



## Staff Report

**File #:** 22-107

**Version:** 1

**Date:** 3/14/2022

**Item #:** 5.e.

**TO:** Mayor and City Council  
**THROUGH:** Kristin Retherford, Interim City Manager  
**FROM:** Norman Wright, Community Development Director

### **SUBJECT:**

Consideration of a modified application in Phased Subdivision Tentative Plan Case No. SUB21-09.

Ward(s): 3  
Councilor(s): Phillips  
Neighborhood(s): Morningside Neighborhood Association  
Result Area(s): Welcoming and Livable Community

### **SUMMARY:**

On February 28, 2022, the City Council conducted deliberations and voted to deny the application for a phased subdivision tentative plan to divide approximately 29.68 acres into 139 single family lots ranging in size from 4,000 square feet to 3.64 acres in two phases of development for property located at 4540 Pringle Road SE (Attachment 1) (Phased Subdivision Tentative Plan Case No. SUB21-09). The applicant has modified the proposal in light of City Council's vote and City Council is required by ORS 197.522 to consider the modified application.

### **ISSUE:**

Shall the City Council reopen the record in the proceeding to allow the public an opportunity to review and comment on the modified application in Phase Subdivision Tentative Plan Case No. SUB21-09 and conduct deliberations on the application March 28, 2022?

### **RECOMMENDATION:**

Reopen the record in the proceeding to allow the public an opportunity to review and comment on the modified application in Phase Subdivision Tentative Plan Case No. SUB21-09 and conduct deliberations on the application on March 28, 2022.

### **FACTS AND FINDINGS:**

1. On February 28, 2022, the City Council conducted deliberations and voted to approve a motion denying the Planning Administrator's decision approving Case No. SUB21-09 (Attachment 2).
2. ORS 197.522(2) provides that a local government shall approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land for needed housing that is consistent with the comprehensive plan and applicable land use regulations.
3. ORS 197.307(4) requires local governments to only apply clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The proposed subdivision is an application for needed housing consistent with the definition in ORS 197.303.
4. ORS 197.522(3) provides that if an application is inconsistent with the comprehensive plan and applicable land use regulations, the local government, prior to making a final decision on the application, shall allow the applicant to offer an amendment or to propose conditions of approval that would make the application consistent with the plan and applicable regulations.
5. Following the February 28, 2022 meeting the applicant, citing ORS 197.522, requested an opportunity to offer an amendment or propose conditions of approval that would make the application consistent all applicable requirements of the Salem Revised Code.
6. The applicant's amended plan and written statement for reconsideration is included as Attachment 3.
7. Upon approval by Council, the record for this case shall be reopened until 5:00 p.m. on March 21, 2022 for the public to submit new evidence and arguments that address the applicant's amended plan and written statement.
8. The record shall be open until March 28, 2022 for the applicant to provide final written argument.
9. At the March 28, 2022 the City Council will deliberate and vote on the applicant's amended proposal. Staff will be available to discuss the amended application and public testimony with City Council. However, there will not be any opportunity for any party, including the applicant to provide oral testimony, nor may staff introduce any new facts outside the those already in the record.
10. Per ORS 197.522(4), a local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.

11. The applicant agreed to extend the state-mandated local decision deadline from March 15, 2022 to April 12, 2022.
12. Consideration of the applicant's modified proposal is mandated by ORS 197.522, and eliminates the requirement under the Council Rules to vote on *whether* to reconsider its initial vote to deny the application.

Aaron Panko  
Planner III

**Attachments:**

1. Vicinity Map
2. SUB21-09 Decision
3. Applicant's Revised Plans and Written Statement