



STAFF REPORT

HEARING DATE: March 6, 2024

FILE NUMBER: 02MOD-23

APPLICANT: Danco Communities
5251 Ericson Way
Arcata, CA 95521

OWNER: La Pine Huntington Rd LTD Partnership
17890 SW Elsner Rd
Sherwood, OR 97140

LOCATION: The subject property is located at 51761 Huntington Road, La Pine, Oregon 97739. The Tax Lot number is 100 on Deschutes County Assessor's Map 22-10-11CB.

REQUEST: The applicant proposes to modify a previous condition of approval from a 2019 Plan Amendment and Zone Change. The requested modification is to alter the previously conditioned right of way dedication related to a proposed roundabout diameter from file no 03ZC-19.

STAFF CONTACT: Rachel Vickers, Associate Planner
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Phone: (541) 280-5680

RECOMMENDATION: Approved, subject to the conditions of approval identified below.

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

City of La Pine Development Code

Article 7, Procedures

Section 15.202.130, Modification of Approval

Oregon Administrative Rules (OAR) Chapter 660

Division 12, Transportation Planning

Section 660-12-0600

II. BASIC FINDINGS

ZONING: The subject property is zoned Commercial Mixed Use with no overlay zones.

PARCEL SIZE: The subject property is 4.70-acres in size.

LOT LEGALITY: The subject property was platted as Lot 1 within the Newberry Neighborhood.

PROPOSAL: The applicant proposes to modify a previous condition approval from land use decision 03ZC-19. Specifically, the applicant is requesting to modify Condition of Approval B which required right of way dedication in relation to a 200-foot diameter roundabout, to a 175-foot diameter roundabout.

EXISTING DEVELOPMENT: The subject property is currently being developed with the 60-unit garden style apartment complex that was approved under 09SPR-22.

PERMIT HISTORY:

- 03ZC-19, Huntington and Memorial | Comprehensive Plan Amendment and related Zone Change to change to zoning from Public Facility (PF) to Commercial Mixed Use (CMX) and the Comprehensive Plan designation from Public Facility to Mixed Use Commercial.
- 09SPR-22, Danco | Site plan review for a 60-unit garden style apartment complex with a related community building, parking, and landscaping.

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice of application on November 16, 2023, and notice of public hearing on February 15, 2024, to several public agencies and received the following comment:

City of La Pine Engineering, Erik Huffman

The applicant has provided analysis indicating that a 175-foot diameter circle is sufficient for the development of a roundabout at the intersection of Huntington and Memorial, and I have reviewed and analyzed the information with the applicant. I concur that the 175-foot diameter circle as proposed is sufficient for future development of a roundabout and the intersection and I have no objection to the modification request.

The following agencies did not respond to the notice: La Pine Public Works Department, La Pine Fire Department, Deschutes County Surveyor, Deschutes County Road Department, and Midstate Electric Coop.

PUBLIC COMMENTS: The La Pine Community Development Department mailed notice of the application to all property owners within 100 feet of the subject property on November 16, 2023, as well as notice of public hearing on February 15, 2024. Notice of public hearing was published in the Bend Bulletin on February 18, 2024, and posted notice was placed on the subject property on February 21, 2024. No public comments were received.

IV. FINDINGS OF FACT

PART III, CITY OF LA PINE DEVELOPMENT CODE

Article 7, Procedures

Chapter 15.202, Summary of Application Types and General Provisions

Section 15.202.130, Modification of Approval

- A. ***A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties. For the purposes of this section, a substantially new proposal would require the application of new criteria and a significant impact would result in the imposition of new or different conditions of approval.***

FINDING: This criterion includes a number of components. Staff addresses each below.

Change in Circumstances

The applicant is requesting to modify the previously approved condition of approval which required right of way dedication sufficient for a 200-foot diameter roundabout. In response to the change in circumstance, the applicant provided the following narrative.

Our requested modification is to reduce the “200-foot diameter” requirement to 175-foot diameter. The Applicant’s development team had ongoing discussions with the City of La Pine’s contracted public works engineer, Erik Huffman, about the necessary size of this roundabout. Erik’s direction to the Applicant was that the 175-foot diameter roundabout footprint, centered as specified in the CAD file sent on 10/14/2022, would be sufficient and is consistent with other arterial roundabouts in Deschutes County.

Staff notes that in addition to the applicant’s narrative, they also submitted an email chain between themselves, City staff, and Erik Huffman which reaffirms the change in circumstance. Staff finds the email chain and City Engineer confirmation of the proposed roundabout diameter reduction constitutes a change in circumstance.

Substitute for an Appeal

This request to modify the right of way dedication requirements which relate to the roundabout diameter are not filed as a substitute for an appeal. The submitted application materials do not indicate any objections to staff’s analysis of the approval criteria for La Pine File 03ZC-19.

Substantially New Proposal

Staff finds the proposal to modify the previously required right of way dedication which relates to the roundabout diameter does not constitute a substantially new proposal. The applicant proposes to reduce the right of way dedication requirements for a 200-foot diameter roundabout, to a 175-foot diameter roundabout. The overall proposal in relation to 03ZC-19 would not be substantially altered, since the modification is only directed at a condition of approval that required right of way dedication. Staff finds this request does not constitute a substantially new proposal.

Additional Impacts on Surrounding Properties

The proposed modification will not project any further into the required setbacks, nor change the approved use of the property. Staff notes that no comments were received in response to the notice of application or notice of public hearing for this modification. Because of this, staff finds the proposed modification will not have any

additional impact on surrounding properties.

Based on staff's analysis of the above components, this criterion is met.

- B. *An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.***

FINDING: Staff finds this criterion presents a large number of requirements that staff addresses separately for clarity.

What discreet aspects of the approval are proposed for modification?

The proposed modification is directed at changing the right of way dedication requirement in relation to the proposed roundabout in the previous decision (03ZC-19). Because the applicant is not proposing to reduce the right of way dedication more than the City Engineer requires, this modification has no significant additional impact on surrounding properties. The existing zoning and related regulations will remain the same.

Is this a substantially new proposal?

Staff finds the proposed modification is not a significantly new proposal. As described above, the property will remain zoned Commercial Mixed Use (CMX) meaning no change in zoning regulations of the property is proposed. The proposed right of way dedication related to roundabout diameter is similar to what was approved under the 2019 decision, with the only difference being a slight reduction in diameter, which has been approved by the City Engineer.

Are there significant additional impacts on surrounding properties?

Staff notes there is existing development to the north of the subject property, and the proposed modification will not alter the approved uses of the surrounding area. Staff also notes that no comments were received in response the notice of application or notice of public hearing indicating any objection to the proposal. For these reasons, staff finds the proposed modification will not have any significant additional impacts on the surrounding properties.

What criteria are applicable to the particular aspect(s) of the proposal?

The criteria applicable to the proposed modification are identified and addressed below.

Based on staff's analysis of the above components, this criterion is met.

Oregon Administrative Rules Chapter 660

Division 12, Transportation Planning

OAR 660-012-0060, Plan and Land Use Regulation Amendments

- (2) ***If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the performance standards of the facility measured or projected at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in subsections (a) through (e) below, unless the amendment meets the balancing test in subsection (e) or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.***
- (a) ***Adopting measures that demonstrate allowed land uses are consistent with the performance standards of the transportation facility.***
 - (b) ***Amending the TSP or comprehensive plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses consistent with the requirements of this division. Such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.***
 - (c) ***Amending the TSP to modify the performance standards of the transportation facility.***
 - (d) ***Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.***
 - (e) ***Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:***
 ...

FINDING: Previous findings for these criteria from file 03ZC-19 indicated the following:

In accordance with option (d), capacity improvements can be provided at the Huntington Road/Memorial Lane intersection, in the form of a roundabout. The Applicant requested that “a pro-rata funding be applied toward the intersection needs” and provided a proposed conditions of approval:

- Right-of-way at the Huntington Road/Memorial Lane intersection should be provided to the City of La Pine (or other parties responsible for its construction) to support the preferred long-term intersection capacity treatment.
- A pro-rata payment should be provided to the City of La Pine as part of future development applications. This should be based on a total projected volume of 1,108 weekday p.m. peak hour trips with the rezone, with the subject property contributing up to 82 more trips in a comparative “worst-case” development scenario (for a total of 126 weekday p.m. peak hour trips).
 - Roundabout improvement cost of \$2,200,000
 - Rezone Contribution of 7.4% (+82 / 1,108 PM trips)
 - Rezone Cost of \$162,816
 - Per Trip fee of \$1,292.19 (\$162,816 / 126 total PM trips)

The City Engineer has reviewed and accepts the methodology for determining the pro-rata share. In addition, staff recommends that the condition of approval require an escalation factor for inflation, as the contribution will be paid overtime, at the time of building permits. Accordingly, staff recommends the following revised conditions of approval are:

- Prior to receipt of a building permit, all development on the subject property must submit to the City of La Pine a payment of \$1,292 per PM peak hour trip, which amount shall increase on the first day of each calendar year by an amount proportionate to the yearly change in the Consumer Price Index for All Urban Consumers for the West Region, as published by the U.S. Bureau of Labor Statistics.
- Prior to issuance of any land use approvals or building permits on the subject property, applicant must execute a deed of dedication acceptable to City that dedicates right-of-way to the City of La Pine sufficient to accommodate a 200-foot diameter roundabout, measured from the current intersection of the centerlines of Huntington Road and Memorial Lane.
- Within 30 days after this decision becomes final, and prior to issuance of any land use approvals or building permits on the subject property, applicant must record a conditions of approval agreement acceptable to City to memorialize the conditions of approval applicable to development on the subject property and provide record notice of such conditions to future owners.

The applicant proposes to modify the following findings and related condition of approval to the following (changes are marked below):

Prior to issuance of any land use approvals or building permits on the subject property, applicant must execute a deed of dedication acceptable to City that dedicates right-of-way to the City of La Pine sufficient to accommodate a ~~200-foot diameter roundabout~~ 175-foot diameter roundabout, measured from the current intersection of the centerlines of Huntington Road and Memorial Lane.

In response to the applicant's proposal, the City Engineer provided the following comments:

The applicant has provided analysis indicating that a 175-foot diameter circle is sufficient for the development of a roundabout at the intersection of Huntington and Memorial, and I have reviewed and analyzed the information with the applicant. I concur that the 175-foot diameter circle as proposed is sufficient for future development of a roundabout and the intersection and I have no objection to the modification request.

Staff finds that based on the above information, the applicant's proposed modification remains in conformance with OAR 660-012-0060(2)(d). These criteria are met.

V. CONCLUSION AND RECCOMENDATION

Based on the foregoing findings, City staff concludes that the proposed modification can comply with the applicable standards and criteria of the City of La Pine Development Code and State regulations if conditions of approval are met. Staff recommends the La Pine Planning Commission approve the applicant's proposed modification, subject to the conditions of approval listed below.

AT ALL TIMES

- A.** Application Materials: This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.

- B.** Additional Permit Requirements: The applicant shall obtain necessary permits from the City of La Pine, Deschutes County Building Department, Deschutes County Onsite Wastewater Department, and any other necessary State or Federal permits.
- C.** Confirmation of Conditions: The applicant shall be responsible for confirming in detail how each specific condition of approval has been met if requested by City staff.
- D.** Previous Conditions: All conditions of approval from file 03ZC-19 remain in effect which are listed below, and staff modifies Condition of Approval B as it related to this modification approval:
- A. As a condition to building permit issuance, all development on the subject property must submit to the City of La Pine a payment of \$1,292 per PM peak hour trip generated by the development subject to the building permit as determined by City, which amount shall increase on the first day of each calendar year by an amount proportionate to the yearly change in the Consumer Price Index for All Urban Consumers for the West Region, as published by the U.S Bureau of Labor Statistics.
 - B. Prior to issuance of any land use approvals or building permits on the subject property, applicant must execute a deed of dedication acceptable to City that dedicates right-of-way to the City of La Pine sufficient to accommodate a ~~200-foot diameter roundabout~~ 175-foot diameter roundabout, measured from the current intersection of the centerlines of Huntington Road and Memorial Lane.
 - C. Within 30 days after this decision becomes final, and prior to issuance of any land use approvals or building permits on the subject property, applicant must record a conditions of approval agreement acceptable to City to memorialize the conditions of approval applicable to development on the subject property and provide record notice of such conditions to future owners.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

Written By: Rachel Vickers, Associate Planner