 feet of existing right-of-way west of the centerline.

Fair Oaks Drive is classified as a Minor Residential Street, and requires a total right-of-way width of 55 feet. Existing right-of-way east of the centerline appears to be 30 feet, and does not appear to require further right-of-way dedication. The developer shall also provide a 10-foot wide Public Utility Easement (PUE) adjacent to the street frontage of all three lots within this partition.

Street Improvements

The frontage of White Oak Drive/East Main Street shall be improved to Standard Residential Street standards with a 36-foot wide curb-to-curb paved section. The developer shall improve the west half plus 12 feet east of the centerline or to the far edge of the existing pavement, whichever is greater.

Fair Oaks Drive has been improved in close conformance to Minor Residential Street standards including pavement, curbs and gutters, with the exception of sidewalks, planter strips and street lights. The developer shall provide a 5-foot wide sidewalk separated from the curb with an 8-foot wide planter strip in accordance with MLDC § 10.430 along this development's frontage, including an ADA ramp at the corner of Fair Oaks Drive and East Main Street. Standard street lighting in compliance with MLDC § 10.495 shall also be provided by the developer along the frontage of this development.

Storm Drainage

The subject site lies with the Lazy Creek drainage basin. The development shall provide stormwater detention and water quality treatment in accordance with MLDC § 10.486 and in accordance with the Rogue Valley Stormwater Quality Manual. A condition of approval has been included requiring the developer to comply with the Public Works Report dated April 6, 2016 (Exhibit F).

Sanitary Sewer

The site lies within the Medford Sewer service area. Each lot is to be provided one service lateral prior to approval of the Final Plat. The developer shall cap any other remaining unused sewer laterals within the project frontage at the main. A condition of approval has been included requiring the developer to comply with the Public Works Staff Report dated April 6, 2016 (Exhibit F).

Water Facilities

The Medford Water Commission (MWC) memorandum identifies that no off-site water line installation or on-site water facility construction is required for this development. All proposed lots are required to have metered water service prior to approval of the final plat. Access to MWC water lines is available to this development via a 6-inch water line in both Fair Oaks Drive and White Oak Drive. Lastly, static water pressure is expected to be over 90 psi and will require the installation of a Pressure Reducing Valve (PRV). A condition of approval has been included requiring the applicant to comply with the memorandum from the Medford Water Commission dated April 6, 2016 (Exhibit G).

Fire Safety

According to the report from the Medford Fire Department, one fire hydrant will be required for this project. The location of the hydrant shall be on White Oak Drive, near the south side of lot 3. A condition of approval has been included requiring the applicant to comply with the Fire Department Report, prepared March 28, 2016 (Exhibit H).

Exception

The applicant has submitted for an Exception in conjunction with the Land Division. The request is to eliminate standard street improvements along all frontages. The applicant also seeks relief from the standards of MLDC § 10.432, which requires a financial deposit equal to 125% of the estimated cost of the improvements when improvements are deferred. Rather than providing the City with 125% deposit, the applicant proposes to record a signed document agreeing to participate in a Local Improvement District in the future.

Planning staff agrees with the applicant that the improvements to Main Street/White Oak Drive would result in a significant change to the character of the area and the streetscape because of the resulting removal of mature trees. However, the impacts on Fair Oaks Drive are much less significant as there is existing curb and gutter and sufficient right-of-way to accommodate the required public improvements. Staff recommends that the improvements be constructed on Fair Oaks as described in the Public Works Staff Report (Exhibit F).

Decision:

The Applicant withdrew the Exception request for relief from standard street improvements along the Fair Oaks Drive Frontage and agreed to make the required improvements. The Planning Commission found the Exception requests for relief from standard street improvements and for relief from the Deferred Improvement Agreement and related financial deposit for East Main Street/White Oak Drive did not meet the Exception criteria found in MLDC section 10.253(1) and (3). The Exception request was denied and the applicant is required to comply with the Public Works Department Staff Report regarding street improvements (Exhibit F).

FINDINGS AND CONCLUSIONS

Staff has reviewed the applicant's Findings and Conclusions (Exhibits D and E) and recommends the Commission adopt the Findings as amended, and with the addition of all street improvements to the Fair Oaks Drive frontage.

Amended findings for MLDC 10.253(3):

There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.

Criterion 3 relates to unique or unusual circumstances which do not typically apply elsewhere in the City as the basis for approval for an exception request. Staff agrees that the required street improvements along the East Main Street/White Oak Road frontage may result in a peculiar, exceptional, and undue hardship on the owner. The findings provided describe the portion of East Main Street/White Oak Road fronting on the subject area as misaligned with the current right of way, which the applicant argues would result in an undue hardship on the owner because of the financial cost associated with relocation and reconstruction of the existing street well beyond half street improvements that would be required to make the street serviceable. The same cannot be said for the Fair Oaks Drive frontage of this project. Fair Oaks Drive already meets right-of-way standards and has been improved with curb and gutter. The improvements that remain to be completed include sidewalks, planter strips and street lights. In lieu of entering into a Deferred Improvement Agreement (DIA), the applicant suggests the landowner signs a perpetual agreement with the City in favor to form a Local Improvement District (LID) in the future. Staff recommends approving the applicant's request to consent to a Local Improvement District for the improvements along East Main Street/White Oak Road, but that the improvements for Fair Oaks Drive be completed as specified in the Public Works Staff Report.

ACTION TAKEN

Directed staff to prepare a Final Order for approval of LDP-16-012 and a Final Order for denial of E-16-034 based on the Applicant's inability to adequately meet the criteria in MLDC 10.253(1) and (3), and requiring compliance with the Public Work Department Staff Report per the Planning Commission Report dated April 28, 2016, including Exhibits A-1 through NN.

EXHIBITS

- A-1 Conditions of Approval, dated May 5, 2016**
- B Tentative Plat, received March 16, 2016**
- C Conceptual Grading & Drainage Plan, received February 16, 2016**
- D Applicant's Findings of Fact (Land Division), received March 11, 2016**
- E Applicant's Findings of Fact (Exception,) received March 16, 2016**
- F Public Works Staff Report, received April 20, 2016**
- G Medford Water Commission memo, received April 6, 2016**
- H Medford Fire Department Report, received March 28, 2016**
- I Medford Building Department memo, received April 6, 2016**
- J Density Calculation Spreadsheet, created April 13, 2016**
- K Site photos from the applicant, received March 16, 2016**
- L Copy of assessors map, received February 16, 2016**
- M Zoning map, received February 16, 2016**
- N Medford Street Functional Classification Plan, received February 16, 2016**
- O Aerial photo, received February 16, 2016**
- P Hartley Testimony, received April 25, 2016**
- Q Doherty Testimony, received April 25, 2016**
- R Boeck Testimony, received April 25, 2016**
- S Meyer Testimony, received April 25, 2016**
- T Meredith Testimony, received April 26, 2016**
- U Ackley Testimony, received April 26, 2016**
- V Wilson Testimony, received April 26, 2016**
- W Harris Testimony, received April 26, 2016**
- X Fisher Testimony, received April 26, 2016**
- Y Moore Testimony, received April 27, 2016**
- Z Letter from Bob Hart Consulting, received April 27, 2016**
- AA Gressett Testimony, received April 27, 2016**
- BB Wagar Testimony, received April 27, 2016**
- CC Scott Testimony, received April 27, 2016**
- DD Maddox Testimony, received April 27, 2016**
- EE TerBest Testimony, received April 27, 2016**
- FF Costamagna Testimony, received April 28, 2016**
- GG Mankinen Testimony, received April 28, 2016**

- HH Ackley email, received April 28, 2016
- II Letter from Cauble, Cauble & Selvig, LLP, received April 28, 2016
- JJ Mayfield Testimony, received April 28, 2016
- KK Schaaf & DeRoest Testimony, received April 28, 2016
- LL Agent Material – 1928 Country Club Park Plat, received April 28, 2016
- MM Agent Material – PWSR Highlighted Comments, received April 28, 2016
- NN Borchgrevink Testimony, received April 29, 2016
Vicinity map

MEDFORD PLANNING COMMISSION



Patrick Miranda, Chair

PLANNING COMMISSION AGENDA:

**APRIL 28, 2016
MAY 12, 2016**

ORDINANCE NO. 2016-84

AN ORDINANCE authorizing execution of an Amendment to the Disposition and Development Agreement (DDA) between the City of Medford and Sky Park, LLC.

WHEREAS, on September 4, 2014, the City Council approved the DDA for a residential project located at 206 South Central Avenue via Ordinance No. 2014-116; and

WHEREAS, on January 15, 2015, the Medford Urban Renewal Board approved a Lease Agreement via Resolution No. 2015-002; and

WHEREAS, Sky Park LLC asked to change the conditions of the Lease Agreement and during the negotiations the DDA milestones were placed on hold therefore additional time is needed to meet the milestones in the DDA; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of an Amendment to the DDA between the City of Medford and Sky Park, LLC, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.3

www.ci.medford.or.us

DEPARTMENT: Legal
PHONE: (541) 774-2020
STAFF CONTACT: Lori Cooper, City Attorney

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: July 21, 2016

COUNCIL BILL 2016-85

An ordinance adding sections 5.606, 5.607, 5.608, and 5.609 of the Medford Code to prohibit feeding wildlife within the City of Medford.

SUMMARY AND BACKGROUND

An ordinance prohibiting persons from feeding wildlife within the City of Medford.

In response to citizen complaints of persons feeding wild turkeys and the nuisances created by doing so, Council directed staff to prepare a proposed ordinance that would prohibit feeding wildlife within City limits.

PREVIOUS COUNCIL ACTIONS

None.

ANALYSIS

The ordinance prohibits the feeding of certain types of wildlife; namely deer, raccoon, wild turkey and potentially habituated wildlife. The term "potentially habituated wildlife" is defined by state law as bear, cougar, coyote and wolf. The prohibition applies to both public and private property within the City.

Violation of the ordinance constitutes a violation punishable by a fine not exceeding \$250.00, and is designated as a public nuisance that may be abated by the City per the Medford Code.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

N/A

TIMING ISSUES

N/A

COUNCIL OPTIONS

Approve, modify, or deny the ordinance.

STAFF RECOMMENDATION

None.

SUGGESTED MOTION

I move to approve the ordinance prohibiting the feeding of wildlife within the City of Medford.

EXHIBITS

Ordinance

ORDINANCE NO. 2016-85

AN ORDINANCE adding sections 5.606, 5.607, 5.608, and 5.609 of the Medford Code to prohibit feeding wildlife within the City of Medford.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.606 of the Medford Code is added to read as follows:

5.606 Intent and Purposes of Section 5.606 to 5.609

The City Council of the City of Medford recognizes that the feeding of wildlife creates an unnecessary risk of injury to persons and companion animals, as well as damage to landscaping, fences, and dwellings. The City Council finds and declares that the health, safety, and welfare of its citizens are promoted by prohibiting the feeding of deer, raccoon, wild turkey, and potentially habituated wildlife within the City of Medford.

SECTION 2. Section 5.607 of the Medford Code is added to read as follows:

5.607 Definitions.

- (1) "Feed" means the placing, depositing, distributing, storing or scattering of food, garbage or any other attractant so as to constitute a lure, attraction, or enticement for wildlife.**
- (2) "Potentially habituated wildlife" means bear, cougar, coyote, and wolf.**
- (3) "Wildlife" means deer, raccoon, wild turkey, and potentially habituated wildlife.**

SECTION 3. Section 5.608 of the Medford Code is added to read as follows:

5.608 Prohibition Against Feeding Wildlife.

- (1) No person may feed wildlife within the City of Medford.**
- (2) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.**

SECTION 4. Section 5.609 of the Medford Code is added to read as follows:

5.609 Public Nuisance- Remedy.

Violation of section 5.608 is declared to be a public nuisance, and may be abated in the manner provided for in section 5.520.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 120.2

www.ci.medford.or.us

DEPARTMENT: Legal
PHONE: (541) 774-2020
STAFF CONTACT: Lori Cooper, City Attorney

AGENDA SECTION: Public Hearings
MEETING DATE: July 21, 2016

COUNCIL BILL 2016-86

An ordinance adding section 8.180 to the Medford Code to allow social gaming.

SUMMARY AND BACKGROUND

The Council has been requested to pass an ordinance to allow social gaming within the City, as allowed by state law.

PREVIOUS COUNCIL ACTIONS

None.

ANALYSIS

Oregon Revised Statute 167.121 allows counties and cities to authorize by ordinance the playing or conducting of a social game in a private business, private club, or in a place of public accommodation. ORS 167.117 defines "social game" as a game, other than a lottery, between players in a private business or club, or a place of public accommodation where no house player, house bank, or house odds exist and there is no income from the operation of the social game.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

N/A

TIMING ISSUES

None.

COUNCIL OPTIONS

Approve, modify, or deny the ordinance.

STAFF RECOMMENDATION

Staff makes no recommendation.

SUGGESTED MOTION

I move to approve the ordinance allowing social gaming within the City of Medford.

EXHIBITS

Ordinance

ORDINANCE NO. 2016-86

AN ORDINANCE adding section 8.180 to the Medford Code to allow social gaming.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 8.180 of the Medford Code is added to read as follows:

8.180 Social Gaming.

Social gaming as authorized by state law, is permitted on premises that have obtained a social gaming permit subject to the following restrictions:

- (A) No person may participate in social gaming other than a player as defined by ORS 167.117(16).**
- (B) No person may act as “house player” or “house bank.”**
- (C) All games shall be conducted without house odds.**
- (D) No house income may be generated from the operation of the social game.**
- (E) The person responsible for the premises where social gaming occurs shall not permit any individual who is visibly intoxicated to participate in social gaming.**

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 130.1

www.ci.medford.or.us

DEPARTMENT: City Manager's Office
PHONE: (541) 774-2000
STAFF CONTACT: Dick Gordon and Lori Cooper

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: July 21, 2016

COUNCIL BILL 2016-87

An ordinance authorizing execution of an Employment Agreement with Rob Patridge for the position of City Manager.

SUMMARY AND BACKGROUND

The City Council interviewed applicants for the position of City Manager and recommends entering into an agreement with Rob Patridge.

PREVIOUS COUNCIL ACTIONS

None.

ANALYSIS

The City Council recommends entering into a contract with Rob Patridge as the new City Manager of the City of Medford.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

\$157,100 base salary plus benefits. Total compensation is within the resources of the current adopted budget.

TIMING ISSUES

As soon as possible.

COUNCIL OPTIONS

Adopt, modify, or deny the ordinance.

STAFF RECOMMENDATION

No recommendation.

SUGGESTED MOTION

I move to adopt the ordinance entering into an agreement with Rob Patridge as the new City Manager.

EXHIBITS

Ordinance
Agreement on file in the City Recorder's Office

ORDINANCE NO. 2016-87

AN ORDINANCE authorizing execution of an Employment Agreement with Rob Patridge for the position of City Manager.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of an Employment Agreement with Rob Patridge for the position of City Manager of the City of Medford, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor