

Matt Martin

From: George Hale <ghale@woodhillhomes.net>
Sent: Thursday, December 22, 2022 10:02 AM
To: Hayes McCoy; Matt Martin
Subject: FW: 12.21.22 Ltr to Planning Commission [IWOV-pdx.FID4912568]
Attachments: 12.22.22 Letter to Planning Commission.pdf

Matt

Please see this letter for submittal.

Regards,
George Hale

December 22, 2022

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VIA E-MAIL

Planning Commission
City of Sisters
520 E Cascade Avenue
Sisters, OR 97759

RE: Sunset Meadows MP 22-01 / SUB 22-01 / MNR 22-02

Dear Planning Commissioners:

This office represents Woodhill Homes, Inc. (the “**Applicant**”) the Applicant in the above referenced casefiles (the “**Application**”). At the December 8, 2022 Planning Commission meeting, the Planning Commission closed the public hearing with regard to the Application and left the written record open until 4:30 p.m. on December 22, 2022. This letter is timely submitted prior to 4:30 p.m. on December 22, 2022. The Planning Commission should approve the Application for two reasons, as set forth below.

First, under *Village of Willowbrook v. Olech*, the City must apply interpretations of City Code evenly to all property owners, otherwise there are Constitutional implications under the equal protection clause. 528 U.S. 562, 564-65 (2000). Specifically, “[t]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.” *Id.* (quoting *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441, 445 (1923)). In *Village of Willowbrook*, for example, the Supreme Court found that the Village violated the equal protection clause where it interpreted and/or applied code differently to different property owners. Therefore, as illustrated further below, since the City has permitted exceptions to the Sisters Development Code (the “**SDC**”) before, under *Village of Willowbrook* it must do so here as well. *Id.*

Here, the Applicant is requesting exceptions to the SDC for: 1) minimum lot size for single family detached dwellings; 2) minimum lot width for single family detached dwellings; 3) minimum lot size for single family attached dwellings; 4) minimum lot width for single family attached dwellings; and 5) garage setback. The City has granted similar exceptions for prior developments, as shown in the chart below, and is therefore required to do so here. *Village of Willowbrook*, 528 U.S. at 564-65.

SDC Standard	Requested Exception	Woodlands	McKenzie Meadows Village	Cold Springs South
4,500 sf minimum lot size (single family detached)	3,600 sf	3,500 sf	4,050 sf	-
40 foot minimum lot width (single family detached)	35.5 feet	35 feet	-	-
3,500 sf minimum lot size (single family attached)	3,150 sf	3,400 sf	3,150 sf	-
35 foot minimum lot width (single family attached)	30 feet	34 feet	28 feet	-

Based on the above examples, the Planning Commission must approve the Applicant’s requested exceptions consistent with the Woodlands, McKenzie Meadow Village, and Cold Springs South developments. In other words, the Planning Commission must apply its interpretation of exceptions evenly to all similarly situated property owners in order to avoid violation of the equal protection clause.

Equally important, comments have noted concerns regarding the density of the Application, and for that reason the Planning Commission may deny. However, the City Council recently approved and adopted Ordinance 526 (the “**Ordinance**”) at its December 15, 2022 meeting. The Ordinance allows for increased residential density in the Multi-Family Residential District from 7 – 20 gross units per acre to 15 – 50 gross units per acre. Since the proposed development has an overall minimum density of 11 units per acre, it is significantly less dense than the density now allowed by the Ordinance. Therefore, if the current Application is denied, the Applicant could resubmit its Application with a much higher density as allowed under the Ordinance. Approval under those standards would be mandatory under Oregon’s needed housing laws. Nevertheless, the Applicant seeks approval of the current Application instead of the additional density permitted under the Ordinance.

The Planning Commission should approve the Application as recommended by City Staff.

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Very truly yours,


Kenneth Katzaroff

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