

## **FINDINGS AND DECISION**

**DECISION DATE:** December 15, 2025

**FILE NUMBER:** SPR4-25-0001

**APPLICANT:** Central Oregon Intergovernmental Council  
c/o Francis Senger – Mission Building  
479 NE Alden Avenue  
Bend, OR 97701

**OWNER:** City of La Pine  
PO Box 2460  
La Pine, OR 97739

**LOCATION:** The subject property is located at 16628 Assembly Way, La Pine, Oregon 97739. The Tax Lot number is 108 on Deschutes County Assessor’s Map 22-10-14AB.

**REQUEST:** The applicant is requesting Site Plan Review to construct a 6,087 sq. ft. industrial speculative building for small businesses.

**STAFF CONTACT:** Nick Tierney, Associate Planner  
Email: [ntierney@lapineoregon.gov](mailto:ntierney@lapineoregon.gov)  
Phone: (541) 280-5680

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

### **I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA**

#### ***Article 3 - Zoning Districts***

##### **CHAPTER 15.24. - INDUSTRIAL AND PUBLIC FACILITY ZONES**

#### ***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**

##### **CHAPTER 15.208. - RECONSIDERATION**

##### **CHAPTER 15.212. - APPEALS**

#### ***Article 8 - Applications and Reviews***

##### **CHAPTER 15.312. - SITE PLAN REVIEW**

## II. BASIC FINDINGS

**ZONING:** The subject property is zoned Industrial.

**PARCEL SIZE:** The subject property is 0.57-acres in size.

**LOT LEGALITY:** The subject property was platted as Lot 4 of the Newberry Business Park subdivision filed January 25, 2002 with the Deschutes County Clerk.

**REVIEW PERIOD:** The subject application was submitted on July 21, 2025 and paid August 19, 2025. The application was deemed complete on August 28, 2025 and notice of application was sent the same day. The 120<sup>th</sup> day on which the City must take final action on this application is December 26, 2025.

**EXISTING DEVELOPMENT:** The subject property is undeveloped with natural landscaping, a fence along the northern property area, and utilities.

**SURROUNDING LAND USES:** The property to the north outside of the Business Park is zoned Public Facilities. All other surrounding properties are zoned industrial. The immediate surrounding properties are also vacant.

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

- Water: The site is connecting to an existing 8-inch water main in Assembly Way.
- Sewer: The site is connecting to an existing 4-inch water main in Assembly Way.
- Fire: Fire services are provided by La Pine Rural Fire Protection District
- Road Access: Property has access from Assembly Way, a local street owned by Deschutes County.
- Sidewalks: There are no sidewalks along Assembly Way.

### **PERMIT HISTORY:**

- No permit history for this property.

## III. AGENCY AND PUBLIC COMMENTS

**PUBLIC AGENCY COMMENTS:** The La Pine Community Development Department sent mailed and electronic notice on August 28, 2025, to several public agencies and received the following comments:

Deschutes County Building Department, 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.*

Deputy State Fire Marshal, Clara Butler

*Findings: An engineered stamped fire flow analysis is required, hydrant not shown on plans, No Parking signs are required, 150 foot requirement has not been met, dead end requirement has not been met, 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 at 6,087 square feet = 2,250 gpm = minimum of 2 hydrant(s) required with not more than 450 feet spacing between them and not more than 225 feet to a hydrant from any point on the street.
- **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.

***Unknown if the above has been met, no hydrants shown on plans.***

- **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-
  - 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.
- **Fire sprinkler vaults must contain a sump pump, be heated and the heat must be monitored by the alarm system.**
- 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.
    - **The above requirement has not been met.**
  - 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.  
**No Parking signs are required.**
- **Dead-Ends – 2022 OFC 503.2.5 and D103.4**
  - Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.  
**The above requirement has not been met.**
- **Additional Access – 2022 OFC 503.1.2**
  - The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, conditions or terrain, climatic conditions or other factors that could limit access.
- **Emergency Access Road Gates – 2022 OFC D103.5**
  - Minimum 20 feet wide.
  - Gates shall be swinging or sliding type.
  - Shall be able to be manually operated by one person.
  - Electric gates shall be equipped with a means of opening by emergency personnel & approved by fire official.
  - Locking devices **may** be padlock.
  - Section 503.3: Install a sign on the gate “No Parking-Fire Lane”
- **Key Boxes – 2022 OFC 506.1**
  - An approved key box **may** be installed on all structures equipped with a fire alarm system and /or sprinkler system.
- **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 m<sup>3</sup>)] 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 m<sup>3</sup>)] 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/m<sup>2</sup> where tested in accordance with ASTM E1354 at an incident heat flux of 50 kW/m<sup>2</sup> 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.*

On October 14, 2025, Clara Butler submitted the following additional comments:

*Yes, this exception [to utilizing building fire suppression as an exception to the fire access requirements] applies and so all fire code requirements have been met.*

**FINDING:** Staff finds that Clara's additional comments state that all fire code requirements have been met.

City of La Pine Public Works, Ashley Ivans

*Public Works will defer to Anderson Perry for comments.*

Anderson Perry – Contract City Engineer, Troy Baker

*Per the City of La Pine's request, Anderson Perry & Associates, Inc., has reviewed the site plan for an industrial building associated with the La Pine Business Small Business Incubator Program at 16628 Assembly Way on Tax Lot No. 221014AB00108 for the potential impacts on 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 review comments are listed below by public facility.*

**Street**

- The site will be accessed from an existing improved road in the public right-of-way (ROW).*
- Sidewalk improvement plans complying with Design Standards, II. Design Parameters, A. Street, and III. Drawings shall be submitted to the City for review.*

**Stormwater**

- No street improvements are being proposed that will affect the existing stormwater drainage. No stormwater improvement plans for Assembly Way are required.*
- On-site stormwater runoff will be contained on site. The grading plan shows the stormwater runoff will drain to a drainage pond on the northern side of the site.*
- The snow removal retention area appears to be inadequate for the site. Provide calculations showing the required area and the area to be provided.*

**Sewer**

- The site is connecting to an existing 4-inch sewer main in Assembly Way.*
- Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards, II. Design Parameters, C. Sewer, and III. Drawings.*

**Water**

- The site is connecting to an existing 8-inch water main in Assembly Way.*
- Provide details of the hot tap on the existing water main, fire service, water service, and water meter box that comply with Design Standards, II. Design Parameters, D. Water, and III. Drawings.*

*The development will 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 site plan approval, for those public improvements that are to be constructed, 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 utility work in the ROW, including City water, City sewer, or other utilities.*

*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 acceptance of the improvements.*

November 11, 2025 Additional Comments from Tony Tirico, Senior Technician:

*The snow removal retention area appears sufficient.*

*The engineer is still showing a 4" pressure sewer main in Assembly Way instead of a 4" STEG main on C3.1. A 2" pressure sewer service is also still shown instead of a 4" gravity sewer service.*

**FINDING:** The performance and maintenance bond requirements are conditioned in Chapter 15.94, below. City Staff issued a memo to the applicant on October 28, 2025 and the applicant responded with an update to the stormwater calculations.

To ensure compliance with Anderson Perry's comments, the following conditions of approval have been added:

Sidewalk Improvement Plans: **Prior to the preconstruction meeting**, sidewalk improvement plans complying with Design Standards, II. Design Parameters A. Street, and III. Drawings shall be submitted to the City for review.

Details of the Sewer Plan: **Prior to the preconstruction meeting**, provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards, II. Design Parameters, C. Sewer, and III. Drawings. Additionally, provide corrections to sheet C3.1, which shows a 4" pressure sewer main in Assembly Way instead of a 4" STEG main. A 2" pressure sewer service is also still shown instead of a 4" gravity sewer service.

Details of the Water Plan: **Prior to the preconstruction meeting**, provide details of the hot tap on the existing water main, fire service, water service, and water meter box that comply with Design Standards, II. Design Parameters, D. Water, and III. Drawings.

Preconstruction Meeting: **Prior to construction**, a pre-construction meeting with the construction contractor shall be held with City staff. Contact the City prior to any work in the ROW, including City water, City sewer, or other utilities. 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.

Deschutes County Road Department, Quinn Shubert:

*After reviewing the reference application, I have no concerns regarding the site plan in relation to the County's UIC retrofit project, currently under contract. The proposed location on Assembly Way also appears viable. However, I have the following concerns:*

- 1. The sidewalk panel directly east of the proposed approach exceeds 8.2% slope, surpassing the maximum allowable design slope for a transition panel or curb ramp. While it complies with finish grade max curb ramp standards, it doesn't appear to be designed as a curb ramp.*
- 2. The sidewalk termination setback to the west is much greater than the minimum requirement. This may necessitate the adjacent property owner to adapt their setback to ensure sidewalk continuity. Although this is primarily a City issue, I still wanted to bring it up at this stage.*



3. *The asphalt patch in front of the proposed approach should extend eastward to connect with the westernmost utility crossing patch. This will help prevent the formation of a potential pavement scab between the two panels.*

Deschutes County Road Department, Quinn Shubert, October 23 2025 Additional Comments:

*Following up on our meeting earlier this week: In conjunction with my comments below [above], per DCC 12.15150(B), sidewalks are required to be property-tight unless otherwise approved by the County Engineer. Given the 6-foot swale constructed as part of the County's UIC replacement project, additional right-of-way will likely be required to accommodate a 6-foot sidewalk along the applicant's frontage.*

*The sidewalk should be placed on a uniform alignment, property-tight to the new property line. Any deviation from this standard will require specific approval from the County Road Department. Additional discussion with the applicant may be necessary if a deviation is requested*

**FINDING:** Staff note that the recommendation to dedicate additional right-of-way has been addressed in Article 5. To ensure compliance with the County Road Department's comments, the following conditions of approval have been added:

Deschutes County Road Department Comments: ***Prior to the preconstruction meeting***, the applicant shall complete a Deschutes County improvement plan review with the County Road Department so that the County Engineer can review the final improvement designs along the Assembly frontage. The results of this review shall be passed along to the City.

The following agencies did not respond to the notice:

- Deschutes County Assessor
- Deschutes County Surveyor
- Bend La Pine Schools
- Republic Services
- Midstate Electric

**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 August 28, 2025. No public comments were received.

#### **IV. FINDINGS OF FACT**

##### **PART III, CITY OF LA PINE DEVELOPMENT CODE**

##### **ARTICLE 3 - ZONING DISTRICTS**

##### **CHAPTER 15.24. - INDUSTRIAL AND PUBLIC FACILITY ZONES**

##### **Sec. 15.24.100. - Purpose.**

*Chapter 15.24 regulates allowed land uses ("uses") and sets forth lot and development standards, including without limitation minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development in the*

industrial and public facility zones. The regulations of this chapter are intended to implement the City of La Pine Comprehensive Plan.

**Sec. 15.24.200. - Characteristics of the industrial and public facility zones.**

Industrial and public facility zones accommodate a mix of intensive and less intensive uses engaged in manufacturing, processing, warehousing, distribution, and similar activities. Two industrial zoning districts, one for light industrial uses and one for general industrial uses, provide for the full range of planned industrial land uses within the city. Both districts are intended to provide for efficient use of land and public services, provide a high-quality environment for business, offer a range of parcel sizes and locations for industrial site selection, avoid encroachment by incompatible uses, provide transportation options for employees and customers, and facilitate compatibility between dissimilar uses.

- A. *Light Industrial Zone (LI).* The LI zone is intended to allow for a mix of industrial and manufacturing businesses alongside industrial services, research and development, and small-scale retail and professional services.
- B. *Industrial Zone (I).* The I zone allows for the same uses as the LI zone, but also provides suitable locations for more intensive industrial uses, such as those with processing, manufacturing, assembly, packaging, distribution, or other activities.
- C. *Public Facility Zone (PF).* The PF zone is intended to provide areas for large-scale public facility and utility uses that require separation from residential and commercial uses. Additionally, the PF zone accommodates industrial uses that are compatible with large-scale public facilities.

**FINDING:** The subject property is zoned Industrial. Applicable criteria are discussed herein.

**Sec. 15.24.300. - Use regulations.**

Uses may be designated as permitted, limited, conditional, or prohibited in the industrial and public facility zones. As noted in Table 15.24-1, a use may also be subject to special use standards of article 6.

- A. *Permitted uses (P).* Uses allowed outright in the industrial and public facility zones are listed in Table 15.24-1 with a "P."
- B. *Limited uses (L).* Uses allowed in the industrial and public facility zones subject to limitations are listed in Table 15.24-1 with an "L." The limitations are defined below and correspond with the footnote numbers in Table 15.24-1.
  - 1. *Eating and drinking establishments in the LI zone.* Eating and drinking establishments in the LI zone are limited to 2,500 square feet of gross floor area.
  - 2. *Offices in the LI, I, and PF zones.* Offices as a primary use are limited to industrial offices (as defined in section 15.14.235) and government offices that do not include a point-of-service facility. All other office uses must be accessory to a permitted industrial use.
  - 3. *Retail sales and services in the LI zone.* Retail sales and services in the LI zone are limited to 2,500 square feet of gross floor area, except for the following uses:

- a. *Health and fitness centers may exceed the maximum floor area.*
  - b. *Retail sales of heavy equipment may exceed the maximum floor area with a conditional use permit.*
  - c. *Retail sales of goods that are displayed outdoors, such as sales of building materials, landscape materials, or garden or farm supplies, may exceed the maximum floor area with a conditional use permit.*
4. *Automotive wrecking, salvage, and junk yards. The storage or sale of junk requires a special license, see section 15.108.040.*
  5. *General manufacturing and production in the LI zone. Agricultural processing establishments require a conditional use permit. Energy and power generation uses are prohibited. All other general manufacturing and production uses are permitted outright.*
  6. *Warehouse and freight movement in the LI zones. Truck transportation and loading terminals require a conditional use permit. All other warehouse and freight movement uses permitted outright.*
  7. *Community services in the LI zone. Government buildings and services that do not include a point-of-service facility are permitted. All other uses are prohibited.*
  8. *Agriculture in the LI zone. Agriculture uses in the LI zone are limited to large animal veterinary clinics allowed with a conditional use permit.*
  9. *Marijuana facilities in the I zone. Marijuana testing laboratories are permitted outright. Marijuana processing facilities, production facilities, or wholesalers are allowed with a conditional use permit.*
  10. *Retail sales and services in the I and PF zones. Retail sales and services in the I and PF zones are limited to mobile food unit sites.*
  11. *Self-service storage. Self-service storage uses are required to have a minimum lot size of five acres. The expansion of existing self-storage facilities must meet the minimum acreage requirement. All areas within 30 feet of storage unit access points or doors shall be paved with an asphalt surface.*
- C. *Conditional uses (CU). Uses which are allowed if approved through the conditional use review process are listed in Table 15.24-1 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 15.24-1 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 is proposing an industrial speculative building (spec build) to accommodate a variety of potential future uses as, according to the burden of proof, "specific uses and users have not been established." The SPR4-25-0001, City of La Pine

applicant requests “approval of Permitted and Limited uses, but [suspected use] does not include a Conditional Use Permit and it does not include any prohibited uses.” The applicant has proposed the following uses:

Eating and Drinking Establishments (L), Office (L), Artisanal and Light manufacturing (P), General manufacturing and production (P), Wholesale sale (P), Warehouse and freight movement (P), Waste treatment and recycling (N), Basic utilities (P), Community services (P), Forestry (P).

Staff find that all selected uses could be allowable, except for Waste treatment and recycling, which is not an allowed use.

Final determination on use applicability will be made at such time as a use is formally proposed with the siting of a tenant through their zoning permit and business license application. Criteria met.

**Sec. 15.24.400. - Development standards.**

- A. *Purpose. The development standards for industrial and public facility 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 industrial and public facility zones are presented in Table 15.24-2. Development standards may be modified as provided by [chapter 15.320](#), variances. Additional standards may apply to specific zones or uses, see [section 15.24.500](#).*

Table 15.24-2. Development Standards in the Industrial and Public Facility Zones			
Standard	LI	I	PF
Minimum setbacks	—	—	—
- Front or street-side yard	20 feet	None	None
- Side yard	10 feet	None	None
- Rear yard	10 feet	None	None
Maximum building height	45 feet	75 feet	75 feet
Maximum lot coverage	60%	80%	80%
Minimum landscaped area	See 15.24.500.A and <a href="#">chapter 15.82</a>		

**FINDING:** Staff evaluate these criteria as follows:

Site Setbacks:

Industrial zone does not have a setback standard for front or street side yard, side yard, or rear yard. These criteria are met.

Maximum Building Height:

The provided building elevations show the upper eave height of 21’ 6”, which is less than the 75’ maximum in the zone. This criterion is met.

Maximum Lot Coverage:

The applicant's site coverage analysis shows that structures cover 24.5% of the site, which is less than the 80% maximum. This criterion is met.

Minimum Landscaped Area:

The code directs to 15.24.500.A which is evaluated below, and Chapter 15.82 which states the minimum required landscape area for Industrial uses is 10%. The applicant's plans state that the landscaped area is 30.9%. This criterion is met

These criteria are met.

***Sec. 15.24.500. - Additional standards.***

- A. Landscaping standard. Any portion of a lot developed for industrial 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 standards in article 5.*

**FINDING:** The submitted landscaping plan shows that all areas not for buildings, structures, parking or loading, aisles, driveways, or sidewalks are landscaped. The applicant provided an updated Landscaping Plan in response to the City's October Memo that changed the landscaped rock to all season groundcover vegetation. As updated, this criterion is met.

- B. Screening requirements. All accessory storage of junk, waste, discarded or salvaged material, machinery, or equipment shall not be permitted except within a completely enclosed structure. Or if the lot area devoted to such use is over 200 square feet in area, the owner may have the alternative of enclosing it on all sides, except for an exit and entrance not over 25 feet in width, by a solid fence or wall at least six feet in height and maintained in good condition or by a cyclone or equal-wire fence at least six feet in height and surrounded, except for an exit and entrance not over 25 feet in width, by evergreens at least six feet in height and planted not further apart than six feet so as to form a solid screen. See also chapter 15.82 for additional screening requirements. See additional buffering and fence standards in article 5.*

**FINDING:** While no accessory storage is proposed at this time, as future uses are not known, the following condition of approval has been added to ensure future compliance:

Screening Requirement of Accessory Storage: **At all times**, all accessory storage of junk, waste, discarded or salvaged material, machinery, or equipment shall not be permitted except within a completely enclosed structure. Or, if the lot area devoted to such use is over 200 square feet in area, the owner may have the alternative of enclosing it on all sides in conformance with the requirements of Section 15.24.400.B.

- C. 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 proposal includes a single access point from the southern property frontage along Assembly Way, a local street under the jurisdiction of Deschutes County. Comments from Deschutes County's Road Department are addressed and conditioned above. This criterion is met.

*D. Emissions. Industrial uses shall comply with all applicable pollution control regulations enacted by the federal and state government and other governmental authorities.*

**FINDING:** To ensure compliance for future uses, the following condition of approval has been added:

Emission Control: **At all times**, industrial uses shall comply with all applicable pollution control regulations enacted by the federal and state government and other governmental authorities.

*E. Noise. Industrial uses shall provide necessary shielding or other protective measures against interference caused by mechanical and nuclear equipment, or uses or processes with electrical apparatus, to nearby residences.*

**FINDING:** To ensure compliance for future uses, the following condition of approval has been added:

Noise Shielding: **At all times**, industrial uses shall provide necessary shielding or other protective measures against interference caused by mechanical and nuclear equipment, or uses or processes with electrical apparatus, to nearby residences.

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

**FINDING:** To ensure compliance for future uses, the following condition of approval has been added:

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

## **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. 15.80.030. - Exemption - lot size requirements.**

*A. The following exemptions to minimum lot size requirements shall apply:*

1. *Non-conforming lots or aggregate of contiguous lots or parcels held in a single ownership has an area or dimensions which do not meet the lot size or dimensional requirements of the applicable zone, the lot or aggregate holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone; providing, however, residential use shall be limited to single-family dwelling unit or to the number of dwelling units consistent with the equivalent densities of the zone.*
  2. *Any parcel of land or portion thereof, which is to be dedicated to a public, semi-public or public utility for a park, school, road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements of this chapter and the applicable zone.*
- B. *For all other lot size requirements in all other zones, applicants may propose approval of exceptions or variances in accordance with the application requirements in article 8.*

**FINDING:** The applicant is not requesting an exemption to the minimum lot size requirements. This criterion is not applicable.

***Sec. 15.80.040. - Exemption - yard or setback requirements.***

*The following exemptions to yard or setback requirements are authorized for a lot or use in any zone:*

- A. *If there is a lot where there are buildings on abutting lots, and the buildings are within 100 feet of the intervening lot, and the buildings have front yards less than the required front yard for the applicable zone, the depth of the front yard for the subject lot need not exceed the average depth of the front yards of the abutting lots.*
- B. *If there is a building on only one abutting lot within 100 feet with a front yard less than the required front yard for the zone, the front yard of the subject lot need not exceed a depth one-half way between the depth of the yard on the abutting lot and the required front yard of the applicable zone.*
- C. *Architectural features such as cornices, eaves, sunshades, canopies, gutters, chimneys and flues may project into a required yard two feet, provided that the projection is not closer than three feet to a property line, and, drainage or snowdrift does not flow onto abutting properties or right-of-way, and, fumes from woodstoves are not directed to other properties. Steps, terraces, platforms, patios, decks and porches having no roof covering, and fences not interfering with vision clearance requirements or drainage requirements may be permitted in required yards, except as otherwise limited or provided for by this chapter, or as otherwise approved by the city.*

**FINDING:** The applicant is not requesting an exception to the yard or setback requirements. This criterion is not applicable.

***Sec. 15.80.050. - Supplementary height regulations.***

*The maximum height limitations shall not apply to:*

- A. *The following principal structures: Church, college, farm structure (other than a farm dwelling), hospital, radio or television tower, exhaust stack, emergency services structure, or*

*public utility structure which is a permitted use and is located in any zone, provided it shall conform to the setback and yard requirements of the zone where it is located plus one additional foot horizontally for each foot over 45 feet in height.*

- B. The following appurtenances attached to or part of a principal or accessory structure: Church spire, belfry, cupola, dome, monument, smoke-stack, derrick, conveyor, flag pole, mast, antenna, aerial, roof tank; ventilating air conditioning and similar building service equipment; roof structure, chimney and/or parapet wall, provided it shall be set back in conformance with the setback and yard requirements plus one foot horizontally for each foot in which it exceeds 45 feet in height above ground level. The principal or accessory structure to which it is attached may conform to setback and yard requirements with no additional setback provided the principal or accessory structure conforms to the height limitations of the zone.*

**FINDING:** The application does not meet the criteria in subsection A for supplementary height regulations. The project is required to meet the standard height regulations of less than 75 feet. This criterion does not 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:** While the proposal does not include any metal shipping containers, the following condition of approval has been added:

Metal Shipping Containers: **At all times**, if utilized, metal shipping containers in the industrial zone are only permitted for storage use.

***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 developments 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:** As the property has frontage to the north with Reed Road, an Industrial Collector, a minimum five-foot landscaped buffer along this adjoining right-of-way is required, which may be computed toward the overall requirement of 10 percent. Assembly Way is a local street and does not require a buffer.

The applicant's site plan indicates the presence of a fence along the property line with the area between the fence and the property boundary being proposed to remain as native landscaping. Sheet AS101, the Site Plan, shows that the 5' landscaping buffer is being provided to the north of the existing fence, and also indicates that the landscaped area is 30.5% of the total site. 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.*

**FINDING:** The submitted landscaping plan indicates a mixture of living and nonliving plant material. Sheet AS101, the Site Plan, provides the total square footage allowable for non living plant material (3,799 square feet). The applicant updated Sheet AS102 Landscaping Plan after the City sent a memo to show that the dominant landscaping material is All-Season Groundcover Vegetation. This criterion is met.

- D. Existing vegetation. Existing site vegetation shall be utilized to the maximum extent possible consistent with building placement and the applicable proposed landscape plan.*

**FINDING:** Sheet AS102 Landscaping Plan indicates that the applicant plans to preserve the native landscaping along the northern and southern property frontages with Reed and Assembly, respectively. Staff find that this is the maximum extent possible consistent with the building placement and other accessory placements. 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:** As the proposed use is within the industrial zone, subsections 1 through 4 do not apply. As the proposed parking does not abut a collector, arterial, or a local street across from a residential zone, or a residential zone, a screen planting between the parking area and the public right of way is not required. These criteria are not applicable.

*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.*

**FINDING:** The subject property does not abut any land zoned RSF, RMF, RMP, or TA. Therefore, these buffering and screening requirements are not required.

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:** As discussed above, the subject property does not abut any RSF, RMF, RMP, or TA zoned lands. These criteria are 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:** The applicant has stated in their burden of proof that they plan to comply with the above standards. To ensure compliance, the following condition of approval has been added:

Landscape Plant Installation Standards: **Prior to occupancy**, the applicant shall confirm that the following landscaping plant installation standards have been met

- Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.
- Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.
- Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.
- Rows of plants shall 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:** The applicant has updated their landscaping plan to include an irrigation line around the boundary of the property. To ensure compliance, the following condition of approval has been added:

Landscape 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.

- I. Retention of trees. As part of a landscaping plan, the developer shall also provide a tree plan identifying the location and diameter breast height (DBH) of all trees on the property. Existing mature trees with at least a 10-inch DBH shall be retained to the furthest extent possible. Development shall conform to the natural environment to incorporate existing mature trees. Where trees must be removed for proposed development, they shall be replaced at a 1:1 ratio on the subject lot or parcel with trees of similar species that are native to the region, and with a DBH of at least 5-inches or larger. Replacement trees shall meet the maintenance and plant survival criteria of this code section. Any trees planted must maintain a 20-foot radius for spacing. The 20-foot radius spacing shall be the determining factor in how many trees are replaced on the subject property. If more trees must be planted than what the 20-foot radius spacing would allow, then the number of trees replaced shall be reduced to meet the spacing standard.*

**FINDING:** Sheet C1.1 of the Engineering Plans identifies 7 trees and their diameter breast height (DBH) that are proposed for removal. 5 of the trees are of DBH of 10 inches or greater. Staff find that it is acceptable to remove these 5 trees for the proposed building and accessory development. Sheet AS102 Landscaping Plan shows 5 trees being proposed for planting, which is concurrent with the intention that 1:1 replacement ratio occur for trees that are of DBH 10" or greater. This criterion is met.

***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.*

**FINDING:** The applicant is not proposing to install any fences that include prohibited materials, barbed wire, or electric fences. An existing fence is located on the property that meets these development standards. These criteria are met.

**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 is not proposing to install any fences; there is an existing fence that transects the northern area of the property. These criteria are met.

**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 a new use is being established, the parking and loading standards of this chapter are applicable. Applicable criteria are discussed herein.

***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:** The applicant stated in their burden of proof that, “users that will need receive or distribute material or merchandise by trucks with a 40-foot or longer base are not anticipated.” As no formal uses are being proposed at this time, the applicant is not required to provide off-street loading. However, as no definitive uses are known, if at any time a future use needs off-street loading, it must be provided. To ensure compliance, the following condition of approval has been added:

Future Off-Street Loading: **At all times**, if any future use requires the receipt or distribution of materials or merchandise by trucks with a 40-foot or longer wheelbase at a frequency of one or more vehicles per week, the property owner shall submit a Modification application to the Planning Department demonstrating compliance with Section 15.86.020 prior to the occupancy of such use.

***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:** The proposed parking locations meet the location and encroachment criteria of this section. These criteria are 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 calculations for required parking are based off of subsections 1 and 2, as 3 is not applicable. These criteria are 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.*

**FINDING:** The applicant has stated that the off-street parking will be provided in compliance with this section. Staff finds this acceptable. This criterion is met.

- 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:** The proposed off-street parking will be located in a parking lot that, through further findings in this section, will be developed in conformance with this Development Code. 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.*

<b>Table 15.86-1. Automobile Parking Spaces by Use</b>	
<b>Use Categories</b>	<b>Minimum Parking per Land Use (Fractions are rounded down to the closest whole number.)</b>
<i>Industrial Categories<sup>1</sup></i>	
Industrial service	One space per employee on the largest shift plus one space for each 10,000 sq. ft. for visitors up to ten additional spaces
Manufacturing and production	One space per 1,000 sq. ft. of floor area; or as required by conditional use permit review
Warehouse and freight movement	0.5 space per 1,000 sq. ft. of floor area; or as required by conditional use permit review
Waste-related	Per conditional use permit review
Wholesale sales, e.g., building materials, heavy equipment, agricultural supplies, etc.	One space per 1,000 sq. ft.
Marijuana wholesaler/production facility/processing facility/testing laboratories	Four plus one additional space per 2,000 sq. ft. gross floor area

**FINDING:** Required off-street parking calculations are following subsection 1 above, the standards in Table 15.86-1. As no definitive uses are known, the applicant utilized the most conservative potential use estimates to calculate the required parking. Office, a limited commercial use, would require 12.18 spaces if the whole facility

included applicable office uses. Staff find that these calculations are appropriate and the minimum number of required spaces is 13. As detailed in the Plan Set, 16 parking spaces are proposed, including 2 ADA. This criterion is met.

- 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:** As this is not a commercial development, maximum parking standards do not apply. This criterion is not applicable.

- 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 is not proposing an exception to the off-street parking standards. 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:** While the proposal does contain the potential for multiple uses, the applicant is not requesting shared parking. As demonstrated, the amount of provided parking will be adequate for the highest potential uses. This criterion is not applicable.

- 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>
90°	9'-0"	20.0	24.0	9.0	64.0
	9'-6"	20.0	24.0	9.5	64.0
	10'-0"	20.0	24.0	10.0	64.0
<i>*24' minimum for two-way traffic</i>					

**FINDING:** As documented on the Site Plan sheet C2.1, the entirety of the parking area is proposed to be improved and paved with asphalt. All provided parking stalls are proposed at a 90 degree parking angle and are of 10' width and 20' length in accordance with the minimum stall design standards above. The proposed 26' access aisle is greater than required minimum. 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.*

**FINDING:** The applicant is not requesting an adjustment to the parking area dimensions. This criterion is not applicable.

- 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 proposal includes two ADA parking spots; compliance with ADA requirements will be reviewed during Deschutes County's building permit review by a Plans Examiner. Criteria will be 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.*
5. *All drive up and drive thru facilities must be permanently affixed to the ground and be connected to the City Water and Sewer in accordance with the standards of chapter 15.90.*

**FINDING:** No drive-up or drive-through uses are proposed. These criteria are not applicable.

**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.*

<b>Table 15.86-3. Minimum Required Bicycle Parking Spaces</b>	
<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>

**FINDING:** This proposal does not qualify for an exception to the bicycle parking requirements. The applicant has provided for 8 bicycle parking spaces following an update from the City's October Memo.

Staff find that the Commercial criteria requires 2 bike spaces per primary use or 1 per 5 vehicle spaces, whichever

is greater. If all four tenant spaces were occupied by a commercial use, as four primary uses, then 8 bicycle parking spaces would be required. This is greater than the 1 per 5 vehicle spaces (16 vehicle spaces provided = 3.2 bicycle parking spaces required). This criterion has been met.

- 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 proposed location for 4 provided bike racks totaling 8 spaces are within 100 feet of the building, are convenient and easy to find, and conform to all of the of a standard bike parking design standards. These criteria will be 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 applicant's Burden of Proof states that the design includes 10,205 square feet of parking and maneuvering area, requiring at least 1,530 sq. ft. of snow storage. The applicant has clarified the snow storage requirements with Anderson Perry following their submitted comments. These criteria are 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 applicant is proposing one vehicular access point via a new street connection, therefore, this section applies. Applicable criteria are discussed 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.*

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

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

- 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:** HWA, the Engineer for the applicant, submitted a memo finding that the proposed uses would generate an estimated 30 Average Daily Trips and 5 PM Peak Hour Trips. The findings of that memo are discussed in accordance with LPDC Section 15.90.080, below. This criterion is met.

- 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 has proposed access from Assembly Way, a local road. As it is not an arterial or a collector, these access restriction techniques do not apply. These criteria are not applicable.

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:** Comments from Deschutes County Road Department did not indicate the need to consider the above traffic and facility improvements for access management. 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.*
- 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 proposed approach is not onto a state highway, nor does it cross a drainage ditch, canal, railroad, or other feature under the jurisdiction of another agency. Therefore, these criteria do not apply.

- 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.*

**FINDING:** The applicant is not requesting an exception or adjustment to the above spacing standards. This criterion does not apply.

- 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 applicant is not proposing a joint use access easement and maintenance agreement. This criterion does not apply.

**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.*

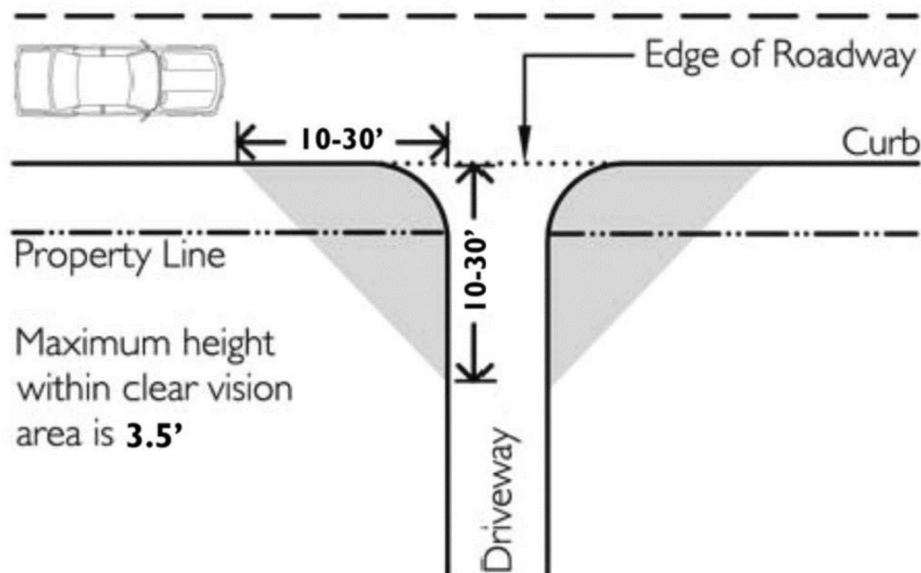
**FINDING:** As shown in the image from the code below, the intersection of a driveway and a street must conform to the clear vision requirements. The applicant has provided clear vision triangles on the updated Site Plan. This criterion is met.

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:

<b>Right-of-Way Width</b>	<b>Clear vision</b>
80 feet or more	20 feet
Less than 80 feet	30 feet

Clear Vision Areas



**FINDING:** As discussed above, 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, or other city-approved durable surface meeting ADA requirements. Walkways shall be not less than six feet in width, except that the city may require wider sidewalks in developments where pedestrian traffic warrants walkways wider than six 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:** As this proposal is not a new subdivision, multi-family development, planned development, commercial development, or institutional development, these criteria do not apply.

#### **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.*

##### ***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 criterion requires the developer to construct the above-listed developments in accordance with City specifications. Development requirements related to these specifications are addressed within this staff report. To ensure compliance, the following condition of approval has been added:

Duties of Developer: ***Prior to occupancy***, 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.

- 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.*

**FINDING:** The subject property has frontage along Assembly Way, a local street as classified in the La Pine Transportation System Plan (TSP). The applicant stated that the existing Assembly Way right-of-way is 60ft wide, which is less than the 64ft standard for Local Streets as dictated in La Pine Transportation System Plan (TSP). Assembly Way, as currently developed, also lacks street trees and sidewalks, as required in the TSP.

Swales have been updated by the County in the Industrial Park following the completion of this phase of the County project. The October memo and subsequent comments provided by City Staff indicated the need to ensure that the Assembly Way frontage was in compliance with the TSP design standards for local streets. Following these comments, the applicant has updated the site plan showing an additional dedication of 8 feet of right-of-way and a 6' concrete sidewalk.

As proposed, the frontage is not in compliance with TSP design standards as the proposed dedication is in excess of what is required. As proposed, sidewalks on neighboring properties that are not yet developed would be required to adjust their design to connect with the proposed sidewalk design on the subject property, requiring access easements on those properties as well. The frontage is also missing street trees. The provided landscaping plan shows shrubs planted. Staff have also conditioned above, following Deschutes County Road Department Agency comments, a formal County Engineering review of the proposed improvements.

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

Assembly Way Street Improvements: ***Prior to the preconstruction meeting***, the applicant shall submit revised public improvement plans showing the correct dedication of 2' of ROW so that Assembly Way conforms to the required local street width as required in the La Pine TSP. The sidewalks must be within the ROW – an easement for sidewalk access will not be granted on the subject property – and the existing power vault on the subject property shall be moved to accommodate the location of the sidewalk as required in the TSP. The sidewalk must be designed in accordance with all applicable City design standards. The installation of street trees must occur at an average 35-foot spacing except when within clear vision triangles on the subject property side of the street. All revised improvements must go through a formal County Engineering review and the results of this review shall be sent to the City prior to the preconstruction meeting.

*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:** This proposal does not include half streets. This criterion is not applicable.

***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, 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 Public Works Director. Modifications to public sewer or water lines may need to be reviewed by DEQ. 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:** Comments from the City Engineer did not indicate the existence of deficiency within the existing water or sewer system serving the subject property. This criterion is not applicable.

**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:** Comments from the City Engineer stated, “No street improvements are being proposed that will affect the existing stormwater drainage. No stormwater improvement plans for Assembly Way are required. On-site stormwater runoff will be contained on site. The grading plan shows the stormwater runoff will drain to a drainage pond on the northern side of the site. The snow removal retention area appears to be inadequate for the site. Provide calculations showing the required area and the area to be provided.”

As such, no stormwater plans for Assembly Way are required. The applicant has clarified the snow removal requirements with the City Engineer, which has approved the area. These criteria are 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 for a subdivision; as such, subsection C does not apply. The City is not granting an exception to the undergrounding requirement. These criteria 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.*
- 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.*
- 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.*
- 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:** The right-of-way improvements proposed do not meet any of the above criteria A through F and thus do not qualify for an exemption to the permit requirements of this Development Code. All improvements are being evaluated through this proposal and subsequent permit reviews. These criteria are 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:** This proposal is not for a land division and does not contain a new street system. 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 contain new streets. These criteria are 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:** The proposal does not include new cul-de-sacs or dead-end streets, and a new access way is not required. 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:** This proposal does not include new streets. 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:** As discussed above in findings for Section 15.90.020.C, Assembly Way as conditioned will be in compliance with the 64' ROW width for local streets. This criterion will be 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 applicant is proposing to provide a 6 foot wide sidewalk as provided on their plan set. Sidewalk improvement plans have been conditioned to be provided by the City Engineer. As conditioned, this criterion will be met.

- 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:** As Assembly Way is a local street, bike lines are not required as part of the La Pine TSP design standards. As such, this criterion is not applicable.

- H. Cul-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:** The proposal does not include a cul-de-sac. These criteria are 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.*

**FINDING:** The proposed development does not abut or contain an existing or proposed arterial street. This criterion is not applicable.

- 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:** The proposed development does not contain and is 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:** Reserve strips are not proposed nor are they required. 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.*
- 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; subsections L through Q do not apply. These criteria are not applicable.

- 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:** Traffic control signs are not required. This criterion is not applicable.

- 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:** Alleys are not required as part of this industrial development; all permanent provisions for access to off-street parking and loading facilities are being reviewed through this application. This criterion is met.

- 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:** In accordance with this criterion, curbs shall be required on Assembly Way. Staff notes that curbs are already present along Assembly Way. This criterion is met.

- 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:** This development is not at the intersection of streets. Comments from the City Engineer did not include the need for street lights. 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, 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.*

**FINDING:** The applicant provided designs for the management of stormwater on-site. Comments from the City Engineer verify the proposed facilities. This criterion is met.

- 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:** Gates are not proposed. 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:** A trip generation letter was submitted with the application materials which showed that the suspected impacts from the proposed development are below the thresholds set for a traffic impact analysis. Comments from the City Engineer did not indicate the need for a traffic impact analysis. These criteria are 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:** As new connections to the City's water and sewer network and sidewalk improvements are proposed, the following condition of approval has been added:

Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work being installed by the developer shall not be commenced until development plans 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.

- 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 the construction of public improvements***, 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.

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

Improvements as Platted: ***Prior to occupancy***, 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.

- 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 has been added:

Inspection: **Prior to occupancy**, 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 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 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 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.

***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 has been added:

Agreement for Improvements: ***Prior to the construction of public improvements***, since the applicant has proposed to connect to City water and sewer and install sidewalks, and is being conditioned to provide street trees, 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. Per LPDC 15.94.020.B, such an agreement must be secured by a bond or other performance assurance of 120% of the cost of public improvements and 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.*
- 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.*
- 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:** In accordance with this section and the City Engineer's agency comments above, the following condition of approval has been added:

Performance Bond for Constructed Public Improvements: ***Prior to the construction of public improvements***, and only if the applicant is electing to file an Agreement for Improvements set forth in LPDC 15.94.020.B and 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 that meets and shall be administered according to the requirements of LPDC 15.94.020.

***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.*

**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.

- 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:

Sale or Occupancy: ***Prior to occupancy or sale***, the public improvements proposed by the applicant to connect to water and sewer, construct the new sidewalks, and install street trees 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 development.

***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:** In accordance with both this section and the City Engineer's comments above, the following condition of approval has been added:

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.



**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**

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

\* 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 site plan application in accordance with all Type II procedures described herein. This criterion is met.

**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.*
- 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:** The application was submitted on July 21, 2025 and was paid on August 19 2025. The 30<sup>th</sup> day that staff had to review for completeness was September 18, 2025. Staff issued completeness on August 28, 2025. This criteria was 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 120<sup>th</sup> day that the City must take final action on this application is December 26, 2025. This criteria 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:** This 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 to the applicant only.

- 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:** The applicable time periods relevant to this application have not been calculated to start or end on a weekend or a legal holiday. 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:** The applicant has not applied for more than one type of application for the same or more contiguous parcels of land. This criterion does not apply.

***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 reviewed this application in accordance with the above criteria 1 through 8. 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:** Staff met with the applicant during a preapplication conference. 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 for this application. 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 are including this section for reference; only formal interpretations or determinations as described in this decision constitute final action by the City. This criterion is met.

***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. 15.202.100. - Correction of clerical errors.***

*Upon its own motion or the motion of a party, the council may, subject to any applicable public notice and hearing requirements, enact an ordinance correcting clerical or typographical errors in comprehensive plan amendment or zone change ordinances and any maps appended thereto implementing decisions of the planning commission. Such changes shall be entered only if the council is able to make a finding that the decision of the planning commission, including appendices, is not accurately reflected in the implementing ordinances.*



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

Duration of Approval: ***At all times,*** 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.

***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 have included this section for reference.

***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 have included this section for reference.

***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 have included this section for reference.

***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 have included this section for reference.

***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 followed 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.*
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.*
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 followed the noticing procedure in accordance with this section. These criteria are 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 decision 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:** The required 12-day appeal period will apply. 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 section for reference only.

## **CHAPTER 15.208. - RECONSIDERATION**

### **Sec. 15.208.010. - Reconsideration.**

- A. *An applicant may request that any decision be reconsidered as set forth herein. A request for reconsideration shall be accompanied by a fee established by the city and by applicant's written consent that the 120-day time limit for a land use decision will not run during the period of the reconsideration.*
- B. *Grounds for reconsideration are limited to the following instances where an alleged error substantially affects the rights of the applicant:*
  - 1. *Correction of an error in a condition of approval where the condition is not supported by the record or is not supported by law;*
  - 2. *Correction of errors that are technical or clerical in nature.*

**FINDING:** Staff are including this section for reference only.

***Sec. 15.208.020. - Procedure.***

- A. *A request for reconsideration shall be filed with the city planning official within ten days of the date the decision was mailed. The request shall identify the alleged error in the decision and shall specify how the applicant would be adversely affected if the alleged error were to remain uncorrected.*
- B. *Upon receipt of a request for reconsideration, the city planning official shall forward the request for reconsideration to the decision maker and notify the other parties to the proceeding of the request and allow for a ten-day comment period on the request. At the end of the comment period, the hearings body shall determine whether the request for reconsideration has merit.*
- C. *The hearings body shall modify the decision upon a determination that the request has merit and the alleged error substantially affects the applicant. Notice of the modification shall be sent to all parties to the proceeding. If the hearings body determines that no modification is warranted, a determination shall issue a decision to that effect.*
- D. *Filing a request for reconsideration shall not be a precondition for appealing a decision.*
- E. *Filing a request for reconsideration stays the deadline for any party to file an appeal. The appeal period for all parties to the proceeding shall commence upon mailing of a modification of the decision or upon mailing a determination that a modification is not warranted. If an opponent files an appeal and an applicant has requested reconsideration, the opponent's appeal shall be stayed pending disposition of the request for reconsideration. If the decision is not modified, the appeal will be processed in accordance with the procedures set forth in chapter 15.212. If the decision is modified, the appellant must, within 12 days of the mailing of the modified decision, file in writing a statement requesting that its appeal be activated.*

**FINDING:** Staff are including this section for reference only.



**Sec. 15.208.030. - Limitation on reconsideration.**

*No decision shall be reconsidered more than once.*

**FINDING:** Staff are including this section for reference only.

**CHAPTER 15.212. - APPEALS**

**Sec. 15.212.010. - Who may appeal.**

*The following may file an appeal:*

- A. Appeals of Type I decisions shall be in accordance with 15.204.010.G. [15.204.010.F]*
- B. Appeals of Type II decisions shall be in accordance with 15.204.020.F.*
- C. Appeals of Type III decisions shall be in accordance with 15.204.030.K.*
- D. There is no local appeal for city council decisions. City council decisions appealed to the land use board of appeals must follow applicable state laws.*

**Sec. 15.212.020. - Filing appeals.**

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the city planning official and an appeal fee.*
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the city planning official no later than 5:00 p.m. on the 12th day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 p.m. on the 12th day following mailing of the decision as modified. Notices of appeals may not be received by facsimile machine.*
- C. If the city council is the hearings body and the city declines review of the appeal, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the city in reviewing the appeal.*
- D. The appeal fee shall be paid by cash or check or money order, except that local, state or federal governmental agencies may supply a purchase order at the time of filing.*

**Sec. 15.212.030. - Notice of appeal.**

*The notice of appeal shall include:*

- A. A statement raising any issue relied upon for appeal with sufficient specificity to afford the hearings body an adequate opportunity to respond to and resolve each issue in dispute.*
- B. If the city council is the hearings body, a request for review by the council stating the reasons why the council should review the lower hearings body's decision.*

- C. *If the city council is the hearings body and de novo review is desired, a request for de novo review by the council stating the reasons why the council should provide de novo review as provided in section 15.212.050.*

***Sec. 15.212.040. - Consolidation of multiple appeals.***

*If more than one party files a notice of appeal, the appeals shall be consolidated and noticed and heard as one proceeding.*

***Sec. 15.212.050. - Scope of review.***

- A. *Before planning commission. The review on appeal before the planning commission shall be de novo.*

- B. *Before the council.*

1. *Review before the city council, if accepted, shall be on the record except as otherwise provided for in this section.*
2. *The council may grant an appellant's request for a de novo review at its discretion after consideration of the following factors:*
  - a. *Whether hearing the application de novo could cause the 120-day time limit to be exceeded; and*
  - b. *If the audio recording of the hearing below, or a portion thereof, is unavailable due to a malfunctioning of the recording device during that hearing, whether review on the record would be hampered by the absence of a transcript of all or a portion of the hearing below; or*
  - c. *Whether the substantial rights of the parties would be significantly prejudiced without de novo review and it does not appear that the request is necessitated by failure of the appellant to present evidence that was available at the time of the previous review; or*
  - d. *Whether in its sole judgment a de novo hearing is necessary to fully and properly evaluate a significant policy issue relevant to the proposed land use action.*

*For the purposes of this section, if an applicant is an appellant, factor section 15.212.050.B.2.a shall not weigh against the appellant's request if the applicant has submitted with its notice of appeal written consent on a form approved by the city to restart the 120-day time limit as of the date of the acceptance of applicant's appeal.*

3. *Notwithstanding section 15.212.050.B.2., the council may decide on its own to hear a timely filed appeal de novo.*
4. *The council may, at its discretion, determine that it will limit the issues on appeal to those listed in an appellant's notice of appeal.*

**Sec. 15.212.060. - Hearing on appeal.**

- A. *The appellant and all other parties to the decision below shall be mailed notice of the hearing on appeal at least ten days prior to any de novo hearing or deadline for submission of written arguments.*
- B. *Except as otherwise provided in this chapter, the appeal shall be heard in accordance with the Type III procedures. The applicant shall proceed first in all de novo appeals.*
- C. *The order of hearings body shall be as follows: 1. planning commission. 2. city council, except that the council may call up an administrative decision for review without the necessity of an application going before the planning commission.*
- D. *The record of the proceeding from which appeal is taken shall be a part of the record on appeal.*
- E. *The record for a review on the record shall consist of the following:*
  - 1. *A written transcript of any prior hearing;*
  - 2. *All written and graphic materials that were part of the record below;*
  - 3. *The hearings body decision appealed from;*
  - 4. *Written arguments, based upon the record developed below, submitted by any party to the decision;*
  - 5. *Written comments submitted by the planning commission or individual planning commissioners, based upon the record developed below; and*
  - 6. *A staff report and staff comment based on the record. No oral evidence, argument or comment other than staff comment based on the record shall be taken. The hearings body shall not consider any new factual information.*

**Sec. 15.212.070. - Declining review.**

*Except for decisions on comprehensive plan amendments and zone changes when the city council is adopting the planning commission's decision, when there is an appeal and the city council is the hearings body:*

- A. *The council may on a case-by-case basis, at a public meeting, determine that the decision of the lower hearings body shall be the final decision of the city.*
- B. *If the city council decides that the lower hearings body decision shall be the final decision of the city, then the council shall not hear the appeal and the party appealing may continue the appeal as provided by law. In such a case, the city shall provide written notice of its decision to all parties. The decision on the land use application becomes final upon mailing of the council's decision to decline review.*

C. *The decision of the city council not to hear a land use action appeal is entirely discretionary.*

D. *In determining whether to hear an appeal, the city council may consider only:*

- 1. The record developed before the lower hearings body;*
- 2. The notice of appeal; and*
- 3. Recommendations of city staff.*

**Sec. 15.212.080. - Appeals of Type I decisions.**

*Notice of the hearing date set for appeal shall be sent only to the applicant. Only the applicant, his or her representatives, and his or her witnesses shall be entitled to participate. Continuances shall be at the discretion of the hearings body, and the record shall close at the end of the hearing.*

**Sec. 15.212.090. - Withdrawal of an appeal.**

*An appeal may be withdrawn in writing by an appellant at any time prior to the rendering of a final decision. Subject to the existence of other appeals on the same application, in such event the appeal proceedings shall terminate as of the date the withdrawal is received.*

**FINDING:** Staff are including this section for reference only.

**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:** Staff reviewed the site plan application in consideration of the above intentions. These criteria are addressed through the subsequent findings in this decision. Criteria are 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:** As this proposal is for new construction in accordance with subsection A; the site plan criteria apply. This criterion is 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:** This decision constitutes site plan review and approval. Conditions of approval have been added that are required to be met prior to site clearing and the issuance of building permits. As conditioned, this criterion 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:** Staff reviewed this application in accordance with all Type II procedures in Article 7. The applicant held a pre-application conference with the City on June 10, 2025. These criteria are 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 has submitted a completed application that meets the requirements of subsection A. These criteria are 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:** As discussed throughout these findings, the applicant has submitted a completed application that meets the requirements of subsection B. These criteria are 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:** Photos of the site were not required. This criterion is not applicable.

*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 applicant has submitted a completed application that meets the requirements of subsection D. These criteria are 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:** A completed burden of proof was submitted along with the application materials. These criteria are 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:** This application does not include residential development. These criteria are not applicable.

- 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 landscaping plan was submitted with the application that included criterion 1, 2, 3, 4, and 5. For criterion 6, an arborist's report is not required. These criteria are 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 applicant has submitted architectural drawings that demonstrate compliance with the above criteria. Sign size and illumination will be formally reviewed and approved through a sign permit. These criteria are 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 was not required. This criterion does not apply.

*I. Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for roadway access control.*

**FINDING:** A title report was included with the application materials that included all deed restrictions. Sheet AS101 the Site Plan includes both Public Utility Easements as noted in item 10 of the Title Report, recorded July 03 2003 as Instrument No. 2003-45055. This criterion is met.

*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 burden of proof was submitted with the application materials that addresses the above section of the LPDC for nonresidential development. No additional information was required to be submitted by the city planning official. These criteria are 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:** Staff reviewed this application in accordance with the statement of intent. 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 August 28, 2025 in accordance with all procedures in Article 7, as discussed above. 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:** The application was evaluated in accordance to all underlying Industrial zoning standards in Article 3, above. This criterion is met.

3. *The application complies with the provisions of the any applicable overlay zones in article 4.*

**FINDING:** The application does not include an overlay zone. This criterion is not applicable.

4. *The proposal complies with all applicable development and design standards of article 5.*

**FINDING:** The application was evaluated and shown to meet, or would meet as conditioned, all applicable standards in Article 5, above.

5. *The application complies with all applicable special use standards in article 6.*

**FINDING:** The application does not have any applicable special use standards from Article 6. This criterion is not applicable.

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

**FINDING:** Public facilities and utilities were evaluated by the City Engineer. Any necessary improvements or modifications have been conditioned throughout this decision. 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 previously, this decision has been conditioned so that the development complies with the standards adopted in the La Pine TSP. As conditioned, this criterion will be 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:** Tentative sewer and water plans were evaluated by the City Engineer. Conditions were applied to ensure the plans are in conformance with the appropriate standards. Final review of the sewer and water plans will occur prior to the preconstruction meeting, as conditioned. As conditioned, this criterion will be 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:** Tentative stormwater plans were evaluated by the City Engineer. Conditions were applied in response to his comments. As conditioned, this criterion will be met.

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

**FINDING:** Staff have applied a condition of approval to this standard in Article 5. As conditioned, this criterion will be 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.*

**Note—** *Compliance with other city codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.*

**FINDING:** This site does not contain any applicable prior land use decisions and, as such, there are no past conditions of approval. 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:** Staff are reviewing this application in accordance with the statement of intent provided 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 no definitive final users are known at this time, staff have reviewed the proposed site plan as-is, and with consideration to potential future users where appropriate, and as such conclude that the arrangement of the site harmonizes with the natural characteristics and limitation of the site and adjacent sites. 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:** While both the eastern and western lots adjacent to the subject property are vacant, staff are evaluating the proposed design in accordance with the potential for future development. The location of the building, parking, and access facilities have been evaluated in accordance with the development requirements

of this code. The public facilities have been conditioned to come in compliance with TSP standards, ensuring that these facilities follow adopted City design standards. This ensures compatible relationships between the proposed facilities and future adjacent uses. The required County Engineering review also ensures that the proposed designs are in compliance with County Engineering standards. As conditioned, 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:** The subject site does not contain any significant streams, rocks, or slopes. Existing vegetation is being preserved north of the existing fence and the property line. This criterion is met.

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 the adjacent properties are vacant, there is no potential for a landscape/open space connection for pedestrian or bike use between properties. The intention for these Industrial lands is for industrial uses. A sidewalk is being proposed and has been conditioned to comply with the City's TSP standards. This criterion is not applicable.

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 and conditioned throughout, the proposed improvements are either directly in accordance, or will be as conditioned, with the applicable standards of the LPDC. As such, staff have determined that the site improvements do not unreasonably degrade the scenic values of the community and the surrounding area as the proposal meets, or will meet, all of the requirements for industrial development. 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:** The proposed parking and circulation are inherently oriented to vehicular orientation, as required and appropriate to the proposed development. The applicant is providing the necessary walkways and bicycle parking facilities in accordance with the Development Standards of Article 5 to facilitate pedestrian and bicycle connection with Assembly Way. A separate service area for the delivery of goods was not proposed, but staff have conditioned a requirement for a future loading area in accordance with the off-street loading criteria in Section 15.86.030. 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 conditioned in accordance with Section 15.24.500, any storage, mechanical equipment, utilities, or waste collection facilities are required to be screened from view. As conditioned, this criterion will be 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 throughout, staff have evaluated, permitted, and conditioned the relevant landscaping standards throughout. These additional evaluation criteria have been applied and, as conditioned, are in conformance with the proposal. These criteria are 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:** As final users are not known at this time, considerations for the restriction of future uses will be evaluated at the time that such use is proposed, in accordance with Subsection A. Additional conditions in accordance with subsections B through H have either been incorporated herein or are not required at this time. These criteria are 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, the following condition has been added:

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 need 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.*

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

Landscaping and Other Site Improvement Performance Assurance: **Prior to occupancy**, all landscaping and other site improvements required shall be installed. The owner and/or applicant may submit a performance assurance device that is approved by the city that commits the installation of landscaping and other site improvements within one year. 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:** The applicant did not request a delay of the installation of the required public improvements. This criterion is not applicable.

**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: **At all times**, 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: **At all times**, 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: **At all times**, the applicant shall be responsible for confirming in detail how each specific condition of approval has been met if requested by City staff.
4. Screening Requirement of Accessory Storage: **At all times**, all accessory storage of junk, waste, discarded or salvaged material, machinery, or equipment shall not be permitted except within a completely enclosed structure. Or, if the lot area devoted to such use is over 200 square feet in area, the owner may have the alternative of enclosing it on all sides in conformance with the requirements of Section 15.24.400.B.
5. Emission Control: **At all times**, industrial uses shall comply with all applicable pollution control regulations enacted by the federal and state government and other governmental authorities.
6. Noise Shielding: **At all times**, industrial uses shall provide necessary shielding or other protective measures against interference caused by mechanical and nuclear equipment, or uses or processes with electrical apparatus, to nearby residences.
7. Lighting: **At all times**, all exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.
8. Metal Shipping Containers: **At all times**, if utilized, metal shipping containers in the industrial zone are only permitted for storage use.
9. Landscape 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.
10. Future Off-Street Loading: **At all times**, if any future use requires the receipt or distribution of materials or merchandise by trucks with a 40-foot or longer wheelbase at a frequency of one or more vehicles per week, the property owner shall submit a Modification application to the Planning Department demonstrating compliance with Section 15.86.020 prior to the occupancy of such use.
11. Underground Utilities: **At all times**, all new electrical, telephone, or other utility lines shall be underground unless otherwise approved by the City.

12. Duration of Approval: **At all times**, 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.
13. 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 need 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 CONSTRUCTION**

14. Preconstruction Meeting: **Prior to construction**, a pre-construction meeting with the construction contractor shall be held with City staff. Contact the City prior to any work in the ROW, including City water, City sewer, or other utilities. 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.
15. Modification: **Prior to the construction of public improvements**, 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.
16. Agreement for Improvements: **Prior to the construction of public improvements**, since the applicant has proposed to connect to City water and sewer and install sidewalks, and is being conditioned to provide street trees, 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. Per LPDC 15.94.020.B, such an agreement must be secured by a bond or other performance assurance of 120% of the cost of public improvements and shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.
17. Performance Bond for Constructed Public Improvements: **Prior to the construction of public improvements**, and only if the applicant is electing to file an Agreement for Improvements set forth in LPDC 15.94.020.B and 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 that meets and shall be administered according to the requirements of LPDC 15.94.020.
18. 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 THE PRECONSTRUCTION MEETING

19. Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work being installed by the developer shall not be commenced until development plans 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.
20. Sidewalk Improvement Plans: ***Prior to the preconstruction meeting***, sidewalk improvement plans complying with Design Standards, II. Design Parameters A. Street, and III. Drawings shall be submitted to the City for review.
21. Details of the Sewer Plan: ***Prior to the preconstruction meeting***, provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards, II. Design Parameters, C. Sewer, and III. Drawings. Additionally, provide corrections to sheet C3.1, which shows a 4" pressure sewer main in Assembly Way instead of a 4" STEG main. A 2" pressure sewer service is also still shown instead of a 4" gravity sewer service.
22. Details of the Water Plan: ***Prior to the preconstruction meeting***, provide details of the hot tap on the existing water main, fire service, water service, and water meter box that comply with Design Standards, II. Design Parameters, D. Water, and III. Drawings.
23. 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 Public Works Director. Modifications to public sewer or water lines may need to be reviewed by DEQ. 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.
24. Assembly Way Street Improvements: ***Prior to the preconstruction meeting***, the applicant shall submit revised public improvement plans showing the correct dedication of 2' of ROW so that Assembly Way conforms to the required local street width as required in the La Pine TSP. The sidewalks must be within the ROW – an easement for sidewalk access will not be granted on the subject property – and the existing power vault on the subject property shall be moved to accommodate the location of the sidewalk as required in the TSP. The sidewalk must be designed in accordance with all applicable City design standards. The installation of street trees must occur at an average 35-foot spacing except when within clear vision triangles on the subject property side of the street. All revised improvements must go through a formal County Engineering review and the results of this review shall be sent to the City prior to the preconstruction meeting.
25. Deschutes County Road Department Comments: ***Prior to the preconstruction meeting***, the applicant shall complete a Deschutes County improvement plan review with the County Road Department so that the County Engineer can review the final improvement designs along the Assembly frontage. The results of this review shall be passed along to the City.
26. 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.

## PRIOR TO OCCUPANCY

27. Duties of Developer: **Prior to occupancy**, 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.
28. Landscaping and Other Site Improvement Performance Assurance: **Prior to occupancy**, all landscaping and other site improvements required shall be installed. The owner and/or applicant may submit a performance assurance device that is approved by the city that commits the installation of landscaping and other site improvements within one year. 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.
29. Landscape Plant Installation Standards: **Prior to occupancy**, the applicant shall confirm that the following landscaping plant installation standards have been met:
- Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.
  - Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.
  - Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.
  - Rows of plants shall be staggered to provide for more effective coverage.
30. Approach Permit: **Prior to occupancy**, the applicant must submit approved approach/driveway permits for the new entrance to the site.
31. Improvements as Platted: **Prior to occupancy**, 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.
32. Inspection: **Prior to occupancy**, 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.
33. 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.
34. 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.
35. Sale or Occupancy: **Prior to occupancy or sale**, the public improvements proposed by the applicant to connect to water and sewer, construct the new sidewalks, and install street trees 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 development.

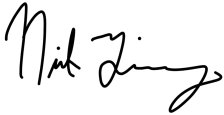
36. Maintenance Surety Bond: ***Prior to occupancy***, at the completion of construction of the required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date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

**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. A one time extension of up to one (1) additional year may be applied for in accordance with Chapter 15.202, so long as the request is submitted and paid for prior to the expiration of the approval.

**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 12<sup>TH</sup> DAY FOLLOWING MAILING OF THIS DECISION.

**CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT**

A handwritten signature in black ink, appearing to read "Nick Tierney".

Written By: Nick Tierney, Associate Planner