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**Planning Commission
Community Auditorium and Zoom
1915 Main Street, Forest Grove, OR
Tuesday, March 22nd, 2022, 7:00 pm**

1. CALL TO ORDER AND ROLL CALL:

Vice Chair Lisa Nakajima called the Planning Commission public hearing to order at 7:00 p.m. via Zoom Video Conference.

COVID-19: Due to the emergency declaration resulting from COVID-19 (Coronavirus disease) and protocols, the Planning Commission limited in-person contact and social distancing. **The Planning Commission conducted the meeting remotely by video conferencing.** The meeting was remotely video conferenced by Planning Commission Coordinator Shannon Reynolds as well as televised live from the projector screen at the Community Auditorium by Tualatin Valley Community Television (TVCTV) Government Access Programming LIVE Channel 30 on their website. To view the recorded meeting, please visit <http://tvctv.org/>. The public was allowed to attend via Zoom or observe in the Community Auditorium as space allowed.

Roll Call:

Planning Commission Present via Zoom Remotely: Vice Chair Lisa Nakajima; Commissioners Julie Danko, Joel Redwine, and Ginny Sanderson.

Planning Commission Excused: Chair Phil Ruder

Staff Present: Bryan Pohl, (on Zoom) Community Development Director; Amy Kreimeier, Senior Planner (in the Auditorium); Shannon Reynolds, Planning Commission Coordinator (in the Community Auditorium); Dan Riordan, Senior Planner (on Zoom) Richard Blackmun (on Zoom), Gregory Robertson (on Zoom)

2. PUBLIC MEETING:

A. PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS:

None.

B. PUBLIC HEARING:

(1.) File No. 311-21-000064-PLNG – Planned Residential Development consisting of 141 single family detached and 80 attached residential lots located at the 2627 NW Highway 47, Washington County Tax Lot 1N3300001100

Vice Chair Lisa Nakajima opened the quasi-judicial public hearing at 7:00 p.m., reading the hearing procedures, criteria, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were no conflicts of interest and no challenges from the audience. Vice Chair Nakajima asked for a roll call vote for any

Commissioner abstentions to the hearing. A vote was taken and no abstentions were made.

Senior Planner, Amy Kreimeier provided a staff report and Power Point presentation giving an overview of the recent annexed project site located at 2627 NW Highway 47, with an ariel view of the Planned Residential Development for Davis Estates (PRD). This is a 221-lot subdivision with 141 detached and 80 attached lots. This development will consist of 10 open space tracts with 3 distinct parks and 7 water quality tracts. Requests for reduced front, side, rear and corner lot side yard setbacks have been made. Proposed allowances have been requested for narrower lot widths as well as 80 single unit attached which will constitute 36% of the project. The site plan, architectural design and building elevations were shown to the Commissioners. The applicant has agreed to the condition of extending Street A. They will construct two new streets on the eastern segment of 37th Ave and Chestnut Street. Main St., a collector, is also conditioned to be completed in its entirety during Phase 1.

Kreimeier mentioned since the time the agenda was released there have been three more written comments from the public and were emailed to the Commissioners prior to tonight's meeting.

Staff found that the application adequately demonstrated compliance with the applicable provisions of the Development Code. Staff recommends that the Planning Commission approve the application for the Davis Estates PRD, subject to conditions of approval written in the staff report.

CORRESPONDENCE:

Public notice was mailed to property owners and residents within 300 feet of the site on March 1, 2022 as required by Development Code (DC) §17.1.615. Notice was also published in the *News Times* on March 10, 2022.

AGENT FOR APPLICANT:

Ryan O'Brien, Planning and Land Design, 1862 NE Estate Drive, Hillsboro, OR 97124

Mr. O'Brien testified that the staff report provided was accurate. He commented on several items of importance. They have provided a large amount of parking available throughout the subdivision as well as several green spaces. He does not see in the Development Code where it states that the completion of the Main Street connection is required to be finished in the Phase 1 of construction. They would like to complete the construction of Main Street in Phase 4 to help disburse costs throughout the project. He noted the jog in the construction of Chestnut Street, they hope to address this in Phase 4 of construction should the current landowner dedicate that right of way. He stated storm sewer lines were not necessary on 37th Avenue as there will not be any lots serviced on this portion of Phase 4 and a water quality facility is slated to go on the adjoining property. The addition of covered patios will affect the rear yard setback and they are requesting the minimum of 5 feet when a patio cover is attached.

PROPONENTS:

Michael Ard, Ard Engineering, 17790 SW Dodson Dr., Sherwood, OR 97140

Mr. Ard summarized his traffic study findings for the development area. The area of safety and operational concern was found at the intersection of Martin Road. and Hwy 47. A round-a-bout is slated to be installed which will alleviate any existing concerns for the Davis Estates PRD. A second point of access to the subdivision has been added to A Street, which should lessen the traffic impact on surrounding streets. Condition of Approval 10 is a concern as they will not be using this portion of Main Street until much later in Phase 4. They feel this is an unlawful condition of approval at this time. It creates associated risk and cost to the developer with no associated immediate benefits. They would like to offer to dedicate the right-of-way on this section of the Main Street extension so that the property to the north has the legal right and ability to construct the road to their future development.

Carey Stephens, Barnhisel, Willis Barlow Stephens & Costa, P.C., 123 NW 7th St. Corvallis, OR 97330

Mr. Stephens summarized the applicant's viewpoint that construction of the entirety of Main St. is not required by the Forest Grove Development Code (FGDC). Based upon the Development Code it requires providing "access" to adjoining land that will allow its development and not road completion. Streets within the tract to be developed must be extended to the boundary of the tract to allow access to the adjoining land. It does not mean that all streets in future phases that are not yet being developed must be constructed. Mr. Stephens mentioned the Nollan/Dolan case as a point of reference. The Applicant proposes a revision to Condition 10 be stated as, "A right-of-way for the entirety of Main St. shall be dedicated to the City prior to approval of Phase 1 final plat. No building permits for any dwelling units in Phase 2 shall be issued until a right-of-way for the entirety of Main St. is dedicated. Main St. shall be constructed in accordance with civil plans."

Chris Crean; City Attorney, Berry Elsner & Hammond LLP, 1750 S Harbor Way Suite 380, Portland, OR 97201

In reference to the mention of the Nollan/Dolan case, there is no case law that deals with a phased project such as Davis Estates. The construction of Main St will service the Davis Estates lots. Main St. has been notated as a "collector" street and therefore it serves the whole area of the City and requires construction to connect to the far property.

David Hill, Allied Development, 5005 LBJ Freeway, Suite 325, Dallas, TX 75244

Mr. David Hill represented Allied and the letter that was submitted as additional comments to the Davis Estates Public Hearing. Mr. Hill reiterated they are in support of the new development. The letter stated three revisions to the staff recommended conditions of approval for Commissioners to consider.

Garett Stephenson, Attorney, 1211 SW 5th Ave. Portland, OR 97204

Mr. Stephenson further explained the letter that was drafted on behalf of Allied Development.

Darren Wood, Farmhouse Holding, LLC, 7714 SE 111th Ave, Portland, OR 97266

Mr. Wood stated he is a resident of nearby property and he is in support of the Davis Estates development. He stated he also would like Commissioners to adopt as a condition of approval the recommendations as outlined by staff, as well as the revised conditions proposed by Allied Development's legal counsel, which will ensure that the necessary road and utility links (Main Street and Chestnut Street) are constructed to and through to our property boundary prior to final plat and the construction of homes.

OPPONENTS:

None

OTHER:

None

REBUTTAL:

Mr. Ard provided rebuttal response. The applicant is more than willing to dedicate the right-of-way to Allied to give them the ability to access their property and continue development.

Cary Stephens stated his interpretation of the Development Code requirement is that the complete construction of the road does not have to be done in Phase 1. The Code does not support building "to and through", rather it states access must be provided.

Vice Chair Nakajima closed the hearing at 8:33 p.m.

COMMISSIONER DISCUSSION:

Vice Chair Nakajima stated that Main St. is identified at a "collector" street and she agrees with the staff conditions of requiring this road to be completed during Phase 1. She also asked for clarification from Engineering on Conditions of Approval 28.

Commissioner Sanderson also agrees with the recommendations of staff and stated it is reasonable to require the construction of Main St. during Phase 1 of development.

Richard Blackmun discussed Conditions of Approval 28. This condition was put in place for future connections to water, sewer and storm along 37th Avenue, between Chestnut St. and Ash St. Installing these services now makes more sense than to tear a new road up again for later installation.

Commissioner Sanderson moved a motion to approve file number 311-21-000064-PLNG – Planned Residential Development consisting of 141 single family detached and 80 attached residential lots located at the 2627 NW Highway 47, Washington County Tax Lot 1N3300001100 subject to staff recommended conditions of approval. Commissioner Redwine seconded the motion.

Roll Call Vote on Motion: AYES: Vice Chair Nakajima; Commissioners Sanderson, and Danko and Redwine. NOES: None. ABSTAIN: None. ABSENT: Chari Ruder. MOTION CARRIED 4-0.

(2.) File No. 311-22-000003-PLNG – Oregon House Bill HB 2001 Proposed Amendments to the text of the Forest Grove Development Code (Middle Housing Law) and SB 458 (Middle Housing Divisions)

Vice Chair Nakajima opened the legislative judicial public hearing at 8:40 p.m., and asked staff if any correspondence had been received other than what was already listed. Riordan responded a letter had been received and provided to the Commissioners. The letter is from AKS Engineering & Forestry, dated March 22, 2022 and primarily focused on density calculations and set back requirements.

Dan provided the Commissioners a brief overview of HB (House Bill) 2001 and SB (Senate Bill) 458 and the Code text amendments they will be recommending on to City Council. In summary the Commissioners will deliberate on zoning district consolidation, minimum lot sizes, building setbacks, development intensity, detached duplexes, the dwelling diversity standard, cottage clusters and single unit attached/townhomes.

Staff recommends the Planning Commission take public comments on the proposed code amendments attached to the staff report and approve a motion recommending the City Council adopt an ordinance approving amendments to the Forest Grove Development Code as desired to comply with HB 2001.

Vice Chair Nakajima opened the hearing for discussion.

Mimi Doukas, AKS Engineering & Forestry, 12965 SW Herman Rd. Tualatin, OR 97062

Ms. Doukas mentioned she was present on behalf of Allied Homes. The new Floor Area Ratios (FAR) standard will not be negotiable through the Planned Residential Development process and remains a concern to them. Dan will clarify if the garage will be included in the FAR calculations as shown in the Model Code definitions. Doukas asked that this definition be added to the Forest Grove Development Code Text as well.

Vice Chair Nakajima stated she would like to postpone the vote to recommend to City Council until the April 4th meeting to allow more time to review the information provided by staff.

Commissioner Sanderson moved a motion to close the Public Hearing and continue final deliberations on File No. 311-22-000003-PLNG – Oregon House Bill HB 2001 Proposed Amendments to the text of the Forest Grove Development Code (Middle Housing Law) and SB 458 (Middle Housing Divisions) until the Planning Commission meeting on April 4th 2022 at 7:00 p.m. Commissioner Danko seconded.

Roll Call Vote on Motion: AYES: Vice Chair Nakajima; Commissioners Sanderson, and Danko and Redwine. NOES: None. ABSTAIN: None. ABSENT: Chari Ruder. MOTION CARRIED 4-0.

C. ACTION ITEMS:

None.

3. BUSINESS MEETING:

A. APPROVAL OF MINUTES:

Commissioner Sanderson moved to approve the minutes of the February 21st meeting. Commissioner Redwine seconded. Motion passed 4-0.

B. PLANNING COMMISSION VACANCIES UPDATE:

Bryan Pohl updated the Commissioners that two appointees have been selected for the vacant positions on the Planning Commission. If accepted, these positions should be confirmed at the City Council meeting on April 11th.

C. COMMISSIONER/SUBCOMMITTEE REPORT:

None

D. DIRECTORS REPORT:

Bryan Pohl updated on meeting as a Commission remotely via Zoom and some of the issues with a hybrid format. There will be some Development Code Text Amendments on a few items surrounding cannabis businesses, out-door entertainment, gravel parking lots, and signs. The Water Master Plan will be ready to move forward on April 4th.

E. ANNOUNCEMENT OF NEXT MEETING:

The next meeting is scheduled for Monday, April 4th, 2022 at 7 p.m.

F. ADJOURNMENT:

The meeting was adjourned at 9:23 p.m.

Respectfully submitted by:

Shannon Reynolds
Planning Commission Coordinator