



Where Life is Sweet

Members of the Planning Commission

STAFF REPORT

For the Meeting of July 9, 2025

Title/Subject

Continued from June 11, 2025 Regular Meeting

Replat- 4N2802AB Replat of Sunset Estates & Terra Nova Terrace

Summary and Background

The planning commission considered the preliminary replat of Sunset Estates and Terra Nova Terrace at the June 11 regular meeting. Due to concerns raised by ODOT regarding transportation impacts, the planning commission chose to continue the consideration of the preliminary plat to the July 9 meeting.

The planning commission took testimony at the June 11 meeting. Preliminary plat approval is a limited land use decision and not subject to a hearing. The planning commission may choose to accept additional testimony at this meeting but is not required to accept testimony or evidence beyond that requested by the planning commission when continuing the consideration.

Limited land use decisions are a specific action in Oregon land use law. They are a classification of decision in addition to legislative and quasi-judicial decisions. While they are subject to consideration of design and compliance with code, they are not discretionary decisions. Limited land use decisions, especially platting, are subject to applicable code requirements and should be approved provided the planning commission can find there is sufficient evidence of compliance with the applicable standards. The ORS defining limited land use decisions reads in ORS 197.015:

“Limited land use decision”:

- a) Means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:
 - a. The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).
 - b. The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.
- b) Does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

There are examples of land use actions meeting each of the classifications in a) above. Preliminary plats explicitly fall under subsection a and are considered by the planning commission under the authority in ORS 92 and Chapter 154 of the local code. Site plan reviews are an example of subsection b. These are discretionary permits where administrative approval is based on the site design characteristics and determination of compliance with the zoning ordinance. In both cases, provided that it is determined that there is sufficient evidence of compliance with the relevant code provisions, approval is granted.

Issues were raised at the June 11 meeting which were and were not relevant to the approval criteria in the municipal code. Issues such as traffic generation, block length, and points of access are issues that are within the scope of the municipal code and can be considered in the context of approval criteria and conditions of approval. Issues such as water pressure and building height are not able to be addressed except in a very limited scope. Water pressure shall be sufficient to meet the needs of the development proposed and has been reviewed by the public works staff as meeting the minimum requirements of the public works standards. Building height and its effect on privacy is a subjective matter. Under existing zoning in the R-4, each of the existing lots can have a three story structure up to 35 feet in height constructed on it by right. It is permitted under existing standards regardless of whether or not the replat is approved.

Recent statutory language has been implemented clarifying rules around housing. These are referred to as “needed housing” in the statutes. Needed housing is considered detached and attached single-family, manufactured housing, multi-family housing, worker housing, affordable housing and several other housing types. ORS 197A has a complete breakdown of the rules governing needed housing approvals. However, it is important to note that there are two specific statutory points at issue. The first point is that cities may only apply “clear and objective” standards to the approval of needed housing (ORS 197A.400). Referring back to the relevant criteria mentioned above, there is not a clear and objective way to define “privacy” in the code. It will always be a subjective issue where one party’s acceptable privacy is another party’s unacceptable level of privacy. The planning commission should be mindful to consider relevant issues and consider whether they are clear and objective. A minimum lot area, a five foot setback, 45% lot coverage, these are examples of clear and objective measures. The second point is that conditions of approval placed upon needed housing shall not have the cumulative effect of discouraging needed housing through unreasonable cost or delay. The trend statewide is towards less regulation over housing development rather than more at this point in time.

The staff report from June 11 is attached to this report. The relevant approval criteria were addressed in that report and it is not necessary to restate the criteria in this report. The preliminary plat is prepared in accordance with the criteria in Chapters 154 and 157 of the Hermiston Code of Ordinances, specifically also in compliance with 157.152 relating to the design of common wall housing. The applicant has submitted additional information addressing traffic impacts and consideration under the standards of the city’s Transportation System Plan.

Staff recommends approval of the preliminary plat.

Tie-In to Council Goals

Approval of plats is a matter of administration by city ordinances.

This development satisfies council goal 1.7 - *Attract market-rate rental housing developments to increase middle housing inventory*

Fiscal Information

There is no impact to the city from the approval of the plat. Each attached dwelling is expected to be priced near \$250,000 to \$300,000 and generate approximately \$1,873 in tax revenue annually.

Alternatives and Recommendation

Alternatives

The planning commission may choose to approve or deny the preliminary plat.

Recommended Action/Motion

Staff has reviewed the proposed plat and found that it is prepared in accordance with all requirements of 154.35(B) of the Hermiston Code of Ordinances. Staff recommends the planning commission approve the preliminary plat subject to the conditions of approval.

- Motion to approve the findings of fact
- Motion to approve the conditions of approval
- Motion to approve the preliminary plat subject to the conditions of approval

Submitted By:

C.F. Spencer, Planning Director