

ORDER NO. 2024-02

ORDER APPROVING FILE NO. 311-23-000022-PLNG, THE BROWNS FARM MIXED USE PLANNED DEVELOPMENT (MUPD); FILE NO. 311-23-000024-PLNG, A THREE (3) LOT LAND PARTITION; AND FILE NO. 311-23-000023-PLNG, A 20% HEIGHT ADJUSTMENT TO ALLOW MULTI-FAMILY STRUCTURES WITHIN THE MUPD TO BE A MAXIMUM OF 42 FEET IN HEIGHT.

WHEREAS, the three (3) applications for; the Browns Farm Mixed Use Planned Development (MUPD), three (3) lot Land Partition and 20% Administrative Adjustment were concurrently filed on July 14, 2023 and requested for consolidated review along with a proposed development code text amendment, adopted by Ordinance No. 2024-02 on January 22, 2024; and

WHEREAS, the application was deemed complete on August 11, 2023; and

WHEREAS, notice of these application requests were mailed to property owners within 300 feet of the exterior boundaries of the subject site on September 19, 2023, in compliance with ORS 197.763, as required by Development Code §17.1.610, and notice was placed in three (3) conspicuous public places (the aquatic center, the public library and the window of the city auditorium) and published in the *News Times* on September 21, 2023; and

WHEREAS, the Planning Commission held the duly-noticed public hearing on all four (4) concurrently reviewed application proposals on December 18, 2023; and

WHEREAS, following public testimony, the Planning Commission voted unanimously to adopt staff's findings of fact and proposed conditions of approval, including staff's request to strike condition #4 as inapplicable, and support staff's recommendation of approval of the proposed Mixed Use Plan Development (MUPD), the three (3) lot land partition and the 20% Height Adjustment to allow multi-family structures within the MUPD to be a maximum of 42 feet in height; and

WHEREAS, due to two (2) continuances of the initial public hearing, notice of the revised City Council hearing date of January 8, 2024 was again mailed to property owners within 300 feet of the exterior boundaries of the subject site on December 19, 2023 and re-published in the *News Times* on December 28, 2023; and

WHEREAS, the City Council held the duly-noticed public hearing on the application proposals on January 8, 2024.

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NOW, THEREFORE, THE CITY OF FOREST GROVE ORDERS AS FOLLOWS:

Section 1. Based on the findings of fact included in the staff report dated December 18, 2023 and the recommendation of approval provided by the Planning Commission on the same date, the City Council hereby approves the Brown's Farm Mixed Use Planned Development (MUPD) as proposed; approves the preliminary plat for a three (3) lot land partition of Washington County Tax Lot 1N331A000100; and, approves the request for a 20% Adjustment height increase to allow apartment building structures located within the approved MUPD to be a maximum of 42 feet in height, and hereby adopts Staff's Findings and proposed Conditions of Approval (with the exception of condition #4), attached hereto as Exhibit A.

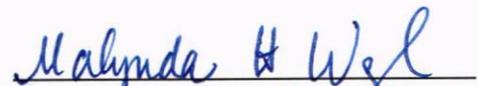
Section 2. This Order shall be effective 31 days following the enactment of Ordinance No 2024-02.

PRESENTED this 8th day of January, 2024.



Mariah S. Woods, City Recorder

APPROVED by the Mayor this 22nd day of January, 2024.



Malynda H. Wenzel Mayor

EXHIBIT A



Planned Residential Development Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE: December 11, 2023

CONTINUED: December 18, 2023

HEARING DATE

LAND USE REQUEST: A consolidated four (4) part application review pursuant to Development Code §17.1.205, reviewed under the highest numbered procedure (Type IV), and consisting of:

- A mixed use planned development (“MUPD”) preliminary plan, consisting of a 24-unit quadplex development and proposed 362-unit apartment complex and commercial space;
- A tentative plat for Partition (subordinate to the MUPD Approval);
- An Adjustment to allow buildings located *outside* the “Village Center” within the Neighborhood Mixed Use (“NMU”) Zone to be constructed up to 42’ in height (current maximum is 35’); and
- A development code text amendment to request higher density within the “Area 2 – Davidson” Neighborhood Mixed Use zoned area (Type IV, legislative process).

FILE NUMBER(S): Type III: 311-23-000022-PLNG / MUPD
Type II: 311-23-000023-PLNG / Adjustment
Type II: 311-23-000024-PLNG / Partition
Type IV: 311-23-000025-PLNG / Text Amendment

FILE NAME: “Brown’s Farm Mixed Use Development”

PROPERTY LOCATION: 3081 Sunset Drive, Forest Grove Oregon 97116
Washington County Tax Lot(s) 1N331A000100 & 1N331A000600

OWNER: TL 100: Davidson, Ernest D Family Trust; Davidson, Wynona D Revocable Trust; and T&T Properties

TL 600: Davidson, Ernest D Family Trust (State QTIP)

APPLICANT: J.T. Smith Companies, LLC
5285 Meadows Road, STE 171
Lake Oswego, OR 97035

APPLICANT’S REPRESENTATIVE: 3J Consulting, Inc.
9600 SW Nimbus Avenue, STE 100
Beaverton, OR 97008

COMPREHENSIVE PLAN MAP DESIGNATION: Neighborhood Mixed Use (NMU)

ZONING MAP DESIGNATION: Neighborhood Mixed Use (NMU)

APPLICABLE STANDARDS AND CRITERIA:

City of Forest Grove Development Code:
§17.1.205 et. seq. *Consolidated Review*
§17.2.600 et. seq. *Development Code Text Amendment*
§17.2.100 et. seq. *Adjustment*
§17.4.300 et. seq. *Mixed Use Planned Development*
§17.5.140 *Protection of Register Trees*
§17.5.225 *Procedures for Review of Proposed Demolition or Relocation of Landmarks*
§17.6.045 et. seq. *Partitions*
§17.8.600 et. seq. *Public Improvements*
§17.8.900 et. seq. *Land Division Standards*

Oregon Revised Statutes:
197.307 *Needed Housing Policy – Clear and Objective Standards*

COMMON ABBREVIATIONS/ACRONYMS USED WITHIN THIS STAFF REPORT:

<u>ABR. / ACRONYM</u>	<u>MEANING</u>
• TL	• Tax Lot
• NMU	• Neighborhood Mixed Use
• MUPD	• Mixed Use Planned Development
• FGDC	• Forest Grove Development Code

REVIEWING STAFF: Kate McGuire, Senior Planner

RECOMMENDATION:

MUPD:	Approval with Conditions
Partition:	Approval
Text Amendment:	Approval
Adjustment:	Approval

I. PROPERTY DESCRIPTION & LAND USE DESIGNATION

The subject property is comprised of two (2) parcels, currently identified as Washington County tax lot(s) 1N331A000100 (“TL 100”) & 1N331A000600 (“TL 600”) and is approximately 24.91 total combined acres.

Per the legal description provided by Allen Kohn, Oregon Registered Professional Land Surveyor (58964PLS), TL 100 is approximately 23.37 acres in size (Please see Exhibit K). It is assigned the physical site address 3081 Sunset Drive and historic aerial imagery indicates that farming has been the primary use, and Washington County Assessment

("WCA") data identifies that TL 100 is receiving farmland assessment with the exception of one (1) acre of land area. WCA data also identifies that TL 100 is currently developed with two (2) single family dwelling units; one being the "Alvin Clark Brown House", constructed in 1863 and added to the State of Oregon Historic Preservation Office ("SHPO") Historic Register Inventory in 2013. The other dwelling was constructed in 1930 and is not identified as an eligible contributing structure and is of no historical significance. TL 100 is also developed with several accessory farm structures; all existing structural development is clustered in the southwestern corner of the property and all will require removal to accommodate the current development proposal. Natural features include an approximately 1/3-acre grove of Oregon White Oak trees that are centrally located on TL 100, a singular Oregon White Oak located in the southwest corner of the property, and a swath of approximately 5+ acres of mapped wetland, and associated vegetative corridor, existing in the southeastern portion TL 100. All are preserved and incorporated into the proposed MUPD design.

Per the legal description provided by Allen Kohn, Oregon Registered Professional Land Surveyor (58964PLS), TL 600 is approximately 1.54 acres in size. TL 600 is currently vacant of development and does not have a physical address assigned. TL 600 is also receiving farming assessment and historic aerial imagery indicates that this parcel has also been actively in farm use. There are no pertinent natural features located on TL 600.

Both the comprehensive plan and zoning map designations of the subject property are, coincidentally, Neighborhood Mixed Use ("NMU").

Public notice was mailed to property owners within 300 feet of the site on September 18, 2023, published in the *News Times* on September 21, 2023 and conspicuously posted at the City Hall Auditorium, Public Library and City of Forest Grove Aquatic Center, as required by Forest Grove Development Code ("FGDC") §17.1.610 and §17.1.615. Physical signs advertising public hearing were staked by Staff in four (4) locations at the site on September 25, 2023. The hearing was subsequently continued to December 18, 2023 for review and consideration by the Planning Commission.

Copies of the application materials were provided to the City's inter-departmental Plans Review Board for review and comment. The Plans Review Board includes staff representing the Building Division, Engineering Division, and the City of Forest Grove Fire and Light, and Power Departments. The Oregon Department of Transportation ("ODOT") was also provided notice of the proposal. Standards and specifications stipulated by these departments and those provided by ODOT and CWS are provided at Exhibits C through G.

II. ANALYSIS

A. DESCRIPTION OF PROPOSAL:

The project is proposed through four (4) applications, submitted for concurrent review, pursuant to FGDC §17.1.205 – "Consolidated Review."

The Applicant is proposing a **Mixed Use Planned Development ("MUPD")**¹ (Application #1) and concurrent, subordinate, three (3) lot **Partition**^(Application #2) of TL 100, pursuant to the standards of FGDC §17.4.315.

¹ Applicant's findings address all relevant standards and criteria of this section, with the exception of §17.4.315(C) and Table 4-1; both regarding residential density. The request for Text Amendment application concurrently reviewed (File

At final build out, the development would include; 24 (six (6) quadplex units) residential units on TL 600, and a 362 unit multi-family residential community comprised of studio, one, two, and three bedroom market rate apartments to be contained within fourteen (14) apartment buildings with 120 units being ground floor units to provide better accessibility to seniors and those with mobility issues; seven (7) garage buildings with storage space for tenants on the second floor of the garage buildings; a community building that would include indoor sports courts, a party room, a technology room, a work out room, rental offices, two (2) apartment units and an exterior covered picnic space, and a four (4) acre commercial lot will be created through the proposed partition, that will include “flexible” commercial development proposed within four (4) buildings and will serve as the “Village Center” of the MUPD.

The residential and commercial development is proposed to be constructed in 5 phases. The Applicant has provided the following table to summarize the phases:

Phase	Lot	Phase Acreage	Proposed Zoning Designation	Proposed Development
Tax Lot: 1N331A000100				
R1	Lot 3	6.45 acres	NMU	Residential 128 units
R2	Lot 4	3.76 acres	NMU	Residential 108 units
R3	Lot 4	3.96 acres	NMU	Residential 126 units
Resource Area	Lot 4	5.42 acres	NMU	None
C1	Lot 2	3.77 acres	NMU	Commercial
Tax Lot: 1N331A000600				
R1A	Lot 1	1.54 acres	NMU	Residential 24 Quadplexes

The proposed phasing plan is visually evidenced on sheet C190 (“Phasing Plan”) of the submitted plans set. The timeline of phasing construction has not been presented.

Phase “R1” will be constructed on proposed “Lot 3” and will incorporate five (5) structures containing a total of 126 residential units/apartments, one (1) garage structure containing ten 10 parking units and 196 surface parking spaces for a total of 206 parking spaces.

Phase “R2” will be constructed on the southwest portion of proposed “Lot 4” and will incorporate four (4) residential structures containing 108 residential units/apartments, four (4) garage structures containing 40 parking units (10 each) and 121 surface parking spaces for a total of 161 parking spaces.

Phase “R3” will be constructed on the northern portion of proposed “Lot 4” and will incorporate five (5) residential structures containing 108 residential units/apartments, two (2) garage structures containing 20 parking units (10 each) and 129 surface parking spaces for a total of 149 parking spaces.

No. 311-23-00025-PLNG), is specifically a request for increase to the density allowance in the “Area 2 – Davidson” NMU zone; the subject property. Density is separately addressed herein, where the criteria of the Text Amendment are addressed.

Phase “R1A” will be constructed on existing “Lot 1” and will incorporate six (6) quadplex structures containing a total of 24 residential units/apartments and have a total of 48 parking spaces.

The Applicant states that the total open space provided upon completion of all residential phases will be 482,892 square feet (approximately 11.08 acres). Proposed open space areas would preserve several existing natural features at the site, including a wetland area and vegetative corridor that is situated along the southeastern corner of the subject property, and an existing Oregon White Oak grove that is centrally located within the proposed development will be preserved and incorporated into the “Tabitha Brown Moffat Brown Pioneer Park”. The Park is proposed at just under one (1) acre in size and because it is centrally located within the proposed residential development area, will operate as a primary “third space” for residents of the community, incorporating walking trails, picnic and gathering areas, play structures and athletic courts.

Phase “C1”, the “Village Center” will be constructed on proposed “Lot 2”. At final build out, it will contain four (4) commercial buildings. The Applicant’s written findings state:

“The proposed Village Center does not currently have tenants or proposed building footprints. At the time of development of the commercial spaces in the Village Center, the maximum building footprint proposed will not exceed 50,000 square feet”

The Applicant has stated understanding of the 50,000 square foot limitation of commercial structures in the Village Center. Compliance with this requirement can be assured through a condition of approval.

Applicant is requesting a **Text Amendment**^(Application #3) to *FGDC Table 4-1: “Residential Density”*, specifically applicable to NMU Zone “Area 2 – Davidson”. Applicant requests the maximum density allowance be increased from 13.80 units/net acre to “15.50” units/net acre to allow for a slight increase of 1.7 units/acre. Table 4-1, below, identifies the minimum, target and maximum residential densities currently provided for each of the NMU areas. The proposed amendment is applicable only to the “Area 2 – Davidson” NMU zone; which is comprised of the subject property, alone.

Table 4-1: Residential Density			
<i>NMU Zoned Area</i>	<i>Minimum Density</i>	<i>Target Density</i>	<i>Maximum Density</i>
Area 1 - David Hill	9.60 units/net acre	12 units/net acre	13.80 units/net acre
Area 2 - Davidson	9.60 units/net acre	12 units/net acre	13.80 units/net acre
Area 3 - East David Hill Rd	9.60 units/net acre	12 units/net acre	13.80 units/net acre

The Text Amendment criteria of the FGDC and density analysis are subsequently addressed herein further herein.

The final component of the application is a request for an **Adjustment**^(Application #4) to the height limitation of structures located outside of the “Village Center”. Residential structures located outside of the Village Center are limited to 35’ in height, while structures located within the Village Center are allowed to be a maximum of 45’ in height (FGDC Table 3-9: “Commercial Zones: Dimensional Requirements”). The two height allowances currently existing within the MUPD, mirror other height allowances for residential and commercial zones. The requested adjustment to the height limitation is stated as necessary to accommodate the density increase proposed through the Text Amendment component of the application, and to allow for construction design incorporating sloped roofing.

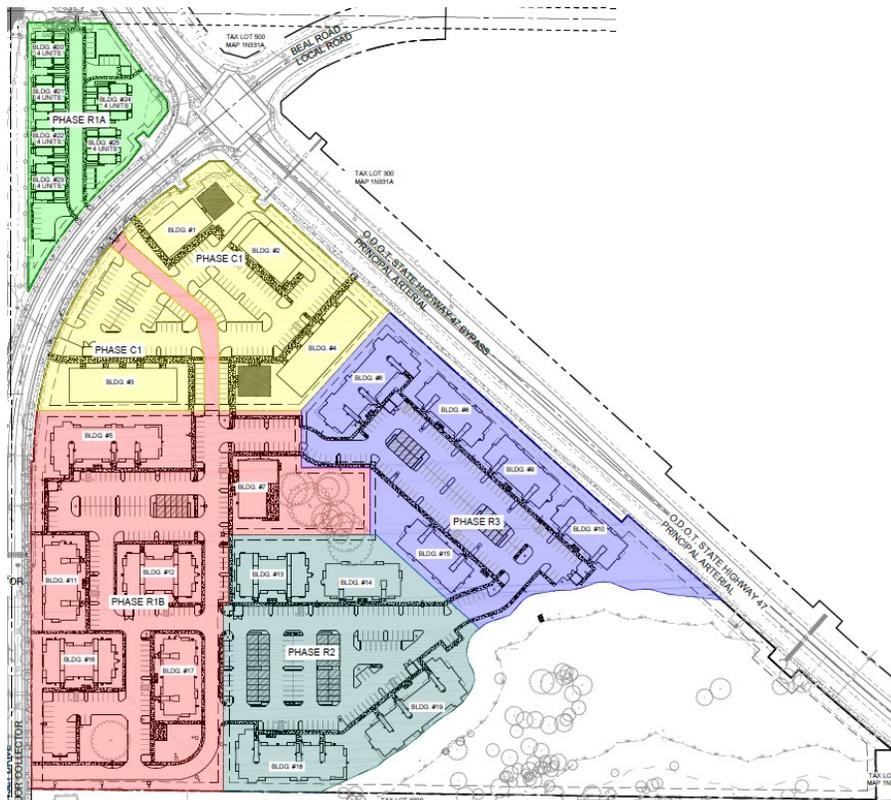
B. SITE EXAMINATION:

The site consists of two parcels, TL 100 and TL 600 with a combined gross area of approximately 24.91 acres (See Exhibit K). TL 600 is located on the northwestern right of way (“ROW”) of Sunset Drive and the southern ROW of Hwy 47. TL 100 is located on the eastern ROW of Sunset Drive and the southern ROW of Hwy 47 and is proposed for partition into three (3) parcels. TL 600 is currently vacant of structural development; TL 100 currently contains two single family dwelling units and several accessory farm structures, all located in the southwest corner of the property that would need to be relocated and/or demolished to facilitate the first phase of construction of the apartment complex. One of the existing dwellings is the “Alvin Clark Brown House”, constructed in 1863 and added to the State of Oregon Historic Preservation Office (“SHPO”) Historic Register Inventory in 2013. The criteria of FGDC §17.5.225 is addressed further herein. The site is relatively flat and has historically been used for agricultural purposes.

There is an Oregon White Oak grove located in the central area of TL 100 and a singular Oregon White Oak that is found on the City of Forest Grove register of significant trees that is located in the southwestern corner of the subject property. The Applicant has addressed all of the requirements of FGDC §17.5.100 et seq., and has provided an inventory of existing trees and preservation and removal plan (sheets C150, C151 & C152). Pursuant to the preservation plan, the aforementioned Oregon White Oaks will all be retained onsite.

There is a swath of wetland and associated vegetative corridor located along the southeastern portion of TL 100. Clean Water Services (“CWS”) has reviewed the proposal (CWS File No. 23-000887) and provided conditions pertinent to conservation of the wetland during development (See Exhibit G, attached hereto).

C. PRELIMINARY LOT LAYOUT / PHASING PLAN:



D. COMPREHENSIVE PLAN DESIGNATION & ZONING OF SITE & SURROUNDING AREA:

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Project Site	Neighborhood Mixed Use (25.05+/- acres)	Neighborhood Mixed Use (NMU)	Agriculture
North	Light Industrial (LI)	Light Industrial (LI)	None
South	B - Standard	Single-Family Residential (R-7)	Single-Family Residential
East	Exclusive Farm Use -EFU (Washington County)	Exclusive Farm Use -EFU (Washington County)	Highway 47 / Agricultural
West	A – Medium & B - Standard	Single Family Residential (R- 5 & R-7)	Single-Family Residential

E. NEIGHBORHOOD MIXED USE ZONE DESIGNATION and COMPLICATIONS DUE TO IMPLEMENTATION OF ORS 197.307; CLEAR AND OBJECTIVE STANDARDS FOR NEEDED HOUSING:

The City of Forest Grove established the Neighborhood Mixed Use (“NMU”) zoning district through adoption of Ordinance No. 2013-03 in March of 2016, to implement the “Mixed Use” designation of the Comprehensive Plan, a designation incorporated into the Comprehensive Plan in 2014 (Ordinance No.’s 2014-01 & 2014-02). Per Forest Grove Development Code (“FGDC”) §17.3.310:

“The Neighborhood Mixed Use zone is established to support the development of pedestrian-friendly mixed-use neighborhoods with a diversity in the mix of housing types and neighborhood-scale retail sales and service, office, civic or recreational uses. Most non-residential uses must be located within a “Village Center.” The Village Center is intended to serve as the center of the neighborhood, providing convenient access to goods and services as well as “third places” where residents can gather. The NMU zone implements the Comprehensive Plan’s Mixed-Use designation. Mixed-Use Planned Development approval is required in the NMU Zone in order to ensure that the objectives of the Comprehensive Plan are addressed.”

The subject site is one of three (3) sites that were rezoned to the NMU designation and is known as “Area - 2 Davidson”. The subject property was previously zoned Light Industrial (“LI”) and was incidentally, the largest of the three (3) sites that were rezoned to NMU. As identified above, development in the NMU zone district requires approval of a Mixed Use Planned Development (“MUPD”).

As identified above, the NMU zone was adopted in the spirit of creating flexibility in proposals for mixed use development. In the interim, a global pandemic ensued and a major housing crisis has gripped the State of Oregon. The provisions regarding needed housing as outlined within Oregon Revised Statute 197.307, specifically subsection (4), effectively eliminate the ability to apply discretion to review regarding any residential development. In this case, the Applicant has prepared a development plan that still primarily observes the spirit and intention of the NMU zoning district and the MUPD process as identified and analyzed herein.

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III. REQUIRED APPROVALS AND FINDINGS

1) MIXED USE PLANNED DEVELOPMENT:

§17.4.300 – PURPOSE

The purpose of the Mixed Use Planned Development is to ensure that sites zoned Neighborhood Mixed Use are developed into pedestrian-friendly mixed use neighborhoods. In order to accomplish that, Mixed Use Planned Developments shall provide:

- A. *Diversity in the mix of housing types including single-family houses, apartments, row houses, cottages, senior housing and residential units above commercial or office space;*

FINDING: The Applicant proposes two (2) housing types; multi-family apartment complexes and quadplexes. FGDC §17.12.210 (D11) provides dwelling related definitions and distinguishes Quadplexes from Apartments or Multiple Family Dwelling Units in that, Apartments or Multiple Family Dwelling Units are a structure containing at least five (5) dwelling units.

The Applicant has proposed placement of two (2) apartments within the “field house” community building above the apartment leasing office which is by definition, “office space”.

- B. *Pedestrian-orientation in the arrangement and placement of buildings, parking and circulation systems, land uses and utilities; and*

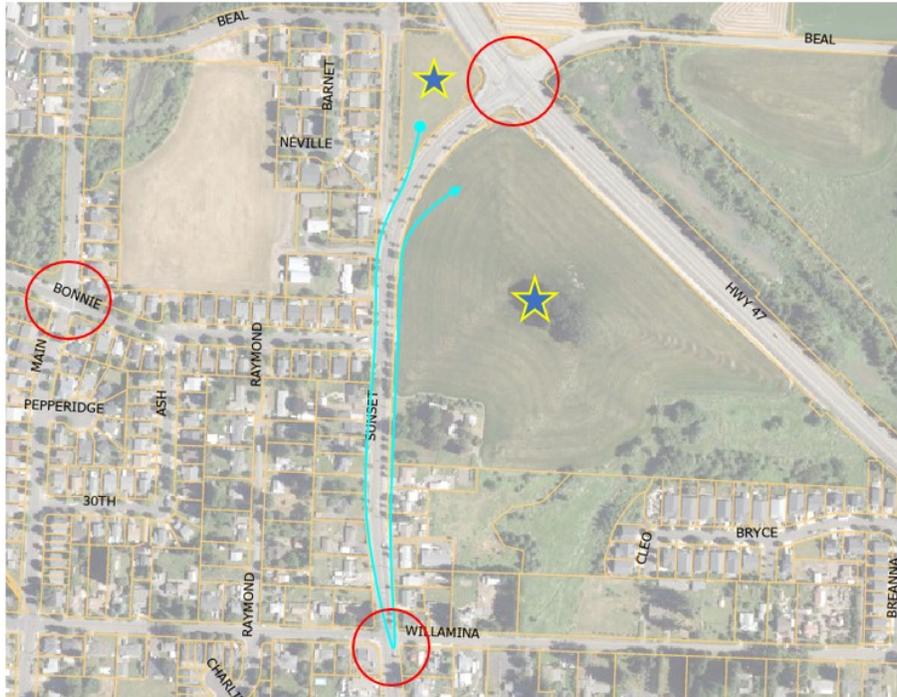
FINDING: The site circulation plan submitted (sheet C420) locates “CAR” and “ADA” thoroughfares, and although incorporated in the legend (“PED”), pedestrian pathways are not distinctly identified on the circulation plan. Notwithstanding the foregoing, the conclusion can be drawn that any labeled “ADA” thoroughfare can also be considered a pedestrian pathway. The Applicant has adequately addressed §17.8.140(A)(3) & (B)(3), the applicable development standards regarding the pedestrian environment, in both residential and commercial zones, and there appears to be ample network of both vehicle thoroughfare and pedestrian walkways provided within the commercial site and larger residential site all contained to TL 100. However, there is no connectivity currently provided from between proposed quadplexes on TL 600 and the commercial development proposed on the northern end of TL 100. Concerns addressing this connectivity deficiency are further addressed below where the Applicant proposes a pedestrian actuated crosswalk to be situated on Sunset Drive to provide safe crossing between the quadplexes on the island parcel to the commercial uses proposed for location on the eastern side of Sunset Drive.

- C. *Pedestrian and bicycle access to, and through, the site and provide connectivity to adjacent areas for motorized and non-motorized modes of transportation;*

FINDING: The TIS identifies existing marked crosswalks located at the corner of Sunset Drive and Willamina Avenue (south of the development), at the intersection of Bonnie Lane and Main Street (west of the development) and an existing push button activated crossing at the intersection of Sunset Drive and Hwy. 47.

Staff has concerns regarding connectivity represented between the quadplexes located on the northwestern right of way of Sunset Drive and the proposed commercial development to be located on the southeastern right of way of Sunset Drive. A site visit

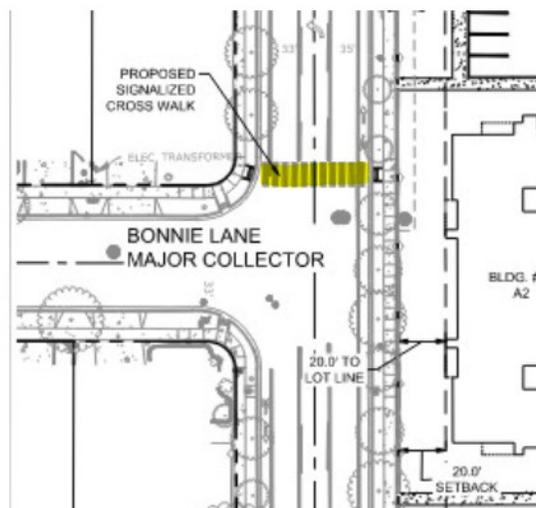
conducted by Staff on September 25, 2023 identifies that there is no marked crosswalk located at the “T” – intersection where Bonnie Lane connects to Sunset Drive. If a resident of the quadplexes utilized the marked crossing located at Willamina and Sunset to reach the commercial development located on TL 600, they would need to walk nearly half a mile just to safely get across the street:



The revised TIS, prepared by Christopher Brehmer of Kittelson and Associates states:

Pursuant to recommendations from City staff, JT Smith should collaborate with the City to design and construct a marked crossing at the Sunset Drive/Bonnie Lane intersection in conjunction with site development. The types of enhanced crossing treatments could include ADA accessible curb ramps, beacons and lighting.

The Applicant initiated a discussion with the City of Forest Grove Director of Public Works on November 15, 2023 (correspondence at Exhibit H) and provided a plan for a signalized crosswalk to be located on the north side of the Sunset Drive / Bonnie Lane Intersection:

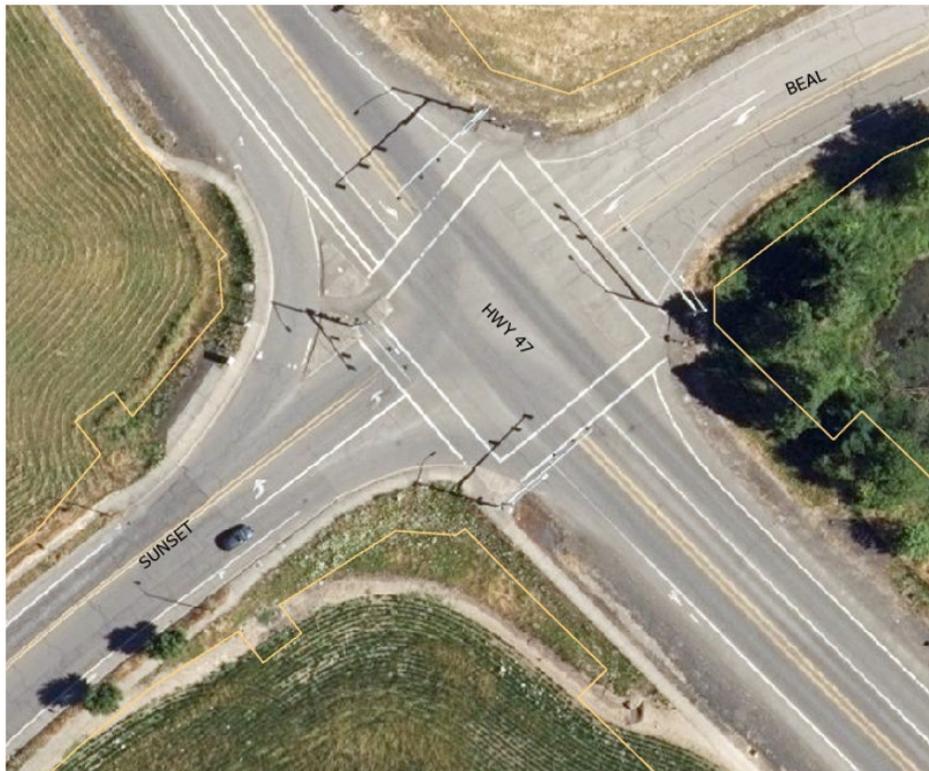


A supplement from the Applicant provided to that email identifies the type of flashing pedestrian actuated crosswalk that may be permitted in this location (See Exhibit H). The correspondence indicates that the Director of Public Works is amenable to this proposal and staff's concern regarding safe pedestrian connectivity between the two sites is no longer of issue.

Condition #51 of the attached conditions of approval for the proposed development, provided by the city engineer (See Exhibit F) states:

“Establishment of new pedestrian crossings at uncontrolled intersections or at mid-block locations on roadways under control of the City shall be based upon an engineering study by applicant, and reviewed and approved by the City Engineer according to evaluation process set by Washington County.”

The push button crossing at the corner of Sunset and 47 is also problematic, as there is no actual connection to TL 600:



Therefore, Staff recommends **a condition of approval** requiring the Applicant to work with ODOT (and the City of Forest Grove Public Works Department, as may be necessary or applicable in this location) to improve the intersection crosswalk located at Sunset Drive and Hwy 47 to provide adequate and actual connectivity between the commercial development to be located on the north end of TL 100 and the residential development to be located on the small parcel (TL 600).

Regarding this intersection, the TIS prepared by the Applicant's traffic engineer provides only the following recommendation:

“Regardless of the development, we recommend that the City work with ODOT to review and modify the signal timing plan at the OR 47/Sunset

Drive intersection to optimize intersection operations and minimize queuing in light of planned/pending developments, anticipated connectivity changes, and the new roundabout being constructed to the east on OR 47 at Martin Road.”

The City of Forest Grove Engineering Division was provided notice of the proposal and along with standard construction specifications, City Engineering requires the following special condition:

“Provide a traffic analysis of the intersections of Bonnie Lane and Sunset Drive, and Sunset Drive and Hwy 47 Bypass. Look at current traffic movements and movements after build out for both intersections and proposed access points to determine future impact.” (See Exhibit F)

The Oregon Department of Transportation (“ODOT”) was initially sent notice of the proposal when the small parcel was proposed for commercial development, prior to submittal of the revised proposal changing that portion of the development to residential use.

Upon review of the initial proposal, ODOT requested **a condition of approval** requiring the Applicant to improve a segment of the “Council Creek Regional Trail” where the subject property abuts Hwy 47. Recommended improvements include installation of a 10 foot wide multi-use path with 2 foot shoulders on either side and has requested installation of pedestrian and bicycle pathways to and from the development, connecting to the Council Creek Trail in one or more of locations along the southwestern ROW of Hwy 47. The Applicant took this into account when preparing revisions to the initial proposal and the revised site plan demonstrates connectivity to the Council Creek Trail via one (1) pedestrian pathway, located between buildings #2 and #4 of the commercial development.

D. Neighborhood-scale retail sales and service, office, civic or recreational uses conveniently located for neighborhood access, thereby contributing to the livability of the area by reducing the amount of vehicle miles traveled to reach goods and services;

FINDING: The Applicant states that there are not yet any tenants to occupy the proposed structures within the Village Center commercial area and it is reasonable that approval of the development would be secured prior to engaging with potential tenants. FGDC Table 3-8 identifies the commercial uses allowed (outright permitted or conditional use) in the NMU zoning district. Compliance with the requirement of this section can be assured through **a condition approval** requiring any proposed commercial use comply with the use Table 3-8.

E. Coordinated architectural styles, landscaping building forms and building relationships which help establish a cohesive sense of place;

FINDING: The Applicant has provided a custom Design Guidebook. The design guidebook demonstrates cohesive and coordinate architectural styles for all components of the commercial and all components of the residential development (including detached garages and community building/field house). The Applicant states that the design elements reference “the history of the site and incorporate gambrel roof forms, stone and timber elements.” The proposal incorporates a community building, adjacent to the Tabitha Moffat Brown Pioneer Park which preserves and features an Oregon White Oak grove. The Park would include walking trails, picnic and gathering areas, play structures and courts. The proposal incorporates smaller opens space and recreation

dispersed throughout the residential portion of the development as well. Plans sheet C150 provides a tree preservation and removal plan which is implemented in coordination with new landscaping provided at sheets L010 through L414. Compliance with the criteria of this section is demonstrated as feasibly met.

F. An urban form that emphasizes the efficient use of land and compact urban form;

FINDING: The Applicant has preserved existing natural physical features and open spaces and is proposing a higher density to maximize the potential to achieve a more compact urban form.

G. The Applicant with reasonable assurance of ultimate approval before requiring detailed design and engineering, while providing the city with assurances that the project will retain the character envisioned at the time of approval; and

FINDING: The Applicant has submitted detailed design and engineering renderings. If approved, a **condition of approval** will ensure that the project would remain in substantial conformance with the plans as submitted, reviewed and approved.

H. A basis for discretionary review of an overall plan of development that can subsequently be developed in phases over time with administrative approval.

FINDING: The Applicant has provided a phasing plan and there is sufficient information provided such that development can occur in phases with administrative approval.

§17.4.315 MUPD DEVELOPMENT STANDARDS

*A. **Base zone standards.** The development standards of the base zone apply unless they are superseded by the standards of this section or an MUPD approval.*

FINDING: Footnote [5] of FGDC Table 3-9 identifies that new development in the NMU Zone requires a MUPD approval where the development standards are established through the MUPD process. This is one instance where the “spirit” of the MUPD is in conflict with state law applicable to needed housing; ORS 197.307 (4) specifically regarding clear and objective standards.

The only designated standard applicable to the NMU zone district found within FGDC Table 3-9, is pertinent to height limitation of 35’ for residential buildings located *outside* the “Village Center” of a MUPD. Footnote [6] identifies that a maximum building of 45’ is allowed only *within* a “Village Center” of an approved MUPD. The Applicant has requested a 20% adjustment to this limitation to allow structures located outside the “Village Center”, specifically the apartment complex structures, to be allowed to be constructed up to 42’ in height. The Adjustment review criteria of §17.2.120 are further addressed herein.

*B. **Site size.** There are no minimum or maximum size limitations for a MUPD.*

FINDING: By this metric, as long as a proposal can comply with the general development standards of Article 8, there is no proposal that *would not* comply with this section. In any case, the standard of this section is met.

*C. **Residential density.** The target, minimum and maximum residential density for each of the NMU zoned area is shown in Table 4-1. Dwelling units may be transferred between parcels as part of an approved MUPD provided the average density within the MUPD meets the standards in Table 4-1.*

NMU Zoned Area	Minimum <i>Density</i>	Target <i>Density</i>	Maximum <i>Density</i>
Area 1 - David Hill	9.60 units/net acre	12 units/net acre	13.80 units/net acre
Area 2 - Davidson	9.60 units/net acre	12 units/net acre	13.80 units/net acre
Area 3 - East David Hill Rd	9.60 units/net acre	12 units/net acre	13.80 units/net acre

FINDING: The Applicant is proposing a higher density than the maximum allowed pursuant to FGDC table 4-1 (13.80 units/net acre) through a concurrently reviewed Text Amendment application and proposal. A density analysis is provided further herein, where the criteria of the Text Amendment (FGDC §17.2.630) request are subsequently addressed.

D. Lot sizes. There are no required minimum lot sizes.

FINDING: Lot 1 is existing and as proposed, lots 2, 3 and 4 (all 4 lots proposed for development) are or will be of sufficient size to accommodate the applicable general development standards of Article 8.

E. Housing types allowed. All housing types are permitted. For MUPDs over three gross acres in size, a mix of housing types is required unless otherwise approved by the Planning Commission. Multi-unit buildings shall be subject to Multi-Unit Residential Focus Area standards unless standards are modified through an approved MUPD.

FINDING: The proposed MUPD is well over 3-acres in size. The Applicant proposes two (2) housing types; multi-family apartment complexes and quadplexes. FGDC §17.12.210 (D11) provides dwelling related definitions and distinguishes Quadplexes from Apartments or Multiple Family Dwelling Units in that, Apartments or Multiple Family Dwelling Units are a structure containing *at least* five (5) dwelling units.

The Applicant has not proposed modification of the Multi-Unit Residential Focus Area standards, and compliance with the requirements of those standards shall be made a condition of any approval. Compliance with the requirements of this section is demonstrated as feasibly met.

F. Village center. Commercial Uses and Institutional Uses (other than emergency services, basic utilities, major utilities transmission facilities, daycare, home occupations and community recreation) shall be located within a village center.

- 1. The Village Center shall provide services at a neighborhood scale within a compact, pedestrian-friendly environment. The Design and Development Standards and/or Design Guidelines applicable to the Town Center Transition (TCT) zone shall be used as a basis for development within the Village Center unless modified through an approved MUPD.*
- 2. The minimum and maximum floor area of commercial or institutional uses permitted within the Village Center is shown in Table 4-2.*
- 3. The total area of the Village Center shall not exceed 50% of the buildable land within the MUPD or three acres, whichever is greater. For the purposes of this calculation the area of the Village Center shall include the contiguous areas dedicated to commercial and institutional uses and related parking. Streets and open space shall not be included in the Village Center area calculations.*

4. *Only one Village Center is permitted within each of the NMU Zoned Areas.*
5. *Institutional uses shall not exceed 10% of the maximum allowed square footage within the Village Center.*
6. *Within Area 2 (Davidson), the maximum building footprint is 50,000 square feet. One tenant in Area 2 may occupy up to 50,000 square feet of gross floor area. Multiple tenants in a single building are allowed.*

Table 4-2: Commercial/Institutional Uses within the Village Center		
NMU Zoned Area	Minimum Square Footage	Maximum Square Footage
Area 1 - David Hill/Nixon	None	15,000 SF Gross Floor Area
Area 2 - Davidson	25,000 SF Gross Floor Area	130,000 SF Gross Floor Area ^[1]
Area 3 - East David Hill Rd	10,000 SF Gross Floor Area	150,000 SF Gross Floor Area ^[2]
[1] Maximum building footprint is 50,000 square feet		
[2] Maximum building footprint is 50,000 square feet		

FINDING: Only one Village Center is proposed. It will be situated on the northern end of TL 100, situated adjacent to, and northerly of the apartment complex and southeast of the quadplex development proposed on TL 600, located along the northern right of way of Sunset Drive.

The Applicant has addressed the Design and Development Standards and/or Design Guidelines applicable to the Town Center Transition (TCT) zone within submitted written findings and civil plans and has not requested modification through this MUPD review.

Compliance with the 50,000 square foot structural size limitation and compliance with the commercial and institutional use minimums and maximums provided within Table 4-2 can be assured through an **ongoing condition of approval**. The proposed “Village Center” areas is approximately 4 acres in size. This exceeds the 3-acre threshold however, it does not exceed 50% of the buildable land area within the MUPD.

G. Height. *The height limits of the base zone apply.*

FINDING: Within the NMU zone district, buildings within a “Village Center” may be constructed to a maximum of 45’ in height and buildings located outside a “Village Center” are limited to construction of 35’ in height. The Applicant has requested an Adjustment to the 35’ height limitation of structures located outside of the “Village Center” in conjunction with this application for a MUPD for a 20% adjustment to allow residential structures to be constructed up to 42’ in height. The Adjustment criteria are addressed further herein.

H. Building setbacks. *Building setbacks are established as part of the preliminary development plans approval.*

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FINDING: The NMU zone does not have required setbacks. The Applicant has provided a table of proposed setbacks:

Multifamily Setbacks	
Standard	Dimension
Front	20 feet
Corner (street side)	20 feet
Interior	10 feet
Rear	15 feet

Quadplex Setbacks	
Standard	Dimension
Front	10 feet
Corner (street side)	10 feet
Interior	10 feet
Rear	10 feet

Compared to setbacks required in other zoning districts, the setbacks proposed by the Applicant are adequate to accommodate the general development standards of Article 8. Further reduced front and corner yard setbacks for the quadplexes will not have an affect on any surrounding property due to being surrounded by a water quality facility to the west and no less than 40' of public right of way on all other sides.

*I. **Open space.** A MUPD shall include a minimum of 20% usable common open space, landscaped areas and/or protected natural areas.*

FINDING: The Applicant states that the total area of the MUPD is 1,018,081 square feet or approximately 23.37 acres. The Applicant goes on to identify 482,892 square feet or approximately 11.08 acres of usable common space are provided, including the 3.36 acre wetland and associated 1.72 acre vegetative corridor located in the southeastern corner of the development. By this calculation (25.04 x 20%) only 5 acres of open space are required and there is no maximum allowed. With 11.08 acres of open space, the proposal more than doubles the minimum requirement. As proposed, compliance with the requirement of this section is demonstrated as met.

*J. **Pedestrian-orientation and circulation.** A MUPD shall include a transportation system that emphasizes pedestrian mobility and accessibility, and demonstrates an effective and convenient system of pedestrian facilities that provides connectivity throughout the MUPD and to adjacent properties. The transportation system shall identify existing and proposed pedestrian connections and may include a combination of sidewalks, multi-use pathways and trails.*

FINDING: Analysis of pedestrian orientation and circulation was previously provided where § 17.4.300 (B) & (C) and subsection (F) of this section were addressed. Compliance with the standard of this section can be assured through imposition of the conditions where that section was previously addressed.

*K. **Parking.** The base zone parking requirements apply except that shared parking is encouraged within the MUPD. Where the MUPD abuts land zoned for single-family residential development, common parking and maneuvering areas must be set back at least 20 feet from the lot line. No parking or vehicular circulation areas shall be located between the building and the street. Garages and off-street parking areas for residential developments shall be accessed by alleys unless otherwise approved by the Planning Commission.*

FINDING: *Residential Parking (Total):* The Applicant appropriately cites Oregon Administrative Rule (“OAR”) 660-012-0430(2) “Reduction of Parking Mandates for Development Types” which identifies; cities within a metropolitan area that have not adopted land use regulations without parking mandates as provided in OAR 660-12-0405 through 660-012-0415, are subject to the following provision:

“Cities and counties may not require more than one parking space per unit in residential developments with more than one dwelling unit on a single legally-established property.”

By this metric, 386 parking spaces would be required to accommodate the proposed 384 residential units (362 apartments and 24 quadplexes). The rule does not impose a limitation or maximum on parking spaces to be provided and the Applicant has proposed 564 parking spaces (516 within the apartment complex and 48 within the quadplex development) to serve the residential portions of the development. As proposed, the standard of the prevailing Oregon Administrative Rule (“OAR”) is demonstrated as met and the Applicant has provided 178 parking spaces more than required.

L. **Water features.** *Water features such as streams or ponds must be left in a natural state unless altered to improve the natural values of the water feature or to improve stormwater drainage. Water features and their buffers should be kept in common ownership.*

FINDING: The subject property contains an existing wetland that is incorporated into the open space uses of the proposal. CWS has reviewed the proposal and provided conditions of approval, applicable to preservation of the wetland area. Compliance with the requirement of this section is demonstrated as feasibly met.

M. **Facilities and services.** *It is the responsibility of the Applicant to provide all service facilities necessary for the functioning of the MUPD. Service facilities such as streets, water supply facilities, sanitary sewers and stormwater detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. However, the review body may approve private service facilities with the consent of the appropriate service provider.*

FINDING: Service provider letters have been provided by CWS, Forest Grove Light and Power and Engineering divisions demonstrating that facilities are available to accommodate the proposed development. Compliance with the requirements of this section is demonstrated as feasibly met.

N. **Underground utilities.** *All service facilities must be placed underground except those that by their nature must be on or above ground, such as fire hydrants and open watercourses. The Applicant is responsible for making the necessary arrangements with utility companies and other appropriate entities when installing all service facilities.*

FINDING: Upon approval, the Applicant will be required to adhere to the conditions, standards and specifications supplied by Forest Grove Light and Power (See Exhibit D). Compliance with the requirements of this section is demonstrated as feasibly met.

O. **Construction to standards.** *All service facilities dedicated to the public must be constructed to city standards. All private service facilities must be designed by a qualified civil engineer to city standards or comparable design life as determined by the City Engineer.*

FINDING: Upon approval, the Applicant will be required to adhere to the conditions, standards and specifications supplied by the City of Forest Grove Engineer (See Exhibit F). Compliance with the requirements of this section is demonstrated as feasibly met.

§17.4.320(C) APPROVAL CRITERIA

*The preliminary plan will be approved if the review body finds that the applicant has shown that **all** of the following approval criteria are met:*

- 1. The plan fulfills the purpose for MUPDs stated in § 17.4.300;*
- 2. The plan meets the submittal requirements of § 17.4.320B.;*
- 3. Adequate public services exist or can be provided to serve the proposed MUPD;
and*
- 4. Where a tentative subdivision plat is requested, the requirements of Article 8 are met.*

FINDING: The development is proposed in five (5) phases, and while a summary of development to occur within each phase is provided, the actual schedule of phasing is not provided as required by §17.4.320 (B)(7)(a). Pursuant to §17.4.320, the proposal is currently within the “preliminary” plan review stage and Staff finds that a *tentative* phasing schedule can be proposed by the Applicant through this public hearing process. Therefore, the submitted proposal can demonstrate compliance with the requirements of subsections #1, #2, #3 and #4 above.

2) PARTITION:

§17.6.060 – REVIEW CRITERIA

Approval of a tentative partition plat will be granted if the Director finds that the Applicant has met all of the following criteria:

- A. The tentative partition plat complies with all applicable requirements for submittal;*
- B. The tentative partition plat complies with all applicable standards and design requirements of this Code;*
- C. Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and addressed in the design of the tentative plat;*
- D. All parcels shall be suitable for their intended use. No parcel shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the occupants of such parcel or partition;*
- E. Development of any remainder of property under the same ownership can be accomplished in accordance with this Code;*
- F. Adjoining land can be developed or is provided access that will allow its development in accordance with this Code;*
- G. The proposed street plan provides safe, convenient and direct options for pedestrian, bicycle and vehicular circulation; and*

H. Adequate public facilities are available or can be provided by the Applicant to serve the proposed partition.

FINDING: Approval of the partition request is subordinate to approval of the MUPD. §17.4.305 – “Procedures” subsection (C) provides:

Concurrent land division. A MUPD may be filed and processed concurrently with a partition or subdivision application; however, no land division shall be approved unless it is found to be consistent with the applicable MUPD.

The tentative/preliminary partition plat (sheet C180) demonstrates that the proposal meets the relevant criteria of this section and the requirements of Article 6 (subsection “G” is not applicable, there are no streets proposed within the development) and the relevant standards of Article 8 (§17.8.905). If the MUPD application were able to be approved, the partition could also be approved as proposed.

3) **ARTICLE 5: SPECIAL PROVISIONS**

§17.5.125 TREES IN NATURAL RESOURCE AREAS

§17.5.140 PROTECTION OF REGISTER TREES

Finding: The Applicant has provided a CWS, service provider letter and mitigation schedule which addresses any trees located within the wetland area and vegetative corridor. If the MUPD application were able to be approved, a condition of approval would require compliance with the standards, specifications and conditions provided in the CWS letter.

The subject property contains several Oregon White Oaks. One specifically, is found on the register of significant trees adopted by Council Ordinance. The White Oak of recognized significance is located in the southwestern region of the subject property. The Applicant has provided a tree protection plan (tree preservation and removal plan at sheet C150), in compliance with the standards of §17.5.140.

§17.5.225 PROCEDURE FOR REVIEW OF PROPOSED DEMOLITION OR RELOCATION OF LANDMARKS

Finding: The subject property is currently developed with the “Alvin Clark Brown House” (“the house”), constructed in 1863 and added to the State of Oregon Historic Preservation Office (“SHPO”) Historic Register Inventory in 2013 (See Exhibit J, attached hereto). The house is located in the southwestern corner of the subject property and will require removal to accommodate any proposed development at the site. The Applicant has not addressed the criteria of FGDC §17.5.225 within submitted findings, however, the Applicant identifies that they are “currently working with Friends of Historic Forest Grove to preserve and relocate the house to the site of the Alvin T. Smith House on Elm Street” (see page 6 of Applicant’s findings).

Pursuant to §17.5.225:

“Prior to the demolition or relocation, in whole or in part, of any landmark, an application and plans shall be submitted to the Community Development Department for review and action by the HLB under Type III procedures.”

While the Applicant hasn’t explicitly addressed the requirements of this section, as identified above, a relocation plan is being coordinated with Friends of Historic Forest

Grove. A **condition of approval** will require submittal and completion of the Type III application procedure to relocate the house prior to commencement of Phase 1 residential development.

4) **DEVELOPMENT CODE TEXT AMENDMENT**

Summary of Text Amendment Request:

The Applicant is requesting an amendment to the text of the Development Code, Table 4-1: Residential Density. Specifically, the request is to change the *Maximum Density* allowance for the NMU zoned property identified in Table 4-1 as “Area 2 – Davidson”. Currently, the Maximum Density identified is 13.80 units/net acre and the Applicant states that the request is for a minor increase to 15.50 units/net acre, an increase of only 1.7 units/net acre. This increase would accommodate the number of residential units (386) proposed through the MUPD portion of the application.

The subject site is approximately 24.91 acres in size and the current density maximum of 13.80 units/net acre would allow for 343.62, or 344 units. The proposed density increase would allow up to 386 units, a difference of 42 additional units. Due to the wetland and associated vegetative corridor, the proposal utilizes the allowance for a density transfer between parcels as identified by §17.4.315 (C).

The Applicant’s findings compare the proposed density increase to the density allowances for all zones which allow multi-family development:

Zone:	Maximum Units/Net Acre:
RML	12
RMH	20.28
NC	8.71
CC	30
TCC	40
TCT	40
NMU (Area 2 – Davidson)	13.80 – 15.5 proposed

The density which most closely aligns with the current proposal is that of the Residential Multi-Family High (“RMH”) zone. While the subject property is immediately bordered by Single Family Residential (R-7) zoned properties to the west and south and unincorporated Washington County to the east, there is a significant amount of RMH property located in near vicinity (to the west and south) of the subject property. It should also be noted that density standards in all residential development zones have been altered by implementation of HB 2001 which allows for the development of needed housing in all residential zones, and essentially removes the previously imposed density standards specified within the varied residential zone districts.

As an additional consideration; the subject site is one (1) of only three (3) sites zoned NMU within the City. One of the sites (Area 3 – East David Hill Rd.) is currently under construction of the recently approved Davis Estates Planned Development, which does not include any commercial development. While the Davis Estates Subdivision contributes to the needed housing inventory within the city, because that site is split zoned the development proposal was able to be reviewed under the Planned Development (“PD”) section and standards of the development code and was not required to incorporate any mixed uses or provide any neighborhood commercial services to the development and by default, to the surrounding communities. It should also be noted that the Davis Estates Subdivision only contributes single family dwellings

(detached or attached) that are intended for owner occupancy. There is still a need for median income individuals, new workforce, and new families to have entry into safe and somewhat affordable housing that does not require them to qualify for a mortgage loan. At the date of authoring of this staff report, FreddieMac identifies the Primary Mortgage Market Survey rate of the previous week to be between 7.03% and 6.29%, for 30-year and 15-year terms respectively.²

The second site, located at the northwest edge of the city (Area 1 – David Hill), is undeveloped and has several site constraints that will make future development challenging, including wetlands, steep slopes and intervening ownership which will impede utility serviceability. Because of these factors, it is unknown when or if this property will be developed.

§ 17.2.620 PROCEDURE

Text amendments are reviewed under the Type IV legislative procedure. Text amendments are adopted by ordinance and require final action by the City Council.

Finding: The request for a Development Code Text Amendment is submitted and concurrently reviewed as part of this multi-part application and review. The other components of the application request; the MUPD and subordinate Partition, and the height Adjustment, would not otherwise be required to be reviewed by the City Council. However, because the Text Amendment for increased density, a Type IV legislative procedure is incorporated into the proposal, the City Council will have final decision on issuing approval or denial of all, or parts of the entire proposal.

§ 17.2.630 REVIEW CRITERIA

A. *The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan.*

Finding: The Applicant has provided a detailed analysis of how the proposal is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Community Sustainability Policies:

Community Sustainability Policy #9: Support transportation connectivity through the Transportation System Plan, Engineering Design Standards and Development Code requirements to reduce vehicle miles traveled and encourage bicycling and walking to destinations.

Community Sustainability Policy #11: Ensure that needed housing for all segments of the population in the community is met through land use policy.

The subject site is situated adjacent to already developed residential lands and the commercial uses incorporated into a MUPD would serve not only the residents of the dwelling units within a MUPD but also the residents of surrounding development. Those existing surrounding households will be able to utilize those commercial services incorporated into a MUPD and as a consequence, will reduce vehicle miles traveled. As well, ODOT has requested improvements to a segment of the “Council Creek Regional Trail” where the subject property abuts Hwy 47. Whether or not the current MUPD proposal is able to be approved, it is assumed that this condition would be required by ODOT at the time of any proposed development of the property. This improvement

² <https://www.freddiemac.com/pmms> December 11, 2023

would also encourage utilization of the commercial uses within a MUPD and reduction in vehicle miles traveled to and from the site.

Increased density at the subject site would promote financial community sustainability. With increased density, the site can support a compact and land efficient development that provides interconnected land uses, as is the purpose of the NMU zone and the MUPD process. A higher density allowance can serve a greater number of the population of the City of Forest Grove.

Land Use Policies:

“The location of housing affects many aspects of our lives. The location of housing determines how far we have to commute to work, where our children play and whether or not we can walk or bicycle to stores and services. In addition, the amount of land available for development and land use regulation impact the cost of housing. The city of Forest [sic] will adopt policies and strategies to respond to identified issues and problems affection land use.”

While the proposal and review are not for a Comprehensive Plan Text Amendment, it is important to note that the last amendment to the Comprehensive Plan occurred in 2014, prior to creation and incorporation of the NMU zone. Therefore, the dwelling capacities/densities the NMU zone might potentially contribute to needed housing, were not contemplated. The residential zone density standards were identified in the table below:

Zoning District	Density Standard
Suburban Residential	1.0 dwellings per net acre
R-10	4.35 dwellings per acre
R-7	6.22 dwellings per net acre
R-5	8.71 dwellings per net acre
RML	12.0 dwellings per net acre
RMH	20.28 dwellings per net acre

The NMU zone is identified as a “commercial” zone. Notwithstanding the foregoing, one of the primary purposes of the NMU zone is to incorporate residential development. The NMU zone can provide needed dwelling units that support the housing inventory within the city, and this site has demonstrated through provision of service provider feasibility letters, that service infrastructure (water, sewer & transportation facilities) are available.

Because this zone did not exist during the last Comprehensive Plan text amendment, the three “areas” previously mentioned were established and density standards provided within the text of the *Development Code*. With needed housing identified as a community and statewide issue, it is reasonable to consider amendment of the the text of the *Development Code* to allow for higher density at this site specifically, to be more productive in meeting community sustainability and housing goals, in a compact urban form. As previously identified, one (1) of the three (3) NMU sites in the city is already under development to provide primarily owner occupied single family dwelling units and the other site is unlikely to be developed and be able to provide needed housing in the near future. Allowing higher density within the Davidson site would provide a substantial number of rental units as required by the Metro housing rules, further addressed below where the standard of subsection (B) of this section is addressed.

B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Finding: Land Use Policy #9 states:

“The City shall take into consideration the housing rules of the State Land Conservation and Development Commission when considering plan amendments affecting future development densities or the mix of housing types.”

As previously identified, the density standards of the NMU zone are only contemplated within the text of the Development Code and Staff would note that because of this, the statewide and regional planning goals, programs and rules may, perhaps, be the most applicable and relevant issues for consideration of this Development Code text amendment.

OAR 660-007-000, the Metropolitan Housing statute identifies:

“The purpose of this division is to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs. OAR 660-007-0030 through 660-007-0037 are intended to establish by rule regional residential density and mix standards to measure Goal 10 Housing compliance for cities and counties within the Metro urban growth boundary, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization.”

If the density increase were approved, the added housing would contribute to the 50% requirement of new construction mix required by Metro Housing Rule OAR 660-007-0030:

(1) Jurisdictions other than small developed cities must either designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing or justify an alternative percentage based on changing circumstances.

Further, OAR 660-007-0060 provides:

(1) The new construction mix and minimum residential density standards of OAR 660-007-0030 through 660-007-0037 shall be applicable at each periodic review. During each periodic review local government shall prepare findings regarding the cumulative effects of all plan and zone changes affecting residential use. The jurisdiction's buildable lands inventory (updated pursuant to 660-007-0045) shall be a supporting document to the local jurisdiction's periodic review order.

(2) For plan and land use regulation amendments which are subject to OAR 660, Division 18, the local jurisdiction shall either:

(a) Demonstrate through findings that the mix and density standards in this Division are met by the amendment; or

(b) Make a commitment through the findings associated with the amendment that the jurisdiction will comply with provisions of this Division for mix or density through subsequent plan amendments.

Although not considered within the current BLI, the density increase at the subject site would support the City of Forest Grove in meeting the 50% “housing mix” requirements at the time of the next periodic review. As well, on their first day in office, Governor Kotek

signed Executive Order No. 23-04 (See Exhibit B, attached hereto). The Order establishes an annual housing production rate within the state of Oregon of 36,000 homes per year to be constructed during each of the next 10 years.

5) **ADJUSTMENT**

§ 17.2.100 PURPOSE

The adjustment process provides a mechanism by which the Director may make limited modifications to yard setback, height and lot coverage standards. Adjustment reviews provide limited flexibility for unusual situations if the proposed development continues to meet the intended purpose of the regulations.

§ 17.2.10 PROCEDURE

- A. *Requests for changes of less than 10% of the setback, height or lot coverage standard shall follow the Type I process.*
- B. *Requests for changes from 10% to 20% of the setback, height or lot coverage standard shall follow the Type II process.*
- C. *Requests for changes to standards other than setback, height or lot coverage, or which are for more than 20% of the setback, height or lot coverage standard are processed as variances under § 17.2.700.*

Finding: The Applicant is requesting a 20% adjustment to the height limitation of structures within the residential portions of the MUPD. Residential buildings (buildings outside the “Village Center”) are limited to 35’ in height. The proposal is appropriately submitted and reviewed under the Type II procedure.

§ 17.2.120 REVIEW CRITERIA

B. *Type II Adjustment Process.*

- 1. *The requested adjustment is from 10% to 20% of the setback, height or lot coverage standard;*

Finding: The Applicant requests an Adjustment for increase to the building height allowance of residential buildings within the NMU zone (Table 3-9, footnote [6]), currently limited to 35’ in height. The Applicant wishes to construct the residential apartment complex buildings up to 42’ in height, a 20% adjustment. The Applicant’s request is appropriately reviewed under the Type II adjustment procedure.

- 2. *Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified;*

Finding: The requested adjustment is to allow for the residential apartment units to be constructed up to 42’ in height to accommodate pitched (rather than flat) roofs. The proposed design allows for more parking area and open space to serve the residents of the complex, because development of the apartment units can then be accommodated in fewer structures with three (3) stories than would be accommodated by two (2) story structures that would cover more land area. As identified above, one of the primary purposes of the MUPD is to generate “compact urban form”. The proposal for more compact vertical development helps to satisfy the intent of the MUPD.

The property is located within the Neighborhood Mixed Use (“NMU”) zone, a commercial zone, intended for both commercial and medium to high density residential use. This

zone is similar to the Community Commercial (“CC”) zone which also allows for development of commercial and residential uses (both multifamily and quadplexes) in kind with the subject property, and all buildings in the CC zone (commercial or residential) are allowed to be constructed to 45’ in height. As well, the NMU zone is similar to the Residential High (“RH”) zone which allows for slightly higher dwelling density and also allows construction of structures to be 45’ in height.

- 3. If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area;*

Finding: The character of the surrounding area as a whole, is residential. However, the southern property boundary is the only boundary that directly abuts residentially zoned property, the rest of the land area is fully surrounded by public right of way. Existing residential development to the south is most densely located south of the wetland (“Cook Village”) which provides a wide buffer between the proposed apartment complex structures and the entire eastern portion of the southern property boundary. The submitted site plan shows that there is only one structure (Building #18) proposed in proximity (20’) of the southern property boundary. The mapped wetland extends southwesterly of Building #18 onto and across the property existing southerly, which is owned by the Cook Village HOA. Review of the Cook Village subdivision approval identifies that that land area, known as “Tract A” was preserved as a natural resource area and therefore, no development is likely to occur on that property, as well, it is landlocked with no practical or physical access available to make it eligible for development as is TL 2900 to the west of it.

- 4. If more than one adjustment is requested, the cumulative effect of the adjustments shall result in a project which is consistent with the overall purpose of the zone; and*

Finding: Only one adjustment is proposed, the criterion of this section is not applicable.

- 5. Any impacts resulting from the adjustment are mitigated to the extent practical.*

Finding: No impacts are anticipated however, as addressed above, mitigation is accomplished by way of the existing wetland natural area which provides ample buffering of the singular building proposed in any proximity to a shared common boundary.

IV. SUMMARY

The Applicant has requested a four (4) part concurrent application review for a MUPD design proposal with concurrent partition review, a request to amend the text of the development code to increase the maximum density allowance in the “Area 2 - Davidson” NMU zone, and a request for a 20% adjustment to increase the maximum height allowance from 35’ to 42’ for structures situated outside of the “Village Center” of a MUPD.

Attributes:

- 1) Increased density proposed for residential development helps city to meet Metro housing requirements and Governor’s 10-year housing production strategy

- (avoids future external government mandate which may be imposed to meet need in coming years);
- 2) More parking provided than required by state law to serve residential use;
 - 3) Addition of commercial development to provide needed services in a heavily and quickly developing residential area;
 - 4) Proximity to existing services and businesses in Town Center Core as well as easy access to Hwy 26 for commuters;
 - 5) Potential preservation of historically significant structure (Alvin Brown House);
 - 6) Preservation of White Oak Grove and protected tree; and
 - 7) Preservation of wetland and associated vegetative corridor.

Concerns:

- 1) Items identified by neighboring property owners (See Exhibit C, attached hereto) and staff's responses addressing concerns identified in correspondence from neighboring property owners, including but not limited to:
 - i) Parking concerns;
 - ii) Increased traffic;
 - iii) What will happen to historic home;
 - iv) Community safety; and
 - v) Impact to surrounding habitat areas.

V. RECOMMENDATION

Staff finds that the individual application proposals concurrently reviewed, have demonstrated compliance, or feasibility for compliance through imposed conditions of approval. The Planning Commission must make the penultimate recommendation to the City Council who will have the authority to approve or deny all or parts of the four (4) applications.

VI. ALTERNATIVES

The Planning Commission has the following alternatives:

- Recommend APPROVAL of the MUPD and tentative partition with certain requested alterations / additional conditions.
- Recommend DENIAL of the MUPD and tentative partition as proposed, explicitly stating reasons for doing so.
- Recommend DENIAL of the Adjustment request as proposed, explicitly stating reasons for doing so.
- Recommend DENIAL of the Text Amendment request as proposed, explicitly stating reasons for doing so.
- Continue the matter to a date certain for further consideration.

VI. PROPOSED CONDITIONS OF APPROVAL

1. The Applicant is bound to the project description and all representations made by the Applicant during the application and decision-making proceeding.
2. This preliminary plan approval is valid for a period of three (3) years from the effective approval date. The Applicant may file for an extension in accordance with the provisions of DC §17.1.135(E). No single extension of time shall exceed a one-year period. Extensions shall not exceed a total of four years from the effective date of the initial approval.

3. The Applicant shall work with the City of Forest Grove Public Works Department to determine a safe location to install a safe pedestrian crossing, to be constructed in conformance with any and all standards and specifications defined by the Public Works department.
4. ~~The Applicant to consult with ODOT regarding the connection from TL 600 where the Quadplexes are proposed or alternatively provide documentation from ODOT that no upgrades will be required, prior to issuance of building permits for any of the proposed quadplexes on tax lot 600.~~
5. Install the requested connectivity to the Council Creek Trail via one (1) pedestrian pathway, located between buildings #2 and #4 of the commercial development as shown on plans sheets C190 and C200.
6. The Applicant shall complete the Type III application process to relocate or demolish the “Alvin Clark Brown House” prior to issuance of demolition permit or commencement of any construction activity which serves the proposed development.
7. A demolition permit shall be obtained from the Building Division prior to demolishing any structures on site.
8. Ongoing compliance with the 50,000 square foot structural size limitation and compliance with the commercial and institutional use minimums and maximums provided within Table 4-2.
9. Any future proposed commercial use within the Village Center shall comply with use Table 3-8.
10. Detailed plans and specifications, substantially in conformance with those submitted for preliminary review, shall be submitted and demonstrate compliance with the conditions of approval, standards and regulations adopted by the City of Forest Grove, and/or all other agencies that have jurisdiction.
11. The project shall proceed in substantial conformance but with minor modifications, with the land use and civil plans titled “Browns Farm Mixed Use”, as prepared by “3J Consulting” and “Shapiro Didway” with publish date of October 20, 2023, except as may be modified by the conditions contained herein, and shall proceed in accordance with all applicable and relevant sections of the Forest Grove Development Code.
12. All plans shall be coordinated for consistency by the Applicant. Any minor change or modification to one particular plan shall require the corresponding and coordinated revisions on all other plans. All plans shall be consistent with that approved by the Community Development Department. The Applicant shall be responsible for correcting any inconsistency which may occur through error or omission during plan preparation or construction.
13. The Applicant shall continue to comply with all applicable city building and development standards, including all dimensional standards and public works specifications.
14. The development shall comply with all relevant provisions of Article 8 of the Development Code.
15. Installed landscaping shall be consistent with the proposed landscape plans and the requirements identified in the Clean Water Services (“CWS”) service provider letter issued April 4, 2023 (CWS File Number 23-000887). Any modifications to the plans shall require review and approval of the Community Development Department. Any modifications to the plans within the protected area shall require review and approval and revised documentation from CWS.
16. The development shall comply with all applicable requirements of §17.5.035 – Natural Resource Area Standards.
17. All building plans submitted (residential, associated residential accessory structures; the field house and mailbox kiosk, and commercial units) shall be in

- substantial conformance with the style(s) and materials presented within the design guidebook submitted and reviewed with the proposal.
18. Apartment Building Setbacks:
 - i) The minimum required front yard setback shall be 20 feet;
 - ii) The minimum required street side yard setback shall be 20 feet.
 - iii) The minimum required interior yard setback shall be 10 feet
 - iv) The minimum required rear yard setback shall be 15 feet.
 19. "Quadplex" Building Setbacks:
 - v) The minimum required front yard setback shall be 10 feet;
 - vi) The minimum required street side yard setback shall be 10 feet.
 - vii) The minimum required interior yard setback shall be 10 feet
 - viii) The minimum required rear yard setback shall be 10 feet.
 20. Parking areas shall maintain a minimum setback of 20 feet from the southern property boundary of proposed lots 3 and 4.
 21. No building projections (roofs or foundations) shall be permitted in the front yard or street side yard public utility easement required by §17.8.905(E)(1).
 22. Compliance with the attached Light & Power Department Standards and Special Conditions, dated August 15, 2023 (Exhibit D).
 23. Compliance with the attached Fire Department Standards and Special Conditions, dated September 22, 2023 (Exhibit E).
 24. Compliance with the attached Engineering Standards and Special Conditions, dated September 11, 2023 (Exhibit F).
 25. Compliance with the attached Clean Water Services ("CWS") service provider letter dated April 4, 2023 (Exhibit G).

VII. EXHIBITS

The following exhibits were received and entered into the record as evidence for this application at the time this staff report was written. Exhibits of evidence received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the Public Hearing is opened, prior to oral testimony.

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| Exhibit A | Application Materials, prepared and submitted by the Applicant |
| Exhibit B | Governors Executive Order No. 23-04 |
| Exhibit C | Development Code Standards and Specifications |
| Exhibit D | Light and Power Department Standards and Special Conditions |
| Exhibit E | Fire Department Standards and Special Conditions |
| Exhibit F | Engineering Department Standards and Special Conditions |
| Exhibit G | Clean Water Services, service provider letter containing Standards and Special Conditions |
| Exhibit H | Crosswalk Correspondence and Feasibility |
| Exhibit I | Washington County Assessment Data |
| Exhibit J | Alvin Clark Brown House Historic Registry |
| Exhibit K | Legal Descriptions provided by Allen Kohn (#58964PLS) |
| Exhibit L | Comments/Concerns provided by neighbors (11/2023) |
| Exhibit M | Staff response to submitted neighbor concerns |