

FINDINGS AND DECISION

DECISION DATE: June 30, 2023

FILE NUMBER: SPR3-25-0001

APPLICANT: Pinegreen LLC
PO Box 1800
Corvallis, OR 97330

OWNER: La Pine Hi-Way Center LLC
PO Box 37
La Pine, OR 97739

LOCATION: The subject property is located at 51445 Huntington Road, La Pine, Oregon 97739. The Tax Lot number is 600 on Deschutes County Assessor's Map 22-10-15AD.

REQUEST: The applicant is requesting Site Plan Review to construct a new auto parts retail store (AutoZone).

STAFF CONTACT: Brent Bybee, Community Development Director
Email: bbybee@lapineoregon.gov
Phone: (541) 668-1135

DECISION: Approved, subject to the conditions of approval identified below

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

PART III, CITY OF LA PINE DEVELOPMENT CODE

ARTICLE 3 - ZONING DISTRICTS

CHAPTER 15.22 – COMMERCIAL AND MIXED-USE ZONES

ARTICLE 4 - OVERLAY ZONES

CHAPTER 15.40. - DOWNTOWN OVERLAY ZONE

ARTICLE 5 - DEVELOPMENT STANDARDS

CHAPTER 15.80 – DEVELOPMENT STANDARDS, GENERALLY

CHAPTER 15.82. - LANDSCAPING, BUFFERING AND FENCES

CHAPTER 15.86. - PARKING AND LOADING

CHAPTER 15.88. - ACCESS AND CIRCULATION

CHAPTER 15.90. - PUBLIC FACILITIES

CHAPTER 15.94. - IMPROVEMENT PROCEDURES AND GUARANTEES

ARTICLE 7 - PROCEDURES

CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS

CHAPTER 15.204. - APPLICATION PROCEDURES

ARTICLE 8 - APPLICATIONS AND REVIEWS

CHAPTER 15.312. - SITE PLAN REVIEW

II. BASIC FINDINGS

ZONING: The subject property is zoned Traditional Commercial and is located entirely within the Downtown Overlay zone.

PARCEL SIZE: The subject property is 41,095 square feet in size.

LOT LEGALITY: The subject property was created by a lot line adjustment, 10LLA-24, filed with the County Surveyor May 2, 2025, CS# 21526.

REVIEW PERIOD: The subject application was submitted on February 19, 2025, and deemed incomplete by the Planning Division March 6, 2025. A response to the Incomplete Letter was received and the application was deemed complete on June 17, 2025. The 120th day on which the City must take final action on this application is October 15, 2025.

EXISTING DEVELOPMENT: The subject property is developed with currently vacant with no development.

SURROUNDING LAND USES: Surrounding properties are zoned Traditional Commercial and located entirely within the Downtown Overlay zone as well. The property to the south has been approved for a Starbucks, which is currently being constructed. Property to the east on the opposite side of Huntington Road is developed with a gas station and mini mart. The property to the northeast is currently vacant, and the property to the northwest contains CenturyLink fiberoptic development. Property to the west across Morson Street is residentially developed.

UTILITIES: The subject property has the following utility connections and service providers:

- Water: City of La Pine
- Sewer: City of La Pine
- Fire: La Pine Fire
- Road Access: Deschutes County
- Sidewalks: Deschutes County

PERMIT HISTORY:

- 10LLA-24 – Property Line Adjustment

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice on June 17, 2025, to several public agencies and received the following comments:

Deschutes County Building Safety Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Oregon State Fire Marshall, Clara Butler

Findings: Unable to provide accurate comments, no to-scale site plan provided. All fire code requirements shall be met.

WATER:

- **Water Supply – 2022 OFC Appendix B / Fire Hydrant Spacing – 2022 OFC Section 507 and Appendix C**
 - Type VB construction up to 3,600 square feet = 1,500 gpm = minimum of 1 hydrant(s) required with not more than 500 feet spacing between them and not more than 250 feet to a hydrant from any point on the street.
Note: Square footage is required to determine fire flow and hydrant spacing.
- **Fire Flow Reductions – 2022 OFC B105.3** The total required fire flow may be reduced by the following section, but in no case shall the resulting fire flow be less than 1500 gallons per minute at 20 psi residual.
 - **Sprinkler System – 2022 OFC B Table 105.2** A reduction in required fire flow of up to 75 %, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 (NFPA 13 2019) or 903.3.1.2 (NFPA 13R) of the OFC.
- **Fire Hydrant – 2022 OFC 507.5.1**
 - Where a portion of the building is more than 400 ft from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the building, on-site hydrants and mains shall be provided where required.
 - Exception: For buildings equipped throughout with an approved automatic sprinkler system, the distance requirement shall be 600 ft.
- **Area Separation – 2022 OFC B104.2**
 - Portions of buildings which are separated by fire walls without openings constructed in accordance with the International Building Code are allowed to be considered as separate fire flow calculation areas.
- **Obstruction & Protection of Fire Hydrants – 2022 OFC 507.5.4 – 507.5.6**
 - A 3 foot clear space shall be maintained around the circumference of fire hydrant. When exposed to vehicular damage, concrete curbing, sidewalks, or 4 inch concrete filled bollards placed 3 feet from hydrant shall suitably protect fire hydrants.
- **Fire Safety during Construction – 2022 OFC 501.4**
 - Approved fire department access roads, required water supply, fire hydrants, and safety precautions shall be installed and serviceable prior to and during the time of construction. The requirements of NFPA 241 (2019) shall be followed until project is complete.
- **Fire Sprinkler Systems** shall be installed per NFPA 13 (2019) if required by the building code:
 - Separate permits will be required for the aboveground sprinkler system and the underground sprinkler supply line(s).

- If there are greater than 20 sprinkler heads, the system is required to have a fire alarm monitoring system. All fire alarm systems require a FA permit.
 - 2022 OFC 912 Fire Department Connections: The location of fire department connections shall be approved by fire code official. The FDC/PIV shall not be under any combustible projections or overhangs.
 - NFPA 14 (2019)– 6.4.5.4 Fire department connections shall be located not more than 100 ft from the nearest fire hydrant connected to an approved water supply.
 - NOTE – If the building is sprinklered, the sprinkler system will need to be designed to the specific use that will be occurring in the building. If the sprinkler system is not designed appropriately it will limit the types of businesses that can occupy the space. This also includes the height of storage in the building. In order to have high piled storage (greater than 12 ft), the sprinkler system shall be designed accordingly.
- **Note: Before the application can be deemed complete a stamped engineered fire flow analysis will be required.**

ACCESS:

- **Premises Identification – 2022 OFC 505.1**
 - Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background and visible at night. Number/letter shall be a minimum of 4" high and a 0.5" stroke width.
- **Required Access – 2022 OFC 504.1**
 - Exterior doors and openings shall be made readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided.
- **Fire Apparatus Access Roads – 2022 OFC 503 & Appendix D**
 - Fire apparatus access roads shall extend to within 150 ft of all portions of the building as measured by an approved route around the exterior of the building.
 - Fire apparatus access roads shall have an unobstructed width of **not less than 20 feet** and an unobstructed vertical clearance of not less than 13 feet 6 inches.
 - Fire apparatus roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide **all-weather driving** capabilities.
 - The required **turning radius** shall be no less than 18' inside and 38' outside. The **grade** of the fire apparatus access roads shall be within the limits established by the fire code official.
 - The angles of approach and departure for fire apparatus access roads shall be within the limits established by the *fire code official* based on the fire department's apparatus.
 - Traffic calming devices shall be prohibited unless *approved by the fire code official*.
- **Authority – 2022 OFC 503.2.2**
 - The fire code official shall have the authority to modify the dimensions specified in 503.2.1.
- **Fire Apparatus Access Roads-2022 OFC 503.1**
 - Fire apparatus access roads shall be provided and maintained at all times during construction.
- **Fire Lanes – 2022 OFC 503.3 & D103.6**

- Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Such signs or notices shall be kept in legible conditions at all times. The stroke shall be 1 inch with letters 6 inches high and read **“No Parking Fire Lane”**. Spacing for signage shall be every 50 feet.
 - Recommended to also (in addition to Fire lane signs) paint fire lane curbs in bright red paint with white letters.
 - **D103.6.1 Roads 20-26 Ft. Wide:** Shall have Fire Lane signs posted on both sides of a fire lane.
 - **D103.6.2 Roads more than 26-32 Ft. Wide:** Roads 26-32 ft wide shall have a Fire Lane signs posted on one side of the road as a fire lane.
- **Aerial Access Roads – 2022 OFC D105**
 - Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet in height, for this section the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of the parapet, whichever is greater. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadways. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, all access roads shall have an unobstructed width of not less than 26 feet and shall be positioned parallel to one entire side of the building and shall be approved by the fire code official.
 - **Key Boxes – 2022 OFC 506.1**
 - An approved key box *shall* be installed on all structures equipped with a fire alarm system and /or sprinkler system.
 - **Commercial & Industrial Development – 2022 OFC D104**
 - Buildings exceeding three stories or 30 feet in height shall have at least 2 means of fire apparatus access for each structure.
 - Where 2 access roads are required, they shall be placed not less than ½ the length of the overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.
 - **Emergency Responder Radio Coverage- 2022 OFC 510 (all sections)**
 - OFC 510.1- All new buildings shall have approved radio coverage for emergency responders within the building based on existing coverage levels for public safety communication systems utilized by the jurisdiction, measured at the exterior of the building.
 - OFC 510.1.1- ERRC must be provided in the following buildings:
 - Any building that, through performance testing, does not meet the requirement of OFC 510.
 - **Other fire code requirements to consider when designing-**
 - **2022 OFC 304.3.3 Capacity exceeding 1.5 cubic yards.** Dumpsters and containers with an individual capacity of 1.5 cubic yards [40.5 cubic feet (1.15 m3)] or more shall not be stored in buildings or placed within 5 feet (1524 mm) of combustible walls, openings or combustible roof eave lines.
Exceptions:
 1. Dumpsters or containers that are placed inside buildings in areas protected by an *approved automatic sprinkler system* installed throughout in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
 2. Storage in a structure shall not be prohibited where the structure is of Type I or IIA construction, located not less than 10 feet (3048 mm) from other buildings and used exclusively for dumpster or container storage.

3. Dumpsters or containers that are located adjacent to buildings where the exterior area is protected by an approved automatic sprinkler system.
- **2022 OFC 304.3.4 Capacity of 1 cubic yard or more.** Dumpsters with an individual capacity of 1.0 cubic yard [200 gallons (0.76 m³)] or more shall not be stored in buildings or placed within 5 feet (1524 mm) of combustible walls, openings or combustible roof eave lines unless the dumpsters are constructed of noncombustible materials or of combustible materials with a peak rate of heat release not exceeding 300 kW/m² where tested in accordance with ASTM E1354 at an incident heat flux of 50 kW/m² in the horizontal orientation.

Exceptions:

1. Dumpsters in areas protected by an *approved automatic sprinkler system* installed throughout in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Storage in a structure shall not be prohibited where the structure is of Type I or IIA construction, located not less than 10 feet (3048 mm) from other buildings and used exclusively for dumpster or container storage.

STAFF RESPONSE: To ensure compliance with the fire marshal's comments, the following condition of approval has been added.

State Fire Marshall Comments: *Prior to occupancy*, the applicant shall confirm that all of the Deputy State Fire Marshalls requirements have been met.

Deschutes County Road Department, Quinn Shubert

I have reviewed the application materials for the application materials for the above-referenced file number, proposing the establishment of a new auto parts retail store (AutoZone) located on Tax Lot number 600 on Deschutes County Assessor's Map 22-10-15AD. The subject property abuts Huntington Rd along the property's eastern boundary and Morson St along the property's western boundary. Road Department records indicate that these roads have the following attributes where they abut the subject property:

Morson St

- Road Status - County Road
- Surface Type - Asphaltic Concrete
- Surface Width - 26 ft.
- Functional Classification - City Local
- Right of Way Width - 60 ft. W/ 11 ft additional dedication DED 2025-08228
- Right of Way Instrument - Plat of La Pine, May 1910

Huntington Rd

- Road Status - County Road
- Surface Type - Asphaltic Concrete
- Surface Width - 34 ft.
- Functional Classification - City Collector
- Right of Way Width - 60 ft.
- Right of Way Instrument - Plat of La Pine, May 1910

Deschutes County Road Department requests that approval of the proposed land use be subject to the following conditions:

Prior to project construction:

- Applicant shall submit improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. The applicant shall provide sidewalk and pedestrian infrastructure improvements in compliance with current Public Right-of Way Accessibility Guidelines (PROWAG) and City of La Pine and Deschutes County Road Standards. Drainage improvement for Morson St shall be provided in accordance with City of La Pine and Deschutes County Road Standards and the current Central Oregon Stormwater Manual(COSM).
- All easements of record or existing rights of way shall be noted on the final plans pursuant to DCC 17.48.060(C)(1).
- Applicant or applicant's contractor shall obtain a right of way permit from Road Department for all work within the public right of way pursuant to DCC 12.12.010 and 17.48.240(A); no work shall be performed in a public right of way until a right of way permit has been obtained. During project construction:

During project construction:

- Applicant shall complete road improvements according to the Road Department-approved plans and all applicable sections of DCC 12.20 and 17.48.

Upon completion of project construction:

- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.40.050.

STAFF RESPONSE: To ensure compliance with the road authority comments, the following conditions of approval have been added.

Improvement Plans: ***Prior to construction of public improvements***, the applicant shall submit improvement plans to the Deschutes County Road Department for review and approval pursuant to DCC 17.40.020 and 17.48.060, demonstrating compliance with PROWAG, City of La Pine and Deschutes County Road Standards, and drainage design standards of the Central Oregon Stormwater Manual (COSM).

Easements: ***Prior to construction of public improvements***, all easements of record and existing rights-of-way shall be noted on the final plans pursuant to DCC 17.48.060(C)(1).

Right-of-Way Permit: ***Prior to construction of public improvements***, the applicant or applicant's contractor shall obtain a right-of-way permit from the Deschutes County Road Department for all work within the public right-of-way pursuant to DCC 12.12.010 and 17.48.240(A), and no work shall occur in the public right-of-way until a permit has been issued.

Construction: ***Prior to occupancy***, during construction, the applicant shall complete all road improvements in accordance with the Road Department-approved plans and applicable sections of DCC 12.20 and 17.48.

As-Constructed Plans: ***Prior to occupancy***, upon completion of construction, the applicant shall submit as-constructed improvement plans to the Deschutes County Road Department pursuant to DCC 17.40.050.

Anderson Perry, Troy Baker

Per the City of La Pine, Oregon's request, Anderson Perry & Associates, Inc., has reviewed the Site Plan Application for AutoZone, located at 51425 Highway 97 and 51450 Morson Street on Tax Lot 221015AD00600, concerning the auto parts store's potential impacts to the City's public utilities and roadways. The public

improvements shown on the Site Plan were reviewed using the City's 2016 Standards and Specifications Design Standards (Design Standards). The comments are listed below by the public facility.

General

- Show the locations of the Americans with Disabilities Act (ADA) parking signs for the ADA parking spaces shown on the Site Plan.
- Show ADA compliance for accessible paths on the Site Plan.

Street

- Dedicate right-of-way (ROW) along the Huntington Road street frontage to comply with downtown arterial street ROW requirements of 41 feet from the centerline per the Design Standards II. Design Parameters, A. Street, 1. General.
- The pavement section for the Huntington Road improvements is required to be constructed with 5 inches of asphalt concrete on 12 inches of base rock for arterial streets per the Design Standards II. Design Parameters, A. Street, 17. Pavement Section.
- Provide a design for downtown arterial street improvements in public ROW for Huntington Road that meets the requirements of the Design Standards II. Design Parameters, A. Street.
- There appears to be a catch basin and a manhole lid at the proposed Huntington Road driveway location. Please identify and show on the Street Improvements Plan.
- Coordinate with the Oregon Department of Transportation regarding any additional requirements for the Highway 97 and Huntington Road intersection.

Stormwater

- Provide a design and calculations meeting the requirements for roadway improvements and site development per the Design Standards II. Design Parameters, B. Stormwater. The calculations for stormwater runoff on the site must show that runoff will be retained on site.

Sewer

- Show abandonment of the unused existing septic tank effluent gravity system and effluent line.
- Install sewer service per the applicable requirements of the Design Standards II. Design Parameters, C. Sewer.

Water

- Show the water service, meter box, and backflow prevention device on the Site Plan per the requirements of the Design Standards II. Design Parameters, D. Water, d. Service Lines.
- Show abandonment of any unused water service lines.

- The Landscape Plan in Section 9 of the Site Plan Application states the irrigation will be fed by an on-site well, but it shows an irrigation main line connection between the water service next to the building and the irrigation control box. Clarify the source of irrigation water. If an on-site well is being used for irrigation, a reduced-pressure backflow assembly is required downstream of the meter to prevent irrigation water from the private well from being pumped into the City system.
- Coordinate with the La Pine Rural Fire District to verify if any additional fire hydrants are required for the redevelopment of the site.

The development must comply with the City's 2016 Standards and Specifications Development Provisions. The following provisions are reiterated below to ensure the timely progression of the development.

- Prior to final approval, and only for those improvements that are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120 percent of the cost of improvements prior to beginning construction.
- Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff.
- Contact the City prior to any utility work in the ROW: City water, City sewer, or other utilities.
- At the completion of construction of the public improvements required by the conditions of approval, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of acceptance of the improvements.

STAFF RESPONSE: To ensure compliance with the road authority comments, the following conditions of approval have been added.

ADA Accessibility: *Prior to issuance of building permits*, the Site Plan shall show the locations of ADA parking signs for the ADA parking spaces and demonstrate ADA compliance for all accessible paths.

Street Improvements: *Prior to the preconstruction meeting*, right-of-way along the Huntington Road frontage shall be dedicated to meet the downtown arterial street ROW requirement of 41 feet from the centerline per Design Standards II. Design Parameters, A. Street, 1. General. The Street Improvements Plan shall provide a design for downtown arterial street improvements in the public ROW meeting the requirements of Design Standards II. Design Parameters, A. Street, and shall specify a pavement section of 5 inches of asphalt concrete on 12 inches of base rock as required for arterial streets. The plan shall also identify and show the existing catch basin and manhole lid located at the proposed Huntington Road driveway location.

ODOT Coordination: *Prior to the preconstruction meeting*, the applicant shall coordinate with the Oregon Department of Transportation regarding any additional requirements for the Highway 97 and Huntington Road intersection.

Stormwater: *Prior to the preconstruction meeting*, a stormwater management design and supporting calculations shall be provided meeting the requirements of Design Standards II. Design Parameters, B. Stormwater, demonstrating that all roadway improvement and site development runoff will be retained on site.

Sewer: ***Prior to the preconstruction meeting***, the Site Plan shall show abandonment of the unused septic tank effluent gravity system and effluent line, and sewer service shall be installed in accordance with Design Standards II. Design Parameters, C. Sewer.

Water & Irrigation: ***Prior to the preconstruction meeting***, the Site Plan shall show the water service, meter box, and backflow prevention device in accordance with Design Standards II. Design Parameters, D. Water, d. Service Lines. Any unused water service lines shall be abandoned. The applicant shall clarify the source of irrigation water; if an on-site well is used, a reduced-pressure backflow assembly shall be installed downstream of the meter to prevent irrigation water from entering the City system.

Fire Protection: ***Prior to the preconstruction meeting***, the applicant shall coordinate with the La Pine Rural Fire District to determine if additional fire hydrants are required for the redevelopment of the site.

Standards & Specifications Compliance: ***Prior to construction of public improvements***, the development shall comply with the City's 2016 Standards and Specifications Development Provisions.

Pre-Construction Meeting: ***Prior to construction of public improvements***, a pre-construction meeting with the construction contractor shall be held with City staff. To schedule the preconstruction meeting, the applicant shall reach out to the Community Development Department and submit a narrative describing how each of the required preconstruction conditions of approval have been, or will be, met. The required fee for a preconstruction meeting will be assessed and due prior to the meeting.

Maintenance Surety Bond: ***Prior to the completion of public improvements***, at the completion of construction of the required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.

Utility Coordination: ***Prior to construction of public improvements***, the applicant shall contact the City prior to any utility work in the right-of-way including City water, City sewer, or other utilities.

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 June 17, 2025. No public comments were received.

IV. FINDINGS OF FACT

PART III, CITY OF LA PINE DEVELOPMENT CODE

ARTICLE 3 - ZONING DISTRICTS

CHAPTER 15.22 – COMMERCIAL AND MIXED-USE ZONES

Section 15.22.200, Characteristics of the Commercial and Mixed-Use Zones

Commercial zones accommodate a mix of commercial services, retail, and civic uses, along with residential uses permitted in some circumstances. Four commercial zones provide for the full range of commercial land uses within the city. The zoning district regulations are intended to promote the orderly development and improvement of walkable commercial areas; facilitate compatibility between dissimilar land uses; provide employment opportunities in proximity, and with direct connections, to housing; and to ensure efficient use of land and public facilities.

- A. *Traditional Commercial Zone (C).* The C zone allows the widest range of commercial uses and limits residential uses in order to preserve land for commercial needs and maintain compatibility between adjacent uses. A portion of the C zone is located in the Downtown La Pine Overlay Zone. The overlay zone restricts some uses and establishes additional design standards to facilitate the development of a pedestrian-oriented downtown area.
- B. *Commercial/Residential Mixed Use Zone (CRMX).* The CRMX zone is intended primarily as a smaller scale, service and office commercial district, with associated residential that may consist of upper level units. A live-work design concept within the mixed-use district serves as a buffer between the C zone and residential zones. Commercial uses are allowed in the zone but are limited in order to facilitate a mixed-use development pattern.
- C. *Commercial Mixed-Use Zone (CMX).* The CMX zone is intended to allow for a wide range of both commercial and residential uses. Unlike the CRMX zone, residential uses are not limited and are allowed to be developed on standalone sites. Some commercial uses that may not be compatible with residential uses are prohibited or limited. The CMX zone allows for flexible uses that can respond to market demand.
- D. *Neighborhood Commercial Zone (CN).* The CN zone allows commercial uses that are intended to serve neighboring residential neighborhoods and are generally compatible with residential uses.

FINDING: The subject property is zoned Traditional Commercial. Applicable criteria are addressed herein.

Sec. 15.22.300. - Use regulations.

Uses may be designated as permitted, limited, conditional, or prohibited in the commercial and mixed-use zones. As noted in Table 15.22-1, a use may also be subject to special use standards of article 6.

- A. *Permitted uses (P).* Uses allowed outright in the commercial and mixed-use zones are listed in Table 15.22-1 with a "P." In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.
- B. *Limited uses (L).* Uses allowed in the commercial and mixed-use zones subject to limitations are listed in Table 15.22-1 with an "L." The limitations are defined below and correspond with the footnote numbers in Table 15.22-1. In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.
 - 1. *Marijuana facilities in the C and CMX zones.* Allowed marijuana facilities in the C and CMX zone[s] are limited to marijuana testing laboratories. Marijuana production or processing uses are prohibited.
 - 2. *Mixed use development in the CRMX zone.* Non-residential uses noted with a (2) are allowed in combination with residential uses in the CRMX zone if the nonresidential uses

are limited to a total of 60 percent of the gross floor area of all uses in the development. Business parks and funeral homes are prohibited nonresidential uses.

- 3. Wireless telecommunication facilities in the CRMX and CMX zones. Communication antennas mounted on existing buildings, structures, or public utility transmission towers are permitted outright. Communication towers require a conditional use permit.*
 - 4. Retail sales and service in the CMX zone. Automobile, RV, and truck sales uses require a conditional use permit. Funeral homes are prohibited. All other retail sales and service uses are permitted outright.*
 - 5. Commercial lodging in the CN zone. Commercial lodging uses in the CN zone are limited to bed and breakfast inns.*
 - 6. Retail sales and service in the CN zone. Automobile, RV, and truck sales and funeral homes are prohibited in the CN zone. Veterinary clinics and kennels require a conditional use permit. All other retail sales and service uses are permitted outright.*
 - 7. Parks and open areas in the CN zone. Cemeteries require a conditional use permit in the CN zone. All other parks and open areas uses permitted outright.*
- C. Conditional uses (CU). Uses which are allowed if approved through the conditional use review process are listed in Table 15.22-1 with a "CU." These uses are allowed, provided they comply with the conditional use requirements of chapter 15.316, conditional uses. Uses listed with a "CU" that also have a footnote number in the table are subject to the regulations cited in the footnote.*
- D. Prohibited uses (N). Uses listed in Table 15.22-1 with an "N" are prohibited. Existing uses in categories listed as prohibited may be subject to the regulations of chapter 15.08, non-conforming uses and structures.*

FINDING: The applicant proposes an auto parts store which is a use classified as an “retail sales and service”, which is permitted outright within the Traditional Commercial zone. Applicable criteria are addressed herein.

Sec. 15.22.400. - Development Standards

- A. Purpose. The development standards for commercial and mixed-use zones allow development flexibility, within parameters, that supports the intended characteristics of the specific zone. In addition, the regulations provide guidance to property owners, developers, and neighbors about the limits of what is allowed.*
- B. Development standards. The development standards for commercial and mixed-use zones are presented in Table 15.22-2. Development standards may be modified as provided by chapter 15.320, variances. Additional standards may apply to specific zones or uses, see section 15.22.500.*

<i>Table 15.22-2. Development Standards in the Commercial and Mixed-Use Zones</i>				
<i>Standard</i>	<i>C</i>	<i>CRMX</i>	<i>CMX</i>	<i>CN</i>
<i>Minimum Lot Width</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>25 feet</i>
<i>Minimum Setbacks</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>

- Front or Street-Side Yard	20 feet	20 feet	20 feet	20 feet
- Side Yard	None	10 feet; None for Townhomes	10 feet; None for Townhomes	10 feet; None for Townhomes
- Rear Yard	None	10 feet	10 feet	15 feet
Maximum Building Height	70 feet	45 feet	45 feet	45 feet
Maximum Lot Coverage	80%	60%	60%	50%
Minimum Landscaped Area	See 15.18.500 and Chapter 15.82			
Minimum and Maximum Density	Residential; and mixed-use developments are subject to the minimum and maximum density standards of the RMF zones (see section 15.18.500)			

FINDING: Staff addresses each development standard below.

Minimum Lot Width

The applicant is not proposing any new or altered lot lines therefore, this development standard is not applicable.

Front Setback

The above development criteria requires a 20-foot front yard setback along Huntington Road. However, the design standards within the Downtown Overlay promote development to build up to the front yard line, with no setback criteria. Therefore, the criteria does not apply.

Side Yard Setback

The Traditional Commercial zone does not have any minimum or maximum standards for side yard setbacks. Therefore, this development standard is not applicable.

Rear Yard Setback

The Traditional Commercial zone does not have any minimum or maximum standards for rear yard setbacks. Therefore, this development standard is not applicable.

Maximum Building Height

The Traditional Commercial zone has a maximum allowable height of 70 feet. The applicant's proposed building will be 23 feet tall. This development standard is met.

Maximum Lot Coverage

The Traditional Commercial zone has a maximum lot coverage of 80%. Based on the applicant's submitted site plan, 7,355 square feet of the 41,095 square feet will be covered (18%). This development standard is met.

Based on staff's review, all relevant development standards have been met. This criterion is met.

Section 15.22.500, Additional Standards

- A. *Corner lot frontages. For commercial uses located on corner lots where one street is predominantly residential, and one street is predominantly commercial, any commercial structure shall front on the street that is predominantly commercial.*

FINDING: The subject property is not a corner lot; therefore, this criterion is not applicable.

- B. *Landscaping standard. Any portion of a lot developed for commercial uses which are not used for buildings, other structures, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas shall be planted and maintained with grass or other all-season groundcover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs*

is permitted and encouraged. See additional landscaping and buffering standards in article 5.

FINDING: Based on the applicant's submitted site plan, any portion of the lot that is not developed for commercial use or public improvements will be landscaped. This criterion is met.

C. Screening requirements.

- 1. Outdoor activities. Any business, servicing, or processing shall be conducted within a completely enclosed building, except for parking and loading facilities and for "drive-in" type establishments offering goods or services to customers waiting in parked motor vehicles.*

FINDING: The applicant proposes a new auto parts store, retail use, with all business operations being conducted within an enclosed building. The above criterion does not require those uses to take place inside an enclosed building; therefore, this criterion is not applicable.

- 2. Outdoor storage. All areas of a site containing or proposed to contain outdoor storage of materials, equipment, and vehicles, and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscuring fence, wall, landscape screen, or combination of screening methods. See additional buffering and fence standards in article 5.*

FINDING: The applicant's proposal does not include any outdoor storage; therefore, this criterion is not applicable.

- 3. Outdoor merchandise display. The outdoor display of merchandise for sale is not required to be screened from view, provided that all merchandise is located behind building setback lines unless otherwise approved by the city (e.g., to allow sidewalk sales).*

FINDING: The applicant's proposal does not include the outdoor display of merchandise; therefore, this criterion is not applicable.

- D. Vehicle access. Access driveways and entrances shall be permitted in a number and locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired, and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access. The city may require the permit applicant to submit engineering data and/or traffic analyses to support its proposed plan of access driveways and entrances. See additional access and circulation standards in article 5.*

FINDING: The applicant proposes an approach to the property from Huntington Road, and a joint access on Morson Street. Both streets are under the jurisdiction of Deschutes County. To ensure compliance with the above criterion, the following condition of approval have been added

Deschutes County Access: ***Prior to issuance of building permits***, the applicant must provide an approved access permit for the proposed driveway on Huntington Road and Morson Street from the Deschutes County Road Department.

- E. Emissions. No use shall emit any noxious, toxic, or corrosive fumes or gases nor shall it emit any offensive odors.*

FINDING: The applicant's proposed commercial use is not expected to emit any noxious, toxic or corrosive fumes. This criterion is met.

F. Noise. All uses shall provide necessary shielding or other protective measures against interference occasioned by mechanical equipment or uses or processes with electrical apparatus.

FINDING: The applicant's proposed use is not expected to generate any noise from mechanical equipment; therefore, this criterion is not applicable.

G. Lighting. All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.

FINDING: To ensure compliance, the following condition of approval has been added

Exterior Lighting: **At all times**, all exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.

ARTICLE 4 - OVERLAY ZONES

CHAPTER 15.40. - DOWNTOWN OVERLAY ZONE

Sec. 15.40.010. - Purpose.

The purpose of the downtown overlay zone is to create a pedestrian-oriented downtown area that will serve as the center of commercial and civic activity in the community and as a destination for residents and visitors. Pedestrian-oriented places provide visual interest at eye-level, feel safe and comfortable for people walking, contain a variety of activities and services, are easy to navigate on foot, and provide open areas and amenities for gathering and resting. This overlay zone modifies the regulations of the underlying base zones to ensure pedestrian-oriented land uses and design. Within the overlay, streets have been designated as either "Storefront Streets" or "Pedestrian-Friendly Streets."

- A. Storefront streets. Storefront streets prioritize the pedestrian experience. These streets provide places to walk that are not only safe and comfortable, but that also provide visually interesting and engaging experiences. This is achieved through placing buildings closer to the street, designing buildings with architectural detail, and encouraging storefront shopping.*
- B. Pedestrian-friendly streets. Pedestrian-friendly streets balance the pedestrian experience with the need to accommodate a range of development types. These streets are safe and comfortable for pedestrians. Buildings are encouraged to be placed close to the street, but not required. Other standards are relaxed slightly to provide flexibility in design while maintaining a pedestrian-friendly environment.*

FINDING: The subject property fronts on Huntington Road and Morson Street, both of which are storefront streets. Applicable criteria are addressed herein.

Sec. 15.40.020. - Applicability.

- A. *Zone boundary and street designations.* The boundaries of the downtown overlay zone are depicted in Figure 15.40-1. The standards of this chapter apply to development and redevelopment on properties within this boundary. Specific standards within this chapter apply to properties abutting streets designated as storefront streets and pedestrian friendly streets, as shown on Figure 15.40-1.

FINDING: The subject property is located entirely within the Downtown Overlay. Applicable criteria are addressed herein.

- B. *New buildings.* The standards of this chapter apply to all buildings subject to site plan review that include over 200 square feet in floor area.

FINDING: The applicant's proposal includes a new building that is over 200 square feet in floor area and is subject to site plan review.

- C. *Expansions and alterations to existing nonresidential buildings.* The standards of this chapter apply to expansions and alterations to nonresidential buildings that are subject to site plan review, in accordance with [chapter 15.312](#). The standards are applicable as follows:
1. Expansions or additions to nonresidential buildings of over 500 square feet that are visible from a public street or public space are required to be in conformance with the standards of this chapter. The standards only apply to the expansion or addition.
 2. Expansions or additions to nonresidential buildings that front a storefront street must not increase the length of street-facing facade that does not conform to the build-to-line standard and must, to the extent feasible, reduce the area dedicated to parking and vehicular circulation between the building and the right-of-way (See Figure 15.40-2).
 3. Expansions or additions to nonresidential buildings that front a pedestrian-friendly street must, to the extent feasible, reduce the area dedicated to parking and vehicular circulation between the building and the right-of-way.
 4. Exterior alterations or remodels of existing nonresidential buildings that do not conform to the standards for ground floor windows, weather protection, and architectural design must improve compliance with these standards where possible, and at a minimum must not increase nonconformance.
- D. *Expansions and alterations to parking and vehicle circulation areas.* Expansions or alterations to existing parking and vehicle circulation areas must not increase non-conformity with the standard for location of parking areas (15.40.060.B).

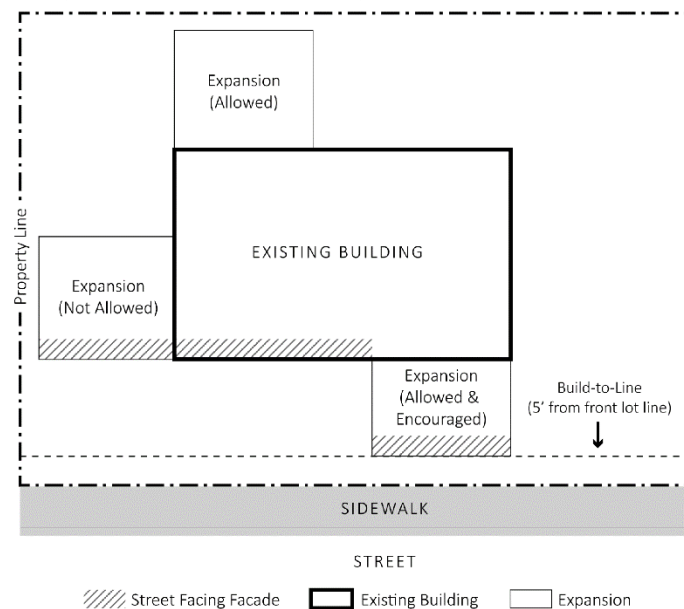
FINDING: The applicant's proposal does not include any expansion or alteration, but does include new development; therefore, these criteria are not applicable.

Sec. 15.40.025. - Downtown design exception.

- A. The planning commission may allow exceptions to the design standards in [15.40.060](#) through [15.40.090](#) without the need to obtain a variance pursuant to [chapter 15.320](#). For each standard for which a design exception is sought, the applicant must demonstrate that at least one of the following circumstances is met:

1. The physical characteristics of the site or existing structure (e.g., steep slopes, wetlands, other bodies of water, trees or other significant natural features of the site, buildings or other existing development, utility lines and easements, etc.) make compliance with the standard impractical; or
 2. The alternative design better complies with the following:
 - a. The purpose of the Downtown La Pine Overlay as described in [section 15.40.010](#); and
 - b. The intent of the standard for which the exception is being sought.
- B. Requests for a downtown design exception are subject to Type III review in accordance with the procedures in [article 7](#). The request may be considered as part of the development application.

Applicability of Build-to-Line Standard for Expansions or Additions on Storefront Streets



FINDING: The applicant's proposal does not include a request for a design exception; therefore, these criteria are not applicable.

Sec. 15.40.030. - Uses.

Uses permitted in the underlying base zone are permitted in the downtown overlay zone, except that the following uses and activities are prohibited on sites abutting a storefront street:

- A. New drive-up and drive-through uses.
- B. New auto sales and service, including fuel stations.
- C. Ground floor residential dwelling units, except for horizontal mixed use where the residential dwelling units are located behind other uses.

FINDING: None of the uses listed above are being applied for with the current proposal under review; therefore

these criteria do not apply.

Sec. 15.40.040. - Options for required parking.

- A. *Credit for on-street parking.* The off-street parking standards of [chapter 15.86](#) may be reduced by one parking space for every one on-street parking spaces located adjacent to the subject site, provided the parking spaces meet the dimensional standards of [section 15.86.030](#).
- B. *Off-site parking.* To allow flexibility in the location of required parking and to encourage efficient utilization of land, required parking may be located up to 800 feet from the development. Such parking shall be designated and signed as assigned to the remote development. Confirmation of the parking assignment shall be required prior to occupancy of the development.
- C. *Shared parking.* Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses) or that one of the sites has an excess supply of parking. The right of joint use must be evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through a Type II application.

FINDING: The applicant's proposal does not include a request for any on-street parking credits. It is also not proposing any deviation from the parking requirements of LPDC Chapter 15.86, and no shared parking is proposed. Therefore, this criterion is not applicable.

Sec. 15.40.050. - Summary of design standards.

Table 15.40-1 provides an overview of the design standards that apply within the downtown overlay zone. See the referenced section of this chapter for specific regulations.

Table 15.40-1. Summary of Design Standards			
Standard	Storefront Streets	Pedestrian-Friendly Streets	Code Section
<i>Building Setbacks</i>			
No minimum front setbacks	√	√	15.40.060.B
No parking between building and the street	√	√	15.40.060.C
75% of building within 5 ft. of front lot line	√		15.40.060.D
<i>Building Entries</i>			
Required walkway connection	√	√	15.40.070.B
Entry orientation	√	√	15.40.070.C [15.40.070.D]

Table 15.40-1. Summary of Design Standards

Standard	Storefront Streets	Pedestrian-Friendly Streets	Code Section
Entry design	√	√	15.40.070.D [15.40.070.C]
<i>Window and Weather Protection Requirements</i>			
Minimum window requirements (as % of the ground level wall area)	60%	40%	15.40.080.B
Weather protection required	√		15.40.080.C
<i>Architectural Design Standards</i>			
Architectural design standards	√	√	15.40.090

FINDING: The subject property abuts Storefront Streets. Compliance with the design standards are addressed herein.

Sec. 15.40.060. - Setbacks.

- A. *Intent. The intent of the setback standards is to help ensure that buildings are placed close to the sidewalk to create both visual interest and a sense of enclosure or "an outdoor room." Buildings set back from the street with parking next to the sidewalk are less interesting and less comfortable for pedestrians. These standards apply to the primary building(s) on a site (e.g., not to accessory structures).*
- B. *Front setbacks. No minimum front setback standards apply to developments in the downtown overlay zone.*
- C. *Location of parking areas. No vehicle parking or circulation areas are permitted between the front of the building and a storefront street or a pedestrian-friendly street (see Figure 15.40-3). If the development site has a frontage on both types of streets, then this standard only applies to the frontage on the storefront street. If the development site has frontage on more than one storefront street, then this standard shall only apply to one storefront street.*

FINDING: The applicant's proposed parking is located to the rear or directly adjacent to the front of the building, with no spaces between the front of the building and Huntington Road. This criterion is met.

- D. *Build-to-line standard. Development sites abutting a storefront street must conform to a build-to-line standard (see Figure 15.40-4). The purpose of this standard is to promote a continuous building frontage that creates visual interest and a sense of enclosure on the street. The standard is met when at least 75 percent of the width of the building is located within five feet of the front lot line that faces a storefront street. If the development site has frontage on more than one storefront street, then this standard shall only apply to one storefront street. The city planning official may waive this requirement where it finds that one of the following conditions is met:*

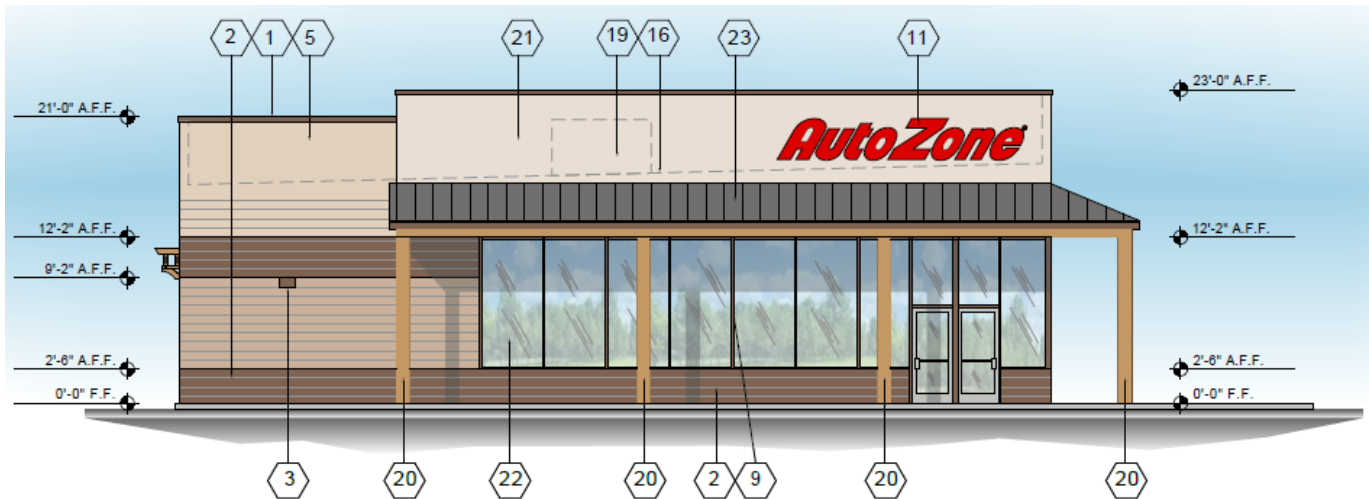
1. *The applicant proposes extending an adjacent sidewalk or plaza for public use, or some other pedestrian amenity is proposed to be placed between the building and public right-of-way.*
2. *A significant tree or other environmental feature precludes strict adherence to the standard and will be retained and incorporated in the design of the project.*
3. *A public utility easement or similar restricting legal condition that is outside the applicant's control makes conformance with the build-to line impossible. In this case, the building shall instead be placed as close to the street as possible given the legal constraint, and pedestrian amenities (e.g., plaza, courtyard, landscaping, outdoor seating area, etc.) shall be provided within the street setback.*

FINDING: The applicant's proposed building, as illustrated in the site plan submitted for review, will be located 7 feet from the front lot line that faces Huntington Road. Although the structure will not be within the required 5-foot maximum distance from the front property line, the applicant is requesting that this requirement be waived, as they are incorporating subsection 1 above into their plan. As illustrated, the proposed sidewalk along Huntington Road will be extended in between the building and the right-of-way for the public to utilize. As they meet the criteria of subsection 1, the use complies. Criteria met.

Sec. 15.40.070. - Building entries.

- A. *Intent. These provisions ensure that all entrances to a primary building are visible and connected to the sidewalk by a pedestrian walkway. These features are important when the building is accessed by a pedestrian from the street (rather than from the parking lot). These standards apply to the primary building(s) on a site (e.g., not to accessory structures).*
- B. *Required walkway. All primary entrances to a building (e.g., tenant entrance, lobby entrance, breezeway entrance, or courtyard entrance) must be connected to the sidewalk by a direct and continuous walkway.*
- C. *Entry design. The primary building entrances must be architecturally emphasized through the use of one or more of the following features: recessed doorway(s); overhangs or canopies; transom windows; ornamental light fixtures; larger, transparent or more prominent doors; or pilasters or columns that frame the principal doorway.*
- D. *Entry orientation. All buildings must have at least one primary entrance facing that street (i.e., within 45 degrees of the street property line). For multi-tenanted nonresidential buildings, buildings with multiple entrances, or buildings with multiple frontages, only one primary entrance must comply with this standard. For multi-tenanted residential buildings on storefront streets, all residential units on the ground floor must have a private exterior entrance.*

FINDING: Based on the applicant's submitted site plan and elevations, all entrances to the proposed building will be connected by a continuous walkway system. The applicant's submitted burden of proof and elevation drawings indicate that the primary building entrance will be architecturally emphasized through an overhang with a column, as evidenced by the design illustration below. The applicant's proposed primary building entrance faces Huntington Road which is classified as a Storefront Street. This criterion is met.



Sec. 15.40.080. - Window and weather protection requirements.

- A. *Intent. Window area or "glazing" requirements ensure that building facades will be composed of windows that provide views of activity, people, and merchandise, creating an interesting pedestrian experience. The weather protection standards are intended to create a more comfortable experience for pedestrians on the sidewalk by providing protection from sun and rain. This standard is limited to storefront streets, where buildings are required to directly front the sidewalk and pedestrian comfort is a high priority. These standards apply to the primary building(s) on a site (e.g., not to accessory structures).*
- B. *Window requirements.*
 1. *Minimum window area required for nonresidential buildings.*
 - a. *Building facades facing a pedestrian-friendly street must have windows, display areas, or glass doorways for at least 40 percent of the area of the ground level wall area (see Figure 15.40-5).*
 - b. *Building facades facing a storefront street must have windows, display areas, or glass doorways for at least 60 percent of the area of the ground level wall area (see Figure 15.40-5).*
 - c. *The ground level wall area is the wall area above 30 inches and below 108 inches, as measured from finished grade.*
 2. *Minimum window area required for residential buildings. Building facades that face a public street must have windows or glass doorways for at least 15 percent of the area of the entire facade.*
 3. *Transparency. All ground floor windows shall have a visible transmittance of 60 percent or higher.*
- C. *Weather protection. On building facades facing a storefront street, weather protection for pedestrians must be provided along at least 75 percent of the facade. Weather protection may*

be an awning, canopy, arcade, colonnade, recessed entry, or some combination of these elements. Where provided, weather protection shall meet the following standards:

- a. Be constructed of glass, metal, or a combination of these materials;*
- b. Project at least five feet from the building facade;*
- c. Have at least ten feet clearance above the sidewalk;*
- d. Match the width of the storefront or the window opening(s); and*
- e. Not obscure any existing or proposed transom windows.*

FINDING: The building facade facing Huntington Road is a storefront street, and must comply with above criterion. The applicant's proposed eastern elevation drawing indicates that this facade will exceed the 60% ground level wall area standard. Through staff's review of the proposed development, the ground level wall area calculations were utilized in demonstrating compliance. Since Huntington Road is a storefront street, the weather protection standards apply. As illustrated in the elevation drawings, the building will have an awning for at least 75% of the façade frontage, with a standing seam metal roof, projecting 6 feet from the façade, 12'2" above the sidewalk, and will match the width of the storefront windows. To ensure compliance with the above transparency criterion, the following condition of approval has been added.

Window Transparency: ***Prior to the issuance of building permits***, the applicant must confirm that all ground floor windows shall have a visible transmittance of 60 percent or higher.

This criterion is met.

Sec. 15.40.090. - Architectural design standards.

- A. Intent. The facade articulation standards in [subsection] B work together to help ensure that building facades that have variation and depth in the plane of the building in order to create a more interesting and welcoming environment to pedestrians. The screening standard in [subsection] C ensures that mechanical equipment is screened or otherwise minimized so that it does not detract for the pedestrian environment. The materials and Cascadian Style standards in [subsections] D and E are intended to create a distinct brand or identity for Downtown La Pine.*
- B. Articulation. All building exterior walls greater than 100 feet in length that orient to a street or public space must have breaks in the wall plane (articulation) of not less than one break for every 40 feet of building length or width, as applicable, as follows:*
 - 1. A "break" is a feature or variation in the wall plane that projects or recedes at least six inches for a length of at least two feet. Breaks may include, but are not limited to, an offset, recess, window reveal, pilaster, frieze, pediment, cornice, parapet, gable, dormer, eave, coursing, canopy, awning, column, building base, balcony, permanent awning or canopy, marquee, or similar architectural feature.*
 - 2. Changes in paint color and features that are not designed as permanent architectural elements, such as display cabinets, window boxes, retractable and similar mounted awnings or canopies, and other similar features, do not meet the break-in-wall-plane standard.*

FINDING: None of the proposed exterior walls that orient to Huntington Road or Morson Street are greater than 100 feet in length, and no public spaces are adjacent to the development; therefore this criterion is not applicable.

C. Screening of mechanical equipment.

- 1. Building walls. Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, is permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened from view from the right-of-way or civic space. Standpipes, meters, vaults, and similar equipment need not be screened but shall not be placed on a front elevation when other feasible alternatives exist; such equipment shall be placed on a side or rear elevation where feasible.*
- 2. Rooftops. Except as provided below, rooftop mechanical units shall be setback or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not feasible, the decision authority may approve painting of mechanical units in lieu of screening; such painting may consist of muted, earth-tone colors that make the equipment visually subordinate to the building and adjacent buildings, if any.*
- 3. Ground-mounted mechanical equipment. Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges, trellises, and similar plantings may also be used as screens where there is adequate air circulation and sunlight, and irrigation is provided. The city may require additional setbacks and noise dampening equipment for compatibility with adjacent uses.*

FINDING: As proposed by the applicant, and illustrated on the site plan submitted for review, there will be no visible mechanical equipment on a building wall that abuts Huntington Road, or ground mounted mechanical equipment on any point of the building. As stated within the application, "The rooftop HVAC units are set back from the perimeter and are not visible due to parapet walls which are 5 feet tall and the HVAC units are 4 feet tall." As the parapet walls will result in the HVAC remaining out of view from any public right of way or civic space, the criteria is met. To ensure compliance with the above criterion, the following condition of approval has been added.

Screening of mechanical equipment: **Prior to issuance of building permits**, if any form of mechanical equipment is proposed through the request, or added after land use approval has been granted, the developer shall submit updated plans demonstrating compliance with the standards of LPDC Sec. 15.40.090.C.

D. Materials. Building materials must be consistent with the Cascadian Style.

- 1. Primary materials. A primary material is the predominant building material that covers a minimum of 60 percent of the building's exterior walls. Acceptable primary materials are identified in Table 15.40-2.*
- 2. Secondary materials. A secondary material is not the predominant building material. Any one secondary material shall not cover more than 40 percent of the building's exterior walls. Acceptable secondary materials are identified in Table 15.40-2.*
- 3. Base materials. The building base shall be defined as the lower portion of a wall just above where it meets ground, to 24 inches above grade. Base materials are identified in Table*

15.40-2. Use of these materials shall be limited to the building base unless the material is also identified as an acceptable primary or secondary material. If the base material is identical to material used on the portion of the wall directly above the base, then a change in material color, texture, or a horizontal band must be used to differentiate the base.

FINDING: As demonstrated in the application submitted for review, the primary materials for the building will consist of split face CMU masonry blocks, with a split in color from the base, which as proposed will cover the structure a minimum of 60.8%. The secondary material utilized for the building will be stucco and glass, which as proposed will cover 39.2% of the structure. The base material is similar to the materials used for the other portions of the building, and as required by the above criteria, the applicant will be utilizing a different color material. Criteria met.

E. Cascadian architectural elements. Building exterior walls facing a public street shall incorporate at least three of the following features. Using these features may also help meet other Development Code requirements, such as those related to building articulation or weather protection:

- 1. Exposed, heavy timbers;*
- 2. Exposed natural wood color beams, posts, brackets and/or trim (e.g., eaves or trim around windows);*
- 3. Natural wood color shingles used as siding or to accent gable ends (or similar usage);*
- 4. Metal canopies;*
- 5. Heavy metal brackets (e.g., cast iron or similar appearance), which may be structural brackets or applied as cosmetic detailing;*
- 6. Pitched roof over more than 50 percent of the building (roof pitch must have a rise/span ratio of at least 4/12) which is constructed of either metal painted a muted earthtone or other fire resistant material (e.g., no wood shingle roofs are permitted); and*
- 7. Other similar features.*

FINDING: As demonstrated in the application materials submitted by the applicant, the proposed structure will be utilizing at least three of the required elements listed above. The proposed structure will contain exposed heavy timbers with four wood columns facing Huntington Road; wood framed trellises along each of the exterior walls, and heavy metal brackets to support the wooden trellises. Criteria met.

ARTICLE 5 - DEVELOPMENT STANDARDS

CHAPTER 15.80 – DEVELOPMENT STANDARDS, GENERALLY

Sec. 15.80.020. - Applicability.

Any land division or development, and the improvements required therefore, shall be in compliance with the development, design and improvement standards and requirements set forth in this article. Other provisions of this Development Code, other city ordinances, or state statutes or administrative rules may also apply.

(***)

Sec. 15.80.060. - Restrictions on the use of metal shipping containers.

Except as specified below, metal shipping containers shall not be placed on-site:

- A. *In residential zones, no metal shipping containers shall be utilized as a dwelling at any time, or as storage structures for greater than 30 days.*
- B. *In commercial zones, metal shipping containers shall not be placed on-site, with the exception of short-term use for construction or relocations (30 days or less), or in the case of construction; 30 days after a certificate of occupancy has been issued.*
- C. *In industrial zones, metal shipping containers are permitted for storage uses.*

FINDING: Although not specifically addressed within the application materials, to ensure compliance with the above criteria, the following condition of approval has been included.

Shipping Containers: **At all times,** metal shipping containers shall not be placed on-site, with the exception of short-term use for construction or relocations (30 days or less), or in the case of construction; shall be removed no less than 30 days after a certificate of occupancy has been issued.

CHAPTER 15.82. - LANDSCAPING, BUFFERING AND FENCES

Sec. 15.82.010. - Landscaping and buffering requirements.

The following minimum landscape requirements are established for all developments subject to site plan approval, unless approved otherwise by the reviewing authority:

- A. *Exemption. The provisions of this section may be exempted for uses existing on or before the effective date of this Development Code that are a permitted use in a specific zone in an existing building or buildings on a lot or parcel of land of the scale that there is no remaining room for landscaping; this exemption shall also apply to the exterior remodeling and/or expansion of not more than 25 percent of the total square footage of all enclosed structures on a lot or parcel existing under a unit ownership on or before the effective date of this Development Code.*
- B. *Area required. Except as approved otherwise by the city, the following minimum percent of a parcel area shall be landscaped for the following uses:*
 - 1. *Duplexes and triplexes: 25 percent.*
 - 2. *Multi-family dwelling complexes containing four or more units and commercial residential mixed uses (CRMX): 20 percent.*
 - 3. *Commercial uses including mixed use commercial (CMX): 15 percent.*
 - 4. *Industrial uses. A minimum five-foot landscaped buffer along any adjoining public right-of-way of a collector or arterial street or highway, which may be computed toward an overall requirement of ten percent.*

5. *Minimum area requirements may include landscaping around buildings, in parking and loading areas, outdoor recreational use areas, screening and buffering areas, and surface water drainage areas.*

FINDING: The applicant proposes to commercial develop the property which requires a 15% landscaping standard. The subject property is 41,095 square feet in size and the applicant proposes to landscape 11,269 square feet (27.4%). This criterion is met.

- C. *Landscaping defined. Required landscaping may include, but is not limited to, a combination of any of the following materials: living plant material such as trees, shrubs, groundcover, flowers and lawn (including native vegetation); and nonliving materials such as benches, walkways and courtyards, consisting of brick, decorative rock or other decorative materials. The total amount of nonliving materials (including bark dust, chips, aggregate, or other non-plant ground covers) shall not exceed more than 50 percent of the required landscape area.*
- D. *Existing vegetation. Existing site vegetation may be utilized to the maximum extent possible consistent with building placement and the applicable proposed landscape plan.*

FINDING: The applicant proposes to landscape with native plants and grasses for more than 50% of the 11,269 square feet of landscaped area, and the rest as hardscaping including rock and bark. This criterion is met.

- E. *Parking lots. Parking lots with space for ten or more vehicles must be landscaped in accordance with the following minimum requirements:*
 1. *In commercial and residential developments, parking areas shall be divided into bays, and between or at the end of each parking bay a curbed planter containing at least 16 square feet may be required.*
 2. *If required, each planter shall contain at least one tree or shrub and ground cover.*
 3. *The areas shall be designed to be protected from being damaged by vehicles using the parking area.*
 4. *Unless sidewalks are provided adjacent to a structure, customer or resident parking areas should be separated from the exterior wall of a commercial or residential structure by a minimum five-foot strip of landscaping.*
 5. *Where a parking, loading or driveway area serving a multi-family, commercial, industrial or government use abuts a public right-of-way of a collector or arterial street or a local street across from a residential zone, or abuts a residential zone, a screen planting or other approved landscaped planter strip may be required between the parking area and the right-of-way without encroaching into a clear vision area or sidewalk.*

FINDING: The applicant's proposal includes five parking bays that have curbed planters of at least 16 square feet on either end. This criterion is met.

- F. *Buffering and screening.*
 1. *Purpose. The purpose of buffering and screening requirements are to reduce the impacts of a proposed use on adjacent uses and zones which provide for different types of uses. The city*

may waive or reduce the requirements where existing topography or vegetation is appropriate or otherwise negates the effectiveness or intended purpose or benefits of the buffering and screening.

- 2. Where any permitted principal and/or accessory use in a commercial or industrial zone abuts any land zoned RSF, RMF, RMP or TA the following buffer and screening shall be required. These requirements shall apply in instances where such use is being newly developed on vacant land, expanded in floor area by 50 percent or greater, or removed and a new use developed.*
- 3. Within commercial zones. A buffer strip at least ten feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts an RSF, RMF, RMP, or TA zone. Buffer strips shall not be used for parking, storage of vehicles, equipment, or materials, nor for any other use incompatible with their purpose as a visual, noise, dust, and pollution barrier. The buffer strip shall contain suitable screening, defined as either of the following:*
 - a. A solid fence or wall, architecturally compatible with existing structures in the area, no less than five feet nor more than eight feet in height; or*
 - b. A sight-obscuring planting of evergreens, not less than four feet in height at the time of planting and of a variety that will maintain full, dense growth from the ground up to a height of not less than six feet upon maturity, planted at a spacing of the lesser of eight feet or the diameter of a mature specimen of the species being planted.*
 - c. Areas of the buffer strip not covered with a fence, wall, or screening plantings, shall be planted with appropriate ground cover vegetation, including native species. Xeriscape methods are highly encouraged.*
 - d. Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the "C" type zone permitted use is located. Installation must be completed prior to issuance of a certificate of use and occupancy by the city. Fences or walls must be maintained in safe and structurally sound condition. Dead or diseased plants shall be removed and replaced in a timely manner. Grass shall be kept neatly mowed.*
- 4. Within industrial zones. A buffer strip at least 30 feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts any RSF, RMF, RMP, or TA zoned land. Buffer strips shall not be used for parking, storage of vehicles, equipment, or materials, nor for any other use incompatible with their purpose as a visual, noise, dust, and pollution barrier. The buffer shall meet the following standards:*
 - a. The buffer shall be planted with evergreens capable of obtaining and maintaining a dense growth to a full height and a full canopy diameter of no less than 12 feet. The minimum height at the time of planting shall be six feet. Plants shall be situated in two rows within the buffer strip, each row being located at least ten feet from the edge of the buffer strip. Plants in each row shall be spaced no more than 20 feet center-to-center and the two rows shall be situated in an alternating pattern so that the trees in one row are located centrally between the trees in the other row. Plants shall be allowed*

to obtain a minimum height of 12 feet and shall not be trimmed below that height thereafter.

- b. Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the industrial use is located. Installation must be completed prior to issuance of a certificate of use and occupancy by the city. Dead or diseased plants shall be removed and replaced in a timely manner. Xeriscape methods and use of native species is highly encouraged.*
 - c. A property owner may not sell, lease, or otherwise transfer property if such action results in a reduction of a separation distance for a commercial or light manufacturing use below the minimum required in this section. Likewise, a property owner may not remove or alter natural vegetation or landforms serving upon a waiver from the city as buffer and screening for a commercial or light manufacturing use if such action results in the natural buffer and screening being less effective than as required in this and other sections of this Development Code.*
- 5. A buffer or screening area may only be occupied by screening utilities and landscaping materials, but the same may be located within the required yard or setback requirements provided vision clearance requirements are complied with.*
 - 6. In lieu of the foregoing requirements, an applicant may provide for landscaping and screening, including plantings, fences, walls, walks and other features designed to afford the same degree of buffering as the standards above. A plan and specifications for an alternative shall be reviewed and approved by the review authority.*

FINDING: The applicant's proposal did not include a request to waive or reduce the requirements of this section. Staff notes that while there are some residential uses to the west of the subject property, the lands are zoned commercial, and therefore the subject property does not abut any land zoned RSF, RMF, RMP, nor TA. Criterion is not applicable.

- G. Plant material installation standards. Except as otherwise approved by the city, the following standards shall apply to plant materials and the installation thereof as provided in accordance with the provisions of this section:*
 - 1. Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.*
 - 2. Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.*
 - 3. Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.*
 - 4. Rows of plants should be staggered to provide for more effective coverage.*

FINDING: To ensure compliance with the above criterion, the following condition of approval has been added.

Plant Installation Standards: **Prior to occupancy** the applicant shall confirm that the following plant installation standards are met for all landscaping:

1. Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.
2. Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.
3. Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.
4. Rows of plants should be staggered to provide for more effective coverage.

H. Maintenance and plant survival. All landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.

FINDING: To ensure compliance with the above criterion, the following condition of approval has been added.

Maintenance and Plant Survival: **At all times** all landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.

Sec. 15.82.020. - Fences and walls.

The yard and setback requirements of this Development Code shall not be deemed to restrict any otherwise lawful fence, wall, or sign, provided that no fence, wall, or sign shall be located on any right-of-way of a public road.

- A. Materials. Fences and walls shall not be constructed of nor contain any material that could cause bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as provided below.*
- 1. Barbed wire fences intended to contain or restrict cattle, sheep, horses or other livestock, are permitted in any zone where the keeping of livestock is permitted.*
 - 2. Electric fences are permitted in any zone where the keeping of livestock is permitted, provided the following standards are met:*
 - a. The fence product shall be listed by a State of Oregon approved testing laboratory.*
 - b. The fence shall be installed and used in accordance with the testing laboratory listing.*
 - c. Electrical permits and inspections shall be required for the installation.*
 - d. Warning signs which notify individuals of a dangerous fence shall be posted on the fence, at intervals not to exceed 50 feet. The statement, DANGER - Electrified Fence, or an equivalent statement, shall be on the warning signs.*
 - e. The fence must be located outside any front yard setback and required landscaping, buffering or screening areas.*

B. Standards.

- 1. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning, missing sections, broken supports, non-uniform height, and uncontrolled growth of vegetation.*
- 2. All required swimming pool and hot tub fencing shall be a minimum of four feet in height and be equipped with a self-locking gate that closes automatically.*
- 3. Fences within a front or street side yard shall also conform to the clear vision requirements at intersections, which further restrict the use or height of sight-obscuring fences.*
- 4. In no instance shall a fence extend beyond the property line including into a public right-of-way. It is the responsibility of the property owner to determine the property line.*
- 5. Within residential and commercial zones, fences within the required front yard setback may not exceed four feet in height except that one incidental garden structure (e.g., arbor or gate) not exceeding eight feet in height and six feet in width is allowed within the required front yard provided it does not encroach into a required clear vision area. All other fences in all zones shall not exceed seven feet in height.*
- 6. Other provisions of this Development Code, or the requirements of the roadway authority, may limit allowable height of a fence or wall below the height limits of this section.*

FINDING: The applicant's proposal does not include a fence or wall, therefore LPDC Section 15.82.020 is not applicable.

CHAPTER 15.86. - PARKING AND LOADING

Sec. 15.86.010. - Applicability.

Off-street loading and vehicle and bicycle parking spaces shall be provided in accordance with the specifications of this chapter in all zones whenever any new use is established, an existing use is enlarged, or an existing use of land or structure is changed to a new use. Such new, enlarged, or changed use shall fully comply with the specifications of this chapter prior to being given a certificate of use and occupancy.

FINDING: As proposed through the request, off-street loading and vehicle and bicycle parking is required, and is reviewed in accordance with the specifications of this chapter where it is found to comply. Criteria met.

Sec. 15.86.020. - Off-street loading.

- A. Every commercial and industrial use which requires the receipt or distribution of material or merchandise by trucks with a 40-foot or longer wheelbase at a frequency of one or more vehicles per week shall provide off-street loading spaces in sufficient number to adequately serve the number and frequency of vehicle shipping and receiving projected for the use. The applicant shall provide supporting evidence of the projected shipping and receiving and how the number of spaces to be provided will be adequate.*

- B. *Where an off-street loading space is required, it shall be large enough to accommodate the largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. Each off-street loading space shall not be less than 12 feet wide by 55 feet long unless otherwise approved by the city through site design review.*
- C. *Off-street loading space(s) shall also have adequate adjacent area for vehicle maneuvering so that vehicles using the space(s) are not required to back-up onto or back-up from a public street or alley to use the space. Where parking areas are prohibited between a building and the street, loading areas are also prohibited.*
- D. *Exceptions and adjustments. The city, through site design review, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.*

FINDING: As stated by the applicant within their burden of proof, “there will be 1-2 deliveries per week on average. Delivery will occur during off-peak hours and takes approximately 30 minutes. Because deliveries occur during the store off hours, during the time they are closed, there will be no conflict with customers or parking. As noted on the site plan, delivery is proposed at the northwest side of the store in the drive aisle adjacent to the unloading dock. Deliveries are provided by full tractor trailer with a WB 65. The applicant is showing the loading space in the drive aisle on the west side of the building. Delivery will occur during off-peak hours and takes approximately 30 minutes. Because deliveries occur during the stores off hours, during the time it is closed, there will be no conflict with customers or parking. The space designated for the trucks meets the 12 feet by 55 feet criteria and will be used only while the store is closed. Off-street loading is shown on the Site Plan and is located within the drive aisle adjoining the dock for unloading.” Based on the submittal and site plan illustrating the proposed off-street loading, criteria met.

Sec. 15.86.030. - Off-street parking - required.

- A. *Location of off-street loading and parking spaces. Except as otherwise permitted by this Development Code, required off-street loading and parking spaces shall be located on the same lot with the principal use they are intended to serve. In no case shall a required loading space be part of the area used to satisfy the parking requirements and vice versa. Also, in no case shall the required loading or parking space(s) of one use be used to satisfy the loading or parking space requirements of another use.*
- B. *Encroachment or reduction. A required loading or parking space shall not be encroached upon by a structure, storage, or other use, nor shall the number of spaces be reduced without replacement of a commensurate number of spaces in accordance with this section unless a special exception or variance has been approved.*

FINDING: Based on the applicant’s submitted site plan, all the required off-street parking spaces will be located on the same principal lot for the use they are intended to serve. No encroachments or reductions are proposed. Criteria met.

- C. *Calculations of amounts of required and allowed parking.*

1. *When computing parking spaces based on floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.*
2. *The number of parking spaces is computed based on the primary uses on the site except as stated in subsection 3, below. When there are two or more separate primary uses on a site, the minimum and maximum parking for the site is the sum of the required or allowed parking for the individual primary uses. For shared parking, see subsection I below.*
3. *When more than 20 percent of the floor area on a site is in an accessory use, the required or allowed parking is calculated separately for the accessory use. An example would be a 10,000 square foot building with a 7,000 square foot warehouse and a 3,000 square foot accessory retail area. The minimum and maximum parking would be computed separately for the retail and warehouse uses.*

FINDING: The proposed parking was calculated in accordance with the above criteria. The total floor area utilized for the calculations is 7,355 square feet of the proposed building's footprint, which is the entire building. The minimum number of parking spaces is computed based on the primary use of a retail sales and service establishment. No other uses are proposed, and shared parking standards are addressed below. No accessory uses are proposed. Criteria met.

- D. *Use of required parking spaces. Except as otherwise provided by this section, required parking spaces must be available for residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for shared parking pursuant to subsection I.*
- E. *Improvement of parking areas. Motorized vehicle parking is allowed only on streets with an improved shoulder of sufficient width; within garages, carports, and other approved structures; and on driveways or parking lots that have been developed in conformance with this Development Code.*

FINDING: Based on the applicant's burden of proof, the required parking spaces will be made available for the customers and employees of the proposed commercial use. This criterion is met.

- F. *Minimum number of off-street automobile parking spaces. Except as required for Americans with Disabilities Act compliance under subsection L, off-street parking shall be provided pursuant to one of the following three standards:*
 1. *The standards in Table 15.86-1;*
 2. *A standard from Table 15.86-1 for a use that the planning official determines is similar to the proposed use. For uses not specified in the table, the city shall determine parking based on submission of technical data from applicant or city sources; or*
 3. *Subsection (H), parking exceptions, which includes a parking demand analysis option.*
- G. *Maximum number of off-street automobile parking spaces. The following standards for maximum number of automobile parking spaces promote efficient use of land and compact development patterns.*

1. *Applicability. Developments subject to site plan review must conform to the maximum parking standards.*
2. *Standards. Unless otherwise approved by the city through site plan review, the maximum number of off-street automobile parking spaces allowed for a commercial development equals the minimum number of required spaces, pursuant to Table 15.86-1 times a factor of 2.0. Parking spaces that are located in snow storage areas do not count toward the maximum parking space requirements.*

FINDING: The applicant's proposed building is 7,355 square feet. LPDC Table 15.86-1 requires 1 space per 400 square feet of floor area for retail uses, therefore the applicant's proposal requires a minimum of 19 parking spaces, and a maximum of 38. The applicant's submitted site plan indicates that there will be 41 total parking spaces, 15 of which will be used for snow storage. Based on LPDC Table 15.86-1, the maximum number of parking spaces (not including those located in snow storage areas) the site can have is 38 spaces. As addressed in LPDC Sec. 15.86.060, "Parking spaces that are located in snow storage areas do not count toward the maximum parking space requirements." Since the proposed parking on the subject property will not fall below the minimum, or above the maximum allowed number of spaces, this criterion is met.

H. Exceptions and reductions to off-street parking. An applicant may propose a parking standard that is different than the standards under subsections F or G, for review and action by the planning official through a Type II procedure. The applicant's proposal shall consist of a written request and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors. The number of required off-street parking spaces may also be reduced through the provision of shared parking, pursuant to subsection I.

FINDING: The applicant's proposal did not include a request for an exception or reduction to the off-street parking requirements of LPDC Chapter 15.86, therefore this criterion is not applicable.

I. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and, provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through site plan review.

FINDING: No shared parking is proposed through the request, criteria does not apply.

J. Parking stall design and minimum dimensions. Where a new off-street parking area is proposed, or an existing off-street parking area is proposed for expansion, the entire parking area shall be improved in conformance with this Development Code. At a minimum the parking spaces and drive aisles shall be paved with asphalt, concrete, or other city-approved materials, provided the Americans with Disabilities Act requirements are met, and shall conform to the minimum dimensions in Table 15-86-2 and the figures below. All off-street parking areas shall contain wheel stops, perimeter curbing, bollards, or other edging as required to prevent vehicles from

damaging buildings or encroaching into walkways, landscapes, or the public right-of-way. Parking areas shall also provide for surface water management.

Table 15.86-2. Parking Stall Dimensions

<i>Parking Angle</i>	<i>Stall Width</i>	<i>20' Stall</i>	<i>Aisle Width (*one way)</i>	<i>Curb Length</i>	<i>Bay Width</i>
<i>0°</i>	<i>9'-0"</i>	<i>9.0</i>	<i>12.0</i>	<i>22.0</i>	<i>30.0</i>
	<i>9'-6"</i>	<i>9.5</i>	<i>12.0</i>	<i>22.0</i>	<i>31.0</i>
	<i>10'-0"</i>	<i>10.0</i>	<i>12.0</i>	<i>22.0</i>	<i>31.0</i>
<i>45°</i>	<i>9'-0"</i>	<i>19.8</i>	<i>13.0</i>	<i>12.7</i>	<i>52.5</i>
	<i>9'-6"</i>	<i>20.1</i>	<i>13.0</i>	<i>13.4</i>	<i>53.3</i>
	<i>10'-0"</i>	<i>20.5</i>	<i>13.0</i>	<i>14.1</i>	<i>54.0</i>
<i>60°</i>	<i>9'-0"</i>	<i>21.0</i>	<i>18.0</i>	<i>10.4</i>	<i>60.0</i>
	<i>9'-6"</i>	<i>21.2</i>	<i>18.0</i>	<i>11.0</i>	<i>60.4</i>
	<i>10'-0"</i>	<i>21.5</i>	<i>18.0</i>	<i>11.9</i>	<i>61.0</i>
<i>70°</i>	<i>9'-0"</i>	<i>21.0</i>	<i>19.0</i>	<i>9.6</i>	<i>61.0</i>
	<i>9'-6"</i>	<i>21.2</i>	<i>18.5</i>	<i>10.1</i>	<i>60.9</i>
	<i>10'-0"</i>	<i>21.2</i>	<i>18.0</i>	<i>10.6</i>	<i>60.4</i>
<i>90°</i>	<i>9'-0"</i>	<i>20.0</i>	<i>24.0</i>	<i>9.0</i>	<i>64.0</i>
	<i>9'-6"</i>	<i>20.0</i>	<i>24.0</i>	<i>9.5</i>	<i>64.0</i>
	<i>10'-0"</i>	<i>20.0</i>	<i>24.0</i>	<i>10.0</i>	<i>64.0</i>
<i>*24' minimum for two-way traffic</i>					

FINDING: The applicant proposes parking stalls that are at 90-degree angles, with two-way access aisles. Each parking stall will be nine feet wide and 20 feet long, and each two-way access aisle will be 24 feet wide. This criterion is met.

- K. Adjustments to parking area dimensions. The dimensions in subsection (J) are minimum standards. The city planning official, through a Type II procedure, may adjust the dimensions based on evidence that a particular use will require more or less maneuvering area.*
- L. Americans with Disabilities Act (ADA). Parking shall be provided consistent with ADA requirements, including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.*

FINDING: The applicant's proposal does not include a request to adjust the parking area dimensions of LPDC Table 15.86-2. The applicant's proposal includes two ADA parking spots. Compliance with ADA requirements will be reviewed during building permit review by a Plans Examiner. Criteria met.

Sec. 15.86.040. - Drive-up and drive-through uses and facilities.

- A. Purpose. Where drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, provide for adequate vehicle queuing space, prevent automobile turning movement conflicts, and provide for pedestrian comfort and safety.*

- B. *Standards. Drive-up and drive-through facilities (i.e., driveway queuing areas, customer service windows, teller machines, kiosks, drop-boxes, or similar facilities) shall meet all of the following standards:*
1. *The drive-up or drive-through facility shall orient to and receive access from a driveway that is internal to the development and not a street, as generally illustrated.*
 2. *The drive-up or drive-through facility shall not be oriented to street corner.*
 3. *The drive-up or drive-through facility shall not be located within 20 feet of a street right-of-way.*
 4. *Drive-up and drive-through queuing areas shall be designed so that vehicles will not obstruct any street, fire lane, walkway, bike lane, or sidewalk.*

FINDING: No drive-up or drive-through uses or facilities are proposed through the request. Criteria does not apply.

Sec. 15.86.050. - Bicycle parking.

- A. *Exemptions. This section does not apply to single-family and duplex housing, home occupations, and agricultural uses. The planning official may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.*
- B. *Standards. Bicycle parking spaces shall be provided with new development and, where a change of use occurs, at a minimum, shall follow the standards in Table 15.86-3. Where an application is subject to conditional use permit approval or the applicant has requested a reduction to an automobile-parking standard, the city may require bicycle parking spaces in addition to those in Table 15.86-3.*

<i>Table 15.86-3. Minimum Required Bicycle Parking Spaces</i>	
<i>Use</i>	<i>Minimum Number of Spaces</i>
<i>Muli-family residential (not required for parcels with fewer than 4 dwelling units)</i>	<i>2 bike spaces per 4 dwelling units</i>
<i>Commercial</i>	<i>2 bike spaces per primary use or 1 per 5 vehicles spaces, whichever is greater</i>
<i>Industrial</i>	<i>2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater</i>
<i>Community Service</i>	<i>2 bike spaces</i>
<i>Parks (active recreation areas only)</i>	<i>4 bike spaces</i>
<i>Schools (all types)</i>	<i>2 bike spaces per classroom</i>
<i>Institutional uses and places of worship</i>	<i>2 bike spaces per primary is or 1 per 10 vehicle spaces, whichever is greater</i>
<i>Other uses</i>	<i>2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater</i>

- C. *Design. Bicycle parking shall consist of staple-design steel racks or other city-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:*

1. *All bicycle parking shall be within 100 feet from a building entrance and located within a well-lit and clearly visible area;*
 2. *Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility;*
 3. *Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet;*
 4. *An access aisle of at least five feet shall be provided in each bicycle parking facility;*
 5. *Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack," upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). Note: businesses may provide long-term, employee parking by allowing access to a secure room within a building.*
- D. *Hazards. Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of [section 15.88.040](#).*

FINDING: The applicant's proposal does not include an exception to the bicycle parking requirements of LPDC Section 15.86.050. The applicant's submitted site plan includes 41 parking spaces which requires 8 bicycle parking spaces. The applicant proposed a bicycle rack to the northeast of the proposed building, which has space for 8 bicycles. As depicted on the applicant's submitted site plan, The proposed bicycle parking will be within 100 feet of the northeast entrance, which will be well lit within the right of way of Huntington Road, and will be easy to find. Each space is proposed to be two feet by six feet with a vertical clearance of six feet. The proposed bike racks will be designed to allow for cable and U-shaped locks, allowing both wheels to be secured. The bicycle parking will be located on the subject property within a paved area near the entrance, and will not impede or create a hazard to pedestrians or vehicles, and will not conflict with the standards of LPDC Sec. 15.88.040. Criteria met.

Sec. 15.86.060. - Snow storage areas.

- A. *Purpose. The purpose of these standards is to ensure that adequate space is be provided within a development for storage of snow in winter months in order to accommodate space needed for access, circulation, and off-street parking.*
- B. *Applicability. Snow storage standards apply to all subdivisions and to developments subject to site plan review.*
- C. *Standards.*
 1. *Minimum area. Snow storage areas must be designated on a site plan. The areas must total a minimum of 15 percent of the area to be cleared, including all access drives, parking areas, and walkways.*
 2. *Location. Snow storage is not permitted on landscaped areas, except where these areas are limited to grass or rock cover. Snow storage may be permitted in parking areas, provided that the site can still accommodate enough parking spaces to meet minimum off-street*

parking requirements in winter months. Parking spaces that are located in snow storage areas do not count toward the maximum parking space requirements. It is encouraged that snow storage areas be located away from public view and that additional impervious surface areas are not created for the sole purpose of snow storage.

3. *Exceptions and adjustments. The city may reduce or eliminate the required snow storage areas if a snow removal plan is presented which provides a continuous guarantee of removal.*

FINDING: The proposal is for a site plan review, therefore snow storage is required. The square footage of all access drives, parking areas, and walkways is 20,995 square feet, therefore 15% of that area requires at least 3,149 square feet of snow storage. As analyzed within the parking requirements addressed previously, 19 parking spaces are required, but 41 are being provided. 15 of the 41 spaces being provided will be utilized as snow storage areas during winter months, leaving 26 spaces for parking. Although 41 spaces is above the maximum allowed for parking, utilizing the spaces as snow storage as stated above does not count towards the maximum. The snow storage areas are not along any public right of way keeping them out of view to the furthest extent possible, and no further impervious areas are being created for the sole purpose of snow storage, as they will also be utilized for parking. No exceptions or adjustment are proposed. Criteria met.

CHAPTER 15.88. - ACCESS AND CIRCULATION

Sec. 15.88.010. - Purpose.

[Chapter 15.88](#) contains standards for vehicular and pedestrian access, circulation, and connectivity. The standards promote safe, reasonably direct, and convenient options for walking and bicycling, while accommodating vehicle access to individual properties, as needed.

Sec. 15.88.020. - Applicability.

[Chapter 15.88](#) applies to new development and changes in land use necessitating a new or modified street or highway connection. Except where the standards of a roadway authority other than the city supersede city standards, [chapter 15.88](#) applies to all connections to a street or highway, and to driveways and walkways.

FINDING: The proposal is for new development with newly constructed street connections, therefore the criteria of Chapter 15.88 applies. Applicable criteria are addressed herein.

Sec. 15.88.030. - Vehicular access and circulation.

- A. *Purpose and intent. [Section 15.88.030](#) implements the street access guidelines of the City of La Pine Transportation System Plan. It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. "Safety," for the purposes of this chapter, extends to all modes of transportation.*
- B. *Permit required. Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority.*

- C. *Traffic study requirements. The city, in reviewing a development proposal or other action requiring an approach permit, may require a traffic impact analysis, pursuant to [section 15.90.080](#), to determine compliance with this Development Code.*

FINDING: As discussed herein, the applicant is proposing vehicular access on one public street in one locations, and a shared access with the property to the south. The applicant's burden of proof included a traffic impact analysis, findings from that analysis are incorporated herein. To ensure compliance with the above criterion, the following condition of approval has been included.

Approach Permit: **Prior to occupancy**, the applicant must submit approved approach/driveway permits for each entrance to the site.

- D. *Approach and driveway development standards. Access management restrictions and limitations consist of provisions managing the number of access points and/or providing traffic and facility improvements that are designed to maximize the intended function of a particular street, road or highway. The intent is to achieve a balanced, comprehensive program which provides reasonable access as new development occurs while maintaining the safety and efficiency of traffic movement. Intersections, approaches and driveways shall conform to access spacing guidelines in the City of La Pine Transportation System Plan and the roadway authority's engineering standards. In the review of all new development, the reviewing authority shall consider the following techniques or considerations in providing for or restricting access to certain transportation facilities.*

1. *Access points to arterials and collectors may be restricted through the use of the following techniques:*
 - a. *Restricting spacing between access points based on the type of development and the speed along the serving collector or arterial.*
 - b. *Sharing of access points between adjacent properties and developments.*
 - c. *Providing access via a local order of street; for example, using a collector for access to an arterial, and using a local street for access to a collector.*
 - d. *Constructing frontage or marginal access roads to separate local traffic from through traffic.*
 - e. *Providing service drives to prevent overflow of vehicle queues onto adjoining roadways.*

FINDING: The subject property fronts Huntington Road and Morson Street, which are both downtown arterials. The subject property will have primary access from Huntington Road, and will further mitigate access issues by sharing access with the property to the south on Morson Street and Hwy 97. A shared access agreement will be recorded as conditioned in this decision, and no further techniques listed above are required for compliance. Criteria met.

2. *Consideration of the following traffic and facility improvements for access management:*
 - a. *Providing of acceleration, deceleration and right-turn-only lanes.*

- b. *Offsetting driveways to produce T-intersections to minimize the number of conflict points between traffic using the driveways and through traffic.*
- c. *Installation of median barriers to control conflicts associated with left turn movements.*
- d. *Installing side barriers to the property along the serving arterial or collector to restrict access width to a minimum.*

FINDING: In reviewing the submitted TIA; staff finds that the above referenced traffic improvements are not required for the applicant's proposal. These criteria are not applicable.

- E. *ODOT approval. Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, the applicant is responsible for obtaining ODOT approval. The city may approve a development conditionally, requiring the applicant first obtain required ODOT permit(s) before commencing development, in which case the city will work cooperatively with the applicant and ODOT to avoid unnecessary delays.*

FINDING: The subject property fronts on Huntington Road and Morson Street, which are right of ways owned by the Deschutes County Road Department. As previously conditioned, review and approval by Deschutes County will be required. Criteria met.

- F. *Other agency approval. Where an approach or driveway crosses a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency, the applicant is responsible for obtaining all required approvals and permits from that agency prior to commencing development.*

FINDING: The subject property does not cross any of the features in the criterion above; therefore, this criterion is not applicable.

- G. *Exceptions and adjustments. The city may approve adjustments to the spacing standards of subsections above, where an existing connection to a city street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance.*
- H. *Joint use access easement and maintenance agreement. Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.*

FINDING: The newly proposed access on the northeast side of the property onto Huntington Road will be utilized not only by the current proposal, but also the recently approved Starbucks development to the south. Access will be provided to the subject property from the southwest, and joint access for the current proposal will also be provided from Morson Street and Hwy 97 on the property to the south. To ensure compliance, the following condition of approval has been included.

Joint Use Access Easement and Maintenance Agreement: **Prior to occupancy**, the property owners shall record an easement with the deed allowing joint use of and cross access between the adjacent property. The owners of the

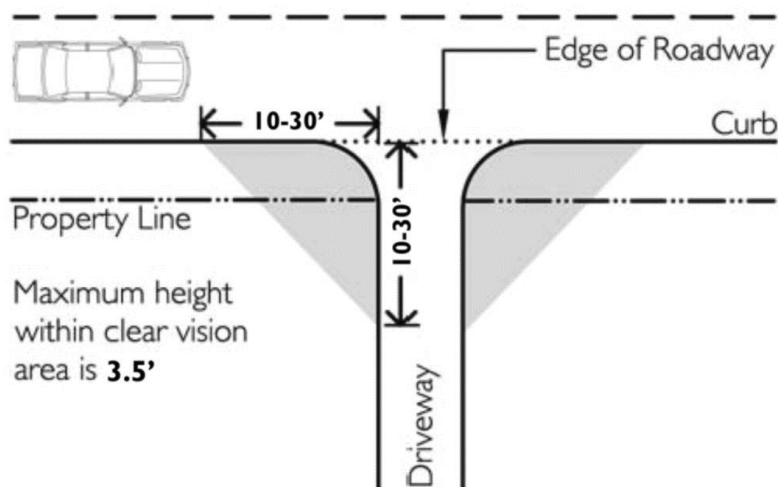
properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.

Sec. 15.88.040. - Clear vision areas (visibility at intersections).

- A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, wall, structure, private signage, or temporary or permanent obstruction exceeding 3½ feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.
- B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad (see Figure 18.88-1). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the city:
 1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet; or at intersections including an alley, ten feet.
 2. In all other zones, the minimum distance shall be in relationship to street and road right-of-way widths as follows:

Right-of-Way Width	Clear vision
80 feet or more	20 feet
Less than 80 feet	30 feet

Clear Vision Areas



FINDING: Based on the applicant's submitted site plan, the site provides 20-foot clear vision areas on either side of the entrance onto Huntington Road. These criteria are met.

Sec. 15.88.050. - Pedestrian access and circulation.

- A. *Purpose and intent. This section implements the pedestrian access and connectivity policies of City of La Pine Transportation System Plan and the requirements of the Transportation Planning Rule (OAR 660-012). It is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.*
- B. *Standards. New subdivisions, multi-family developments, planned developments, commercial developments and institutional developments shall conform to all of the following standards for pedestrian access and circulation:*
 - 1. *Continuous walkway system. A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.*
 - 2. *Safe, direct, and convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:*
 - a. *The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel.*
 - b. *The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The city may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.*
 - c. *Vehicle/walkway separation. Except as required for crosswalks, per subsection d., below, where a walkway abuts a driveway or street it shall be raised six inches and curbed along the edge of the driveway or street. Alternatively, the city may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.*
 - d. *Crosswalks. Where a walkway crosses a parking area or driveway ("crosswalk"), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians.*
 - e. *Walkway construction. Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other city-approved durable surface meeting ADA requirements. Walkways shall be not less than four feet in width, except that the city may require five-foot wide,*

or wider, sidewalks in developments where pedestrian traffic warrants walkways wider than four feet.

- f. Multi-use pathways. Multi-use pathways, where approved, shall be ten feet wide and constructed of asphalt, concrete or other city-approved durable surface meeting ADA requirements consistent with the applicable city engineering standards.*

FINDING: The applicant's submitted site plan includes that there will be a continuous walkway system that runs in straight lines from the sidewalk on Huntington Road, to the parking area, and front entrance of the proposed business. The proposed walkways will be constructed from concrete and will be protected by a curb next to parking areas. These criteria are met.

CHAPTER 15.90. - PUBLIC FACILITIES

Sec. 15.90.010. - Public facilities improvement.

Minor betterment, improvements, replacement or reconstruction of existing public facilities such as sewer and water lines, stormwater drainage facilities, sidewalks and other pedestrian ways or facilities, bikeways and similar public facilities within rights-of-ways and easements for the purposes existing on or before the effective date of this chapter, or on contiguous publicly-owned property designated, intended or utilized to support the facilities, or the facilities that are set forth within an adopted public facilities plan or other capital improvement plan duly adopted on or before the effective date of this ordinance, are exempt from permit requirements, unless specifically set forth otherwise.

FINDING: The proposed partition does not meet the requirements for an exemption from public facility permit requirements. This criterion does not apply.

Sec. 15.90.020. - Developer responsibility for streets and other public facilities.

- A. Duties of developer. It shall be the responsibility of the developer to construct all streets, curbs, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the use or development in accordance with the specifications of the city and/or the serving entity.*

FINDING: The above criteria requires the developer to construct all streets, curbs, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the development in accordance with the specifications of the city. Development requirements in relation to those elements are addressed within this staff report. Through conditions of approval included therein to ensure compliance with the specifications of the city, the request complies.

- B. Over-sizing. The city may require as a condition of development approval that sewer, water, or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable facility master plan, and the city may authorize other cost-recovery or cost-sharing methods as provided under state law.*

FINDING: Comments from the City Engineer did not indicate the need for oversizing. This criterion is not applicable.

- C. *Inadequate existing streets. Whenever existing streets, adjacent to, within a tract or providing access to and/or from a tract, are of inadequate width and/or improvement standards, additional right-of-way and/or improvements to the existing streets may be required.*
- D. *Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of a proposed land development, and when the city finds it will be practical to require dedication and improvement of the other half of the street when the adjoining property is developed. Whenever a half street exists adjacent to a tract of land proposed for development, the other half of the street shall be dedicated and improved.*

FINDING: Half streets are not proposed with this application. This criterion does not apply.

Sec. 15.90.030. - Sewer and water.

- A. *Sewer and water plan approval. Development permits for sewer and water improvements shall not be issued until the public works director has approved all sanitary sewer and water plans in conformance with city standards.*

FINDING: To ensure compliance with the above criterion, the following condition of approval has been added:

Sewer and Water Plan Approval: **Prior to the preconstruction meeting**, sanitary sewer and water plans in conformance with city standards shall be provided to the City Public Works Director. Development permits for sewer and water improvements will not be issued until the preconstruction meeting is held, and all plans are approved and signed by the Public Works Director.

- B. *Inadequate facilities. Development permits may be restricted or rationed by the city where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. The city may require water booster pumps, sanitary sewer lift stations, and other critical facilities be installed with backup power.*

FINDING: The City Engineer did not indicate the existence of any inadequate facilities within the area of the proposal. This criterion does not apply.

Sec. 15.90.040. - Stormwater.

- A. *Accommodation of upstream drainage. Culverts and other drainage facilities shall be large enough to accommodate existing and potential future runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the city engineer.*
- B. *Effect on downstream drainage. Where it is anticipated by the city engineer that the additional runoff resulting from the development will overload an existing drainage facility, the city shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with city standards.*

FINDING: As addressed and conditioned in the comments provided by the City Engineer, the site must be designed and proof provided that stormwater runoff on the site will be retained on site. With those conditions, criteria met.

Sec. 15.90.050. - Utilities.

- A. *General provision. The developer of a property is responsible for coordinating the development plan with the applicable utility providers and paying for the extension and installation of utilities not otherwise available to the subject property.*
- B. *Underground utilities. All new electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.*

FINDING: To ensure compliance, the following condition of approval has been added:

Underground Utilities: **At all times**, all new electrical, telephone, or other utility lines shall be underground unless otherwise approved by the City.

- C. *Subdivisions. In order to facilitate underground placement of utilities, the following additional standards apply to all new subdivisions:*
 - 1. *The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that no above ground equipment obstructs vision clearance areas for vehicular traffic.*
 - 2. *The city reserves the right to approve the location of all surface-mounted facilities.*
 - 3. *All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets.*
 - 4. *Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.*
- D. *Exception to undergrounding requirement. The city may grant exceptions to the undergrounding standard where existing physical constraints, such as geologic conditions, streams, or existing development conditions make underground placement impractical.*

FINDING: The application is not a subdivision. These criteria are not applicable.

Sec. 15.90.060. - Public street/highway improvement.

The following public streets and highway improvement activities are permitted outright in all zones and are exempt from the permit requirements of this Development Code.

- A. *Installation of additional and/or passing lanes, including pedestrian ways and/or bikeways, within a public street or highway right-of-way existing as of the effective date of this chapter, unless such adversely impacts on-street parking capacities and patterns.*

FINDING: The proposal does not contain the installation of additional passing lanes. This criterion does not apply.

- B. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, and/or no new land parcels result.*

FINDING: As part of the applicant's proposal, improvements relating to right-of-way facilities will be required. While no additional permits are required by the Development Code for that work, staff notes that the applicant should coordinate with the Public Works Department prior to construction to ensure their standards are met.

- C. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time when no longer needed.*

FINDING: This proposal does not include public road and highway detours that will be abandoned and restored. This criterion does not apply.

- D. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations, waysides, and, rest areas within a right-of-way existing as of the effective date of this Development Code. In addition, also exempt are contiguous public-owned property utilized to support the operation and maintenance of public roads and highways provided such is not located within a duly designated residential zone, or adjacent to or across the street from a lot or parcel within such a zone.*
- E. The construction, reconstruction, or modification of a public street or highway that is identified as a priority project in a transportation system plan (TSP) or the state transportation improvement plan (STIP) that was duly adopted on or before the effective date of this chapter.*
- F. The design, construction, operation, and maintenance of a tourist-oriented or public wayside.*

FINDING: This proposal does not include minor betterment of existing public roads and highway related facilities as described above. This criterion is not applicable.

Sec. 15.90.070. - Design of streets and other public facilities.

- A. Traffic circulation system. The overall street system shall ensure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain of the development and the area. An analysis of the proposed traffic circulation system within the land division, and as such system and traffic generated therefrom affects the overall City of La Pine transportation, will be required to be submitted with the initial land division review application. The location, width and grade of streets shall be considered in their relationship to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use or development to be served thereby.*

FINDING: Comments from the City Engineer did not indicate the need to submit an analysis of a traffic circulation system. No new streets are proposed through the request. This criterion is not applicable.

- B. Street location and pattern. The proposed street location and pattern shall be shown on the development plan, and the arrangement of streets shall:*
 - 1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or*

2. *Conform to a plan for the general area of the development approved by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; and*
3. *Conform to the adopted La Pine Transportation System Plan as may be amended.*

FINDING: The proposal does not include the dedication of any new streets. This criterion is not applicable.

- C. *Access ways. The city, in approving a land use application with conditions, may require a developer to provide an access way where the creation of a cul-de-sac or dead-end street is unavoidable and the access way connects the end of the street to another street, a park, or a public access way. Where an access way is required, it shall be not less than ten feet wide and shall contain a minimum six-foot-wide paved surface or other all-weather surface approved by the city. Access ways shall be contained within a public right-of-way or public access easement, as required by the city.*

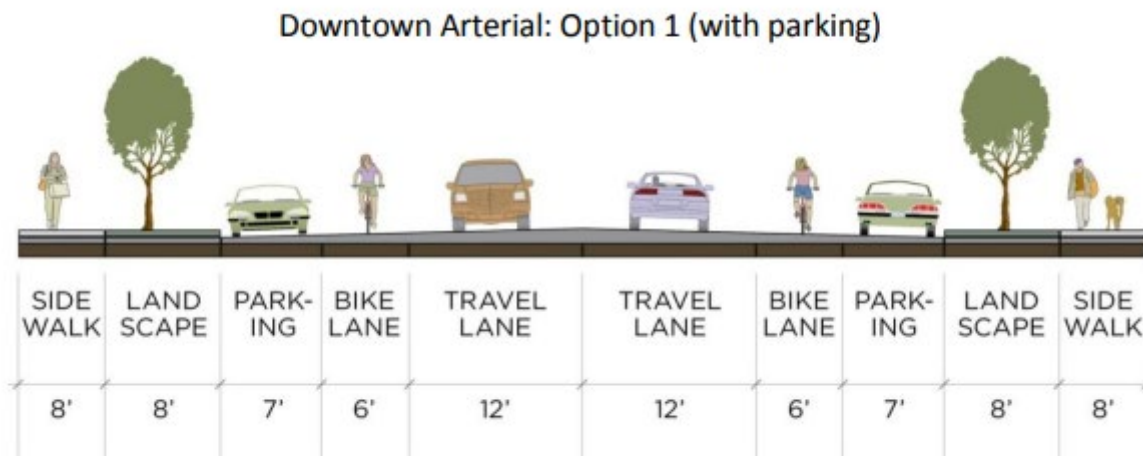
FINDING: This proposal does not create a cul-de-sac or a dead-end street and comments from the City Engineer did not identify the need for additional access ways. This criterion is not applicable.

- D. *Future street extensions. Where necessary to give access to or permit future subdivision or development of adjoining land, streets shall be extended to the boundary of the proposed development or subdivision. Where a subdivision is proposed adjacent to other developable land, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other divisible parcels within 600 feet surrounding and adjacent to the proposed subdivision. The street plan is not binding, but is intended to show potential future street extensions with future development. The plan must demonstrate, pursuant to city standards, that the proposed development does not preclude future street connections to adjacent development land. Wherever appropriate, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. Street ends shall contain turnarounds constructed to Uniform Fire Code standards, as the city deems applicable, and shall be designed to facilitate future extension in terms of grading, width, and temporary barricades.*

FINDING: No new streets are proposed through the request; this criterion is not applicable.

- E. *Minimum right-of-way and roadway widths. Unless otherwise approved in the tentative development plan, street, sidewalk and bike rights-of-way and surfacing widths shall not be less than the minimum widths in feet set forth in the La Pine Transportation System Plan, and shall be constructed in conformance with applicable standards and specifications set forth by the city.*

FINDING: The above criteria requires street, sidewalk and bike rights-of-way to be no less than the minimum widths in feet set forth in the La Pine Transportation System Plan, and constructed in conformance with the applicable standards and specifications. Huntington Road and Morson Street are classified as downtown arterial streets in the La Pine TSP, with each being subject to the following design standards:



Both Huntington Road and Morson Street are considered downtown arterials with parking. As conditioned previously based on the City Engineers comments, right of way must be dedicated to meet this standard, and the downtown arterial design standards must be met for each road. Conditions of approval included below ensure the inclusion of bike lanes, sidewalks, and curbs. To ensure further compliance, the following condition of approval is included.

Street trees: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that street trees will be provided within the landscape swale at an average spacing of 35 feet. The trees shall not interfere with any clear vision areas.

As conditioned, criteria met.

- F. Sidewalks. Unless otherwise required in this chapter or other city ordinances or other regulations, or as otherwise approved by the commission, sidewalks shall be required as specified in the La Pine Transportation System Plan. In lieu of these requirements, however, the city may approve a development without sidewalks if alternative pedestrian routes and facilities are provided.*

FINDING: The subject property abuts Huntington Road and Morson Street. Public improvements are required through this approval to ensure the downtown arterial design standards with parking are met. Sidewalks are included in the design standards and were illustrated in the site plan submitted for review. However, the width was not addressed in the submitted plans, and must meet the 8' minimum width requirement. To ensure compliance, the following condition of approval is included.

Sidewalk Width: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that sidewalks will be constructed of concrete, at a width of at least 8 feet along the Huntington Road and Morson Street frontages from the northern property line to the southern property line. The sidewalks shall be designed to allow for connectivity as future development to the north and south of the subject property are developed in the future.

- G. Bike lanes. Unless otherwise required in this chapter or other city ordinances or other regulations, bike lanes shall be required as specified in the La Pine Transportation System Plan, except that the planning commission may approve a development without bike lanes if it is found that the requirement is not appropriate to or necessary for the extension of bicycle routes,*

existing or planned, and may also approve a development without bike lanes in the streets if alternative bicycle routes and facilities are provided.

FINDING: The subject property abuts Huntington Road and Morson Street. Public improvements are required through this approval to ensure the downtown arterial design standards with parking are met. 6-foot-wide bike lanes are required along both frontages. The plans submitted for review did not address bike lanes. To ensure compliance, the following condition of approval is included.

Bike Lanes: ***Prior to the preconstruction meeting,*** the construction plans shall demonstrate that 6 foot wide bike lanes will be provided along the Huntington Road and Morson Street frontages, and will be striped.

H. Culs-de-sac. A cul-de-sac street shall only be used where the city determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable city requirements preclude a street extension. Where the city determines that a cul-de-sac is allowed, all of the following standards shall be met:

- 1. The cul-de-sac shall not exceed a length of 400 feet, except where the city through a Type II procedure determines that topographic or other physical constraints of the site require a longer cul-de-sac. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.*
- 2. A cul-de-sac shall terminate with a circular turn around with a minimum radius of 45 feet of paved driving surface and a 50 foot right-of-way and meeting the Uniform Fire Code.*
- 3. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle access way between it and adjacent developable lands.*

FINDING: This proposal does not include the development of a cul-de-sac. This criterion is not applicable.

- I. Marginal access streets. Where a land development abuts or contains an existing or proposed arterial street, the city may require marginal access streets, reverse frontage lots with suitable depth, screen-plantings contained in a non-access reservation strip along the rear or side property line or other treatments deemed necessary for adequate protection of residential properties and the intended functions of the bordering street, and to afford separation of through and local traffic.*
- J. Streets adjacent to railroad right-of-way. Whenever a proposed land development contains or is adjacent to a railroad right-of-way, provisions may be required for a street approximately parallel to the ROW at a distance suitable for the appropriate use of land between the street and the ROW. The distance shall be determined with consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting or other separation requirements along the ROW.*

FINDING: Marginal street access is not proposed, and streets included in this proposal are not adjacent to a railroad right-of-way. This criterion is not applicable.

- K. Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless deemed necessary for the protection of public safety and welfare and may be used in the case of a dead-end street planned for future extension, and in the case of a half street planned for future development as a standard, full street.*

FINDING: This proposal does not include reserve strips or street plugs. This criterion is not applicable.

- L. Alignment. All streets, as far as practicable, shall be in alignment with existing streets by continuations of the center lines thereof. Necessary staggered street alignment resulting in intersections shall, wherever possible, leave a minimum distance of 200 feet between the center lines of streets of approximately the same direction, and in no case shall the off-set be less than 100 feet.*
- M. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practicable, and in no case shall an acute angle be less than 80 degrees unless there is a special intersection design approved by the city engineer or other duly designated city representative as applicable. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection, and the intersection of more than two streets at any one point will not be approved.*
- N. Curves. Centerline radii of curves should not be less than 500 feet on major arterials, 300 feet on minor arterials, 200 feet on collectors or 100 feet on other streets and shall be on an even ten feet. Where existing conditions, particularly topography, make it otherwise impractical to provide building sites, the city may accept steeper grades and sharper curves than provided for herein in this subsection.*
- O. Street grades. Street grades shall not exceed eight percent on arterials, ten percent on collectors and 12 percent on all other streets including private driveways entering upon a public street or highway; however, for streets at intersections, and for driveways entering upon a public street or highway, there should be a distance of three or more car lengths (approximately 50 feet) where the grade should not exceed six percent to provide for proper stopping distance during inclement weather conditions.*
- P. Street names. Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the city or within a radius of six miles of the city or within the boundaries of a special service district such as fire or ambulance. Such street names shall be approved by the Deschutes County street name coordinator.*

FINDING: This proposal does not contain any new streets; therefore, criteria L through P do not apply.

- Q. Street name signs. Street name signs shall be installed at all street intersections by the developer in accordance with applicable city, county or state requirements. One street sign shall be provided at the intersection of each street, and two street signs shall be provided at four-way intersections.*

FINDING: No new streets are proposed through the request which would require additional signage. The criteria does not apply.

- R. Traffic control signs. Traffic control signs shall be provided for and installed by the developer as required and approved by the appropriate city, county and/or state agency or department.*

FINDING: No new streets are proposed through the request which would require additional signage. The criteria does not apply.

- S. *Alleys. Alleys are not necessary in residential developments, but may be required in commercial and industrial developments unless other permanent provisions for access to off-street parking and loading facilities are approved by the city.*

FINDING: An alley is not required with this proposal. This criterion is not applicable.

- T. *Curbs. Curbs shall be required on all streets in all developments, and shall be installed by the developer in accordance with standards set forth by the city unless otherwise approved by the city. Approval of streets without curbs shall be at the discretion of the city engineer, and shall be so determined during the tentative plan land division review process on the basis of special circumstances to the development.*

FINDING: This standard requires that curbs be installed on all streets within developments in accordance with city standards unless otherwise approved by the city. The proposed development includes street improvements that will be constructed to City standards, including the installation of curbs. To ensure compliance, the following condition of approval is included.

Curbs: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that curbs will be installed along Huntington Road and Morson Street, where the landscaped swales meet the on-street parking, and shall be designed in accordance with the City of La Pine Design Standards.

- U. *Street lights. Street lights may be required and, if so required, shall be installed by the developer in accordance with standards set forth by the city and the serving utility company. Streets lights, if required, shall include one fixture and be located at the intersection of streets.*

FINDING: Comments from the City Engineer did not include the installation of streetlights. This criterion is not applicable.

- V. *Utilities. The developer shall make necessary arrangements with the serving utility companies for the installation of all proposed or required utilities, which may include electrical power, natural gas, telephone, cable television and the like.*

FINDING: To ensure compliance with the above criterion, the following condition of approval has been added:

Utility Installation: ***Prior to the preconstruction meeting***, the developer shall make necessary arrangements with the serving utility companies for the installation of all proposed or required utilities, which may include electrical power, natural gas, telephone, cable television, and the like.

- W. *Drainage facilities. Drainage facilities shall be provided as required by the city in accordance with all applicable city and Oregon Department of Environmental Quality standards.*
- X. *Gates. Except where approved as part of a master planned development, private streets and gated drives serving more than two dwellings (i.e., where a gate limits access to a development from a public street), are prohibited.*

FINDING: Comments from the City Engineer did not indicate that additional drainage facilities were required, and gates are not proposed through the request. This criterion is not applicable.

Sec. 15.90.080. - Traffic impact analysis.

- A. *Purpose. The purpose of this subsection is [to] coordinate the review of land use applications with roadway authorities and to implement section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a traffic impact analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a traffic impact analysis; and who is qualified to prepare the analysis.*
- B. *When a traffic impact analysis is required. The city or other road authority with jurisdiction may require a traffic impact analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:*
- 1. A change in zoning or a plan amendment designation;*
 - 2. Operational or safety concerns documented in writing by a road authority;*
 - 3. An increase in site traffic volume generation by [300] average daily trips (ADT) or more;*
 - 4. An increase in peak hour volume of a particular movement to and from a street or highway by [20] percent or more;*
 - 5. An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by ten vehicles or more per day;*
 - 6. Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;*
 - 7. A change in internal traffic patterns that may cause safety concerns; or*
 - 8. A TIA required by ODOT pursuant to OAR 734-051.*
- C. *Traffic impact analysis preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the traffic impact analysis.*
- D. *Waiver or deferral. The city may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in [subsections] 1 through 4 is met. Where the city agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future:*
- 1. The standard improvement conflicts with an adopted capital improvement plan.*

2. *The standard improvement would create a safety hazard.*
3. *It is unlikely due to the developed condition of adjacent property that the subject improvement would be extended in the foreseeable future, and the improvement under consideration does not by itself significantly improve transportation operations or safety.*
4. *The improvement under consideration is part of an approved partition in the [RL or RM] and the proposed partition does not create any new street.*

FINDING: The applicant's proposal does not meet the requirements for a traffic impact analysis as explained in subsection B of this section. Further comments from Public Works and the City Engineer did not indicate the need for a traffic impact analysis. This criterion is not applicable.

CHAPTER 15.94. - IMPROVEMENT PROCEDURES AND GUARANTEES

Sec. 15.94.010. - Improvement procedures.

Improvements to be installed by the developer, either as a requirement of this chapter, conditions of approval or at the developer's option as proposed as a part of the subject development proposal, shall conform to the following requirements:

- A. *Plan review and approval. Improvement work shall not be commenced until plans therefor have been reviewed and approved by the city or a designated representative thereof. The review and approval shall be at the expense of the developer.*

FINDING: To ensure compliance, the following condition of approval has been added:

Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work shall not be commenced until development plans have been reviewed and approved by the city or a designated representative. Public improvements to county roads must be reviewed by Deschutes County Road Department. The review and approval shall be at the expense of the developer.

- B. *Modification. Improvement work shall not commence until after the city has been notified and approval therefore has been granted, and if work is discontinued for any reason, it shall not be resumed until after the city is notified and approval thereof granted.*

FINDING: To ensure compliance, the following condition of approval has been added:

Modification: ***Prior to construction of public improvements***, improvement work shall not commence until after the city has been notified and approval has been granted, and if work is discontinued for any reason, it shall not be resumed until after the city is notified and approval thereof granted.

- C. *Improvements as platted. Improvements shall be designed, installed and constructed as platted and approved, and plans therefore shall be filed with the final plat at the time of recordation or as otherwise required by the city.*

FINDING: The request does not involve a land division that will be platted. The criteria does not apply.

- D. *Inspection. Improvement work shall be constructed under the inspection and approval of an inspector designated by the city, and the expenses incurred therefore shall be borne by the*

developer. Fees established by the city council for such review and inspection may be established in lieu of actual expenses. The city, through the inspector, may require changes in typical sections and details of improvements if unusual or special conditions arise during construction to warrant such changes in the public interest.

FINDING: To ensure compliance, the following condition of approval has been added:

Inspection: **Prior to completion of public improvements**, improvement work shall be constructed under the inspection and approval of an inspector designated by the city, and the expenses incurred therefore shall be borne by the developer. Fees established by the city council for such review and inspection may be established in lieu of actual expenses. The city, through the inspector, may require changes in typical sections and details of improvements if unusual or special conditions arise during construction to warrant such changes in the public interest.

- E. Utilities. Underground utilities, including, but not limited to, electric power, telephone, water mains, water service crossings, sanitary sewers and storm drains, to be installed in streets, shall be constructed by the developer prior to the surfacing of the streets.*

FINDING: To ensure compliance, the following condition of approval has been added:

Utilities: **Prior to occupancy**, underground utilities, including, but not limited to, electric power, telephone, water mains, water service crossings, sanitary sewers and storm drains, to be installed in streets, shall be constructed by the developer prior to the surfacing of the streets.

- F. As built plans. As built plans for all public improvements shall be prepared and completed by a licensed engineer and filed with the city upon the completion of all such improvements. A copy of the as built plans shall be filed with the final plat of a subdivision or other development by and at the cost of the developer. The plans shall be completed and duly filed within 30 days of the completion of the improvements.*

FINDING: To ensure compliance, the following condition of approval has been added:

As Built Plans: **Prior to occupancy**, as built plans for all public improvements shall be prepared and completed by a licensed engineer and filed with the city upon the completion of all such improvements. A copy of the as built plans shall be filled with the final plat of a subdivision or other development by and at the cost of the developer. The plans shall be completed and duly filed within 30 days of the completion of the improvements.

Sec. 15.94.020. - Completion or assurance of improvements.

- A. Agreement for improvements. Prior to final plat approval for a subdivision, partition, PUD or other land development, or the final approval of a land use or development pursuant to applicable zoning provisions, where public improvements are required, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.*

FINDING: To ensure compliance, the following condition of approval has been added:

Agreement for Improvements: **Prior to construction of public improvements**, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.

- B. Bond or other performance assurance. The developer shall file with the agreement, to ensure his/her full and faithful performance thereof, one of the following, pursuant to approval of the city attorney and city manager, and approval and acceptance by the city council:*
- 1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the city attorney.*
 - 2. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to proceed in accordance with the agreement.*
 - 3. Cash deposit.*
 - 4. Such other security as may be approved and deemed necessary by the city council to adequately ensure completion of the required improvements.*

FINDING: To ensure compliance, the following condition of approval has been added:

Bond or other Performance Assurance: **Prior to construction of public improvements**, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.

- C. Amount of security required. The assurance of full and faithful performance shall be for a sum approved by the city as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.*

FINDING: To ensure compliance, the following condition of approval has been added:

Amount of Bond Security Required: **Prior to construction of public improvements**, the bond or other performance assurance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.

- D. Default status. If a developer fails to carry out provisions of the agreement, and the city has unreimbursed costs or expenses resulting from the failure, the city shall call on the bond or other*

assurance for reimbursement of the costs or expenses. If the amount of the bond or other assurance deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the amount of the bond or other assurance is less than the costs or expenses incurred by the city, the developer shall be liable to the city for the difference plus any attorney fees and costs incurred.

FINDING: To ensure compliance, the following condition of approval has been added:

Default Status: **At all times**, if a developer fails to carry out provisions of the agreement, and the city has unreimbursed costs or expenses resulting from the failure, the city shall call on the bond or other assurance for reimbursement of the costs or expenses. If the amount of the bond or other assurance deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the amount of the bond or other assurance is less than the costs or expenses incurred by the city, the developer shall be liable to the city for the difference plus any attorney fees and costs incurred.

Sec. 15.94.030. - Building and occupancy permits.

- A. Building permits. No building permits shall be issued upon lots to receive and be served by sanitary, sewer and water service and streets as improvements required pursuant to this chapter unless the improvements are in place, serviceable and approved by the city, with the service connections fees paid, and accepted by the city.*
- B. Sale or occupancy. All improvements required pursuant to this chapter and other applicable regulations or approval conditions shall be completed, in service and approved by the city, and accepted by the city council, prior to sale or occupancy of any lot, parcel or building unit erected upon a lot within the subdivision, partitioning, PUD or other development.*

FINDING: To ensure compliance, the following condition of approval has been added:

Building Permits: **Prior to building permit issuance**, no building permits shall be issued upon lots to receive and be served by sanitary, sewer and water service and streets as improvements required pursuant to this chapter unless the improvements are in place, serviceable and approved by the city, with the service connections fees paid, and accepted by the city.

Sec. 15.94.040. - Maintenance surety bond.

Prior to sale and occupancy of any lot, parcel or building unit erected upon a lot within a subdivision, partitioning, PUD or other development, and as a condition of acceptance of improvements, the city will require a one-year maintenance surety bond in an amount not to exceed 20 percent of the value of all improvements, to guarantee maintenance and performance for a period of not less than one year from the date of acceptance.

FINDING: As previously conditioned by the City Engineer, criteria met.

Sec. 15.94.050. - Engineering/special services for review.

With regard to any development proposal for which the city deems it necessary to contract for engineering and/or other special technical services for the review thereof or for the design of facility expansions to serve the development, the developer may be required to pay all or part of the special services. In such cases, the choice of the contract service provider shall be at the discretion of the

city, and the service provider shall perform the necessary services at the direction of the city. The costs for the services shall be determined reasonable, and an estimate of the costs shall be provided to the developer prior to contracting therefore [therefor].

FINDING: Staff include this criterion for reference only.

ARTICLE 7 - PROCEDURES

CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS

Sec. 15.202.010. - Purpose and applicability.

- A. Purpose. The purpose of this chapter is to establish decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 15.202-1 provides a key for determining the review procedure and the decision-making body for particular applications.*
- B. Applicability of review procedures. All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this article as modified by any applicable application-specific procedures identified in articles 8 and 9. The procedure "type" assigned to each application governs the decision-making process for that application. There are four types of review procedures as described in subsections 1—4 below. Table 15.202-1 lists the city's land use and development applications and corresponding review procedure(s).*
 - 1. Type I procedure (ministerial staff review with no notice). Type I decisions are made by the city planning official, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying city standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). The city planning official may elect to process a Type I application under a Type II procedure.*
 - 2. Type II procedure (administrative/staff review with notice). Type II decisions are made by the city planning official, with public notice and an opportunity for appeal to the planning commission. Alternatively, the city planning official may refer a Type II application to the planning commission for its review and decision in a public meeting.*
 - 3. Type III procedure (quasi-judicial review - public hearing). Type III decisions are made by the planning commission after a public hearing, with an opportunity for appeal to the city council except for decisions on all quasi-judicial comprehensive plan amendments and zone changes which must be adopted by the city council before becoming effective. Quasi-judicial decisions involve discretion but implement established policy. They involve the application of existing law or policy to a specific factual situation.*
 - 4. Type IV procedure (legislative review). The Type IV procedure applies to the adoption of law or policy applicable citywide or to a broad geographical area of the city. Legislative actions provide for the establishment and modification of land use plans, policies, regulations, and guidelines. Type IV reviews are considered by the planning commission, which makes a recommendation to city council. City council makes the final decision on a legislative proposal through the enactment of an ordinance.*

Table 15.202-1. Summary of Approvals by Type of Review Procedure

Application*	Review Procedures	Applicable Regulations
Legal lot determination procedure	Type II	Chapter 15.304
Zoning checklist	Type I	Chapter 15.308
Certificate of use and occupancy	Type I	Chapter 15.308 [15.306]
Site plan review	Type II	Chapter 15.312
Conditional use	Type II	Chapter 15.316
Mobile food unit site permit	Type I — III	Chapter 15.318
Variance	Type III	Chapter 15.320
Variance, minor	Type II	Chapter 15.320
Variance, riparian	Type III	Chapter 15.320
Exceptions	Type III	Chapter 15.324
Code interpretation	Type II	Chapter 15.328 . Routine interpretations that do not involve discretion do not require a permit
Street vacation	Type III / IV	Chapter 15.330
Dedications not part of development	NA	See Chapter 15.332
Map amendment (quasi-judicial zone change)	Type III	Chapter 15.344 [15.334]
Legislative text or map amendment	Type IV	Chapter 15.344 [15.334]
Annexation	Type III / IV	Chapter 15.338
Downtown design exception	Type III	Section 15.40.025
Land Divisions		
Subdivisions, PUD or re-plat of > 3 lots		
Preliminary plat	Type III	Chapter 15.406
Final plat	Type I	
Partition or re-plat of 2-3 lots		
Minor – preliminary plat	Type II	Chapter 15.410
Major – preliminary plat	Type III	
Final plat	Type I	
Boundary line adjustments, re-platting	Type I	Chapter 15.414

* The applicant may be required to obtain building permits and other permits and approvals from other agencies, such as a road authority or natural resource regulatory agency. The city's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the city under this Development Code.

FINDING: Staff are reviewing this in accordance with the Type II procedures. Applicable criteria discussed herein.

Sec. 15.202.020. - Time limit and consolidated review.

A. Time limits.

1. Determination of completeness.

- a. Upon receipt of an application, the city planning official shall review the application for completeness.

- i. *Incomplete applications shall not be reviewed until all required information has been submitted by the applicant;*
- ii. *If incomplete, the applicant shall be notified and shall have 180 days from the date the application was first submitted to supply the missing information or notify the city planning official in writing to process the application without missing information.*
- b. *The application shall be deemed complete either:*
 - i. *Upon receipt of the additional information; or*
 - ii. *[When]the applicant provides written notice to the city planning official to process the application without the missing information.*

FINDING: The application was submitted on February 19th, 2025, and paid the same day. The application was deemed incomplete on March 6th, 2025 and notice was sent to the applicant on the same day. Following the submission of additional information, the application was deemed complete on June 17th, 2025 and notice of application was sent out to all required parties on June 17th, 2025.

- c. *Applications may be forwarded to affected agencies and departments for review and comment. If a county road or state highway might be impacted, referrals should be sent to Deschutes County public works and/or ODOT. Developments on any land illustrated on the NWI/LWI maps shall be referred within five days of receipt to the Oregon Division of State Lands.*
- d. *An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under subsection a. Any other evidence submitted by an applicant will not be considered in determining whether the application is complete and will be returned to the applicant.*

FINDING: Notice of application was sent out to all relevant agencies and the public on May 19th, 2025. These criteria are met.

- 2. *120-day rule. The city shall take final action on administrative and quasi-judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the city planning official deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to legislative land use decisions.)*

FINDING: The 120th that staff must take final action on this application is October 15th, 2025. This criterion will be met.

- 3. *100-day rule. The city must take final action, including resolution of all local appeals on qualifying applications under ORS 227.180, within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:*

- a. *The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;*
- b. *At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and*
- c. *The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in [paragraph] b of this section [3] as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.*

FINDING: The application does not meet the requirements for the 100-day rule. This criterion is not applicable.

- 4. *The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the applicant, but total of all extensions, except as provided in subsection ORS 227.178(11) for mediation, may not exceed 245 days.*

FINDING: Staff are including this section for reference. As of writing this decision, no requests for extensions have been filed.

- B. *Time periods. In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.*

FINDING: Staff are computing time periods in accordance with this criterion. This criterion is met.

- C. *Consolidated review of applications. When an applicant applies for more than one type of application for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.*

State Law reference— Applications for permits, etc., ORS 22.175; final action, ORS 117.178; application review, ORS 227.180.

FINDING: This application does not qualify for a consolidated review. This criterion is not applicable.

Sec. 15.202.030. - City planning official's duties and development review committee.

- A. *City planning official's duties. The city planning official, or his or her designee, shall perform all of the following duties with regard to administration of this Development Code:*

1. *Prepare application forms based on the provisions of this Development Code and applicable state law;*
2. *Prepare required notices and process applications for review and action;*
3. *Assist the planning commission and city council in administering the hearings process;*
4. *Answer questions from the public regarding the city's land use regulations;*
5. *Prepare staff reports summarizing pending applications, including applicable decision criteria;*
6. *Prepare findings consistent with city decisions on land use and development applications;*
7. *Prepare notices of final decisions, file the notices in the city's records, and mail a copy of the notices to all parties entitled to notice under this Development Code; and*
8. *Maintain and preserve the file and record for each application.*

FINDING: Staff are reviewing this application in accordance with the above-mentioned duties. These criteria are met.

B. Development review committee. The development review committee may assist the city planning official in the review of proposed development and preparation of staff reports.

1. *The following persons, parties and agencies shall constitute the membership of the city development review committee:*
 - a. *Public works official.*
 - b. *Engineering official.*
 - c. *Police and/or county sheriff as applicable.*
 - d. *Fire and rescue.*
 - e. *Public utility representatives (water and sewer districts).*
 - f. *School district representatives.*
 - g. *Parks and recreation district director.*
 - h. *Building official.*
 - i. *Any other person, party or agency deemed by city staff to be affected by the land use proposal or to have specific knowledge or expertise in regard to the specific proposal.*

FINDING: Staff have included agency contacts in accordance with City best practice for review of application materials. This criterion is met.

Sec. 15.202.040. - Pre-application conference.

- A. *A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the land use process and is required for all Type III applications. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use codes, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning code or land division code and to identify issues likely to arise in processing an application. The applicable zoning code may require that a pre-application conference be held for particular types of applications.*
- B. *Required pre-application conferences must be held no more than one year prior to the submittal of a Type III land use application. Requests for pre-application conferences shall be made on a form provided by the city.*

State Law reference— *Planning and zoning hearings and review, ORS 227.160 et seq.*

FINDING: A pre-application conference was not required, however staff did meet with the applicant multiple times prior to and during the application process. This criterion is met.

Sec. 15.202.050. - Neighborhood contact.

- A. *Purpose and applicability. Unless waived by the city planning official, applicants for master plans, subdivisions with more than ten lots, major variances and property owner-initiated for zone changes are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the city, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.*
- B. *Notice. Notice of the meeting must be given in writing to all property owners whose property is located within 100 feet of the site, at their addresses of record at the Deschutes County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the city. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.*
- C. *Meeting place, date, and time. The meeting must be held within the city limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.*
- D. *Conduct of meeting. At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, shall complete a form prescribed by the city to certify the occurrence of the meeting.*

- E. *Filing requirements. The meeting certification form, even if no affected property owners attend, is required and must be submitted to the city with a land use application for the application to be deemed complete. Copies of the following information must accompany the meeting certification form: a copy of the notice mailed, all addresses for which notice was mailed (e.g., copy of mailing labels), and copies of all other written materials provided prior to or distributed at the meeting.*

FINDING: Neighborhood contact was not required as a partition does not meet the applicability described in subsection A. This criterion is not applicable.

Sec. 15.202.060. - Withdrawal of application.

An applicant may withdraw an application in writing at any time prior to the decisioning becoming final. If the landowner is not the applicant, no consent to withdraw the application is needed from the landowner. Refunds for withdrawn applications shall be determined from the following schedule:

- A. *Refund request after file is made prior to acceptance of an application as complete and/or prior to the mailing of transmittals or public notice - 75 percent.*
- B. *Refund after public notice or transmittals have been sent - 50 percent.*
- C. *No refund shall be allowed after the preparation of a decision or staff report.*

FINDING: Staff have included this section for reference.

Sec. 15.202.070. - Effect of determinations made outside of established processes.

Any informal interpretation or determination, or any statement describing how a property may be used for [development], made outside the procedures described in this article shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final city action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

FINDING: Staff include this section for reference only; only formal interpretations or determinations as described in this decision constitute final action by the City.

Sec. 15.202.080. - Modification of application.

- A. *An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of this section, and payment of the required fee.*
- B. *The city planning official or planning commission shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day review period as of the date the modification is*

submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications. For the purposes of this section, "modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site layout (including, but not limited to, changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

- C. The city planning official or planning commission may require that the application be re-noticed and additional hearings be held.*
- D. Up until the day a hearing is opened for receipt of oral testimony, the city planning official shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the planning commission shall make such determinations. The city planning official or planning commission determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the city on an application.*

FINDING: Staff include this section for reference only.

Sec. 15.202.090. - Reapplication limited.

- A. If a specific application is denied on its merits, reapplication for substantially the same proposal may be made at any time after the date of the final decision denying the initial application.*
- B. Notwithstanding subsection A, a final decision bars any reapplication for a non-conforming use verification or for a determination on whether an approval has been initiated.*

FINDING: Staff include this section for reference only.

Sec. 15.202.110. - Expiration of approval.

- A. Scope.*
 - 1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under this Development Code.*
 - 2. This section does not apply to:*
 - a. Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of [article 3]. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.*
 - b. Quasi-judicial map changes.*

B. Duration of approvals.

- 1. Except as otherwise provided under this section or under other applicable provisions of this Development Code, a land use approval is void two years after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.*
- 2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats shall be void after two years from the date of preliminary approval, unless the final plat has been submitted to the city planning official for final approval within that time period, or an extension is sought under subsection C, or the preliminary plat approval has been initiated as defined herein.*
- 3. The city planning official or planning commission may approve a request to complete developments of five or more acres provided the total time for all phases shall not exceed five years from the date the application becomes final. An extension of any phase of a phased development shall automatically extend all subsequent phases.*

FINDING: In accordance with subsection B.2, the final plat must be filed with County no later than two years after the date of this decision, unless an extension is sought under subsection C. As conditioned in accordance with LPDC Chapter 15.410 and 15.418, these criteria will be met.

C. Extensions.

- 1. The city planning official may grant one extension of up to one year for a land use approval or a phase of a land use approval, regardless of whether the applicable criteria have changed, if:*
 - a. An applicant makes a written request for an extension of the development approval period;*
 - b. The request, along with the appropriate fee, is submitted to the city prior to the expiration of the approval period;*
 - c. The applicant states reasons that prevented the applicant from beginning or continuing development or meeting conditions of approval within the approval period; and*
 - d. The city determines that the applicant was unable to begin or continue development or meet conditions of approval during the approval period for reasons for which the applicant was not responsible, including, but not limited to, delay by a state or federal agency in issuing a required permit.*
- 2. Up to two additional one-year extensions may be granted by the city planning official if the criteria under subsection C.1 are still satisfied provided the applicable criteria for the decision have not changed.*

D. Procedures.

1. *A determination of whether a land use has been initiated shall be processed as a declaratory ruling.*
 2. *Approval of an extension granted under subsection C is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under the Development Code as a development action, except to the extent it is necessary to determine whether the use has been initiated.*
- E. *Effect of appeals. The time period set forth in subsection B shall be tolled upon filing of an appeal to LUBA until all appeals are resolved.*

FINDING: Staff include this section as reference only.

Sec. 15.202.120. - Initiation of use.

- A. *For the purposes of this section, development undertaken pursuant to a land use approval has been "initiated" if it is determined that:*
1. *The proposed use has lawfully occurred;*
 2. *Substantial construction toward completion of the land use approval has taken place; or*
 3. *Where construction is not required by the approval, the conditions of a permit or approval have been substantially satisfied and any failure to fully comply with the conditions is not the fault of the applicant.*
- B. *For the purposes of this section, "substantial construction" has occurred when the holder of a land use approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.*

FINDING: Staff include this section as reference only.

Sec. 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.*
- 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 include this section as reference only.

Sec. 15.202.140. - Transfer of approvals.

- A. A land use approval shall be deemed to run with the land and be transferable to applicant's successors in interest.*
- B. The city planning official may require that an applicant record an instrument in the Deschutes County Records to provide notice of the land use decision and/or any conditions of approval.*
- C. The terms of a land use decision may be enforced against the applicant and any successor in interest.*

FINDING: Staff include this section as reference only.

CHAPTER 15.204. - APPLICATION PROCEDURES

Sec. 15.204.020. - Type II procedure (administrative review with notice).

The planning official performs administrative staff reviews through the Type II procedure. Type II decisions are made by the planning official with public notice and an opportunity for appeal to the planning commission. Alternatively, the planning official may refer a Type II application to the planning commission for its review and decision in a public meeting.

A. Application requirements.

- 1. Application forms. Applications for projects requiring administrative review shall be made on forms provided by the planning official.*
- 2. Submittal information. The planning official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:*
 - a. The information requested on the application form;*
 - b. Plans and exhibits required for the specific approval(s) being sought;*
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;*
 - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and*
 - e. The required fee.*

FINDING: As described previously, staff are following the Type II procedures. The applicant submitted all of the required materials. These criteria are met.

B. Notice of pending administrative decision (notice of application).

- 1. The purpose of the notice of pending administrative decision is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the planning official issues the decision. Within ten days of receipt of a complete application for a Type II land use action, the planning official shall mail notice of a pending Type II decision to the individuals and agencies [listed in paragraph 3 of this subsection B].*
- 2. The comment period shall be at least 14 days duration from the date notice was mailed or a longer [period] as specified in the notice. The deadline for submitting written comments must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled planning commission meeting date where an application is referred to the commission for review.*

FINDING: As described previously, staff have followed all applicable notice procedures. This criterion is met.

- 3. All of the following individuals and agencies shall be notified. However, the failure of a property owner to receive mailed notice shall not invalidate any land use approval if the planning official can show by affidavit that such notice was given.*
 - a. The applicant;*
 - b. Owners of record of property as shown on the most recent property tax assessment roll of property located within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;*
 - c. The owner of a public use airport if the airport is located within 10,000 feet of the subject property;*
 - d. The planning commission;*
 - e. Any neighborhood or community organization formally recognized by the city council, whose boundaries include the site;*
 - f. Any person who submits a written request to receive a notice; and*
 - g. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city and any other affected agencies. At a minimum, the city planning official shall notify the road authority if different than the City of La Pine. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the city under this Development Code.*

FINDING: As described previously, staff have sent the notice of application following City agency contact list best practices, included all the above mentioned parties. These criteria are met.

4. *The notice of pending administrative decision, at a minimum, shall contain all of the following information:*
 - a. *The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled planning commission meeting date where an application is referred to the commission for review;*
 - b. *A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable Development Code requirements;*
 - c. *The address and city contact person for submitting written comments; and the date, time, and location the city planning official or planning commission, as applicable, is scheduled to make a decision on the application;*
 - d. *The street address or other easily understandable reference to the location of the proposed use or development;*
 - e. *Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the land use board of appeals or circuit court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;*
 - f. *Statement that all evidence relied upon by the city planning official or planning commission, as applicable, to make its decision is in the record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the city; and*
 - g. *Statement that after the comment period closes, the city will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.*

FINDING: Staff have included all of the above required elements in the notice of application. This criterion is met.

C. *Decision.*

1. *At the conclusion of the comment period, the city planning official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Development Code criteria. Alternatively, the city planning official may transmit all written comments received, if any, along with a copy of the application to the planning commission for review and decision at its next regularly scheduled meeting.*
2. *Where the city planning official refers an application subject to administrative review to the planning commission, the planning commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Development Code criteria. The planning commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the commission makes a final decision within the time period prescribed under state law (ORS 227.178) and as described in section [15.202.020](#) of this Development Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the required timeframe and the commission*

may decide to accept oral and written testimony in a public hearing review of the application, pursuant to [section 15.204.030](#); in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.

FINDING: Staff have included agency and public comments within this decision in accordance with the above criteria. These criteria are met.

D. Notice of decision.

- 1. Within seven days of a Type II decision, the city planning official shall prepare a notice of decision and mail it to the applicant, property owner (if different), the building official, those who provided written comments on the proposal, and those who requested a copy of the decision. If the decision is not a limited land use decision as defined in ORS 197.015(12), notice shall also be sent to all persons entitled to notice under subsection B.*
- 2. The city planning official shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.*
- 3. The administrative notice of decision shall contain all of the following information:*
 - a. A description of the applicant's proposal and the city's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the record;*
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);*
 - c. A statement of where the city's decision can be obtained;*
 - d. The date the decision shall become final, unless appealed; and*
 - e. A statement that all persons entitled to notice may appeal the decision to city council pursuant to subsection F.*

FINDING: Staff will issue the decision and notice of addition in accordance with the above criteria. These criteria will be met.

- E. Effective date of decision. Unless the conditions of approval specify otherwise, an administrative decision becomes effective 12 days after the city mails the decision notice, unless the decision is appealed pursuant to subsection F or the decision is called up for review by the city council pursuant to subsection G. No building permit shall be issued until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision at the local level for purposes of issuing building permits.*

FINDING: Staff will follow the 12 day period until the decision becomes effective. This criterion will be met.

F. Appeal of Type II (administrative) decision.

- 1. Who may appeal. The following people have legal standing to appeal a Type II administrative decision:*
 - a. The applicant or owner of the subject property;*
 - b. Any person who was entitled to written notice of the Type II decision; and*
 - c. Any other person who participated in the proceeding by submitting written comments on the application to the city by the specified deadline.*
- 2. Appeal filing procedure. Appeals shall be filed in accordance with [chapter 15.212](#).*

G. Review by council.

- 1. Review of an administrative action or a planning commission decision may be initiated by the city council. The council shall consider calling up for review any administrative decision that a majority of the planning commission recommends be reviewed.*
- 2. Review by the council shall be initiated by council order within 12 days of the date of the mailing of the final written decision of the planning official or planning commission.*
- 3. Review shall be conducted in the same manner provided for in appeals, except that an appeal fee and transcript shall not be required. Any council order calling up for review a decision shall specify whether the council will review the decision called up on the record or de novo, and whether it intends to limit the issues on review to certain specified issues.*

FINDING: Staff are including this subsection for reference.

ARTICLE 8 - APPLICATIONS AND REVIEWS

CHAPTER 15.312. - SITE PLAN REVIEW

Sec. 15.312.010. - Purpose.

- A. The purpose of the site plan review provisions of this section [chapter] is to ensure that development within the city complies with standards and limitations set forth within the applicable zone, by other city standards and requirements and by applicable county, state and federal regulations.*
- B. This broad purpose is furthered by the following specific purposes of site plan review:*
 - 1. To implement the goals and policies of the comprehensive plan.*
 - 2. To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset.*

3. *To encourage originality and creativity in site design, architecture and landscape design.*
4. *To ensure that the arrangement of all functions, uses and improvements of a development reflect the natural amenities, capabilities and limitations of its site and adjacent areas.*
5. *To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious within the development and the surrounding area.*
6. *To encourage development and landscape design that complements the natural landscape and setting, improves the general appearance of the community and enhances specific elements of the man-made environment, both presently and historically.*

FINDING: The proposal is being reviewed in accordance with the site plan review criteria. The purposes of the site plan review criteria above are addressed subsequently through the review criteria addressed herein. Criteria met.

Sec. 15.312.020. - Applicability.

The following uses and development shall be subject to the provisions of this section:

- A. *All new construction or new development except for: single-family residences (including manufactured dwellings, mobile homes, modular homes), duplexes, accessory dwelling units and related accessory structures unless provided otherwise in this chapter.*
- B. *An exterior alteration or modification to an existing nonresidential use or structure, which is subject to site plan review and/or is subject to regulation under the provisions of this chapter, except for painting, replacement of roofing and siding, and other normal maintenance and upkeep requirements which are not subject to regulation under the provisions of this chapter or any other applicable city, county, state and/or federal regulations.*
- C. *Any alteration or modification of site improvements, such as the landscaping, parking and/or loading facilities and areas, in conjunction with an existing nonresidential use which is subject to site plan review and/or is subject to regulation under the provisions of this chapter.*

FINDING: The proposal is for new construction and new development, which results in the site plan review criteria being applicable towards the request, and the relevant criteria are addressed herein. Criteria met.

Sec. 15.312.025. - Site plan approval required.

Site plan review and approval, as specified by this chapter, shall be required prior to the following:

- A. *Site clearance activities such as grading, excavation or filling for any use or development requiring a permit pursuant to this Development Code.*
- B. *The issuance of a building or development permit for any use or development requiring city approval pursuant to this Development Code.*

FINDING: The above criteria has not been initiated by the applicant prior to approval though this development code, therefore the criteria is met.

Sec. 15.312.030. - Procedure type.

- A. *Site plan review applications are subject to Type II review in accordance with the procedures in [article 7](#) unless elevated to a Type III review at the discretion of the planning official.*
- B. *Pre-application conference. Prior to applying for site plan approval, applicants should and may meet with the city planning official, building official and public works director, or designees thereof, and present a preliminary plan which shall contain, in an approximate manner, the information required on a site plan review application.*
 - 1. *The purpose of the preliminary site plan review is to enable the applicant to obtain advice from the city as to the intent, standards, criteria and provisions of this chapter, this Development Code, other city ordinances, standards and regulations, and state and federal rules and regulations which may be pertinent to the proposal.*
 - 2. *Information presented for preliminary discussion shall be considered confidential if so requested by the applicant.*

FINDING: The proposal is being reviewed in accordance with the Type II procedures outlined in Article 7. The applicant held a pre-application conference with the city prior to submitting their application for review. Criteria met.

Sec. 15.312.040. - Submittal requirements.

A property owner or authorized representative thereof may initiate a request for site plan review by filing an application with the city using forms prescribed by the city together with the required filing fee in accordance with the Type II application requirements in [article 7](#). In addition to the information required for a Type II review (see [article 7](#)), the applicant shall submit that which is listed below.

- A. *Requirements for information to be submitted. Information provided on the site plan shall conform to the following. The number of copies required shall be as specified on the application form.*
 - 1. *Drawings depicting the proposal shall be presented on sheets not larger than 24 inches by 36 inches in the number of copies directed by the city.*
 - 2. *To facilitate public reviews and notice, at least one copy of the proposal shall be provided on a sheet of paper not larger than 11 inches by 17 inches.*
 - 3. *Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned and shall include a north arrow and scale.*
 - 4. *The city may require that the drawing, development plan or other information be provided to the city on computer disk in a format adaptable to the city's computer systems.*

FINDING: The applicant submitted a site plan with the application in digital form. The digital copy meets the above criteria, as evidenced by the application submitted. Criteria met.

B. *Site analysis diagram. If required by the city planning official, this element of the site plan, which may be in schematic or free hand form to scale, shall indicate the following site characteristics:*

1. *Location and species of existing trees greater than six inches in diameter when measured four feet above the natural grade, and an indication of which trees are proposed to be removed.*
2. *On sites that contain steep slopes, potential geological hazard or unique natural features that may affect the proposed development, the city may require contours mapped at two-foot intervals.*
3. *Natural drainage ways, depths of any ground water tables less than 12 feet, any areas of surface water accumulations and any other significant natural features.*
4. *The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site, and all buildings, utilities, retaining walls, and other man-made features, both existing and proposed.*
5. *Natural features, including trees, riparian habitat and stream channels and structures on-site or on adjoining properties that have or may have a visual or other significant relationship with the site and the proposed development thereon.*

FINDING: The submitted site plan addressed the above criteria, as evidenced by the application submitted. Criteria met.

C. *Site photographs. Photographs depicting the site and its relationship to adjoining sites and the general area are extremely valuable, should be provided, and may be required by the city planning official.*

FINDING: Site photographs are not required, staff was able to conduct a site visit to the property prior to a decision being rendered, and if needed can visit the property again prior to final approval. Criteria met.

D. *Site development plan. The site plan shall indicate the following:*

1. *Legal description of the property.*
2. *Boundary dimensions and site area.*
3. *Location and sizes of existing and proposed utilities, including water lines, sewer lines, hydrants, etc.*
4. *Location of all existing and proposed structures, including distances from the property lines.*
5. *Area of the site to be covered by structures, existing and proposed, and the percentage of site coverage thereby.*
6. *All external dimensions of existing and proposed buildings and structures.*
7. *Location of building entrances and exits.*

8. *Access drives, parking and circulation areas, including their dimensions.*
9. *Service areas and delivery circulation plan for such uses as the loading and delivery of goods.*
10. *Locations, descriptions and dimensions of easements as may be applicable.*
11. *Grading and drainage plans and calculations, including spot elevations and contours at intervals close enough to convey their meaning.*
12. *Location of areas to be landscaped, including designated landscape material/plant types and sizes.*
13. *Outdoor recreation and/or play areas.*
14. *Pedestrian and bicycle circulation, including existing and proposed on-site and off-site sidewalks.*
15. *Location of mechanical equipment not enclosed within a building, garbage disposal areas, utility appurtenances and similar structures.*
16. *Exterior lighting and fencing.*
17. *Location, size and method of illumination of signs.*
18. *Provisions for handicapped persons.*
19. *Other site elements which will assist in the evaluation of site development.*
20. *Location, names, surface and right-of-way widths and improvement standards of all existing and proposed streets within or adjacent to the proposed development.*
21. *Location of areas designated for snow storage, in accordance with the requirements of section 18.86.060 [15.86.060], and calculations of the area required by the minimum standard and the proposed area.*
22. *Information necessary to demonstrate compliance with [the] fire code, including, but not limited to, fire flow, apparatus access, and hydrant spacing.*

FINDING: The submitted site plan addressed the above criteria, as evidenced by the application submitted. Criteria met.

- E. *Accompanying written summary. In addition to the foregoing site development plan requirements, a written summary of the proposal should be provided and may be required showing the following, (unless such is shown on the site development plan):*
 1. *Commercial and nonresidential development. For commercial and nonresidential development:*
 - a. *The square footage contained in the site area to be developed.*

- b. The percentage of the area to be covered by structures when developed.*
- c. The percentage of the area to be covered by parking areas and the total number of parking spaces.*
- d. The total square footage of all landscaped areas, including the percentage consisting of natural materials and the percentage of hard surfaced areas such as courtyards.*
- e. Trip generation letter, signed by a professional engineer registered by the State of Oregon (unless waived by the city planning official). A traffic impact analysis may be required in accordance with [section 15.90.080](#).*

FINDING: The submitted site plan addressed the above criteria with a written summary, as evidenced by the application submitted. A trip generation letter was also submitted with the application for review, and signed by a PE registered engineer. Criteria met.

2. Residential development. For residential development:

- a. The total square footage of the lot or parcel and in the structures in the development.*
- b. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, for example, ten one-bedroom, 25 two-bedroom and the like).*
- c. Percentage of lot coverage by structures, way areas, recreation areas and landscaping.*
- d. Trip generation letter, signed by a professional engineer registered by the State of Oregon (unless waived by the city planning official). A traffic impact analysis may be required in accordance with [section 15.90.080](#).*

FINDING: The proposal does not include residential development. Criteria does not apply.

F. Landscape plan. If required by the city planning official, a landscape plan shall be submitted and shall indicate the following.

- 1. The size, species and locations of plant materials to be retained or placed on-site.*
- 2. The layout of irrigation facilities.*
- 3. Location and design details of walkways, plazas, courtyards and similar areas.*
- 4. Location, type and intensity of outdoor lighting.*
- 5. Location and design details of proposed fencing, retaining walls and trash collection areas.*
- 6. Other information as deemed appropriate by the review authority. An arborist's report may be required for sites with mature trees that are to be retained and protected.*

FINDING: A landscape plan was submitted with the application for review, and included all of the required elements addressed above, as evidenced by the submitted application. Criteria met.

G. *Architectural drawings. This element of the site plan review, if required by the city planning official, shall indicate the following:*

1. *A plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions and the relationship of the spaces to decks, porches, balconies and stairs or other features shown on the building elevations. The floor plans shall be provided for all building floors and shall include appropriate dimensions.*
2. *Exterior elevations showing building heights, windows, doors, exterior light fixtures, stairways, balconies, decks and other architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations.*
3. *Location and type of exterior light fixtures, including the lamp types and the levels of illumination that they provide.*
4. *Location, size and method of illumination of all exterior signs.*

FINDING: The application submitted for review included architectural drawings addressing all of the above criteria. Criteria met.

H. *Property survey. A survey of the property by a licensed land surveyor may be required, and if required the survey shall clearly delineate property boundaries, and show the location of the corners of proposed buildings and other significant features proposed for the site. The requirement for a survey of the exterior boundaries of a site may be waived where it is found that there is a recent survey that can be used to clearly establish the applicant's property boundaries.*

FINDING: A property survey is not required. Criterion does not apply.

- I. *Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for roadway access control.*
- J. *Narrative. A written narrative addressing the applicable criteria listed [in] [section 15.312.050](#) for residential development and sections [15.312.050](#) and [15.312.060](#) for nonresidential development.*
- K. *Other information as determined by the city planning official. The city planning official may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Development Code.*

FINDING: A title report was included in the application, outlining all deed restrictions. A narrative was included with the application addressing the criteria within section 15.312.050 and 15.312.060 for nonresidential development. No other information is required by the planning official. Criteria met.

Sec. 15.312.050. - Approval criteria - all residential and nonresidential.

To ensure that the stated purposes of the site plan review process are met, the review authority shall be governed by the criteria below as they evaluate and render a decision on a proposal.

A. Statement of intent.

- 1. The site plan review criteria are intended to provide a frame of reference for the applicant in the development of a site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans.*
- 2. These criteria provide a clear and objective means of evaluating residential development (and the residential components of a mixed use development) in accordance with ORS 197.*
- 3. The review authority is not authorized as a part of the site plan review process to approve projects which exceed specific development standards set forth by the applicable zone unless the exceptions are approved in accordance with specific variance or other provisions set forth in this Development Code.*

FINDING: As discussed herein, staff has reviewed the applicant's proposal under the site plan regulations highlighted above. These criteria are met.

B. Site plan evaluation criteria. The following criteria shall be used in evaluating all site development plans:

- 1. The application is complete, in accordance with the applicable procedures in [article 7](#).*

FINDING: The application was deemed complete on June 17th, 2025, in accordance with LPDC Article 7. This criterion is met.

- 2. The application complies with all applicable provisions of the underlying zoning district in [article 3](#), including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards.*

FINDING: As discussed herein, all applicable provisions of the underlying zone (Traditional Commercial) have been met and therefore, this criterion is met.

- 3. The application complies with the provisions of the any applicable overlay zones in [article 4](#).*

FINDING: As discussed herein, the subject property is entirely within the Downtown Overlay zone and compliance with applicable provisions have been met and therefore, this criterion is met.

- 4. The proposal complies with all applicable development and design standards of [article 5](#).*

FINDING: As discussed herein, all applicable development and design standards of LPDC Article 5 have been met, therefore this criterion has been met.

- 5. The application complies with all applicable special use standards in [article 6](#).*

FINDING: As discussed herein, all applicable development and design standards of LPDC Article 6 have been met,

therefore this criterion has been met.

6. *Adequate public facilities and utilities are available or can be made prior to occupancy to serve the proposed development.*

FINDING: Notice of Application was sent to several agencies including the La Pine Public Works Department and Midstate Electric. Staff did not receive any comments in the record that indicated there were not adequate public utilizes and facilities to support the development, besides the public improvements that have been discussed and conditioned previously. This criterion is met.

7. *The proposed site plan conforms to the standards within the adopted La Pine Transportation System Plan (TSP), as may be amended from time to time, unless other design standards are specifically approved by the city.*

FINDING: As discussed herein, several public improvements are required to bring the development into compliance with the La Pine Transportation System Plan. Those requirements have previously been added to the conditions of approval for this land use decision. As conditioned the site will be in compliance with the La Pine Transportation System Plan and therefore, this criterion is met.

8. *The proposed site plan conforms to the La Pine Sewer and Water Standards, as may be amended from time to time, unless other design standards are specifically approved by the city. All sewer improvements must comply with Oregon Administrative Rules chapter 340 division 52 requirements, including Appendix A - Sewer Pipelines.*

FINDING: Compliance with the La Pine Sewer and Water standards will be reviewed during the Pre-Construction meeting that will be held prior to development. As previously conditioned, criteria met.

9. *The proposed site plan conforms to the Central Oregon Stormwater Manual (COSM), as may be amended from time to time, unless other design standards are specifically approved by the city.*

FINDING: As previously conditioned, prior to the issuance of building permits, the applicant's site plan will be reviewed for compliance with the Central Oregon Stormwater Manual. As conditioned this criterion is met.

10. *All utilities shall be installed underground, unless otherwise specifically approved by the city.*

FINDING: As previously conditioned, all utilities shall be installed underground. As conditioned, this criterion is met.

11. *The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.*

FINDING: The applicant is proposing new development of the property and not altering a previous site plan approval, therefore, compliance with previous conditions of approval is not applicable to this proposal. Previous approvals are also currently under review, as the decisions are within the two year approval window, and have not been fully completed. Compliance with those existing conditions of approval will continue to be reviewed and verified by staff. Therefore, this criterion is not applicable.

Sec. 15.312.060. - Additional approval criteria - nonresidential development.

In addition to the approval criteria in [section 15.312.050](#), to ensure that the stated purposes of the site plan review process are met, the review authority shall also be governed by the criteria below as they evaluate and render a decision on a nonresidential development proposal.

A. Statement of intent.

- 1. The site plan review criteria for nonresidential development are intended to provide a frame of reference for the applicant in the development of a site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans.*
- 2. These criteria are not intended to be inflexible requirements, nor are they intended to discourage creativity. The specification of one or more architectural styles is not intended by these criteria.*
- 3. The review authority is not authorized as a part of the design review process to approve projects which exceed specific development standards set forth by the applicable zone unless the exceptions are approved in accordance with specific variance or other provisions set forth in this chapter.*

FINDING: As discussed herein, staff has reviewed the applicant's proposal under the site plan regulations highlighted above. These criteria are met.

B. Site plan evaluation criteria. In addition to the approval criteria in [section 15.312.050](#), the following criteria shall be used in evaluating nonresidential site development plans:

- 1. The arrangement of all functions, uses and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites.*

FINDING: As addressed herein, the applicant's proposal complies with all development regulations and therefore staff finds the design is well suited to the natural characteristics and limitations of the site. This criterion is met.

- 2. In terms of setback from streets or sidewalks, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures.*

FINDING: As discussed herein, the adherence to the Downtown Overlay design standards creates a visually interesting and compatible relationship between the proposed structures and adjacent structures. Therefore, this criterion is met.

- 3. The design incorporates existing features, such as streams, rocks, slopes, vegetation and the like, as part of the overall design.*

FINDING: As previously discussed, there are no existing features such as streams, rocks, slopes, nor vegetation on the site to incorporate into the proposed design, therefore this criterion is not applicable.

- 4. Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscape/open space in order to create a pedestrian/bike pathway and/or open system that connects several properties or uses.*

FINDING: As discussed herein, the applicant's site plan incorporates a continuous walkway system and convenient bicycle parking. This criterion is met.

5. *The arrangement of the improvements on the site do not unreasonably degrade the scenic values of the community and the surrounding area in particular.*

FINDING: As discussed herein, the improvements to the site are in adherence to the development code which does not unreasonably degrade the scenic values of the community. This criterion is met.

6. *Where appropriate, the design includes a parking and circulation system that encourages a pedestrian and/or bicycle rather than vehicular orientation, including a separate service area for delivery of goods.*

FINDING: As discussed herein, the parking and circulation requirements of LPDC Chapter 15.88 have been met which creates a system that provides safe circulation for vehicles, pedestrians, and bicycles. This criterion is met.

7. *The design gives attention to the placement of storage, mechanical equipment, utilities or waste collection facilities so as to screen such from view, both from within and from outside the site.*

FINDING: As discussed herein, all mechanical equipment, utilizes, waste collection facilities will be screened from view. This criterion is met.

C. *Landscape design evaluation criteria. The following criteria shall be used in evaluating landscape plans:*

1. *The overall design substantially complements the natural environment of the city and the character of the site and the surrounding area.*
2. *The design acknowledges the growing conditions for this climatic zone, and the unique requirements that its specific site location makes upon plant selection.*
3. *Provision has been made for the survival and continuous maintenance of the landscape and its vegetation.*
4. *The design contributes to the stabilization of slopes and the protection of other natural features and resources where applicable.*

FINDING: As discussed herein, the landscape plan for the site meets and often exceeds the requirements of LPDC Chapter 15.82; therefore, this criterion is met.

Sec. 15.312.070. - Conditions of approval.

In addition to the standards and conditions set forth in a specific zone (if found to be necessary and supported with adequate findings), additional conditions may be imposed by the city which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area. The conditions may include, but are not limited to, the following:

- A. *Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.*

- B. *Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.*
- C. *Limiting the height, size or location of a building or other structure or use.*
- D. *Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.*
- E. *Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.*
- F. *Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.*
- G. *Requiring screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.*
- H. *Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or man-made significant resources.*

FINDING: Additional conditions of approval have been included herein for this decision. No other conditions of approval in accordance with the above-mentioned elements are required at this time. Criteria met.

Sec. 15.312.080. - Revision of plans.

Construction documents (that is, plans, drawings and specifications) shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review needed and/or proposed modifications. The review authority that originally approved the plans shall review the proposed modifications to determine whether they constitute a major or minor revision of the approved plans.

A. Major modifications.

1. *Major modifications are those which result in a significant change in the initial plans. The following are examples of major modifications: changes in the siting of a building; modification of areas to be landscaped; and modifications to a plan element that was the subject of a design review authority condition of approval.*
2. *If the review authority determines that the proposed change is a major modification, the proposed alteration shall be reviewed and processed in the same manner as the original application and as a new application; however, the fee shall only be 50 percent of the original application fee.*

B. Minor modifications.

1. *Minor modifications are those which result in an insignificant change in the initial plans. Examples are: limited dimensional or locational changes to building elements such as doors; changes in building materials where only a limited area is affected; and substitution of landscape materials which do not affect the overall landscape design.*
2. *If the city determines that the proposed change is a minor modification, the review authority may proceed with the review of the plans; however, if the review authority is different than the original review authority, the original review authority shall be notified of the proposed change and given an opportunity to comment relative thereto prior to final approval of such change.*

FINDING: To ensure compliance, a condition of approval is added stating the following.

Revision of Plans: **At all times**, construction documents shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review needed and/or proposed modifications. The review authority that originally approved the plans shall review the proposed modifications to determine whether they constitute a major or minor revision of the approved plans in accordance with LPDC 15.312.080.

Sec. 15.312.090. - Performance assurance.

- A. *Landscaping and other site improvements required pursuant to an approved design review plan shall be installed prior to the issuance of a certificate of occupancy or final inspection, unless the property owner and/or applicant submits a performance assurance device that is approved by the city committing the installation of landscaping and other site improvements within one year.*
- B. *In no case shall the performance be delayed beyond the one-year period for more than six months unless approved otherwise by the city. Acceptable performance assurances shall be in compliance with the provisions of this chapter or as otherwise approved by the city.*
- C. *Performance guarantee required for infrastructure improvements. The city at its discretion may allow a developer to delay installation of required public infrastructure improvements provided such infrastructure improvements must be complete and accepted by the city prior to the issuance of a certificate of occupancy, and provided that the applicant provides assurance for said improvements acceptable to the city. The applicant shall provide a bond issued by a surety authorized to do business in the State of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the city, cash, or other form of security acceptable to the city.*

FINDING: To ensure compliance, a condition of approval is added stating the following.

Landscaping and other improvement performance assurance: **Prior to occupancy**, all landscaping and other site improvements shall be installed. This requirement may be waived if the property owner and/or applicant submits a performance assurance device that is approved by the city committing the installation of landscaping and other site improvements within one year.

V. CONCLUSION

Based on the foregoing findings, City staff concludes that the proposed use can comply with the applicable standards and criteria of the City of La Pine Development Code if the conditions of approval are met.

Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental Soils Division as well as any required state and federal permits.

VI. DECISION

APPROVAL, subject to the following conditions of approval.

VII. CONDITIONS OF APPROVAL:

AT ALL TIMES

1. 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.
2. 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.
3. 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.
4. Exterior Lighting: **At all times**, all exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.
5. Shipping Containers: **At all times**, metal shipping containers shall not be placed on-site, with the exception of short-term use for construction or relocations (30 days or less), or in the case of construction; shall be removed no less than 30 days after a certificate of occupancy has been issued.
6. Maintenance and Plant Survival: **At all times** all landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.
7. Underground Utilities: **At all times**, all new electrical, telephone, or other utility lines shall be underground unless otherwise approved by the City.
8. Default Status: **At all times**, if a developer fails to carry out provisions of the agreement, and the city has unreimbursed costs or expenses resulting from the failure, the city shall call on the bond or other assurance for reimbursement of the costs or expenses. If the amount of the bond or other assurance deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the amount of the bond or other assurance is less than the costs or expenses incurred by the city, the developer shall be liable to the city for the difference plus any attorney fees and costs incurred.

9. Revision of Plans: ***At all times***, construction documents shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review needed and/or proposed modifications. The review authority that originally approved the plans shall review the proposed modifications to determine whether they constitute a major or minor revision of the approved plans in accordance with LPDC 15.312.080.

PRIOR TO THE PRECONSTRUCTION MEETING

10. Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work shall not be commenced until development plans have been reviewed and approved by the city or a designated representative. Public improvements to county roads must be reviewed by Deschutes County Road Department. The review and approval shall be at the expense of the developer.
11. Utility Installation: ***Prior to the preconstruction meeting***, the developer shall make necessary arrangements with the serving utility companies for the installation of all proposed or required utilities, which may include electrical power, natural gas, telephone, cable television, and the like.
12. Stormwater: ***Prior to the preconstruction meeting***, a stormwater management design and supporting calculations shall be provided meeting the requirements of Design Standards II. Design Parameters, B. Stormwater, demonstrating that all roadway improvement and site development runoff will be retained on site.
13. Sewer: ***Prior to the preconstruction meeting***, the Site Plan shall show abandonment of the unused septic tank effluent gravity system and effluent line, and sewer service shall be installed in accordance with Design Standards II. Design Parameters, C. Sewer.
14. Water & Irrigation: ***Prior to the preconstruction meeting***, the Site Plan shall show the water service, meter box, and backflow prevention device in accordance with Design Standards II. Design Parameters, D. Water, d. Service Lines. Any unused water service lines shall be abandoned. The applicant shall clarify the source of irrigation water; if an on-site well is used, a reduced-pressure backflow assembly shall be installed downstream of the meter to prevent irrigation water from entering the City system.
15. Sewer and Water Plan Approval: ***Prior to the preconstruction meeting***, sanitary sewer and water plans in conformance with city standards shall be provided to the City Public Works Director. Development permits for sewer and water improvements will not be issued until the preconstruction meeting is held, and all plans are approved and signed by the Public Works Director.
16. Fire Protection: ***Prior to the preconstruction meeting***, the applicant shall coordinate with the La Pine Rural Fire District to determine if additional fire hydrants are required for the redevelopment of the site.
17. Street Improvements: ***Prior to the preconstruction meeting***, right-of-way along the Huntington Road frontage shall be dedicated to meet the downtown arterial street ROW requirement of 41 feet from the centerline per Design Standards II. Design Parameters, A. Street, 1. General. The Street Improvements Plan shall provide a design for downtown arterial street improvements in the public ROW meeting the requirements of Design Standards II. Design Parameters, A. Street, and shall specify a pavement section of 5 inches of asphalt concrete on 12 inches of base rock as required for arterial streets. The plan shall also identify and show the existing catch basin and manhole lid located at the proposed Huntington Road driveway location.

18. ODOT Coordination: ***Prior to the preconstruction meeting***, the applicant shall coordinate with the Oregon Department of Transportation regarding any additional requirements for the Highway 97 and Huntington Road intersection.
19. Approach Permit: ***Prior to the preconstruction meeting***, the applicant must submit approved approach/driveway permits for each entrance to the site.
20. Improvement Plans: ***Prior to construction of public improvements***, the applicant shall submit improvement plans to the Deschutes County Road Department for review and approval pursuant to DCC 17.40.020 and 17.48.060, demonstrating compliance with PROWAG, City of La Pine and Deschutes County Road Standards, and drainage design standards of the Central Oregon Stormwater Manual (COSM).
21. Street trees: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that street trees will be provided within the landscape swale at an average spacing of 35 feet. The trees shall not interfere with any clear vision areas.
22. Sidewalk Width: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that sidewalks will be constructed of concrete, at a width of at least 8 feet along the Huntington Road and Morson Street frontages from the northern property line to the southern property line. The sidewalks shall be designed to allow for connectivity as future development to the north and south of the subject property are developed in the future.
23. Bike Lanes: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that 6 foot wide bike lanes will be provided along the Huntington Road and Morson Street frontages, and will be striped.
24. Curbs: ***Prior to the preconstruction meeting***, the construction plans shall demonstrate that curbs will be installed along Huntington Road and Morson Street, where the landscaped swales meet the on-street parking, and shall be designed in accordance with the City of La Pine Design Standards.

PRIOR TO CONSTRUCTION OF PUBLIC IMPROVEMENTS

25. Easements: ***Prior to construction of public improvements***, all easements of record and existing rights-of-way shall be noted on the final plans pursuant to DCC 17.48.060(C)(1).
26. Right-of-Way Permit: ***Prior to construction of public improvements***, the applicant or applicant's contractor shall obtain a right-of-way permit from the Deschutes County Road Department for all work within the public right-of-way pursuant to DCC 12.12.010 and 17.48.240(A), and no work shall occur in the public right-of-way until a permit has been issued.
27. Standards & Specifications Compliance: ***Prior to construction of public improvements***, the development shall comply with the City's 2016 Standards and Specifications Development Provisions.
28. Pre-Construction Meeting: ***Prior to construction of public improvements***, a pre-construction meeting with the construction contractor shall be held with City staff. To schedule the preconstruction meeting, the applicant shall reach out to the Community Development Department and submit a narrative describing how each of the required preconstruction conditions of approval have been, or will be, met. The required fee for a preconstruction meeting will be assessed and due prior to the meeting.

29. Utility Coordination: ***Prior to construction of public improvements***, the applicant shall contact the City prior to any utility work in the right-of-way including City water, City sewer, or other utilities.
30. Modification: ***Prior to construction of public improvements***, improvement work shall not commence until after the city has been notified and approval has been granted, and if work is discontinued for any reason, it shall not be resumed until after the city is notified and approval thereof granted.
31. Inspection: ***Prior to completion of public improvements***, improvement work shall be constructed under the inspection and approval of an inspector designated by the city, and the expenses incurred therefore shall be borne by the developer. Fees established by the city council for such review and inspection may be established in lieu of actual expenses. The city, through the inspector, may require changes in typical sections and details of improvements if unusual or special conditions arise during construction to warrant such changes in the public interest.
32. Agreement for Improvements: ***Prior to construction of public improvements***, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.
33. Bond or other Performance Assurance: ***Prior to construction of public improvements***, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.
34. Amount of Bond Security Required: ***Prior to construction of public improvements***, the bond or other performance assurance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.

PRIOR TO ISSUANCE OF BUILDING PERMITS

35. ADA Accessibility: ***Prior to issuance of building permits***, the Site Plan shall show the locations of ADA parking signs for the ADA parking spaces and demonstrate ADA compliance for all accessible paths.
36. Deschutes County Access: ***Prior to issuance of building permits***, the applicant must provide an approved access permit for the proposed driveway on Huntington Road and Morson Street from the Deschutes County Road Department.
37. Window Transparency: ***Prior to the issuance of building permits***, the applicant must confirm that all ground floor windows shall have a visible transmittance of 60 percent or higher.
38. Screening of mechanical equipment: ***Prior to issuance of building permits***, if any form of mechanical equipment is proposed through the request, or added after land use approval has been granted, the developer shall submit updated plans demonstrating compliance with the standards of LPDC Sec. 15.40.090.C.

39. Building Permits: **Prior to building permit issuance**, no building permits shall be issued upon lots to receive and be served by sanitary, sewer and water service and streets as improvements required pursuant to this chapter unless the improvements are in place, serviceable and approved by the city, with the service connections fees paid, and accepted by the city.

PRIOR TO OCCUPANCY

40. State Fire Marshall Comments: **Prior to occupancy**, the applicant shall confirm that all of the Deputy State Fire Marshalls requirements have been met.
41. Construction: **Prior to occupancy**, during construction, the applicant shall complete all road improvements in accordance with the Road Department-approved plans and applicable sections of DCC 12.20 and 17.48.
42. As-Constructed Plans: **Prior to occupancy**, upon completion of construction, the applicant shall submit as-constructed improvement plans to the Deschutes County Road Department pursuant to DCC 17.40.050.
43. Plant Installation Standards: **Prior to occupancy** the applicant shall confirm that the following plant installation standards are met for all landscaping:
1. Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.
 2. Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.
 3. Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.
 4. Rows of plants should be staggered to provide for more effective coverage.
48. Joint Use Access Easement and Maintenance Agreement: **Prior to occupancy**, the property owners shall record an easement with the deed allowing joint use of and cross access between the adjacent property. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.
49. Utilities: **Prior to occupancy**, underground utilities, including, but not limited to, electric power, telephone, water mains, water service crossings, sanitary sewers and storm drains, to be installed in streets, shall be constructed by the developer prior to the surfacing of the streets.
50. As Built Plans: **Prior to occupancy**, as built plans for all public improvements shall be prepared and completed by a licensed engineer and filed with the city upon the completion of all such improvements. A copy of the as built plans shall be filed with the final plat of a subdivision or other development by and at the cost of the developer. The plans shall be completed and duly filed within 30 days of the completion of the improvements.
51. Maintenance Surety Bond: **Prior to occupancy**, at the completion of construction of the required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.
52. Landscaping and other improvement performance assurance: **Prior to occupancy**, all landscaping and other site improvements shall be installed. This requirement may be waived if the property owner and/or

applicant submits a performance assurance device that is approved by the city committing the installation of landscaping and other site improvements within one year.

VIII. DURATION OF APPROVAL, NOTICE, AND APPEALS

This approval shall lapse, and a new approval shall be required, if the use approved in this permit is not initiated within two (2) years of the date that this decision becomes final, or if development of the site is in violation of the approved plan or other applicable codes.

THIS DECISION BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE MAILED, UNLESS APPEALED BY THE APPLICANT OR A PARTY OF INTEREST IN ACCORDANCE WITH ARTICLE 7, CHAPTER 15.212 OF THE CITY OF LA PINE LAND DEVELOPMENT CODE. PURSUANT TO ARTICLE 7, CHAPTER 15.212 OF THE CITY OF LA PINE LAND DEVELOPMENT CODE, APPEALS MUST BE RECEIVED BY 5:00 PM ON THE 12TH DAY FOLLOWING MAILING OF THIS DECISION.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

A handwritten signature in black ink, appearing to read "Brent Bybee", is written over a horizontal line.

Written By: Brent Bybee, Community Development Director