

MINOR MODIFICATION – STAFF REPORT

File: MA23-02 (Modifying File # MP22-05)
Location: Northwest corner of Grove Road and North Phoenix Road; 38-1W-10-202
Date of Staff Report: March 22, 2023



I. APPLICANT / OWNER INFORMATION

Applicant

Pariani Land Surveying LLC
PO Box 551
Shady Cove, OR 97539

Owner

Medford Acres LLC
25355 NE Glass Rd
Aurora, OR 97002

II. PROJECT INFORMATION:

- A.** File # MP22-05 approved a three-parcel preliminary plat that included a pad lot; the applicant now proposes to eliminate the pad lot, resulting in a two-parcel partition. The applicant also seeks to make Parcel 2 wider, providing approximately 41' of additional width.
- B. Surrounding Land Uses:**
North: Exclusive Farm Use (County)
South: Grove Road and C-H (La-Z Boy and Home Depot)
East: North Phoenix Road and Rural Residential (County)
West: C-H (Garrison's Furniture)
- C. Site Characteristics:** The subject property is undeveloped and contains 4.05 acres. As proposed, Parcel 1 will contain approximately 2.70 acres, and Parcel 2 will contain approximately 1.35 acres. The southwest portion of Proposed Parcel 1 is predominantly level but rises approximately 35 feet toward the North Phoenix Road right-of-way, there are no hydrologic features, and most of the pre-existing vegetation has been cleared. Proposed Parcel 2 is relatively level, there are no hydrologic features and pre-existing vegetation has been cleared.
- D. Comprehensive Plan Land Use Designation:** Commercial
- E. Property Zoning:** C-H, Commercial Highway
- F. Notice of Application mailed:** March 1, 2023

III. APPLICABLE PHOENIX LAND DEVELOPMENT CODE (LDC) STANDARDS AND CRITERIA

LDC, Chapter 2.4 – Commercial Highway (C-H)
LDC, Chapter 4.1.4 – Type II Procedure (Administrative)
LDC, Chapter 4.3 – Land Divisions...
LDC, Chapter 4.6 – Modifications to Approved Plans...

IV. COMPLIANCE WITH APPLICABLE STANDARDS AND CRITERIA

The following serve as findings and show compliance with the LDC.

2.4 – Commercial Highway (C-H)

2.4.1 – Purpose

- A. *Purpose. The purpose of the Commercial Highway district to provide for the development of easily accessible commercial areas that are intended to accommodate a mixture of retail businesses, services, and professional offices to serve the commercial and retail needs of the community and surrounding areas. In addition, this district will accommodate uses served by vehicles, such as auto repair or auto sales, which are not compatible with the City Center and will provide for residential development to the R-3 zoning standards. Development shall satisfy all of the Phoenix Comprehensive Plan’s Goals and Policies. All new development is subject to site plan review in accord with this code (Amended December 21, 2020 Ordinance 1012).*

FINDING: File # MP22-05 approved a three-parcel preliminary plat that included a pad lot; the applicant now proposes to eliminate the pad lot, resulting in a two-parcel partition. The applicant also seeks to make Parcel 2 wider, providing approximately 41’ of additional width. As proposed, Parcel 1 will contain approximately 2.70 acres, and Parcel 2 will contain approximately 1.35 acres. The C-H zone does not have dimensional standards for parcels, aside from requirements associated with vision clearance. The parcels are large enough to feasibly provide for development with sufficient vision clearance triangles of 35’ and this standard will again be reviewed for compliance at time of Site Development. Accordingly, Staff finds the revised Tentative Plat will continue to provide parcels that remain compatible with the standards of, and foster uses compatible with the intent of, the C-H zoning district. **The standard is met.**

4.1 – Types of Applications and Review Procedures

Table 12: 4.1.2 – Summary of Development Decisions/Permit by Type of Decision-making Procedure

Modification to Approval	Type II/III	Chapter 4.6 – Modifications to Approved Plans and Conditions of Approval
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...4.1.4 – Type II Procedure (Administrative)

- A. *Application requirements*
1. *Application Forms. Type II applications shall be made on forms provided by the Planning Department;*
 2. *Submittal Information. The application shall:*
 - a. *Include the information requested on the application form;*
 - b. *Be filed with two copies of a narrative statement that explains how the application satisfies all of the relevant criteria and standards in sufficient detail for review and decision-making;*
 - c. *Be accompanied by the required fee;*
 - d. *Include two sets of mailing labels for all real property owners of record who will receive a notice of the application as required in Chapter 4.1.4 – Type II Procedure (Administrative), section C. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list;*
 - e. *Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways; the drainage system; the parks system; the water system; the sewer system; and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.*

FINDING: (1) An application has been submitted on forms provided by the Community & Economic Development Department. (2a) The application includes the information requested on the application form. (2b) A Tentative Plat that explains how the application satisfies the relevant standards and criteria has been received. (2c) The required fee has been paid in full. (2d) Mailing labels have been generated in accordance with the requirements of subsection 4.1.4(C). (2e) Impact studies will be part of site development review. **The standards are met.**

4.3 – Land Divisions and Lot Line Adjustments

4.3.4 – Preliminary Plat Submission Requirements

...B. *Preliminary Plat Information. In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:*

1. *General information:*
 - a. *Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with County surveyor);*
 - b. *Date, north arrow, and scale of drawing;*
 - c. *Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;*
 - d. *Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey;*
 - e. *Identification of the drawing as a preliminary plat; and*
 - f. *Assessor parcel numbers.*

FINDING: All information required by this subsection has been provided on the Tentative Plat (preliminary plat) and application form. **The standard is met.**

2. *Site analysis:*
 - a. *Streets: Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;*
 - b. *Easements: Width, location, and purpose of all existing easements of record on and abutting the site;*
 - c. *Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest ones;*
 - d. *Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than five percent;*
 - e. *The location and elevation of the closest benchmarks within or adjacent to the site (i.e., for surveying purposes);*
 - f. *Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having high erosion potential;*
 - g. *Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also relevant portions of the Comprehensive Plan.);*
 - h. *Site features, including existing structures, pavement, drainage ways, canals and ditches;*
 - i. *The location, size and species of trees having a diameter of six inches or greater at four feet above grade in conformance with Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls;*
 - j. *North arrow, scale, and name and address of owner;*
 - k. *Name and address of project designer, if applicable; and*

- l. Other information, as deemed appropriate by the Planning Director. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.*

FINDING: All information required by this subsection has been provided on the Tentative Plat (preliminary plat). **The standard is met.**

3. *Proposed improvements:*
 - a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;*
 - b. Easements: location, width, and purpose of all easements;*
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;*
 - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;*
 - e. Proposed improvements, as required by Chapter 3 – Design Standards, and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);*
 - f. The proposed source of domestic water;*
 - g. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;*
 - h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;*
 - i. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation related to proposed railroad crossing;*
 - j. Changes to navigable streams or other watercourses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;*
 - k. Identification of the base flood elevation and 100-year flood plain;*
 - l. Evidence of contact with Oregon Department of Transportation (ODOT) for any development requiring access to a highway under the state’s jurisdiction; and*
 - m. Evidence of contact with the applicable natural resource regulatory agencies for any development within or adjacent to jurisdictional wetlands and other sensitive lands.*

FINDING: All information required by this subsection has been provided on the Tentative Plat (preliminary plat). **The standard is met.**

4.3.5 – Approval Criteria for Preliminary Plat

- A. *General Approval Criteria. The City may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:*
 - 1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2 – Land Use Districts and Chapter 3 – Design Standards shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5 – Exceptions;*
 - 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;*
 - 3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to*

- width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and*
4. *All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.*

FINDING: (1) The proposed preliminary plat complies with all applicable Development Code sections, or has been made to do so through the application of conditions of approval in File # MP22-05. (2) The Tentative Plan is for an unnamed partition and satisfies the provisions of ORS Chapter 92. (3) Public facility improvements will be required and reviewed at time of site development. (4) Private common areas and improvements are neither proposed nor required. **The standards are met with conditions.**

B. Housing Density. The subdivision meets the City's housing standards of Chapter 2

C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots, and parcels conform to the specific requirements below:

1. *All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (See Chapter 2).*
2. *Setbacks shall be as required by the applicable land use district (See Chapter 2).*

FINDING: The subject properties are zoned C-H; this is a commercial zone that does not contain a minimum housing density. Dimensional standards are addressed in detail in PLDC § 2.4 findings herein above; staff finds the proposed partition meets the dimensional requirements of the C-H zone. **The standard is met.**

3. *Each lot shall conform to the standards of Chapter 3.2 – Access and Circulation.*
4. *Landscape or other screening may be required to maintain privacy for abutting uses. See also, Chapter 2 – Land Use Districts and Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls.*
5. *In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See also, Chapter 3.2 – Access and Circulation.*
6. *Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat...*

FINDING: (3 & 6) Staff finds the proposed partition can feasibly meet the provisions of this section subject to conditions of approval applied in File # MP22-05. (4) Landscaping/screening is to be addressed at time of development; street trees will be installed in accordance with Chapter 3.3 findings herein above. (5) All proposed parcels are configured in a manner that permits construction of adequate fire apparatus access. **The standard is met.**

4.3.7 – Final Plat Submission Requirements and Approval Criteria

A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Jackson County. The applicant shall submit the final plat within one year of the approval of the preliminary plat as provided by Chapter 4.3.3 – Approvals Process. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Department.

FINDING: Final plats shall be reviewed and approved by the City prior to recording with Jackson County. The applicant shall submit the final plat within one year of the approval of the preliminary plat as provided by Chapter 4.3.3. A condition of approval requiring the applicant to submit the final plat to the Community and Economic Development Department for review within one year of the approval of the preliminary plat has been applied in File # MP22-05 and remains in effect. **The standard is met with conditions.**

- B. *Approval Criteria. By means of a Type I procedure, the Planning Director shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:*
1. *The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;*
 2. *All public improvements required by the preliminary plat have been installed and approved by the city official and/or city engineer. Alternatively, the developer has provided a performance guarantee in accordance with 4.3.9 – Performance, Maintenance Guarantee and Development Agreement.*
 3. *The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;*
 4. *The streets and roads held for private use have been approved by the City as conforming to the preliminary plat;*
 5. *The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;*
 6. *The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat. The CC&Rs have been reviewed by the City and found to contain no conflicts with the City's development codes. A separate review fee will be charged for the review of the CC&R's.;*
 7. *The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);*
 8. *Certification by the City or service district, as applicable, that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider to the City that such services will be installed in accordance with Chapter 3.5 – Street and Public Facilities Standards, and the bond requirements of Chapter 4.3.9 – Performance, Maintenance Guarantee and Development Agreement. The amount of the bond, contract, or other assurance by the subdivider shall be determined by a registered professional engineer, subject to review and approval by the City;*
 9. *The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.*

FINDING: As the final plat review is the next step in the land division process, this section has been included for informational purposes only.

4.6 – Modifications to Approved Plans and Conditions of Approval

4.6.4 – Minor Modifications

- A. *Minor modification defined. Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Chapter 4.6.3 – Major Modifications, above, shall be considered a minor modification.*
- B. *Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in Chapter 4.1.4 – Type II Procedure (Administrative). A minor modification shall be approved, approved with conditions, or denied by the Planning Director based on written findings on the following criteria:*
1. *The proposed development is in compliance with all applicable requirements of the Development Code; and*

2. *The modification is not a major modification as defined in Chapter 4.6.3 – Major Modifications.*

FINDING: (B)(1) The proposed changes to the Tentative Plat, originally approved in File MP22-05, outlined in Section IIA of this report, will not change the project's compliance with zoning and design standards as conditioned. As an ongoing condition of approval, all site plan conditions from File # MP22-05 not already completed or modified as part of this request remain in effect.

(B)(2) A major modification is required if one or more of the following changes are proposed:

1. *A change in land use, if new use will adversely impact adjoining properties or if no prior permit exists;*
2. *An increase in the number of dwelling units;*
3. *A change in the type and/or location of access ways, drives, or parking area that affect off-site traffic;*
4. *An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;*
5. *A reduction of the area reserved for common open space and/or usable open space so long as the resulting area satisfies the minimum open space requirement as established by the original approval;*
6. *A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or*
7. *Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.*

(1) The proposed modification does not change land use. (2) No dwelling units are proposed. (3) No changes are proposed to the cross-access easement shown on the original plat. Both parcels front on Grove Road. (4) The proposed modification affects only the creation of parcels, not their use. (5) The subject property is undeveloped; accordingly, there is no open space requirement. (6) Structural development will be subject to future reviews; the modification affects only the creation of parcels. (7) Staff identified no similar changes that would likely have any adverse impact. **The standards are met.**

VI CONCLUSION

As proposed, the application meets or can meet with conditions, the applicable standards and criteria set forth in the LDC.

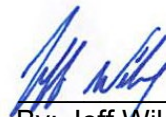
VII DECISION

The application for a Type 2 minor amendment (File # MA23-02) on property described as Township 38 South, Range 1 West, Section 10, Tax Lot 202, is hereby **APPROVED** subject to the conditions of approval below.

VIII CONDITIONS OF APPROVAL

1. As an ongoing condition of approval, all conditions of approval from File # MP22-05 not already completed or modified as part of this request remain in effect.

COMMUNITY AND ECONOMIC DEVELOPMENT



By: Jeff Wilcox
Associate Planner

Date: March 23, 2023