



City Council Agenda

Mayor
Christine Lundberg

City Council
Sean VanGordon, Ward 1
Hillary Wylie, Ward 2
Sheri Moore, Ward 3
Dave Ralston, Ward 4
Marilee Woodrow, Ward 5
Joe Pishioneri, Ward 6

City Manager:
Gino Grimaldi
City Recorder:
Amy Sowa 541.726.3700

City Hall
225 Fifth Street
Springfield, Oregon 97477
541.726.3700
Online at www.springfield-or.gov

The meeting location is wheelchair-accessible. For the hearing-impaired, an interpreter can be provided with 48 hours notice prior to the meeting. For meetings in the Council Meeting Room, a "Personal PA Receiver" for the hearing impaired is available. To arrange for these services, call 541.726.3700.

Meetings will end prior to 10:00 p.m. unless extended by a vote of the Council.

All proceedings before the City Council are recorded.

February 8, 2016

5:30 p.m. Work Session
Jesse Maine Room

*(Council work sessions are reserved for discussion between Council, staff and consultants;
therefore, Council will not receive public input during work sessions.
Opportunities for public input are given during all regular Council meetings)*

CALL TO ORDER

ROLL CALL - Mayor Lundberg ____, Councilors VanGordon ____, Wylie ____, Moore ____, Ralston ____, Woodrow ____, and Pishioneri ____.

1. Community Development Block Grant (CDBG) Strategies.
[Erin Fifield] (30 Minutes)
2. Review and Discuss Proposal from Development Advisory Committee to Streamline Development Reviews.
[Anette Spickard/Mary Bridget Smith] (30 Minutes)

ADJOURNMENT

[Executive Session agenda on following page]

6:30 p.m. Executive Session
(Estimated Time)

Pursuant to ORS 192.501(6), ORS 192.660(2)(e), ORS 40.225, and ORS 192.502(1)

Jesse Maine Room

CALL TO ORDER

ROLL CALL - Mayor Lundberg ____, Councilors VanGordon ____, Wylie ____, Moore ____, Ralston ____, Woodrow ____, and Pishioneri ____.

1. Proposed Property Purchase.
[Courtney Griesel]

(20 Minutes)

ADJOURNMENT

AGENDA ITEM SUMMARY

Meeting Date: 2/8/2016
Meeting Type: Work Session
Staff Contact/Dept.: Erin Fifield/DPW
Staff Phone No: 541-726-2302
Estimated Time: 30 minutes
Council Goals: Encourage Economic Development and Revitalization through Community Partnerships

**SPRINGFIELD
CITY COUNCIL**

ITEM TITLE: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) STRATEGIES

ACTION REQUESTED: Review the proposed options for the FY 2016/17 CDBG One Year Action Plan funding allocation and provide staff with input.

ISSUE STATEMENT: The purpose of this annual action plan is to indicate how the City intends to use federal Community Development Block Grant (CDBG) funds to fulfill the goals established in the Eugene-Springfield Consolidated Plan. Identifying strategies is one of the first steps to creating the One Year Action Plan.

ATTACHMENTS: ATT1: Council Briefing Memorandum - CDBG Strategies
ATT2: Eugene-Springfield Consolidated Plan Strategies
ATT3: MEMO CDBG and HOME project updates
ATT4: FY2015/16 CDBG Funding Allocation Summary

**DISCUSSION/
FINANCIAL
IMPACT:** Each spring, the City Council approves funding allocations for use of CDBG funds for the next fiscal year. The proposed uses of funds are described and submitted to HUD each year in a document called the One-Year Action Plan. The Action Plan must be submitted to HUD by May 15, 2016. The proposed uses of funding must align with allowed uses of funds and with the local community needs and strategic plan identified in the 2015 Eugene-Springfield Consolidated Plan.

The City's CDBG program currently is undergoing transition, and has many pending past projects. HUD is concerned that the City is not drawing down funds and completing projects in a timely manner. The Council Briefing Memo (ATT1) includes a draft proposal for CDBG funding strategies which holds the Council's current CDBG priorities constant, while providing options which address HUD's concerns.

The Draft Springfield CDBG One Year Action Plan section will be published for public comment in March 2016 and the Community Development Advisory Committee (CDAC) will hold a public hearing on the Draft. Following the public hearing, the CDAC will recommend to Council 2016/17 CDBG funding allocations. Council's approval for funding allocations for the CDBG One Year Action Plan section is planned for May 2, 2016.

MEMORANDUM

City of Springfield

Date: 2/8/2016

To: Gino Grimaldi

COUNCIL

From: Anette Spickard
Tom Boyatt
Erin Fifield

BRIEFING

Subject: CDBG Priorities

MEMORANDUM

ISSUE: The purpose of this annual action plan is to indicate how the City intends to use federal Community Development Block Grant (CDBG) funds to fulfill the goals established in the Eugene-Springfield Consolidated Plan. Identifying strategies is one of the first steps to creating the One Year Action Plan.

COUNCIL GOALS/

MANDATE:

Encourage Economic Development and Revitalization through Community Partnerships

BACKGROUND:

For the 2016/2017 program year, staff is currently estimating the following revenue:

2016/17 Estimated CDBG Funding Revenue:

New Grant Funds	\$450,000
<u>Prior Year Funds</u>	<u>\$100,000</u>

ESTIMATED TOTAL AVAILABLE: \$550,000

Current City strategies using CDBG funds include the following:

- Springfield’s Emergency Home Repair Program (EHR);
- Springfield’s down-payment assistance program (SHOP);
- Lane County Human Services Commission (HSC)’s distribution to non-profit public services; and
- General Administration.

Additionally, during the October 26, 2015 Council work session, Council identified a priority to fund the G Street OASIS project.

Between estimated funding revenue for FY2016/17, and estimated expenses for continuing to fund current strategies, there is an additional \$160,000 in CDBG funds identified. Considering the current transition with the CDBG program, staff has provided Council with three (3) options for allocating the remaining \$160,000 in CDBG funds, while holding current strategies constant.

FY 2016/17 CDBG Optional Funding Allocations

Program/Project	Beneficiary	Strategy	Estimated Expenses
City's Emergency Home Repair Program (EHR)	Low-income homeowners	Rehabilitate existing housing stock for low-income persons	<u>\$110,000</u> \$40,000 – repairs \$70,000 – staff costs
City's Springfield Home Ownership Program (SHOP)	Low-income potential homeowners	Provide down-payment assistance for home ownership	<u>\$100,000</u> \$70,000 – loans \$30,000 – staff costs
Lane County Human Services Commission (HSC) contribution for non-profit services	Low-income and special needs population recipients of services	Support a human services delivery system	<u>\$70,000</u> – to HSC
Catholic Community Services' G Street OASIS project	Homeless families with Children	Support a human services delivery system	<u>\$20,000</u> \$17,600 – G Street \$2,400 – staff costs
Program administration and management	N/A	N/A	<u>\$90,000</u> – staff costs
(see options below)	(see options below)	(see options below)	<u>\$160,000</u> \$138,000 – TBD \$19,000 – staff costs
ESTIMATED GRAND TOTAL			\$550,000

OPTION 1:

Program/Project	Beneficiary	Strategy	Estimated Expenses
Acquisition of real property	Low-income persons, homeowners or renters	Increase the supply of affordable housing	<u>\$160,000</u> \$138,000 – TBD \$19,000 – staff costs

Pro:

- The City could use the funds to buy land, or a building, for the purposes of affordable housing (e.g. Buying land to build new affordable housing, buying an apartment building to provide affordable housing, buying a building to be converted into a shelter to house the homeless)
- Funds go toward one project

Con:

- The City has not recently done an acquisition project, and would need to do further research to ensure it complies with federal requirements
- This would not be a quick project. The City would most likely need to commit the funds (or offer them as a donation through an RFP) within two years, AND finish the ultimate project within 5-6 years.

OPTION 2:

Program/Project	Beneficiary	Strategy	Estimated expenses
Improve City streets, sidewalks; add ADA curb cuts, crosswalk signals, etc.	Low-income persons	Make strategic investments to improve low-income neighborhoods	<u>\$160,000</u> \$138,000 – TBD \$19,000 – staff costs

Pro:

- The City could use the funds to pave gravel streets, repair sidewalks, install ADA curb cuts in predominantly low-income neighborhoods, and/or install RRFB cross walk beacons in predominantly low-income neighborhoods
- The Department of Public Works (DPW) has experience managing federal projects, and there is a documented need
- Funds go toward one sub-recipient

Con:

- The project is estimated to take 2 years.

OPTION 3:

The City waits to allocate the estimated \$160,000 in next year's One Year Action Plan, and continues to fund and provide the programs above.

Pro:

- The City would have time to be more thoughtful in its priorities for these funds
- Allows staff to consider the conclusions of the Oregon Solutions Mobile Home Park Strategies project in its strategy for these funds
- Allows the City to explore other options for staff costs for this program
- Allows staff to focus on closing out pending projects

Con:

- Funds would not be available until 2017/18.

RECOMMENDED ACTION: The City needs to draft its CDBG funding strategies for the year, and publish those strategies for public comment. Staff recommends Council fund current strategies at a similar level for 2016/17, and wait to allocate the estimated \$160,000 in next year's Action Plan (Option 3).

Strategies to Address Priority Needs – Table
 2015 Eugene/Springfield Consolidated Plan

Strategy	Priority Needs Addressed	Possible Examples	Measurements	Eugene/ Springfield HOME Consortium	Eugene CDBG	Springfield CDBG
Increase the supply of affordable housing (Consortium HOME and Community Development Block Grant)	Renters, Home Owners, Homeless, Special Needs	Land Acquisition. Development of new rental housing. Operating Support for Community Housing Development Organizations	Number of rental units constructed, reconstructed, acquired or preserved	600	50	
			Number of CHDO's Assisted	4		
			Housing for homeless added	20		
			Number of sites acquired		2	1
			Homeowner housing added		10	5
Rehabilitate existing housing stock affordable to low-income persons (Community Development Block Grant)	Renters, Homeless, Special Needs, Low-Income Areas, Home Owners	Continue and expand publicly supported rehabilitation and accessibility improvements.	Number of rental units rehabilitated		350	5
			Number of home owner units rehabilitated		150	200
Provide down payment assistance for home ownership (Community Development Block Grant)	Home Owners	Assist low-income residents with the first time purchase of a home.	Households assisted with direct assistance to home buyers		10	50
Remove barriers to affordable and supportive housing (Community Development Block Grant)	Renters, Home Owners, Homeless, Low Income Area Non Homeless Special Needs	Support programs that assure housing opportunities are provided without discrimination. Support Housing Policy Board. Update Fair Housing Plan.	Maintain Housing Policy board		Yes	Yes
			Number of fair housing events		20	5
			Maintain fair housing services		Yes	Yes
			Update Fair Housing Plan		Yes	Yes

Strategy	Priority Needs Addressed	Possible Examples	Measurements	Eugene/ Springfield HOME Consortium	Eugene CDBG	Springfield CDBG
Support a human services delivery system to address the needs of homeless persons and special needs populations (Community Development Block Grant)	Homeless, Special Needs	Fund capital improvements to facilities owned by non-profits. Fund non-profit services through the Human Services Commission.	Persons assisted with public facility activities		25,000	5,000
			Persons assisted with public service activities		110,000	65,000
			Number of public facilities improved		15	4
			Number of transitional or emergency beds added		20	5
Promote economic development and employment opportunities through the creation of jobs and business development (Community Development Block Grant)	Employment Opportunities	Provide below market financing to local businesses creating or retaining jobs. Provide micro-enterprise training and development opportunities.	Jobs created or retained		200	5
			Businesses assisted		50	1
			Micro business trainees		300	55
Make strategic investments to improve low income neighborhoods and other areas of slums and blight (Community Development Block Grant)	Renters, Owners, Homeless, Special Needs, Low Income Areas and Slums & Blight, Employment Opportunities	Provide financing for activities which eliminate slums and blight, including acquisition, clearance, rehab and historic preservation and economic development activities.	Businesses assisted with façade treatment or building rehab			2
			Number of projects completed		2	2
			Persons assisted with public facility activity		5,000	6,000

MEMORANDUM

City of Springfield

Date: 1/11/2016
To: Gino Grimaldi **COMMUNICATION**
From: Anette Spickard **PACKET**
Tom Boyatt
Erin Fifield
Subject: CDBG and HOME project **MEMORANDUM**
updates

INFORMATION SHARE:

This memo is in response to the questions at the October 26, 2015 Council work session regarding CDBG and HOME projects that are currently pending. The following is a list of 14 projects which have not been completed (or were pending until recently) for a variety of reasons, and details regarding their status. Projects are listed by program year funded, started with the oldest funds.

In addition to this list, HUD has identified a number of concerns with the City's administration and management of the CDBG program. Primarily, HUD is requesting the City create formal policies and procedures for the allocation, management, and monitoring of program funds and outcomes in order to be in compliance with HUD requirements.

Since the work session, information on projects has been updated, and any changes on status are reflected below:

1.

Year funded	Recipient	Project	Award Amount	Status
2004	St. Vincent de Paul	Royal Building	\$133,141.80 grant (CDBG)	Completed.

Details: During the 2015 HUD monitoring of the CDBG program, HUD identified a number of projects – the Royal Building being one of them – from which the City drew down funds that exceeded the awarded contract amounts. City staff spent hours going through past financial data to identify how the funds were expended, with the risk that inadequate documentation could result in repaying funds to HUD. Staff concluded and documented that the incremental amount was incurred for staff delivery costs of the project, and have since changed how they allocate, track, and document all funds associated with all projects. HUD cleared this finding in November 2015. Expected completion: Done.

2.

Program Year	Recipient	Project	Award Amount	Status
2007 2008 2009	Habitat for Humanity	Meyer Estates: 10 new single-family homes for ownership, available to low-income families	\$60,000 grant \$100,000 grant \$40,000 grant (HOME)	8.5 of 10 houses are complete; further construction is pending environmental review waiver. \$70,000 unused.

Details: HUD's 2014 HOME Consortium monitoring found an incorrect level of environmental review was completed for Meyer Estates. All construction was ordered to stop until the HOME Consortium completed a retroactive environmental review for the project, and received an environmental review waiver from HUD given the statutory violation, with a risk that HOME funds would need to be paid back to HUD. City of Eugene staff have completed the environmental review, and sent it on to HUD for their review on October 14, 2015. HUD's waiver review process can take 4-6 months. At that point, if the waiver is received, no funds would need to be repaid, and Habitat for Humanity can complete the project on their own. However, no more federal HOME funds can be reimbursed or invested in this project. Expected completion: July 2016.

3.

Year funded	Recipient	Project	Award Amount / Source	Status
2010	Brethren Community Services	Afiya Apartments: 10 affordable housing rental units for low-income persons with psychiatric disabilities	\$200,000 grant (HOME)	10 of 10 units are complete; risk of repayment of funds pending environmental review waiver

Details: HUD's 2014 HOME Consortium monitoring found that the required environmental review was not completed for Afiya Apartments. The HUD Consortium is currently completing a retroactive environmental review for the project, and will request an environmental review waiver from HUD given the statutory violation, with a risk that HOME funds would need to be paid back to HUD. City of Eugene staff is leading this environmental review, with help from Springfield staff. Once we submit the waiver request, HUD's waiver review process can take 4-6 months. If the waiver is received, no funds would need to be repaid. However, no more HOME funds can be invested in this particular phase of the project. Expected completion: August 2016.

4.

Year funded	Recipient	Project	Award Amount	Status
2010 2013 2014	NEDCO	Hatch Business Incubator Program	\$15,000 grant \$30,000 grant \$66,879 grant (CDBG)	No funds have been drawn yet for 2013 or 2014.

Details: In the 2015 HUD monitoring of the CDBG program, HUD had three findings related to this program. Of note, HUD requires that NEDCO better document the amount of staff time spent toward delivering this program and that the City/NEDCO more accurately account for the number of individuals served by the program. Staff is currently in discussion with NEDCO about creating a rate model to better reflect staff time spent delivering this program. NEDCO has yet to submit invoices for services for the 2013 or 2014 HATCH awards. Since the monitoring finding, NEDCO and City staff will first need to agree on the rate model, and amend the contract, before invoices can be charged against the 2013 or 2014 grant awards. Expected completion: March 2016.

5.

Year funded	Recipient	Project	Award Amount	Status
2011 2012	Lock Out Crime (LOC)	Provide emergency home security measures to low-income households	\$28,000 grant \$15,000 grant (CDBG)	About \$11,000 left to draw from 2012.

Details: The LOC project has received funding over multiple years, as early as 2004, to operate their program. Funds are used by LOC when the need arises. Often, funds allocated in a certain year have been used over multiple years. In this case, the LOC program received funds from the City in 2012, but has been drawing down funds from previous awards. Given staff turnover at the City, and at LOC, the financial accounting of the LOC project by both entities over the past 11 years has been difficult to reconcile. As of now, there is certainty over what the LOC project has remaining in its 2012 grant award to draw from, and the City will draw from that amount as requests come in. The City is still trying to reconcile the 2011 grant award with what it has previously reported to HUD. Expected completion: unknown.

6.

Year funded	Recipient	Project	Award Amount	Status
2012 2013 2014	Housing and Community Services Agency of Lane County (HACSA)	Glenwood Place	\$96,500 grant for predevelopment (HOME) \$396,476 grant for development (HOME) \$81,500 grant for acquisition (CDBG)	Contract signed only for pre-development award. About \$74,000 has been invoiced and paid. HACSA aims for 2017 start.

Details: See 1/7/16 Communication Packet Memo: Glenwood Place Update

7.

Year funded	Recipient	Project	Award Amount	Status
2012	Relief Nursery	Purchase of therapeutic playground equipment	\$38,000 grant (CDBG)	Playground equipment has been installed. Retroactive environmental review has not yet been started.

Details: During the 2015 HUD monitoring of the City's CDBG program, HUD identified that the City did not have the documentation required for an Environmental Review of this project, which HUD identified as a statutory violation. HUD requires that the City conduct a retroactive environmental review of the project to determine whether there were any adverse environmental impacts incurred as a result of the project, and to request a waiver of the violation from HUD. There is a risk that CDBG funds would need to be paid back to HUD if the waiver is not granted. Expected completion: Spring 2016.

8.

Year funded	Recipient	Project	Award Amount	Status
2012	BRING	Planet Improvement Center	\$30,000 grant, \$20,000 loan (CDBG)	Completed. BRING only used about \$10,000 of the loan. Contract amendment and additional job creation data needed to close out project.

Details: BRING completed this project in 2014, but had not yet provided data concerning the jobs created as a condition of the grant. Given staff turnover at the City, we did not follow up with BRING until recently to gather this data, per HUD's requirements. We are currently working with BRING staff to submit this data, and to amend the contract to reflect the new loan amount based on invoices, as opposed to the original allocation. Expected completion: January 2016.

9.

Year funded	Recipient	Project	Award Amount	Status
2012	ARC of Lane County	Purchase drop boxes to create jobs benefiting disabled persons	\$12,000 grant (CDBG)	After 3 years without a signed contract, ARC declined the grant in Dec. 2015.

Details: ARC of Lane County was allocated funds during 2012, and subsequently had a turnover in staff. No environmental review has been done for this project, nor has a contract been signed. Following the City of Springfield's recent staff turnover, city staff reached out to ARC of Lane County in April and November 2015 to determine the status of this grant, and set a timeline for updating the original application. On Dec 30, 2015, ARC called and decided they would not pursue this grant because they are too busy with other projects. Expected completion: January 2016.

10.

Year funded	Recipient	Project	Award Amount	Status
2012	NEDCO	Hatch program with Food Cart component	\$23,033 grant (CDBG)	Completed. HUD requires additional documentation.

Details: In the 2015 HUD monitoring of the CDBG program, HUD found that City staff did not sufficiently set up this project or identify the outcomes of this project. City staff need to work with NEDCO to identify and document clients served by this program, and to amend the contract if needed. Expected completion: Spring 2016.

11.

Year funded	Recipient	Project	Award Amount	Status
2012	NEDCO	Façade Improvement Program	\$25,000 grant (CDBG)	\$12,500 remaining to be drawn down.

Details: The grant to NEDCO for this project stipulated that half of the award (\$12,500) would be put toward offering grants to businesses downtown for façade improvement, as well as administration of the program. The remaining \$12,500 was to be offered as loans, while NEDCO would manage the repayment and the administration of a revolving loan fund, such that repaid loans would then be used for future façade improvement loans. As of now, NEDCO has not been able to find any businesses willing to take on a loan. City staff is in discussion with NEDCO concerning possible solutions in order to draw down the remaining amount. Expected completion: Spring 2016.

12.

Year funded	Recipient	Project	Award Amount	Status
2013	City of Springfield Housing program	Emergency Home Repair, SHIP, and CHORE programs	\$ 100,000 (CDBG)	About \$70,000 has been drawn down, with about \$30,000 available.

Details: Actual expenditures have fallen short of allocation for the past few years. City staff determined on average about \$35,000 has been spent on EHR projects each year in recent years, contrasted with allocations of \$100,000. For the 2013 award, about \$30,000 remains to be drawn. An additional \$141,000 was allocated to EHR projects in 2014 and 2015, which will be drawn down after the 2013 amount is expended. Staff is in touch with HUD to explain why the 2014 award has not yet been drawn down. Staff will continue to draw down funds before new funds are awarded, and will communicate the actual staff costs with the CDAC and council. Expected completion: Fall 2016.

13.

Year funded	Recipient	Project	Award Amount	Status
2013	NEDCO	Sprout! Community Food Hub Exterior Improvements	\$20,353 grant (CDBG)	Completed.

Details: Due to City staff turnover, the contract was not signed until 2015. Once NEDCO identified appropriate contractors for the work, City staff worked with NEDCO to ensure they were following federal labor standards and Davis-Bacon laws, which can be complicated and time-intensive. The project was completed in Fall 2015 and has since been closed out. Expected completion: Done.

14.

Year funded	Recipient	Project	Award Amount	Status
2014	Springfield Renaissance Development Corporation (SRDC)	Downtown Demonstration Project	\$35,000 grant (CDBG)	Completed. \$6,700 remaining to be drawn

Details: SRDC completed the project in 2015. However, during the transition with City staff, the contractor did not supply adequate documentation for compliance with federal Davis-Bacon labor laws. City staff is working with the contractor to ensure all workers employed were paid federal Davis Bacon wages on the project, and to provide sufficient documentation to show that this was met. SRDC has invoiced the City for the remaining funds, but staff are working with the contractor to finalize the documentation before proceeding with the invoice. Expected completion: Spring 2016.

Springfield CDBG 2015/16 Funding Allocation Summary

Sources of Funding

Entitlement Grant	\$ 466,694
Reprogrammed Funds from Prior Years	
Funds to Reprogram	\$ 80,000
Total Sources	\$ 546,694

Uses of Funding

Housing Rehabilitation	
Emergency Home Repair Program (EHR)	\$ 71,604
EHR Program Delivery	\$ 70,000
	<hr/>
	\$ 141,604
Downpayment Assistance for Low-Income Homebuyers	
Springfield Home Ownership Program (SHOP)	\$ 70,000
SHOP Program Delivery	\$ 30,000
	<hr/>
	\$ 100,000
Public Services Operations (Human Services Commission)	\$ 70,004
Non-profit Capital Improvement	
NEDCO Sprout! Code Improvements	\$ 100,000
Project Delivery	\$ 17,010
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	\$ 117,010
Administration	\$ 93,339
Unallocated Funds	\$ 24,737
Total Uses	\$ 546,694

AGENDA ITEM SUMMARY

Meeting Date: 2/8/2016
Meeting Type: Work Session
Staff Contact/Dept.: Anette Spickard
Mary Bridget Smith
Staff Phone No: 541.726.3697
Estimated Time: 30 minutes
Council Goals: Provide Financially
Responsible and
Innovative Government
Services

**SPRINGFIELD
CITY COUNCIL**

ITEM TITLE: REVIEW AND DISCUSS PROPOSAL FROM DEVELOPMENT ADVISORY COMMITTEE TO STREAMLINE DEVELOPMENT REVIEWS

ACTION REQUESTED: Provide direction to staff and the Development Advisory Committee (DAC) regarding proposals to streamline development reviews.

ISSUE STATEMENT: The DAC was charged by Council to examine the Development Code and make recommendations to Council regarding modifications that could enhance the City's competitiveness for new development investment. The DAC has developed two concepts that would streamline the review process. Certain policy issues have been identified that require Council discussion and direction to the DAC to help shape the final form of their proposals. The policy issues are discussed in further detail in Attachment 1.

- 1) The role of public involvement in development applications
- 2) Applicability and competitiveness of development review process
- 3) Timing, cost, and coordination of a Development Code amendment to create proposed process

ATTACHMENTS: Attachment 1 – Council Briefing Memorandum
Attachment 2 - February 1, 2016 Memorandum From Legal Counsel
Attachment 3 – February 1, 2016 Development Advisory Committee Memo
Attachment 4 – Site Review Procedures
Attachment 5 – Examples of Site Plan Review and MDS projects

**DISCUSSION/
FINANCIAL
IMPACT:** The DAC has two proposed concepts for streamlining the development approval process. Both methods could improve the City's competitive position in the local market and provide security to developers, however there is a significant difference in the timing, cost and applicability of the two approaches. The simplest improvement the DAC recommends expands upon the City's existing ministerial building permit and site plan review procedures by expanding the definition of what applications can qualify for the Minimum Development Standards based upon the size of the footprint involved. If Council agrees with the approach, staff is prepared to move this recommendation forward for implementation.

The second proposal of the DAC is the creation of a new application process in the Development Code that would create a "ministerial review" that would require the City to approve development applications that meet all of the criteria contained in a checklist. The City Attorney's office has analyzed this proposal and has highlighted a number of issues that Council needs to be aware of and understand the implications of before instructing the City to create this new process in the Development Code. This proposal will require a substantial investment by the City to create the code amendments and process through the Planning Commission, Council and through the state for approvals.

MEMORANDUM

City of Springfield

Date: 2/3/2016
To: Gino Grimaldi **COUNCIL**
From: Anette Spickard, Director DPW **BRIEFING**
Jim Donovan, Planning Supervisor
Subject: REVIEW AND DISCUSS PROPOSAL FROM **MEMORANDUM**
DEVELOPMENT ADVISORY COMMITTEE
TO STREAMLINE DEVELOPMENT REVIEWS

ISSUE: The DAC was charged by Council to examine the Development Code and make recommendations to Council regarding modifications that could enhance the City's competitiveness for new development investment. The DAC has developed two concepts that would streamline the review process. Certain policy issues have been identified that require Council discussion and direction to the DAC to help shape the final form of their proposals. The policy issues are discussed in further detail in this memo.

- 1) The value of public involvement in development applications
- 2) Applicability and competitiveness of proposed development review process
- 3) Timing, cost, and coordination of a Development Code amendment to create proposed process

COUNCIL GOALS/

MANDATE: Provide Financially Responsible and Innovative Government Services

BACKGROUND:

The DAC has worked together with Springfield staff for several years to create innovative ideas to improve the development review process in order to fulfill the Council's goal of being "open for business". The DAC members have contributed many hours of their own time to bring fruitful ideas to the City over the years and those have been implemented with success.

The Springfield Development Code now offers a range of application review methods based on the size and complexity of the development along with a graduated fee schedule. (See Attachment 4 – Site Review Procedures) While the City's stated fee policy is to achieve 100% cost recovery, the planning fees are set at this time to cover approximately half of the City's cost and the general fund subsidizes the remainder. This was a deliberate choice made by Council many years ago to demonstrate that the City is "open for business".

Today the DAC has two proposals under consideration. A memo from the City Attorney's office (see Attachment 2) describes the two proposals and the issues that Council should consider in determining whether to direct staff to proceed with implementation of one or the other. The two proposals could be considered mutually exclusive as it would not make sense to implement both. The DAC is not in consensus on recommending either proposal and understands there are policy issues for consideration and is interested in the Council's feedback.

Either method could improve the City's competitive position in the local market and provide security to developers, however there is a significant difference in the timing, cost and applicability of the two approaches. And so the DAC is interested in the Council's guidance on a preferred approach.

Proposal #1 – Expand definition of MDS-major and MDS-minor to allow more

applications to utilize that lesser level of review.

The DAC has reviewed the existing Type 1 ministerial MDS review procedures and proposes to expand the allowed zoning districts and size limitations. The current process allows up to 5,000 square feet of expansion and modifications in the commercial and industrial districts under MDS Minor and 25,000 square feet under the MDS major application. The proposed expansions include allowing MDS in all zones where the expansion or construction is at least 50 feet from low density residential zones and size limitations of 10,000 for MDS Minor and up to 50,000 square feet of new construction or additions under MDS Major. As a Type 1 process, there is no notice required; however the applicant or Director can request notice to mitigate the likelihood of appeal. The application is reviewed concurrently with Building Permit review procedures and meets most commercial and industrial building permit review timelines.

Proposal #2 – Create a new process for “Ministerial Site Plan Review”

This proposal creates a new application process in the Springfield Development Code that will require the City to approve development applications that meet all of the criteria contained in a specified checklist to ensure compliance with the Development Code. This proposal will require a substantial investment by the City to create the code amendments and process through the Planning Commission, Council and ultimately through the State for approvals.

See Attachment 5 for a list of recent site plan and MDS applications and approval timelines. Two examples from the Site Plan Review section are highlighted as examples that would go through the Proposal #2.

ISSUES FOR DISCUSSION

1) The value of public involvement in development applications

Proposal #1 expands eligibility for an existing process that has been approved by the State.

Proposal #2 will take applications that would have otherwise required a Site Plan Review and instead process those using a “Ministerial” standard which means that staff would merely verify that the plans contain certain checklist requirements for approval. This would eliminate public notice to the neighbors. It would be a pass/fail type of review with no consideration of public input. The benefit to the developer is less cost once the application is submitted because of the elimination of the public notice requirement and possibly a shorter processing time although staff will still need to review the plans to ensure they meet our code requirements.

The issue for the Council to discuss is balancing the desire of developers to have expediency and certainty in the development approval process with the value of providing public notice to neighbors about proposed developments.

2) Applicability and competitiveness of proposed development review process

Proposal #1 expands eligibility for an existing process that has been approved by the State.

Proposal #2 would be limited to commercial applications that do not require any zone changes or plan amendments, are not in overlay zones, or are not in refinement plan areas such as Glenwood that have specific development requirements. The universe of potential properties this proposal would apply to is limited. The applications would have to demonstrate how they comply with the City’s standard stormwater, fire safety and transportation codes with no modifications. Staff could not work with developers to design creative solutions to meet the Development Code. It would be a pass/fail type of review.

The issue for the Council to discuss is the desire of developers to have a streamlined review

process that eliminates staff discretion with the City's values of customer service and flexibility.

- 3) Timing, cost, and coordination of a Development Code amendment to create proposed process

Proposal #1 is ready to move forward for implementation.

Proposal # 2 will require the City to create new development code through the Planning Commission with required public hearings and then submittal to the state Department of Land Conservation and Development for approval. Another important consideration is the timing of when this tool should be created and how it would be coordinated with other comprehensive plan policies and code amendment projects currently underway. The City is currently implementing the 2030 Comprehensive Plan, Main Street Vision Plan code amendments, Downtown Design Standards code, Recreational Marijuana code amendments and the Transportation System Plan code amendments. The logical timing to consider the creation of the new ministerial process concept would be after these project specific code amendments are finished and the City is going through a wholesale update and reformatting of the Development Code. Proposal #2 will involve an investment of general fund resources not yet identified to bring to fruition.

The issue for the Council to consider is balancing the desire of the developers for a new process to be implemented through the Development Code with the resource limitations and current development code priorities of the City.

RECOMMENDED ACTION: Staff recommends Council discussion of the issues and provide direction to the DAC as requested.

MEMORANDUM

OFFICE OF CITY ATTORNEY

DATE: February 1, 2016

TO: Jim Donovan, Planning Supervisor

FROM: Mary Bridget Smith 
Office of City Attorney

RE: Ministerial Site Plan Review

The purpose of this memo is to discuss the legal considerations of implementing a Ministerial Site Plan Review process for property development in the City of Springfield. Please include it in the packet for the February 8, 2016, work session with City Council and the Development Advisory Committee.

Development Approval Process Background

Generally speaking, development approval in the City of Springfield follows two paths, Site Plan Review (SPR) or Minimum Development Standards Review (MDS). The MDS path addresses smaller, less complex developments and is subject to a Type I ministerial review as set out in the Springfield Development Code. The idea behind ministerial decisions is that they are based on clear and objective standards that do not require analysis or the exercise of legal judgment. An example of a ministerial standard would be a standard prescribing a certain number of parking spaces for a particular development as opposed to a standard that would require sufficient parking to serve that same development. A Type I decision is made by the Department Director and does not include public notice to surrounding property owners. Also, these types of decisions are not subject to LUBA's jurisdiction and any appeals must be taken through a more complicated legal process at circuit court. The benefit to this kind of approach is that it is more streamlined and provides certainty to the applicant. Currently, MDS is divided into two categories, Minor and Major applies to projects under 5,000 square feet or under 25,000 square feet of new impervious area.

SPR is meant for more complex or larger developments and is a Type II decision within LUBA's jurisdiction. A Type II decision is also made by the Department Director but the exercise of discretion or legal judgement triggers notice to the public and surrounding property owners. The development process is more complex in that it generally involves a Development Issues Meeting, higher application fees and discretionary development standards that require analysis and judgment. This approach can provide flexibility for a project and path to 'get to yes' as opposed to the more streamlined and more prescriptive ministerial process discussed above.

Development Advisory Committee Context

The Development Advisory Committee was tasked with providing recommendations for making the City of Springfield attractive and competitive for attracting development. One of the ideas they have investigated is implementing a SPR process that is based on ministerial standards and thus not a land use decision subject to public notice at the time of application and LUBA jurisdiction. Part of the inspiration for this kind of ministerial review is Eugene's development review process. In that system, a development can be processed ministerially during building permit review and if necessary specific standards can be removed from the application and processed similarly to a Type II discretionary site plan review process. It is important to note

that this process does not apply to certain overlay zones where the city specifically requires a Type II Site Plan Review.

Public Notice

An important legal consideration to implementing a site plan review process based on ministerial standards is the role of public notice. Currently, a Type II SPR process includes the City sending written notice to surrounding properties and posting the notice at the property. The notice is required to include specific information such as the name of the applicant, the subject of the application, and how to secure the right to appeal the Department Director's decision. A Type I ministerial process does not have public notice at the time of the development application; however, there would be public notice when the ministerial standards upon which the approval criteria are based are initially adopted into the Development Code.

Legal Issues in Ministerial v. Discretionary Decisions

It is worth noting, however, that even if the City of Springfield does adopt a ministerial development process, the underlying decision may still be appealed to LUBA if it involves standards that are considered to be ambiguous. In the context, "ambiguous" means that some operative term could plausibly be interpreted in more than one way. *Tirumali v. City of Portland*, 169 Or App 241 (2000). The issue of whether or not a decision involves discretion has been heavily litigated which is understandable given the rights guaranteed to the applicant and the public in a Type II land use decision that are absent in a ministerial process. Finally, an affected property owner may appeal a ministerial land use decision for a period of up to 3 years after the initial decision is made.

Applicability of Ministerial Site Plan Review Process

A local government can decide that this type of tool does not have to apply to every type of development or in every zone located within the City. A ministerial site plan review track is not meant to replace the current discretionary review process. For example, there may be areas of a City where it would make sense to require a more comprehensive review process such as an overlay district subject to certain development standards or one that was created to encourage a specific type of development.

Another issue of applicability is not location, but rather how often a ministerial site plan review process would be utilized if there was not a tool in place such as a variance process similar to the adjustment review in Eugene. The adjustment review process or equivalent allows for certain standards to be pulled out of the ministerial process and processed as a Type II decision. There are, however, some policy considerations in that the public would only know about the standards or aspects of the development that the developer is asking to be pulled out and handled differently in the adjustment review process. Also, the remaining ministerial and building permit application is delayed until the adjustment, or variance process is complete.

Legal Issues in Creating a Ministerial Site Plan Review Process

Developing a ministerial site plan review process does have some legal risk in that it would require significant changes to the *Metro Plan* and Development Code. To implement this kind of development process, the City would have to examine the applicable *Metro Plan* and refinement plan policies and amend them to authorize and coordinate the corresponding Development Code changes. The *Metro Plan* and Development Code amendments will be subject to Type IV review process that includes a Planning Commission hearing and recommendation along with City Council adoption. Those Code amendments could then be appealed to LUBA requiring the City to deal with a possible remand.

The public involvement process for changing the applicable *Metro Plan* policies and the Development Code would most likely include a significant amount of public input and outreach through organized efforts with stakeholders. Involving various stakeholders to assist in developing the new ministerial standards will be complicated in that they will, most likely, have different ideas about whether a proposed standard is truly ministerial. It is also important to note that these kind of amendments may not catch the general public's attention when they are not attached to a specific development project.

MBS:ljc

February 1, 2016

Dear Mayor Lundberg and City Councilors,

The Development Advisory Committee (DAC) was formed to help identify ways to make Springfield competitive by attracting new development and through retaining existing development by facilitating ability to grow and change over time. DAC, with City Council approval and direction, focused first on the Site Plan Review (SPR) and Minimum Development Standards (MDS) processes. In February 2015 the committee believed that we had reached consensus on an approach and that staff was in agreement. However, in our most recent meetings we have learned that staff has concerns about key issues related to SPR. At this time we are requesting direction from Council to help the committee and staff understand your preferences on these points so we can move forward with completing our task.

The committee recognizes that just because Springfield is next door to Eugene does not mean that Springfield should become a mini-Eugene. However, we do believe there are certain key elements of Eugene's development process that need to be incorporated into Springfield's process to be competitive with Eugene, Salem, Medford and other communities throughout Oregon. Based on personal experience the committee believes that many developers value "ministerial" code criteria over the length of time to obtain approval or the cost of obtaining approval. They would rather sacrifice the flexibility of "discretionary" code criteria to know for certain that they meet the criteria before submittal than take the chance of debating criteria with review staff with the risk of having to redesign the project due to a more opinion based review. It is worth noting that some developers do prefer the flexibility of discretionary code criteria though. Therefore, the approach identified by the committee last February was a parallel, optional SPR track that would provide those developers who wanted it, the opportunity to apply under ministerial code criteria. *It is important to note that it is not our intent to replace the current discretionary SPR, but merely to supplement it with another option for those who want it.*

This new ministerial SPR (MSPR) would be similar to the existing MDS process which is ministerial. There is a key difference between them though – project size. Even with the committee's recommended changes to MDS (which has staff support so is not discussed here), MDS is limited to small projects in only certain places, typically something along the lines of revising a commercial parking lot downtown. MDS is not suitable for something like a new multi-family development in Glenwood or erecting a new building on the vacant lot at 5th and A St across from City Hall. It is the committee's hope that MSPR would be applicable to many, if not all, of the projects beyond the purview of MDS. We need input on Council's priorities though to do a reasonable analysis of applicability.

One concern that has been raised is public notice, which translates into a certain level of appeal risk acceptance by Council. Staff and legal counsel have stated that the more public notice there is, the less risk there is of an appeal. However, it is the committee's observation that the more public notice there is, the more developers worry about delays due to NIMBY reaction ("I want the community to have it but I don't want it in my neighborhood"). Some committee members feel that heavy public involvement at the time of creating the standards is all the notice required – especially since the development would be required to meet each of the criteria required by code without any judgement or discretion during the review. Other committee members feel that, although there are developers that would see notice as a significant issue, sending public notice on an MSPR would be a compromise to

address staff's concern. Therefore, the first question is: What level of appeal risk is Council willing to accept?

Another concern that has been raised is that it may not be possible to make some standards, such as stormwater, be ministerial. The committee believes that the City of Springfield's staff is very inventive and intelligent so can most likely find a way to make those standards ministerial. The committee recognizes though that completion of this will take staff resources which are also being requested by other projects. A potential compromise to delay that burden is to segregate out the one or two most difficult portions of the criteria into a separate discretionary application(s). So the second question to Council is: What priority level do you give to our work? This will help staff determine how much time they have available to work on the more difficult standards.

We understand that Council Work Sessions are not designed for public presentations, however representatives of the DAC will be available on February 8th to respond to any questions Council may have.

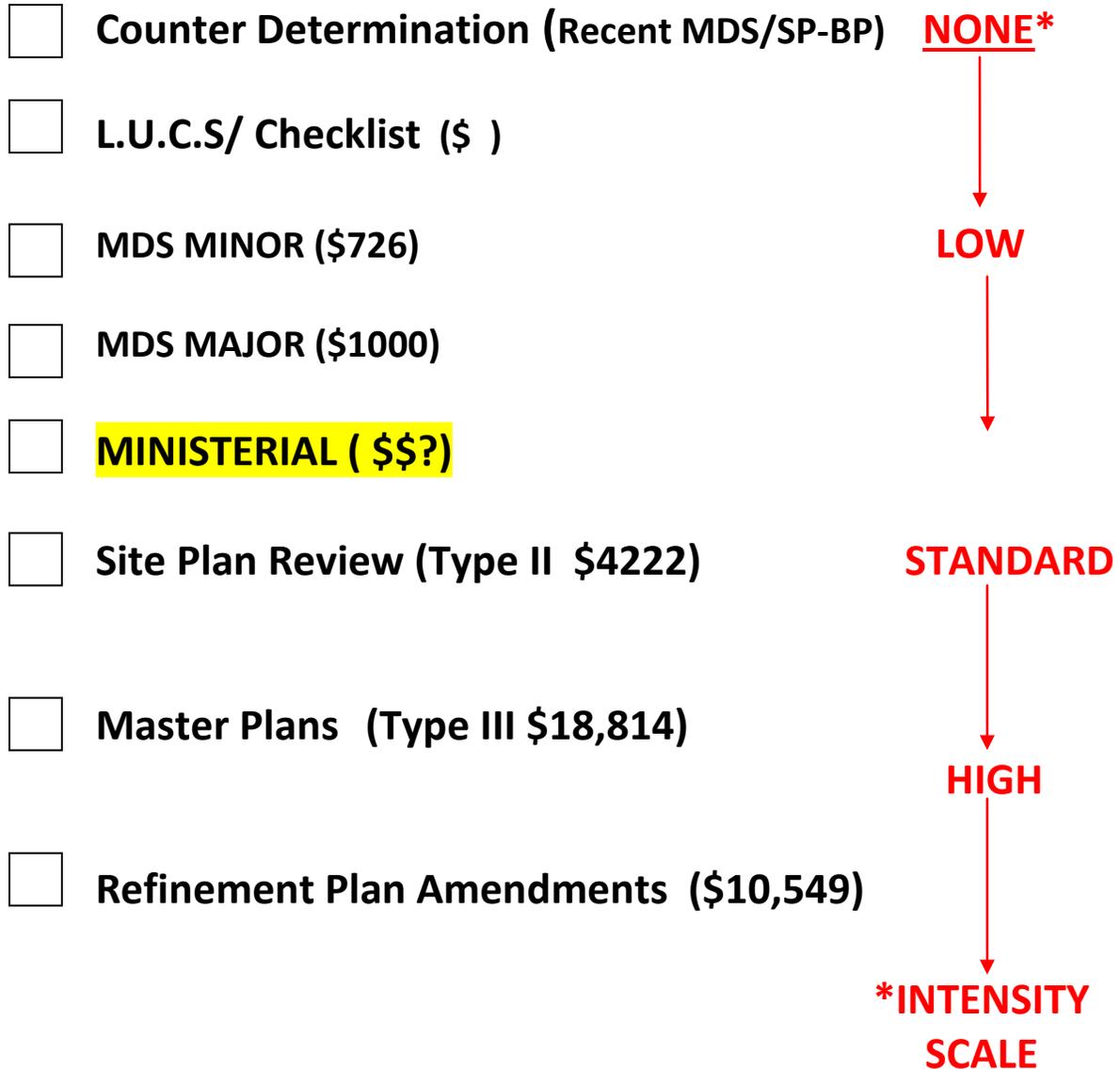
Thank you for your time.

Sincerely,

A handwritten signature in blue ink that reads "Renee Clough". The signature is written in a cursive, flowing style.

Renee Clough
DAC Chairperson

SITE REVIEW PROCEDURES



MDS Major: 11 Applications 1/1/12 to 9/15/14

File Number	Address & Zoning	Square Footage (Max 25k)	Consultant	Tentative Decision Time/Weeks
Typ114-00015	Industrial Blvd /MUI	4520	Yes	5
TYP114-00009	14 th &Main/CC	17,869	Yes	4
TYP114-00010	14 th &Main/CC	20,202	Yes	4
TYP113-00028	Laura/LMI/CC	10,717	Yes	3
TYP113-00012	Laura/LMI/CC	23,372	Yes	4
TYP113-00004	ComBlvd/IND	Change in Use	Yes	8
TYP113-00003	MainSt/CC	2040	Yes	4
TYP112-00025	Shelley/LMI	2400	Yes	4
TYP112-00017	31 st /IND	8550	Yes	5
TYP112-00011	OLY/IND	24,953	Yes	6
TYP-112-00009	28 th /IND	12,000	Yes	5
Summary	45%CC 55%IND	12,662 avg	100%	4.7 week avg

MDS Minor: 22 Applications 1/1/12 to 9/15/14

File Number	Address & Zoning	Square Footage (Max 5000 sq ft)	Consultant (Y or N)	Tentative Decision Process Time/Weeks
TYP112-00010	Gateway/CC	2096	Y	3
TYP112-00012	South A/HI	Change of Use	N	4
TYP112-00015	RvrBend/MUC	EMX Station	Y	Withdrawn/SPR
TYP112-00028	57&Main/CC	80 (add drive-up)	Y	3
TYP112-00030	Thurston/PLO	320	N	2
TYP112-00033	Commercial/HI	Change in Use	Y	Withdrawn/MMDS
TYP112-00040	Centennial/CC	480	N	4
TYP113-00002	12 th &S.A/CC	Change in Use	N	4
TYP113-00009	33 rd &Main/CC	Change in Use	N	6
TYP113-00010	Mohawk/MUC	476	N	6

TYP113-00013	44 th &Main/CC	4860	Y	4
TYP113-00014	Mohawk/MUC	2 new buildings at sports bar	Y	Withdrawn
TYP113-00015	Nugget/LMI	5,000	Y	5
TYP113-00019	17 th &Main/CC	1,900	Y	5
TYP113-00023	Game Farm/CI	764	Y	2
TYP113-00026	South F/HI	9130	Y	4
TYP113-00027	4 th &B/MUC	750 Mobile MRI	Y	3
TYP113-00031	S.18 th /HI	8910	Y	4
TYP114-00002	Olympic/MRC	64 - add drive-up window	N	3
TYP114-00005	16 th &Main/CC	Change in Use	N	5
TYP114-00006	Shelley/LMI	864	Y	3
TYP114-00014	21&Main/CC	Change in Use	N	9
Summary	63% C 31% I 6% P	2550 avg (5 COU, 3 WD)	74% Y 36% N	4.1 Weeks
LUCI APPS Same Period	10			
SPR Apps Same Period	16			

Site Plan Review (Added 11/13/14)

File	Addr/Zoning	Devt Sq Ft/Ac	Type II /Notes	Tent Dec/Wks
TYP212-00002	28 th / HI	34000	Y	4
TYP212-00004	47th/Main CC	3325	Y (LDR)	7
TYP212-00007	52/HBR LMI	161000	Y (Ext 2)	20*
TYP212-00009	Intl/ CI	70,000	Y	7
TYP212-00011	Jasper Rd LDR	Fee est.	Y (SPS)	0*
TYP212-00012		WD	Y	0*
TYP212-00014	Gwood HI	*	Y	0*
TYP213-00002	Jasper LDR	13 ac*	Y (SPS park)	7
TYP213-00005	28 th / HI	53000	Y Storage	4
TYP213-00004	Mohawk/ CC	35000	Y Bank	4

TYP213-00007	63/Main MDR	9000	Y LDR	5
TYP213-00009	Franklin MUC	40000	Y Hotel	8
TYP213-00015	R St/ MDR	23000	Y	4
TYP214-00001	Pheasant CC	600*	Y Cell twer DU	7*
TYP214-00007	WillHi LDR	9800	Y	4
TYP214-00010	A St MDR	4700	Y	4
TYP214-00017	Q St MDR	14000	Y	5
TYP214-0000	Shadylane LDR	19400	Y	4
18 apps/ 5*	I-5 C-4 R-8	36,632 avg	Notes	5.1 weeks
*exempted from summary category				