

STAFF REPORT

Report Date: January 11, 2023

Application/Project Name: Allen Blvd
Modification of LD2021-0002

Application Number: LD2022-0021

Proposal: The applicant, Baysinger Partners Architecture, requests Modification of a Replat One approval (LD2021-0002 Allen Redevelopment: Hotel and Commercial Development) to modify a condition of approval related to recordation of the final plat for lot consolidation.



Proposal Location: The site is located at 10700 SW Allen Boulevard on the south side of SW Allen and east of Highway 217, specifically identified as Tax Lots 100, 200, 400, and 500 on Washington County Tax Assessor's Map 1S122AA.

Applicant: Oregon Worsted Co.

Recommendation: APPROVAL of Allen Blvd Modification of LD2021-0002 (LD2022-0021), subject to conditions identified at the end of this report.

Hearing Information: 6:30 p.m. January 18, 2023, at City Hall, 12725 SW Millikan Way

Note: Public Hearings are held remotely and can be viewed at the following link:
<https://www.beavertonoregon.gov/291/Agendas-Minutes>

Contact Information:

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Applicant Representative: Baysinger Partners Architecture
Attn.: Jennifer Rinkus
2410 N Lombard Street
Portland, OR 97217

Property Owner: Oregon Worsted Co.
9701 SE McLoughlin Blvd.
Portland, OR 97222

Existing Conditions

Zoning: Commercial – Community Service (CS)

Site Conditions: The site is currently vacant land containing a flood storage basin and is adjacent to Fanno Creek.

Site Size: Approximately 17.4 acres

Location: 10700 SW Allen Boulevard. Located on the south side of SW Allen Boulevard and east of Highway 217, specifically identified as Tax Lots 100, 200, 400, and 500 on Washington County Tax Assessor’s Map 1S122AA.

Neighborhood Association Committee: Denney Whitford/ Raleigh West

Table 1: Surrounding Uses

Direction	Zoning	Uses
North	Industrial (IND)	Warehouse/ Industrial Uses
South	CS	Multi-tenant office/commercial uses
East	<ul style="list-style-type: none">INDResidential Mixed A (RMA)	<ul style="list-style-type: none">Beaverton School District Bus Storage/ Maintenance FacilityMobile Home Park
West	CS	<ul style="list-style-type: none">HotelHighway 217

Application Information

Table 2: Application Summaries

Application	Application Type	Proposal Summary	Approval Criteria Location
LD2022-0021	Land Division: Replat One	Request to modify a condition of approval of LD2021-0002 related to recordation of the final plat for lot consolidation.	Development Code Section 40.45.15.2.C and 50.97

Table 3: Key Application Dates

Application	Submittal Date	Deemed Complete	120-Day	365-Day*
LD2022-0021	December 1, 2022	December 21, 2022	April 20, 2023	December 21, 2023

* Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

Table of Contents

STAFF REPORT..... 1
Attachment A: REPLAT ONE LD2022-0021..... 7
Attachment B: RECOMMENDED CONDITIONS OF APPROVAL.....15

Exhibits

Exhibit 1. Materials submitted by Staff

- Exhibit 1.1 Vicinity Map (page 5 of this report)
- Exhibit 1.2 Zoning Map (page 6 of this report)
- Exhibit 1.3 Land Use Order 2877 LD2021-0002 (attached)
- Exhibit 1.4 Land Use Order 2876 DR2021-0027 (attached)

Exhibit 2. Public Comment – No public comment was received.

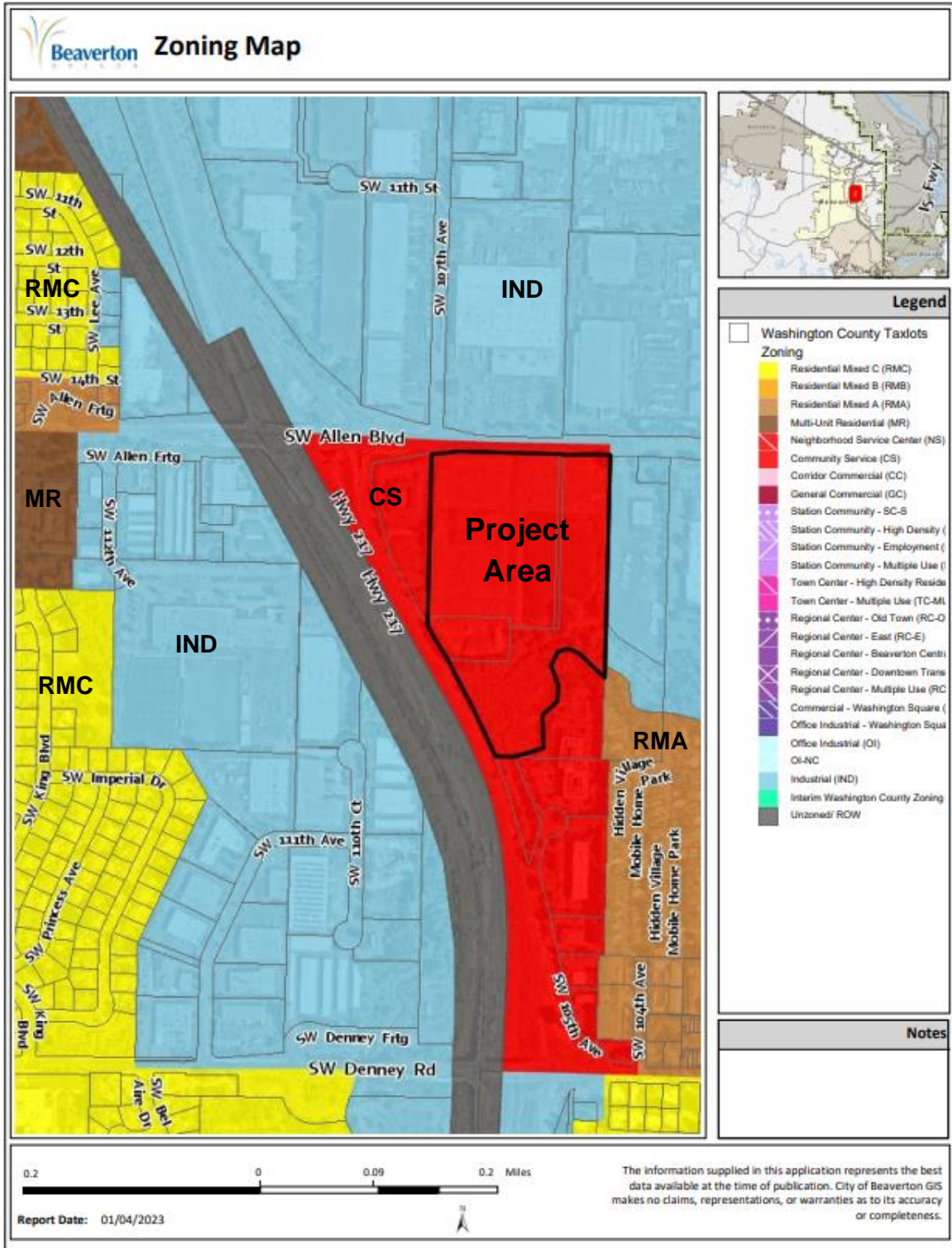
Exhibit 3. Materials submitted by the Applicant

- Exhibit 3.1 Signed Application Form
- Exhibit 3.2 Project Narrative
- Exhibit 3.3 Original Approved Site Plan – approved under Allen Redevelopment: Hotel and Commercial Development (CU2021-0004/CU2021-0005/DR2021-0027/LD2021-0002/LO2021-0001/TP2021-0003)
- Exhibit 3.4 Original Approved Preliminary Replat – approved under Allen Redevelopment: Hotel and Commercial Development (CU2021-0004/CU2021-0005/DR2021-0027/LD2021-0002/LO2021-0001/TP2021-0003)
- Exhibit 3.5 Staff Correspondence to Applicant
- Exhibit 3.6 Pre-Application Notes

Exhibit 1.1: Vicinity Map



Exhibit 1.2: Zoning Map



Attachment A: REPLAT ONE LD2022-0021

ANALYSIS AND FINDINGS FOR MODIFICATION OF A REPLAT ONE FOR LOT CONSOLIDATION APPROVAL

Recommendation: Based on the facts and findings presented below, staff recommends **APPROVAL** of **LD2022-0021**, subject to the applicable conditions identified in Attachment B.

Section 40.45.05 Purpose

The purpose of the Land Division applications is to establish regulations, procedures, and standards for the division or reconfiguration of the boundaries of land within the City of Beaverton. This Section is carried out by the approval criteria listed herein.

Planning Commission Standards for Approval:

Section 40.45.15.2.C of the Development Code provides standards to govern the decisions of the decision making authority as they evaluate and render decisions on Replat One for Lot Consolidation. The decision making authority will determine whether the application as presented, meets the approval criteria. In this portion of the report, staff evaluates the application in accordance with the criteria for a Replat One.

To approve a Replat One for Lot Consolidation 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:

Section 40.45.15.2.C.1

The application satisfies the threshold requirements for Replat One.

FINDING:

The applicant proposes to modify a previously approved condition of approval, associated with a previously approved application, LD2021-0002, for lot consolidation. Specifically, the modification of the condition is related to the timing of the required recordation of the final plat for lot consolidation.

Section 50.95.7. of the Development Code states that, “The process type for an application to modify a decision shall be based upon the thresholds for the appropriate application listed in Chapter 40”. The original request meets Threshold No. 1 of a Replat One which reads, “The reconfiguration of lots, parcels, or tracts within a single existing plat that decreases or consolidates the number of lots, parcels, or tracts in the plat.”

Conclusion: Therefore, staff finds that the proposal meets the criterion.

Section 40.45.15.2.C.2

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

FINDING:

The applicant has paid the appropriate fee for a Replat One application.

Conclusion: Therefore, the Committee finds that the proposal meets the criterion.

Section 40.45.15.2.C.3

The proposed Replat does not conflict with any existing City approval, except the City may modify prior approvals through Replat process to comply with current Code standards and requirements.

FINDING:

The subject application is a request to modify a prior Replat One approval, LD2021-0002, to change the language of a condition of approval. The requested modification complies with current Code standards and requirements.

Conclusion: Therefore, the Committee finds that the proposal meets the criterion.

Section 40.45.15.2.C.4

Oversized parcels (oversized lots) resulting from the Replat shall have a size and shape which will facilitate the future potential partitioning or subdividing of such oversized lots in accordance with the requirements of the Development Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots and future potential development on oversized lots. Easements and rights-of-way shall either exist or be provided to be created such that future partitioning or subdividing is not precluded or hindered, for either the oversized lot or any affected adjacent lot.

FINDING:

An oversized parcel is defined in Chapter 90 as:

“A lot which is greater than twice the required minimum lot size allowed by the subject zoning district.”

The subject site is zoned Community Service (CS) with a minimum parcel size of 7,000 square feet. The subject site area is approximately 17.4 acres which meets the definition of an oversized lot. The lot consolidation would not preclude or hinder future partition or subdivision of the lot or the ability to meet site development requirements. The applicant

does not propose to alter the previously approved lot consolidation boundary, the request is limited to modification of a condition of approval related to the timing of the recording of the final plat for lot consolidation.

Conclusion: Therefore, the Committee finds that the proposal meets the criterion.

Section 40.45.15.2.C.5

Applications that apply the lot area averaging standards of Section 20.05.15.D. shall demonstrate that the resulting land division facilitates the following:

- a) Preserves a designated Historic Resource or Significant Natural Resource (Tree, Grove, Riparian Area, Wetland, or similar resource); or,
- b) Complies with minimum density requirements of the Development Code, provides appropriate lot size transitions adjacent to differently zoned properties, minimizes grading impacts on adjacent properties, and where a street is proposed provides a standard street cross section with sidewalks.

FINDING:

The subject site is zoned CS. Therefore, Section 20.05.15.D does not apply, and lot averaging is not proposed with this requested modification.

Conclusion: Therefore, staff finds that the criterion for approval does not apply.

Section 40.45.15.2.C.6

If lot area averaging standards are proposed pursuant to Section 20.05.15.D, no further applications for Adjustment or Variance from this standard are required or permitted.

FINDING:

The subject site is zoned CS. Therefore, Section 20.05.15.D does not apply, and lot averaging is not proposed with this requested modification.

Conclusion: Therefore, staff finds that the criterion for approval does not apply.

Section 40.45.15.2.C.7

If phasing is requested by the applicant, the requested phasing plan meets all applicable City standards and provides for necessary public improvements for each phase as the project develops.

FINDING:

Phasing is not proposed with this modification.

Conclusion: Therefore, staff finds that the criterion for approval does not apply.

Section 40.45.15.2.C.8

The proposal will not eliminate pedestrian, utility service, or vehicle access to the affected properties.

FINDING:

The subject request is to modify a condition of approval related to the recordation of the final plat for lot consolidation. No other changes are proposed with this request. Therefore, this request does not change the pedestrian, utility service, or vehicle access to the affected properties from the original approval through LD2021-0002.

Conclusion: Therefore, the Committee finds that the proposal meets the criterion.

Section 40.45.15.2.C.9

The proposal does not create a parcel or lot which will have more than one zoning designation.

FINDING:

All four lots within the project area are zoned CS, and the site was previously approved for lot consolidation through LD2021-0002. The subject request is only to modify a condition of approval related to the recordation of the final plat, so the modification would not create a parcel with more than one zoning designation.

Conclusion: Therefore, the Committee finds that the proposal meets the criterion.

Section 40.45.15.2.C.10

Applications and documents related to the request requiring further City approval, shall be submitted to the City in the proper sequence.

FINDING:

The applicant has submitted this Replat One application for a modification of a decision related to LD2021-0002. Since the original approval was subject to a Type 3 process, this Replat One request must be processed according to the same procedure pursuant to BDC 50.95.7. The application was deemed complete on December 21, 2022, and no additional applications or documents are needed at this time.

Conclusion: Therefore, staff finds that the proposal meets the criterion.

CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, staff recommends APPROVAL of LD2022-0021 Allen Blvd Modification of LD2021-0002, subject to the applicable conditions identified in Attachment B.

Section 50.95 Modification of a Decision

The applicant has requested a modification to a condition of approval of the previously approved Replat One application (LD2021-0002). Therefore, Section 50.95 of the Development Code is applicable to the request. To approve a modification of a decision related to a Replat One 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:

Section 50.95.1

An applicant or successor in interest may file with the Director an application to modify a prior decision that was the subject of a Type 1, Type 2, or Type 3 procedure. In addition to other requirements, such an application to modify a prior decision shall describe the nature of the proposed change to the original decision and the basis for that change, including the applicable facts and law, together with the fee prescribed for that application type necessary to modify the prior decision. Such an application to modify a prior decision shall be subject to the approval criteria and development regulations in effect when the Director receives a complete application for the modification.

FINDING:

The applicant proposes to modify a previously approved application, LD2021-0002, for lot consolidation. Specifically, the request is to modify a condition of approval associated with the recordation of a final plat. This modification is associated with a decision that was originally approved through a Type 3 procedure. Therefore, the application is subject to a Type 3 procedure, and the applicant must return to the Planning Commission to request approval of this modification.

The applicant's narrative explains that the basis for the requested modification is due to conflicting conditions of approval between the originally approved Replat One application (LD2021-0002) and the Design Review Three application (DR2021-0027). The applicant states, "The existing conditions of approval... for LD2021-0002 state, 'B. Prior to issuance of a site development permit, the applicant shall: 2. Have recorded the final plat in County records and submitted a recorded copy to the City.' This is in direct conflict with conditions D.51 through D.53 under DR2021-0027 which require construction of the site development to commence before recording of the plat."

Staff concurs that the conditions of approval as written for LD2021-0002 and DR2021-0027 conflict, preventing the issuance of the site development permit for the originally approved project. To remedy the conflicting condition language, the applicant proposes to modify condition of approval B.2 of LD2021-0002 from "Prior to issuance of a site development permit..." to "Prior to issuance of occupancy for any building approved under DR2021-0027..." Staff finds that the proposed change will resolve the conflicting language but recommends the addition of the word "final" to clarify that satisfaction of the condition must be "prior to final occupancy for any building approved under DR2021-0027..."

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Section 50.95.2

An application for modification is subject to pre-application conference and completeness review; provided, the Director shall only require an application for modification to contain information that is relevant or necessary to address the requested change or the facts and regulations on which it is based. An application for modification is not subject to the neighborhood review meeting requirement.

FINDING:

The applicant requests modification of a condition of approval of LD2021-0002. A Pre-Application Conference was held on November 23, 2022, and the applicant submitted the subject application on December 1, 2022. At that time, staff conducted a completeness review, and the application was deemed complete on December 21, 2022. No other information is required of the applicant associated with this request.

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Section 50.95.3

An application for modification does not extend the deadline for filing an appeal and does not stay appeal proceedings. An application for modification is subject to the 120-day requirement pursuant to ORS 227.178.

FINDING:

The applicant states, "It is understood that filing an application for modification does not extend the deadline for filing an appeal and does not stay appeal proceedings." The application complies with the 120-day requirement of ORS 227.178.

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Section 50.95.4

Only a decision that approves or conditionally approves an application can be modified. A decision denying an application cannot be modified. Refer to Section 50.99.

FINDING:

The applicant has applied to modify the approved Replat One application, LD2021-0002, associated with the Allen Redevelopment: Hotel and Commercial Development project.

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Section 50.95.5

Expedited Land Divisions and Preliminary Middle Housing Land Divisions are not eligible for modification of a decision.

FINDING:

The request is to modify a condition of approval associated with a Replat One application.

Conclusion: Therefore, staff finds that the criterion for approval does not apply.

Section 50.95.6

An application for modification shall be subject to a Type 1, Type 2, or Type 3 procedure as determined by the Director.

FINDING:

The originally approved development, Allen Redevelopment: Hotel and Commercial Development (CU2021-0004/CU2021-0005/DR2021-0027/LD2021-0002/LO2021-0001/TP2021-0003), was processed through a Type 3 procedure. Therefore, although a Replat One application is typically subject to a Type 1 procedure, the requested modification to a condition of approval of the Replat One application must follow the same Type 3 procedure as the original approval.

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Section 50.95.7

The process type for an application to modify a decision shall be based upon the thresholds for the appropriate application listed in Chapter 40. In all cases, regardless of the thresholds listed in Chapter 40, when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision-making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified. Modification or removal of a condition of approval shall only be granted if the decision-making authority determines any one of the following:

- A. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.
- B. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.
- C. The circumstances have changed to the extent that the condition is no longer needed or warranted.
- D. A new or modified condition would better accomplish the purpose of the original condition.

FINDING:

As identified in response to Section 50.95.1 above, the applicant seeks to correct conflicting conditions of approval of the approved Replat One and Design Review Three applications which prevent the issuance of the site development permit. The applicant has demonstrated that, without the requested modification to the Replat One (LD2021-0002) condition of approval, the conditions of the Design Review Three (DR2021-0027) could not be implemented for reasons beyond the control of the applicant in accordance with criterion 50.95.7.B. The requested modification is not a significant modification of the original decision as it is only intended to correct the conflicting conditions and to clarify the requirements for recordation of the final plat for lot consolidation.

The applicant also states that the request meets criterion 50.95.7.D since the “modified condition will better accomplish the purpose of the original condition by allowing the replat to be recorded after the [site development] permit [is] issued and work is complete to ensure that the required right-of-way dedication and utility easements are accurate.” Staff concurs that the requested modification meets both criteria B and D of Section 50.95.7.

The requested modification is to the following condition of approval of LD2021-0002, adopted in Land Use Order No. 2877:

- B. Prior to the issuance of a site development permit, the applicant shall:
 - 2. Have recorded the final plat in County records and submitted a recorded copy to the City.

The requested modification would change the condition to require recordation of the final plat for lot consolidation prior to issuance of final occupancy for any building approved under DR2021-0027. This modification effectively resolves the conflict identified between the original conditions of approval of the Replat One and Design Review Three applications. If approved, the modified condition of approval will read:

- B. Prior to the issuance of **final occupancy for any building approved under DR2021-0027**, the applicant shall:
 - 2. Have recorded the final plat in County records and submitted a recorded copy to the City.

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

Attachment B: RECOMMENDED CONDITIONS OF APPROVAL

Application: Allen Blvd Modification of LD2021-0002

Recommendation: APPROVE LD2022-0021

MODIFICATION OF A REPLAT ONE APPROVAL (LD2022-0021)

A. General Conditions:

1. All conditions of LD2021-0002 remain in full effect, except condition of approval B.2 which is superseded by condition of approval B.2 below. (Planning / BG)

B. Prior to the issuance of final occupancy for any building approved under DR2021-0027, the applicant shall:

2. Have recorded the final plat in County records and submitted a recorded copy to the City.