



Legislation Text

File #: PC 18-091, **Version:** 1

Request for Continuance: 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):

Continue 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 to the July 18, 2018 City Commission hearing. Staff recommends that the City Commission not accept verbal testimony.

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. The City Commission then remand the application to the Planning Commission to hold a public hearing limited to the remand issues. The Planning Commission reviewed the matter, closed the record, and recommended that the City Commission approve files PZ 15-01 and ZC 15-03 for the limited purpose of argument and evidence related to the LUBA remand for Goal 5.

Though the July 5th City Commission hearing date was announced after the Planning Commission recommendation, in order to allow sufficient time to draft final findings, a continuance is requested to July 18, 2018. Staff recommends that the City Commission not accept verbal testimony at the July 5th proceeding, as the City Commission will have not reviewed any material related to the proposal and a staff report explaining and analyzing the proposal will not be presented to the City Commission. The record is closed. Though anyone may participate in the City Commission review, no new argument or evidence may be submitted before the City Commission. All parties had an opportunity to submit argument and additional evidence limited to the Goal 5 issues on remand before the Planning Commission.