



**BEFORE THE TALENT PLANNING COMMISSION  
STATE OF OREGON, CITY OF TALENT**

IN THE MATTER OF PLANNING COMMISSION FILE NO. SPR        )  
2015-001 LOCATED AT 115 LAPREE STREET [MAP NO. 38-1W-        )  
23CD TAXLOT 4200], THE CITY OF TALENT PLANNING        )  
COMMISSION FINDS THE FOLLOWING:                                )  
ORDER

1. The Planning Commission held a properly noticed public hearing on this matter on March 26, 2015;
2. The Planning Commission continued the public hearing to April 23, 2015 to accept additional testimony from the applicant and the public.
3. The Planning Commission asked the Community Development Director to present a staff report and a proposed final order with findings and recommendations at the April 23, 2015 public hearing;
4. At the public hearing evidence was presented and the public was given an opportunity to comment;
5. The Commission found that the proposed use was allowed and consistent with the intent of the Central Business District and with the Old Town Design Standards outlined in 8-3K.1 of the Talent Zoning Code;
6. The Commission found that the proposed application, with conditions in all other respects complied substantially with the criteria for approval in 8-3D.2, 8-3K.1 and 8-3L.1 of the Talent Zoning Code.

**The Talent Planning Commission approves the Site Development Plan (SPR 2015-001) with the following conditions of approval:**

**PRIOR TO ISSUANCE OF BUILDING PERMITS:**

1. The applicant shall have an approved variance to the standard setbacks on the western property line or shall provide Community Development a revised site plan conforming to setbacks for abutting residential properties.
2. The applicant shall provide Community Development a revised site development plan that identifies two tree wells (bulb-outs) along Lapree and shall identify the type of approved street trees is being planted.
3. The applicant shall provide Community Development with a revised site development plan that includes the following:

- A. A safe and attractive pedestrian hardscape design to be installed between the front of the building and the back of the sidewalk.
  - B. An entry on the eastern elevation of the structure, providing the required sense of entry to the secondary elevation.
  - C. Details of the materials used to screen the approved trash enclosure.
  - D. Building elevations that are consistent with the Section 8-3J.123(B) of the Talent Zoning Code.
  - E. A “cap” element at the uppermost portion of the façade that visually terminates the main façade surface.
  - F. An expanded entry design for each commercial space breaking the front elevation into two distinct segments of wall space.
  - G. A revised front elevation that includes the use of a pilasters, engaged columns or other structural or decorative vertical elements to provide proper edge definition.
  - H. A revised elevation plan that details each entry, including the depth of the recessed entry.
  - I. The use of additional false-front gables to more adequately screen the proposed pitch roof.
4. Construction of sidewalk and tree wells are subject to the following conditions:
- A. The applicant shall provide Community Development with a copy of construction plans prepared by a licensed engineer and approved by the Public Works Director for the sidewalk and tree well improvements along Lapree Street that are consistent with the standards and specifications adopted by the City.
  - B. The applicant shall notify the City prior to construction of the public improvements and receive an official “Notice to Proceed”.
  - C. The applicant shall install all public improvements in accordance with the approved construction plans prior to Certificate of Occupancy.
  - D. The applicant shall provide written certification from a registered civil engineer that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements.

5. The applicant shall provide evidence that all SDCs have been paid in full.
6. The applicant shall provide Community Development with a Performance Guarantee and agreement approved by the City Manager and consistent with the provisions of Section 8-2.460 of the Subdivision Ordinance.
7. The applicant shall provide Community Development a copy of an approved Right-of-Way Construction Permit for the construction of the sidewalk and tree wells.

**PRIOR TO CERTIFICATE OF OCCUPANCY:**

8. The applicant shall install the approved pedestrian hardscape between the front of the building and the back of the sidewalk.
9. The applicant shall install the approved tree wells and street trees along Lapree Street.
10. All approved trash enclosures shall be installed in accordance with the approved plan.

**IT IS HEREBY ORDERED THAT the Talent Planning Commission approves with conditions the requested site development plan to construct two residential units above two commercial units based on the information presented in the Staff Report and Findings of Fact below:**

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

***8-3D.220 BUILDINGS AND USES PERMITTED SUBJECT TO TYPE 1 PERMIT REVIEW***

- B. *Dwelling units, provided the units are above non-residential uses and the ground floor is devoted entirely to a commercial use or uses permitted in this Article. One dwelling unit is allowed at ground level behind a non-residential use, and cannot exceed 50 percent of the total ground floor space of buildings on the parcel.*

**FINDING:** The subject parcel is zoned Central Business District (CBD) which allows dwelling units above non-residential uses devoted entirely to a commercial use. The applicant has proposed to construct two ground floor commercial spaces approximately 500 square feet in size, along with two residential units equally sized. Considering that the proposed residential units are above the commercial use and not at ground level behind the non-residential use, there is no maximum size for the proposed residential units.

The proposed use, although subject to a Type 1 review, is more intense than the previous use and requires a Site Development Plan Review. As required, the applicant submitted an application for a Type 3 Planning Commission review. **The provisions of this section have been met.**

***8-3D.260 DENSITY AND DIMENSIONAL REQUIREMENTS***

**FINDING:** There are no minimum front, rear or side yard setback in the CBD, except for those abutting a residential zoning district. This particular property is surrounded by commercial on all sides except for a portion of the west side that is partially residential and commercial.

The subject parcel is irregularly shaped and therefore has an irregular setback line. The proposal meets the required setbacks for the front, rear and east side. The proposal does not meet the setback requirements for the west side. Considering the irregular shape of the property and the practical difficulties with siting a house on this shape of parcel, the applicant has requested a variance in accordance with Section 8-3L.4 which must be approved before the structure can be constructed. As a condition of approval, prior to the issuance of building permits, the applicant shall have an approved variance to the standard setbacks on the western property line or shall provide Community Development a revised site plan conforming to setbacks for abutting residential properties. **The provisions of this section have been met subject to conditions of approval.**

#### **8-3J.450 DEVELOPMENT STANDARDS—LANDSCAPING PLANNING**

*New subdivision or Site Development Plan Review applications subject to review by the Planning Commission shall include a plan for Street Trees along arterial, collector, and local streets and a general landscaping plan for all undeveloped areas on the property. The general landscape plan should consider the use of native and drought resistant species, erosion control, and water quality mitigation.*

**FINDING:** The site development plan proposes to modify Lapree Street to accommodate two new on-street parking stalls. The proposed plan only identifies one tree well east bound on Lapree Street. However, the applicant will need to provide an additional tree well on the eastern edge of the property line to transition the side walk to its current location. Installation of the second tree well provides adequate separation between the travel lane and the parking stalls. These street tree wells provide an area for the applicant to site the required street trees and provide a vertical element that will assist with traffic calming around the transition from Gibson to Lapree Street. As a condition of approval, prior to the issuance of permits, the applicant shall provide Community Development a revised site development plan that identifies two tree wells (bulb-outs) and approved street trees along Lapree Street. Prior to Certificate of Occupancy, the applicant shall install the approved tree wells and street trees along Lapree Street. **The provisions of this section have been met subject to conditions of approval.**

#### **8-3J.530 OFF-STREET PARKING**

*Off-street parking spaces shall be provided and maintained as set forth in this Article for all uses in all zoning districts, except in the Central Business District Zone (CBD), or as otherwise provided at the time...*

**FINDING:** The subject parcel is located in the Central Business District Zone (CBD) and is therefore excluded from the requirements for off-street parking. **The provisions of this section are not applicable.**

#### **8-3K.130 COMMERCIAL STRUCTURES**

A. *Commercial Standard 130(A): Volume & Mass*

1. *Setbacks:*

- a. *Setback: Minimum: Two (2) feet; maximum five (5) feet. The surface area in the front or side setback area along the street shall match the existing surface material of the public right-of-way with the goal of creating a safe and attractive pedestrian amenity. Surface area in front area setback shall be durable hardscape but may include areas for small planter beds, flower boxes or chairs and tables, with the goal of creating an attractive pedestrian amenity.*

**FINDING:** The proposed structure is located within two (2) feet of the property line. Details about the type of material used for the entryway and hardscape between the sidewalk and building have not been included in the proposed plan. As a condition of approval, the applicant shall prior to issuance of permits, provide Community Development with a revised site development plan that includes a safe and attractive pedestrian hardscape design to be installed between the front of the building and the back of the sidewalk. Prior to Certificate of Occupancy, the applicant shall install the approved pedestrian hardscape between the front of the building and the back of the sidewalk. **The provisions of this section have been met subject to conditions of approval.**

2. *Street Elevations:*

- a. *Primary: All buildings will be sited with the primary facade facing the public right-of-way, including the open space area, but excluding public alleys.*
- b. *Secondary: All building walls that are not visible from the public rights-of-way or about a public alley, driveway or another wall. Design of the secondary façade may have less ornamentation but shall include a defined and articulated sense of entry. Such entryways may include extended awnings, plaza spaces or courtyards.*

**FINDING:** The proposed primary façade faces the public right-of-way and includes two areas of open space on both sides of the entry. Each open space area is landscaped and enclosed with a three (3) foot fence. Fences or other edge-defining perimeter features are traditional elements in Talent's residential areas, therefore the provisions of Section 8-3K.140(F) apply. The criteria and conditions specific to the fence type are addressed below in the findings for Section 8-3K.140.

Section (b) above identifies the standards for all secondary elevations. All secondary elevations facing the public right-of-way shall include a defined sense of entry. Therefore, the applicant shall either relocate the patio entrance on the eastern elevation to the east side of the building or install an additional side access to provide the required sense of entry. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised site development plan that includes an entry on the eastern elevation of the structure, providing the required sense of entry to the secondary elevation. **The provisions of this section have been met subject to conditions of approval.**

- c. *Trash enclosures or similar services are excluded from primary elevations except those facing the public open space. Such services must be screened from public view.*

- d. *Trash enclosures or similar services may be installed along secondary elevations provided they are screened.*

**FINDING:** The proposed site development plan includes the location of trash enclosures, but does not identify how they will be screened. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised site development plan that includes details of the materials used to screen the approved trash enclosure. Prior to Certificate of Occupancy all approved trash enclosures shall be installed in accordance with the approved plan. **The provisions of this section have been met subject to conditions of approval.**

3. *Width:*

- a. *Commercial buildings shall extend from side lot line to side lot line to create a solid streetscape along the public right-of-way. An exception to this standard may be granted to provide for plazas, courtyards, dining areas, or pedestrian access. (See 130(E), below, regarding vertical divisions). This exception may also apply to existing residential buildings converted into commercial space in order to retain the structure's original appearance.*

**FINDING:** The proposed building extends from side lot line to side lot line with the exception of the open space areas on each secondary elevation. **The provisions of this section have been met.**

- B. *Commercial Standard 130(B): Openings*

*To maintain and insure a pedestrian-friendly scale within Talent's traditional commercial core, storefronts and upper facades shall reflect the following:*

1. *Verticality: All facade window openings shall have a generally vertical proportion (i.e., a height-to-width ratio of 1.5 : 1 or greater; for example, a 24-in. wide window would be at least 36 in. tall). An exception to this standard is allowed for large, fixed storefront windows. In such cases, transom panels spanning the entire storefront glazed area are encouraged.*

**FINDING:** All proposed window opening are vertically proportioned, exceeding the 1.5:1 ratio. **The provisions of this section have been met.**

2. *Transparency: Ground floor storefronts should be predominately "transparent," with a minimum of 75% glazed surface area, including entry doors (see Fig. 130-1).*

**FINDING:** As proposed the ground floor area consists of approximately 50 square feet of transparent surface. The proposed ground floor wall dimensions are approximately 61' x 8' or 488 square feet. Based on these dimensions, the applicant has only provided approximately 10% of glazed surface area. It should be noted that on a building of this size it is nearly impossible to totally meet this requirement because the internal design of the building dictates where it is feasible to install windows. As such, the applicant will need to provide a design that increases the transparency to the maximum extent practicable. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide a revised site

development plan that increases the transparency of the ground floor store front to the maximum extent practicable. **The provisions of this section have been met subject to conditions of approval.**

3. *Prohibited Opening Types:*

- a. *Sliding or “French” entry door sets on the facade (such doors are permitted on side and rear elevations only).*
- b. *Roll-up garage doors (metal or wood), on street-facing sides (such doors are permitted on side, rear, and alley elevations only). Uses requiring large garage openings on the facade may use sliding or bi-fold doors; wood or metal doors with multiple glass panels are encouraged.*
- c. *Reflective glazing, “mirror glass” and similar.*
- d. *Horizontal slider windows (i.e. vertically oriented slider windows).*
- e. *Arched or “fan light” type windows, except where inset into an articulated structural opening.*

**FINDING:** The proposed building does not include any prohibited opening types. All windows are vertical sliders and no sliding or “French” entry doors are proposed for the front façade. No reflective glazing or mirror glass are proposed. **The provisions of this section have been met.**

C. *Commercial Standard 130(C): Height*

*In order to increase opportunities to transit, reduce transportation impacts, and promote pedestrian activity, multiple-story commercial or mixed-use construction is encouraged. All new commercial and mixed-use construction in the zone is subject to the following standards:*

1. *Maximum: No building may be greater than 2½ stories nor shall exceed 30’ in height. A ½ story as defined herein is the floor area above the second floor. No ½ story shall be larger than 60% of the total square footage of the second floor and shall be recessed a minimum of ½ the total height of the primary façade from the front in order to minimize mass and scale from the primary rights-of-way which would include corner buildings with two primary facades.*

**FINDING:** The proposed building does not include exceed 2 ½ stories nor does it exceed 30’ in height. No ½ stories are included in the proposal. **The provisions of this section have been met.**

3. *Variation: Building height shall be differentiated from the height of adjacent buildings to avoid a solid street wall of uniform height. An exception to this standard will be made for buildings that incorporate a projecting vertical division in the facade treatment that visually separates the facade from adjacent buildings, such as a column, pilaster or post.*

**FINDING:** The proposed building does not include any variations in building height and does not provide adequate transition to the adjacent single story structures to the east or west. Typical building height transitions can be met when the height of the taller building does not

exceed one (1) foot of height for every one (1) foot separating adjacent buildings. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised site development plan that provides revised building elevations that are consistent with the Section 8-3J.123(B) of the Talent Zoning Code. **The provisions of this section have been met subject to conditions of approval.**

D. *Commercial Standard 130(D): Horizontal Facade Rhythm*

*To maintain the rhythm of Talent's traditional architecture, all new commercial construction shall respect the three-part "base-shaft-capital" facade system common to pre-WWII commercial designs.*

1. *Base: Buildings shall provide a visually articulated foundation or "base" feature at ground level, typically rising to the bottom of the sill height. A "base" may be created by detail or a change in material or form that differentiates the base from the upper portions of the facade. (i.e. a brick or tiled "base" on a concrete building, or a paneled wood base on a horizontal sided wood building) This standard may also be met by projecting elements or change in surface planes that employ a common material, i.e. a projecting brick sill and "apron" on a brick wall or a cast concrete shoulder that projects away from a concrete wall.*
2. *Stringcourse: Prominent horizontal lines shall be maintained between all floor levels, visually dividing the facade into horizontal sections that reflect the interior levels. Such features may be projecting or incised bands of common materials (as in brick or concrete) or applied trim, as in a wooden "bellyband." See Figure 130-4*
3. *Cornice Details: All buildings shall have a "cap" element at the uppermost portion of the facade that visually terminates the main facade surface. Cornice details may be integrated into a stepped or decorative parapet or consist of an articulated line that projects from the main surface plane. Modest marker blocks stating building name and date of construction are strongly encouraged.*

**FINDING:** The proposed building includes a base and stringcourse, but does not include cornice details. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development a revised site development plan that includes a "cap" element at the uppermost portion of the facade that visually terminates the main facade surface. **The provisions of this section have been met subject to conditions of approval.**

E. *Commercial Standard 130(E): Vertical Facade Rhythm*

*Reflecting the narrow lots common in Talent's downtown and creating visual interest that enhances the pedestrian scale, commercial facades shall have strong and clearly articulated vertical elements.*

1. *Multiple Bays: All storefronts shall be divided into vertical "bays" through the use of structural members such as columns, pilasters, and posts, or by the use of other surface detailing that divides large walls into narrower visual panels. No structure shall have a single "bay" larger than 30 feet (based upon the lot width of the Original Plat of the Town of Talent). Buildings occupying one or more original town lots (i.e., greater than 30 feet in width) shall be visually divided into multiple bays of 30' or one-half the overall lot width, whichever is the lesser. For example, the facade of a 50-foot wide structure shall be visually divided into two 25' wide bays. An 80' foot structure may be divided into two 30' bays and*

*one 20' bay or into four 20' bays, either of which will meet this standard.*

**FINDING:** The proposed building, although it includes two covered entries does not adequately divide the two commercial spaces into multiple bays. The proposed entries account for only 16 feet of front façade. As required by the provisions of this section, each commercial space shall provide detailing that divides large walls into narrower visual panels. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised site development plan that provides an expanded entry design for each commercial space breaking the front elevation into two distinct segments of wall space. **The provisions of this section have been met subject to conditions of approval.**

2. *Edge Definition: All storefronts shall use a pilaster, engaged column, or other structural or decorative vertical element at each side lot line, to create visual division from the adjacent structure. (See 130(C)(3), above, regarding the use of projecting elements). For structures that do not extend from sideline to sideline (as per 130(A)(3), above) the outermost building corner will be treated as the edge for compliance with this Standard.*

**FINDING:** The proposed building does not include decorative vertical elements at each side lot line to create a visual division from adjacent structures. As a condition of approval, prior to the issuance of building permits, the applicant shall provide a revised front elevation that includes the use of a pilasters, engaged columns or other structural or decorative vertical elements to provide proper edge definition. **The provisions of this section have been met subject to conditions of approval.**

F. *Commercial Standard 130(F): Sense of Entry*

*All commercial buildings shall have a clearly defined "sense of entry," with the primary public access serving as a focal point in the visual organization of the facade. This can be accomplished via structural articulation, such as in a recessed entry, or through the use of trim, materials, or other elements. A clear and defined sense of entry facilitates retail activity and adds significantly to the pedestrian interest of the street.*

1. *No door may swing open into any public way.*
2. *Doors: Primary commercial entrances shall be primarily transparent with no less than 50% of the total surface consisting of glass.*
3. *Integration: Entryways shall be architecturally integrated into the vertical and horizontal rhythms of the facade.*
4. *Depth: Recessed entries shall be no less than three (3) feet in depth.*

**FINDING:** The proposed building appears to have a recessed entry that meets the requirements of Section 4 above, providing a recess that is not less than three (3) feet in depth and with an appropriate primary entrance including transparent glass. However, the details of the plan do not provide adequate assurances that this is the case. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised elevation plan that details each entry, including the depth of the recessed entry. **The provisions of this section have been met subject to conditions of**

approval.

G. *Commercial Standard 130(G): Roof Forms*

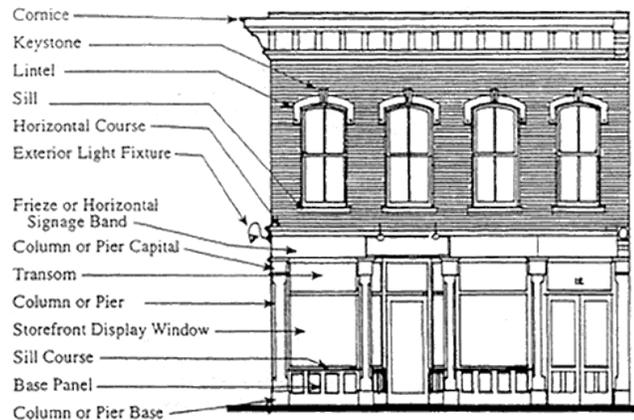
*Traditional commercial roof forms, including flat, single-slope, or bowstring and other trussed roofs, are all typical of downtown Talent. Other roof forms, particularly gables, were commonly screened from the public right-of-way.*

1. *False-front gables and parapets are required to hide pitched roofs, unless otherwise permitted by the review body.*
2. *Mansard roofs are prohibited.*

**FINDING:** The proposed building includes a single gable. Section 1 above requires False-front gables or parapets to hide pitched roofs unless approved by the review body. Considering the mass of this building and that there are few breaks in the front facing plane of the structure, the applicant shall provide a design that includes the use of more false-front gables. As a condition of approval, the applicant shall, prior to the issuance of permits, provide Community Development with a revised site development plan that includes the use of additional false-front gables to more adequately screen the proposed pitch roof. **The provisions of this section have been met subject to conditions of approval.**

H. *Commercial Standard 130(H): Exterior Surface Materials*

*Exterior building materials shall be consistent with those traditionally used in commercial construction in Talent.*



*Figure 130-4 Anatomy of commercial façade. Like the preceding images, it contains a strong Horizontal & Vertical facade rhythm.*

1. *Permitted materials include, but are not limited to:*
  - a. *Painted horizontal wood, cement fiberboard, or manufactured wood-based siding (all of*

*which must be smooth finished rather than displaying a fake “wood grain” relief).*

- b. Board-and-batten vertical wood siding, painted.*
- c. Brick: Traditional use of brick laid in common bond is preferred. Split-faced or “Roman” brick may be appropriate for bulkheads or detail treatments but is prohibited as a primary building material. Highly decorative “washed”, glazed, or molded brick forms are discouraged.*
- d. Stucco.*
- e. Poured concrete (painted or unpainted).*
- f. Concrete block: Split faced concrete block is appropriate for foundations, bulkhead, or detail treatments but is prohibited as a primary building material. Smooth-faced concrete block is prohibited when visible from the public right-of-way, except when used for a building base.*
- g. Corrugated metal (roof or wall) in traditional zinc/galvanized finish and profile only. Prefinished grey meets this standard; all other prefinished colors are excluded.*
- h. Glazed ceramic tile, particularly for use in bulkhead or storefront areas.*

*2. Prohibited materials include:*

- a. Stucco-clad foam (EIFS) and similar foam-based systems.*
- b. Standing-seam metal sheet goods*
- c. T-111 or similar 4’ x 8’ sheet materials, unless the material is rough-sawn and 1.5- to 3-inch batten is used on 12-inch to 16-inch centers.*
- d. Horizontal metal or vinyl siding.*
- e. Metal or glass curtain wall construction.*
- f. Plastic (vacuum-formed or sheetgoods).*
- g. Faux stone (slumpstone, fake marble, cultured stone) and all similar stone veneer surface treatments).*
- h. Shingle siding, log construction, fake “rustic” wood, pecky cedar, or similar products designed to create a “frontier-era” effect.*
- i. Cinder block for any use, because of its appearance and its low compressive strength.*

**FINDING:** The building as proposed will be constructed using a hardy plank smooth 6” exposed material, consistent with the permitted materials. No prohibited materials have been proposed. **The provisions of this section have been met.**

*I. Commercial Standard 130(J): Secondary Elevations*

*By nature, non-street or alley-facing elevations were less detailed than the primary facade. Rear and sidewall elevation may accordingly be less detailed than storefronts and built of simple materials.*

*1. Public Rear Entrance: When a rear or alley entrance serves as the primary or secondary*

*public entrance, such as an elevation facing the public open space area between Main and Wagner Streets, modest detail or highlight should create a “sense of entry” as in 130(F), above. Even when intended as the primary entrance to the use, rear entrances should remain essentially functional in character, thereby reinforcing the primacy of the street-facing elevation.*

2. *Corner Entrances: When a storefront includes a corner entry, both adjacent facades on the public rights-of-way shall both be treated as the “facades” for purposes of these Standards. When a storefront has a visible sidewall elevation as the result of 130(A)(3), above, that elevation shall be treated as a facade in addition to the primary facade.*

**FINDING:** The proposed site development plan does not include a public rear or corner entrance. **The provisions of this section are not applicable.**

### **8-3L.150 REQUIRED FINDINGS FOR APPROVAL OF PLAN**

*After an examination of the site, the Planning Commission shall approve, or approve with conditions the site development plan if all of the following findings are made:*

- A. *All provisions of this Chapter and other applicable City ordinances and agreements are complied with;*
- B. *The proposed development will be in conformance with the intent and objectives of the zone in which it will be located;*

**FINDING:** The purpose of the Central Business District (CBD) is to serve as the hub for social activities, including retail trade, personal and business services. The proposed use mixed use commercial/residential structure that will promote pedestrian activities in the core business area and provide an acceptable transition from the residential zone to the commercial zone, consistent with the purpose of the CBD. **The provisions of this section have been met subject.**

- C. *All applicable portions of the City comprehensive plan or other adopted plan are complied with;*

**FINDING:** The proposed use is consistent with the intent of the uses allowed on a property with a commercial Comprehensive Plan Designation. **The provisions of this section have been met subject.**

- D. *The proposed development will be compatible with or adequately buffered from other existing or contemplated uses of land in the surrounding area;*

**FINDING:** The proposed mixed use commercial/residential unit will have a footprint smaller than most single family dwellings in the adjacent neighborhood and the commercial space will be used for low volume commercial activities. Neither use in the proposed building will adversely affect the livability, value, or development of abutting properties or the surrounding area. The use provides needed live/work units in the City of Talent and provides an excellent transition between the residential and commercial zoning districts.

The proposed use was noticed to all property owners within 250 feet of the boundaries of the property to seek public testimony. Public testimony received during the last public hearing has been incorporated into the findings and concerns about design and traffic have been addressed. **The provisions of this section have been met.**

E. *That no wastes, other than normal water runoff, will be conducted into City storm and wastewater facilities;*

**FINDING:** The proposed site development plan does not propose to put any waste other than normal water runoff into the City storm and wastewater facilities. **The provisions of this section have been met.**

F. *The following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety, solar access, historic sites, and the public welfare and safety are protected, and there will be no adverse effect on surrounding property:*

1. *buildings, structures, and improvements;*
2. *vehicular and pedestrian ingress and egress, and internal circulation;*
3. *parking and loading facilities;*
4. *setbacks and views from structures;*
5. *walls, fences, landscaping and street and shade trees;*
6. *lighting and signs; and*
7. *noise generation facilities and trash or garbage depositories.*

**FINDING:** The proposed development has been arranged in a manner that is best suited for an irregularly shaped parcel such as this one. The applicant has requested a variance to the setback requirements on the western boundary of the property to accommodate a modest sized commercial/residential unit. The previous residential structure was located less than four (4) feet from the property line and was partially located in the Lapree Street right-of-way. The required setbacks for a commercial building in this zone when adjacent to residential were not intended for a mixed use building, but rather a standalone more intense commercial use. This building, as proposed will serve more as a live/work setup and be will equal in intensity to that of a normal single family residence. It should be noted that if this was in fact residentially zoned the setbacks from the property line would only be five (5) feet allowing a dwelling equally as large to occupy the site.

Vehicular and pedestrian access and circulation have been adequately addressed. Neighbors that commented at the public hearing were concerned with increased traffic and traffic safety on the curve of Gibson and Lapree Street as a result of a new commercial use. The plan adequately addresses these concerns by increasing the road width adjacent to the parcel and by adding “bulb-outs” to identify the on-street parking and to serve as a traffic calming measure.

The proposed building does not include any variations in building height and does not provide adequate transition to the adjacent single story structures to the east or west potentially impacted the views of neighboring properties. Typical building height transitions can be met when the height of the taller building does not exceed one (1) foot of height for every one (1) foot separating adjacent buildings. As a condition of approval, the applicant shall, prior to the issuance of building permits, provide Community Development with a revised site development plan that provides revised building elevations that are consistent with the Section 8-3J.123(B) of the Talent Zoning Code. **The provisions of this section have been met subject to conditions of approval.**

G. *The applicant has made any required street and other needed public facility and service improvements in conformance with the standards and improvements set forth in this Chapter and the applicable portions of the City Subdivision Code, or has provided for an adequate security arrangement with the city to ensure that such improvements will be made.*

**FINDING:** there are no required street or other need public facility or service improvements required as a part of this development. **The provisions of this section are not applicable.**

#### **8-2.440 CONSTRUCTION PLAN APPROVAL AND ASSURANCES**

*No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements.*

**FINDING:** The proposal includes the reconstruction of a public sidewalk along Lapree Street. As a condition of approval, the applicant shall, prior to issuance of building permits provide Community Development a copy of an approved Right-of-Way Construction Permit for the construction of the sidewalk and tree wells. **The provisions of this section have been met subject to conditions of approval.**

#### **8-2.450 INSTALLATION**

A. *Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/ her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City.*

B. *Adopted Installation Standards. The Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A., Talent Public Works Standard Drawings, and Talent Stormwater Design Standards are adopted herein as the City's installation standard(s). Other standards may also be required upon recommendation of the City Engineer.*

C. *Commencement. Work shall not begin until the City has been notified in advance.*

D. *Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified.*

- E. *City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Section 11 above. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.*
- F. *Engineer's Certification and As-Built Plans. A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide three sets of "as-built" plans, in conformance with the City Engineer's specifications, for permanent filing with the City Planning, Public Works, and Engineering departments.*

**FINDING:** The proposed site development plan does not increase the need for additional public facilities and adequate capacity is available to meet the needs of the proposed use. However, the applicant has proposed on-street parking adjacent to the front of the proposed building which would require the removal of the newly installed sidewalk on Lapree Street and the construction of two "bulb-outs" to differentiate the travel lane from the parking stalls.

Both Gibson and Lapree streets were recently reconstructed in 2013. The construction included curb, gutters and sidewalk along with an overlay of the street. The original construction plan for the area in front of the subject parcel included on-street parking similar to that in front of the Library. However, the dwelling on the subject parcel encroached into the right-of-way and the sidewalk location had to be modified. Because of this encroachment, the entire segment of curb, gutter and sidewalk from the parcel to Home Street was modified.

The proposed modification to the location of the sidewalk aids in transitioning this area to a commercial, pedestrian friendly environment. The addition of on-street parking serves a dual purpose. First it serves as a traffic calming mechanism. Second, it provides needed on-street parking for both the subject parcel and the area in general.

Construction in the right-of-way in the City of Talent requires the approval of the Public Works Director through the issuance of a Right-of-Way Construction Permit. Right-of-way permits are only approved for public facility improvements that are consistent with the City's Transportation System Plan (TSP) and the City of Talent Standard Details, amended June 2014. The TSP permits a developer along a local street the opportunity to establish on-street parking, provided that it is consistent with Figure 7-1, Section A in the TSP.

The existing sidewalk adjacent to the subject parcel is approximately 5 feet in width with two driveway aprons. The proposal eliminates both driveway aprons to accommodate both parking stalls and the new sidewalk. Removal of the driveway aprons eliminates backing movements onto Lapree Street, reducing the risk of potential pedestrian or vehicle accidents.

The proposal to relocate the sidewalk and provide on-street parking is consistent with plans adopted by the City subject to the following conditions have been met prior to issuance of building permits:

- The applicant shall provide Community Development with a copy of construction plans prepared by a licensed engineer and approved by the Public Works Director for the sidewalk and tree well improvements along Lapree Street that are consistent with the standards and specifications adopted by the City.
- The applicant shall notify the City prior to construction of the public improvements and receive an official “Notice to Proceed”.
- The applicant shall install all public improvements in accordance with the approved construction plans prior to Certificate of Occupancy.
- The applicant shall provide written certification from a registered civil engineer that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements.

**The provisions of this section have been met subject to conditions of approval.**

**8-2.460            PERFORMANCE GUARANTEE**

*A. Performance Guarantee Required. When a performance guarantee is required by the City, the subdivider shall file an assurance of performance with the City supported by one of the following:*

1. *An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;*
2. *A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or*
3. *Cash.*

*B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.*

*C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance contingency.*

*D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:*

1. *Specifies the period within which all required improvements and repairs shall be completed;*
2. *A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;*
3. *Stipulates the improvement fees and deposits that are required.*
4. *May provide for the construction of the improvements in stages and for an extension of time under specific conditions therein stated in the contract.*

*The agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and City Administrator.*

- E. When Developer Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.*
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.*

**FINDING:** Both Gibson and Lapree streets were recently reconstructed in 2013. The construction included curb, gutters and sidewalk along with an overlay of the street. The original construction plan for the area in front of the subject parcel included on-street parking similar to that in front of the Library. However, the dwelling on the subject parcel encroached into the right-of-way and the sidewalk location had to be modified. Because of this encroachment, the entire segment of curb, gutter and sidewalk from the parcel to Home Street was modified.

The applicant has voluntarily requested to reconfigure this particular area of Lapree Street, installing what was previously planned for that area. The proposed improvements will be installed by the applicant's own contractor and not one hired by the City. Because of this, it is necessary to have a performance guarantee in place that protects the City in the event that the improvements are not installed in accordance with the agreement between the applicant and the City Manager.

The applicant shall provide the City with an itemized cost estimate for the improvements from certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance contingency. As a condition of approval, the applicant shall, prior to the issuance of building permits provide Community Development with a Performance Guarantee and agreement approved by the City Manager and consistent with the provisions of Section 8-2.460 of the Subdivision Ordinance. **The provisions of this section have been met subject to conditions of approval.**

#### ***8-3L.440 REQUIRED FINDINGS FOR GRANTING A VARIANCE***

*The Planning Commission shall not grant any variance unless all of the following findings are made:*

- A. There are exceptional or extraordinary circumstances or conditions applying to the property or intended use that do not apply generally to other properties in the same zone or vicinity and which result from lot sizes or shape legally existing prior to the adoption of this chapter, topography, or other circumstances over which the applicant has no control;*

**FINDING:** The shape and size of the parcel limit what can be developed on the site. The parcel is approximately 3,200 square feet in size and is triangular in shape. In addition, the parcel partially abuts a residential zone on the western side of the parcel, requiring that any commercial structure be setback a minimum of 20 feet.

In reviewing the application and the proposed site development plan map, it is evident that the pre-existing use as a residence encroached on property line and didn't meet the setback

requirements of a standard residential zoning district. With that said, the proposed use does not meet the minimum side setback requirements of a residential zone. In fact, there is one area that is only two (2) feet from the property line. The most southerly point of the proposed structure is more conforming than what was previously established.

The questions is one of whether or not the configuration of the lot causes an exceptional or extraordinary circumstance that doesn't generally exist elsewhere and whether or not the applicant has control over these circumstances.

Based on the submittal and the modest size of the commercial and residential units, it would be unreasonable to reduce the size of the residential or commercial units from 500 square feet in size to something smaller to simply accommodate a setback. If this structure could house only a residential unit, the setback would be only 5 feet and height and bulk on the western boundary would not be considered. Exceptional and extraordinary circumstances exist on the parcel that do not exist generally on other properties in the same zone. Requiring a dwelling space to be reduced further from 500 square feet to accommodate a setback that was previously encroached upon, warrants the approval of a variance request. **The provisions of this section have been met.**

B. *The variance is necessary for the preservation of a property right of the applicant which is substantially the same as is possessed by the owners of other property in the same zone or vicinity;*

**FINDING:** Exceptional and extraordinary circumstances exist on the parcel that do not exist generally on other properties in the same zone. Requiring the dwelling space of each unit to be reduced further from 500 square feet to accommodate a setback that was previously encroached upon impacts the rights of the property owner in this situation more than those property owners in the same vicinity. **The provisions of this section have been met.**

C. *The variance would not be detrimental to the purposes of this chapter, the objectives of any City development plan or policy, the goals, policies or text of the Comprehensive Plan, or other property in the zone or vicinity in which the property is located; and*

**FINDING:** The proposed commercial/residential unit is no different in size and bulk than any other two-story residential unit that could be built onsite. As stated by the applicant, the proposed structure is further from the property line than the previous residential structure and the commercial use proposed is designed specifically for the type of tenant that desires to live above their office space, not for use as a high traffic commercial space. It is for those reasons, the variance would not be detrimental to the purposes of this chapter, the objectives of any City development plan or policy. **The provisions of this section have been met.**

D. *The variance requested is the minimum variance from the provisions and standards of this chapter, which will alleviate the hardship.*

**FINDING:** The proposed commercial/residential unit is no closer to the property line than the previous residential structure and appears to be the minimum variance from the standards of this chapter. Approval of this variance would alleviate the hardship created by the requirement to build a commercial structure on this irregular parcel of land. **The provisions of this section have been met.**

**ORD #725 SYSTEM DEVELOPMENT CHARGES**

*Section 8. COLLECTION OF CHARGES*

*A. The System Development Charge is payable upon, and as a condition of, issuance of:*

- 1. A building permit*
- 2. A development permit and/ or a development permit for development not requiring the issuance of a building permit;*
- 3. A permit or approval to connect to the water or storm drainage system, or sewer system;*
- 4. A right-of-way permit.*

The proposed development includes the addition of two (2) commercial units and one (1) additional residential unit. System Development Charges (SDCs) will be assessed for each new unit in accordance with Ordinance #725 adopted October 5, 2005. In addition, the applicant will be required to provide evidence that all other SDCs from other jurisdictions have been paid in full. As a condition of approval, the applicant shall, prior to the issuance of building permit provide evidence that all SDCs have been paid in full. **The provisions of this section have been met subject to conditions of approval.**

**This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Talent Planning Commission, below. A Planning Commission decision may be appealed to the Hearing’s Officer within 14 days after the final order has been signed and mailed. An appeal of the Hearing’s Officer decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer’s decision becoming final.**

**Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.**

\_\_\_\_\_  
Eric Heesacker  
Vice-Chair

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Zac Moody  
Community Development Director

\_\_\_\_\_  
Date