



Exhibit A1  
Staff Report  
Wilsonville Planning Division  
Temporary Use Permit for Sales Trailer and Model Home Sales Office  
Development Review Board Panel 'B'  
Quasi-Judicial Public Hearing  
**Adopted February 27<sup>th</sup>, 2023**

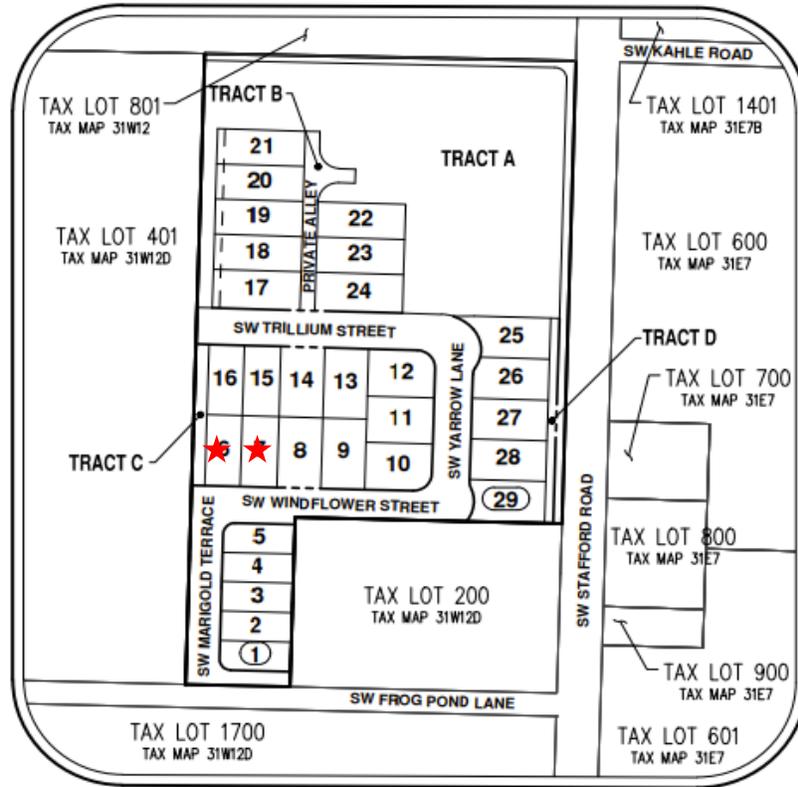
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<b>Hearing Date:</b>	February 27, 2023
<b>Date of Report:</b>	February 16, 2023
<b>Application No.:</b>	DB22-0013 TUP for a Sales Trailer and Model Home Sales Office at Frog Pond Crossing
<b>Request/Summary:</b>	The request before the Development Review Board includes the review of a Class 3 five-year Temporary Use Permit
<b>Location:</b>	6737 and 6725 SW Wildflower St. The property is specifically known as Tax Lot 300, Section 12D, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon.
<b>Owner/Applicant:</b>	Pulte Homes (Contacts Jim Sprott & Sandy Key)
<b>Comprehensive Plan Designation:</b>	Residential Neighborhood
<b>Zone Map Classification:</b>	Residential Neighborhood
<b>Staff Reviewers:</b>	Sarah Pearlman, Assistant Planner Georgia McAlister, Associate Planner
<b>Staff Recommendation:</b>	<u>Approve with conditions</u> the requested Five-Year Temporary Use Permit.

**Applicable Review Criteria:**

<b><u>Development Code:</u></b>	
Section 4.008	Application Procedures-In General
Section 4.009	Who May Initiate Application
Section 4.010	How to Apply
Section 4.011	How Applications are Processed
Section 4.014	Burden of Proof
Section 4.031	Authority of the Development Review Board
Subsection 4.035 (.04)	Site Development Permit Application
Subsection 4.035 (.05)	Complete Submittal Requirement
Section 4.110	Zones
Section 4.113	Standards Applying to Residential Development in All Zones
Section 4.118	Standards Applying to Planned Development Zones
Section 4.127	Residential Neighborhood (RN) Zone
Section 4.140	Planned Development Regulations
Section 4.154	On-site Pedestrian Access and Circulation
Section 4.155	Parking, Loading, and Bicycle Parking
Sections 4.156.01 through 4.156.11	Signs
Section 4.163	Temporary Structures and Uses
Section 4.175	Public Safety and Crime Prevention
Section 4.176	Landscaping, Screening, and Buffering
Section 4.199	Outdoor Lighting
Sections 4.300 through 4.320	Underground Utilities
Sections 4.400 through 4.440 as applicable	Site Design Review
<b><u>Comprehensive Plan and Sub-elements:</u></b>	
Frog Pond West Master Plan	

## Vicinity Map



### Background/Summary:

Pulte Homes seeks a 5-year temporary use permit for a model home sales office and sales trailer to sell homes in the 29-lot Frog Pond Crossing subdivision. The applicant included plans for a sales office trailer on Lot 6 to sell homes in the subdivision until the completion of the model home on Lot 7. The applicant will then shift their sales operations to the garage of the model home. Pulte Homes will construct an asphalt parking lot with four parking spaces, including one ADA space, on Lot 6 for the sales trailer and the model home. Pulte Homes expects that within 5 years all of their homes in the subdivision will sell at which point the model home office on Lot 7 will be converted into a traditional garage.

### Public Comments and Responses:

No public comments were received during the comment period.

## Conclusion and Conditions of Approval:

Staff has reviewed the applicant's analysis of compliance with the applicable criteria. The Staff Report adopts the applicant's responses as Findings of Fact except as noted in the Findings. Based on the Findings of Fact and information included in this Staff Report, and information received from a duly advertised public hearing, staff recommends that the Development Review Board recommend approval to City Council or approve, as relevant, the proposed application (DB22-0013) with the following conditions:

### Planning Division Conditions:

Request: DB22-0013 Five-Year Temporary Use Permit

PD 1.	All construction, site development, and landscaping shall be carried out in substantial accord with the Development Review Board approved plans, drawings, sketches, and other documents. The Planning Division may approve minor alterations through the Class I Administrative Review process.
PD 2.	The access aisle for the required ADA parking shall be at least eight feet wide on the passenger side of the ADA space, consistent with the requirements of the Oregon Transportation Commission.
PD 3.	The applicant shall provide at least two bicycle parking spaces meeting the access, spacing, and other standards in Section 4.155.
PD 4.	The applicant shall obtain a sign permit pursuant to the standards of Section 4.156.09 for any proposed signs not exempted from sign permit requirements as noted in Section 4.156.05.
PD 5.	The sales trailer shall be removed upon the completion of the sales office in the model home. The applicant or their successors shall convert the sales office/model home to a for-sale single-family home within 5 years of the date of decision. The applicant or their successors shall remove the parking lot within 5 years of the date of decision.

### Engineering Division Conditions:

Request: DB22-0013 Preliminary Development Plan

PFD 1.	Public Works Plans and Public Improvements shall conform to the "Public Works Plan Submittal Requirements and Other Engineering Requirements" in Exhibit C1 and to specifics as found in the Frog Pond West Mater Plan (July 17, 2017).
PFD 2.	<b><u>Prior to Issuance of Building Permit:</u></b> Submit a site plan showing all utility connections and street improvements including pavement, curb, planter strip, street trees, sidewalk, and driveway approaches along the sites frontage on Windflower Street. Street improvements shall be constructed in accordance with the Public Works Standards.
PFD 3.	<b><u>Prior to Issuance of Building Permit:</u></b> A final stormwater report shall be submitted for review and approval. The stormwater report shall include information and

	calculations to demonstrate how the proposed development meets the treatment and flow control requirements. The stormwater report shall also include conveyance calculations to demonstrate that any downstream impacts can be mitigated.
<b>PFD 4.</b>	<b><u>Prior to the Issuance of the Building Permit:</u></b> Submit plan showing construction parking for contractors. All construction related parking must be within the Frog Pond Crossing subdivision boundaries.
<b>PFD 5.</b>	<b><u>Prior to the Issuance of the Building Permit:</u></b> All public improvements (water, sewer and storm) must be complete and ready for connection. Alternatively, the City may allow construction to commence prior to utilities being available if a temporary alternative solution is approved by the City.
<b>PFD 6.</b>	<b><u>Prior to Any Paving:</u></b> Downstream stormwater facilities must be constructed and planted. <b><u>Prior to Engineering Final:</u></b> The applicant must execute and record with the County a Stormwater Maintenance Agreement with the City.

## Master Exhibit List:

The entry of the following exhibits into the public record by the Development Review Board confirms its consideration of the application as submitted. The exhibit list below includes exhibits for Planning Case File DB22-0013. The exhibit list below reflects the electronic record posted on the City's website and retained as part of the City's permanent electronic record. Any inconsistencies between printed or other electronic versions of the same Exhibits are inadvertent and the version on the City's website and retained as part of the City's permanent electronic record shall be controlling for all purposes.

### Planning Staff Materials

- A1. Staff report and findings (this document)
- A2. Staff's Presentation Slides for Public Hearing (to be presented at Public Hearing)

### Materials from Applicant

- B1. Development Permit Application Forms
- B2. Narratives
- B3. Plan Sets

### Development Review Team Correspondence

- C1. Engineering Division Conditions

## Procedural Statements and Background Information:

1. The statutory 120-day time limit applies to this application. The applicant first submitted the application on December 14, 2022. On January 9, 2023, the application was deemed complete. The City must render a final decision for the request, including any appeals, by May 9, 2023.
2. Surrounding land uses are as follows:

Compass Direction	Zone:	Existing Use:
North	EFU	Rural Residential/Agriculture (Clackamas County)
East	EFU, RRFF5	Rural Residential/Agriculture (Clackamas County)
South	RN	Residential (Future Frog Pond Oaks)
West	RN	Residential (Under Construction, Frog Pond Ridge)

3. Previous City Planning Approvals:

DB21-0036 et seq Frog Pond Crossing Subdivision Annexation, Zone Map Amendment, Stage I Preliminary Plan, Stage II Final Plan, Site Design Review of Parks and Open Space, Tentative Subdivision Plat, Type C Tree Removal Plan, Waiver – Open Space Location, Waiver – Minimum Street Frontage

4. The applicant has complied with Sections 4.013-4.031 of the Wilsonville Code, said sections pertaining to review procedures and submittal requirements. The required public notices have been sent and all proper notification procedures have been satisfied.

## Findings:

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case.

### General Information

#### Application Procedures-In General Section 4.008

**Criteria:** This section lists general application procedures applicable to a number of types of land use applications and also lists unique features of Wilsonville’s development review process.

**Response:** The application is being processed in accordance with the applicable general procedures of this Section.

#### Initiating Application Section 4.009

**Criterion:** “Except for a Specific Area Plan (SAP), applications involving specific sites may be filed only by the owner of the subject property, by a unit of government that is in the process of acquiring the property, or by an agent who has been authorized by the owner, in writing, to apply.”

**Response:** The application has been submitted on behalf of the property owner, Pulte Homes and is signed by Jim Sprott, an authorized representative.

#### Pre-Application Conference Subsection 4.010 (.02)

**Criteria:** This section lists the pre-application process.

**Response:** A Pre-application conference was not required.

#### Lien Payment before Approval Subsection 4.011 (.02) B.

**Criterion:** “City Council Resolution No. 796 precludes the approval of any development application without the prior payment of all applicable City liens for the subject property. Applicants shall be encouraged to contact the City Finance Department to verify that there are no outstanding liens. If the Planning Director is advised of outstanding liens while an application is under consideration, the Director shall advise the applicant that payments must be made current or the existence of liens will necessitate denial of the application.”

**Response:** No applicable liens exist for the subject property. The application can thus move forward.

## General Submission Requirements

### Subsection 4.035 (.04) A.

**Criteria:** “An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.” Listed 1. through 6. j.

**Response:** The applicant has provided all of the applicable general submission requirements contained in this subsection.

## Zoning-Generally

### Section 4.110

**Criteria:** “The use of any building or premises or the construction of any development shall be in conformity with the regulations set forth in this Code for each Zoning District in which it is located, except as provided in Sections 4.189 through 4.192.” “The General Regulations listed in Sections 4.150 through 4.199 shall apply to all zones unless the text indicates otherwise.”

**Response:** This proposed temporary uses are in conformity with the applicable zoning district and general development regulations listed in Sections 4.150 through 4.199 have been applied in accordance with this Section.

### **Request: DB22-0013 Sales Trailer and Model Home Garage Sales Office**

As described in the Findings below, the applicable criteria for this request are met or will be met by Conditions of Approval.

## **Regulations in the Residential Neighborhood Zone**

### Permitted Uses in the Residential Neighborhood Zone

#### Subsection 4.127 (.02)

1. **Criteria:** This subsection lists the uses typically permitted in the Residential Neighborhood Zone, including single-family detached dwellings, row houses, and non-commercial parks, playgrounds, and recreational facilities.

**Response:** The Residential Neighborhood zone does not explicitly permit commercial development, such as sales offices. Section 4.163 allows for approval of temporary uses not otherwise allowed, which is the request of the applicant.

### Permitted Accessory Uses in the Residential Neighborhood Zone

#### Subsection 4.127 (.03)

2. **Criteria:** This subsection lists the permitted accessory uses in the Residential Zone among which is “temporary uses per Section 4.163”.

**Response:** The temporary use for sales and display of new homes is accessory to the planned residential subdivision, subject to review pursuant to Section 4.163.

## Parking

### Functional Design of Parking Areas

Subsection 4.155 (.03) A.

3. **Criteria** This subsection establishes parking and loading or delivery areas design and access standards.

**Response:** The proposed parking area is accessible and has sufficient asphalt area for maneuvering into the parking stalls. The applicant does not propose any loading/delivery areas. Vehicle parking and pedestrian areas are separated.

### Parking Area Landscaping

Subsection 4.155 (.03) B. 1.-3.

4. **Criteria** This subsection establishes parking and loading or delivery area landscaping standards.

**Response:** The applicant proposes parking on a temporary asphalt park lot on Lot 6 and a compacted gravel driveway surface on Lot 7. The parking area is required to have 164 SF of landscaping. The applicant proposed 1,956 SF of landscaping on Lot 6.

### Safe and Convenient Access, ADA Requirement

Subsection 4.155 (.03) C.

5. **Criteria** This subsection establishes that off street parking shall be designed for safe and convenient access that meets ADA and ODOT standards

**Response:** The proposed design provides four spaces for the model home sales office, including one ADA space with an eight-foot access aisle on the passenger side of the space. Condition of Approval PD 2 insures ADA accessibility requirements, including an eight-foot-wide access aisle on the passenger side of the space, are met.

### Connectivity to adjacent Parking Areas and Efficient On-Site Circulation

Subsection 4.155 (.03) D.

6. **Criteria:** This subsection establishes that parking areas shall be designed to connect with parking areas on adjacent sites so as to eliminate the necessity for any mode of travel of utilizing the public street for multiple accesses or cross movements.

**Response:** No need exists to connect with parking on adjacent sites as the parking lot site and adjacent properties will be developed as single-family homes. The on-site parking is of a typical design on a flat site that will allow efficient on-site circulation.

### Parking Requirements

Subsection 4.155 (.03) G.

7. **Criteria:** This section establishes parking minimums.

**Response:** Per the requirements detailed in Table 5, office uses require 2.7 spaces per 1,000 sq. ft. of floor area. As such, the 576-square-foot sales trailer and 420-square-foot garage sales office requires a total of two spaces each. A total of four parking spots are provided for the sales trailer and model home’s sales office.

## Bicycle Parking Requirements

Subsection 4.155 (.04)

8. **Criteria** “Except as required by Subsections (A) through (D), below, the requirements of Section 4.155 shall apply within the Residential Neighborhood Zone.”

**Response:** Table 5 establishes a minimum bicycle parking requirement of two spaces for office use. There is no minimum requirement for single-family homes. The applicant has not indicated bicycle parking. Condition of Approval PD 3 ensures provision of the required bicycle parking.

## On-site Pedestrian Access and Circulation

### On-site Pedestrian Access and Circulation

Section 4.154 (.01) A.

9. **Criteria:** This section establishes standards for on-site pedestrian access and circulation.

**Response:** The Frog Pond neighborhood was designed to be pedestrian-oriented. The existing and planned sidewalk network provides access to the model home sales office from the parking area. The applicant also plans to build a temporary pathway from the sales trailer parking lot on Lot 6 to the sales trailer and the model home on Lot 7 that provides safe, convenient pedestrian access.

### Continuous Pathway System

Section 4.154 (.01) B.

10. **Criteria:** This section establishes a pedestrian pathway system shall extend throughout the development site and connect to adjacent sidewalks, and to all future phases of development, as applicable.

**Response:** The sidewalk will provide a continuous path between the parking area and sales office/model home. The temporary pathways also provides a continuous path between the sales trailer, parking lot, and model home.

### Safe, Direct and Convenient Pathways

Section 4.154 (.01) B

11. **Criteria:** This section establishes standards for on-site pedestrian access and circulation.

**Response:** The asphalt parking area and sales trailer will be located on Lot 6, adjacent to the model home on Lot 7. Each lot in the Frog Pond Crossing subdivision has direct access to the comprehensive sidewalk network which Pulte Homes will utilize in addition to the construction of a temporary pathway from the parking lot on Lot 6 to the garage of the model home on Lot 7. The design of the parking area will allow customers to park on Lot 6

and safely take the sidewalk or the pathway to the model home on Lot 7. The sidewalk is at least 5' wide and ADA compliant. The temporary pathway will be made of asphalt and will also be ADA compliant. The ADA parking space will be directly adjacent to the sidewalk and the pathway providing easy access.

### Vehicle /Pathway Separation

Section 4.154 (.01) B. 3.

12. **Criteria:** This section establishes standards for separation between vehicle circulation areas and pedestrian areas.

**Response:** The walkway is separated from vehicle circulation areas.

### Crosswalks

Section 4.154 (.01) B. 3.

13. **Criteria:** This section establishes standards for separation pathways crossing a parking area of driveway.

**Response:** The applicant does not propose new crosswalks across private parking areas or driveways.

### Pathway Width and Surface

Section 4.154 (.01) B.

14. **Criteria:** This section establishes standards for sidewalk materials and construction.

**Response:** The planned public sidewalks are one of the primary pathways and are concrete 5' sidewalks. The temporary pathway that the Applicant proposes between Lots 6 and 7 is at least 5' wide and is made of asphalt.

## Signs

### Exempt Signs

Subsection 4.156.05

15. **Criteria:** This subsection establishes signage that is exempt from permit requirements.

**Response:** No signage is proposed at this time. Signs listed under Section 4.156.05 are exempt from sign permit requirements, including some lawn signs and rigid signs. Condition of Approval PD 4 ensures that a sign permit is obtained pursuant to the standards of Section 4.156.09 for any proposed signs not meeting the requirements of this section.

## Temporary Structures and Uses

### Temporary Use Permits-Generally

Section 4.163

16. **Criteria:** "The Development Review Board, after hearing as set forth in Section 4.012, may permit the temporary use of a structure or premises in any zone for a purpose or use that

does not conform to the regulations prescribed elsewhere in this Code for the zone in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A permit for such use may be granted in the form of a temporary and revocable permit, up to a five (5) year period, subject to a showing of good cause and such conditions as will safeguard the public health, safety, convenience and general welfare. Such permits may be renewable upon re-application to the Development Review Board, provided that the Board finds that the renewal is not likely to result in a permanent situation.”

**Response:** While the Residential Neighborhood zone permits some commercial development subject to approval of a conditional use permit, it does so only in locations master planned for the use. The Frog Pond West Master Plan and land use approvals for the subject properties do not allow commercial uses. Thus, the applicant requests a temporary use to allow a temporary commercial use on residential land. The model home sales office, sales trailer, and parking area will be located on lots planned to be developed into single family homes. The applicant is requesting a Temporary Use Permit for a sales trailer and model homes sales office up to five years to allow for a flexible time frame to construct and sell the homes in on the lots owned by Pulte Homes.

#### Temporary Use Permits-Temporary Use Does Not Involve Substantial Structures Subsection 4.163 (.01)

17. **Criteria:** This subsection establishes that no substantial structures can be built as a part of a Temporary Use Permit.

**Response:** While the proposed temporary use will utilize a single-family home structure planned for the subject lots, the applicant does not propose any substantial structures not planned for eventual approved single-family use.

#### Application Requirements, Restoration to Pre-TUP Conditions Subsection 4.163 (.02)

18. **Criteria:** This subsection establishes that no substantial structures can be built as a part of a Temporary Use Permit.

**Response:** The applicant has submitted the required information including a clear description of the planned use, a statement the duration is up to five years, and a site plan (see Exhibit B2). Condition of Approval PD 5 will ensure restoration of the site to pre-TUP conditions or to conditions as a single-family home subject to the approval of the Frog Pond Crossing subdivision.

#### Just Cause for Temporary Use Subsection 4.163 (.03)

19. **Criteria:** Factors and considerations for “good cause” include, but are not limited to:
- A. Availability of appropriately zoned land for the proposed use in the city.
  - B. Availability of and need for the subject property for allowed uses.

- C. Market conditions, construction costs and other obstructions to the location of the use on appropriately zoned land.
- D. Due diligence of the applicant to site the use on appropriately zoned land,
- E. Circumstances of the applicant bearing on the need for the temporary use permit.

**Response:**

**Availability of Appropriate Zoned Land:** While sufficient commercial land and tenant spaces exist in the City for real estate sales offices, it is typical to have an on-site sales office as part of a model home in a new large subdivision. Such uses have existed elsewhere in residential subdivisions.

**Availability of and need of property for allowed used:** Upon conclusion of the temporary use, the applicant will convert the subject lots to single-family homes for sale, which is the approved use.

**Market Conditions, etc.:** No market conditions are in play in terms of their being a lack of appropriately zoned land; the use is simply complementary to the allowed use during the sale of lots and homes in the adjacent subdivision.

**Due diligence to relocate use:** Not applicable. The use is only necessary during the sale of lots and homes in the adjacent subdivision.

**Circumstances of applicant:** The applicant owns the adjacent land on which they are developing single-family homes. They wish to increase their effectiveness of marketing and provide greater convenience for customers by providing an on-site sales office along with a model home.

**Other:** The proposed temporary use is a typical limited duration accessory use for new residential subdivisions.

## **Other Development Standards**

### Public Safety and Crime Prevention

Subsection 4.175

20. **Criteria:** "All developments shall be designed to deter crime and ensure public safety."

**Response:** Staff finds no evidence and has not received any testimony that the proposal would lead to crime or negatively impact public safety.

### Outdoor Lighting

Sections 4.199.20

21. **Criteria:** This section states that the outdoor lighting ordinance is applicable to "Installation of new exterior lighting systems in public facility, commercial, industrial and multi-family housing projects with common areas" and "Major additions or modifications (as defined in this Section) to existing exterior lighting systems in public facility, commercial, industrial and multi-family housing projects with common areas." In addition the exempt luminaires and lighting systems are listed.

**Response:** No additional outdoor lighting has been proposed. If the applicant wishes to add anything but exempt lighting, additional review by the City will be necessary.

## Underground Utility Installation

Sections 4.300-4.320

22. **Criteria:** These sections list requirements regarding the underground installation of utilities.  
**Response:** All new utilities associated with the temporary use must be installed underground. No indication of overhead utilities is shown in the submitted materials and there is no evidence that the proposal will cause conflict with underground utilities.