



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

IN THE MATTER OF PLANNING COMMISSION FILE NO. PUD)
2019-001 AT 160 NORTH PACIFIC HWY [MAP NO. 38-1W-23DC) ORDER
TAXLOT 3400 & 38-1W-23DB TAX LOT 4501], THE CITY OF)
TALENT PLANNING COMMISSION FINDS THE FOLLOWING:)

1. The Planning Commission held a properly noticed public hearing on this matter on May 14, 2019;
2. The Planning Commission asked the Community Development Director to present a staff report and a proposed final order with findings and recommendations;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The application, with conditions, was in general compliance with the required findings for approval of a Planned Unit Development modification;

The Talent Planning Commission approves the Planned Unit Development modification to PUD 2005-002 for Commercial Long-Term Holdings, LLC with the following conditions of approval:

GENERAL CONDITIONS

1. For the purpose of this modification and for consistency with the approved PUD 2005-002, the drive-thru facility shall be used only for drive-thru banking purposes. No other drive-thru uses are allowed as part of this modification.

IT IS HEREBY ORDERED THAT the Talent Planning Commission approves with conditions modifications to PUD 2005-002, Clearview Commercial Long Term Holding, LLC (PUD 2019-001) based on the following findings of fact:

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

TALENT ZONING CODE

18.150.050 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;*

FINDING: As described by the applicant, the Clearview Detailed Development Plan (PUD 2005-002) was originally approved in September 2005. As per the original approval, Building F contained a total of 2,284 square feet of commercial area on the ground floor. As proposed, the new Building F (in the same location), contains a total of 2,037 square feet of commercial space, with an addition of residential units above. Both residential units are provided with driveway parking as well as garages. As proposed, the modified proposal does not significantly alter the commercial area or parking on the site. **The provisions of this section have been met.**

- B. *The proposed development will be in conformance with the intent and objectives of the zone in which it will be located;*

FINDING: Residential uses in the CBH zone are encouraged, provided they are above or behind a commercial unit. As proposed, the modification of Building F includes commercial ground floor uses with residential above. The modification as proposed is in conformance with the intent and objective of the CBH zone. **The provisions of this section have been met.**

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

FINDING: At the time of the original approval, the development met the requirements of the City's Comprehensive Plan. Since the time of the original approval, no changes that effect this modification have been made to the Comprehensive Plan. **The provisions of this section have been met.**

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

FINDING: As proposed, this modification is consistent with the original development plan that was approved as part of a mixed use residential and commercial development. The modified locations of the commercial uses are smaller in scale than previously approved and are more appropriately located. At the time of approval, no buffering was required between these uses, and because the proposed uses create less impact to the surrounding area than the larger commercial uses, no addition buffering than what is currently in place is necessary. **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: No increases to building footprints are proposed as part of this request and no wastes, other than normal water runoff, are proposed. **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;*

FINDING: The original project plan was designed to avoid traffic congestion and promote pedestrian and vehicular safety. As proposed, changing locations of the approved bank location and Building D have no adverse impacts on the surrounding properties. **The provisions of this section have been met.**

2. *Vehicular and pedestrian ingress and egress, and internal circulation;*

FINDING: Internal circulation as it pertains to the modified bank location improves with the proposal. As demonstrated by the applicant's proposed site plan, stacking and queuing distances are increased from the previous location. **The provisions of this section have been met.**

3. *Parking and loading facilities;*

FINDING: There is negligible overall net change in parking per the revised site plan. The reduced size of the downstairs commercial space and the addition of two residential garages results in a net loss of at most one parking space. **The provisions of this section have been met.**

4. *Setbacks and views from structures;*

FINDING: The proposed site plan meets all applicable setback standards. Additionally, the revised location of the drive-thru is further from the residential uses in the Clearview Development. Relocating the approved bank closer to the highway in a more commercially appropriate location will result in less negative externalities to the residents in the subdivision. The applicant notes that the proposed modification will reduce vehicle exhaust in the residential areas of the project, reduce vehicle noise close to housing, reduce traffic congestion in proximity to residential driveways with the potential for public safety issues, and reduce pedestrian conflicts in the parking areas of the existing commercial building at 160 North Pacific Highway. **The provisions of this section have been met.**

5. *Walls, fences, landscaping and street and shade trees;*

FINDING: There are no changes proposed in any walls, fencing or landscaping in the approved site plan. All parking lot landscaping per the original plan has been installed as required. Subsequent to additional building occupancy, all remaining landscaping will be installed per the plan. **The provisions of this section have been met.**

6. *Lighting and signs; and*

FINDING: Parking lot lighting is currently in place, except where no development has taken place. At this time the applicant has not proposed any new lighting or signage plan. **The provisions of this section have been met.**

7. *Noise generation facilities and trash or garbage depositories;*

FINDING: No additional noise generation facilities or trash depositories are proposed as part of this request. **The provisions of this section have been met.**

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 title and the applicable portions of TMC Title 17, or has provided for an adequate security arrangement with the city to ensure that such improvements will be made. [Ord. 817 § 8-3L.150, 2006.]*

FINDING: All streets and street improvements approved as part of the original PUD have been installed in accordance with the approved plan. **The provisions of this section have been met.**

8-3L.372 CONCEPT PLAN APPROVAL CRITERIA

The Planning Commission shall make findings of fact that all of the following criteria are satisfied when approving or approving with conditions, a PUD Concept Plan. The Planning Commission shall make findings that one or more of the criteria are not satisfied when denying an application:

A. *Comprehensive Plan. All relevant provisions, as defined by the City, of the Comprehensive Plan are met;*

FINDING: Staff finds that there are no relevant provisions of the Comprehensive Plan that prevent this modification. **The provisions of this section have been met.**

B. *Land Use Ordinances. All of the applicable land use and design requirements for land divisions, shall be met; and*

FINDING: The original Buildings F was approved as a development site for a drive-thru bank facility. In the 2005 PUD application, the bank building was approved as a 2,284 square foot space. Based on the location and proposed size of the new bank building (Building D), staff believes that this is a minor change request. The new use in Building F will occupy a smaller building footprint of approximately 2,037 square feet for ground floor commercial and second floor residential.

The reason this item is before the Commission for consideration is because the approved PUD had multiple commercial spaces. A developer or owner of a property would normally be able to build a single building on these lots subject only to administrative or quasi-judicial site development plan review, but PUDs are comprehensively presented and approved: a change in

an approved building footprint is a change to the “shape” of the PUD. The possible uses remain unchanged.

It is important to maintain an objective view of this request. Consider if—say 20 years from now—an applicant wished to raze the commercial buildings along the highway frontage and build newer ones, would the City require the applicant to go through a PUD modification process? Staff has determined that there are no substantive changes to the approved PUD resulting from the request. The approved uses are unchanged, the pedestrian circulation and parking configurations are improved or unaffected; a change to parking requirements is negligible since the original plan provided an excess of parking; similar landscaping will be expected and required.

Although a drive-thru overlay was established 2012 that would prevent a drive-thru bank from being established, staff believes that the proposed modification is consistent with the spirit and intent of the PUD ordinance. PUDs are intended to provide flexibility in land use and design that may not otherwise be permitted by the Subdivision Code or the Zoning Code such as a drive-thru banking facility. The proposed relocation of the approved drive-thru bank facility promotes better vehicular and pedestrian circulation, minimizes potential residential/commercial conflicts by moving the drive-thru banking facility towards the highway further away from single-family uses and places mixed use developments in more appropriate locations. **The provisions of this section have been met.**

- C. *Requirements for Common Open Space, Parks, and Recreation. Where common open space, parks, or recreation facilities are designated, the following standards apply: [not listed here].*

FINDING: No requests for modification of common open space, parks or recreation space are proposed as part of this application. **The provisions of this section are not applicable.**

8-3L.385 DETAILED DEVELOPMENT PLAN APPROVAL CRITERIA

The Planning Commission shall approve the detailed development plan upon finding that it conforms to the Concept Plan and all required conditions of approval. Minor changes to the approved concept plan may be approved concurrently with the detailed plan, if consistent with the following criteria:

- A. *Increases in residential density do not exceed 10 percent, provided that such change conforms to the Comprehensive Plan and the density allowed in the underlying zoning district. Greater changes require an amendment to the concept plan (new public hearing);*

FINDING: Only two new residential units are being added to the site. As proposed, two new units do not increase the residential density of the development more than 10 percent. **The provisions of this section have been met.**

- B. *The amount of open space or landscaping is reduced by no more than 10 percent. Greater changes require an amendment to the concept plan (new public hearing);*

FINDING: No open space is being removed as part of this modification. **The provisions of this section have been met.**

- C. *The site area covered by buildings, parking, or storage (e.g., solid waste) increases by no more than 5 percent, where the total lot coverage, based upon the gross project area, does not exceed the maximum lot coverage for the zoning district. Greater changes require an amendment to the concept plan (new public hearing);*

FINDING: No increase in building or lot coverage, parking or storage are proposed as part of this modification. **The provisions of this section have been met.**

- D. *No change in land use shall be permitted without approving an amendment to the concept plan (new public hearing);*

FINDING: No change in land use is proposed as part of this request. The use in Building F (a drive-thru bank) is being proposed to be moved to the location Building D near the highway. The use in Building D is being proposed to be moved to the location of Building F and would be used for mixed use commercial and residential with two residential units above commercial. The uses proposed are the same as those in the approved PUD application (PUD 2005-002). **The provisions of this section have been met.**

- E. *No change which places development within environmentally sensitive areas or areas subject to a potential hazard shall be approved without approving an amendment to the Concept Plan (new public hearing), and obtaining any required permits from applicable natural resource regulatory agencies;*

FINDING: The proposed modification switches the uses within Building D and Building F. Both locations were identified in the previous approval as locations for commercial uses. Neither of the locations are within environmentally sensitive areas or areas subject to a potential hazard. **The provisions of this section have been met.**

- F. *The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be proposed on the Concept Plan, or modified through conditions of approval. Significant changes in the location or alignment of these features, as determined by the Planning Commission, shall require an amendment to the Concept Plan (new public hearing); and*

FINDING: The proposed modification switches the uses within Building D and Building F. Both locations were identified in the previous approval as locations for commercial uses. As proposed, the internal public and private infrastructure remain in the same

configuration. Site specific improvements to either building including landscaping and utilities will be addressed at the time of building permits. **The provisions of this section have been met.**

G. *Other substantial modifications made to the approved conceptual development plan shall follow the procedures in Section 374(C).*

FINDING: Staff considers the proposed changes minor in nature; therefore, both the Concept Plan and the Detailed Development Plan can be approved concurrently. **The provisions of this section have been met.**

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.

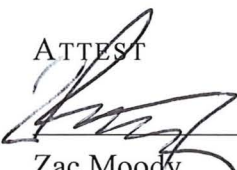
Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.



Derek Volkart
Planning Commission Chair

5/22/19

Date

ATTEST


Zac Moody
Community Development Director

5/21/19

Date