

**CITY OF MADRAS  
125 SW "E" STREET  
MADRAS, OR 97741  
541-475-2344**

Planning Commission Meeting  
City Hall, Council Chambers

March 16, 2016  
7:00 p.m.

**AGENDA**

I. Call to Order

II. Consent Agenda

- A. Approval of March 16, 2016 Planning Commission Agenda
- B. Approval of September 2, 2015 Planning Commission Meeting Minutes

III. Visitor Comments

IV. Daybreak Spa Studio Conditional Use and Home Occupation (Files: CU-16-1 & HO-16-1)

(Quasi-Judicial)

1. Open Public Hearing\*
2. Planning Commission to Declare any Potential or Existing Conflicts of Interest or Ex-Parte Contact.
3. Planning Commission to indicate whether they will be abstaining from participation in the Public Hearing.
4. Those in attendance to be provided the opportunity to challenge Planning Commission impartiality.
5. Staff Report
6. Applicant Testimony
7. Proponent Testimony
8. Neutral Testimony
9. Opponent Testimony
10. Applicant Rebuttal Testimony
11. Close Public Hearing
12. Planning Commission Deliberation\*\*

\* See page 3 for Quasi-judicial Land Use Hearing Statement

\*\* The Planning Commission will either approve, approve with conditions of approval, deny, or continue the Public Hearing to a date and time certain.

V. Annual Review of Planning Commission By-Laws.

Nicholas Snead, Community Development Director

VI. Additional Discussion

VII. Adjourn

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the above referenced meeting; however, the agenda does not limit the ability of the Planning Commission to consider additional subjects. Meetings are subject to cancellation without notice. This meeting is open to the public and interested citizens are invited to attend. This is an open meeting under Oregon Revised Statutes, not a community forum; audience participation is at the discretion of the City Planning Commission. **Anyone wishing to address the Commission will need to register prior to the meeting.** The meeting will be audio taped; minutes of this and all public meetings are available for review at the Madras City Hall. The meeting place is handicapped accessible; those needing assistance please contact the City of Madras Community Development prior to the meeting.

## **Statement for Quasi-judicial Land Use Hearings**

In each of the quasi-judicial agenda items listed on the agenda, the following procedure shall govern the hearings:

Planning Commission Chair, please read the following:

1. The Planning Commission will declare ex parte communications, including site visits as well as actual and potential conflicts of interests. Those in attendance will have an opportunity to challenge the disclosures.
2. A planning staff representative will outline the application and the approval criteria. This information is also outlined in the staff report which is available to the public.
3. The Planning Commission will hear testimony, receive evidence and consider the testimony, evidence and information already submitted into the record.
4. Testimony and evidence at these hearings must be directed toward the criteria set forth in the notice of the hearing and listed in the respective staff report. In addition, testimony may be directed to any other criteria in the comprehensive land use plan of the City or land use regulations which any person believes applies.
5. The applicant has the burden of proving that his or her application meets all of the applicable criteria.
6. Failure on the part of any person to raise an issue with sufficient specificity to afford the Planning Commission and parties to this proceeding an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
7. Each hearing will be conducted in the following order: The staff will summarize the issues raised by the application and review the applicable criteria. The applicant will then have an opportunity to make a presentation and offer testimony and evidence. Other persons supporting the application will then be given an opportunity to present testimony. Next, opponents will then be given a chance to make a presentation. After both proponents and opponents have made a presentation, the applicant will be allowed to make a rebuttal presentation. The Council may offer an opportunity for opponents to respond to the applicant's rebuttal. At the conclusion of this hearing, the staff will be afforded an opportunity to make any closing comments. The Council may limit the time period for presentations.

**City of Madras  
Planning Commission Meeting  
Official Minutes  
September 2, 2015**

I. **Call to Order**

The City of Madras Planning Commission public meeting was called to order by Vice Chair Ali Alire at 7:18 p.m. on Wednesday, September 2, 2015 in the Madras City Hall Council Chambers at 125 SW E. Street.

**Commissioners in Attendance:**

Vice Chair Ali Alire  
Commissioner Joe Krenowicz  
Commissioner Denise Piza

**Vacancy:**

One Vacancy

**Staff Members in Attendance:**

Community Development Director; Nicholas Snead, City Administrator; Gus Burrell, and Administrative Assistant; Michele Quinn

**Visitors in Attendance were:**

Eric Pies

II. **Consent Agenda**

- a) Adoption of the September 2, 2015 agenda

Community Development Director Nicholas Snead I would like to add to the agenda the August 19, 2015 Planning Commission minutes to be reviewed and considered by the Commission this evening. There are a couple of options for the Commission in terms of reviewing this you can put it before the public hearings or if you want to review after your public hearings.

The consensus of the Planning Commission members was to accept Community Development Director Snead's request to add the August 19, 2015 Planning Commission meeting minutes to the end of the meeting agenda, and in doing so acknowledged acceptance of the consent agenda.

III. **Visitors Comments**

There were no visitor comments.

IV. **Public Hearings**

A. **Eric Pies Conditional Use & Home Occupation, Files: CU-15-1 & HO-15-1**

Vice Chair Ali Alire the public hearing for Eric Pies Conditional Use and Home Occupation file CU-15-1 and HO-15-1. We are going to open the Public Hearing do any of the Planning

Commissioners declare any potential or existing conflicts of interest or ex-parte contact? Do any Planning Commissioners indicate whether they will be abstaining from the participation in the Public Hearing? Those in attendance to be provided the opportunity to challenge Planning Commission impartiality, then we will move on to the staff report.

Community Development Director Nicholas Snead This evening staff would like to present the Eric Pies Conditional Use and Home Occupation request. The proposal this evening is to issue one decision for Conditional Use and Home Occupation, so one decision for both permits. The applicant has proposed to conduct a Home Occupation at the property addressed 434 NE Plaza Place. The property is identified as tax lot 600 on Jefferson County Assessors map 11-13-01BD the property is zoned R-1, and is developed with a single family detached dwelling the property is located in the Bel Air Subdivision. Staff has reviewed the application we have sent notice to all property owners within 250 feet. Staff has also published notice of the public hearing this evening in the Madras Pioneer at least 21 days in advance this evenings hearing. There by meeting the notice requirements in Article 9 of the City's Zoning Ordinance.

The applicant is proposing to operate a fire arms repair business from their residence the applicant has said in the materials submitted that their clients will not be coming to the residence. So he will be going to the clients place and picking up the fire arms at that place so there will be very minimal traffic coming to the property as a result of the home occupation. Staff has reviewed the criteria as identified in the staff report. Staff finds that it meets the criteria as a result of both notices staff has not received any phone calls, emails, or anyone coming to City Hall voicing any concerns or opposition or support for the proposal. As such Staff is not aware of any issues that need to be resolved by the Planning Commission this evening. On page 2 of the staff report Staff recommends that the Planning Commission approve files CU-15-1 and HO-15-1 based on the Planning Commission's findings and decisions.

Vice Chair Ali Alire hearing no questions and moving on to applicant testimony

Eric Pies hello my name is Eric Pies. I am the resident of 434 NE Plaza Place. My proposal is to start my own gun smithing business it is low key; it is only 132 square foot bedroom that is converted to shop. There is going to be no impact on the residents that are around me in the neighborhood. At most the traffic would be a UPS truck coming once or twice a month to deliver parts. I go to pick up and deliver when I am done, there will be no address listed on my website or on my business cards. The public will have no knowledge of where my business is at other than a cell phone number. I don't know of any other impact there might be.

Commissioner Joe Krenowicz in regards to safety, gun powder, cleaning fluid, solvents where does the planning review from your office relate to that?

Community Development Director Nicholas Snead based on the approval criteria we wouldn't be looking into that perhaps the applicant could in lighten you on the presents or absence of those items you mentioned.

Eric Pies there will be some solvents for cleaning there will not be any gun powder because I will not be doing any ammunition work. The solvents will be minimal because it is just the cleaning portion and that will be inside a ventilated room. It will not affect outwardly toward the community. So I can't see with the minimal use that there would be an issue with the solvents.

Vice Chair Ali Alire no other questions? Thank you. We are going to move on to the proponent is there any one in support of the proposal that would like to testify? No, is there any neutral testimony? No, is there any opponent that would like to testify? At this time we will close the Public Hearing and we will deliberate. Is there any one that would like to start that?

Commissioner Joe Krenowicz I am happy with the staff report, Eric you answered my questions my biggest concern is the safety aspect of it.

**A MOTION WAS MADE BY VICE CHAIR ALI ALIRE TO APPROVE FILE CU-15-1 AND HO-15-1 BASED ON THE FINDINGS AND DECISION. THE MOTION WAS SECONDED BY COMMISSIONER DENISE PIZA. THE MOTION PASSED UNANIMOUSLY.**

**B. City of Madras Sign Variance, File V-15-2**

**Quasi-Judicial Hearing**

Vice Chair Ali Alire we are going to call to order file V-15-2. Does anyone on the Planning Commission have any potential or existing conflicts of interest of ex-parte? Will anyone on the Planning Commission be abstaining from participation in the Public Hearing? Those in attendance to be provided the opportunity to challenge Planning Commission impartially? We will now move on to the staff report.

Community Development Director Nicholas Snead thank you Chair Alire this evening the City of Madras is the applicant, a little unique in this situation. We are requesting the Planning Commission to grant approval to the City to get a variance to the City's sign code. Namely the City's sign code in policy requires that every sign be located on the property for which that business is located. In this case the City is requesting an exception to that. The City has worked a long time on planning and constructing the J Street project and now we are constructing phase one of two phases. It has been a significant amount of work and we are starting to see that phase one come complete. Just before we started construction staff was made aware that businesses would be affected by the project where they once had direct frontage to Hwy 97 with the realignment they no longer would. In affect what that would have done is no longer give those businesses the opportunity to put a sign out in front of the Hwy like other businesses in our community can.

The property owners affected asked the City to resolve that and the solution we have come up with is to install 3 signs that businesses specially affected shown in the staff report would be able to use. Understanding that the proposed signage would not be the same signage that they could have had before if they still fronted the Hwy. This is as good of a proposal or solution that the City believes that we can provide those businesses. Recognizing that it is not as ideal as some would wish with that said there are 3 signs that we are proposing. They will all be located within right of way before I conclude and go on to other agenda items we have a staff member from ODOT. I would like to provide the opportunity to weigh in this evening before you conduct testimony. So that is what we are asking for this evening. It is a rare situation, we are not going to have to many more J Street projects if you will, and so we are proposing this to accommodate the needs of our business community. So with that Gary would you mind coming up to the podium and provide any additional comments that you may have beyond what I said.

Gary Farnsworth I don't have much more to add Nick we are definitely doing this in a partnership to support businesses. This is very unique for us and very unique for the City we have really honed in on location and the businesses we want to support. They will be on ODOT right of way and they will be maintained by the City.

Commissioner Denise Piza how will this impact the visibility of the drivers?

Gary Farnsworth it will be outside of the normal safe driving site distance so there won't be any obstructions between vehicles and autos and people walking or biking. So it won't change safety it will be very similar to signs that you have in the community entering into shopping centers.

Community Development Director Nicholas Snead the only thing that I think I would add to that is I don't think the average person driving down the Hwy would notice the difference between this sign and any other sign.

Dennis Prince I am Dennis Prince and I have property that is involved in this process and first off thank you for doing the sign thing. I have a few questions about them, one is there is three different signs; there is different numbers of businesses that those signs serve. So how much of the sign does each business get and how is that figured? What is the fee structure going to be for the signs?

Community Development Director Nicholas Snead those are two very good questions. First on terms of the allocation of the area of the sign, I can't exactly tell you the dimensions that each business will have other than it will be split up equitably.

Dennis Prince how long until you will know? These businesses have to have the sign made that takes time. This project has already hurt businesses and impacted them quite a bit it would be nice to jump on that as soon as they can.

Community Development Director Nicholas Snead I will work with ODOT staff and the Public Works Department and see what that is and I can report back to you individually if that is acceptable to you.

Dennis Prince when will the new addresses go into effect?

Community Development Director Nicholas Snead I don't know maybe the City Administrator has a better idea.

Dennis Prince that is another thing that businesses have to plan for new stationary, envelopes and advertising.

City Administrator Gus Burrell we will ask Rich Black from Jefferson County to make a determination and give that to us and issue that out to the businesses.

Dennis Prince the notice that I got said the meetings started at 7:30 so I missed the public comment portion of this can I make a couple of comments?

Community Development Director Nicholas Snead I apologize if that is the case I did not know that error had occurred for simplicity purposes of conducting the hearing.

Dennis Prince they have to do with the project. One of them is, I know that Madras is a Tree City USA. As a private citizen or a business person if I take a tree out I have to put a tree back. ODOT and the City have taken out a number of trees during this project are they replacing them, and if so when and where?

City Administrator Gus Burril I guess could you sketch up the ones removed and sketch up where you are curious where there are trees that have been removed. Staff is unable to answer your questions this evening.

Dennis Prince well ODOT took out a tree that wasn't designed in the plan I wasn't compensated for it, am I going to get another tree?

City Administrator Gus Burril again I need more information Dennis I don't have enough information to give you any answer to that. So if you could please high light the situation we will go to the ODOT project team and clarify what their intent is and get back to you.

Dennis Prince just as an observation, is that big culvert thing down there art? It looks like a Bend round about art thing.

City Administrator Gus Burril I don't have any indication of that.

Vice Chair Ali Alire so we are moving on to neutral testimony I don't hear any, and opponent testimony I don't hear any, applicant rebuttal? Ok none we are going to close the Public Hearing. The Planning Commission will deliberate.

Commissioner Joe Krenowicz I would like to clarify some things, when are the businesses going to know what the cost of the signs are? Is this something where the City builds the signs and bills out to the businesses? How does this work?

Community Development Director Nicholas Snead so the sign will be installed with the construction project which refers to as the J Street project. So the contractor will install it once it is installed or even before as soon as we know the dimensions that each business can install signs on. Then each business can submit a sign application to the City at the cost of \$100.00 and we are working on the annual maintenance fee at this time. I did some rough estimates on power costs and it seemed to high so I am confirming with the City's electrician on what that would be. The City will have some additional insurance costs we estimate with the information that we know the annual maintenance fee will be about \$100.00 a year. That is just too simply recover our costs for operating the sign and the insurance on it. That fee will be adopted annually by the City Council by their annual fee rate resolution. It could change, it could go down or go up it would be reevaluated after one year of operation when we know what our real operational costs are. For the first year we are going to forecast those and do our best job of recovering the cost for the sign, and after the second year we will know those costs and be able to asses a fee that is consistent with the actual cost.

Commissioner Joe Krenowicz so if you have a car run into it who pays for the replacement of that?

Community Development Director Nicholas Snead well it will be the City's sign and that is why we have insurance so the City will replace it.

Commissioner Joe Krenowicz when you have an addition of a new company or a change in the company who pays for the change in that sign?

Community Development Director Nicholas Snead the business that wants to put signage on the sign will bear the cost for that. So they will need to go to a contractor and if they want to install the vinyl on the sign they can do that.

Commissioner Joe Krenowicz so we already know what the square footage will be I assume we would already have square footage established of what each sign will have. So who makes the decision of what business has what square footage or portion of it?

City Administrator Gus Burril we need to do a count on how many potential businesses we need to serve in those areas. I was looking at the Prince sections there and it looks like at least 5 and I don't know if those areas can be subdivided in the future to be 6 to 8. So we might be leaning towards 8 placards in that area to serve future redevelopment needs. The sign company from the basis of the dimensions would give us some dimensions if we pick 8 what size of placard could we work are way into for each of those. So we need to be working with the selected sign company and we need to check with ODOT on the selected firm that will be doing the work. They will probably be the same firm we will direct the businesses to that made the sign to get a placard. So those steps are in process but they are not fully defined on who we are working with yet. Gary I don't know if you have knowledge of which firm we are working with yet. We will talk with the ODOT project team to get some more information.

Commissioner Joe Krenowicz I certainly encourage that because they don't like to put signs in the ground when it is cold. It is important to businesses to get their signage up. I would hope we could get this wrapped up.

City Administrator Gus Burril Denise has been prompting us with the Council he is prompting us here tonight; we have been prompting the ODOT project team. I want to clearly state we are not trying to slow this down we are not prompting the ODOT project team. In fact I want to reiterate we are and not give the impression that we are not. If it is coming across that way I want to clearly state that is not the case, but if we don't have the firm that is building it yet we can't provide Denise who to talk to, to put a placard in. Denise if you have any feedback on how many placards you see in there it would be great to know that. A quick look each section might have a different head count for the number of placards. Does that sound reasonable to plan for 8 over time what are your thoughts?

Dennis Prince I would think at least 5 or 6 it is pretty well limited to the businesses that are there and then my mother's house that is zoned commercial.

City Administrator Gus Burril if it redeveloped to something over time. I didn't know if the motel could split off into offices and there are two or three tenants in there over time.

Commissioner Joe Krenowicz so we can look at the three different signs and figure out what we do have and then add one or two or whatever is appropriate. Gary when are you going to decide on what sign company?

Community Development Director Nicholas Snead I just heard today that the sign company selected was Redmond Signs.

Commissioner Joe Krenowicz so we have a name now it is a matter of time line, and so if you can get back with the City and say this is the time line it helps the businesses. My other comment is Rich Black at the county we already know that businesses exist there we already

have the names for the City Streets. We already have businesses that have numbers he should be able to get the numbers squared away so businesses with letter heads and such don't have to wait until October to get this squared away.

Community Development Director Nicholas Snead I don't disagree I know that the City Council next Tuesday night will consider the Planning Commission's recommendation to name the one street Palmain Place. After that all the street names will be identified and then we can move forward on the addressing and the contractor will install the signs towards the end of the project.

Vice Chair Ali Alire are the businesses required to be on the signs if they don't want to pay the fee?

Community Development Director Nicholas Snead there are no requirements; it is elective if they want to do that they can.

**A MOTION WAS MADE BY VICE CHAIR ALI ALIRE TO APPROVE FILE V-15-2. THE MOTION WAS SECONDED BY COMMISSIONER DENISE PIZA. THE MOTION PASSED UNANIMOUSLY.**

Vice Chair Ali Alire now we will be adding the minutes from the August 19, 2015 meeting.

Community Development Director Nicholas Snead correct so at this time staff would like to present the August 19, 2015 minutes hopefully you have had a chance to review. This is from the August 19<sup>th</sup> meeting where the Planning Commission took formal action to recommend to City Council that they rename the particular street to Palmain. So the formal action this evening will be to approve the minutes if there are any changes please note them before you take formal action.

Vice Chair Ali Alire does anyone have any changes?

**A MOTION WAS MADE BY COMMISSIONER JOE KRENOWICS TO APPROVE THE AUGUST 19, 2015 MEETING MINUTES AS PRESENTED. THE MOTION WAS SECONDED BY COMMISSIONER DENISE PIZA. THE MOTION PASSED UNANIMOUSLY**

V. **Additional Discussion**

Community Development Director Nicholas Snead I wanted to let the Planning Commission know that next Wednesday night we will have a public meeting here in Council Chambers at 6:00 p.m. this will be our 2<sup>nd</sup> public meeting that the Community Development Department has held. This is for the properties located south of Fairgrounds Road the City is considering rezoning those to mixed use employment zone. So we have mailed notice to all the affected property owners and in our first meeting we had the property owners come in and talked about the proposal. We will have a second meeting where we will respond to them and show them a refined proposal. That meeting and the feedback given at that meeting will be presented at the joint City/County Planning Commission meeting on Thursday September 24, 2015. So this will be a little irregular, as a Commission we are proposing on having a work session with just the Madras Planning Commission on September 24, 2015 at 5:30 p.m. We will discuss the proposed changes to the industrial zone. We are trying to take the industrial zoning regulations and bring them up to 2015. Then at 7:00 p.m. we will go into a joint work session with the County Planning Commission where we will talk about some other amendments to the comprehensive plan.



**CITY OF MADRAS**  
**Request for Planning Commission Action**

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**Date Submitted:** March 9, 2016  
**Agenda Date Requested:** March 16, 2016  
**To:** Madras Planning Commission  
**From:** Nicholas Snead, Community Development Director  
**Files:** CU-16-1 (Conditional Use)  
HO-16-1 (Home Occupation)  
**Subject:** **Daybreak Spa Studio Conditional Use and Home Occupation request for a massage and salon studio in the R-2 zone.**  
**Recommended Decision:** Approve with Conditions of Approval

**TYPE OF ACTION REQUESTED: (Check One)**

**Formal Action/Motion**                       **No Action - Report Only**  
 **Other**

**OVERVIEW:**

The Daybreak Spa Studio (applicant) has requested Conditional Use and Home Occupation approval for a massage and salon studio business that is proposed to be operated out of the residence where the applicant resides (Home Occupation) of which is located in the Single Family Residential Zone (R-1). The subject property is located in the R-1 zone which classifies Home Occupations as a Conditional Use and requires approval from the Madras Planning Commission.

**STAFF ANALYSIS:**

**120-Day Clock**

Quasi-judicial land use decisions are to be made with 120 days from the date the application was deemed complete. The applicant submitted a Conditional Use application on February 22, 2016 and deemed the application completed on February 22, 2016. On March 16, 2106, the land use proposal will be on day 24 of the 120 clock.

**Notice:**

On February 23, 2016 the Community Development Department (Department) notified all property owners within 250 feet of the subject property of the proposed Conditional Use and Home Occupation proposal. On February 23, 2016 the Department provided notice to the Development Team (i.e. agencies) requesting comments. The Department also published a Public Hearing Notice in the February 24, 2016 Madras Pioneer newspaper. Both the adjacent property owner notice and the Public Hearing notice published in the Madras Pioneer are consistent with the requirements for

Public Hearings in Article 9 of the City of Madras Zoning Ordinance, No. 723.

As of March 1, 2016, the Community Development Director received a voice message from the resident at 560 NE Beverly Street stating his concern for (1) the property owner does not maintain the shrubs adjacent to the Cedar and Beverly Streets right-of-way; (2) the City does not plow snow on Cedar and Beverly Streets; (3) the proposed salon will not be good for the neighborhood because it will bring more traffic to the neighborhood streets which will impact the condition of the streets. The recommended Findings and Decision (Attachment 1) discusses the resident's concerns. The Community Development Department has not received any other letters, emails or phone calls regarding the land use proposal.

### **Issues**

Of the three concerns from the resident of 560 NE Beverly Street, staff finds the concern regarding traffic is the only concern related to the approval criteria for this land use proposal. Staff has developed findings determining that the proposed Home Occupation will generate additional traffic however the additional traffic does not cause the volume of traffic on the Local Streets to exceed their designed volume. As such the additional traffic generated from the Home Occupation is similar to the vehicle trips generated by a single family dwelling as determined by the Institute for Transportation Engineers Trip Generation Manual. Therefore, the applicant is not required to mitigate the additional traffic generated by the proposed use. Additionally, to ensure the residential character of the neighborhood, livability, and property values are not negatively impacted by the proposed Home Occupation staff is recommending that conditions of approval be imposed on the use that limit the hours of operation to 10:00 AM to 7:00 PM daily and that customer parking be limited to either the subject property or on Cedar or Beverly Streets directly adjacent to the subject property.

### **Applicable Criteria**

The applicable approval criteria to the proposed land use action are identified in the Recommended Findings and Decision (Attachment 1). These are the basis for the decision that the Planning Commission must legally base its decision for the land use proposal. The proposed Conditional Use is a quasi-judicial land use decision for which the Daybreak Spa Studio (applicant) has the burden of proof to demonstrate compliance with the approval criteria. In addition, such land use decisions are to be based on fact. According, the Planning Commission must determine the facts and base its decision on the proposed Conditional Use accordingly. Staff has reviewed the proposed Conditional Use and Home Occupation applications and has made findings of compliance that demonstrate the proposal is consistent with the approval criteria for Conditional Uses and Home Occupations.

Staff notes that Home Occupation permits are administrative land use decisions that the Community Development Department reviews and approves. However because the property is zoned R-1 of which lists Home Occupations as a Conditional Use, Planning Commission approval is required. As such, staff has forwarded the Conditional Use and Home Occupation proposal to the Planning Commission to approve both land use action is one land use decision. This will allow the Planning Commission to review both land use proposals and review the two land use proposals simultaneously. Therefore, any action of the Planning Commission will affect both the Conditional Use and Home Occupation proposals.

**SUPPORTING DOCUMENTATION:**

Attachment 1: Planning Commission Recommended Findings and Decision  
Attachment 2: Conditional Use applications

**STAFF RECOMMENDATION:**

The Planning Commission approve Files # CU-16-1 and HO-16-1, based on the Planning Commission Recommended Findings and Decision.

**City of Madras  
Community Development Department  
125 SW "E" Street Madras, OR, 97741  
541-475-2344**

**PLANNING COMMISSION FINDINGS & DECISION**

**FILES:** HO-16-1 & CU-16-1

**DATE APPLICATION  
SUBMITTED:** February 22, 2016

**APPLICANT/  
PROPERTY OWNER:** Daybreak Spa Studio  
Lorinda Roslund  
403 NE Cedar Street  
Madras, OR 97741

**LOCATION:** The subject property addressed as 403 NE Cedar Street and is identified as tax lot 203 on Jefferson County Assessor's Map # 11-13-01CA.

**REQUEST:** The applicant has requested Home Occupation and Conditional Use approval for a massage and salon studio.

**ZONING:** Single Family Residential (R-1).

**PLANNING  
COMMISSION  
REVIEWER:** Nicholas Snead,  
Community Development Director  
541-475-2344, [nsnead@ci.madras.or.us](mailto:nsnead@ci.madras.or.us)

**APPLICABLE ORDINANCE PROVISIONS AND CITY POLICIES**

Note: The City of Madras when issuing a Findings and Decision for a development attempts to list all applicable City ordinances and requirements. However, should the City inadvertently not specify a particular ordinance, policy or standard, that oversight does not relieve the applicant from meeting the requirements from that ordinance, policy or standard, or remove the City's obligation and authority to enforce that ordinance, policy or standard.

1. Chapter 8-12 of the Madras Development Code, Zoning:
  - Article 3 – Land Use Zones
    - Section - 3.1-Single Family Residential (R-1)
    - Section – 3.1.2-Home Occupation
  - Article 4 – Supplementary Provisions
    - Section – 4.10—Illegal Occupancy
    - Section – 4.12—Vision Clearance
  - Article 6 – Conditional Uses
  - Article 9 – Administrative Provisions

### **EXHIBITS**

The following exhibits make up the record in this matter and are on file with the Community Development Department and are herein by reference incorporated into this land use decision as approval criteria and findings that support all findings of compliance with the applicable review criteria and conditions of approval.

1. Conditional Use application and supporting information submitted by the applicant on February 22, 2016 and thereafter.
2. February 23, 2016 Adjacent Property Owner Notice.
3. February 23, 2016 Development Team Notice.
4. February 24, 2016 Public Hearing Notice published in the Madras Pioneer newspaper.
5. Comments submitted to the City of Madras Community Development Department regarding the matter as a result of the Adjacent Property Owner and Development Team Notices.

### **FINDINGS**

1. **PROPERTY LOCATION:**  
The subject property addressed as 403 NE Cedar Street and is identified as tax lot 203 on Jefferson County Assessor's Map # 11-13-01CA.
2. **ZONING AND COMPREHENSIVE PLAN DESIGNATION:**  
The subject property is designated and zoned Single Family Residential (R-1) on the City of Madras Urban Area Comprehensive Plan and Zoning Map as shown in Figure 1 below.

3. **SITE DESCRIPTION:**

The subject property is identified as Lot 1, Block 1, of the Herzberg Heights Subdivision. The property is developed with a single-family detached dwelling. Cedar Street is not improved to City standard, although it is paved and has curbs, it is not constructed to the City's Local street standard. Cedar Street is does not have a functional classification in the City of Madras Transportation System Plan (2012) as the Herzberg and Bel Air Subdivisions were annexed into the City of Madras after the City's Transportation Plan was adopted.

Figure 1. Subject Property and Zoning.

Figure 2. Aerial Photograph of Subject Property.

4. **SURROUNDING LAND USES:**

The properties to the north, east, south, and west of the subject property are zoned R-2 and are also developed with single-family detached dwellings as shown in Figures 1 and 2 (above).

5. **PROPOSAL:**

The applicant has requested Home Occupation and Conditional Use approval for a fire arms repair business.

6. **APPLICATION ACCEPTANCE DATE:**

The application was submitted on July 31, 2015 and deemed complete on July 31, 2015. These land use decisions were rendered by the Madras Planning Commission on September 3, 2015, which is day 35 of the 120 clock.

7. **SITE PLAN REVIEW COMMITTEE COMMENTS:**

On August 7, 2015 the Community Development Department sent notice electronically via email to affected agencies (a.k.a the Development Team) that were provided electronic copies of the materials submitted by the applicant for review and were asked to provide comments to the Community Development

Department by March 4, 2016. Below are the comments that were received.

**City of Madras Public Works:**

The public works department has no comment.

**Jefferson County Fire District, Fire Marshall Requirements:**

No comments received.

**Jefferson County Building Official:**

No comments received.

**Oregon Department of Transportation, William Hilton and Michael Duncan:**

No comments received.

**8. PUBLIC COMMENTS RECEIVED:**

On March 1, 2016 Del Poppy, who lives at 560 NE Beverly Drive called the Community Development Director and shared his concerns for the proposed Home Occupation. In particular, the resident was concerned about (1) the property owner does not maintain the shrubs adjacent to the Cedar and Beverly Streets right-of-way; (2) the City does not plow snow on Cedar and Beverly Streets; (3) the proposed salon will not be good for the neighborhood because it will bring more traffic to the neighborhood streets which will impact the condition of the streets.

**CHAPTER 8-9, GENERAL ORDINANCES OF THE CITY OF MADRAS: REGULATING THE PLACEMENT OF SIGNS.**

**ARTICLE 2: BASIC PROVISIONS**

**Section 2.1 Sign Erection, Repair, Etc.:**

**It is unlawful for any person to erect, repair, alter or relocate or maintain within this city, any sign or other graphic except as provided in this ordinance.**

**FINDING:** The applicant's proposal does not include provisions for signs. As such, the applicant shall be required to submit a Sign Permit application for the proposed signage to the Community Development Department prior to installation of any signage on the subject property. The Planning Commission notes that Section 2.6 of the Ordinance No. 693 regulates signage for residentially zoned properties. Planning Commission finds the above stated criterion is satisfied.

**CHAPTER 8-12, GENERAL ORDINANCES OF THE CITY OF MADRAS: ESTABLISHING LAND USE ZONES TO REGULATE THE LOCATION OF BUILDING STRUCTURES AND THE USE OF LAND WITHIN THE CITY OF MADRAS, OREGON.**

**Section 8-12.2.2. Zoning Application.** Prior to the construction, alteration or change of use for a structure or lot a zoning application may be required from the City Community Development Department.

**FINDING:** The applicant has requested Conditional Use and Home Occupation approval for a fire arms repair home occupation on the subject property. Such proposal requires a submittal of a Conditional Use and Home Occupation application to the City of Madras Community Development Department for approval. The Planning Commission finds the applicant has submitted the correct applications requesting approval for the proposed development prior to the use occurring.

**Section 8-12.2.3 Time Limit on a Zoning Application.** Authorization of a zoning application shall be void after one (1) year unless a building permit has been obtained and substantial construction has taken place. However, the Community Development Director may extend authorization for an additional period not to exceed one (1) year upon request by the applicant or property owner.

**FINDING:** Given the applicant's ability to meet the imposed conditions of approval, the Planning Commission finds the proposed Home Occupation and Conditional Use will satisfy the stated criteria herein. Such approvals will be void after one-year of the land use decision becoming final if the applicant has not taken the necessary actions to perfect the approvals. If the applicant wishes to extend the land use approval, the applicant shall submit a formal letter to the Community Development Department Director requesting an approval extension for one (1) year. Land use approval extensions are only granted for one (1) year.

**SECTION 3.1.2 HOME OCCUPATION. Purpose: To conduct a lawful occupation by the resident(s) of the dwelling.**

**A. Requirements:**

- 1. Home occupation must be operated in the primary dwelling or accessory structure on the same lot by the resident(s) of the dwelling.**

**FINDING:** Section 1.3 of the City of Madras Zoning Ordinance (No. 864) defines a Home Occupation as, "*The lawful occupation conducted in the dwelling or accessory structure by the property owner(s) or person(s) residing in the dwelling.*" Based on the materials submitted by the applicant, the Planning Commission finds the applicant resides on the subject property and therefore satisfies the definition of a Home Occupation and thereby the above stated standard.

**B. Criteria:**

- 1. Will the operation of the home occupation be conducted in the dwelling or an accessory structure on the lot?**

**FINDING:** Based on the materials submitted by the applicant, the Home Occupation will conduct business from within the dwelling located on the subject property and thereby satisfy the above stated standards.

- 2. Will the operation of the home occupation be conducted by a resident(s) of the dwelling?**

**FINDING:** Based on the materials submitted by the applicant, the Home Occupation will be operated by the applicant who is one of the residents of the dwelling on the subject property.

- 3. Will there be employees? Part-time or full-time.**

**FINDING:** Based on the materials submitted by the applicant, the Home Occupation will have one part-time employee, the applicant.

- 4. Will the residential character of the neighborhood change because of the “commercial” nature of the proposal? State how this will not change the residential character.**

**FINDING:** The applicant told the Community Development Director that the salon will operate one to two days per week. Based on the limited number of days per week the proposed Home Occupation will not generate traffic seven days per week. Additional traffic will be limited to one or two days per week. The applicant has not identified where customers of the Home Occupation will park. To ensure that the customers of the Home Occupation parking do not affect the residential neighborhood, the applicant shall only permit customers to parking their vehicles on Cedar or Beverly Streets adjacent to the subject property or on the subject property. This limitation shall be imposed as a condition of approval to ensure customer parking does not negatively affect the character of the neighborhood. Based on the applicant’s ability to comply with the imposed condition of approval, the above stated standard is satisfied.

**CONDITION OF APPROVAL:** Customer parking for the Home Occupation shall be limited to either the subject property or on-street parking on Cedar and Beverly Streets directly adjacent to the subject property.

- 5. Will traffic increase because of the proposal? State how it will not increase traffic in the residential neighborhood.**

**FINDING:** The Planning Commission finds the resident of 560 NE Beverly Drive has expressed concerns about (1) the property owner does not maintain the shrubs adjacent to the Cedar and Beverly Streets right-of-way; (2) the City does not plow snow on Cedar

and Beverly Streets; (3) the proposed salon will not be good for the neighborhood because it will bring more traffic to the neighborhood streets which will impact the condition of the streets. The Planning Commission finds that concerns # 1 and 2 as identified by the resident of 560 NE Beverly are not related to the above stated criterion and, in general, the approval criteria for the proposed Conditional Use and Home Occupation. Specifically, the ability of the property owner or quality of landscaping maintenance on the subject property is not an approval criterion for a Conditional Use or Home Occupation. Additionally, the whether the City plows the snow on Cedar and or Beverly Streets is also not an approval criterion for the proposed Conditional Use and Home Occupation.

However, concern #3 of the resident of 560 NE Beverly Drive is related to the above stated criterion. Specifically, the traffic generated by a Home Occupation may adversely impact the livability, value, and/or development of abutting properties and the surrounding area. The Planning Commission that the Institute for Transportation Engineers Trip Generation Manual 9<sup>th</sup> Ed. (ITE Manual) identifies that single family detached dwellings generate one (1) vehicle trip between the hours of 4:00 pm and 6:00 pm, Monday through Friday. The Commission finds that the ITE Manual does not account for vehicle trips related to parcel deliveries, service, or visitors to a dwelling as those vehicle trips vary between dwellings. In other words, one property owner may have daily parcel deliveries and a weekly house cleaner and therefore generates additional vehicle trips than what the ITE Manual estimates for average single family detached dwelling. Whereas another property owner may not receive any parcel deliveries or does not have a house cleaner and therefore generates one vehicle trip.

The Planning Commission also considers that when the applicant is conducting the business of the Home Occupation, they are not using their vehicle and therefore not creating a vehicle trip. As such, Home Occupations when operating may reduce the number of total vehicle trips generated by the use that are associated with the resident and customers of the Home Occupation vehicle trips generated by the use. However, the Planning Commission finds the proposed Conditional Use and Home Occupation will generate additional vehicle trips but cannot quantify how many more trips will be generated. Furthermore, the Planning Commission finds that in the materials submitted by the applicant, the applicant will have a maximum of four clients per day, acknowledges that vehicle trip generation for single family detached dwellings varies, and therefore finds the additional vehicle trips generated by the proposed Conditional Use and Home Occupation to not be substantially greater than any other single family detached dwelling. Based on this finding the Planning Commission finds the proposed use will not significantly generate additional vehicle trips than a typical single family detached dwelling and thereby will not adversely affect the livability or property values of property adjacent or in the vicinity of the subject property.

The Planning Commission also finds that the Herzberg Heights and Bel Air subdivisions were approved and platted by Jefferson County. The infrastructure serving the subdivisions was constructed to County standards that were in effect when the subdivisions were platted. After the subdivisions were developed, the City of Madras annexed the subdivisions. Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets are not

constructed to City standard. Currently, Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets are not under the jurisdiction of the City of Madras rather Jefferson County. Accordingly, Jefferson County is responsible for road maintenance and repair. Furthermore, it is Jefferson County's policy that only in certain circumstances do they plow snow on County roads, which explains why the resident of 560 NE Beverly is concerned about the snow being plowed on Cedar and Beverly Streets.

While Jefferson County is responsible for the maintenance of Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets, the City is responsible for transportation planning for the aforementioned streets. The City of Madras Transportation System Plan (Ordinance No. 847, pg. 146-153) functionally classifies the aforementioned streets as Local Streets and defines Local Streets as, "*Local streets are primarily intended to provide access to abutting land uses. Local street facilities off the lowest volume of mobility and consequently tend to be short, low-speed facilities. As such, local streets primarily serve passenger cars, pedestrians, and bicyclists; heavy truck traffic should be discouraged. On-street parking is common and sidewalks may be present depending on the volume of traffic on the local road and the density of residential land use and in commercial areas.*"

Based on the function classification of the aforementioned streets in the City's Transportation System Plan, the Planning Commission finds the proposed Conditional Use and Home Occupation trip generation will not cause the volume of traffic to exceed the designed traffic volume for Local Streets. Furthermore, the condition of the pavement of the roadway surface on Cedar and Beverly Streets will not be significantly degraded from the additional traffic generated by the proposed Conditional Use and Home Occupation such that the applicant would need to mitigate the impacts of the proposed use. Based on this information the Planning Commission finds that the proposed Conditional Use and Home Occupation will not negatively affect the livability or value of properties adjacent or in the vicinity of the subject property as a result of the additional vehicle trips generated by the proposed use.

In summary, the Planning Commission finds the proposed Conditional Use and Home Occupation will generate additional vehicle traffic beyond the amount of a typical single family detached dwelling based on the Institute for Transportation Engineering Trip Generation Manual. However, the additional vehicle trips generated by the proposed use will not exceed the designed Local Street traffic volume. The Planning Commission considers the concerns identified by the resident of 560 NE Beverly Street, the trip generation of the proposed use, the provisions of the City of Madras Transportation System Plan, the limitations on customer parking, and limitations on the Home Occupation's hours of operation, and concludes the proposed Conditional Use and Home Occupation satisfies the above stated standard.

**6. Will the hours of operation be consistent with the residential character of the neighborhood?**

**FINDING:** Based on the materials submitted by the applicant, the Home Occupation will conduct business between the hours of 10:00 AM to 7:00 PM. Additionally, the applicant has stated there likely be a maximum of only four clients per day; that there will only be

one or two clients present at any one time; and that the traffic impact won't be noticeable. To ensure compliance with the above stated criterion and Section 3.1.2(B(9)) on pages 10-13 of this land use decision, the Planning Commission will limit the hours of operation for the proposed Conditional Use and Home Occupation to 10:00 AM to 7:00 PM daily. This limitation shall be imposed as condition of this land use approval. Based on the information furnished by the applicant and the applicant's ability to comply with the imposed conditions of approval, the proposed use will not alter the residential character of the Herzberg Heights and Bel Air subdivisions (i.e. neighborhoods).

**CONDITION OF APPROVAL:** The Home Occupation shall limit business hours to 10:00 AM to 7:00 PM daily.

7. **Will not unreasonably interfere with other uses permitted in the residential zone in which the property is located.**

**FINDING:** Based on the materials submitted by the applicant, the Planning Commission finds the services provided by the Home Occupation will be conducted entirely from within the dwelling on the subject property and therefore will not interfere with the existing residential uses (i.e. dwellings) in the neighborhood.

8. **The proposal will be consistent with the City of Madras Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies of the city.**

**FINDING:** The Planning Commission finds the proposed Home Occupation is consistent with the City of Madras Comprehensive Plan. The Herzberg Heights Subdivision is zoned on the City of Madras Urban Area Comprehensive Plan and Zone Map as Single Family Residential (R-1). Furthermore the City's Comprehensive Plan is implemented by the City's Zoning Ordinance (No. 864) and therefore the proposed Conditional Use and Home Occupation ability to comply with the Zoning Ordinance equates to compliance with the Comprehensive Plan. Based on the applicant's ability to comply with the approve criteria identified in this land use decision, the proposed Conditional Use and Home Occupation will satisfy the above stated standard.

9. **Taking into account the location, size, design, and operation characteristics of the proposal, the home occupation will not impose any adverse impact on the livability, value, and/or development of abutting properties and the surrounding area.**

**FINDING:** The Planning Commission finds primary use of the property is a single family residence. Based on the materials provided by the applicant, the home occupation will be conducted from within a portion of the existing dwelling on the property, the applicant has not proposed structural alterations to the existing dwelling, and the resident of the dwelling will be the only person engaged in the Home Occupation. The applicant has not submitted information identifying where customers of the Home Occupation will park. The

Planning Commission finds that customer parking may affect the livability and value of properties adjacent or in the vicinity of the subject property. To ensure livability and property values are not compromised as a result of the proposed Home Occupation, the Planning Commission finds that customers shall either park on Cedar or Beverly Street directly adjacent to the subject property or on the subject property. This requirement shall be imposed as a condition of the Conditional Use and Home Occupation approval to ensure the livability and value of properties adjacent or in the vicinity of the subject property are not negatively affected by the proposed use.

**CONDITION OF APPROVAL:** Customers of the Home Occupation shall either park on Cedar or Beverly Street directly adjacent to the subject property or on the subject property.

The Planning Commission finds that the City of Madras Community Development Department mailed notice of the proposed Home Occupation to all property owners within 250 feet of the subject property on February 23, 2016 and published notice of the March 16, 2016 Planning Commission public hearing in the February 24, 2016 Madras Pioneer newspaper. As previously discussed, the resident of 560 NE Beverly Drive has expressed concerns about (1) the property owner does not maintain the shrubs adjacent to the Cedar and Beverly Streets right-of-way; (2) the City does not plow snow on Cedar and Beverly Streets; (3) the proposed salon will not be good for the neighborhood because it will bring more traffic to the neighborhood streets which will impact the condition of the streets. The Planning Commission finds that concerns # 1 and 2 as identified by the resident of 560 NE Beverly are not related to the above stated criterion and, in general, the approval criteria for the proposed Conditional Use and Home Occupation. Specifically, the ability of the property owner or quality of landscaping maintenance on the subject property is not an approval criterion for a Conditional Use or Home Occupation. Additionally, the whether the City plows the snow on Cedar and or Beverly Streets is also not an approval criterion for the proposed Conditional Use and Home Occupation.

However, concern #3 of the resident of 560 NE Beverly Drive is related to the above stated criterion. Specifically, the traffic generated by a Home Occupation may adversely impact the livability, value, and/or development of abutting properties and the surrounding area. The Planning Commission that the Institute for Transportation Engineers Trip Generation Manual 9<sup>th</sup> Ed. (ITE Manual) identifies that single family detached dwellings generate one (1) vehicle trip between the hours of 4:00 pm and 6:00 pm, Monday through Friday. The Commission finds that the ITE Manual does not account for vehicle trips related to parcel deliveries, service, or visitors to a dwelling as those vehicle trips vary between dwellings. In other words, one property owner may have daily parcel deliveries and a weekly house cleaner and therefore generates additional vehicle trips than what the ITE Manual estimates for average single family detached dwelling. Whereas another property owner may not receive any parcel deliveries or does not have a house cleaner and therefore generates one vehicle trip.

The Planning Commission also considers that when the applicant is conducting the business of the Home Occupation, they are not using their vehicle and therefore not

creating a vehicle trip. As such, Home Occupations when operating may reduce the number of total vehicle trips generated by the use that are associated with the resident and customers of the Home Occupation vehicle trips generated by the use. However, the Planning Commission finds the proposed Conditional Use and Home Occupation will generate additional vehicle trips but cannot quantify how many more trips will be generated. Furthermore, the Planning Commission finds that in the materials submitted by the applicant, the applicant will have a maximum of four clients per day, acknowledges that vehicle trip generation for single family detached dwellings varies, and therefore finds the additional vehicle trips generated by the proposed Conditional Use and Home Occupation to not be substantially greater than any other single family detached dwelling. Based on this finding the Planning Commission finds the proposed use will not significantly generate additional vehicle trips than a typical single family detached dwelling and thereby will not adversely affect the livability or property values of property adjacent or in the vicinity of the subject property.

The Planning Commission also finds that the Herzberg Heights and Bel Air subdivisions were approved and platted by Jefferson County. The infrastructure serving the subdivisions was constructed to County standards that were in effect when the subdivisions were platted. After the subdivisions were developed, the City of Madras annexed the subdivisions. Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets are not constructed to City standard. Currently, Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets are not under the jurisdiction of the City of Madras rather Jefferson County. Accordingly, Jefferson County is responsible for road maintenance and repair. Furthermore, it is Jefferson County's policy that only in certain circumstances do they plow snow on County roads, which explains why the resident of 560 NE Beverly is concerned about the snow being plowed on Cedar and Beverly Streets.

While Jefferson County is responsible for the maintenance of Cedar, Chestnut, Beverly, Buckeye, Plaza and Lakside Streets, the City is responsible for transportation planning for the aforementioned streets. The City of Madras Transportation System Plan (Ordinance No. 847, pg. 146-153) functionally classifies the aforementioned streets as Local Streets and defines Local Streets as, "*Local streets are primarily intended to provide access to abutting land uses. Local street facilities off the lowest volume of mobility and consequently tend to be short, low-speed facilities. As such, local streets primarily serve passenger cars, pedestrians, and bicyclists; heavy truck traffic should be discouraged. On-street parking is common and sidewalks may be present depending on the volume of traffic on the local road and the density of residential land use and in commercial areas.*"

Based on the function classification of the aforementioned streets in the City's Transportation System Plan, the Planning Commission finds the proposed Conditional Use and Home Occupation trip generation will not cause the volume of traffic to exceed the designed traffic volume for Local Streets. Furthermore, the condition of the pavement of the roadway surface on Cedar and Beverly Streets will not be significantly degraded from the additional traffic generated by the proposed Conditional Use and Home Occupation such that the applicant would need to mitigate the impacts of the proposed use. Based on this information the Planning Commission finds that the proposed Conditional Use and Home Occupation will not negatively affect the livability or value of properties adjacent or in the

vicinity of the subject property as a result of the additional vehicle trips generated by the proposed use.

In summary, the Planning Commission finds the proposed Conditional Use and Home Occupation will generate additional vehicle traffic beyond the amount of a typical single family detached dwelling based on the Institute for Transportation Engineering Trip Generation Manual. However, the additional vehicle trips generated by the proposed use will not exceed the designed Local Street traffic volume. The Planning Commission considers the concerns identified by the resident of 560 NE Beverly Street, the trip generation of the proposed use, the provisions of the City of Madras Transportation System Plan, the limitations on customer parking, and limitations on the Home Occupation's hours of operation, and concludes the proposed Conditional Use and Home Occupation satisfies the above stated standard.

**10. The proposal will preserve assets of particular interest to the community.**

**FINDING:** The materials submitted by the applicant do not directly address this criterion. As such, the Planning Commission finds that the applicant has satisfied the approval criteria for a Conditional Use and Home Occupation which establishes that the proposed use will not negatively affect the residential character of the neighborhood for which the proposed use is locate. Furthermore the Planning Commission finds that Home Occupations can provide numerous benefits for both home-based workers and the town. Home-based businesses provide useful services and encourage business growth by eliminating the initial need for some small businesses to rent commercial space, an important factor to someone who is just starting a new venture. Working at home also saves commuting and childcare costs and reduces traffic congestion. Home occupations can also provide many people who might be unable to work outside the home (including single parents, the elderly, and the disabled) an opportunity to earn a living. And by creating activity in residential neighborhoods that might otherwise be deserted during the day, home occupations help to reduce crime. Based on these findings the Planning Commission finds the above stated standard to be satisfied.

**Section 8-12.4.10. Illegal Occupancy. Any use of premises or a building, which deviates from, or violates any of the provisions of this ordinance, shall be termed an illegal occupancy and the persons responsible shall be subject to the penalties herein provided.**

**FINDING:** Planning Commission finds the applicant is required to receive Home Occupation approval for the proposed land use. The applicant shall be required to meet all applicable requirements of the City of Madras' Ordinances relating to the development of the subject property. It shall be a condition of approval that any use of premises or a building, which deviates from, or violates any of the provisions of this ordinance or this land use decision, shall be termed an illegal occupancy and the persons responsible shall be subject to enforcement and penalties of the City of Madras Zoning Ordinance.

**CONDITION OF APPROVAL:** Any use of the premises or building which deviates

from, or violates any of the provisions of this ordinance or this land use decision, shall be termed an illegal occupancy and the persons responsible shall be subject to enforcement and penalties of the City of Madras Zoning Ordinance (No. 864).

**Section 8-12.4.11 Vision Clearance.**

**FINDING:** Based on the materials submitted by the applicant, the Planning Commission finds the applicant has not propose any construction or alterations the subject property or dwelling on the subject property. As such, the Planning Commission finds the above stated standard to be satisfied.

**Section 8-12.4.13 Signs. Sign placement and size shall be regulated according to the City's sign.**

**FINDING:** As previously discussed, the applicant does not plan to install signage for the proposed Home Occupation. As such, the Planning Commission finds the above stated standard to be not applicable to the land use action.

**SECTION 3.1 SINGLE FAMILY RESIDENTIAL (R-1).**

**B. CONDITIONAL USES. (Subject to Site Plan Review)**

**1. Home Occupations (see Section 3.1.2) (Planning Commission Review)**

**FINDING:** The Planning Commission finds the applicant has proposed a Home Occupation on a property that is zoned R-1. As stated above, Home Occupations in the R-1 zone are Conditional Use which required Conditional Use approval from the Madras Planning Commission. The Planning Commission finds the applicant has filed a Conditional Use and Home Occupation applications which are the required for the proposed Home Occupation located in the R-1 zone.

**ARTICLE 6: CONDITIONAL USES**

**SECTION 6.1 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.**

**A. Conditional Uses listed, or otherwise described in the Zoning Ordinance may be permitted, enlarged or otherwise altered, upon authorization by the Planning Commission in accordance with the standards and conditions in this Article the Planning Commission may elect to forward any request to the City Council for determination. In permitting a Conditional Use or the modification of a Conditional Use, the Planning Commission may impose any additional conditions necessary to protect the best interests of the surrounding property or the City as a whole.**

**B. Standards for granting Conditional Uses are:**

**1. The proposal will be consistent with the Comprehensive Plan.**

**FINDING:** The Planning Commission finds that the City's Comprehensive Plan is implemented by the City's Zoning Ordinance (No. 864) and therefore the proposed Conditional Use and Home Occupation ability to comply with the Zoning Ordinance equates to compliance with the Comprehensive Plan. Based on the applicant's ability to comply with the approve criteria identified in this land use decision, the proposed Conditional Use and Home Occupation will satisfy the above stated standard. As such, the Planning Commission finds the above stated criterion is satisfied.

**2. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use or structure, considering building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.**

**3. Taking into account location, size, design, and operating characteristics, the proposal, including any proposed conditions of approval, is compatible with and will have a minimal adverse impact on abutting properties and the surrounding area in terms of:**

- a. livability,**
- b. property values, and**
- c. development opportunities**

**FINDING:** The Planning Commission herein by reference incorporates the findings for Home Occupations under criterion 3.1.1(B)(9) on pages 9-11 of this land use decision. Based on these findings and the applicant's ability to comply with the conditions of approval set forth in this land use decision, the Planning Commission finds the proposed Conditional Use and Home Occupation complies with the above stated standard.

**4. The proposal will preserve assets of particular interest to the community.**

**FINDING:** The materials submitted by the applicant do not directly address this criterion. As such, the Planning Commission finds that the applicant has satisfied the approval criteria for a Conditional Use and Home Occupation which establishes that the proposed use will not negatively affect the residential character of the neighborhood for which the proposed use is locate. Furthermore the Planning Commission finds that Home Occupations can provide numerous benefits for both home-based workers and the town. Home-based businesses provide useful services and encourage business growth by eliminating the initial need for some small businesses to rent commercial space, an important factor to someone who is just starting a new venture. Working at home also saves commuting and childcare costs and reduces traffic congestion. Home occupations can also provide many people who might be unable to work outside the home (including single parents, the elderly, and the disabled) an opportunity to earn a living. And by creating activity in residential neighborhoods that might otherwise be deserted during the day, home occupations help to reduce crime. Based on these findings the Planning

Commission finds the above stated standard to be satisfied.

- 5. The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal and is not motivated solely by such purposes as the alteration of property values for speculative purposes.**

**FINDING:** Based on the materials submitted by the applicant, the Planning Commission finds no reason or justification to question the intent or ability of the applicant to open a Home Occupation and comply with the provisions of this land use decision. The Planning Commission finds the applicant will have the capability to use the subject property in a manner that is consistent with the City of Madras Zoning Ordinance, No. 864 and in doing so will satisfy the above stated standard.

- 6. The proposal will not place an excessive burden on sewage, water supply, parks, schools, or other public facilities including traffic flows in the area.**

**FINDING:** The Planning Commission relies upon the City of Madras Public Works Director for determining the impacts of the proposed Home Occupation on the City's sewer, domestic water, transportation, parks and stormwater facilities. The Planning Commission finds the Public Works Director has stated, "The public works department has no comment" and therefore finds there are no impacts to the City's infrastructure that need to be mitigated by the applicant as a result of the proposed use.

- C. In permitting a new Conditional Use the Planning Commission may impose (in addition to those standards and requirements expressly specified by this ordinance) additional conditions, which the Planning Commission considers necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include, but are not limited to the following:**

- 1. Increasing the required lot size or yard dimension.**
- 2. Limiting the height, size, or location of buildings.**
- 3. Controlling the location and number of vehicle access points.**
- 4. Increasing the street width.**
- 5. Increasing the number of required off-street parking spaces.**
- 6. Limiting the number, size, location, and lighting of signs.**
- 7. Required diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.**
- 8. Designating sites for open space.**

**FINDING:** As previously discussed, the applicant has not identified where customers of

the Home Occupation will park. To ensure customer parking does not negatively affect the livability and property values of the neighborhood, a condition of approval has been imposed to restrict customer parking to either the subject property or on Cedar or Beverly Streets directly adjacent to the subject property. Based on the applicant's ability to comply with the imposed conditions of approval, the comments submitted by the Development Team (i.e. agency comments) there is not a need to impose additional conditions of approval related to Section 6.1(C)(1)-(8) for the proposed Conditional Use and Home Occupation. However, the Community Development Director has determined that the applicant has not filed Business License application with the City of Madras as required by the City's Business License Ordinance No. 849. As such, the Planning Commission finds it necessary to impose a condition of approval to require the applicant to obtain a Business License from the City of Madras in accordance with Ordinance No. 849. Based on the applicant's ability to comply with the imposed condition of approval, the Planning Commission finds the above stated criteria are satisfied.

**CONDITION OF APPROVAL:** The applicant to obtain a Business License from the City of Madras in accordance with Ordinance No. 849.

**D. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a Conditional Use, any change in the use or in lot area, or an alteration of structure shall conform with the requirements for Conditional Use.**

**FINDING:** Planning Commission has determined that the proposed Conditional Use and Home Occupation did not exist prior to the effective date of the City of Madras Zoning Ordinance No. 874. As such, the Planning Commission finds the proposed Conditional Use and Home Occupation is not required to demonstrate compliance with Section 5.1—Non-Conforming Uses.

**SECTION 6.2 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE.** The procedure for taking action on a Conditional Use application shall be as follows:

**A. A property owner may initiate a request for a Conditional Use by filing an application with the City Community Development Department.**

**FINDING:** The Planning Commission finds the applicant has submitted the required Conditional Use and Home Occupation applications, materials, and application fee to the City of Madras Community Development Department and thereby satisfied the above stated standard.

**B. Before the Planning Commission may act on a Conditional Use application a public hearing shall be held pursuant to Sections 9.3, 9.5 to 9.17.**

**FINDING:** The Planning Commission finds a public hearing for the Planning Commission was held on March 16, 2016 at 7:00 PM at City Hall in the Council Chambers. The Community Development Department has published a Public Notice of the public hearing in the February 24, 2016 Madras Pioneer newspaper at least 21 days in advance of the public hearing. Additionally, Community Development Department has mailed a public hearing notice to all property owners within 250 feet of the subject property on February

23, 2016. As such, the Planning Commission will hold a public hearing for the proposed Home Occupation in a manner that is consistent with Sections 9.3, 9.5 through 9.17 in Article 9 of the City of Madras Zoning Ordinance (Ordinance No. 864) and thereby satisfies the above stated standard.

**C. The decision of the Planning Commission shall be final unless appealed under Section 9.21. An appeal of a Planning Commission decision shall follow the appeals process as outlined in Sections 9.22 and 9.23.**

- 1. The City Council shall review the decision of the Planning Commission on the record without hearing further evidence. The Council shall affirm the decision of the Planning Commission or may modify any conditions of approval made by the Planning Commission.**
- 2. The City Council decision on the Planning Commission action shall be appealed to the Land Use Board of Appeals (LUBA) within twenty one (21) days of the date the City Council decision is mailed.**

**FINDING:** The Planning Commission finds the above stated requirements to be applicable to the proposed Home Occupation.

**SECTION 6.3 TIME LIMIT.** Authorization of a Conditional Use shall be void after one (1) year unless a building permit has been obtained and remains valid. However, a written request to extend the time limit for an additional period not to exceed one (1) year may be submitted to the Community Development Department for scheduling before the Planning Commission for their determination.

**SECTION 6.4 LIMITATION ON REAPPLICATIONS.** No application of a property owner for a Conditional Use shall be considered by the Planning Commission within a one (1) year period immediately following a previous denial of such request.

**FINDING:** The Planning Commission finds the above stated standard to apply to the proposed Home Occupation.

**8-12.9: ARTICLE 9: ADMINISTRATIVE PROVISIONS.**

**Section 8-12.9.2. Land Use Permit:** The words Land Use Permit, as used in this Article, means any permitted use of land, other than a building, sign, sanitation or utility connection permit.

**FINDING:** The applicant has requested Home Occupation and Conditional Use approval which is considered to be a Land Use Permit under the definitions of the City of Madras Zoning Ordinance No. 864 and therefore all applicable provisions of the City of Madras development codes applicable to Land Use Permits shall govern development on the subject property.

**Section 8-12.9.3, Administrative Actions: An application for a Land Use Permit, other than a Subdivision, Planned Unit Development, Comprehensive Plan Map Amendment, and Zone Change may be decided as an administrative action.**

**FINDING:** The Planning Commission finds that the procedural requirements for a land use action that is not an Administrative Actions has been followed as stipulated in Article 9 of the City of Madras Zoning Ordinance No. 864 and thereby satisfies the above stated criteria.

### **DECISION**

Based on the "Findings" described above, and when the conditions set forth in each "Finding" are met, it has been determined that the proposed Conditional Use and Home Occupation will meet the applicable criteria set forth in the General Ordinances of the City of Madras as herein. Therefore, the City of Madras Community Development Department hereby grants **approval** of CU-16-1 and HO-16-1 (Daybreak Spa Salon), subject to the following conditions being satisfied as specified herein. This land use approval is based on the applicant meeting all conditions identified in the section entitled "Findings". Approval is based on the application and materials submitted on February 22, 2015 by the applicant and thereafter, and all items listed under "Exhibits." Any alteration to the approved plans, except modified by the following conditions of approval, may require a modification or a new application.

### **CONDITIONS OF APPROVAL**

1. Any use of the premises or building which deviates from or violates any of the provisions of this ordinance, shall be termed an illegal occupancy and the persons responsible shall be subject to the penalties provided in the City of Madras Zoning Ordinance (No. 864).
2. The Home Occupation shall limit business hours to 10:00 AM to 7:00 PM daily.
3. Customers of the Home Occupation shall either park on Cedar or Beverly Street directly adjacent to the subject property or on the subject property.
4. The applicant to obtain a Business License from the City of Madras in accordance with Ordinance No. 849.

### **END OF CONDITIONS OF APPROVAL**

**THIS DECISION BECOMES FINAL FIFTEEN (15) DAYS FROM DATE MAILED UNLESS A WRITTEN APPEAL IS SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT WITH A PAYMENT OF A THE APPEAL FEE AS SPECIFIED IN THE CURRENT CITY OF MADRAS FEE RESOLUTION. FOR MORE INFORMATION ON APPEALS, PLEASE CALL (541) 323-2916.**

**In accordance with Madras Land Development Ordinance (MLDO) Section 9.26, all land use approvals shall be valid for a period of one (1) year unless extended in compliance with Section 9.27 of the MLDO. Such extensions shall be administrative, in writing, and not subject to appeal. Any change or modification will require a new application and approval by the City of Madras Community Development Department.**

\_\_\_\_\_  
**Joel Hessel, Chair  
Madras Planning Commission**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Mailed by  
Nicholas Snead  
Community Development Director**

\_\_\_\_\_  
**Date**

cc: Development Team, Parties of the Record, Files CU-16-1 and HO-16-1.

CITY OF MADRAS  
COMMUNITY DEVELOPMENT DEPARTMENT

**CONDITIONAL USE APPLICATION**

(To be accompanied by a Site Plan Map and Letter of Authorization, if applicable.)

|                 |  |
|-----------------|--|
| OFFICE USE ONLY |  |
| FILE #          | <u>CY-16-1</u> FEE \$ <u>885.<sup>00</sup></u> |
| ZONING DISTRICT | <u>R-1</u>                                     |
| RECEIPT #       | _____  |
| DATE RECEIVED   | <u>2/22/16</u>                                 |

The Burden of Proof for Approval of an Application rests with the applicant. You must provide documentation regarding the property and application criteria in sufficient detail and accuracy to enable the department to find that your application complies with the approval criteria.

Please answer the questions as completely as possible.

Legal Description of the Subject Property:

Township 11 Range 13 Section 204 Tax Lot 203

Property street address 403 NE Cedar St. Madras

**"I have examined all statements and information contained herein, and all attached exhibits, and to the best of my knowledge and belief, they are true and correct. I authorize the City of Madras staff, Hearing's Officers and Planning Commissioners to enter property for inspection of the site in conjunction with this land use application."**

**APPLICANT :**

Printed Name Lorinda Roslund Daybreak Spa studio

Signature: [Signature] Date 2-22-16

Address: 403 NE Cedar St. City/State/Zip: Madras, OR 97741

Phone: 541-771-4634 Email lorinda.roslund@gmail.com

**PROPERTY OWNER (if different from Applicant):**

Printed Name: Same as above

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email \_\_\_\_\_

1. Proposal (purpose of this conditional use application 0 be specific and detailed):

Open a spa studio out of my home

2. List all existing structures on the parcel and their use:

Single family dwelling

3. Current Use of Adjoining parcels?

Residential uses

4. Street Access for subject parcel:

Cedar Street

5. Character of Land Including vegetations and topography:

gentle slope with landscaping

**In Order to Approve a Conditional Use Application, All Required Findings Must Be Met. It is the Applicants Responsibility to Document Compliance with These Findings.**

6. To Comply with Article 6 of the Madras Land Development Ordinance the following findings must be made: (Please provide sufficient detail when addressing all the issues identified in each listed criteria. Use additional pages as necessary.)

A. The proposed use will be consistent with the goals and policies of the City of Madras Comprehensive Plan (a copy of the Comprehensive Plan is available for review at City of Madras Community Development Department.)

B. The proposed use will be in compliance with other required findings, if any which may be listed in the zone? *Yes, a home occupation is a use that is allowed in the R-1 zone. The impacts of the use will be considered and minimized thereby allowing the use to be compatible with surrounding uses & the R-1 zone.*

C. Please describe why the location, size, design and operating characteristics of the proposed use will have minimal and insignificant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.

To provide adequate findings for the criteria, the courts have held that the applicant must identify the characteristics, which create livability in this area. The applicant must then show how the proposal will have a minimal adverse effect on each of these characteristics.

\_\_\_\_\_

- D. The location of the proposed structure and its use will be as attractive as the nature of the use and its setting warrants. Please Explain:

The room that will be used for the spa is located on the East side of the dwelling

- E. The proposal will preserve assets of particular interest to the community.

A small start up business that can evolve into a stand-alone commercial business which will benefit local economy

- F. The applicant has a bonafide intent and capability to develop and use the land as proposed and has an appropriate purpose for submitting the proposal and is not solely motivated by the alteration of property values for speculative purposes.

I have clientel and all the appropriate state licenses to conduct business

- G. The proposal will not place an excessive burden on sewer, water, parks, schools or other public facilities including traffic flows in the area.

No additional water or sewer demand will be created. All ~~other~~ other services will not negatively be affected.

**Return Application To:**

City of Madras  
Community Development Department  
125 SW 'E' Street  
Madras, Oregon 97741

Phone: 541-475-3388  
Fax: 541-475-3959

## MAP INSTRUCTIONS AND CHECKLIST

The following checklist identifies the specific information which should be included.

Note: additional information may be required depending on the actual project.

- Provide a Title Report verifying ownership.
- Provide a vicinity map "to scale" on 8 ½ x 11 or 8 ½ x 14 inch white paper.
- Township, Range, Section and Tax Lot number of the subject property (ies) shall be included.
- North arrow, date, and map scale in one inch intervals (1" = 20') shall be noted.
- Illustrate all existing buildings and their sizes.
- The site plan shall be drawn to scale and shall indicate the following:
  - a. Location, size, and height of all existing or proposed structures.
  - b. Location, size, and dimension of existing and proposed setbacks, and all spaces between buildings.
  - c. Adjoining street and right-of-ways.
  - d. Points of access and circulation patterns, loading and maneuvering spaces.
  - e. Off-street parking; showing location of parking areas, number of parking spaces including handicap parking, and type of surface.
  - f. Sidewalks, patios, courtyards, and decks.
  - g. Storm drainage system, including but not limited to, draining and grading plan, existing topography, and elevations.
  - h. Fences, screens, and retaining walls, including heights and materials.
  - i. Existing utilities (i.e. electric, gas, power lines).
  - j. Exterior lighting (show location and general nature).
  - k. Sanitary sewer system or location of septic tank and drainfield (if still using and not connected to city sewer), and the distance the lot is from the nearest sewer connection.
  - l. Water supply (showing size of main, water flow and size of water line).
  - m. Location of existing and, if any, proposed fire hydrants with size and flow data.
  - n. Identify any existing or proposed easements.
  - o. Proposed public improvements.
  - p. Sign (if existing, location and size). Any new or sign alteration will require a sign application to be submitted to the Community Development Department for approval.
  - q. Give intended type of occupancy for the structure (i.e. assembly, educational, manufacturing, processing, storage and type of contents).
  - r. List all existing or proposed conditions that could be hazardous to life and property from fire or explosion (i.e. storage of: liquefied petroleum gas, flammable or combustible liquids, explosives and blasting agents).
- Provide Building Elevations; five full sized copies of each and one reduced (8.5x11 or 11x17) copy of each.
- Provide a Landscaping Irrigation Plan where a minimum of fifteen percent (15%) of the total lot area shall be landscaped and of the 15:
  - a. At least seven percent (7%) of the parking lot area shall be landscaped. Trees shall be planted at a ratio of one tree per ten (10) parking spaces to achieve a canopy effect over fifty percent (50%) of the lot area.
  - b. Landscape buffers are required between parking areas and streets and shall have a minimum width of three (3') feet.
  - c. Landscape buffers between parking abutting a property line shall have a minimum width of three (3') feet.
  - d. Front or exterior yard landscaping may not be submitted for the interior landscaping required for interior parking stalls.
  - e. There shall be a minimum distance of five feet (5') between parking areas and adjacent residential lots.
  - f. Landscape buffers shall consist of evergreens, ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.
  - g. Landscaping in a parking or loading area shall have a width of not less than five feet (5'). Landscaping in a parking lot or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
  - h. Landscaping shall be continuously maintained and replaced as necessary.
- Provide three copies of the floor plan for each building, plus one reduced (8.5 x 11 or 11x17). Include the class of construction.
- Identify the location and direction of all water courses and drainage ways, as well as the location of the 100-year floodplain, if applicable.
- Illustrate all proposed new construction with dashed lines (include dimensions).
- Provide a Trip Generation statement prepared by a professional transportation planner or equivalent. Note if more than 200 ADT result (or at the discretion of the City Engineer), a Traffic Impact Study may be required.
- Illustrate the existing or proposed location, height, and material of all fences and walls.
- Illustrate existing or proposed trash and garbage container locations, including screening.
- Illustrate drainage plans. Surface drainage shall be contained on-site.

# 403 NE Cedar Street

ATTACHMENT 2



The City of Madras uses GIS data in support of internal business functions and the public services it provides. GIS data may not be suitable for other purposes or uses. The requestor shall verify information derived from GIS data before making any decisions or taking any actions based on the information. The City of Madras shall not be liable for errors in the GIS data. This includes errors of omission, commission, errors concerning the content of the data, and relative and relational accuracy of the data. The City of Madras assumes no legal responsibility for this information.



NORTH

1 inch = 65 feet

N.Snead, City of Madras, 2/23/2016

Legend



Subject Property

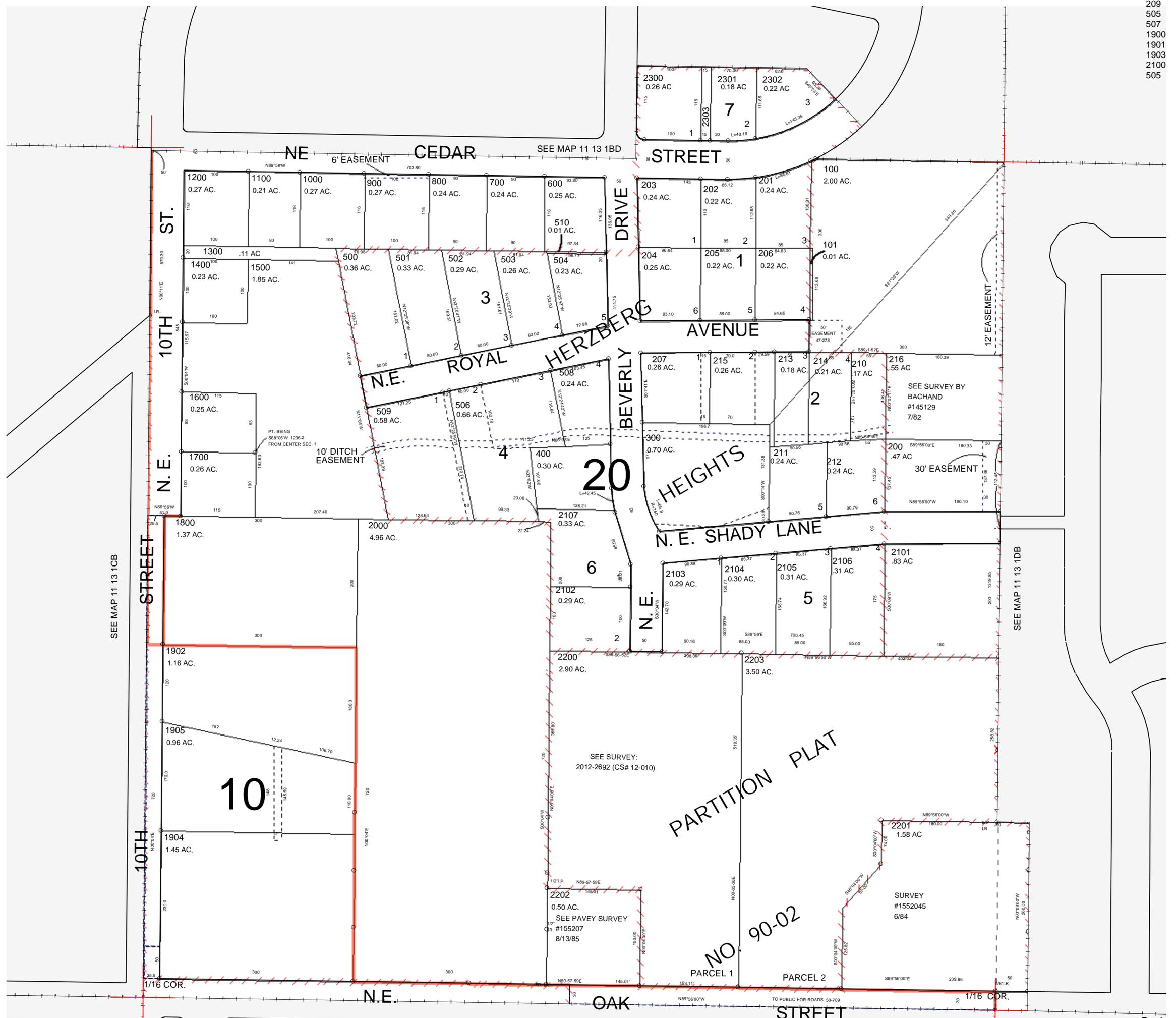
| ACCT# | MAP ID        |
|-------|---------------|
| 1034  | 111301CA00100 |
| 1035  | 111301CA00101 |
| 1036  | 111301CA00200 |
| 1037  | 111301CA00201 |
| 1038  | 111301CA00202 |
| 1039  | 111301CA00203 |
| 1040  | 111301CA00204 |
| 1041  | 111301CA00205 |
| 1042  | 111301CA00206 |
| 1043  | 111301CA00207 |
| 1046  | 111301CA00210 |
| 1047  | 111301CA00211 |
| 1048  | 111301CA00212 |
| 1049  | 111301CA00213 |
| 1050  | 111301CA00214 |
| 1051  | 111301CA00215 |
| 11611 | 111301CA00216 |
| 1052  | 111301CA00300 |
| 1053  | 111301CA00400 |
| 1054  | 111301CA00500 |
| 1055  | 111301CA00501 |
| 1056  | 111301CA00502 |
| 1057  | 111301CA00503 |
| 1058  | 111301CA00504 |
| 1060  | 111301CA00506 |
| 1062  | 111301CA00508 |
| 1063  | 111301CA00509 |
| 12647 | 111301CA00510 |
| 1064  | 111301CA00600 |
| 1065  | 111301CA00700 |
| 1066  | 111301CA00800 |
| 1067  | 111301CA00900 |
| 1068  | 111301CA01000 |
| 1069  | 111301CA01100 |
| 1070  | 111301CA01200 |
| 1071  | 111301CA01300 |
| 1072  | 111301CA01400 |
| 1073  | 111301CA01500 |
| 1074  | 111301CA01600 |
| 1075  | 111301CA01700 |
| 1076  | 111301CA01800 |
| 9047  | 111301CA01902 |
| 9048  | 111301CA01904 |
| 9049  | 111301CA01905 |
| 10222 | 111301CA02000 |
| 1080  | 111301CA02101 |
| 10223 | 111301CA02102 |
| 1081  | 111301CA02103 |
| 1082  | 111301CA02104 |
| 1083  | 111301CA02105 |
| 1084  | 111301CA02106 |
| 10265 | 111301CA02107 |
| 10224 | 111301CA02200 |
| 10225 | 111301CA02201 |
| 11161 | 111301CA02202 |
| 11696 | 111301CA02203 |
| 1085  | 111301CA02300 |
| 1086  | 111301CA02301 |
| 1087  | 111301CA02302 |
| 1088  | 111301CA02303 |

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



N.E.1/4 S.W.1/4 SEC.1 T.11S. R.13E. W.M.  
JEFFERSON COUNTY  
1" = 100'

CANCELLED:  
208  
209  
505  
507  
1900  
1901  
1903  
2100  
505



**ORDINANCE NO. 866**

**AN ORDINANCE AMENDING ORDINANCE NO. 502 TO REDUCE THE CURRENT NUMBER OF PLANNING COMMISSION MEMBERS FROM A SEVEN MEMBER COMMISSION DOWN TO A FIVE MEMBER COMMISSION; ADOPTING NEW PLANNING COMMISSION BYLAWS; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Madras ("City") adopted Ordinance No. 502 on October 22, 1991, which ordinance established the composition and general duties of the City of Madras Planning Commission (the "Commission"); and

**WHEREAS**, City adopted Ordinance No. 728 on March 8, 2005, which ordinance amended Ordinance No. 502 with respect to the Commission's membership requirements; and

**WHEREAS**, on or about July 5, 1994, the Commission adopted certain Planning Commission Bylaws (the "Original Bylaws") pursuant to ORS 227.020 in order to govern Commission business and operations; and

**WHEREAS**, the original bylaws were amended by formal motion of the City Council on July 22, 1997; and

**WHEREAS**, the original bylaws, as amended, were repealed and replaced by passage of Ordinance No. 714 on January 27, 2004 (the "Current Bylaws"); and

**WHEREAS**, the Madras City Council (the "Council") and Commission have determined that Ordinance No. 502, as amended, and the current bylaws are outdated and in need of amendment or replacement; and

**WHEREAS**, on or about March 18, 2014, the Commission reviewed and discussed the proposed amendments to Ordinance No. 502 and the proposed Planning Commission Bylaws dated April 14, 2015 substantially in the form attached hereto as Exhibit "A" (the "Proposed Bylaws") and determined that the ordinance amendments and bylaws being proposed were acceptable; and

**WHEREAS**, after providing the public with an opportunity to testify on the ordinance amendments and proposed bylaws, and after taking into consideration any written and oral comments received from the public and staff during the public hearing held on April 14, 2015, the Council approves the amendments to Ordinance No. 502 and the proposed bylaws as provided in this Ordinance.

**NOW, THEREFORE**, the City of Madras ordains as follows:

**SECTION 1: FINDINGS**

The above-stated findings contained in this Ordinance are hereby adopted.

## **SECTION 2: AMENDMENT NO. 1**

Ordinance No. 502, Section 3, Membership, Subsections (1) and (7), as amended by Ordinance No. 728 in the case of Subsection (1), are hereby amended in their entirety as follows:

- “(1) The commission shall consist of five voting members. Commission members shall be appointed by the City Council. At all times, at least one (1) member must be a resident of the City of Madras. Not more than two (2) members may reside outside the Madras city limits but within the City of Madras Urban Growth Boundary. Not more than two (2) members may reside outside the Madras city limits but within a three mile radius of the Madras city limits. Notwithstanding the foregoing, the City Council shall endeavor to appoint residents of the City of Madras to the commission.”
- “(7) No two (2) or more members of the commission shall have the same occupation. Business persons engaged in different kinds of business shall not be prevented by this subsection from serving. Being retired shall not be considered an occupation within the meaning of this subsection. Persons principally engaged in the buying, selling, or developing of real estate for profit, including as principals, members, officers, or employees of any partnership, business entity, or corporation that principally engages in the buying, selling, or developing of real estate for profit, shall be considered to have the same occupation.”

The foregoing amendments are hereby made part of Ordinance No. 502. The sections and provisions of Ordinance No. 502 that are not amended or modified by this Ordinance remain unchanged and in full force and effect.

## **SECTION 3: ADOPTION OF BYLAWS**

The proposed bylaws dated April 14, 2015, are hereby approved and adopted by the Council. The proposed bylaws, attached hereto as Exhibit "A", replace and supersede the current bylaws dated January 27, 2004 in its entirety. In furtherance of the general powers and duties granted the Commission under Ordinance No. 502, as amended, the Commission will be permitted to make any further amendments and/or modifications to the Commission bylaws as and when the Commission deems necessary or appropriate without the Council's review and approval provided such amendments and/or modifications are permitted and do not conflict with Ordinance No. 502, as amended, and applicable law.

## **SECTION 4: MISCELLANEOUS**

- 4.1 Severability. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not

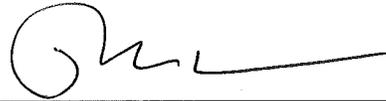
affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance.

4.2 Corrections. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

4.3 Emergency Declaration. The City Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This emergency Ordinance will be in full force and effect upon its passage by the Council and signing by the mayor.

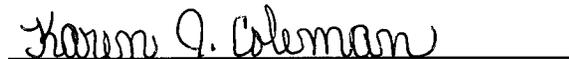
**APPROVED AND ADOPTED** by the City Council of the City of Madras and signed by the Mayor this 14<sup>th</sup> day of April, 20 15.

|              |          |
|--------------|----------|
| Ayes:        | <u>5</u> |
| Nays:        | <u>0</u> |
| Abstentions: | <u>0</u> |
| Absent:      | <u>0</u> |
| Vacancies:   | <u>1</u> |



\_\_\_\_\_  
Royce Embanks, Mayor

ATTEST:

  
\_\_\_\_\_  
Karen J. Coleman, City Recorder

**Exhibit "A"**  
Planning Commission Bylaws

[attached]

**CITY OF MADRAS  
PLANNING COMMISSION BYLAWS**

**BE IT RESOLVED** that the City of Madras Planning Commission (the "Commission") hereby adopts the following Planning Commission Bylaws pursuant to ORS 227.020 and/or Ordinance No. 502 in order to govern the Commission's business and operations. As of April 14, 2015, (the "effective date"), these bylaws replace and supersede all prior Commission bylaws, as amended, in its or their entirety.

**SECTION 1: MEMBERSHIP**

**A. NUMBER AND SELECTION.** The Commission shall consist of five (5) voting members. Commission members shall be appointed by the City Council. At all times, at least one (1) member must be a resident of the City of Madras. Not more than two (2) members may reside outside the Madras city limits but within the City of Madras Urban Growth Boundary. Not more than two (2) members may reside outside the Madras city limits but within a three-mile radius of the Madras city limits. Notwithstanding the foregoing, the City Council shall endeavor to appoint residents of the City of Madras to the Commission.

**B. TERM OF OFFICE.** Members shall be appointed for three (3) year terms, or until their respective successors are appointed and qualified. Terms begin on January 1 and end on December 31. Terms shall be staggered.

When an interim vacancy occurs, the City Council shall make appointments to fill that position for the duration of the unexpired term given due consideration to the Commission's recommendation.

**C. REPRESENTATION.** No two (2) or more members of the Commission shall have the same occupation.

1. Business persons engaged in different kinds of business shall not be prevented by this subsection from serving.
2. Being retired shall not be considered an occupation within the meaning of this subsection.
3. Persons principally engaged in the buying, selling or developing of real estate for profit, including as principals, members, officers, or employees of any partnership, business entity, or corporation that

principally engages in the buying, selling or developing of real estate for profit, shall be considered to have the same occupation.

- D. RESPONSIBILITIES.** Commission members shall regularly attend meetings of the Commission and its subcommittees, as well as fulfill other duties as assigned by the Chair. Members shall notify the Community Development Director when they are unable to attend a Commission meeting.

Prior to meetings and hearings, members shall review pertinent written documents in preparation for deliberation and decision making.

- E. TERMINATION OF MEMBERSHIP.** The City Council may, following a hearing, remove a Commission member for the following reasons:

1. Failure to attend regular Commission meetings resulting in three (3) or more consecutive unexcused absences;
2. Committing a felony;
3. Incompetence;
4. Misconduct;
5. Failure to declare conflicts of interest or ex-parte contacts.

The Community Development Director shall be directed by the Commission Chair to notify the City Council in writing when a Commissioner's appointment needs to be reviewed for possible termination.

## **SECTION 2: OFFICERS**

- A. ELECTION OF OFFICERS.** At the first regular meeting of each year, the Commission shall select from its voting membership, a Chair and Vice-Chair whose term of office shall be one (1) year. Said member shall be eligible to serve as many terms as they are elected to serve.

1. Duties of the Chair.

- a. Preside at all meetings;
  - b. Conduct meetings/hearings in an orderly manner following all accepted laws and Bylaws governing the Commission;
  - c. Call special meetings;
  - d. Appoint all Commission committees.
  - e. Sign approved documentation (e.g. Minutes of the Meetings, Decisions, etc.)
2. Duties of the Vice-Chair
- a. Conduct meetings and hearings, and sign approved documentation in the absence of the Chair;
  - b. Serve out the unexpired term when the Chair is vacated.

### **SECTION 3:     ROLE OF THE PLANNING COMMISSION**

The Commission is composed of volunteer lay members whose duties include:

- A. Participation in the Periodic Review of the City Comprehensive Plan.
- B. Maintenance of ordinances intended to implement the City Comprehensive Plan.
- C. The conducting of hearings intended to satisfactorily determine application issues.

### **SECTION 4:     STAFF**

- A. **STAFF TO THE PLANNING COMMISSION.** In addition to the Community Development Director, the following positions may support the work of the Commission:

1. City Administrator
2. Jefferson County Fire Marshal

3. City Public Works Director
4. City Attorney
5. City Recorder
6. Community Development staff and consultants

- B. ADVISORS TO THE PLANNING COMMISSION.** The Council may, at the request of the Commission, designate subcommittees of citizens and professionals as advisors. Said advisors will be requested to provide technical assistance, participate in deliberations, and attend meetings to the extent deemed appropriate by the Chair.
- C. LEGAL COUNSEL.** The City Attorney shall act as legal advisor to the Commission in the conduct of all hearings.
- D. COMMISSION SECRETARY.** The Community Development Director or Community Development staff shall serve as Secretary to the Commission and shall keep an accurate, permanent, and complete record of all proceedings before the Commission. The Community Development Director shall be responsible for overseeing the timely and accurate preparation of the Commission minutes.

**SECTION 5: COMMISSION MEETINGS.**

- A. REGULAR MEETINGS.** The regularly scheduled meeting of the Commission shall be the first Wednesday (or such other business day that the Commission may fix from time to time) of each month, beginning at a time set by the Commission in the Madras City Hall Council Chambers.

In addition to the foregoing regular meeting dates, the Commission may meet at other times, dates, and places as may be deemed appropriate to carry out the Commission's business.

If there is no pending business, the Community Development Director may cancel a Commission meeting by providing appropriate notice.

B. **SPECIAL MEETINGS.** Special meetings may be called by the Chair, a majority of the Commission members, the Community Development Director, or the City Council by giving at least forty-eight (48) hour notice before the meeting.

C. **QUORUM.** A quorum shall consist of not less than three (3) members of the Commission. It is necessary to have a quorum present to conduct business or hold a public hearing. A previously absent member may count towards a quorum and participate in a continued hearing if the commissioner states for the record that they have listened to the recordings of the prior meeting and have read all of the evidence in the record

D. **VOTING.** Motions may be made and seconded by any member of the Commission except the Chair. Each Commission member, including the Chair, shall vote unless there is a recognized conflict of interest or unless the Commission member or Chair was unable to consider the full record on the matter. In this case, the Commission member or Chair will abstain.

A majority vote of those constituting a quorum shall be required to pass any motion before the Commission. All voting on public hearing issues shall be by roll call of the Commissioners. On a tie vote, the motion fails.

The Commission shall approve or deny any application where the Commission serves as the hearings body. Matters where the Commission does not serve as the hearings body may be forwarded to the City Council with either a recommendation to approve, recommendation to disapprove, or no recommendation.

E. **AGENDA.** The Community Development Director, in conjunction with the Chair, shall set the agenda and give notice to members seven (7) days prior to the meeting. Additional items may be added at the meeting when requested by individual Commission members, City Council, or Community Development staff.

F. **MINUTES.** A recording of the Commission's proceedings plus an accurate written record shall be maintained by the City Recorder in compliance with the state records retention schedule, and in the office of the Community Development Department.

## **SECTION 6: COMMISSION HEARINGS**

- A. CONFLICTS OF INTEREST, BIAS, AND EX-PARTE CONTACTS.** A Commission member shall not participate in any proceedings in which any of the following has a direct, or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, parent-in-law, cousin, niece, nephew, employer or partner in any business with which he or she is negotiating or has an arrangement or understanding concerning prospective partnership or employment.

Any action, or potential financial, or other interest that would lead to bias or partiality shall be disclosed at the hearing where the action is considered.

Any party to any action may, in relation to an action, challenge the impartiality of any member before or during the hearing on the action. A challenge must include the facts relied upon by the challenging party relating to the member's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in the decision in an impartial manner.

In the event of a challenge for bias, the member shall respond in a statement of capacity to participate in the hearing, which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member wishes to participate or be disqualified. The statement of capacity to participate in the hearing shall not be subject to cross examination, but shall be subject to rebuttal by the challenging party.

The member of the Commission shall not:

1. Communicate, directly or indirectly, with any interested persons or their representatives in connection with any matter before the Commission that is subject to a public hearing except upon notice and an opportunity for all parties to participate;
2. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed; or
3. Conduct a site visit with a party or their representative unless all parties are given an opportunity to be present.

If ex-parte contact cannot be avoided by a member of the Commission, disclosure of the contact shall be made by the member at the opening of the appropriate hearing. Such disclosure shall be subject to the same rules as for a statement of bias or conflict of interest.

Requests for disqualification based upon bias, conflict of interest, or ex-parte contact shall be considered by the entire Commission present, and be granted upon majority consent (excluding the individual disclosing or challenged concerning bias or ex-parte contact). The Commission shall consider the evidence in the record and decide whether the individual can reasonably be expected to render an impartial decision.

In the event a member is disqualified, the remaining members shall hear the application. In the event of no quorum, the application will be rescheduled to a future meeting.

No decision or action of the Commission shall be invalid due to ex-parte contact or bias resulting from ex-parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

- a. Places on the record the substance of any written or oral ex-parte communications concerning the decision or action; and
- b. Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

A communication between city staff and the Planning Commission shall not be considered as ex-parte contact for the purposes listed in the above paragraph and subparagraphs.

- B. BURDEN OF PROOF.** The burden of proof is placed upon the applicant seeking approval of the proposed action. Such proof shall show that:

The proposed action is in accordance with the applicable standards and criteria of the City of Madras Comprehensive Plan and relevant zoning ordinances.

C. **HEARING PROCEDURES.** Hearings on proposed actions shall be conducted in compliance with Article 9 of the City of Madras Zoning Ordinance (No. 864) as it may be amended from time to time. These bylaws shall be subordinate in the event of any conflict with the City of Madras Zoning Ordinance.

D. **ORDER OF HEARING.** The general rules governing hearings will be as follows:

1. Questions may be asked by Commissioners at any time on any point and shall be directed through the Chair;
2. The length of time given for speakers may be indicated by the Chair;
3. The Chair may regulate time allowed if it is in the public's interest and necessary to the Commission's responsibility as a hearings body;
4. Anyone wishing to testify before the Commission may be represented by counsel;
5. Questions must be submitted to the Chair who may request answers.
6. All Commissioners are expected to contribute to the deliberation by asking questions, and discussing issues;
  - Hearing declared open
  - Chair reads ORS 197/227....., if requested, or not included on the meeting agenda.
  - Staff report
  - Applicant testimony
  - Testimony of proponents
  - Written testimony favoring application shall be read by the Chair or designee

- Testimony of all opponents
- Written testimony in opposition to the application shall be read by the Chair or designee
- Applicant rebuttal
- Public hearing is closed
- Discussion by Commissioners including attention to any relevant written questions from the audience
- Action by the Commission; motion for disposition; discussion of the motion; call for the question, and voting

A continuance may be granted by a majority of the Commissioners present if new information regarding the application has been presented by the applicant after the notice of public hearing is sent.

If the hearing is continued, the time and place shall be announced. Persons previously notified need not be renotified.

If there is no continuance, the record shall remain open for seven (7) days if a party so requests.

#### **SECTION 7: PLANNING COMMISSION TRAINING**

The Community Development Department shall provide appropriate training to all Commission members when the department's budget allows for training. All Commission members shall be given a current, complete notebook containing the Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, any updates thereto, and any other written information that will assist the Commission members in carrying out their duties.

#### **SECTION 8: CITY PLANNING COMMISSION BYLAWS REVIEW**

These bylaws shall be reviewed for appropriate and timely revision(s) at the first meeting of each calendar year.