



MEMORANDUM

City of Beaverton

Community Development Department

To: Interested Parties
From: City of Beaverton Planning Division
Date: February 6, 2018
Subject: *Notice of Decision for Denney Gardens
by Habitat for Humanity*

Please find attached the notices of decision for **DR2017-0125/DI2017-0002 (Denney Gardens by Habitat for Humanity)**. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decision is final, unless appealed within twelve (12) calendar days following the date of the decision. The procedures for appeal of a Type 2 Decision are specified in Section 50.65 of the Beaverton Development Code. The appeal shall include the following in order for it to be accepted by the Director:

- The case file number designated by the City.
- The name and signature of each appellant.
- Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.
- If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
- The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
- The appeal fee of \$250.00, as established by resolution of the City Council.

The appeal closing date for **DR2017-0125/DI2017-0002 (Denney Gardens by Habitat for Humanity)** is **4:30 p.m., Monday, February 19, 2018**. The complete case files including findings, conclusions, and conditions of approval, if any, are available for review. The case files may be reviewed at the Beaverton Planning Division, Community Development Department, 4th Floor, City Hall, 12725 SW Millikan Way between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. For more information, please contact Matt Straite, Contract Planner at (503) 297-1005.

NOTICE OF DIRECTOR'S DECISION

DATE: February 6, 2018

TO: All Interested Parties

FROM: Matt Straite, Contract Planner

PROPOSAL: **Denney Gardens by Habitat for Humanity (DR2017-0125 / DI2017-0002)**

LOCATION: 9847 SW Denney Road between SW Schools Ferry Road and SW Rollingwood Drive; specifically, Tax Lots 3100 through 5400 on Washington County Tax Assessor's Map 1S1-23BD.

SUMMARY: The applicant, Willamette West Habitat for Humanity, proposes 16 new attached single-family dwellings (townhomes) in 6 structures within the existing platted subdivision of Denney Gardens. The development proposal includes a ten space parking lot, separate play area, landscaping and site lighting.

The Design Review 2 application will review the proposal for conformance to applicable city design standards in Section 60.05 of the Development Code.

The Director's Interpretation application is sought to clarify procedural provisions identified in Section 10.40.4 of the Development Code which allow development to proceed with past conditions of approval established by the former jurisdiction notwithstanding a change in zoning upon annexation to the city. The Denney Gardens subdivision received approval in 2006 from Washington County when the property was unincorporated. The applicant's 16 unit townhome proposal is consistent with past approvals for density, building location and height. Plan modifications include a parking lot addition, play area and changes to architectural design. As part of the Director's Interpretation application, the Planning Director will review these plan modifications for determining whether the proposal maintains consistency with past conditions of approval identified under case file 05-513-PLA/PD/S/D(R)/FP/W/V.

APPLICANT/
PROPERTY OWNER: Willamette West Habitat for Humanity
5293 NE Elam Young Parkway, Suite 140
Hillsboro, OR 97124

APPLICANT Ken Sandblast, AICP

REPRESENTATIVE: Westlake Consultants, Inc.
15115 SW Sequoia Parkway, Suite 150
Tigard, OR 97224

DECISION: **APPROVAL** of **DR2017-0125 (Denney Gardens by Habitat for Humanity)** subject to conditions identified at the end of this report and a Director's Interpretation conclusion that the project is consistent with the previous County approval under the provisions of Section 10.40.4 of the Development Code (**DI2017-0002**).

BACKGROUND FACTS

Key Application Dates

<u>Application Case File #</u>	<u>Submittal Date</u>	<u>Deemed Complete</u>	<u>120-day</u>	<u>240-Day</u>
DR2017-0125 DI2017-0002	Dec. 1, 2017	Dec. 27, 2017	April 26, 2018	August 24, 2018

Existing Conditions Table

Zoning	R-5 Urban Standard Density	
Current Development	Fully improved subdivision, consistent with approved recorded plat for Denney Gardens. No Building Permits for townhome construction have been issued.	
Site Size	Approximately 2.39 Acres	
NAC	Denney Whiteford/Raleigh West	
Surrounding Uses	<u>Zoning:</u> North: R-5 South: R-5 East: R-5 West: R-5	<u>Uses:</u> North: Wetlands/Open Space (Fanno Creek) South: Single Family detached East: Wetland/Open Space West: Single Family detached

DESCRIPTION OF APPLICATION AND TABLE OF CONTENTS

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<u>Attachment A:</u> Facilities Review Committee Technical Review and Recommendation	FR 1-FR 8
<u>Attachment B:</u> Design Review 2 Approval Criteria / Findings	DR 1-DR 8
<u>Attachment C:</u> Directors Interpretation Approval Criteria / Findings	DI 1-DI 5
<u>Attachment D:</u> Conditions of Approval	COA 1-COA 3
<u>Public Comments:</u> None	

**FACILITIES REVIEW COMMITTEE
DRAFT TECHNICAL REVIEW AND RECOMMENDATIONS
Denny Gardens Subdivision by Habitat for Humanity
DR2017-0125**

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. These criteria are presented below:

- A. *All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.***

Findings: Chapter 90 of the Development Code defines “critical facilities” as services that include public water, public sanitary sewer, storm water drainage, treatment and detention, transportation and fire protection. First, it should be noted that the application is for the Design Review of the structures, the new parking area and a playground review only, the subdivision is approved, recorded and improvements have been constructed. In this case, based on information provided in the applicant’s narrative, all necessary critical facilities and services to the Denney Gardens Subdivision are in place. Though approved by the County, when the site was in the County jurisdiction, the existing critical facilities were constructed consistent with the County approved subdivision map (County case file number 05-513-PLA/PD/S/D(R)/FP/W/V) as shown in the applicants as-built Exhibit H and documentation of completed construction in Exhibit O. Regarding stormwater, the subdivision was constructed to the County standards at the time it was approved. However, the approved plat showed a single-family home to remain on a parcel in the middle of the development. The applicants have since demolished the structure and now propose parking on that lot. As such, they have provided a revised stormwater plan to show that the new design is consistent with the City requirements regarding stormwater, see Exhibit S. The applicant’s proposal has been reviewed by the City Engineer. No concerns were identified with respect to the adequacy of water, sanitary sewer or other facilities intended to serve the use.

The applicant’s response to the Facilities Review approval criteria is found on page 10 of the applicant’s materials package, in the document titled “Willamette West Habitat for Humanity Denney Gardens Subdivision” dated December 1, 2017. The applicant’s response to the Facilities Review approval criteria is incorporated hereto as findings in support thereof.

Therefore, the Committee finds the proposal meets the criterion for approval.

- B. *Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific***

plan may be approved if it adequately demonstrates that essential facilities, services, or both will be provided to serve the proposed development within five (5) years of occupancy.

Findings: Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way. In this case, all pedestrian sidewalk improvements along SW Denney Road (identified as part of the approved and recorded plat) have been constructed consistent with the County approved plan. Internal streets have been constructed, not including the internal sidewalks. As such, a condition of approval has been added requiring construction of all internal sidewalks prior to occupancy of any structure on the site.

Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

- C. The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses).***

Finding: Staff cites the findings in the Code Conformance Analysis chart at the end of the report, which evaluates the project as it relates to applicable Code requirements of Chapter 20 for the Urban Standard Density (R-5) zone, in response to Criterion C. It is important to note that the proposed project is not a permitted use in the zone, nor does the zone include any provisions for zero setbacks, which is shown on the proposed project. However, the project was approved by the County, both the subdivision, a PUD and the design of the structures. Section 10.40.4 of the Beaverton code explains that any valid, active approval by a previous jurisdiction will be honored as long as that project is not requesting any significant changes. The subdivision was recorded and site improvements constructed, so the project is now proposing to build out the Design Review approval by the previous jurisdiction. Thus, some places where the project deviates from the City code are permitted if the design stays consistent with the previous County approval. The use, multi family larger than a duplex, while not permitted in the City code will be permitted as it is consistent with the County code at the time approval. Lot sizes are not an issue as this application is not proposing any new lots or changes to existing lots. Original County setbacks apply to the proposed structures. The setbacks may appear to be in violation of the City code, however, based on Section 10.40.4 the project setbacks are not inconsistent. To clarify this further the applicant is requesting a Director’s Interpretation. The proposed project is consistent with the County approval and the Director’s Interpretation, see attachment C.

Therefore, the Committee finds the proposal meets the criterion for approval.

- D. The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.***

Findings: As previously stated, all necessary critical facilities and services to the Subdivision are in place and constructed to the County standards applicable at the time of construction.

Applicable provisions under Chapter 60 include the off-street parking standards as contained in Section 60.30.10.5.A (Off-Street Parking numbers). The proposal includes 48 parking stalls, where a minimum of 27 are required per Development Code standards. The applicant's site plan shows a parking area where a single family home was shown on the plat. This brings an additional 10 parking spaces to the project. The project meets this requirement.

In response to D above, staff finds the proposal consistent with applicable provisions of Chapter 60. Staff also cites additional findings in the Code Conformance Analysis chart at the end of the report, which evaluates the project as it relates to applicable Code requirements of Chapter 60.

Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

- E. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.***

Findings: As previously stated herein, on page 11 of applicant's narrative, identified in response to Criterion C above, the applicant identifies the HOA and a draft CC&R document provided as Exhibit R in the applicant's narrative. The CC&R document is to specify maintenance obligations of the Association and individual property owners. As explained on Page 5 of the applicant's narrative, all open space areas, created by the Habitat proposal, will be owned and maintained by the HOA. As this is a draft document, a condition of approval has been added that the document be recorded prior to occupancy.

In review of the proposal, the Committee finds that the proposal does not present any barriers, constraints, or design elements that would prevent or preclude required maintenance of the private infrastructure and facilities on site.

Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

F. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.

Findings: As previously stated, all critical facilities and services to the subdivision are in place and fully constructed. No modifications are proposed to the current street location or to utility connections and driveway where currently constructed or approved to be located.

Therefore, the Committee finds the proposal meets the criterion for approval.

G. The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.

Findings: As previously stated, all critical facilities and services to the subdivision are in place. There is no proposal to change on-site or surrounding vehicular and pedestrian circulation systems, though sidewalks internal to the project, along the private streets have been conditioned for construction consistent with eth approved plans.

Therefore, the Committee finds the proposal meets the criterion for approval.

H. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.

Findings: Where H refers to structures, the applicant will be required to obtain building permits through the City. Staff also received a letter from Tualatin Valley Fire & Rescue (TVF&R) in review of the Habitat proposal (dated January 3, 2018). The letter by TVF&R identifies certain items typically required for new structures. Staff has incorporated all recommended conditions by TVF&R.

Therefore, the Committee finds that by meeting the conditions of approval the proposal meets the criterion for approval.

I. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous

conditions due to inadequate, substandard or ill-designed development.

Findings: As previously stated, the site infrastructure is fully developed. Townhomes, parking area and playground construction are proposed with the Design Review. The Committee finds that review of the construction documents at the building permit stage will ensure protection from hazardous conditions due to inadequate, substandard or ill-designed development. New proposed sidewalks and walkways will be adequately lighted to provide for safe pedestrian circulation.

Staff also cites the findings above in response to H.

Therefore, the Committee finds that by meeting the conditions of approval the proposal meets the criterion for approval.

- J. Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.***

Findings: The proposal does not modify physical improvements of the subdivision except a small parking area and playground. No changes are proposed to the existing finished grade. Therefore, this criterion is not applicable.

Therefore, the Committee finds that the criterion is not applicable.

- K. Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.***

Findings: As previously stated, all necessary critical facilities and services to the subdivision are in place. The application materials seem to indicate that the internal sidewalks, required for ADA compliance, are not yet constructed. As such, a condition of approval has been added requiring their construction, in compliance with all Beaverton codes, prior to occupancy.

Therefore, the Committee finds that by meeting the conditions of approval the proposal meets the criterion for approval.

- L. The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.***

Findings: In the review of the materials submitted to date, the Committee finds that all application submittal requirements as required from Section 50.25.1 have been submitted.

Therefore, the Committee finds the proposal meets the criterion for approval.

Code Conformance Analysis
Chapter 20 Use and Site Development Requirements
Urban Standard Density (R-5) Zoning District

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Sections 20.20.20			
Permitted Use	Attached Residential	16 units, two open space areas.	See DI Findings
Development Code Section 20.20.15			
Minimum Lot Area	5,000 square feet	Not applicable, no new lots or changes to existing lots are proposed.	N/A
Minimum Lot Dimensions	None	Not applicable, no new lots or changes to existing lots are proposed.	N/A
Yard Setbacks Minimums: Front Sides Rear	Front is 20-feet for garage-facing street, Side yard is 5 feet; Rear is 20-feet.	Pursuant to the provisions of Section 10.40.4 and the draft Director's Interpretation, the project is consistent with all previous County setbacks, thus these requirements do not apply.	See DI Findings
Maximum Building Height	35 feet (without an adjustment or variance)	Original approval allowed for 40-foot building height and three stories. The Habitat proposal will be under 35 feet.	Yes

Chapter 60 – Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.30.10.5 Off-Street Parking			
Off-Street Parking	For attached dwellings: 1.25 for one bed, 1.5 for two bed and 1.75 for three bed	The proposal includes 48 parking stalls, where a minimum of 27 are required per Development Code standards.	Yes
Off-Street Bicycle Parking	Short term is 2 spaces or 1 space per 20 dwellings. Long term is one space for dwelling	Bicycle rack (2 short term) has been constructed on-site. For long term, bicycle parking standard will be satisfied with storage space provided within each dwelling.	Yes
Development Code Section 60.55 Transportation			
Transportation Facilities	Evaluated as part of the Subdivision	No subdivision is proposed.	N/A
Development Code Section 60.60 Trees & Vegetation			
Tree & Vegetation Regulations	Preservation for “protected” trees	Retain existing trees identified to be protected during construction	Yes
Mitigation Requirements for Landscape Tree Removal	1:1 mitigation required based on DBH removed.	None proposed or needed	N/A
Development Code Section 60.65 Utility Undergrounding			
Utility Undergrounding	All existing utilities and any new utility service lines must be undergrounded.	Not part of proposal. All required utilities are in place and underground.	N/A

ANALYSIS AND FINDINGS FOR DESIGN REVIEW TWO APPROVAL

Section 40.20.05. Design Review Applications: Purpose

The purpose of Design Review is to promote Beaverton's commitment to the community's appearance, quality pedestrian environment, and aesthetic quality. It is intended that monotonous, drab, unsightly, dreary and inharmonious development will be discouraged. Design Review is also intended to conserve the City's natural amenities and visual character by insuring that proposals are properly related to their sites and to their surroundings by encouraging compatible and complementary development.

Section 40.20.15.2.C Approval Criteria

In order to approve a Design Review Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

- 1. *The proposal satisfies the threshold requirements for a Design Review Two application.***

Facts and Findings: Section 40.20.15.2.A *Threshold: An application for Design Review Type Two shall be required when the following thresholds apply:*

3. *"New construction of attached residential dwellings excluding duplexes, in any zone where attached dwellings are a permitted or conditional use."*

The applicant proposes new attached residential buildings on the subject property which is zoned R-5 Urban Standard Density. As explained above townhomes or attached single family (in excess of two units) is not a permitted use in the zone. However, the project was approved by the County, both the subdivision, a PUD and the preliminary design of the structures, which is part of the PUD process. Section 10.40.4 of the Beaverton code explains that any valid, active approval by a previous jurisdiction will be honored as long as that project is not requesting any significant changes. The subdivision was recorded and site improvements constructed, the project is now proposing to build out the design reflected in the PUD approval by the previous jurisdiction. Thus, some places where the project deviates from the City code are permitted if the design stays consistent with the previous County approval. These include:

- The addition of a parking area
- Modified landscape plans (to match Beaverton requirements)
- Lighting for the new parking lot
- First floor entries, as opposed to second floor entries
- Options for 2,3 or 4 bedroom units as opposed to just 3 bedrooms
- Increased variety in facades
- Increased variety in roof forms
- Increased variety in in floor plans
- Second floor balconies instead of second floor entryways

- Double wall construction

The use, attached single family larger than a duplex, while not permitted in the City code will be permitted as it is consistent with the County code at the time approval. Lot sizes are not an issue as this application is not proposing any new lots. Based on the Directors interpretation of Section 10.40.4 the project meets the threshold for a Design Review 2.

Therefore, staff finds that the proposal meets the criterion for approval.

- 2. *All City application fees related to the application under consideration by the decision making authority have been submitted.***

Facts and Findings: The applicant paid the required fees for the Design Review Type 2 application.

Therefore, staff finds that the proposal meets the criterion for approval.

- 3. *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.***

Facts and Findings: The applicant submitted the application on December 1, 2017 and was deemed complete on December 27, 2017. In the review of the materials during the application review, staff finds that all applicable application submittal requirements, identified in Section 50.25.1 are contained within this proposal.

Therefore, staff finds that the proposal meets the criterion for approval.

- 4. *The proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).***

Facts and Findings: Staff cites the Design Review Standards Analysis (table hereto) which evaluates the proposal's compliance with Design Review Standards. As demonstrated on the table, the proposal complies, or through conditions of approval, can be made to comply with all applicable Design Standards. Staff further incorporates the applicant's written response to applicable Design Standards as provided in the document titled *Willamette West Habitat for Humanity – Denney Gardens Subdivision (Revised – December 1, 2017 for Completeness)* as facts and findings in response to Criterion No. 4.

Section 60.05.15D requires that no more than 150 square feet of undifferentiated walls facing a public street on a multifamily unit will be permitted. A condition of approval has been proposed that would require that this be demonstrated or changes made to the elevations of structures 5 and 6 to comply with this request. Changes may include additional windows, porches, alcoves, balconies or bays.

Staff recommends a condition of approval that would bring the proposal into compliance with all applicable Design Standards. The condition is limited to assuring that the street facing facades of structures 5 and 6 comply with the maximum percentage of bare surfaces through the requirement of added detail to the structures (or evidence that the design meets the requirement). All else complies.

FINDING: Therefore, staff finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

5. ***For additions to or modification of existing development, the proposal is consistent with all applicable provision of Sections 60.05.15 through 60.05.30 (Design Standards) or can demonstrate that the additions or modifications are moving towards compliance of specific Design Standards if any of the following conditions exist:***
- a. ***A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable standard; or***
 - b. ***The location of existing structural improvements prevent the full implementation of the applicable standard; or***
 - c. ***The location of the existing structure to be modified is more than 300 feet from a public street.***
 - d. ***If in a Multiple-Use District, building location, entrances and orientation along streets, and parking lot limitation along streets (Standards 60.05.15.6 and 60.05.20.8).***
 - e. ***If in a Multiple-Use or Commercial District, ground floor elevation window requirements (Standard 60.05.15.8).***

Facts and Findings: There are no structures on the site and the application is not seeking to modify any structures.

Therefore, staff finds that the criteria does not apply.

6. ***Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

Facts and Findings: The applicant has submitted all documents related to this request for Design Review Two approval. A Directors Interpretation application is being processed concurrently with the subject request for Design Review Two. No further applications or documents are needed at this time.

Therefore, staff finds that the criteria is met.

Recommendation

Based on the facts and findings presented, staff recommends **APPROVAL** of **DR2017-0125 (Denney Gardens by Habitat for Humanity)**, subject to the proposed conditions of approval.

**Section 60.05 Design Review
Standards and Guidelines Analysis**

DESIGN STANDARD	PROJECT PROPOSAL	MEETS STANDARD
Section 60.05.15 Building Design and Orientation		
Building Articulation and Variety		
60.05.15.1.A	Standard calls for attached residential buildings in residential zones to be limited in length - to 200 feet.	The longest structures in the project are 60 feet.
60.05.15.1.B	As demonstrated on the applicant's Architectural Elevations, each building elevation exceeds the 30% requirement for architectural articulation. Plan will utilize vinyl, glass and wood. Applicant identifies other features in narrative (page 17)	Yes. B calls for features, not limited to windows, recessed entrances and change in material type at minimum of 25 sq. ft.
60.05.15.1.C	The subdivision, which dictates the location of the structures was previously approved, this standard does not apply.	Does not apply.
60.05.15.1.D	As demonstrated on the applicant's Architectural Elevations, all six buildings show articulation.	It is not clear if the project meets this requirement for structures 5 and 6. A Condition has been added to either add additional detail or provide additional information showing there are no undifferentiated blank walls greater than 150 sq. ft.

Roof Forms		
60.05.15.2.A	Sloped roofs are proposed and will exceed the minimum 5/12 pitch requirement, according to the applicant's narrative.	Yes
60.05.15.2.B	The applicant's narrative states that all buildings will have eaves extending at least 12 inches per standard.	Yes
60.05.15.2.C	No flat roofs are proposed.	N/A
60.05.15.2.D	No additions proposed.	N/A
60.05.15.2.E	No feature roofs are proposed.	N/A

Primary Building Entrances		
60.05.15.3	The narrative states that each unit has a covered or recessed entrance with at least a 4' x 6' covered area to meet the standard.	Yes

Exterior Building Materials		
60.05.15.4.A	Plans identify materials. Applicant's narrative states exterior walls facing street will be double-wall construction to comply with the standard.	Yes

Roof-Mounted Equipment		
60.05.15.5.A, B	The applicant does not propose roof-mounted equipment.	N/A

Building Location and Orientation along Streets in Multiple Use and Com. Districts		
60.05.15.6.A, D, E & F	The subject property is not situated along a Major Pedestrian Route (MPR).	N/A
60.05.15.6.B& C	Buildings are not located in a commercial zone.	N/A

Section 60.05.20 Circulation and Parking Design Standards.
Connections to Public Street System

60.05.20.1	No changes are proposed to street improvements / connections as approved for Denney gardens by the County.	N/A
Loading areas, solid waste facilities and similar improvements		
60.05.20.2.A through E	No trash bins are proposed. Individual can service per unit.	Yes
Pedestrian Circulation		
60.05.20.3.C-F	As described in Facilities Review findings, all required pedestrian circulation along Denney Road was provided by the County approval and construction of the improvements. Internal sidewalks have been required by condition of approval.	Yes, with COA
Street Frontages and Parking Areas		
60.05.20.4.A.1 & 2	The applicant does not propose parking areas abutting public streets.	N/A
Parking Area Landscaping		
60.05.20.5.A-D	The parking lot does not feature 8 or more contiguous spaces.	Yes
Sidewalks along streets and primary building entrances		
60.05.20.7.A& B	Mixed use not proposed.	N/A
Connect on-site buildings, parking, other with streets & drive aisles		
60.05.20.8.A& B	The proposed parking drive isle is less than 100 feet long, serves more than 2 units, and complies with stall requirements.	Yes
Section 60.05.25 Landscape, Open Space, and Natural Areas Design Standards		
Minimum Common Open Space Requirements.		
60.05.25.3. A through J	The project site was previously approved by the County, thus this section does not apply, however, the site provides 22% landscape area with a mix of passive and active uses.	N/A as subdivision is recorded - all improvements in place.
60.05.25.4.A A through F	The project meets all required minimum landscape standards for multi-family housing as detailed in the landscape plans and page 22 of the applicant's narrative.	Yes

Standards applicable to detached in Multiple Use zone (Common Greens and Shared Court)		
60.05.25.6 & 7	Subject property is not located in a Multiple Use zone and is not detached single-family.	N/A
Retaining Walls		
60.05.25.8	All retaining walls were part of the original design and approved by the County. The design features of the wall comply with the code requirements.	N/A
Fences and Walls		
60.05.25.9.	The application proposes only the construction of the units on the approved site. All walls and fences would have been part of the original approval by the County.	N/A
Minimize changes to surface contours at residential property lines		
60.05.25.10	Site is fully graded – finished. No change to existing finished grade is proposed.	N/A
Integrate water quality, quantity, or both facilities		
60.05.25.11	The applicant does not propose any new aboveground non-vaulted stormwater facilities.	N/A
Natural Areas		
60.05.25.12	The subject site includes significant natural areas; however, all were approved with the site design previously and only the structures are proposed through this application. This does not apply.	N/A
Landscape Buffering Requirements		
60.05.25.13	As the site was approved by the County these standards do not apply.	N/A
Section 60.05.30 Lighting Design Standards		
Adequate on-site lighting and minimize glare on adjoining properties		
60.05.30.1.A	No change is proposed to existing street lighting (now in place). Standard refers to compliance with City Technical Lighting Standards.	N/A
60.05.30.1.B	Standard refers to lighting for vehicle circulation and pedestrian areas. Applicant's plan will utilize existing street lights and add wall-mounted lights to illuminate recreational space as shown on the lighting plan. Screening / Specifications of all lights	Yes

60.05.30.1.C	A pedestrian plaza area is not proposed.	N/A
60.05.30.1.D	Lighting is proposed at all building entrances.	Yes
Pedestrian-scale on-site lighting		
60.05.30.2.A	On-site pedestrian pathway lighting does not exceed 15 feet in height.	Yes
60.05.30.2.B	The only non-pole-mounted lights are wall-mounted lights, which will comply with the technical standards.	Yes
60.05.30.2.C	Bollard luminaires are not proposed and were not identified as part of past Denney Gardens approval.	N/A

ANALYSIS AND FINDINGS FOR DIRECTOR'S INTERPRETATION

Sec. 40.25.05 – Purpose

The purpose of the Director's Interpretation is to address new uses which may come into existence over time that are not addressed specifically in the Code, or some of the terms or phrases within the Code which may require further interpretation. The Director's Interpretation is established for resolving Code interpretation issues in advance of or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein. Threshold No. 2 of the Director's Interpretation application describes a determination of nonconforming status of a lot, structure, or use in writing upon request.

Sec. 40.25.10 - Applicability

The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.

Sec. 40.25.15.1.C – Approval Criteria

In order to approve a Director's Interpretation application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all of the following criteria are satisfied:

- 1. *The proposal satisfies the threshold requirements for a Director's Interpretation application.***

Finding:

Threshold No. 1 of Director's Interpretation reads:

A request that the Director interpret the Development Code in Writing.

Staff finds the proposal consistent with Threshold One as the application acts as a formal request. As states in the introduction, the Director's Interpretation application is sought to clarify procedural provisions identified in Section 10.40.4 of the Development Code which allow development to proceed with past conditions of approval established by the former jurisdiction notwithstanding a change in zoning upon annexation to the city. The Denney Gardens subdivision received approval in 2006 from Washington County when the property was unincorporated. The applicant's 16 unit townhome proposal is consistent with past approvals for density, building location and height. Plan modifications include a parking lot addition, play area and changes to architectural design. As part of the Director's Interpretation application, the Planning Director will review these plan modifications for determining whether the proposal maintains consistency with past conditions of approval identified under case file 05-513-PLA/PD/S/D(R)/FP/W/V.

Therefore, the Director finds that the proposal meets the criterion for approval.

2. ***All City application fees related to the application under consideration by the decision-making authority have been submitted.***

Finding:

The application fee has been submitted.

Therefore, the Director finds that the proposal meets the criterion for approval.

3. ***That the interpretation is consistent with the City's Comprehensive Plan and other provisions within this Code.***

Finding:

The following findings address how this interpretation is consistent with the City's Comprehensive Plan and other applicable provisions of the Development Code.

Consistency with the Comprehensive Plan

Chapter Two (Public Involvement)

Finding:

Goal 2.4.2, Public Involvement in City Decision Making, of the Comprehensive Plan specifies the need for involving citizens in the planning process. Development Code Section 50.40.2-5, sets forth precise requirements for providing notice to citizens of Beaverton in conformance with the intent of this goal. In this case, notice to inform citizens of the proposed DI has been published in the Beaverton Valley Times pursuant to Development Code Section 50.40.4, and is therefore in conformance with Comprehensive Plan Goal 2.4.2. Written notice of the proposed DI was provided to all property owners within 300 feet of the subject site. The City also provided written notice to the local NAC Chair.

Chapter Three (Land Use)

Finding:

Chapter Three of the Comprehensive Plan addresses Land Uses and is implemented by the Development Code. The Comprehensive Plan applies Land Use Designations to the site (Neighborhood Residential- Standard Density- NR-SD), and zoning implements the Comprehensive Plan designation (Urban Standard Density- R5). As discussed previously, the project site was approved for a subdivision while the property was under the jurisdiction of Washington County. This approval included the subdivision and design of the proposed structures. The Development Code implements the Comprehensive Plan and the applicant wishes to clarify that a portion of the Code. Because the Code is consistent with the Comprehensive Plan, there is no conflict.

Chapters Four through Nine

Finding:

There are no policies within Chapters Four through Nine of the Comprehensive Plan that apply to this Director's Interpretation. The Director finds that the requested

interpretation does not conflict with goals or policies found within the following chapters: Chapter Four, *Housing*; Chapter Five, *Public Facilities and Services*; Chapter Six, *Transportation*; Chapter Seven, *Natural, Cultural, Historic, Scenic, Energy, and Groundwater Resources*; Chapter Eight, *Environmental Quality and Safety*; and Chapter Nine, *Economy*.

Consistency with the Development Code

Consistency with Chapter 10 (General Provisions)

Finding:

Development Code Section 10.40.4 explains that previous approval made in the County will be respected if consistent with the previous approvals and conditions of approval.

The Beaverton Development Code explains in Section 10.40.4 of the Development Code that prior County approvals are allowed to develop with past conditions of approval established by the former jurisdiction notwithstanding a change in zoning upon annexation to the city. Specifically the text states:

Development, uses, or both which have received approval from the former jurisdiction shall continue to be approved and subject to the conditions of approval established by the former jurisdiction, if any. After the effective date of either Annexation Related Zone Change application, any change to any development or uses annexed into the City shall be subject to the City zoning regulations in effect at the time of the proposed change.

The Denney Gardens subdivision received approval in 2006 from Washington County when the property was unincorporated. The applicant's 16 unit townhome proposal is consistent with past approvals for density, building location and height. Based on Staff's review of the project, as demonstrated in this report, the project generally conforms to the design approved by the County with the following modifications:

- The addition of a parking area
- Modified landscape plans (to match Beaverton requirements)
- Lighting for the new parking lot
- First floor entries, as opposed to second floor entries
- Options for 2,3 or 4 bedroom units as opposed to just 3 bedrooms
- Increased variety in facades
- Increased variety in roof forms
- Increased variety in in floor plans
- Second floor balconies instead of second floor entryways
- Double wall construction

The Director's Interpretation was not a requirement for the project to build out the project. The subdivision final plat was approved by the City and recorded by the applicant. The infrastructure was constructed using the prior County design under the auspices of Section 10.40.4. The design was approved by the County, conceptually,

however a final approval was required. The final approval was not done by the County, therefore that responsibility now falls on the City. The associated Design Review Two application fully addresses the City requirements while respecting the provisions of Section 10.10.4. The project could proceed without the Director's Interpretation. However, the applicant has requested the additional certainty demonstrated in a Director's Interpretation. An official determination that the project is consistent with the provisions of Section 10.40.4 addresses any possible ambiguity related to consistency with past conditions of approval identified under Washington County Case File 05-513-PLA/PD/S/D(R)/FP/W/V.

This is important as the project relates to the Comprehensive plans because, as previously stated, the proposed project is not a permitted use in the zone, nor does the zone include any provisions for zero setbacks, which is shown on the proposed project. The zone implements the Comprehensive Plan, which links the two. However, Section 10.40.4 clarifies that only the revised aspects of the project listed above, including the design of the structures (as a final approval was never granted by the County) are applicable to the Comprehensive plan. Analysis on these specific items are contained in this report. Additionally, Section 10.40.4 explains that the County conditions of approval still apply, see applicants Exhibit O. The applicant has provided a detailed review of the conditions of approval in their narrative. Most existing conditions have been satisfied as the site developed. Some that remain unsatisfied have simply not yet been required based on trigger points that are not yet applicable, such as prior to building permit or occupancy. All unsatisfied County conditions of approval have been carried over into the approval of the Design Review Two (DR2017-0125). As such, this aspect of the provisions of Section 10.40.4 has been satisfied. All revised elements of the project fully conform, therefore the project fully conforms to the code and the Comprehensive Plan.

Consistency with Chapter 20 (Land Uses)

Finding:

There are two places where the existing, constructed improvements deviate from the code requirements; however, Section 10.40.4 permits such deviations. See detailed analysis above. Therefore, the project is consistent with the applicable development standards.

Consistency with Chapter 30 (Nonconforming Uses)

Finding:

First, the site has constructed infrastructure although no homes are built. The structures are required to commence the use. As such, the proposed use of multi-family has yet to commence and is therefore not in violation. Second, while the use is technically not permitted in the zone, Section 10.40.4 allows the previous approval to commence.

In summary, the project is not a nonconforming use and this Chapter does not apply.

Therefore, the Director finds that the proposal meets the criterion for approval.

- 4. When interpreting that a use not identified in the Development Code is a permitted, a conditional, or prohibited use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.***

Finding:

The applicant is not requesting such a determination, the criteria does not apply.

Therefore, the Director finds that the criterion is not applicable.

- 5. The proposal contains all applicable submittal requirements as specified in Section 50.25.1 of the Development Code.***

Finding:

The Director's Interpretation application was deemed complete on December 27, 2017 pursuant to 50.25.7 of the Development Code.

Therefore, the Director finds that the proposal meets the criterion for approval.

- 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

Finding:

The necessary documents related to the Director's Interpretation have been submitted.

Therefore, the Director finds that the proposal meets the criterion for approval.

Director's Interpretation Conclusions and Interpretation

Based on the facts and findings contained herein, including the applicant's written statement, incorporated hereto as findings in support, and with the concurrent processing of DR 2017-0125 which addresses small revisions to the project and the structures, the Director concludes that all previous approvals issued by the County related to Denney Gardens are consistent with the provisions of Section 10.40.4 and therefore still valid entitlements.

RECOMMENDATION:

Based on the facts and findings presented, staff recommends **approval of DI2017-0002 (Denney Gardens by Habitat for Humanity).**

DR2017-0125 Habitat for Humanity at Denney Gardens proposed conditions of approval:

Prior to Building Permit issuance, the applicant shall:

1. Provide evidence of a current fire flow test of the nearest fire hydrant demonstrating available flow at 20 PSI residual pressure. (JF / TVF&R and County Condition of Approval V.F.)
2. Demonstrate compliance with County Conditions V.A&B. (requiring a flood study). (Washington County / Case File 05-513-PLA/PD/S/D(R)/FP/W/V.)
3. The applicant shall demonstrate compliance with Section 60.05.15D for the public street facing elevations for structures 5 and 6 through detailed drawings of the elevations, or through changes made to the elevations of structures 5 and 6 to comply with this request. Changes may include additional windows, porches, alcoves, balconies or bays. (Planning / MS)
4. Submit a complete site development permit application and obtain the issuance of site development permit from the Site Development Division. (Site Development Div./JJD)
5. Make provisions for installation of all mandated erosion control measures to achieve City inspector approval at least 24 hours prior to call for first inspection from the Building Division. (Site Development Div./JJD)

Prior to issuance of a site development permit and work commencing on the site, the applicant shall:

6. Submit the required plans, application form, fee, and other items needed for a complete site development permit application per the applicable review checklist. (Site Development Div./JJD)
7. Contract with a professional engineer to design and monitor the construction for work governed by Beaverton Municipal Code 9.05.020, as set forth in Ordinance 4417 (City Engineering Design Manual and Standard Drawings), Beaverton Development Code (Ordinance 2050, 4010 +rev.), the Clean Water Services District Design and Construction Standards (April 2017, Resolution and Ordinance 17-05), and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. (Site Development Div./JJD)
8. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions as set out in Ordinances 2050, 4010+rev., and 4417; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div./JJD)

9. Have the ownership of the subject property guarantee all public improvements, site grading, erosion control, and parking lot aisle (emergency vehicle access) paving by submittal of a City-approved security. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for amount, equivalent to 100 percent or more of estimated construction costs. (Site Development Div./JJD)
10. Have obtained the Tualatin Valley Fire and Rescue District Fire Marshal's approval of the site development plans as part of the City's plan review process. (Site Development Div./JJD)
11. Have obtained approvals needed from the Clean Water Services District for storm system connections as a part of the City's plan review process. (Site Development Div./JJD)
12. Provide construction plans that show how each lot will be independently served by utility systems as required by the City Engineer and City Building Official per City standards. All site sewer (storm and sanitary) plumbing that serves more than one lot, or crosses onto another lot, shall be considered a public system and shall be constructed to the requirements of the City Engineer. Sheet flow of surface water from one lot's paved area to another lot's paved area shall not be considered a direct plumbing service. (Site Development Div./JJD)
13. Provide an erosion control plan showing best management practices needed per Clean Water Services Standard Drawing #945. Make provisions for installation of all mandated erosion control measures prior to site disturbance of 500 square feet or more. (Site Development Div./JJD)
14. Submit to the City a certified impervious surface determination of the entire site prepared by the applicant's engineer, architect, or surveyor. The certification shall consist of an analysis and calculations determining the square footage of all impervious surfaces, in square feet. Calculations shall indicate the square footage of pre-existing impervious surfaces, all new impervious surface area created, and total final impervious surface area on the entire site after construction. (Site Development Div./JJD)
15. Pay storm water system development charges (storm water quantity and overall system conveyance) for all net, new impervious surface area created for the project. (Site Development Div./JJD)
16. Provide plans for the placement of underground utility lines along street frontages, within the site, and for services to the proposed new development. No utility service lines to the structures shall remain overhead on site. If existing utility poles along existing street frontages must be moved to accommodate the proposed improvements, the affected lines must be either undergrounded or a fee in lieu of undergrounding paid per Section 60.65 of the Development Code. (Site Development Div./JJD)

During building construction, the applicant shall:

17. All on site trees, including trees planted pursuant to the County Approval, shall be avoided and marked with orange construction fencing around the driplines. (Planning / MS)

Prior to occupancy of any building permit, the applicant shall:

18. Provide a draft of the revised Covenants, Conditions and Restrictions (CC&R) document prepared for the project. The draft CC&R document is to be approved by the City Attorney prior to final inspection. The approved CC&R document is to specify maintenance obligations of the Homeowners Association and individual property owners including details regarding maintenance of all open space Tracts. (Planning / MS)
19. All internal sidewalks, the seating area behind lot 3 through lot 8 in Tract C, the trailhead and barbeque are west of lot 13 and 14 in Tract F, and the playground to the south of 1 and lot 2 in Tact C shall be constructed to Beaverton Standards. (Planning / MS)
20. Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (OFC D103.6) This includes the access drive and hammerhead. (TVF&R / JF)
21. The inside turning radius and outside turning radius shall not be less than 28 feet and 48 feet respectively, measured from the same center point. (OFC 503.2.4 & D103.3) This includes the hammerhead. (TVF&R / JF)

Prior to release of performance security, the applicant shall:

22. Have completed the site development improvements as determined by the City Engineer and met all outstanding conditions of approval as determined by the City Engineer and Planning Director. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div./JJD)
23. Have the landscaping completely installed or provide for erosion control measures around any disturbed or exposed areas per Clean Water Services standards. (Site Development Div./JJD)
24. Have placed underground all existing overhead utilities and any new utility service lines within the project and along any existing street frontage as determined at permit issuance. (Site Development Div./JJD)
25. Install or replace, to City specifications, all sidewalks which are missing, damaged, deteriorated, or removed by construction. (Site Development Div./JJD)
26. Provide evidence of a post-construction cleaning, system maintenance, and StormFilter recharge/replacement per manufacturer's recommendations for the site's and frontage's proprietary storm water treatment systems by a CONTECH qualified maintenance provider as determined by the City Engineer. Additionally, another servicing report from the maintenance provider will be required prior to release of the required maintenance

(warranty) security. (Site Development Div./JJD)