



## Legislation Details (With Text)

<b>File #:</b>	PC 18-051	<b>Version:</b>	1	<b>Name:</b>	Remand for Historic Properties to PC on limited basis
<b>Type:</b>	Land Use Item	<b>Status:</b>			Public Hearing
<b>File created:</b>	3/26/2018	<b>In control:</b>			City Commission
<b>On agenda:</b>	4/4/2018	<b>Final action:</b>			
<b>Title:</b>	Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beavercreek Road and Highway 213				
<b>Sponsors:</b>	Laura Terway				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Staff Report, 2. Land Use Board of Appeals Final Opinion and Order, 3. Applicants Request, 4. Map of Rezoning Area				

Date	Ver.	Action By	Action	Result
4/4/2018	1	City Commission	adopt	Pass

Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beavercreek Road and Highway 213

### RECOMMENDED ACTION (Motion):

Motion to remand Planning files PZ 15-01 and ZC 15-03 to the Planning Commission for the limited purpose of argument and evidence related to the LUBA remand for Goal 5.

### BACKGROUND:

The City approved Planning files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change to amend the Comprehensive Plan Map from Low Density Residential and Medium Density Residential to "MUC" Mixed Use Corridor and a Zone Change from "R-3.5" Dwelling District, "R-6" Single-Family Dwelling District and "R-10" Single-Family Dwelling District to "MUC-2" Mixed-Use Corridor 2 for properties located near the northeast corner of Highway 213 and Beavercreek Road. The City's approval was appealed to the Land Use Board of Appeals (LUBA) whom remanded the decision back to the City for additional findings relating to Goal 5: Natural Resources. LUBA determined that the City must determine if the new uses allowed by the application could conflict with the Goal 5 resources and if the new uses would result in increased volume and velocity of stormwater or the possibility of increased levels of contaminants.

The LUBA decision was subsequently appealed to the court of Appeals whom affirmed LUBA's decision, and the State Supreme Court whom declined to hear the case.

Staff recommends the City Commission remand the application to the Planning Commission with instructions that the Planning Commission hold a public hearing limited to the remand issues.

No public testimony or evidence is necessary for the City Commission to resolve this remand request. All parties will have an opportunity to submit argument and additional evidence limited to the Goal 5 issues on remand before the Planning Commission.