



## **FINDINGS AND DECISION**

**DECISION DATE:** May 12, 2026

**FILE NUMBER:** PA-25-0009

**APPLICANT:** F&S South 16 LLC  
c/o Greg Blackmore  
PO Box 449  
Lincoln City, OR 97367

**OWNER:** F&S South 16 LLC  
PO Box 449  
Lincoln City, OR 97367

**LOCATION:** The subject property is located at 51212 Erling Drive, La Pine Oregon 97739. The Tax Lot number is 339 on Deschutes County Assessor's Map 22-10-14CD.

**REQUEST:** The applicant proposes a minor partition and a replat for the subject property to create two parcels. No further development is proposed at this time.

**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 2 – DEFINITIONS AND USE CATEGORIES***

##### **CHAPTER 15.12. – DEFINITIONS**

#### ***ARTICLE 3 – ZONING DISTRICTS***

##### **CHAPTER 15.18. - RESIDENTIAL ZONES**

#### ***ARTICLE 5 – DEVELOPMENT STANDARDS***

##### **CHAPTER 15.80 – DEVELOPMENT STANDARDS, GENERALLY**

##### **CHAPTER 15.88. - ACCESS AND CIRCULATION**

##### **CHAPTER 15.90. - PUBLIC FACILITIES**

##### **CHAPTER 15.92. – ADDITIONAL STANDARDS FOR LAND DIVISIONS**

##### **CHAPTER 15.94. - IMPROVEMENT PROCEDURES AND GUARANTEES**

#### ***ARTICLE 7 - PROCEDURES***

##### **CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS**

##### **CHAPTER 15.204. - APPLICATION PROCEDURES**

#### ***ARTICLE 9 – LAND DIVISIONS***

##### **CHAPTER 15.402. – GENERAL PROVISIONS**

**CHAPTER 15.410. – LAND PARTITIONS**  
**CHAPTER 15.415. – REPLATS**  
**CHAPTER 15.418. – PROCESSING AND RECORDING PROCEDURES**

**II. BASIC FINDINGS**

**ZONING:** The subject property is zoned Residential Single Family (RSF) with no overlay zones.

**PARCEL SIZE:** The subject property is 0.25-acres in size.

**LOT LEGALITY:** The subject property was originally platted as Lot 47 within the Oksenholt Estates (Evans Way) Subdivision, recorded November 22, 2023 with Deschutes County.

**REVIEW PERIOD:** The subject application was submitted on October 23, 2025 and paid January 5, 2026. The application and deemed complete by the Planning Department on February 2, 2026. The 120<sup>th</sup> day on which the City must take final action on this application is June 3, 2026.

**EXISTING DEVELOPMENT:** The subject property contains no existing development. Right-of-way public improvements along the Erling and Bassett frontages have been developed with streets, sidewalks, and franchise utilities. Existing water and sewer service connects to the proposed Parcel 1 via Erling Drive and sewer and water lines run along Bassett Drive.

**SURROUNDING LAND USES:** All surrounding properties are zoned Residential Single Family and are vacant.

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

- Water: City of La Pine
- Sewer: City of La Pine
- Fire: La Pine Rural Fire Protection District
- Road Access: City of La Pine
- Sidewalks: City of La Pine

**PERMIT HISTORY:**

- No permits for this property. The Oksenholt Estates Subdivision received approval with City of La Pine decision 01SUB-19.

**III. AGENCY AND PUBLIC COMMENTS**

**PUBLIC AGENCY COMMENTS:** The La Pine Community Development Department sent mailed and electronic notice on February 3, 2026, to several public agencies and received the following comments:

City of La Pine Public Works, Ashley Ivans

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

Jeff Clay, P.E. - Contracted City Engineer – Anderson Perry

*Per the City of La Pine's request, Anderson Perry & Associates, Inc., has reviewed the tentative plan of a two-lot partition of Lot 47, Oksenholt Estates, at 51212 Erling Drive for the potential impacts on public utilities and roadways. The public improvements shown on the tentative partition exhibit were reviewed using the City's 2016 Standards and Specifications Design Standards. The review comments are listed below by public facility.*

**Street**

- *The parcels will be accessed from an existing paved road in the public right-of-way. Street improvement plans are not required.*
- *Provide detail of driveway access across the swale.*
- *Provide street cut and sidewalk replacement details for installation of water and sewer services in Bassett Drive.*

**Stormwater**

- *Street improvements that would affect the existing stormwater drainage are not proposed. Stormwater improvement plans for Bassett or Erling Drives are not required. Stormwater runoff will be contained on site.*

**Sewer**

- *Provide details of the connections to the sewer main, septic tanks, sewer services, and sewer service cleanouts that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings.*
- *Provide a minimum 10- by 25-foot septic tank access and maintenance easements for septic tanks on private property.*

**Water**

- *Provide details of the hot tap on the existing water main, water service, and water meter box that comply with Design Standards II. Design Parameters, D. Water, and III. Drawings. Each lot shall be serviced by its own water meter.*
- *Provide a minimum 5- by 5-foot water meter access and maintenance easements for meters on private property.*

*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 final plat approval, and only for those improvements that are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120 percent of the cost of improvements prior to beginning construction.*

*Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff.*

*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.*

**FINDING:** To comply with the City Engineer’s comments, the following conditions of approval have been added. The requirements for the public utility easements have been conditioned under Sec. 15.92.020. – Easements in Chapter 15.92, below. The requirement for a maintenance surety bond is conditioned in Sec. 15.94.040. – Maintenance surety bond, below.

**Street Plan Updates:** ***Prior to final plat***, provide plan updates that detail the driveway access across the swale. Provide street cut and sidewalk replacement details for installation of water and sewer services in Bassett Drive.

**Sewer Plan Updates:** ***Prior to final plat***, provide details of the connections to the sewer main, septic tanks, sewer services, and sewer service cleanouts that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings.

**Water Plan Updates:** ***Prior to final plat***, provide details of the hot tap on the existing water main, water service, and water meter box that comply with Design Standards II. Design Parameters, D. Water, and III. Drawings. Each lot shall be serviced by its own water meter.

**Performance Bond for Constructed Public Improvements:** ***Prior to construction of public improvements***, and only for those improvements that are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120 percent of the cost of improvements prior to beginning construction that meets the requirements of 15.94.020.B, prior to beginning any public improvements.

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

The following agencies did not respond to the notice:

- Deschutes County Building Safety
- Oregon State Fire Marshall
- Deschutes County Assessor
- Deschutes County Surveyor
- Deschutes County Address Coordinator
- 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 February 3, 2026. No public comments were received.

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

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

**ARTICLE 2 – DEFINITIONS AND USE CATEGORIES**

**CHAPTER 15.12. – DEFINITIONS**

**Sec. 15.12.020. – Definitions.**

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*Partition land means dividing land to create not more than three parcels of land within a calendar year, but does not include:*

1. *Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;*
2. *Adjusting a property line as property line adjustment is defined;*
3. *Dividing land as a result of the recording of a subdivision or condominium plat;*
4. *Selling or granting by a person to a public agency or public body of property for state highway, county road, city street or other right of way purposes if the road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or*
5. *Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.*

*Partition, major, means a partition where a new street or road is created for access to one or more of the parcels created by the partitioning.*

*Partition, minor, means a partition where each lot or parcel created has access to an existing public road, street, highway or way; that is, a partitioning that does not include the creation of a new road or street for access to one or more of the lots or parcels being created. For the purposes of this definition and this definition only, an easement for access of more than 100 feet in length shall be considered a street or road.*

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*Replat means the act of replatting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.*

**FINDING:** This application for a two-parcel partition conforms to the definition of a minor partition and replat. Applicable criteria are discussed herein.

### **ARTICLE 3 – ZONING DISTRICTS**

#### **CHAPTER 15.18. - RESIDENTIAL ZONES**

##### **Sec. 15.18.200. - Characteristics of the residential zones.**

*Residential zones are intended to accommodate a mix of residential uses at planned densities, consistent with the housing needs of the city; promote the orderly development and improvement of neighborhoods; facilitate compatibility between dissimilar land uses; allow residences in proximity, and with direct connections, to schools, parks, and community services; and to ensure efficient use of land and public facilities. There are two residential zones in the city:*

- A. Residential Single-Family Zone (RSF). The RSF zone permits residential uses at densities between one and seven dwelling units per gross acre. Permitted residential uses consist primarily of detached single-family housing, duplexes, and low density multi-family developments. The RSF zone also allows community service uses such as churches, schools, and parks that may be subject to special use standards.*
- B. Residential Multi-Family Zone (RMF). The RMF zone permits residential uses at densities between five and 40 dwelling units per gross acre. Permitted residential uses consist of detached single-family dwellings, townhomes, duplexes, and multi-family housing. The RMF zone also allows community service uses such as churches, schools, and parks that may be subject to special use standards.*

**FINDING:** The subject property is zoned Residential Single Family (RSF). Applicable criteria are addressed herein.

##### **Sec. 15.18.300. - Use regulations.**

*Uses may be designated as permitted, limited, conditional, or prohibited in the residential zones. As noted in Table 15.18-1, a use may also be subject to special use standards of article 6.*

- A. Permitted uses (P). Uses allowed outright in the residential zones are listed in Table 15.18-1 with a "P."*
- B. Limited uses (L). Uses allowed in the residential zones subject to limitations are listed in Table 15.18-1 with an "L." The limitations are defined below and correspond with the footnote numbers in Table 15.18-1.*
  - 1. Commercial lodging. Commercial lodging uses in the RSF and RMF zones are limited to bed and breakfast inns.*

2. *Retail sales and service. Retail sales and service uses in the RSF and RMF zones are limited to veterinary clinics and commercial kennels where the animal-related facilities are primarily indoors.*
  3. *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 building access points or doors, shall be paved with an asphalt surface.*
  4. *Parks and open areas. Cemeteries require a conditional use permit in the RSF and RMF zones. All other parks and open areas uses permitted outright.*
- C. *Conditional uses (CU). Uses which are allowed if approved through the conditional use review process are listed in Table 15.18-1 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 15.18-1 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 proposal does not include a new use; this section is not applicable. In order to comply with future land uses, the following condition of approval has been added:

Future Permits: **Prior to building permit issuance**, at such a time that new development or modification of existing development is proposed on any parcel, all applicable land use, including a City Zoning Permit for each constructed or placed residential dwelling and building permits, must be obtained prior to initiating the proposed development.

**Sec. 15.18.400. - Development standards.**

- A. *Purpose. The development standards for residential zones work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally ensure that new development will be compatible with the city's character. At the same time, the standards allow for flexibility for new development. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.*
- B. *Development standards. The development standards for residential zones are presented in Table 15.18-2. Development standards may be modified as provided by chapter 15.320, variances. Additional standards may apply to specific zones or uses, see section 15.18.500. Footnotes in the table correspond to the sections below.*
1. *Minimum density standard in the RSF zone only applies to subdivisions. Development on existing lots and partitions are exempt from this standard.*
  2. *Accessory dwellings do not count toward the maximum density standard in the RSF zone.*

**Table 15.18-2. Development Standards in the Residential Zones**

<b>Standard</b>	<b>RSF</b>	<b>RMF</b>
<i>Minimum Density</i>	<i>1 unit per acre</i>	<i>5 units per acre</i>
<i>Maximum Density</i>	<i>7 units per acre</i>	<i>40 units per acre</i>
<i>Minimum Lot Size</i>	<i>None</i>	<i>None for single-family dwelling, cottage cluster development, duplex, or townhomes. Multi-family development: 3,000 sq. ft. for first dwelling unit, plus 1,000 sq. ft. for each dwelling unit thereafter on the same property, provided that urban services are available to serve the development.</i>
<i>Minimum Street Frontage</i>  <i>When a flag lot is proposed, as defined under Flag Lot in section 15.12.020, the minimum frontage width shall be 30 feet, and shall apply to the full length of the flag lot "pole".</i>	<i>50 feet</i> <i>35 feet on cul-de-sac street</i> <i>25 feet for townhomes</i>	<i>50 feet</i> <i>35 feet on a cul-de-sac street</i> <i>25 feet for townhomes</i>
<i>Minimum Setbacks</i>	<i>-</i>	<i>-</i>
<i>- Front of Street-Side Yard</i>	<i>20 feet</i>	<i>20 feet</i>
<i>- Side Yard</i>	<i>10 feet</i> <i>None for townhomes</i>	<i>10 feet</i> <i>None for townhomes</i>
<i>- Rear Yard</i>	<i>20 feet</i>	<i>20 feet</i>
<i>Maximum Building Height</i>	<i>45 feet</i>	<i>45 feet</i>
<i>Maximum Lot Coverage</i>	<i>75% for townhomes</i> <i>50% for all other uses</i>	<i>75% for townhomes</i> <i>50% for all other uses</i>
<i>Minimum Landscaped Area</i>	<i>See Chapter 15.82</i>	

**FINDING:** This proposal is for a two-parcel partition. While no development is proposed at this time, staff have reviewed the development standards as follows:

Minimum/Maximum Density: Pursuant to LPDC Section 15.18.400.B.1, "minimum density standard in the RSF zone only applies to subdivisions. Development on existing lots and partitions are exempt from this standard." Therefore, minimum density standards do not apply to this application. Maximum density will be evaluated when development is proposed. These criteria are not applicable.

Maximum Lot Size: The RSF zone does not have any requirements for lot size. This standard is not applicable.

Minimum Street Frontage: The RSF zone requires at least 50 feet of street frontage. Both proposed Parcel 1 and Parcel 2 have approximately 69 feet of frontage with Bassett Drive. This criterion is met.

Minimum Setbacks, Building Height, and Lot Coverage: No development is proposed for either parcel. Setbacks, building height, and lot coverage will be evaluated at the time of future development. These criteria are not applicable.

Minimum Landscaped Area: The RSF zone looks to LPDC Chapter 15.82 for landscaping minimums. Within LPDC Section 15.82.010, the code states that landscaping requirements only apply to development subject to site plan review. Criteria will be addressed upon development.

All relevant development standards for this proposal are met.

**Sec. 15.18.500. - Additional standards.**

A. *RSF zone. The following standards apply to all development in the RSF zone:*

1. *No dwelling structures shall have visible, unclosable openings, which allow penetration of air, outside elements, or animals into the structure's interior, except for screened-in porches.*
2. *All dwelling structures shall be placed on a basement foundation, concrete pad or piers, or other permanent foundation and secured, anchored, or tied down in accordance with the current International Building Code and all other applicable FHA requirements.*
3. *See article 5 for additional development standards.*

**FINDING:** No other development is proposed. Compliance with this section will be evaluated once development is proposed. These criteria are not applicable.

**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.*

**FINDING:** As the applicant is proposing a two-parcel partition, the Development Standards apply. Applicable criteria discussed herein.

**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 a 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 exemption 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:** No development is proposed. This criterion is not applicable.

***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:** In order to comply with this criterion, the following condition of approval has been added:

Metal Shipping Containers: **At all times**, 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.

**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:** While no development is proposed, future development on the parcels will warrant a new street connection. 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:** Comments from the City Engineer did not indicate the need for an approach permit, however, the following condition has been included to ensure compliance.

Approach Permit: **Prior to building permit issuance**, an approach permit shall be approved by the City of La Pine Public Works Department for any new access driveways to serve future proposed properties.

- 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:** Comments from the City Engineer did not indicate the need for a traffic study. This criterion is not applicable.

- 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.*
- 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:** The proposed parcels have frontage with Bassett Drive and Erling Drive, local streets as classified by the La Pine TSP. As neither are an arterial or collector, as stipulated in 15.88.030.D.1, this section does not apply. Comments from the City Engineer did not indicate the need for access restrictions, either. These criteria are not applicable.

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

**FINDING:** The partition does not include a new approach onto a state highway or a change of use adjacent to a state highway. This criterion is not applicable.

- 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:** Future approaches would not meet the scenarios described above. This criteria does 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 adjustment to the spacing standards. This criterion is not applicable.

- 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*

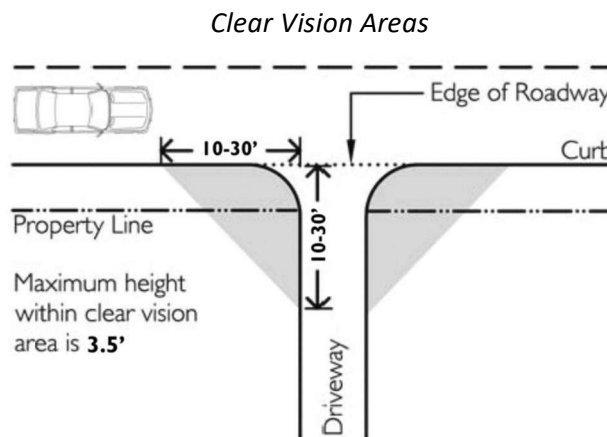
*maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.*

**FINDING:** The applicant is not proposing a joint use driveway. This criterion is not applicable.

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

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

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



**FINDING:** Clear vision requirements shall be provided for throughout the development of the parcels. Street trees, fencing, utilities, landscaping, and other above ground features should be prohibited within the intersection sight

distance triangles near internal intersections. Within these areas a clear space should be maintained between two feet and eight feet in height. To ensure compliance with the clear vision area requirements, the following conditions of approval have been added:

Clear Vision Area: **At all times**, clear vision area shall be maintained on the corners of all properties at the relevant intersections and must meet the requirements of LPDC Section 15.88.040.

**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:*

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**FINDING:** As this application is a partition, and not a new subdivision, multi-family developments, planned developments, commercial developments or institutional developments, this section does not apply. These criteria are not applicable.

**CHAPTER 15.90. - PUBLIC FACILITIES**

**Sec. 15.90.010. - Public facilities improvement.**

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

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

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

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

**FINDING:** The developer has proposed tapping into the existing sewer and water line along Erling Drive. As conditioned in conformance with this proposal, this criterion will be met.

- 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:** Comments from the City Engineer did not indicate that existing streets are inadequate. This criterion is not applicable.

- D. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of a proposed land development, and when the city finds it will be practical to require dedication and improvement of the other half of the street when the adjoining property is developed. Whenever a half street exists adjacent to a tract of land proposed for development, the other half of the street shall be dedicated and improved.*

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

**Sec. 15.90.030. - Sewer and water.**

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

**FINDING:** To ensure compliance with the above criterion, the following condition of approval has been added to ensure the sewer plans conform with city standards:

Sewer and Water Plan Approval: **Prior to the preconstruction meeting**, sanitary sewer and water plans in conformance with city standards shall be provided to the City Public Works Director. Modifications to main 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:** The City Engineer did not indicate the existence of any inadequate facilities within the area of the proposed partition. This criterion does not apply.

**Sec. 15.90.040. - Stormwater.**

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

**FINDING:** While no development is proposed at this time, the City Engineer commented that no stormwater plans are required. These criteria are not applicable.

**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 applicant is not requesting an exception to the underground utilities requirement. The placement of underground utilities as it applies to subdivisions was evaluated with the applicant's subdivision land use decision. This application is not for a subdivision. These criteria are not applicable.

**Sec. 15.90.060. - Public street/highway improvement.**

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

- A. *Installation of additional and/or passing lanes, including pedestrian ways and/or bikeways, within a public street or highway right-of-way existing as of the effective date of this chapter, unless such adversely impacts on-street parking capacities and patterns.*
- 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 proposal does not include any public street or highway improvements that meet any of the above criteria A through F and thus does not qualify for an exemption to the permit requirements of this Development Code. 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:** Comments from the City Engineer did not indicate the need to submit an analysis of a traffic circulation 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 include any new streets. This criterion is not applicable.

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

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

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

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

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

**FINDING:** Bassett and Erling Drives are existing streets that were developed in accordance with the Oksenholt (Evans Way) Subdivision approvals and conditions. Comments from the City Engineer did not indicate inadequate minimum right-of-way or roadway widths. As such, this criterion is 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:** Sidewalks along the property frontage have been installed in accordance with TSP standards. This criterion is 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:** Both Bassett and Erling are considered Local Streets and are not subject to bike lanes per La Pine's TSP. This criterion is not applicable.

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

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

- I. Marginal access streets. Where a land development abuts or contains an existing or proposed arterial street, the city may require marginal access streets, reverse frontage lots with suitable depth, screen-plantings contained in a non-access reservation strip along the rear or side property line or other treatments deemed necessary for adequate protection of residential properties and the intended functions of the bordering street, and to afford separation of through and local traffic.*

**FINDING:** The proposed parcels do not abut an 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:** Streets included in this proposal are not adjacent to a railroad right-of-way. This criterion is not applicable.

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

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

- L. Alignment. All streets, as far as practicable, shall be in alignment with existing streets by continuations of the center lines thereof. Necessary staggered street alignment resulting in intersections shall, wherever possible, leave a minimum distance of 200 feet between the center lines of streets of approximately the same direction, and in no case shall the off-set be less than 100 feet.*
- M. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practicable, and in no case shall an acute angle be less than 80 degrees unless there is a special intersection design approved by the city engineer or other duly designated city representative as applicable. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection, and the intersection of more than two streets at any one point will not be approved.*
- N. Curves. Centerline radii of curves should not be less than 500 feet on major arterials, 300 feet on minor arterials, 200 feet on collectors or 100 feet on other streets and shall be on an even ten feet. Where existing conditions, particularly topography, make it otherwise impractical to provide building sites, the city may accept steeper grades and sharper curves than provided for herein in this subsection.*

- O. *Street grades. Street grades shall not exceed eight percent on arterials, ten percent on collectors and 12 percent on all other streets including private driveways entering upon a public street or highway; however, for streets at intersections, and for driveways entering upon a public street or highway, there should be a distance of three or more car lengths (approximately 50 feet) where the grade should not exceed six percent to provide for proper stopping distance during inclement weather conditions.*
- P. *Street names. Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the city or within a radius of six miles of the city or within the boundaries of a special service district such as fire or ambulance. Such street names shall be approved by the Deschutes County street name coordinator.*

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

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

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

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

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

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

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

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

**FINDING:** The City Engineer's comments did not include the need for curbs. As such, curbs are not required. This criterion is not applicable.

- U. *Street lights. Street lights may be required and, if so required, shall be installed by the developer in accordance with standards set forth by the city and the serving utility company.*

*Streets lights, if required, shall include one fixture and be located at the intersection of streets.*

**FINDING:** Comments from the City Engineer did not include the installation of 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 with the above criterion, the following condition of approval has been added:

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

- W. *Drainage facilities. Drainage facilities shall be provided as required by the city in accordance with all applicable city and Oregon Department of Environmental Quality standards.*

**FINDING:** Comments from the City Engineer did not indicate that additional drainage facilities were required. This criterion is not applicable.

- 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:** The applicant did not include a proposal for gates. This criterion is not applicable.

**Sec. 15.90.080. - Traffic impact analysis.**

- A. *Purpose. The purpose of this subsection is [to] coordinate the review of land use applications with roadway authorities and to implement section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a traffic impact analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a traffic impact analysis; and who is qualified to prepare the analysis.*

- B. *When a traffic impact analysis is required. The city or other road authority with jurisdiction may require a traffic impact analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:*

1. *A change in zoning or a plan amendment designation;*
2. *Operational or safety concerns documented in writing by a road authority;*

3. *An increase in site traffic volume generation by [300] average daily trips (ADT) or more;*
  4. *An increase in peak hour volume of a particular movement to and from a street or highway by [20] percent or more;*
  5. *An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by ten vehicles or more per day;*
  6. *Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;*
  7. *A change in internal traffic patterns that may cause safety concerns; or*
  8. *A TIA required by ODOT pursuant to OAR 734-051.*
- C. *Traffic impact analysis preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the traffic impact analysis.*
- D. *Waiver or deferral. The city may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in [subsections] 1 through 4 is met. Where the city agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future:*
1. *The standard improvement conflicts with an adopted capital improvement plan.*
  2. *The standard improvement would create a safety hazard.*
  3. *It is unlikely due to the developed condition of adjacent property that the subject improvement would be extended in the foreseeable future, and the improvement under consideration does not by itself significantly improve transportation operations or safety.*
  4. *The improvement under consideration is part of an approved partition in the [RL or RM] and the proposed partition does not create any new street.*

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

## **CHAPTER 15.92. – ADDITIONAL STANDARDS FOR LAND DIVISIONS**

### **Sec. 15.92.010. – Lots and blocks.**

- A. *Blocks. The resulting or proposed length, width and shape of blocks shall take into account the requirements for adequate building lot sizes, street widths, access needs and topographical limitations.*
1. *No block shall be more than 660 feet in length between street corner lines with a maximum 1,400-foot perimeter unless it is adjacent to an arterial street, or unless topography or the location of adjoining streets justifies an exception, and is so approved by the reviewing authority.*
  2. *The recommended minimum length of a block along an arterial street is 1,260 feet.*
  3. *A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception; a standard exception is a block in which the building lots have rear yards fronting on an arterial or collector street.*

**FINDING:** The applicant's proposal does not create any new blocks. This criterion is not applicable.

- B. *Lots. The resulting or proposed size, width shape and orientation of building lots shall be appropriate for the type of development, and consistent with the applicable zoning and topographical conditions, specifically as lot sizes are so designated for each zoning district in the City of La Pine Development Code.*

**FINDING:** The applicant's proposed partition does not include plans for development at this time. Staff provided an assessment of the appropriate development criteria above in Section 15.18.400. As discussed above, the resulting proposed parcels are appropriate for the type of development in the RSF zone. This criterion is met.

- C. *Access. Each resulting or proposed lot or parcel shall abut upon a public street, other than an alley, for a width of at least 50 feet except as otherwise provided for in this Development Code (e.g., for townhomes). For lots fronting on a curvilinear street or cul-de-sac, the city may approve a reduced width, but in no case shall a width of less than 35 feet be approved.*

**FINDING:** Parcels 1 and 2 have at least 50 feet of frontage on Bassett Drive. This criterion is met.

- D. *Side lot lines. The side lines of lots and parcels, as far as practicable, shall run at right angles to the street upon which they front; except that on curved streets they shall be radial to the curve.*

**FINDING:** All proposed lot lines run at right angles to Bassett Drive. This criterion is met.

- E. *Division by boundary, ROW and drainage ways. No lot or parcel shall be divided by the boundary line of the city, county or other taxing or service district, or by the right-of-way of a street, utility line or drainage way, or by an easement for utilities or other services, except as approved otherwise.*

**FINDING:** The applicant's proposed partition does not divide the property by any of the above-mentioned means. This criterion is met.

- F. *Grading, cutting and filling of building lots or sites. Grading, cutting and filling of building lots or sites shall conform to the following standards unless physical conditions warrant other standards as demonstrated by a licensed engineer or geologist, and that the documentation justifying such other standards shall be set forth in writing thereby:*
1. *Lot elevations may not be altered to more than an average of three feet from the natural pre-existing grade or contour unless approved otherwise by the city.*
  2. *Cut slopes shall not exceed one foot vertically to 1½ feet horizontally.*
  3. *Fill slopes shall not exceed one foot vertically to two feet horizontally.*
  4. *Where grading, cutting or filling is proposed or necessary in excess of the foregoing standards, a site investigation by a registered geologist or engineer shall be prepared and submitted to the city as a part of the tentative plan application.*
    - a. *The report shall demonstrate construction feasibility, and the geologist or engineer shall attest to such feasibility and shall certify an opinion that construction on the cut or fill will not be hazardous to the development of the property or to surrounding properties.*
    - b. *The planning commission shall hold a public hearing on the matter in conformance with the requirements for a conditional use permit, however, such may be included within the initial hearing process on the proposed development.*
    - c. *The planning commission's decision on the proposal shall be based on the following considerations:*
      - (1) *That based on the geologist's or engineer's report, that construction on the cut or fill will not be hazardous or detrimental to development of the property or to surrounding properties.*
      - (2) *That construction on such a cut or fill will not adversely affect the views of adjacent property(ies) over and above the subject site without land alteration, or that modifications to the design and/or placement of the proposed structure will minimize the adverse impact.*
      - (3) *That the proposed grading and/or filling will not have an adverse impact on the drainage on adjacent properties, or other properties down slope.*
      - (4) *That the characteristics of soil to be used for fill, and the characteristics of lots made usable by fill shall be suitable for the use intended.*

**FINDING:** The proposal does not include any grading, cutting, or filling of building lots or sites. To ensure compliance with the above criteria, the following condition of approval has been added:

Grading, Cutting, and Filling: **At all times**, when occurring, grading, cutting, and filling of building lots or sites shall conform to all requirements in LPDC Section 15.92.010(F).

- G. *Through or double-frontage lots and parcels. Through or double-frontage lots and parcels are to be avoided whenever possible, except where they are essential to provide separation of residential development and to avoid direct vehicular access from major traffic arterials or collectors, and from adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. When through or double-frontage lots or parcels are desirable or deemed necessary, a planting screen easement of at least four to six feet in width, and across which there shall be no right of vehicular access, may be required along the line of building sites abutting such a traffic way or other incompatible uses.*

**FINDING:** The proposed partition is located on a corner lot with frontage on Bassett and Erling Drives. Parcel 1 as proposed has double frontage. However, no planting screen easement is required to restrict access. This criterion is not applicable.

- H. *Special building setback lines. If special building setback lines, in addition to those required by the applicable zoning, are to be established in a development, they shall be shown on the final plat of the development and included in the deed restrictions.*

**FINDING:** The proposal does not include any special building setback lines. This criterion is not applicable.

- I. *Large building lots; redivision. In the case where lots or parcels are of a size and shape that future redivision is likely or possible, the city may require that the blocks be of a size and shape so that they may be redivided into building sites as intended by the underlying zone. The development approval and site restrictions may require provisions for the extension and opening of streets at intervals which will permit a subsequent redivision of any tract of land into lots or parcels of smaller sizes than originally platted.*

**FINDING:** The City has no minimum lot size in the RSF zone, therefore further divisions are possible. Staff find that both proposed parcels are of adequate size and shape to that further division may occur. This criterion is met.

**Sec. 15.92.020. – Easements.**

- A. *Utility lines. Easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity, but in no case be less than ten feet wide and centered on a rear and/or side lot line unless approved otherwise by the city. Utility pole tie-back easements may be reduced to five feet in width.*

**FINDING:** As conditioned below and discussed by the City Engineer, the Engineer recommends at least a 5' by 5' easement be provided for water main access and a 10 by 25-foot septic tank easement. As conditioned, this criterion has been met.

Public Utility Easements: **Prior to final plat**, easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity. In accordance with comments from the City Engineer, the applicant shall provide a minimum 10- by 25-foot septic tank access and maintenance easements for septic tanks on private property. Additionally, the applicant shall provide a minimum 5- by 5-foot water meter access and maintenance easements for meters on private property. All easements shall be reviewed and approved by the appropriate agency and recorded with the Deschutes County Clerk prior to the approval of the final plat.

B. *Water courses. If a tract is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the water course, and such further widths as deemed necessary.*

**FINDING:** The proposed parcels are not traversed by a water course. This criterion is not applicable.

C. *Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than ten feet in width may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block, or to otherwise provide appropriate circulation and to facilitate pedestrian and bicycle traffic as an alternative mode of transportation. Improvement of the easement with a minimum five-foot wide paved or other suitable surface will be required.*

**FINDING:** The partition is not required to add an additional pedestrian or bicycle way beyond the requirements of the Transportation System Plan. This criterion is not applicable.

D. *Sewer and water lines. Easements may also be required for sewer and water lines, and if so required, shall be provided for as stipulated to by the city public works department and/or water and sewer district.*

**FINDING:** As conditioned above, sewer and water line easements are required. This criterion is met.

**Sec. 15.92.030. – Land for public purposes.**

A. *If the city has an interest in acquiring a portion of a proposed development for a public purpose, it shall notify the property owner as soon as the city council authorizes the transaction to proceed.*

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**FINDING:** The City does not have an interest in acquiring a portion of the proposed development for a public purpose. This criteria does not apply.

**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 the applicant has proposed extending and connecting to the City's sewer main and connecting to the water line through the right-of-way, the following condition of approval has been added:

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

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

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

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

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

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

Improvements as Platted: **Prior to final plat**, 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 of approval has been added:

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

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

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

Utilities: **Prior to final plat**, since the applicant has proposed to connect to the City's sewer main and water line through the right-of-way, underground utilities, including, but not limited to, electric power, telephone, water mains, water service crossings, sanitary sewers and storm drains, to be installed in streets, shall be constructed by the developer prior to the surfacing of the streets.

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

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

As Built Plans: **Prior to final plat**, if required by the City, 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 of approval has been added:

Agreement for Improvements: **Prior to final plat**, since the applicant has proposed to connect to the sewer main and the water line in the right-of-way to service the proposed parcels, the applicant shall either install improvements and repair existing streets and other public facilities damaged in the development of the property prior to recording the final plat, 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.*

**FINDING:** These criteria have been addressed previously in the Agency Comments from Jeff Clay and have been conditioned as such. As conditioned, these criteria are met.

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

**FINDING:** These criteria have been previously conditioned following the City Engineer's submitted comments. These criteria are met.

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

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

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

**Sec. 15.94.030. - Building and occupancy permits.**

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

**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: ***At all times***, the public improvements proposed by the applicant to connect to the sewer and water mains 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 partition.

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

Maintenance Surety Bond: ***Prior to the completion of public improvements***, at the completion of construction of the 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>
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<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 in accordance with the Type II procedures for a minor partition and a replat. Applicable criteria discussed herein.

**Sec. 15.202.020. - Time limit and consolidated review.**

A. Time limits.

1. Determination of completeness.

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

i. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant;

- ii. *If incomplete, the applicant shall be notified and shall have 180 days from the date the application was first submitted to supply the missing information or notify the city planning official in writing to process the application without missing information.*
- b. *The application shall be deemed complete either:*
  - i. *Upon receipt of the additional information; or*
  - ii. *[When]the applicant provides written notice to the city planning official to process the application without the missing information.*

**FINDING:** The application was submitted on October 23, 2025 and paid on January 5, 2026. The application was deemed complete on February 2, 2026 and notice was sent to the applicant on February 3, 2026. The application was deemed complete in accordance with the above criteria. These criteria are met.

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

**FINDING:** Notice of application was sent out to all relevant agencies and the public on February 3, 2026. These criteria are met.

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

**FINDING:** The 120<sup>th</sup> that staff must take final action is June 3, 2026. This criterion will be met.

- 3. *100-day rule. The city must take final action, including resolution of all local appeals on qualifying applications under ORS 227.180, within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:*
  - a. *The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;*

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

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

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

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

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

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

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

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

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

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

- A. *City planning official's duties. The city planning official, or his or her designee, shall perform all of the following duties with regard to administration of this Development Code:*
  - 1. *Prepare application forms based on the provisions of this Development Code and applicable state law;*

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

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

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

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

**Sec. 15.202.040. - Pre-application conference.**

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

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

**FINDING:** A pre-application conference was not required, and staff did not meet with the applicant prior to the application being filed. This criterion is met.

**Sec. 15.202.050. - Neighborhood contact.**

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

*questions and make comments. The applicant, or the applicant's agent, shall complete a form prescribed by the city to certify the occurrence of the meeting.*

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

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

***Sec. 15.202.060. - Withdrawal of application.***

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

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

**FINDING:** Staff have included this section for reference.

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

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

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

***Sec. 15.202.080. - Modification of application.***

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

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

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

**FINDING:** Staff include this section for reference only.

***Sec. 15.202.090. - Reapplication limited.***

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

**FINDING:** Staff include this section for reference only.

***Sec. 15.202.110. - Expiration of approval.***

- A. *Scope.*
  - 1. *Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under this Development Code.*
  - 2. *This section does not apply to:*
    - a. *Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the*

*applicable standards of [article 3]. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.*

*b. Quasi-judicial map changes.*

*B. Duration of approvals.*

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

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

*C. Extensions.*

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

2. *Up to two additional one-year extensions may be granted by the city planning official if the criteria under subsection C.1 are still satisfied provided the applicable criteria for the decision have not changed.*

*D. Procedures.*

1. *A determination of whether a land use has been initiated shall be processed as a declaratory ruling.*
2. *Approval of an extension granted under subsection C is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under the Development Code as a development action, except to the extent it is necessary to determine whether the use has been initiated.*

- E. Effect of appeals. The time period set forth in subsection B shall be tolled upon filing of an appeal to LUBA until all appeals are resolved.*

**FINDING:** Staff include this section for reference only.

***Sec. 15.202.120. - Initiation of use.***

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

**FINDING:** Staff include this section as reference only.

***Sec. 15.202.130. - Modification of approval.***

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

*proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.*

**FINDING:** Staff include this section as reference only.

**Sec. 15.202.140. - Transfer of approvals.**

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

**FINDING:** Staff include this section as reference only.

**CHAPTER 15.204. - APPLICATION PROCEDURES**

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

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

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

e. *The required fee.*

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

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

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

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

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

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

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

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

C. *Decision.*

1. *At the conclusion of the comment period, the city planning official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Development Code criteria. Alternatively, the city planning official may transmit all written comments received, if any, along with a copy of the application to the planning commission for review and decision at its next regularly scheduled meeting.*
2. *Where the city planning official refers an application subject to administrative review to the planning commission, the planning commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the*

*applicable Development Code criteria. The planning commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the commission makes a final decision within the time period prescribed under state law (ORS 227.178) and as described in section 15.202.020 of this Development Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the required timeframe and the commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant to section 15.204.030; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.*

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

*D. Notice of decision.*

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

**FINDING:** Staff will issue the decision and notice of 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:** Staff will follow the 12-day period until the decision becomes effective. This criterion will be met.

F. *Appeal of Type II (administrative) decision.*

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

G. *Review by council.*

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

**FINDING:** Staff are including this subsection for reference.

**ARTICLE 9 – LAND DIVISIONS**

**CHAPTER 15.402. – GENERAL PROVISIONS**

**Sec. 15.402.010. – Purpose**

*It is the purpose of this article 9, in accordance with the provisions of ORS 92 and 227, to provide for minimum standards governing the approval of land divisions, including subdivisions and land partitions, as necessary to carry out the needs and policies for adequate traffic movement,*

water supply, sewage disposal, drainage and other community facilities, to improve land records and boundary monumentation and to ensure equitable processing of subdivision, partitioning and other land division activities within the city and the surrounding urban area.

**Sec. 15.402.020. – Applicability.**

No person may subdivide, partition or otherwise divide land, or create a planned unit or cluster development, or create a street for the purpose of developing land except in accordance with the provisions of this article 9, this chapter and ORS 92.012 and 227.100.

**State Law reference**— Requirements for subdivision of land, ORS 92.010—92.192; submission of plats and plans, ORS 227.100 et seq.

**CHAPTER 15.410. – LAND PARTITIONS**

**Sec. 15.410.010. – Applicability and exemptions.**

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

**FINDING:** Staff are reviewing this application as a minor partition and a replat, both a Type II application. The application does not meet the criteria for an exception. Applicable criteria discussed herein.

**Sec. 15.410.020. – Applications – partitions.**

- A. *Filing procedures and requirements. Any person proposing a land partition, or the authorized agent or representative thereof, shall prepare and submit copies of the tentative plan for the proposed partition, together with the materials required for a Type II review for a minor partition or Type III review for a major partition as specified in article 7, to the planning official.*

- B. *Proposed partitioning shall be drawn. The scale and format of the plans and the number of copies required shall be as specified on the application form.*
- C. *Requirements for the plan. The plan shall include the following:*
1. *A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, properties and land use patterns.*
  2. *A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel and the names, right-of-way widths and improvement standards of existing roads.*
  3. *Names and addresses of the land owner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map.*
  4. *A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection, access, utilities and the like.*
  5. *North point, scale and date of map and the property identification by tax lot, map number, section, township and range, subdivision lot and block or other legal description.*
  6. *Statement regarding past, present and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is to be created.*

**FINDING:** The applicant has included all of the required information listed above with their submission. These criteria are met.

**Sec. 15.410.030. – Decisions – partitions.**

- A. *Minor partition. Review of a minor partition shall follow the Type II review procedures in article 7.*
- B. *Major partition. Review of a major partition shall follow the Type III review procedures in article 7.*

**FINDING:** Staff are reviewing this application as a minor partition, a Type II application.

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

**FINDING:** LPDC Section 15.12.020 defines series partitioning as follows, “partition, series, means a series of partitions, major or minor, of a tract of land resulting in the creation of four or more parcels over a period of more

than one calendar year, resulting in a de facto subdivision of land.” This application does not meet the definition of a series partition. This criterion is not applicable.

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

**FINDING:** Requirements for the final plat have been described and conditioned throughout this application. Relevant criteria will be reviewed during final plat review.

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

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

**FINDING:** As described previously, this two-parcel partition is in compliance with the applicable zoning regulations. This criterion is met.

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

**FINDING:** As described previously, each parcel in this partition is suited for the use intended or to be offered, including, but not limited to, sewage disposal, water supply, guaranteed access, and utilities. This criterion is met.

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

**FINDING:** As described previously, all public services deemed necessary are reasonably available or are proposed to be provided by the partitioner. This criterion is met.

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

**FINDING:** As evaluated throughout this decision, the proposed partition complies, or will comply as conditioned, with all of the requirements of the City’s development code. As such, these findings did not identify any adverse impacts on adjoining or area land use. The City’s Engineer identified through their comments the appropriate modifications required to offset any impact the development will have on public services and facilities. No adverse impacts were identified to resource carrying capacities or other significant resources. This criterion is met.

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

**FINDING:** Comments from the City Engineer did not identify the need for a survey. Conditions relating to improvement requirements have been included herein. This criterion is met.

***Sec. 15.410.050. – Final map requirements.***

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

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

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

Final Map Requirements: ***Prior to final plat***, within two years of the approval of a partition, the partitioner shall have prepared and submitted to the city planning official a final partition map prepared by a licensed surveyor and any other materials or documents required by the approval. The final plat shall meet all the requirements of LPDC Section 15.410.050 and 15.418.010.

***CHAPTER 15.415. – REPLATS***

***Sec. 15.415.010. – Procedures.***

- A. The same procedure and standards that apply to the creation of a plat (tentative plan followed by final plat) apply to a replat pursuant to Chapter 15.410.*

*(Ord. No. 2024-02 § 13(exh. K), 12-11-2024)*

**FINDING:** Staff are reviewing this replat following the same procedures and standards that apply to the creation of a plat, namely the criteria for submitting a tentative plan followed by a final plat, and have conditioned this decision as such. This criterion is met.

***Sec. 15.415.020. – Additional standards.***

- A. Limitations on replating include, but are not limited to, the following:*

1. *A replat only applies to a recorded plat*
2. *A replat cannot vacate any public street or road; and*
3. *A replat of a portion of a recorded plat will not act to vacate any recorded covenants or restrictions.*

**FINDING:** The proposed replat applies to a recorded plat and does not vacate any public street or road, or any recorded covenants or restrictions. As such, these criteria are met.

- B. *If the property to be replatted is determined to be part of an undeveloped subdivision pursuant to ORS 92.225. The noticing and hearing procedures of ORS 92.225 shall apply.*

**FINDING:** The Oksenholt (Evans Way) subdivision is found to be a developed subdivision, as public improvements have been installed in accordance with the subdivision decision. As such, this criterion is not applicable.

- C. *A replat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets, or alleys: or if it fails to meet an applicable City standards.*

**FINDING:** As determined throughout this decision, this replat does not abridge or destroy any public right in any of its public uses, improvements, streets, or alleys. The replat, as conditioned, does not fail to meet any applicable City standards. As such, this application will be approved. This criterion is not applicable.

- D. *If a utility easement is proposed to be realigned, reduced in width, or omitted by a replat, all affected utility companies and public agencies shall be notified.*

**FINDING:** To ensure compliance with this criterion, the following condition has been added:

Replatted Utility Easements: **At all times**, if a utility easement is proposed to be realigned, reduced in width, or omitted by the final plat of this replat, all affected utility companies and public agencies shall be notified.

- E. *An application for a replat that will change the exterior boundary of a recorded plat of a subdivision shall include authorization agreeing to the reconfiguration from the homeowners association or governing body of the subdivision, if any.*

**FINDING:** This application does not change the exterior boundary of a recorded plat of the Oksenholt (Evans Way) subdivision. As such, this criterion is not applicable.

- F. *Any application for vacation pursuant to ORS 368 must be submitted to and reviewed by Deschutes County.*

**FINDING:** This application is not for a vacation. This criterion is not applicable.

#### **CHAPTER 15.418. – PROCESSING AND RECORDING PROCEDURES**

**Sec. 15.418.010. – Processing and recording subdivision and partition maps.**

- A. *Submit one reproducible paper, vellum or Mylar map copy to the county surveyor.*
- B. *Submit closure sheets for the surveyor's certificate and a closure sheet for each lot or parcel created, and a closure sheet for dedicated areas such as roadways or public facility lots.*
- C. *Submit the required county surveyor review fee as appropriate for the subdivision or partition.*
- D. *Submit a title report for the subdivision.*
- E. *Submit a post-monumentation certificate stating the intent and completion date and a bonding estimate for all subdivision plats proposed for post-monumentation. The bonding estimate is to be 120 percent of the estimated actual costs, office and field.*
- F. *After preliminary initial review of the plat, resubmit the final plat prepared on double matte four mil minimum thickness Mylar, with corrections made, to the county surveyor for final approval and signature.*
- G. *Remaining approval signatures shall then be executed and the final maps and an exact copy thereof submitted to the county surveyor for recording into the survey records prior to submittal to the county clerk for recording. The exact copy shall comply with the requirements of ORS 92 and other applicable statutes and be submitted on four mil thickness Mylar.*
- H. *The county surveyor recording fee shall be submitted with the final plat along with any required post-monumentation bond or letter executed by the city attorney that the bonding requirements are met.*
- I. *The plat shall then be submitted to the county clerk along with the required recording fee. After recording information is placed on the exact copy by the county clerk, the exact copy and the required number of prints showing the recording information shall be submitted to the county surveyor to complete the process. The number of prints required shall be 12 for a subdivision plat and six prints for a partition unless a greater number is requested by the county surveyor at initial review.*
- J. *Copies of the exact copy of the final plat showing the recording information shall also be submitted to the city planning official, together with an electronic copy in a format approved by the city. The scale and format of the plans and the number of copies required shall be as specified on the application form.*

**FINDING:** As conditioned above in LPDC Section 15.410.050, these criteria will be met.

**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. Metal Shipping Containers: **At all times**, 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.
5. Clear Vision Area: **At all times**, clear vision area shall be maintained on the corners of all properties at the relevant intersections and must meet the requirements of LPDC Section 15.88.040.
6. Underground Utilities: **At all times**, all new electrical, telephone, or other utility lines shall be underground unless otherwise approved by the City.
7. Grading, Cutting, and Filling: **At all times**, when occurring, grading, cutting, and filling of building lots or sites shall conform to all requirements in LPDC Section 15.92.010(F).
8. Default Status: **At all times**, if a developer fails to carry out provisions of the performance assurance agreement, and the city has unreimbursed costs or expenses resulting from the failure, the city shall call on the bond or other assurance for reimbursement of the costs or expenses. If the amount of the bond or other assurance deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the amount of the bond or other assurance is less than the costs or expenses incurred by the city, the developer shall be liable to the city for the difference plus any attorney fees and costs incurred.
9. Sale or Occupancy: **At all times**, the public improvements proposed by the applicant to connect to the sewer and water mains 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 partition.
10. Replatted Utility Easements: **At all times**, if a utility easement is proposed to be realigned, reduced in width, or omitted by the final plat of this replat, all affected utility companies and public agencies shall be

notified.

#### **PRIOR TO CONSTRUCTION OF PUBLIC IMPROVEMENTS**

11. Pre-Construction Meeting: ***Prior to construction of public improvements***, a pre-construction meeting with the construction contractor shall be held with City staff. To schedule the preconstruction meeting, the applicant shall reach out to the City planning department and submit a narrative describing how each of the required preconstruction conditions of approval have been, or will be, met. The cost for a preconstruction meeting will be assessed and due prior to the meeting.
12. Performance Bond for Constructed Public Improvements: ***Prior to construction of public improvements***, and only for those improvements that are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120 percent of the cost of improvements prior to beginning construction that meets the requirements of 15.94.020.B, prior to beginning any public improvements.
13. Modification: ***Prior to construction of public improvements***, improvement work shall not commence until after the city has been notified and approval has been granted, and if work is discontinued for any reason, it shall not be resumed until after the city is notified and approval thereof granted.

#### ***Prior to the Preconstruction Meeting:***

14. Sewer and Water Plan Approval: ***Prior to the preconstruction meeting***, sanitary sewer and water plans in conformance with city standards shall be provided to the City Public Works Director. Modifications to main 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.
15. Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work to connect to the sewer main and water lines to serve the proposed parcels shall not be commenced until development plans have been reviewed and approved by the city or a designated representative. Public improvements to county roads, if applicable, must be reviewed by Deschutes County Road Department. The review and approval shall be at the expense of the developer.
16. 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 COMPLETION OF PUBLIC IMPROVEMENTS**

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

#### **PRIOR TO FINAL PLAT**

19. Agreement for Improvements: ***Prior to final plat***, since the applicant has proposed to connect to the sewer main and the water line in the right-of-way to service the proposed parcels, the applicant shall either install improvements and repair existing streets and other public facilities damaged in the development of the property prior to recording the final plat, 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.
20. Street Plan Updates: ***Prior to final plat***, provide plan updates that detail the driveway access across the swale. Provide street cut and sidewalk replacement details for installation of water and sewer services in Bassett Drive.
21. Sewer Plan Updates: ***Prior to final plat***, provide details of the connections to the sewer main, septic tanks, sewer services, and sewer service cleanouts that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings.
22. Water Plan Updates: ***Prior to final plat***, provide details of the hot tap on the existing water main, water service, and water meter box that comply with Design Standards II. Design Parameters, D. Water, and III. Drawings. Each lot shall be serviced by its own water meter.
23. Public Utility Easements: ***Prior to final plat***, easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity. In accordance with comments from the City Engineer, the applicant shall provide a minimum 10- by 25-foot septic tank access and maintenance easements for septic tanks on private property. Additionally, the applicant shall provide a minimum 5- by 5-foot water meter access and maintenance easements for meters on private property. All easements shall be reviewed and approved by the appropriate agency and recorded with the Deschutes County Clerk prior to the approval of the final plat.
24. Improvements as Platted: ***Prior to final plat***, 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.
25. Utilities: ***Prior to final plat***, since the applicant has proposed to connect to the City's sewer main and water line through the right-of-way, 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.
26. As Built Plans: ***Prior to final plat***, if required by the City, 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.

27. Final Map Requirements: **Prior to final plat**, within two years of the approval of a partition, the partitioner shall have prepared and submitted to the city planning official a final partition map prepared by a licensed surveyor and any other materials or documents required by the approval. The final plat shall meet all the requirements of LPDC Section 15.410.050 and 15.418.010.

#### **PRIOR TO BUILDING PERMIT ISSUANCE**

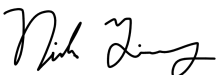
28. Future Permits: **Prior to building permit issuance**, at such a time that new development or modification of existing development is proposed on any parcel, all applicable land use, including a City Zoning Permit for each constructed or placed residential dwelling and building permits, must be obtained prior to initiating the proposed development.
29. Approach Permit: **Prior to building permit issuance**, an approach permit shall be approved by the City of La Pine Public Works Department for any new access driveways to serve future proposed properties.
30. 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.

#### **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**



Written By: Nick Tierney, Associate Planner