



**TYPE IV ZONE CHANGE AND SUBDIVISION APPLICATION
PLANNING COMMISSION FINDINGS AND NOTICE OF DECISION**
10/12/2017

FILE NUMBER: Subdivision: TP 17-03
Zone Change: ZC 17-02

APPLICANT: Rian Park Development, Inc.
PO Box 2559
Oregon City, OR 97045

Application Submitted: 6/20/2017
Application Complete: 7/20/2017
120-Day Decision Deadline: 11/7/2017

OWNER: Wheeler Family Enterprises, LLC
David H. Wheeler Sr. Trust
Donald W. & Roxanne O. Wheeler

REQUEST: The applicant is seeking approval for a Zone Change from “R-10” Single-Family Dwelling District to “R-8” Single-Family Dwelling District and a Subdivision of 77 lots, w/ One Stormwater Facility Tract and one Open Space Tract.

LOCATION: Map 32E07C Tax Lot 1001 (Wheeler Family Enterprises, LLC), Map 32E07C Tax Lots 1100 (19566 Central Point Rd), and 1180 (David H. Wheeler Sr. Trust), Map 32E07C Tax Lot 1291 (Donald W. & Roxanne O. Wheeler), Map 31E12D Tax Lots 1700, 1790 (Wheeler Family Enterprises, LLC)

REVIEWER: Christina Robertson-Gardiner, AICP, Senior Planner
Mario De La Rosa, Development Engineer

DECISION: Denial.
On Monday, October 9, 2017, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Oregon City Planning Commission voted 4-2 to deny the application. Accordingly, the Oregon City Planning Commission adopted as its own the Staff Report with findings and Conditions of Approval as well as this document updating portions of the recommended staff report for file numbers TP 17-03 and ZC 17-02. The complete record for the Planning Commission decision is on-file at the Planning Division.

PROCESS: Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If

the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final. IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.

I. BACKGROUND:

1. Existing Conditions

The project includes six tax lots that comprise a total of approximately ±22.56 acres. The project site is generally located south of the Ed's Orchard Subdivision, west of the Hazel Creek Farms Subdivision, east of the Highland Park Subdivision. The subject site is also north of the abutting Urban Growth Boundary. The subject properties have been historically used as a hazelnut orchard and Christmas tree farm. There are no designated or identified wetlands or perennial streams on the project site as verified through a previous Natural Resource Overlay District Verification application.

2. Project Description

Subdivision

The applicant proposed a 77-lot subdivision (Wheeler Farms) in the City of Oregon City for the future construction of single-family detached residential homes. The project includes the necessary streets, sidewalks, services, utilities, and other needed public improvements to support the project. The essential components of this application include:

- 77 lots that meet the dimensional and density standards of the R-8 zone with a majority of the lots up to 20% less than the minimum lot size.
- A voluntary 1.35-acre open space area
- An interconnected pedestrian and vehicular circulation system
- Creation of a cohesive neighborhood with the continuation of Orchard Grove Drive, Larence Lane, Skellenger Way, and Tolstrup Drive through the project site
- Modifications to 12.04.195 Spacing standards and 12.04.225 Street design—Cul-de-sacs and dead-end streets.
- An integrated on-site stormwater management system including street side vegetated filtration
- swales and flow control
- An approximately ±1.3-acre remainder property to be incorporated into the abutting Wheeler property located off-site to the southeast

Zone Change

The applicant also proposed a zone change to change from the existing R-10 zoning designation of the Wheeler family's six tax lots to an R-8 zoning designation. The Wheeler Family properties are located in an area that is redeveloping. Surrounding residential projects such as Payson Farms No. 2, Highland Park, Central Point Crossing, and Ed's Orchard have all annexed into the City, and successfully changed the zoning from R-10 to R-8.

The Wheeler Family has owned and operated a Christmas tree and hazelnut farm on the subject properties for over 50 years. As development of surrounding properties encroached the farm, new streets and utility infrastructure were extended to the farm's boundary to facilitate future development of the property and complete the intended network for the area.

- 3. Municipal Code Standards and Requirements:** The following sections of the Oregon City Municipal Code are applicable to this land use approval:

12.04 - Streets, Sidewalks, and Public Places
12.08 - Public and Street Trees
13.12 - Stormwater Management
15.48 - Grading, Filling and Excavating
16.08 - Subdivisions-Process and Standards
16.12 - Minimum Improvements and Design Standards for Land Divisions
17.08 - R-10 Single Family Dwelling District
17.10 - R-8 Single Family Dwelling District
17.41 – Tree Protection
17.44 - Geologic Hazards
17.47 - Erosion and Sediment Control
17.50 - Administration and Procedures
17.68 – Zone Change
17.54.100 – Fences

The City Code Book is available on-line at www.orcity.org.

- 4. Permits and Approvals:** The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

5. Notice and Public Comment

Notice of the proposal was sent to various City departments, affected agencies, property owners within 300 feet, and the Neighborhood Association. Additionally, the subject property was posted with signs identifying that a land use action was occurring on the property.

The Planning Commission received testimony, both oral and written, from residents expressing concerns that the smaller lot sizes permitted as a result of this zone change would be incompatible and lack cohesion with the surrounding larger lots. Concerns were expressed that roads in this area lack capacity to accommodate any further traffic and that the school system is already overcrowded. A number of people testified that the small lot sizes would limit off-street parking opportunities, requiring residents to park their cars on the street and creating conflicts with through traffic. In addition, concerns were expressed about the usefulness and maintenance of the open space tract.

The Planning Commission also heard testimony from the applicant indicating that the overall density proposed would not be significantly different from what has been approved in other neighboring developments and was commensurate with densities that would result from an R-10 subdivision, assuming elimination of the proposed open space tract. The applicant highlighted the enhanced road connectivity providing alternatives access points that do not currently exist and commented on compliance with the transportation requirements identified in the Oregon City Municipal Code.

Please refer to the written documentation submitted and videos of the hearings for a complete list of all issues raised.

II. FINDINGS:

Although the Planning Commission generally agreed with the findings set forth in the staff report, it identified a number of additional plan policies that were not satisfied:

CHAPTER 17.10 - "R-8" SINGLE-FAMILY DWELLING DISTRICT

Chapter 17.68: ZONE CHANGES AND AMENDMENT

17.68.020 Criteria

The criteria for a zone change are set forth as follows:

A. The proposal shall be consistent with the goals and policies of the comprehensive plan.

In addition to the goals and policies discussed in the staff report, the City Commission found that the following applicable goals and policies apply to this application:

Goal 2: Land Use

Goal 2.4: Neighborhood Livability. Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Finding: Does not Comply. The Planning Commission interprets this plan policy to require compatibility and cohesion between neighborhoods as necessary to protect existing neighborhood livability. The Planning Commission finds that proposed "R-8" Single-Family Dwelling District zoning is not compatible with the existing adjacent developments which are within the "R-10" Single-Family Dwelling District. The adjacent developments contain lots which are a minimum of 10,000 square feet and often larger. The zone change is not compatible given that Chapter 16.12.050 of the Oregon City Municipal Code allows land divisions with lots up to 20% less than the minimum lot size, provided the subdivision as a whole averages the minimum lot size of the zoning district, without a limitation to the number of lots which may be below the minimum lot size or limitations of where those lots may be located in proximity to the larger neighboring properties.

In this case, the zone change could allow a significant number of lot as small as 6,400 square feet, and some of those may be located next to or near the neighboring properties with large lots. Density matters not just in terms of overall lot totals but also in how varied lot sizes relate to each other along shared property lines. The City's minimum lot size and averaging requirements can result in a significant number of lots that are less than 8,000 square feet.

In addition, the orientation of this development allows for lots of less than 8,000 square feet to abut existing lots that are over 10,000 square feet which is incompatible with the existing larger lot subdivisions, particularly to the east, where the lots are larger than 10,000 square feet. One Planning Commissioner noted that Skellenger Way appeared to provide the appropriate separation between greater and reduced densities.

Goal 11: Public Facilities

Goal 11.1: Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Finding: Does not Comply. The Planning Commission heard testimony from the applicant that the density resulting from approving this zone change could result in the construction of 11 additional dwelling units

beyond what the R-10 zoning would allow. Though the proposed subdivision results in four additional units, each unit which have an impact on the City. The Planning Commission acknowledges that the City's existing transportation system could accommodate the proposed traffic and that the congestion of the proposed land division would comply with the acceptable levels in the Oregon City Municipal Code but the additional trips resulting from the additional dwelling units on the additional lots would increase traffic congestion. The roadways are already more congested than the Planning Commission would like and the Commission does not support any additional burden to the traffic system or other public facilities allowed under the "R-8" Single-Family Dwelling District. A number of existing intersections, particularly the intersection of Warner-Milne Rd, Linn Ave and Warner-Parrott Ave are at or near capacity. Given the existing levels of congestion, the transportation system is not adequate to justify the zone change. Further, although the School District staff did not identify concerns with the zone change application, the Planning Commission found that the schools lacked capacity, as evidenced by their intent to seek a bond to fund school improvements in the future. Finally, the Planning Commission found insufficient details about how a sewer pump station would function as necessary to ensure adequate sewer capacity. For these reasons, the Planning Commission found that the public facilities were not adequate to serve the development.

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, the Planning Commission found that the proposed Subdivision and Zone Change Identified as Map 32E07C Tax Lot 1001 (Wheeler Family Enterprises, LLC), Map 32E07C Tax Lots 1100 (19566 Central Point Rd), and 1180 (David H. Wheeler Sr. Trust), Map 32E07C Tax Lot 1291 (Donald W. & Roxanne O. Wheeler), Map 31E12D Tax Lots 1700, 1790 (Wheeler Family Enterprises, LLC) did not meet the requirements as described in the Oregon City Municipal Code. Therefore, file TP 17-03 and ZC 17-02 is DENIED.