

June 12, 2025

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Notice of Decision – Middle Housing Land Use Adjustment – 4N 28 11AD Tax Lot 100

Pursuant to SB 1537 passed by the Oregon legislature during the 2024 legislative session, the city has processed and approved your application for a middle housing land use adjustment.

Adjustment Requested: *Increase in residential density by less than 10%*

The total lot area is 525,769 square feet. Of the total area, 383,799 square feet is zoned Medium-High Density Residential (R-3) and has a maximum density of 192 units or 22 units per acre. Additionally, the applicant has submitted an application to rezone the remaining 141,969 square feet of land to Neighborhood Commercial which is a mixed use commercial and residential zone, allowing an additional 71 units on the property following approval of the zoning map amendment. The maximum residential density of the property is 22 units per acre or 262 total units. The middle housing land use adjustment seeks to increase the total number of units to 270 or an increase of 3%.

Adjustment Requested: *Increase in building height by 10%*

The maximum building height in the R-3 zone is 35 feet. An increase of 10% increasing the maximum building height to 38.5 feet is requested.

Middle housing land use adjustments shall be reviewed and approved by cities upon determination that all of the following criteria are met.

Criteria in SB 1537 Section 38(2)

1. The application is for a building permit or a quasi-judicial, limited or ministerial land use decision.
 - a. **Finding: The applicant has submitted multiple applications for development with the City of Hermiston. The submitted applications are as follows:**
 - i. **Building Permit**

- ii. **Site Plan Review (Multi-Family Housing) – Limited Land Use Decision**
 - iii. **Conditional Use Permit (Multi-Family Housing) - Limited Land Use Decision**
 - iv. **Zoning Map Amendment – Quasi Judicial Land Use Decision**
 - b. **The city finds that SB 1537 Section 38(2) (a) is satisfied.**
2. The development is on lands zoned to allow for residential uses, including mixed-use residential.
- a. **Finding: Development is proposed on a 525,769 square foot site. 383,799 square feet of the total lot area is zoned R-3 and permits multi-family housing as an outright use per 157.027(A)(3) of the Hermiston Code of Ordinances. The remaining balance of the property is zoned C-2 and does not permit housing of any type by right. The applicant has applied to amend the zoning map for the remaining 141,969 square feet from C-2 to Neighborhood Commercial Overlay which permits multi-family housing through the conditional use permit process, a limited land use decision.**
 - b. **Upon completion of the rezone process, the entire site will be zoned for residential or mixed-use residential development.**
 - c. **The city finds that SB 1537 Section 38(2)(b) will be satisfied upon successful completion of the rezoning process.**
3. The residential development is for densities not less than those required under section 55 (3)(a)(C) of this 2024 Act.
- a. **Finding: Section 55(3)(a)(C) stipulates densities of at least six units per acre within a city with a population of at least 2,500 and less than 30,000. The proposed density is 22.5 units per acre.**
 - b. **The city finds that SB 1537 Section 38(2)(c) is satisfied.**
4. The development is within an urban growth boundary, not including lands that have not been annexed by a city.
- a. **Finding: The development site is within the city limits of the City of Hermiston. The city finds that SB 1537 Section 38(2)(d) is satisfied.**
5. The development is of net new housing units in new construction projects.
- a. **Finding: The development site is a greenfield site and all housing units constructed upon the site will increase the net new housing within the city. The city finds that SB 1537 Section 38(2)(e) is satisfied.**
6. The application requests not more than 10 distinct adjustments to development standards as provided in this section.
- a. **Finding: Two adjustments are requested. The city finds that SB 1537 Section 38(2)(f) is satisfied.**

7. The application must meet at least one qualification in SB 1537 Section 38(g).
 - a. **Finding: The applicant's narrative states that the granting of the density adjustment will increase the number of housing units within the application (SB 1537 Section 38(g)(C)).**
 - b. **Finding: The applicant's narrative states that the height adjustment will enable development that is otherwise not feasible due to cost or delay and will enable the development of housing that reduces the sale or rental prices per unit (SB 1537 Section 38(2)(g)(A)(B)).**
 - c. **The city finds that SB 1537 Section 38(2)(g) is satisfied.**

Condition of Approval

1. Approval of the density adjustment is made contingent upon approval of the amendment to the zoning map changing 3 acres from Outlying Commercial to Neighborhood Commercial Overlay and subsequent approval of the conditional use permit for housing within the NCO zone. Should the rezone or conditional use permit fail to be approved by the City of Hermiston, the density increase shall apply solely to the existing 383,799 (8.8 acres) of land zoned R-3 and permitting multi-family housing outright. The R-3 density shall increase from 192 units to 211 units.

Approval of middle housing land use adjustments is a limited land use decision. Accordingly, the city has provided notice of this application to all property owners within 100 feet on May 21, 2025 and provided a 14-day period for the submission of testimony. Although public testimony was received, only an applicant in a middle housing land use adjustment has the right of appeal. You have the right to appeal the city's decision to the Hermiston City Council within 12 days of the date of mailing of this decision.

If you have any questions, please feel free to contact me at (541)667-5025.

Sincerely,

Clinton Spencer
Planning Director

C: Byron Smith
Mark Morgan