

DEVELOPMENT REVIEW BOARD MEETING
FEBRUARY 12, 2024
6:30 PM

Consent Agenda:

4. Approval of minutes of January 8, 2024 DRB Panel A meeting



**DEVELOPMENT REVIEW BOARD PANEL A
MEETING MINUTES**

January 8, 2024 at 6:30 PM

Wilsonville City Hall & Remote Video Conferencing

CALL TO ORDER

A regular meeting of the Development Review Board Panel A was held at City Hall beginning at 6:30 p.m. on Monday, January 8, 2024. Vice-Chair Clark Hildum called the meeting to order at 6:31 p.m.

CHAIR'S REMARKS

The Conduct of Hearing and Statement of Public Notice were read into the record.

ROLL CALL

Present for roll call were: Clark Hildum, Rob Candrian, and John Andrews (DRB Panel B). Jean Svadlenka, Yara Alatawy, and Jordan Herron were absent.

Staff present: Daniel Pauly, Amanda Guile-Hinman, Kimberly Rybold, Amy Pepper, Cindy Luxhoj, Sarah Pearlman, and Shelley White

Amanda Guile-Hinman, City Attorney, stated Staff recommended a motion be made to amend the order of agenda to table Items 1, 2, and 3 to the February DRB Panel A meeting and to move Item 6 as the first public hearing.

Vice-Chair Hildum moved to table Agenda Items 1, 2, and 3 to the February 12, 2024 DRB Panel A meeting and to move Item 6 as the first public hearing this evening. John Andrews seconded the motion, which passed 3 to 0.

CITIZENS INPUT – This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

ELECTION OF 2024 CHAIR AND VICE-CHAIR

1. Chair
2. Vice-Chair

This item was tabled to the February DRB-Panel A meeting.

CONSENT AGENDA

3. Approval of Minutes of the December 11, 2023 DRB Panel A meeting
This item was tabled to the February DRB-Panel A meeting.

PUBLIC HEARINGS

The order of the agenda was changed to address Item 6 first.

6. **Resolution No. 422. ParkWorks Industrial Building and Partition.** The applicant is requesting approval of a Stage I Preliminary Plan, Stage 2 Final Plan, Site Design Review, Type C Tree Removal Plan and Tentative Partition Plat for development of an industrial spec building with accessory office space and associated road and site improvements at 26600 SW Parkway Avenue.

Case Files:

- DB22-0009 ParkWorks Industrial Building and Partition
-Stage 1 Preliminary Plan (STG122-0007)
-Stage 2 Final Plan (STG222-0009)
-Site Design Review (SDR22-0009)
-Type C Tree Removal Plan (TPLN22-0007)
-Tentative Partition Plat (PART22-0002)

This item was continued to this date certain at the December 11, 2023 DRB Panel A meeting. The applicant has requested a continuance to the February 12, 2024 DRB Panel A meeting.

Vice-Chair Hildum opened the public hearing at 6:38 pm.

Vice-Chair Hildum moved to continue the public hearing on Resolution No. 422 to a date certain of February 12, 2024 at 6:30 pm. Rob Candrian seconded the motion, which passed 3 to 0.

4. **Resolution No. 424. Short Term Rental Home Business.** The applicant is requesting approval of a Conditional Use Permit for the use of a residential property as a short term-rental home business.

Case Files:

- DB23-0013 Short Term Rental Home Business
-Conditional Use Permit (CUP23-0002)

Vice-Chair Hildum called the public hearing to order at 6:39 p.m. and read the conduct of hearing format into the record. Vice-Chair Hildum and Rob Candrian declared for the record that they had visited the site. No board member, however, declared a conflict of interest, ex parte contact, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Sarah Pearlman, Assistant Planner, announced that the criteria applicable to the application were stated starting on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room and on the City's website.

Ms. Pearlman presented the Staff report via PowerPoint, briefly noting the site's location, background, zoning and surrounding uses, and reviewing the requested applications with these key comments:

- The proposed short-term rental use included the existing house and structures, vintage trailer, and outdoor shower area in the northeast corner of the property.
- In May 2023, the City received a complaint from a neighbor about the addition of an outdoor shower and bath area, and possible rental travel trailer on the property.
 - Staff met with the property owners and current Applicants and found the property was in use as a short-term rental home business, which required a Conditional Use Permit. The current application would bring the property into compliance with the Wilsonville Development Code.
- Proper noticing was followed for the application with notice mailed to all property owners within 250 ft of the subject property and notice published in the newspaper, placed on site, and on the City's website. (Slide 4)
 - No public comments were received during the comment period but one comment in favor of the application was received after publication of the Staff report.
- Tonight's application involved discretionary review of a Conditional Use Permit for the use of the subject property in its entirety as a short-term rental home business. Per the Development Code, home businesses in which the operator did not live on property, including short-term rentals, required a Conditional Use Permit.
 - The DRB was tasked with determining whether the proposed use was consistent with the Conditional Use Permit criteria, including consistency with the Comprehensive Plan and Chapter 4 of the Development Code, suitable site characteristics, adequate public facilities, and consistency with the character of the surrounding area. (Slide 6)
- During review, Staff determined the property was not located within an Area of Special Concern. The Comprehensive Plan allowed home business uses with a Conditional Use Permit in the Planned Development Residential Zone. The use otherwise met, or would meet, the conditions of approval requirements of Chapter 4 of the Development Code.
- With respect to suitability of the site, the subject house was retained when the Hazelwood Subdivision was developed and occupied a large lot.
 - As the only property with access from Wilsonville Rd, it was easily accessible to guests and reduced potential traffic impacts. Street and frontage improvements were completed when the subdivision was constructed.
 - Public facilities and services already existed to meet the needs of a residential property, and the property was expected to have similar utility demands to the proposed short-term rental.
 - The property exhibited character compatibility in that Staff had found no evidence that the short-term rental would alter the residential character of the surrounding area. The Applicants and owners set rules for guests and had security cameras, light timers, and noise monitors in place to mitigate impacts to the surrounding residential area.

- The Applicant's intent to preserve and improve the existing original structure was to maintain the old Wilsonville character of the site.
- The property was one of only a few single-family residential properties that took access from Wilsonville Rd, which allowed it to function independently from the surrounding neighborhood without creating additional traffic.
- The Applicants were present and would further address the criteria, and how their proposed use met the standards.

Vice-Chair Hildum asked if the proposed use was in violation of any City zoning ordinance.

Ms. Pearlman confirmed it was not; the proposed use was allowed in the PDR Zone with a Conditional Use Permit.

Vice-Chair Hildum called for the Applicant's presentation.

Noelle Craddock, 7065 SW Molalla Bend Rd, Charbonneau, Wilsonville, OR, 97070 stated the subject property was special, adding they referred to it as the Sweet Retreat or The Farm. As a real estate agent, she believed in the value of property. She and her husband had a love for hospitality and had purchased the subject property with the intent to host guests. At the time of purchase, they also decided to make Wilsonville their home so they could be hands-on operators. Currently, they lived six minutes from the property, and as previous Wilsonville residents, were glad to return to the area. The property had a unique character and had been lovingly restored by many previous owners. As the former personal home of Dr. Geiss, it had historical significance, which she loved, as well as it being a former farm, especially since she had grown up on a farm.

- After the purchase, the Applicants focused on three perspectives, which guided them to this day.
 - They had made a significant financial investment in the property, and wanted it to remain intact, so they were very choosy about guests and worked hard to cultivate a certain type of clientele. Unlike long-term rentals, short-term rentals allowed owners to be choosy about rental guests, asking questions and communicating with potential guests at length prior to ensure guests were the right fit for the property and would honor and respect the condition of the property, as well as the neighbors.
 - The Applicants had wanted property they could get to easily to help guests with any needs or issues. When no guests were present, the Applicants were there daily or weekly. Additionally, they had people close by who could be available to help guests if they were out of town.
 - From the guests' perspective, the Applicants had made every attempt to identify what guests would want in a short-term rental and to wow guests by offering them something different than the norm so, they had worked really hard to present a product that stood out.
 - In turn, guests oftentimes want to care for and respect the property, so they could be welcomed back. She believed the reviews their business received reflected the home ~~for~~ was one guests want to stay in. Additionally, the Applicants had earned Super Host Premier Status and Guest Favorites, which indicated their approach was

working to provide a place that guests were drawn to and visit, as well as enjoy many of the aspects of Wilsonville and this beautiful corner of the Pacific Northwest.

- Finally, the Applicants had looked at the property through the lens of their neighbors and what a neighbor to the property would want. As mentioned, security cameras, timed lights, and indoor and outdoor noise monitors had been installed. No noise or light complaints had been received thus far, which indicated they were attracting the right kind of guests. She was also in contact with a few Hazelwood neighbors and would be made aware if there were any issues.
- The Applicants had high expectations, clear communication, and monetary consequences in place to avoid and remediate any issues. The guidelines the Applicant had in place could arguably make them better neighbors than a typical owner who did not look at things with as much thought and consideration of wanting to be that kind of neighbor and cultivate those kinds of guests.
- The Applicants had a heart for small business and wanted to grow those relationships by supporting and sending guests to their businesses. They had really tried to cultivate that within Wilsonville and support the City and its tourism efforts. The Applicant's also had a heart for the community beyond.
- She addressed numerous features of the property in relation to the Development Code, as well as the location and size of the property with these comments:
 - The property had a long private driveway with ample onsite parking, a real plus and a feature that stood out when they purchased it.
 - Amenities original to the property, such as an apple tree and hazelnuts, were features the Applicants believed were keeping in its character. Those had remained unchanged since the Applicant purchased the property and began operations and were something the Applicant emphasized.
 - The property was near the Willamette River as well as areas of interest which made the location even more ideal for use by guests who want to enjoy the area, including the nearby wine country and weddings at local venues.
 - The home was being used no differently than a typical single-family home with teenage kids and had a similar impact on the neighborhood.
- It had been a long journey, and the Applicants found themselves at the DRB tonight because they were not aware they had to live to on the property in order to avoid this process; however, as soon as they found out they needed a Conditional Use Permit, they had taken the appropriate steps with the City to obtain one.

John Andrews asked what was the maximum number of guests ~~that~~ the property could accommodate.

Ms. Craddock replied that they market it as having capacity for 8 to 10 guests. She confirmed that included the main house, secondary house, and trailer.

Rob Candrian confirmed with Ms. Craddock that the trailer was only available part of the year.

Vice-Chair Hildum understood there had been zero complaints from neighbors.

Ms. Craddock clarified that the only complaint was the one made to Ms. Pearlman.

Vice-Chair Hildum called for public testimony regarding the application.

Farrah Ramchandani stated she owned a property close to the subject property. Because she had wanted more information about the property but did not have a phone number or address to contact the owners, she went onto the property itself to look around. Although two vehicles were on the property, she could not find anyone, even peeking into the windows. She walked around and inspected the property, noticing what she referred to as a dilapidated trailer, as well as a small cottage in the front and the main house.

- The property did not have a single dwelling. She believed the Applicant intended to operate the property as an Airbnb with three to four units; the property had become like an apartment building that could host multiple families at once in the three different dwellings.
- The property frontage on Wilsonville Rd was managed by the Hazelwood HOA, and she was concerned the HOA was responsible for maintenance of the driveway and street frontage. Additionally, she believed the HOA would be responsible for any guests with injuries or who inflict damage that occurred in the driveway or on the sidewalk, which would harm the HOA insurance company or the HOA as a whole. She explained the sidewalk and area beyond the wall of the property was the HOA's responsibility to maintain.
- As such, she recommended the DRB not approve the application, especially considering there was an assemblage of several buildings on the property, which she believed should be zoned as an apartment building, not a single home.

Daniel Pauly, Planning Manager, interjected to advise that customarily, testimony was limited to three minutes, but it was at the discretion of the Board. He apologized that Staff did not communicate that ahead of time and asked Board members to advise if they wanted to enforce it.

Vice-Chair Hildum replied that he preferred to hear the complete testimony and noted not many people were present anyway.

Rob Candrian understood that Ms. Ramchandani's main points were potential HOA responsibility and liability, and that she did not view the property as having a single-family dwelling. He asked her if she had further comments.

Ms. Ramchandani thanked Mr. Candrian for summarizing her points so clearly and reiterated her primary concern was the number of units on the property. She had experience with an Airbnb that had large parties with weddings and loud music. She believed that even though guidelines were in place, once guests were on property, the Applicant had no right to enforce their rules and these days, everyone did whatever they wanted in the name of free speech. She hoped the DRB would not approve the application.

Vice-Chair Hildum replied Ms. Ramchandani's comments were appreciated and duly noted.

John Andrews asked if Ms. Ramchandani was an officer of or represented the HOA.

Ms. Ramchandani responded no; she was an individual homeowner on Guiss Way.

Mr. Andrews asked if she had spoken with anyone in the HOA.

Ms. Ramchandani replied she had forwarded the information that she had received about the subject application to an HOA member. Most HOA members had not received notice as they were not within the 250 ft. She noted the trailer did abut an HOA residence with just a wall in between the two.

Mr. Candrian asked if the subject property was part of the HOA or just abutted the HOA's property.

Ms. Ramchandani confirmed the subject property was exempt from the HOA. Based on her experience, she believed the control of three or four short-term renters would be a problem, even if for a short time.

Mr. Andrews asked if she had ever filed a complaint due to excessive noise or other disturbances from the property.

Ms. Ramchandani responded she had not and had not even known the property was being used as an Airbnb until she had received notice from the City. She did not live in the area, but only owned property there.

Chair Hildum thanked Ms. Ramchandani again for her testimony.

Justine Keith, 29067 SW San Remo Ave, Wilsonville, OR, 97070 stated she was in favor of the approving the land use permit. It was a beautiful home, and as a ten-year resident of Wilsonville, she often biked past and admired the property because it was pristine. The property had a gorgeous farmhouse, a separate dwelling, and a camper, which was a brand-new Airstream, purposely made to look vintage, and meant to be used during summer months. The property was absolutely gorgeous, and the inside was immaculate and well-kept.

- Her favorite part was how much the Applicants brought in the community by giving each guest a gift basket of items from the area such as fresh eggs from Grandma Tooze, or a Gather + Give charcuterie box, or a gift card to local merchants. Welcoming guests from out of town with local-made items, which was such a treat.
- The questionnaire on the rental property's website was very strict, unlike any other Airbnb she had ever seen, with the purpose of protecting the house, the property, the neighbors, and the community.
- As a long-time board member of the Villebois HOA, knowing the subject property abutting the Hazelwood HOA, it was good to know both HOAs and individual homeowners have insurance.
- It was a lovely historical site for Wilsonville to share with people coming in from out of town and she was proponent for it.

Vice-Chair Hildum confirmed there was no further public testimony and called for the Applicant's rebuttal.

Ms. Craddock stated she could only put herself in the shoes of a neighbor, and as she stated, the Applicants had been as thoughtful and considerate as possible when trying to gauge how neighbors might feel.

- With regard to the specific HOA issues, there would always be unknowns, but anything that might happen with short-term rental guests would likely also happen if either a short-term operator or a typical family lived on the property. She did not know how much the Applicants could forecast for things they did not know about yet; however, the business had been in operation for just over a year, and to her knowledge had not received a single complaint yet, which spoke to the fact that those things had not been an issue thus far. She would do everything possible to ensure that remained the case.
- Regarding multiple buildings, there was no apartment or anything even close to that. It was a farmhouse, a detached studio that was oftentimes used as an office for vacationing guests who also needed to work, and a seasonal, brand-new camper, which fit in with the feel and nature of the property, and was made to look like a vintage trailer.

Vice-Chair Hildum understood the Applicants handled all rentals, the management of the property, and vetted of all clients; nothing was done by an outside contractor.

Ms. Craddock confirmed she and her husband self-managed the property, and neither it nor the two homes to the east of the property were a part of the HOA.

Vice-Chair Hildum confirmed there was no further questions from the Board and no further discussion.

Mr. Candrian noted that per the Staff report, a request had been made to cover the outdoor shower and asked if that had been done.

Ms. Pearlman replied it was planned but had not happened yet.

Vice-Chair Hildum confirmed there was no additional discussion and closed the public hearing at 7:18 p.m.

Rob Candrian moved to approve the Staff report with the addition of Exhibits B3 and D1. John Andrews seconded the motion.

The following new exhibits were entered into the record:

- Exhibit B3: Documentation of Trespassing Incident
- Exhibit D1: Letter from A. Webber Dated January 4, 2024

The motion passed unanimously.

Rob Candrian moved to adopt Resolution No. 424. The motion was seconded by Vice-Chair Hildum and passed 3 to 0.

Vice-Chair Hildum read the rules of appeal into the record.

Vice-Chair Hildum moved that the Board take a five-minute break. John Andrews seconded the motion which passed 3 to 0.

The meeting was reconvened at 7:28 pm.

5. **Resolution No. 425 Frog Pond Cottage Park Place Subdivision.** The applicant is requesting approval of Annexation to the City of Wilsonville and rezoning of approximately 5.00 acres, a Stage 1 Preliminary Plan, Stage 2 Final Plan, Site Design Review of parks and open space, Tentative Subdivision Plat, Type C Tree Removal Plan, Middle Housing Land Division, and Waiver for a 17-lot residential subdivision.

Case Files:

DB12-0004 Frog Pond Cottage Park Place Subdivision

- Annexation (ANNX23-0001)
- Zone Map Amendment (ZONE23-0001)
- Stage 1 Preliminary Plan (STG123-0002)
- Stage 2 Final Plan (STG223-0003)
- Site Design Review of Parks and Open Space (SDR23-0003)
- Tentative Subdivision Plat (SUBD23-0001)
- Middle Housing Land Division (MHLD23-0003)
- Waiver (WAIV23-0005)

The DRB Action on the Annexation and Zone Map Amendment is a recommendation to the City Council.

Vice-Chair Hildum called the public hearing to order at 7:28 p.m. and read the conduct of hearing format into the record. Rob Candrian declared for the record that they had visited the site. No board member, however, declared a conflict of interest, ex parte contact, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Cindy Luxhoj, Associate Planner, announced that the criteria applicable to the application were stated starting on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room and on the City's website.

The following new exhibit was entered into the record:

- Exhibit A3: Staff memorandum to the Development Review Board dated January 8, 2024 regarding modifications to the Staff report, including modified conditions of approval.

Ms. Luxhoj presented the Staff report via PowerPoint, briefly reviewing the project's location and surrounding features, as well as the requested applications with these comments:

- Background. The Frog Pond Area Plan was adopted in November of 2015 to guide development of Frog Pond West and the Urban Reserve Areas of Frog Pond East and South and to ensure the continued development of high-quality neighborhoods in Wilsonville.
 - In anticipation of forthcoming development, the City adopted the Frog Pond West Master Plan in July 2017 for the area within the urban growth boundary (UGB).
 - To guide development and implement the vision of the Area Plan, the Master Plan included details on land use, including residential types and unit ranges, residential and community design, transportation, parks and open space, and various community elements, such as lighting, street trees, gateways and signs. (Slide 3)
- Proper noticing was followed for the application with a public hearing notice mailed to property owners within 250 ft of the subject property, onsite posting, and publication in the Wilsonville Spokesman. The noticing area for the subject property was shown in green on the map. (Slide 4) No public comments were received during the comment period.
- Requests before the DRB included the Annexation and Zone Map Amendment, both recommendations to City Council, while six of the requests were objective in nature and involved verifying compliance with Code standards, and the last request involved discretionary review and was for one waiver. (Slide 5)
- Tax Lots 1200 and 1300 were proposed for annexation and included approximately 5 acres. The property was contiguous to the north and south with land previous annexed to the City with other subdivisions in Frog Pond West.
 - The City Council public hearing for the Annexation and Zone Map Amendment was scheduled for January 18, 2024. The proposed Zone Map Amendment would rezone Tax Lots 1200 and 1300 from Clackamas County Rural Residential Farm Forest - 5 Acre to Wilsonville's Residential Neighborhood Zone. The rezone was consistent with the Comprehensive Plan Map designation of Residential Neighborhood and the Frog Pond West Master Plan. (Slides 6 & 7)
- The Stage I Preliminary Plan generally established the proposed residential use, number of lots, preservation of open space, and block and street layout consistent with the Frog Pond West Master Plan.
 - In regard to residential land use unit count, the proposed Stage 1 Preliminary Plan was located in medium lot Sub district 4 and large lot Sub-district 7. (Slide 8)
 - The Applicant proposed the minimum proportional density calculation of 11 lots for Sub-district 4, which would allow for future development that met all dimensional standards for lots in that portion of the site. Six lots were proposed in large lot Sub-district 7, which exceeded the proportional density for that part of the site by one lot. The proportional density allocation did not account for site-specific characteristics that influenced the ability of a specific property to accommodate residential lots meeting minimum dimensional standards.
 - Minimal right-of-way dedication was required in the part of the subject property within Sub-district 7 due to several factors: the adjacent section of SW Frog Pond Lane was a local street that allowed driveway access; SW Sherman Dr was not being extended through this part of the site to preserve numerous mature trees along the west property boundary, and access to Lots 1 through 6 was provided via a private alley.
 - As such, the proposed site area in Sub-district 7 accommodated 6 lots that met or exceeded all dimensional standards, including minimum lot size requirements, while

preserving significant trees and allowing for compliant future development within the Master Plan Area. (Slide 9)

- The Stage 2 Final Plan addressed the general development pattern within the subject property, including such elements as lot layout and size, block size and access, and street layout. These elements of the proposed subdivision demonstrated consistency with development standards established for the RN Zone and Frog Pond West Master Plan.
 - The Applicant proposed the installation of necessary facilities and services concurrent with development of the proposed residential neighborhood.
 - With regard to the Street Demonstration Plan, the block size and shape, access, and connectivity of the proposed subdivision complied with the Figure 18 of the Frog Pond West Master Plan or was an allowed variation, such as the pedestrian connection through the Tracts B and D open space area and no street connection between SW Brisband St and SW Frog Pond Lane. These variations were to preserve mature trees in the central and north parts of the site, as well as along its west boundary. (Slide 10)
 - The proposed modifications did not require out-of-direction pedestrian or vehicular travel and did not result in greater distances for pedestrian access to the proposed subdivision from the surrounding existing and future streets than would otherwise be the case if the Street Demonstration Plan were adhered to.
- Site Design Review addresses elements of the public space to ensure consistency with the Frog Pond West Master Plan, focusing primarily on parks and open space within the subdivision.
 - The proposed development was located within medium and large lot sub-districts and did not require usable open space. However, the Applicant had proposed 49,000 sq ft of open space area, outlined in red on Slide 11, with 26,000 sq ft proposed in Tracts A and B in Phase 1, and 23,000 sq ft in Tracts C and D in Phase 2 of the development. North-south and east-west pedestrian connections provided connectivity through the site.
 - The open space enables preservation of numerous mature trees and provides a pedestrian pathway between SW Frog Pond Lane to the north and Street J, SW Sherman Dr, and SW Brisband St in the southern part of the development. (Slide 11)
- The Tentative Subdivision Plat met technical platting requirements, demonstrated consistency with the Stage 2 Final Plan and thus, the Frog Pond West Master Plan, and did not create barriers to future development of adjacent neighborhoods and sites. (Slide 12)
- Development Alternatives. The Frog Pond West Master Plan provides clear directions for street connections, residential densities, and preservation and protection of trees and tree groves. Additionally, the Master Plan identified existing trees and groves, including the extensive groves of Oregon white oaks on the subject property, while the Street Demonstration Plan identified a pedestrian connection on the west side of the property through the groves that connected SW Brisband St and SW Frog Pond Ln while minimizing impacts on the trees. (Slide 13)
 - The Applicant's initial submittal proposed extension of SW Sherman Dr along the west property boundary and through the Oregon white oak groves instead of a pedestrian connection. Of 99 trees inventoried on the site when the application was first submitted, 92 were proposed for removal. The City then requested that the Applicant provide sufficient findings to explain how the proposed subdivision design achieved the

Frog Pond West Master Plan's intent to preserve existing groves of mature trees and incorporate them into the design of developments.

- The City also requested that the Applicant demonstrate how alternative designs were considered that would preserve more trees in groves identified in the Master Plan while enabling the project to meet the anticipated range of lots, why those designs were rejected, and how removal of the trees was consistent with the City's tree preservation and protection regulations in Section 4.600.
- City Staff met with the Applicant several times to discuss alternative site designs and walked the site with the owner, Applicant's representative, and project arborist to assess the condition of the Oregon white oaks and prioritize trees for preservation. Staff also reviewed several iterations of the site design presented by the Applicant to preserve more trees than initially proposed, and the current design before the DRB was a result of those discussions.
- Type C Tree Removal Plan. Of the 152 trees inventoried in the current application, 118 were onsite and line trees and 34 were offsite trees, highlighted in yellow, that would not be affected by development. (Slide 14)
 - The Applicant proposed retaining 63 of the 118 onsite and line trees, highlighted in green, 19 of which were Oregon White Oak, 38 Douglas Fir, and 6 were other species. Of the Oregon white oaks to be preserved, 5 excellent specimens had been prioritized for preservation and protection in the Tracts B and D open space, and on Lots 2 and 3 of the proposed subdivision.
 - Highlighted in red were 55 onsite and line trees proposed for removal, including 29 Oregon White Oak, 8 Douglas Fir, and 18 of other species.
 - Trees to be removed were located within the grading limits of SW Sherman Drive, proposed Street J, at the southern end of the Pedestrian Connection in Tract C, and within building envelopes, and their removal was necessary for construction of site improvements, including utilities, streets, and residential homes. In addition, grading of each lot is needed to accommodate residential development and associated site improvements such as driveways and walkways, alleys, stormwater management, and outdoor yard areas. Reducing building footprints by increasing height was not a viable alternative as the height limit in the RN Zone was 35 ft, or about 2.5 stories.
- Mediterranean Oak Borer (MOB), a type of woodboring insect called an ambrosia beetle, tunneled into Oak trees, carrying fungi used to inoculate tunnels bored into trees to feed its young. The fungi clogged water-conducting tissues and caused a wilting disease in susceptible trees. Over several years, large numbers of adult beetles infest and reinfest trees, often killing entire branches, large portions of the tree crown, and eventually whole trees. MOB had recently been found to be infesting Oregon white oaks in Wilsonville, including in the Frog Pond West Area. Additional information on MOB could be found in the Staff memo in Exhibit A3.
 - One Oregon White Oak scheduled for removal, #10718, had a confirmed MOB infestation and Trees #10744 and #10749, were suspected of MOB infestation. (Slide 15)
 - As discussed in Finding A9 of the Staff report, if the affected trees were not removed and disposed of appropriately, they could endanger or injure neighboring properties if the MOB's were to infest other Oregon white oaks in Frog Pond West. Additionally,

- failure to remove the trees could produce dead and decaying trees and limbs that could affect the health, safety, and welfare of the public in proximity to the trees.
- Therefore, a condition of approval required that prior to final filing of the annexation for the property, the Applicant must either provide the City with a plan to remove and properly dispose of the hazard trees or enter into an agreement with the City to remove and dispose of them at the Applicant's expense.
 - Additionally, a condition of approval required that prior to site grading the Applicant treat all preserved Oregon white oaks in the Tracts A through D open space, outlined in red, and Tree #1130 on Lots 2 and 3 with insecticidal or fungicidal treatment and root invigoration or aeration to improve their health and pest resistance. This condition would help address unforeseen tree health issues related to MOB that could arise in the preserved Oregon White Oak or impacts of nearby construction that could cause stress and render the trees more vulnerable to MOB infestation, creating a hazard that may endanger or injure neighboring property. (Slide 16)
 - To mitigate tree removal, the Applicant proposed planting 27 street trees along SW Brisband St, SW Sherman Dr, Street J, and SW Frog Pond Lane, as well as 16 trees in the Tracts B and D open space areas, for a total of 43 mitigation trees of appropriate size. However, the 6 vine maple and 6 serviceberry trees proposed by the Applicant as street trees were both multi-stemmed, shrublike species, and did not count as mitigation trees. Therefore, there were 12 fewer mitigation trees than the required 1:1 replacement ratio for the 55 trees proposed for removal.
 - Because the site lacked sufficient space to replant the remaining trees in a desirable manner, and the City did not have another site identified to plant the additional mitigation trees, a condition of approval required the Applicant to pay \$3,600 into the City's Tree Fund, an amount equal to the cost of purchase and installation of the trees. The cost is based on a current estimated bid price of \$300 per tree.
 - Due to the size and age of the mature Oregon white oaks, mitigation on an inch per inch basis could be required, but because other required measures were being utilized to protect the existing preserved trees, including conditions of approval that focused on ensuring their continued health, Staff did not recommend mitigation on an inch-per-inch basis. (Slide 17)
 - The Applicant elected to have the middle housing land division reviewed concurrently with the tentative plat of the subdivision, subject to review by the DRB.
 - As required, the tentative middle housing land division was shown on the Sheet P-07 of the Applicant plan set, separate from the tentative subdivision plat on Sheet P-06. Sheet P-07 clearly identifies the middle housing units as being created from one or more lots created by the subdivision. (Sheet P-07)
 - The proposed middle housing land division allowed for the creation of separate units of land for residential structures that could otherwise be built on a lot without a land division. The units of land resulting from a middle housing land division were collectively considered a single lot except for platting and property transfer purposes.
 - Through the middle housing land division, the Applicant proposed 34 middle housing units from the 17 parent lots, resulting in middle housing units ranging from 3,250 sq ft to 5,586 sq ft in area.

- The preliminary middle housing land division met the allowance of middle housing units and was compliant with the middle housing rules and statutes. Each parent lot could contain at least one dwelling unit but may contain additional units consistent with the allowance for middle housing. (Slide 18)
- The requested minimum lot frontage waiver was subject to discretionary review by the DRB. Subsection 4.237 (.06) of the Development Code required each lot within a subdivision to have a minimum frontage on a street or private drive. The minimum lot width in the RN Zone was 35 ft in the medium lot sub-district and 40 ft in the large lot sub-district with some exceptions.
 - The DRB could waive lot frontage requirements where, in its judgement, the waiver of frontage requirements would not have the effect of nullifying the intent and purpose of the standard or if the DRB determined that another standard was appropriate because of the characteristics of the overall development.
 - As proposed, Lots 4 through 9 within the development front Tracts B and D, a shared open space with a pedestrian connection, took vehicular access from private alleys. Pedestrian access was provided along the front of the lots via the pedestrian connection. (Slide 19)
 - Per Development Code Subsection 4.118 (.03) A, a waiver must implement or better implement the purpose and objectives listed in the subsection. The subject site was constrained by size, dimension, and preservation of numerous mature trees along the west property boundary and in the Tracts B and D open space in the northern part of the site. The proposed subdivision layout with the requested minimum frontage waiver allowed flexibility of design, while providing a development equal to or better than what would result from traditional lot land use development. If Lots 4 through 9 fronted public streets, more trees, including high value Oregon white oak and Douglas fir, would be impacted by development.
- Modifications to the Staff report were recommended to Conditions PDD2, PDG2, PFD12 and Finding I1 and were explained in Exhibit A3. (Slide 20)

Rob Candrian confirmed 17 lots were listed, but 34 townhomes or duplexes were proposed, depending on how they lined up.

Vice-Chair Hildum stated that it appeared roads still needed to be developed in one corner of the site to make the connection for access in and out of the neighborhood.

Ms. Luxhoj replied that some lots in Phase 1 on the north end would take access from Frog Pond Ln directly and some via an alley behind the homes. In Phase 2, in the southern part of the site, Sherman Dr would extend to J St, and the houses that front J St would take access from those streets, with homes fronting the open space taking access off the alley, and homes on the south portion fronting Brisband would take access off Brisband via their driveways. All homes would have access once the property to the east between Frog Pond Estates and the subject development were connected via J St. (Slide 18)

Mr. Andrews asked if those buildouts would be timed appropriately.

Ms. Luxhoj responded eventually, but until the property to the east developed and the other connections were made, a barricade on J St would state that a future extension was anticipated. J St would only be a dead-end street until the other connections were made.

Vice-Chair Hildum called for the Applicant's presentation.

Glen Southerland, AKS Engineering & Forestry, 12965 SW Herman Rd, Suite 100, Tualatin, OR, 97062, presented the Applicant's proposal via PowerPoint, introducing the project team and noting the project's location with the following additional comments:

- The subject property was surrounded by a number of other projects under various stages of construction to the north and south. The project spanned two sub-districts, one with a medium-lot and one with a large-lot designation, R7 and R10, respectively. (Slide 3)
 - The Applicant sought to develop the northern, large-lot portion with 6 lots and the southern medium-lot portion with 11 lots, not quite the maximum allowed, so effectively transferring one lot from the southern to the northern portion due to topography and stormwater needs.
- The site aerial showed how the lots would be laid out, along with the Tracts B and D open space area, which had been a central concept of preserving the priority White oaks located there, and Tracts A and C, which new after consulting with and site visits by Staff. Originally, the area was slated for Sherman Dr to extend from Frog Pond Ln to Brisband St but would instead become a pedestrian pathway to preserve additional trees. (Slide 5)
- In addition to the mitigation trees planted throughout the site, a number of trees on the west end and in the center of the open space tracts would be preserved, among them some large, mature White oaks and Douglas firs. The Applicant would also be adding vegetation on the site. (Slide 7)
- The site's layout was somewhat different than originally proposed in the Master Plan, but the Applicant had taken that general concept and tried to provide good functionality for pedestrians and cyclists through the area while also preserving the most trees. (Slide 8)
 - A number of pedestrian pathways would be leading north/south and east/west through the area that provided the same functional connections as the streets would have had previously.
- The project provided 17 residential lots with 34 housing units through the middle housing process. Those numbers could change somewhat due to compliance with the conditions of approval, preservation of tree easements, and the straightening of Sherman Dr; however, 17 residential lots and 34 housing units was the Applicant's general goal. (Slide 9)
 - Through the provision of the street frontage waiver, a number of those trees could be preserved, and fortunately, the priority examples identified on northern part of the site and farthest away from the confirmed MOB infestation on the southern portion of the site.
 - As with many subdivision projects, a number of transportation system improvements were proposed, which included right-of-way dedication, construction of surrounding streets, and SDCs for future City projects.

Mr. Candrian understood the Applicant's plan deviated from the Master Plan approval and asked how many lots were approved in the original Master Plan.

Mr. Southerland replied the Master Plan established a range for the number of lots, which would be 4 to 5 lots on the northern portion, Sub-district 7, of the property adjacent to Frog Pond Lane and 10 to 12 lots on the southern portion, Sub-district 4, adjacent to Brisband St. The Applicant generally had the same number of lots but configured differently for tree preservation and the stormwater facility location. (Slide 4)

Mr. Candrian asked about the rationale for going over the 4 to 5 lot range in the large lot portion and proposing 6 lots, which would be 12 housing units if it was moved to middle housing.

Mr. Southerland explained the topography of the site led stormwater down to the southern portion, which was why the stormwater Tract E was positioned there; otherwise, it would be a fully functioning lot. The preservation of the trees there also negated some of the potential development area on the southern portion of the site. He confirmed the number of lots on the southern portion was still within the allowed range.

Mr. Candrian understood the Applicant wanted more lots on the northern portion of the site than were originally approved, and asked the justification for that, as the southern part was still within the allowed parameters.

Mr. Southerland replied an additional lot would be available on the south portion. Instead of having that on the southern portion, it could be on the northern portion because there were not as many constraints on the northern portion.

Mr. Candrian stated the number of lots on the northern portion was constrained between 4 and 5, but the Applicant proposed 6 lots.

Mr. Southerland said that was right, but there were environmental factors there.

Mr. Candrian said he did not understand why environmental factors meant more lots as opposed to less. He understood the bottom southern portion of the site was within range; however, the Applicant wanted to exceed the lot range in the upper northern portion because of the environment.

Mr. Southerland explained because the southern portion could not accommodate the 12 lots that were allowed.

Mr. Candrian noted the southern portion allowed 11 to 14 lots and the Applicant had proposed 11; it did not have to be the maximum number.

Mr. Southerland stated the preference would be to maximize the development area.

Mr. Candrian stated he was trying to understand because the Applicant was asking for a waiver for what was in the original plan. To him, the southern portion did not factor in because that was originally planned. It appeared the Applicant was just trying to get an extra lot in the northern side, even though it was outside the plan.

Mr. Southerland stated the waiver was for the street frontage.

Daniel Pauly added that there was no waiver for lots.

Kimberly Rybold, Senior Planner, explained that particularly with the large lot sub-districts, if all the applicable development standards were met, the math calculations work out such that an additional lot that met the minimum standards of the underlying zoning fit on the site; in this case, the minimum lot size was 8,000 sq ft. And, in those instances, Staff had interpreted that the minimum lot sizes were consistent with the Master Plan and did not require a waiver because the Code led Staff to do a proportional density calculation, but actually, the calculations were made at a larger aggregated level for the sub-districts. Sub-district 7 crosses several properties, and it was a function of how the math worked. If the math were done over a larger area, the number of lots would still fit in the overall density range.

- For the subject project, the 6 parent lots for the large lot area did not prohibit the overall meeting of Sub-district 7's overall recommended density range. In Staff's view, it allowed the larger area to meet the Master Plan density range requirements.

Mr. Candrian said he understood that the minimum requirements were met, but if originally master planned to be between 4 and 5 lots, and now the Applicant was asking for a sixth lot, which meant going from 4 to 5 housing units to 12 units.

Ms. Rybold explained the Master Plan did not allocate ranges on individual property levels. The table in the Master Plan would have a much larger number for the whole sub-district. (Staff report, Finding C17, Page 38 of 76)

Mr. Candrian clarified he was trying to figure out why the lot range was 4 to 5 at one point, and now the project was going to 6, which was really doubled because—

Mr. Pauly stated the key point was the criteria for that range was not based solely on that chunk, but on the larger geography of the entire Sub-district 7. The calculation was not done on just that smaller portion. When factoring in street locations and so forth, it was not realistic to calculate the requirement for each tiny lot, especially in the subject area where the lots were quite small.

Mr. Candrian said he understood that, if, for example, the Applicant could only make three lots work, that made sense, but instead they wanted to make it even more dense.

Mr. Pauly responded it still met standard in that larger sub-district. This approach was consistent with how it had been repeatedly done in similar situations, so the math here was not new. For the record, the DRB was not legally allowed to consider the added housing units in its decision as that was separate. Board members had to have blinders on when looking at the rest of an application in regard to how a developer was going to divide a site and how many units they would put on it. The Applicant was entitled by State law to put one unit or up to however many are allowed; the number of units could not be considered in the Board's decision. The middle housing land division was there out of convenience for the DRB's approval, but the Applicant would return and have it done administratively, regardless. The DRB was approving residential lots, not the number of units per lot, although he understood that appeared counterintuitive.

Mr. Candrian understood the Applicant was asking for approval of an additional lot as part of the Zone Map Amendment in the Preliminary Plan.

Ms. Rybold confirmed it was part of the Stage 1 Preliminary Plan.

Mr. Candrian stated [inaudible] be built there.

Mr. Pauly replied unless the Board wanted to come up with separate calculations, the clear and objective calculations Staff had done stated that the number of lots proposed fit within the range in the Master Plan and the Development Code.

Mr. Candrian stated he would remain confused as to why the Master Plan had a lot range that was lower than what the Applicant proposed.

John Andrews asked if more units could be added if the number of lots was reduced but each lot was made larger. Were there other ways to break up that piece of land and still develop the same number of units?

Ms. Rybold said she believed the design team had looked at a number of alternatives. The challenge was that consistent with past interpretations of how the City viewed larger sub-districts and compliance for those sub-districts, the Applicant had shown they were able to have 6 lots meeting the minimum lot size requirements. Alternatively, and to Mr. Andrews' question, if the number of lots continued to be reduced across the sub-districts as Frog Pond West was built out, it was possible a sub-district could be under the required density on the aggregate. The math was one way the City looked at it, but it was really an aggregate range across the whole sub-district. She understood that was not the most straightforward when the sub-district lines did not necessarily match the property lines.

Mr. Pauly noted Staff could probably go into more detail on Finding C17, but the standards regarding lot size and lot dimensions were interrelated to the allowed density. For example, if the minimum lot size was 8,000 sq ft, then based on said geography, X number of 8,000 sq ft lots could fit within that geography. The Master Plan contained some assumptions about gross

area, net area, and how many lots could fit. Staff did not always know the right-of-way, stormwater facility locations, actual net land, etc. would be in the sub-district, so an assumption baked in that if lots could be put in that met all the dimensional standards in terms of minimum lot size, the math would work out in the long run across the sub-district to get so many 8,000 sq ft lots across the area. He noted Staff was not doing the math that way for Frog Pond East and South; it was clearer and simpler. The subject math was not great as the Code was written, because it was not clear. With small geography, perhaps there could be two, 8,000 sq ft lots and a remaining 7,500 or 9,000 sq ft area that could not accommodate another lot, there was a rationale to assume that the stormwater needed elsewhere in the sub-district would go there instead.

Amanda Guile-Hinman, City Attorney, pointed out that this portion of the hearing was for questions to the Applicant and any further discussion could take place after that.

Mr. Southerland assured that he had not meant to be argumentative; he had not understood Mr. Candrian's question.

Mr. Candrian replied even if it was 4 to 5 lots, the Applicant would still get 16 lots, which was still more than the minimum range.

Mr. Southerland understood the Master Plan was a guide that contained ranges, and the Development Code had clear and objective standards for residential projects. The Applicant's proposal met the related clear and objective standards, and the math worked out such that the one additional lot was allowed. As Staff explained, the calculation was based on a larger area, because Sub-district 7 extended further to the west, so there was some flexibility about the possibility of providing 6 lots here because only 4 lots could be provided over here. It was less about the particular subject property and more about the area as a whole.

Vice-Chair Hildum called for public testimony regarding the application and confirmed with Staff that no one was present at City Hall to testify and no one on Zoom indicated they wanted to testify.

Vice-Chair Hildum confirmed there was no rebuttal from the Applicant and there were no further questions or discussion from the Board. He closed the public hearing at 8:25 pm.

Rob Candrian moved to amend the Staff report by adding Exhibit A3. John Andrews seconded the motion, which passed unanimously.

Vice-Chair Hildum moved to approve the Staff report as amended. The motion was seconded John Andrews.

Mr. Candrian stated he was still unclear why there was one standard that stated what a lot size should be when the entire tract was larger than the minimum. Yet, it seemed like the Master Plan was being overruled as far as lot sizes for a specific area. He understood it had changed

since then, but if the Board had to go on what it had, and there were lot recommendations, he had not heard a justifiable reason to add an extra lot. The Applicant wanted to add a lot simply because they wanted more lots.

Vice-Chair Hildum understood the Master Plan was a guideline, not written in stone, so it was somewhat flexible, and the Applicant's desires fell within acceptable range.

Ms. Rybold stated the only density ranges that were called out were for the sub-district as a whole, which was shown in the table. (Finding C17, Page 38)

Ms. Guile Hinman advised no additional information could be added because the record was now closed. What Ms. Rybold had just referenced had already been discussed, but any additional information would first require a motion to reopen the public hearing.

Mr. Candrian believed everything had been discussed. He simply did not understand why one thing controlled over the other when there was a specific lot range, and he had not heard any testimony that was compelling as to why the lot range should be extended for that particular area other than the Applicant wanted more lots. That was all.

Mr. Pauly reminded Finding C17 specifically addressed that calculation.

Mr. Candrian replied he had read through Finding C17, but it seemed if that were the case, there could be fewer lots, not more, especially with no justification and the fact the entire area would still contain more than the minimum allowed.

Vice-Chair Hildum called the question.

Ms. Guile-Hinman stated the motion on the floor was to approve the Staff report as amended with the addition of Exhibit A.

The motion passed 2 to 1 with Rob Candrian opposed.

Mr. Candrian clarified he was not arguing against the Staff report, so he would like to change his vote.

Ms. Guile-Hinman noted the Staff report did contain the information and criteria, and if he had an issue with Finding C17, which was the explanation, his no vote was appropriate.

Mr. Candrian clarified he did not have an issue with the explanation in C17 as it made sense. His issue was with what was suggested as far as expanding the number of lots, so therefore, he did in fact, have an issue with the Staff report.

Vice Chair Hildum read the title of Resolution No. 425 into the record.

Mr. Candrian understood that unless an amendment were suggested, the vote was all or nothing for Resolution No. 425.

Ms. Guile-Hinman confirmed that was correct.

Vice-Chair Hildum moved to adopt Resolution No. 425. John Andrews seconded the motion.

Mr. Candrian stated his previous concern applied here as well.

Mr. Andrews understood his concern was that the Applicant had added one lot.

Mr. Candrian answered, yes, because he had not heard a reason why the Applicant were adding a lot other than they could add one more lot.

Mr. Andrews stated it was because they had enough square feet.

Chair Hildum concurred, noting they had enough property to do it.

Mr. Candrian responded that seemed debatable based on what was outlined in Finding C17. His big question was whether there was a good reason, and the Applicant's reason seemed to be they could just put one more in.

The motion passed 2 to 1 with Rob Candrian opposed.

Vice-Chair Hildum read the rules of appeal into the record.

BOARD MEMBER COMMUNICATIONS:

7. Recent City Council Action Minutes
There were no comments.

STAFF COMMUNICATIONS

There were none.

ADJOURN

The meeting adjourned at 8:36 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, LLC. for
Shelley White, Planning Administrative Assistant