



Community Development Department
PO Box 2460 16345 Sixth Street
La Pine, Oregon 97739
Phone: (541) 536-1432 Fax: (541) 536-1462
Email: info@lapineoregon.gov

Partition Application

Fee \$ 1,600.00

File Number # _____

PLEASE NOTE: INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

PROPERTY OWNER AND APPLICANT INFORMATION

Applicant Name Habitat for Humanity of La Pine Sunriver Phone 206.915.2424 Fax _____

Address 56835 Venture Lane, Suites 101 & 102 City Sunriver State OR Zip Code 97707

Email wadewatson@aol.com

Property Owner Deschutes County Phone 541.385.1414 Fax 541.317.3168

Address PO Box 6005 City Bend State OR Zip Code 97708-6005

Email Kristie.Bollinger@deschutes.org

PROPERTY DESCRIPTION

Property Location (address, intersection of cross street, general area) _____

51950 Huntington Rd; Property is north of Findley Dr., east of Huntington Rd., and west of Crescent Creek Dr.

Tax lot number ~~T-15~~ R-13 Section _____ Tax Lot(s) 2210110000400

Zoning RMP/NNPA Overlay Total Land Area _____ (Square Ft.) 24.59 (Acres)

Present Land Use Undeveloped



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PROJECT DESCRIPTION

Describe Project: Minor partition to create two parcels, both of which will have access to Crescent Creek Drive and Findley Drive.

PROFESSIONAL SERVICES

Surveyor/Engineer HHPR Phone 541.318.1161 Fax 541.318.1141
Address 250 NW Franklin Ave City Bend State OR Zip Code 97703
Email jenniferv@hhpr.com

FOR OFFICE USE ONLY

Date Received: _____
Rec'd By: _____
Fee Paid: _____
Receipt #: _____

SUBMITTAL REQUIREMENTS

REQUIRED ITEMS TO BE SUBMITTED FOR PARTITION REVIEW.

Note: additional information may be required depending on the actual project.

- Application. The application must be signed by the owner(s) and include information requested on the application form. If the owner does not sign, then a letter of authorization must be signed by the owner for the agent.
- Title Report or subdivision guarantee, including legal description of property.



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- Fee, Plus, if needed- Hearing (Specially Set); Non Hearings Officer ***DEPOSIT ONLY- Fee May Be Higher Based on Actual Cost of Services
- Burden of proof statement, three (3) copies addressing approval criteria
- A vicinity map.
- Supplemental information: All agreements with local governments that affect the land and proposed use of property.
- Electronic copy of all plans and burden of proof on CD (Adobe or Jpeg preferred).
- Tentative Plan. Seven (7) copies of the tentative plan which must be folded individually, or in sets to 8 ½" X 11" in size and one (1) 8 1/2" x 11" or 11" x 17" reduced copy of the tentative plan is required. The scale cannot be greater than 1 inch = 50 feet. The tentative plan shall be accurately drawn to scale, and shall include:
 - A north arrow, scale and date of map and property identified.
 - Location of the property by section, township and range, and a legal description defining the location and boundaries of the proposed tract to be divided.
 - Names, addresses, and telephone numbers of the property owner, applicant, and engineer or surveyor used.
 - Existing and proposed streets and alleys, including locations, name, pavement widths, rights-of-way width, approximate radius of curves, and street grades.
 - Adjacent property boundaries, property owners and land uses including zoning.
 - Access: The locations and widths of existing and proposed access points along with any off-site driveways effected by the proposal.
 - Easements: The locations, widths, and purposes of all existing and proposed easements on or abutting the property.
 - Utilities: The location of all existing and proposed public and private sanitary sewers, water lines and fire hydrants on and abutting the property.

BEFORE THE CITY OF LA PINE PLANNING DIVISION

- APPLICANT:** Habitat for Humanity of La Pine Sunriver, 56835 Venture Ln, Ste 101-102, Sunriver, OR 97707
- OWNER:** Deschutes County, PO Box 6005, Bend, OR 97708
- ENGINEER:** HHPR, Jennifer VanCamp, PE, 250 NW Franklin, Ste 404, Bend, OR 97703
- LAND USE:** Retia Consult LLC, Tammy Wisco, PE, AICP, PO Box 831, Bend, OR 97709
- APPLICATION:** The Applicant requests approval of a minor partition to create two lots of 19.57 and 5.02 acres.
- SUBJECT PROPERTY:** The subject site is located north of Findley Drive and west of Crescent Creek Drive. The subject property is addressed as 51950 Huntington Road and is identified by map and tax lot 2210110000400 on the County Assessor's Map.
- LIST OF EXHIBITS:** EXHIBIT A: Title Report
EXHIBIT B: City of La Pine Water/Sewer Mapping

PROJECT DESCRIPTION:

I. APPLICABLE STANDARDS AND CRITERIA:

La Pine Code Title 10 – Development Code
Chapter 15.20 – Residential Master Plan Zone
Chapter 15.32 – Newberry Neighborhood Planning Area (NNPA) Overlay Zone
Chapter 15.410 – Land Partitions

II. BASIC FINDINGS:

LOCATION: The subject site is located north of Findley Drive, between Huntington Road and Crescent Creek Drive. The subject property is addressed as 51950 Huntington Road and is identified by map and tax lot 2210110000400 on the County Assessor's Map.

ZONING: The property is zoned and designated Residential Master Plan (RMP) and is overlaid by the Newberry Neighborhood Planning Area (NNPA) overlay zone. The western and northern edges of the property are zoned and designated Open Space & Parks.

PROPOSAL: The Applicant requests approval of a minor partition to create two parcels of 5.02 and 19.57 acres for ownership purposes. No other development is proposed at this time.

SITE DESCRIPTION: The subject property is Quadrant 2a of the Newberry Neighborhood Planning Area (NNPA) and is currently a single parcel. The total size of the property is

approximately 24.6 acres and is undeveloped. The property is generally level with existing trees and shrubbery.



SURROUNDING LAND USES: Properties to the north, east and south are also within the Newberry Neighborhood Planning Area. Quadrants 2b and 2c to the east and south are developed with residential uses, while the Neighborhood 3 to the north is undeveloped. The southeast corner of Quadrant 2a abutting the subject property is zoned and utilized as Open Space/Parks. To the west across Huntington Road is forest-zoned land outside City limits and within Deschutes County jurisdiction.

III. PROPOSED FINDINGS:

MINOR PARTITION

CHAPTER 15.410. LAND PARTITIONS

Sec. 15.410.010. Applicability and exemptions.

- A. *Applicability of regulations.* All land partitions (as defined in article 2) within the city, except as set forth in division [subsection] B of this section, must be approved by the city as provided for in this section. Minor partitions are reviewed in accordance with the Type II procedures in article 7 and major partitions are reviewed in accordance with the Type III procedures in article 7.
- B. *Exemptions.* In addition to those exclusions set forth in the definition of "partition" in article 2, the following land divisions shall be exempt from the land partitioning requirements set forth by this section and this chapter:
1. The partitioning of a tract of land in which not more than one parcel is created and the parcel is being transferred to a public or semi-public agency for the purpose of a public road, street, canal or utility right-of-way, or for public park, school, recreation facility, trail, bikeway, natural area or other similar public purpose.
 2. The transfer of one area of land between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the transfer is not reduced below the minimum lot size of the applicable zone. A boundary line adjustment is still required, however, and the requirements are set forth in chapter 15.414.

RESPONSE: An exemption is not requested.

Sec. 15.410.020. Applications - partitions.

- A. *Filing procedures and requirements.* Any person proposing a land partition, or the authorized agent or representative thereof, shall prepare and submit copies of the tentative plan for the proposed partition, together with the materials required for a Type II review for a minor partition or Type III review for a major partition as specified in article 7, to the planning official.
- B. *Proposed partitioning shall be drawn.* The scale and format of the plans and the number of copies required shall be as specified on the application form.
- C. *Requirements for the plan.* The plan shall include the following:
1. A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, properties and land use patterns.
 2. A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel and the names, right-of-way widths and improvement standards of existing roads.
 3. Names and addresses of the land owner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map.

4. A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection, access, utilities and the like.
5. North point, scale and date of map and the property identification by tax lot, map number, section, township and range, subdivision lot and block or other legal description.
6. Statement regarding past, present and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is to be created.

RESPONSE: This application is for a minor partition and is being submitted to the City in compliance with these submittal requirements, including the types of plans and associated details required. A vicinity map and partition plan with the above specifications are included with the application. Details of the proposal's compliance with City requirements are below.

The existing property is currently vacant and undeveloped, however, has been planned to be developed as a residential neighborhood for the last few decades, as part of the Newberry Neighborhood Master Plan Area. The proposed minor partition is the first step to identifying developers for this residential land. Deschutes County has reached agreement with Habitat for Humanity of La Pine Sunriver to utilize five acres of Quadrant 2a for a future Habitat residential subdivision to be designed and constructed to comply with the residential center district requirements for the quadrant.

No development is proposed with this minor partition. Rather, the minor partition provides Habitat for Humanity the ability to begin fundraising for the project and designing a future subdivision. No development will occur prior to another land use application. The next steps will be the submittal of two land use applications for Parcel 2: quadrant plan and subdivision, which will include infrastructure improvements and lot layouts.

Sec. 15.410.030. Decisions - partitions.

- A. *Minor partition.* Review of a minor partition shall follow the Type II review procedures in article 7.
- B. *Major partition.* Review of a major partition shall follow the Type III review procedures in article 7.
- C. *Series partition.* Any division of land resulting in a series partition shall be subject to review and approval by the planning commission. Applications for any series partition shall be made and processed in the same manner as a major partitioning. Approval requirements shall be the same as for any partition. However, the planning commission shall deny any such series partition when it is determined that the partitions are done for the purpose of circumventing applicable subdivision regulations.

RESPONSE: The development code defines minor partition as “a partition where each lot or parcel created has access to an existing public road, street, highway or way; that is, a partitioning that does not include the creation of a new road or street for access to one or more of the lots or parcels being created. For the purposes of this definition and this definition only, an easement for access of more than 100 feet in length shall be considered a street or road.” As both proposed parcels abut two public rights of way (Crescent Creek Drive and Findley Drive), the partition qualifies as a minor partition and it will be reviewed through a Type II review process.

- D. *Final partition map procedures.* In addition to the procedures required for city approval of a final map for a partitioning, other required processing procedures are set forth in chapters 15.414 and 15.418.

RESPONSE: Final partition requirements will be complied with at the time of final plat submittal. Requirements are noted.

- E. *Requirements for approval.* No partitioning shall be approved unless the following requirements are met:

1. The proposal is in compliance with the applicable zoning regulations. All lots conform to the applicable lot standards of the zoning district, including density, lot area, dimensions, setbacks, and coverage.

RESPONSE: The subject property is proposed for future residential development, which has been the planned use of the property for several decades, as outlined in the City's development code. The minor partition does not propose to change the intended use and zone of the property. The subject property is zoned Residential Master Plan (RMP) and is further overlaid by the Newberry Neighborhood Planning Area (NNPA) overlay zone. Compliance with the zoning regulations of each of these zones is demonstrated in the associated sections below.

2. Each parcel is suited for the use intended or to be offered, including, but not limited to, sewage disposal, water supply, guaranteed access and utilities.

RESPONSE: The subject property is proposed for future residential development, which has been the planned use of the property for several decades, as outlined in the City's development code. Sewage disposal, water supply, guaranteed access and utilities are all readily available for both proposed parcels in Crescent Creek Drive and Findley Drive. Connection to these services is not proposed as this time, as this minor partition is simply to separate a five-acre portion for a future Habitat subdivision that must be designed in compliance with the requirements of this code and will be subject to future review by the City.

Access: Both proposed lots abut Crescent Creek Drive and Findley Drive. Any future subdivision will include new right of way and street access from these two existing streets into the subdivision.

Water: Existing water lines are readily available and present in both Findley Drive and Crescent Creek Drive within 8" water mains.

Sewer: Existing sewer lines are present in both Findley Drive and Crescent Creek Drive. The existing sewer in Crescent Creek is 12" PVC main line, which will likely be the line utilized for the future subdivision.

Other utilities: Electricity and internet services are both readily available in the adjacent streets and neighborhoods. While no development and associated utility connections are proposed as part of this application, it is understood that these utilities will be available for the future subdivision.

3. All public services deemed necessary are reasonably available or are proposed to be provided by the partitioner.

RESPONSE: No development is proposed with this minor partition. Rather, the minor partition provides Habitat for Humanity the ability to begin fundraising for the project and designing a future subdivision. No development will occur prior to another land use application. The next steps will be the submittal of two land use applications for Parcel 2: quadrant plan and subdivision, which will include infrastructure improvements and lot layouts. Public services, including water, sewer, solid waste disposal, fire protection, access, police services, and school services are all existing in the area and readily available for the future subdivision. These will be reviewed in greater detail at the time of that submittal.

Water, Sewer, Access – Noted above.

Fire Protection: The area within which the subject property is located is within the La Pine Fire Protection District service area and is within one mile of a fire station.

Police Services: The City of La Pine has a contract with the Deschutes County Sheriff's office to provide police services in the area.

Schools: Bend La Pine Schools serve the area of the subject property, providing public elementary, middle and high school education services.

Solid Waste Removal: The subject property is located adjacent to developed residential neighborhoods with existing solid waste removal services. It is understood by the partitioner that the same services would be available in the future neighborhood.

4. Proposal will not have identifiable adverse impacts on adjoining or area land uses, public services and facilities, resource carrying capacities or on any significant resources.

RESPONSE: The subject property is proposed for future residential development, which has been the planned use of the property for several decades, as outlined in the City's development code. The minor partition does not propose to change the intended use and zone of the property. No development is proposed with this application, and therefore, it will not generate users, so no identifiable adverse impacts are associated with the application. Any future development will be preceded by additional land use applications (quadrant plan and subdivision specifically), which will include development details, including connection details for all infrastructure services. As such, the proposed partition does not have identifiable adverse impacts on adjoining or area land uses, public services or resource carrying capacities, in accordance with this requirement.

- F. *Survey and improvement requirements.* In the approval of any land partitioning, the need for a survey, and the need for street and other public facility improvements shall be considered and such may be required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including bonding or other assurance of compliance.

RESPONSE: The minor partition results in two parcels that each have access to two streets: Crescent Creek Drive and Findley Drive. No development is proposed as part of this application, as the future subdivision will include rights-of-way and infrastructure. As a result, no street improvements are anticipated at this time. Further, Crescent Creek Drive has an existing 90-foot right-of-way width and Findley Drive has an existing 80-foot right-of-way width; both are adequate widths and comply with the City's Transportation System Plan (TSP) and Newberry Neighborhood roadway requirements. Any future subdivision will include required right of way dedications and street improvements for any new proposed streets. Required survey documents will be submitted with the final plat application.

Sec. 15.410.050. Final map requirements.

Within two years of the approval of a partition, the partitioner shall have prepared and submitted to the city planning official a final partition map prepared by a licensed surveyor and any other materials or documents required by the approval.

- A. The final map shall provide a certificate for approval of the subject partition by the planning official. The final map shall also contain a certificate for execution by the county tax collector and a certificate for execution by the county assessor. The final map shall first be submitted to and approved by the county surveyor prior to obtaining the required signatures.
- B. Upon approval, the petitioner shall file the original map with the county clerk, the true and exact copy with the county surveyor and copies of the recorded plat and a computer file of the plat with the city recorder, city planning official, or county surveyor. The county surveyor may request an additional number of copies required at the time of final plat review if deemed appropriate.
- C. A final partition map prepared for this purpose shall comply with the recording requirements applicable to a final plat for a subdivision.

RESPONSE: The applicant intends to prepare and submit to the City a final partition map as required by this section. No development will occur until the final partition map is approved and recorded and subsequent land use applications are approved.

CHAPTER 15.32. NEWBERRY NEIGHBORHOOD PLANNING AREA (NNPA) OVERLAY ZONE

Sec. 15.32.010. Purpose.

The neighborhood planning area provides standards and review procedures for development in the neighborhood planning area of the City of La Pine and is the "receiving area" for transferable development credits (TDCs). The neighborhood planning area includes six zoning districts, each with its own set of allowed uses.

Sec. 15.32.020. General standards.

A. *Water and wastewater facilities.*

1. All uses in the neighborhood planning area requiring water shall be connected to the La Pine City water system.
2. All uses in the neighborhood planning area that discharge wastewater shall be connected to the La Pine City sewage treatment facility or a department of environmental quality approved community waste water treatment facility serving the La Pine Neighborhood Planning Area.

RESPONSE: No development is proposed at this time, as this minor partition simply allows the transfer of ownership of a portion of the property to Habitat for Humanity, in order for fundraising efforts to begin. Any future development will need to be approved through a subdivision, which will demonstrate that all uses in the future subdivision will be connected to the City water and sewer systems.

B. *Transportation.*

1. Two perimeter collector and three neighborhood collector roads will provide access from Huntington Road into the neighborhoods.
2. Crescent Creek Drive and a perimeter collector will provide access from Burgess Road. The three perimeter collectors dividing the neighborhoods will be adjacent to open space corridors that provide buffers between the four neighborhoods in the neighborhood planning area.

RESPONSE: These roads are existing. No new collectors are necessary with the proposed minor partition.

3. Driveway access will not be allowed onto Crescent Creek Drive and the neighborhood collectors.

RESPONSE: No driveways are proposed to connect to Crescent Creek Drive or Findley Driver. Rather, a future subdivision plan will include the extension of local streets, which will serve as access to future individual lots that are proposed at that time.

4. Rather than a continuous paved parking shoulder, parking in designated pullout areas can be provided along the collectors for access to open space, parks and residential lots.
5. Direct access from residential lots onto the local streets and perimeter collectors is permitted.
6. Shallow vegetated swales alongside roads will provide for drainage.
7. A network of multi-use paths will be developed parallel to many of the collector roads, in open space buffer areas within the development, along Huntington Road, and along

the eastern perimeter collector parallel to Highway 97 or within the Highway 97 right-of-way, if sufficient right-of-way exists and ODOT authorizes the construction of a multi-use path in its right-of-way.

8. The precise layout of these roads and multi-use paths will occur during the quadrant plan approval process as each neighborhood and quadrant is planned.
9. Modifications to the layout and/or alignment of a path or trail outside of the neighborhood/quadrant process may be approved at the city engineer's discretion through an administrative review process.

RESPONSE: No development is proposed at this time. These design details will be complied with during the quadrant planning and site planning processes. All driveway access will be taken from the local streets, as required.

10. Use of the term "collector" in this chapter 15.32 means a street meeting the "collector" standard as defined in the City of La Pine Transportation System Plan. Crescent Creek Drive, Findlay Drive, Half Moon Drive, Campfire Drive, and Caldwell Drive are "collectors." Notwithstanding anything herein to the contrary, the city engineer may authorize a different street design standard through the quadrant planning process.

RESPONSE: Noted. Nothing in this application contradicts with these definitions.

Sec. 15.32.100. Districts.

A. *Residential general district.*

1. *Purpose.* The residential general district is the largest area of neighborhood planning area. The district is primarily for single-family residential uses with a variety of lot sizes and housing styles. Some higher density housing is allowed in specified locations.
2. *Uses permitted outright.*
 - a. Single-family dwelling, including a "Class A" manufactured home.
 - b. Duplex.
 - c. Accessory dwelling.
 - d. Multi-use path(s) and modifications of paths and/or trail alignments consistent with the intent of the plan as determined by the city through an administrative process.
 - e. Open space.
 - f. Residential facility or residential home.
 - g. Home occupation that:
 - (1) Is carried on within a dwelling only by members of the family who reside in the dwelling;
 - (2) Does not serve clients or customers on-site;
 - (3) Does not produce odor, dust, glare, flashing lights or noise;
 - (4) Does not occupy more than 25 percent of the floor area of the dwelling;
 - (5) Does not include the on-premises display or sale of stock in trade; [and]
 - (6) Does not have any outdoor storage of materials used in the home occupation.
 - h. Road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by the city's transportation system plan and public works improvement standards.
3. *Uses permitted subject to site plan review.* The following uses and their accessory uses are permitted subject to site plan review approval and the applicable provisions of this Development Code:
 - a. Multi-family dwelling, located along the central collector road in the neighborhood planning area or adjacent to Huntington or Burgess Roads.
 - b. Bed and breakfast inn, located along the central collector road in the neighborhood planning area or Huntington or Burgess Roads.
 - c. Child care facility located adjacent to the central or a neighborhood collector road in the neighborhood planning area or Huntington or Burgess Roads.
 - d. Park or playground.

RESPONSES: No uses or development are proposed as part of this application. However, it is anticipated that the next land use applications will include quadrant planning and subdivision for Parcel 2. Parcel 1 is intended for future residential general district uses and Parcel 2 is intended for future residential center district uses.

4. *Conditional uses permitted.* The following uses and their accessory uses are permitted subject to conditional use approval and the applicable provisions of this Development Code:
 - a. Home occupation, subject to [section] 15.104.110 [15.104.90].
 - b. Outdoor recreational equipment storage area as defined in DCC 18.04 until the city develops its own standards.

RESPONSES: None of these uses are proposed for the subject property with this application.

5. *Dimensional standards.* The lot size, lot coverage block length, block perimeter and building height standards shown in Table 15.32-2 shall apply to the residential general district.
6. *Yard and setback requirements.* The front, side and rear yard requirements in Table 15.32-2 shall apply to uses in the residential general district.
7. *Residential density.* The residential density requirements in Tables 15.32-1 and 15.32-2 shall apply to the residential general district.

RESPONSE: Quadrant planning and subdivision are proposed as the next step in the land use process for Parcel 2. At that time, the districts will be delineated and compliance with lots and blocks standards will be demonstrated. Nothing in this minor partition application precludes the future subdivision from complying.

B. *Residential center district.*

1. *Purpose.* The residential center district is a location for social activities and small mixed-use residential/commercial businesses. It is located near the geographical center of each neighborhood. This district is the location for more compact housing types such as townhomes and apartment buildings that activate the center and allow a greater number of people the option to walk for their daily needs.
2. *Uses permitted outright.*
 - a. Single-family dwelling.
 - b. Single-family dwelling - zero lot line.
 - c. Townhome, duplex or triplex.
 - d. Accessory dwelling.
 - e. Live/work unit.
 - f. Multi-use path(s) and modifications of paths and/or trail alignments consistent with the intent of the plan as determined by the city through an administrative process.
 - g. Open space.
 - h. Home occupation that:
 - (1) Is carried on within a dwelling only by members of the family who reside in the dwelling;
 - (2) Does not serve clients or customers on-site;
 - (3) Does not produce odor, dust, glare, flashing lights or noise;
 - (4) Does not occupy more than 25 percent of the floor area of the dwelling; and
 - (5) Does not include the on-premises display or sale of stock in trade; and
 - (6) Does not have any outdoor storage of materials used in the home occupation.
 - i. Road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by the city's transportation system plan and public works improvement standards.

RESPONSE: No development is proposed as part of this minor partition application. However, due to the requirements of LPDC 15.32.100.I.3.g.4 for the area around the open space to be designated as a residential center district during the future quadrant planning process, it is important to note that the future subdivision of

proposed Parcel 2 is intended to be utilized for townhomes, which are permitted outright.

2. [3.] *Uses permitted subject to site plan review.* The following uses and their accessory uses are permitted subject to site plan review approval and the applicable provisions of this Development Code:
- a. Community center up to 4,000 square feet in floor area.
 - b. Neighborhood commercial building as defined in DCC 18.04 until the city develops its own standards.
 - c. Multi-family dwelling.
 - d. Bed and breakfast inn.
 - e. Church.
 - f. Park or playground.

RESPONSE: No development is proposed as part of this minor partition. As such, none of these uses are proposed.

3. [4.] *Conditional uses permitted.* The following uses and their accessory uses are permitted subject to conditional use and site plan review approval and the applicable provisions of this Development Code:
- a. Residential facility or residential home.
 - b. Home occupation subject to 15.104.90.

RESPONSE: No development is proposed as part of this minor partition. As such, none of these uses are proposed.

4. [5.] *Dimensional standards.* The lot size, lot coverage block length, block perimeter and building height standards shown in Table 15.32-2 shall apply to the residential center district.
5. [6.] *Yard and setback requirements.* The front, side and rear yard requirements in Table 15.32-2 shall apply to uses in the residential center district.

RESPONSE: Individual lots are not yet proposed as part of this application; however, the size and shape of Parcel 2 has been designed in order to facilitate a future land use application (subdivision) that meets the dimensional standards and yard/setback requirements of the residential center district.

- C. *Residential density.* The residential density requirements in Tables 15.32-1 and 15.32-2 shall apply to the residential center district.

RESPONSE: Individual lots are not yet proposed as part of this application; however, the size and shape of Parcel 2 has been designed in order to facilitate a future land use application (subdivision) that meets the residential density requirements of the residential center district.

- D. *Community facility district; purpose.* The purpose of this district is to provide a location for public and private uses and facilities that serve the civic, social and recreational needs of the community. The community facility district also includes higher density housing.

...

E. *Community facility limited district; purpose.* The purpose of this district is to provide locations for a school, recreation and transportation facilities.

...

F. *Neighborhood commercial district; purpose.* The purpose of this district is to provide a location for small-scale convenience commercial uses designed to serve the neighborhood planning area.

...

RESPONSE: Quadrant planning and subdivision planning will occur through future land use applications. At this time, community facility and neighborhood commercial districts are not designated or planned within the subject area.

G. *Park district.* The purpose of this district is to provide neighborhood parks in each of the four neighborhoods within the neighborhood planning area. This district may also apply to an optional regional park that may be located in Neighborhood 2 or 3 during quadrant plan approval process.

RESPONSE: The park district for Quadrant 2a is already designated and located in the southeast corner. No further park districts are planned in this quadrant.

H. *Open space district.* The purpose of this district is to provide two types of open space in the neighborhood planning area. Perimeter open space is located adjacent to Huntington and Burgess Roads, Highway 97, and between existing residential lots west of Neighborhood 4. Perimeter open space will provide visual and noise screening and locations for multi-use paths. If Highway 97 provides sufficient width for a perimeter buffer, is or will be improved with an ODOT approved multi-use path that includes a ten-foot buffer between the path and property line, the planning commission may allow for the Highway 97 right-of-way to serve as the eastern perimeter open space as part of the quadrant plan approval process. Corridor open space divides the four neighborhoods, helps to maintain a rural feeling, and contains multi-use paths. The quadrant plan for each neighborhood must designate the following minimum areas as open space district, as applicable to each quadrant:

(1) In addition to the required dedication of right-of-way, a minimum 20-foot-wide corridor open space buffer must be provided on either side of the right-of-way separating adjacent neighborhoods.

RESPONSE: "Neighborhoods" in the Newberry Neighborhood Planning Area are labeled as Neighborhoods 1, 2, 3, and 4. The subject property is within Neighborhood 2 and Parcel 2 abuts right of way that is only within the same neighborhood (Neighborhood 2). As such, Parcel 2 does not abut any right of way that separates these neighborhoods and this open space/buffer requirement does not apply.

(2) Minimum 200-foot-wide perimeter open space adjacent to the Highway 97 right-of-way, unless through the quadrant plan approval process, the planning commission determines that the Highway 97 right-of-way is sufficient to accommodate a multi-use path while providing adequate buffering between the path and adjacent properties lines. The applicant must have prior approval from ODOT to construct the multi-use path in the Highway 97 right-of-way in order to utilize this exception.

RESPONSE: The subject property is not adjacent to Highway 97; this requirement does not apply.

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- (3) Minimum 75-foot-wide perimeter open space adjacent to Huntington and Burgess Roads.

RESPONSE: The subject property is not adjacent to Huntington or Burgess Roads; this requirement does not apply.

- (4) Minimum 50-foot-wide perimeter open space on the west edge of quadrants 4a and 4c.

RESPONSE: The subject property is within quadrant 2a, not 4a; this requirement does not apply.

- (5) A 500-foot wildlife corridor must be established in either Neighborhoods 3 or 4. The wildlife corridor must be unimproved and align with an existing or planned wildlife Highway 97 undercrossing to the extent practical.

RESPONSE: The subject property is not located in either Neighborhood 3 or 4; this requirement does not apply to this application.

1. *Perimeter open space uses permitted outright.*
 - a. Open space.
 - b. Multi-use path(s) and modifications of paths and/or trail alignments consistent with the intent of the plan as determined by the city through an administrative process
2. *Corridor open space uses permitted outright.*
 - a. Open space.
 - b. Multi-use path(s) and modifications of paths and/or trail alignments consistent with the intent of the plan as determined by the city through an administrative process.
 - c. Picnic area.
 - d. Benches along multi-use path.
 - e. Park or playground managed by the La Pine Park District or a neighborhood planning area homeowners association.
3. *Uses permitted subject to an open space management plan under the provision of 15.32.100.H.(5).4.*
 - a. Vegetation management for wildfire hazard reduction.
 - b. Vegetation management for wildlife habitat enhancement.
 - c. Landscaped earthen berm.
 - d. Road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by the city's transportation system plan and public works improvement standards.
4. *Open space management plan.*
 - a. An open space management plan shall be prepared for each quadrant as a component of a quadrant plan. The plan shall be implemented as a condition of approval for the final plat of the first phase of any development in a quadrant. The open space management plan shall identify the funding source and management responsibility for zoned open space.

RESPONSE: No development or uses are proposed at this time. The Applicant intends to comply with these requirements at the time of quadrant planning and subdivision.

I. *Quadrant plan.*

Plan approval required. Prior to issuance of a building permit, approval of a tentative plan or initiation of development (including, without limitation, streets or placement of utilities) within a neighborhood or quadrant, a quadrant plan must be approved according to the Type III Procedures of the La Pine Development Code section 15.204.030 and the quadrant plan approval criteria in 15.32.100.1.3.

1. *Eligibility to submit an application.* The City of La Pine will accept a quadrant plan application from an owner or developer who has an agreement with Deschutes County of intent to purchase land in the quadrant. The county may also prepare a quadrant plan.
2. *Application requirements.* All applications shall include the following elements:
 - a. Zoning plan, drawn to scale, showing the boundaries of the proposed zones and the acres in each zone.
 - b. Transportation plan, drawn to scale, including locations of street rights-of-way for central collector, neighborhood collector, perimeter collector and local streets, block configurations and connections with adjacent quadrants.
 - c. Non-motorized circulation plan showing locations of any sidewalks or multi-use paths and where they will connect to adjacent quadrants.
 - d. Open space and park plan, drawn to scale, defining boundaries for the open space district and neighborhood or regional parks where applicable.
 - e. Open space management plan.
 - f. Utility plan, drawn to scale, identifying location and specifications for sewer and water facilities. The utility plan shall include a schedule of improvement initiation and completion and a written narrative that explains or describes:
 - How the proposed water and sewer systems will be adequate to serve the type and size of development planned.
 - How the proposed location and sizing of facilities will be consistent with existing and planned facilities.
 - How adequate water flow volumes will be provided to meet fire flow and domestic demands.
 - g. Proposed design guidelines and process for reviewing and approving buildings for conformance with the guidelines. Notwithstanding DCC 23.40.020(F)(1)(g), and this requirement, no design guidelines shall be required for quadrant 1c until the city develops its own standards.
 - h. A plan showing the zone boundaries for neighborhood general and neighborhood center districts.
 - i. A plan showing the proposed locations and dimensions of road rights-of-way.
 - j. A written burden of proof statement with findings demonstrating conformance with the goals and policies of The Deschutes County Comprehensive Plan, DCC 23.40.020, the applicable sections of DCC 18.61, and any other applicable provisions of DCC title 18 until the city develops its own standards.
 - k. A proposal for deed restrictions, covenants, conditions and restrictions (CCRs), and a homeowner's association. Notwithstanding DCC 23.40.020(F)(1)(g) and (h), no proposal for deed restrictions, CCRs, and a homeowner's association shall be required with an application for a quadrant plan for quadrant 1c until the city develops its own standards.
3. *Quadrant plan approval.* Approval of a quadrant plan is a land use action reviewed under the Type III Procedures of Development Code section 15.204.030. Quadrant plans are subject to a public hearing before the City of La Pine Planning

Commission. The planning commission makes the decision to approve or deny an application for a quadrant plan. The city council will act as the hearings body on an appeal of such a decision. An appeal of a quadrant plan will be conducted in accordance La Pine Development Code chapter 15.212. A quadrant plan may be approved subject to conditions with findings that the following criteria are met:

- a. The quadrant plan application contains all of the elements required in 15.32.100.I.2.
- b. The quadrant plan conforms to the relevant policies in the City of La Pine Comprehensive Plan.
- c. There is adequate sewer and water capacity to serve the development planned for the quadrant and agreements to provide service have been signed with appropriate water and sewer districts or providers.
- d. The streets proposed in the quadrant transportation plan conform to the general location and connection requirements of the La Pine Neighborhood Street Plan, Figure 15 in the Deschutes County Comprehensive Plan, DCC 23.36.052. The city engineer must approve of the street design. Final locations of road rights-of-way approved under a quadrant plan will be determined through the process for approval of a tentative plat under Development Code article 9.
- e. Except as approved by the city through a quadrant plan, the multi-use paths must be located within or adjacent to the perimeter or corridor open space as generally shown in the non-motorized plan, Figure 16 in the Deschutes County Comprehensive Plan, DCC 23.36.052 until the city develops its own standards. Path(s) and modifications of paths and/or trail alignments must be consistent with the intent of the quadrant plan as determined by the city through an administrative process. Any modifications of these locations must be in compliance with Development Code 15.32.020.B.7.
- f. Except as approved by the city through a quadrant plan, the open space in the open space and park plan must conform to the standards in Deschutes County Comprehensive Plan, DCC 23.36.020(D) and general location shown in the La Pine Neighborhood Parks and Open Space Plan, Figure 17 in the Deschutes County Comprehensive Plan, DCC 23.36.052, until the city develops its own standards. Any modifications of these locations must be in compliance with Development Code 15.32.100.I.3.G and Development Code 15.32.100.I.3.H.
- g. The zoning plan conforms to the following performance standards:
 - (1) *Neighborhood commercial district*. A minimum of two and a maximum of four acres of neighborhood commercial district must be established in quadrant 3a or 3c. Alternatively, if quadrant plans for quadrant 3a and 3c are approved at the same time, the maximum area of neighborhood commercial district may be divided between the two quadrants. The neighborhood commercial zone must be located at the intersection of Huntington Road and the neighborhood collector that bisects Neighborhood 3.
 - (2) *Community facility district*. Quadrant 1c will be zoned as community facility district.
 - (3) *Community facility limited district*. The portion of quadrant 3a that is located west of Huntington Road will be zoned community facility limited. A maximum of 15 acres in the northwest section of quadrant 4a may be zoned community facility limited.
 - (4) *Residential center district*. Each quadrant except quadrants 1a, 1b, 1c and 1d must have a residential center district with a minimum of three acres and a maximum of six acres. The area of the residential center district is gross acres including public rights-of-way. The residential center district must be a

contiguous area located so that it is adjacent to both Crescent Creek Drive and the collector street that bisects the neighborhood.

RESPONSE: Quadrant planning is proposed as the next phase of the planning process for Parcel 2. To properly site the future Habitat land area, consideration for this future planning process was taken when outlining the parcel shapes and sizes. As the proposed Parcel 2 (future Habitat parcel) is located adjacent to both Crescent Creek Drive and Findley Drive, it is planned that the future quadrant planning process will identify Parcel 2 as the residential center district. As such, the area of the land was designed to meet these size requirements of between three and six acres (it is 5.02 acres). This was discussed during pre-application meetings with the City, when it was noted that the County’s approval of the intent for this future designation was important. This has been discussed with Deschutes County. The County’s signature on this application signifies their agreement with this intent.

(5) *Residential general district.* The area zoned residential general will be the area in each quadrant that remains after the mandatory minimum residential center, neighborhood parks and open space zoning is defined.

RESPONSE: The future quadrant planning process will identify the majority of Parcel 1 as the residential general district, after the open space requirements are met.

h. The proposed residential densities and lot sizes conform with the requirements of the residential general and residential center zones as further described as follows in Tables 15.32-1 and 15.32-2:

<i>Table 15.32-1. La Pine Neighborhood Planning Area Density Standards</i>			
	<i>Maximum Density</i>	<i>Minimum Density</i>	<i>Lot Size Range for Single-family</i>
<i>Neighborhood 1</i>			
- Residential center	12 units/acre	8 units/acre	2,400 - 4,500
- Residential general	6 units/acre	3 units/acre	4,000 - 10,000
<i>Neighborhood 2, 3 & 4</i>			
- Residential center	12 units/acre	6 units/acre	2,400 - 7,000
- Residential general	6 units/acre	2 units/acre	7,000 - 15,000

Note: Density is calculated using gross acres, excluding collector street right-of-way.

RESPONSE: No development is proposed with this minor partition. Any future subdivision application will be accompanied by a quadrant planning application, which will detail the densities and compliance with the code. The proposed partition was designed with this future compliance in mind, so nothing in this proposed partition prohibits compliance with these requirements. More specifically, the 5.02 acres was sited to comply with the residential center density requirements at the time of subdivision application in the near future. This development is not proposed at this time; however, the information is being provided to demonstrate consideration for compliance of future land use applications.

<i>Table 15.32-2. La Pine Neighborhood Planning Area Zoning Standards</i>					
	<i>Residential General</i>	<i>Residential Center</i>	<i>Community Facility</i>	<i>Community Facility Limited</i>	<i>Neighborhood Commercial</i>
<i>Lot Size</i>					
<i>Single Family Neighborhood 1</i>					
- Maximum sq. ft.	10,000	4,500	N/A	N/A	N/A
- Minimum sq. ft.	4,000	2,400	N/A	N/A	N/A
<i>Single Family Neighborhood 2</i>					
- Maximum sq. ft.	15,000	5,000	N/A	N/A	N/A
- Minimum sq. ft.	7,000	3,500	N/A	N/A	N/A
<i>Townhome</i>					
- Minimum sq. ft.	N/A	2,400	2,400	N/A	N/A
<i>Duplex Triplex</i>					
- Minimum sq. ft.	8,000	8,000	8,000	N/A	N/A
<i>Multi-family</i>					
- Maximum sq. ft.	No maximum	No maximum	No maximum	N/A	N/A
- Minimum sq. ft.	15,000	10,000	10,000	N/A	N/A
<i>Other uses</i>					
- Maximum sq. ft.	No maximum	No maximum	No maximum	No maximum	22,000
- Minimum sq. ft.	7,000	4,500	None	None	7,000
<i>Lot Width</i>					
Minimum (feet)	45' for detached dwellings; lots on culs-de-sac or bulbed corners may be 30'; 24' for attached townhome	35' for detached single-family dwelling; lots on culs-de-sac or bulbed corners may be 30'; 24' for attached townhome or zero lot line development	50'	50'	50'
<i>Lot Depth</i>					
Minimum (feet)	100'	100'	150'	150'	150'
<i>Residential Density (per gross acre) (1)</i>					

Neighborhood 1					
Maximum	8.0	12.0	12.0	N/A	N/A
Minimum	3.0	8.0	N/A	N/A	N/A
Neighborhoods 2, 3 & 4					
Maximum	6.0	12.0	N/A	N/A	N/A
Minimum	2.0	6.0			
<i>Setbacks - Primary Building</i>					
Front	15' min.	10' min.	10' min	10' min	10' min.
Side	10' min.	None	5' min. or 0 lot line	5' plus½ foot for each ft. building height exceeds 20'	5' plus½ foot for each ft. building exceeds 20' height
Side at corner (2)	10'	5' or 0 lot line	5'	5'	5'
Rear	10'	None except abutting residential general 5'	None except abutting residential general 5'	5' plus½ foot for each ft. building height exceeds 20'	5'
<i>Garage Setbacks</i>					
Min. from front of building	Front facing: 20' min. front setback	Front facing: 15' min. front setback Rear facing: 5' min. rear setback	5'	N/A	N/A
<i>Special Setbacks</i>					
			N/A	N/A	N/A
<i>Lot Coverage</i>					
Maximum	50%	50%	60%	60%	50%
<i>Block Requirement (3)</i>					
Maximum perimeter	2,000'	1,600'	1,200'	N/A	1,200'
Maximum block length without pedestrian connection	600'	600'	400'	800'	600'
<i>Building Height</i>					
Primary	30'	40' except res. general standards apply to single family. Townhomes 35 ft. max.	45' except res. general standards apply to single family. Townhomes 35 ft. max.	45'	30'

Accessory dwelling or building	20'	25'	30'	30'	25'
Higher with conditional use permit	NO	YES up to 40'	YES	YES	NO
Minimum onsite parking	Development Code 15.86	Development Code 15.86	Development Code 15.86	Development Code 15.86	Development Code 15.86

Notes:

- (1) Gross acres, excluding collector street right-of-way.
- (2) Must meet clear vision requirements of in article 5.
- (3) The block requirements not applicable to review and approval of quadrant plans.

RESPONSE: No development is proposed at this time. This minor partition is simply to allow Deschutes County to transfer a small portion of the parcel to Habitat for Humanity, in order to begin fundraising for and design of a future subdivision. The next land use steps will be submittal of a quadrant plan for Parcel 2 and subdivision application for Parcel 2, which will detail lot sizes, setbacks, parking, etc. The size and boundaries of the proposed Parcel 2 were selected based on a potential subdivision layout that meets the above requirements, so that the future land use applications can proceed successfully.



**PUBLIC RECORD REPORT
FOR NEW SUBDIVISION
OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF THE FOLLOWING CUSTOMER:

Harper, Houf, Peterson, Righellis, Inc.
Phone No.: (541)318-1161

Date Prepared: August 14, 2023
Effective Date: August 4, 2023 / 05:00 PM
Charge: \$300.00
Order No.: WT0254292
Reference:

The information contained in this report is furnished to the Customer by Western Title & Escrow Company (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report ("the Report"). Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Deschutes, State of Oregon, and is described as follows:
As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:
As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.
- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:
As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.
- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:
As fully set forth on Exhibit "D" attached hereto and by this reference made a part hereof.

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0254292

EXHIBIT "A"
(Land Description)

Lot 8 of NEWBERRY NEIGHBORHOOD NO. 2, City of La Pine, Deschutes County, Oregon, as recorded January 29, 2007, in Plat Cabinet H, Page 222, Records of Deschutes County, Oregon.

EXCEPTING THEREFROM that portion described in Deed of Dedication, recorded October 17, 2018, in Instrument No. 2018-41944, Deschutes County Records.

Western Title & Escrow Company
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EXHIBIT "B"
(Tax Account and Map)

APN/Parcel ID(s) 256031 as well as Tax/Map ID(s) 2210110000400

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EXHIBIT "C"
(Vesting)

Deschutes County, a Municipality of the State of Oregon

EXHIBIT "D"
(Liens and Encumbrances)

1. The subject property is under public, charitable, fraternal, or religious organization ownership and is exempt from ad valorem taxation. Any change in ownership prior to delivery of the assessment roll may result in tax liability.

Tax Account No.: 256031
Map No.: 2210110000400

2. City Liens, if any, in favor of the City of La Pine.
3. Regulations, levies, liens, assessments, rights of way and easements of La Pine Sewer District.
4. In order to complete this transaction, the Company may be ceding reinsurance to other title insurers. The Company reserves the right to add additional items or make further requirements after review of the requested documentation.
5. Rights of way, including the terms and provisions thereof, as disclosed in Patent,

Recording Date: January 24, 2001
Recording No.: 2001-3483

6. Restrictions, as disclosed in Patent,

Recording Date: January 24, 2001
Recording No.: 2001-3483
7. Easements, Conditions, Restrictions and Notes as delineated or as offered for dedication on the recorded plat,

Plat: Newberry Neighborhood
Recording Date: October 15, 2003
Recording No: Cabinet G, Page 72

8. An easement created by instrument, including the terms and provisions thereof,

Granted to: La Pine Water District
Recording Date: April 20, 2004
Recording No: 2004-22231

9. An easement created by instrument, including the terms and provisions thereof,

Granted to: La Pine Special Sewer District
Recording Date: April 26, 2004
Recording No: 2004-23332

EXHIBIT "D"
(Liens and Encumbrances)
(continued)

10. Easements, Conditions, Restrictions and Notes as delineated or as offered for dedication on the recorded plat,

Plat: Newberry Neighborhood No. 2
Recording Date: January 29, 2007
Recording No: Cabinet H, Page 222 (Instrument No. 2007-5683)

11. A document entitled Purchase and Sale Contract for Quadrants 2a, 2b, 2d in the Newberry Neighborhood, by and between the parties named below

Dated: April 27, 2007
Vendor: Deschutes County, a political subdivision
Vendee: Pahlisch Homes, Inc., Elk Horn Development, LLC and Elk Horn Land Development, Inc.
Recording Date: May 3, 2007
Recording No: 2007-25410
(Includes additional property)

12. Terms and provisions of Deed of Dedication,

Recording Date: October 17, 2018
Recording No: 2018-41944
Between: Deschutes County, a political subdivision of the State of Oregon
And: City of La Pine, an Oregon municipal corporation

DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.
2. **Liability of Company.**
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.
3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.
4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.

LIMITATIONS OF LIABILITY

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, **SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.**

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

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IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

Attachment C
Newberry Lift Station



11/4/2021, 9:09:37 AM

- Image
- Red: Red
 - Green: Green

