



CITY OF LA PINE, OREGON PLANNING COMMISSION

Wednesday, September 10, 2025, at 5:30 PM

La Pine City Hall: 16345 Sixth Street, La Pine, Oregon 97739

Online access via Zoom: <https://us02web.zoom.us/j/87466343313>

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY.

AGENDA

CALL TO ORDER

ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

ADDED AGENDA ITEMS

Any matters added at this time will be discussed during the "Other Matter" portion of this agenda.

CONSENT AGENDA

1. 08.06.2025 Planning Commission Meeting Minutes..... 3.

PUBLIC HEARING

1. A-25-0002, Williams
 - a. Open Public Hearing
 - b. Application Documents
 - i. Staff Report 7.
 - c. Public Testimony
 - d. Close Hearing
2. A-25-0001, Williams
 - a. Open Public Hearing
 - b. Application Documents
 - i. Staff Report 85.
 - c. Public Testimony
 - d. Close Hearing

OLD BUSINESS

None

NEW BUSINESS

1. Long Range Planning Update
2. Current Planning Update

OTHER MATTERS

Only Items that were previously added above in the Added Agenda Items will be discussed.

PUBLIC COMMENTS

Public Comments provide an opportunity for members of the community to submit input on ongoing matters within the city.

Public Comments are limited to three (3) minutes per person; when asked to the podium, please state your name and address. This helps the Planning Commission and staff determine if you are a city resident. The acting chair may elect to respond to comments if the matter is within the jurisdiction of the city or defer to city staff for response. Any matter that warrants testimony and rebuttal may be debated only during a Public Hearing on the matter.

STAFF AND COMMITTEE COMMENTS

ADJOURN

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission.



CITY OF LA PINE, OREGON PLANNING COMMISSION

Wednesday, August 6, 2025, at 5:30 PM

La Pine City Hall: 16345 Sixth Street, La Pine, Oregon 97739

Online access via Zoom: <https://us02web.zoom.us/j/81255269015>

MINUTES

CALL TO ORDER

Chair Myers called the meeting to order at 5:30 p.m.

ESTABLISH QUORUM

Planning Commission

Chair Myers

Vice Chair Poteet

Commissioner Hatfield

Commissioner Accinelli

Commissioner Bauman – Absent (Excused)

Staff

Brent Bybee – Community Development Director

Nick Tierney – Associate Planner

Amanda Metcalf – City Recorder

PLEDGE OF ALLEGIANCE

Associate Planner Tierney led the Pledge of Allegiance.

ADDED AGENDA ITEMS

There were no added agenda items.

CONSENT AGENDA

1. 06.04.2025 Planning Commission Meeting Minutes

Commissioner Accinelli made a motion to approve the consent agenda. *Commissioner Hatfield seconded the motion.* Chair Myers asked for a roll call vote:

Commissioner Accinelli – Aye

Commissioner Hatfield – Aye

Chair Myers – Aye

Vice Chair – Aye

Motion passed unanimously.

PUBLIC HEARING

None

OLD BUSINESS

None

NEW BUSINESS

1. Long Range Planning Update

Community Development Director Bybee provided an update on long-range planning, stating that he was still working with Community Planning Assistance for Wildfire (CPAW). He reported that CPAW was in the process of drafting their recommendations for the jurisdiction and that those recommendations would be presented soon. He planned to bring them to a joint work session with the Planning Commission and City Council.

He also updated the Commission on the Transportation System Plan (TSP) update, noting that progress had slowed due to budget cuts at ODOT. The project was currently under review by the Transportation and Growth Management (TGM) grant team, who were evaluating the scope of work. He clarified that the budget cuts had not impacted the grant funding, so the project would move forward, though responsiveness would be limited. A consultant had been identified, and a letter of intent had been drafted, but the project remained at a standstill and was progressing more slowly than expected.

Bybee noted that the Comprehensive Plan Update had been finalized and filed with the State.

Lastly, he explained that staff had submitted two applications for a Department of Land Conservation and Development (DLCD) Housing Planning Assistance Grant. One application was for the Cagle Infill Development Planning Project, and the other was for a development code audit and update focused on housing. The Cagle Infill project would address infrastructure improvements in the Cagle subdivision, where the availability of water and sewer utilities now allowed property lots to be partitioned, promoting increased development. The city aimed to create a housing plan to ensure adequate infrastructure support.

For the development code update, he stated that joint work sessions with the City Council and Planning Commission would be held to discuss topics such as the floodplain, bicycle parking, short-term rentals, manufactured dwelling parks, and code clarifications.

Director Bybee responded to Vice Chair Poteet's question regarding the timeline for the TSP update. He stated that he hoped the project would begin within the next month and be completed within a year and a half.

There was also discussion about paving in the Cagle subdivision. Director Bybee stated that he hoped the housing implementation plan would address the public improvement needs in that area.

2. Current Planning Update

Associate Planner Tierney gave the Commission an update on current planning. Type I applications included zoning permits for new businesses, marijuana producer ownership changes, and new residential development. He stated that there had been 70 applications submitted to the planning department this year. Director Bybee clarified that these zoning permits reflected work that staff previously completed free of charge, and the City was now requiring a fee to ensure that locations had met past conditions of approval.

For Type II applications, Associate Planner Tierney stated that staff was finalizing the AutoZone decision. He reported that the manufactured dwelling park application by Knottworks had been withdrawn and that there were five partition applications in the Cagle Subdivision.

He reported that Type III applications included a nine-lot subdivision off Huntington Road.

Lastly, he reported that there was one Type IV application for a text amendment regarding RV parks and their location in relation to arterial roads.

There was discussion as the Planning Commission received updates on previously approved applications and how they had been progressing.

OTHER MATTERS

There were no other matters

PUBLIC COMMENTS

There were no public comments.

STAFF AND COMMITTEE COMMENTS

Director Bybee did not have any comments.

Associate Planner Tierney did not have any comments.

City Recorder Metcalf did not have any comments.

Chair Myers did not have any comments.

Vice Chair Poteet did not have any comments.

Commissioner Hatfield did not have any comments.

Commissioner Accinelli did not have any comments.

ADJOURN

Vice Chair Poteet made a motion to adjourn the meeting. *Commissioner Hatfield seconded the motion.*

Chair Myers asked for a roll call vote:

Commissioner Accinelli – Aye

Commissioner Hatfield – Aye

Chair Myers – Aye

Vice Chair Poteet – Aye

Motion passed unanimously.

Chair Myers adjourned the meeting at 6:03 p.m.

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission.

Date:

Teri Myers, Chair

ATTEST:

Date:

Amanda Metcalf, City Recorder



STAFF REPORT

Appeal of a Land Partition (PA-25-0001)

The following report is provided as a supplement to the original staff decision for the Panning Commission. The report outlines the appeal, and addresses specific code criteria and conditions of approval related to the appeal. Amended findings have been included, indicated with ~~strikes~~ for removal, and underlines for additions.

DATE: September 3, 2025

FILE NUMBER: A-25-0002 (Appeal of File PA-25-0001)

**APPLICANT/
APPELLANT** Stephen Williams
19781 Astro Place
Bend, OR 97702

LOCATION: The subject property does not have a site address. It is located at the corner of the intersection of Burgess Road and Pine Drive in La Pine, Oregon. The Tax Lot number is 2501 on Deschutes County Assessor's Map 21-10-36C0.

**NEWSPAPER
NOTICE:** August 31, 2025

**NEIGHBOR
NOTICE:** August 27, 2025

HEARING DATE: September 10, 2025

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

I. BACKGROUND

The subject property has historically remained vacant with no development. It was originally platted as Lot 16 within Block 1 of the Cagle Subdivision Plat Number 1, recorded January 28th, 1958, with Deschutes County

The applicant submitted a tentative plan to partition the subject property into three lots on April 14, 2025, which was then deemed incomplete by the Planning Department on April 24, 2025. A response to the Incomplete Letter was received and the application was deemed complete on May 15, 2025. The 120th day on which the City must take final action on this application is September 12, 2025.

On August 20th, a decision was rendered by the Planning Staff, with a notice of decision sent to the owner/applicant, all agencies, and parties of record. The decision approved the partition with conditions of approval. The deadline to appeal was September 1, 2025.

The identified Appellant submitted his appeal application on August 26th, 2025, prior to the deadline. This staff report serves as a summary of the Appellants grounds for appeal. Please reference Appellant's complete grounds for appeal in his application along with the identified criterion below.

II. PROCESS ON APPEAL

The application on appeal is identified as a Type II, limited land use decision, pursuant to Development Code Sec. 15.204.020, and ORS 197.015(12)(a), and 197.195, as amended by SB 1537, Section 44. As allowed by amended ORS 197.195, the City is providing a de novo appeal hearing, which allows for the introduction of additional testimony or evidence. The quasi-judicial hearing procedures of LPDC 15.204.030 govern the appeal, and proper notice shall be provided to all parties once a final decision has been rendered by the Planning Commission. Following the hearing, the Planning Commission body may affirm, overrule, or modify the appealed decision. As the appeal is a review of a limited land use decision, the Planning Commission's decision will be the City's final decision, in accordance with amended ORS 197.195(6). **The Planning Commission decision shall become final on the date the decision and supporting findings of fact are signed by the Planning Commission Chair. The Planning Commission decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days after the notice of decision has been signed and mailed.**

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

There are four issues identified in the appellants' notice of appeal. In brief summary, those issues are:

1. When deciding whether to purchase the subject property, the applicant relied on city staff statements that no public improvements would be required for a partition. Further, staff did not identify required dedications. Once appellant acquired the property and submitted a partition application, the city reversed staff's prior position and imposed multiple conditions, including sidewalk dedications, frontage improvements, and bonding requirements. The applicant argues the city is estopped from imposing these conditions because of the prior over the counter staff representations.
2. The city failed to demonstrate that the required dedications and improvements serve a legitimate governmental interest or are roughly proportionate to project impacts. No project impacts were identified that would justify the conditions. The applicant cites case law, including *Hill v. City of Portland*, 293 Or App 283 (2018) and *Brown v. City of Medford*, 251 Or App 42 (2012) in support of this position.
3. The city required the applicant to waive his statutory right to object to the formation of a local improvement district. The applicant argues this is an unlawful exaction because the city

did not demonstrate a legitimate governmental interest or project impact to justify such a waiver.

4. The applicant asserts that the city has treated similar partitions differently in prior cases where no street improvement exactions were imposed. Imposing them here violates the applicant's right to equal protection under the law.

Each of these issues is examined in greater detail below, including the findings of the Planning Commission decision, the detailed objections of the Appellant, and a response from Staff.

III. GROUNDS FOR APPEAL

Two of Appellant's grounds for appeal do not pertain to the criteria applicable to the submitted partition application. Those arguments are addressed here:

1. Estoppel. Appellant claims that the City is estopped from applying adopted and acknowledged Development Code criteria that governs all City partition applications. He argues that the City is prohibited (i.e., "estopped") from applying that criteria due to City staff representations made during Appellant's due diligence period, upon which he relied when deciding to purchase the subject parcel. Reliance on over-the-counter staff representations during a property purchase due diligence period is not relevant to, nor binding upon the City, during subsequent land use proceedings. The City is bound only to apply duly adopted land use criteria when processing a land use application.

The doctrine of equitable estoppel cannot arise from the actions of local government officials who purport to waive the provisions of a mandatory law or otherwise exceed their authority. *West v. City of Salem*, 61 Or LUBA 166 (2010); [*City of Mosier v. Hood River Sand*, 206 Or App 292, 319, 136 P3d 1160 \(2006\)](#) ("a city cannot be estopped by the acts of a city official who purports to waive the provisions of a mandatory ordinance . . . , citing, [*Mannellin v. DMV*, 176 Or. App. 9, 13–14 \(2001\).](#)) City staff never holds the authority to waive duly adopted and acknowledged Development Code criteria. To do so would have exceeded staff's authority. [*Solberg v. City of Newberg*, 56 Or App 23, 28, 641 P2d 44 \(1982\)](#); [*Bankus v. City of Brookings*, 252 Or. 257, 260, 449 P.2d 646 \(1969\)](#).

Moreover, without a submitted application, staff lacked any ability to evaluate the proposed development or its impact on City infrastructure. *Kaiser Permanente v. City of Portland*, 67 Or LUBA 111 (2013)(where no application that seeks approval of a development proposal has been submitted, even written advice is informal and non-binding.) Here, City staff issued no written advice, nor was an application submitted. The City, therefore, is not now bound by the doctrine of estoppel and, further, lacks the authority to waive mandatory Code requirements in this appeal.

4. Equal Protection. Appellant alleges that, in prior decisions, the city acknowledged that impacts from a similar partition do not provide a legitimate basis to exact street improvements. He further alleges that imposing such improvements on Appellant in this matter violates his right to equal protection under the law. Appellant fails to provide any legal or factual foundation for this allegation. The City is, therefore, unable to properly evaluate this claim.

Even were some evidence of different treatment submitted, City criteria is regularly applied differently to different applications. Circumstances change, City infrastructure needs change, and

facts are developed over time as a result of the variety of changes from application to application. The City is not bound to apply its criteria identically from one application to the next, over time. What was required of one applicant is not binding on another application, given the significant differences in proposals, changes in criteria, and City needs over time.

“Finally, unequal administration of the law does not in every case constitute a violation of the Fourteenth Amendment to the U.S. Constitution. See, *Williamson v. Lee Optical Co.*, 348 US 483, 487-88, 75 S Ct 461, 99 L Ed 563 (1955); *Archdiocese of Portland v. Washington County*, 254 Or 77, 88, 458 P2d 682 (1969); *Wagner v. Marion County*, 15 Or LUBA 260, 272, aff'd 85 Or App 220 (1987).” *McCarty v. City of Portland*, 20 Or LUBA 86, 88 (1990). In order to prevail on his equal protection argument, petitioner must show the city's decision to deny his request was based on race, religion, the exercise of constitutional rights or some other arbitrary classification.” *McCarty*, citing, *City of Eugene v. Crooks*, 55 Or App 351, 354-55, 637 P2d 1350 (1981), *rev den* 292 Or 722 (1982); *Wagner v. Marion County*, *supra*.

As in *McCarty*, Appellant’s equal protection challenge must fail as he makes no attempt to demonstrate that he has been singled out, in an impermissible way, for unequal treatment by the city.

The following addresses Appellant’s grounds for appeal that challenge the application of criteria for the requested partition.

PART III, CITY OF LA PINE DEVELOPMENT CODE

(***)

ARTICLE 5 – DEVELOPMENT STANDARDS

(***)

CHAPTER 15.90. – PUBLIC FACILITIES

(***)

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

(***)

- 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.*

APPELLANTS APPEAL GROUNDS: The appellants’ grounds for appeal state the following:

“Before a local government may exact property, which includes public improvements and money to construct them, it has the burden to demonstrate that (1) it has a legitimate governmental interest, (2) that the condition or conditions serve the same legitimate interest, and (3) that project impacts so substantially impeded that interest that the local government has a valid basis to deny the permit outright. *Hill v. City of Portland*, 293 Or App 283 (2018). The city failed to meet its burden in this matter and therefore has no legal basis to impose the challenged conditions. The city has not explained how partitioning land generates impacts that substantially impede any legitimate governmental interest related to the safety, capacity or operation of the streets involved. *Brown v. City of Medford*, 251 Or App 42 (20121). In fact, the city decision acknowledges the lack of project impacts in that it prefers that the Applicant/Owner pay money for the improvements rather than complete them. The fact that the city admits that the improvements are not required now to address any specific impacts means there is no essential nexus to support the conditions exacting property. Furthermore, the city acknowledged in prior partitions that simply partitioning property does not provide a legitimate basis to exact street improvements.”

“Furthermore, the city did not conduct a proper rough proportionality assessment. The city did not identify much less quantify individualized impacts from the partition of property and explain how the impacts of the project are roughly proportional in nature and extent to the impacts on the applicant/owner.”

“Because the city has not met its burden under the Fifth Amendment and related case law, any conditions requiring dedication, street improvements, an improvement agreement, or bonding are not lawful.”

STAFF RESPONSE: The following augments the underlying challenged decision to explain how the requested land partition generates impacts that substantially impede several legitimate governmental interests related to the safety, capacity or operation of the streets involved in the manner requested. The applicable criteria and the City’s Design Standards demonstrate a clear legitimate governmental interest to ensure public safety, carrying capacity of the local system, connectivity to neighboring lots or infrastructure that will be developed in the future, and mobility.

The application’s failure to address the above criteria would impede these governmental interests and provides a basis to deny the application. The conditions associated with the above criteria ensure that these legitimate governmental interests are furthered and protected. The amended findings establish this essential nexus, and the appealed conditions were imposed to avoid denying the partition outright based on the inadequacies of the proposed public infrastructure improvements.

Appellant’s attorney cites *Hill v. City of Portland*, 293 Or App 283 (2018), a case in which he also served as counsel. In *Hill*, the Court of Appeals invalidated exactions because the City of Portland failed to demonstrate that the required improvements were tied to the specific impacts of the proposed development. The court emphasized that, without quantified, project-specific findings, a local government does not meet its burden under *Nollan* and *Dolan*.

At a very high level, the current appeal under review does not suffer the same inadequacies. The decision upon review did quantify the impacts of the proposed partition, including a 10–20 percent increase in average daily trips along Pine Drive, and tied the required dedications and improvements directly to the subject property frontage (165 feet, or approximately 4% of the right-of-way). Even

unamended, the challenged findings demonstrate both an essential nexus and rough proportionality between the impacts of the development and the required conditions. Therefore, unlike in *Hill*, the City has met its burden of individualized determination with regards to Pine Street improvements. As such, those conditions of approval are lawful.

Appellant also objects to City's conditions of approval as "double dipping." We understand this as objecting to the variety of tools the City uses to ensure the construction of improvements needed to serve proposed development. The amended findings remove the waiver of remonstrance as an option, as the appellant has not demonstrated where the proposal meets the conditions listed in Sec. 15.90.080.D, where the city may provide that as an option to the developer in place of constructing public improvements or providing a fee in lieu.

AMENDED FINDINGS:

Essential Nexus. The appellant repeatedly asserts that City failed to establish an essential nexus for exaction of property rights and related improvements. Appellant identifies three elements for such a demonstration, per *Hill v. City of Portland*, 293 Or App 283 (2018) and *Brown v. Medford*, 251 Or App 42 (2012).

To address this claim, the City makes the following findings. Sec. 15.90.070. - Design of streets and other public facilities, protects public safety by preventing flooding, ensuring driver and biker safety and reduces traffic congestion. The City's Transportation System Plan (TSP) identifies a public need for promoting connectivity and a balanced transportation system which relies almost exclusively upon streets that are constructed or extended in projections that maintain their function, provide accessibility, and continue an orderly pattern of streets and blocks. The City has adopted both the above applicable criteria and its TSP to ensure the smooth development of surrounding, also undeveloped, properties.

The criteria underlying the appealed condition cites to City "specifications and standards" – specifically, the City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 Public Facility Requirement (Design Standards.) The City's Design Standards are required "to provide for orderly and efficient urban development." Requiring the public improvements will ensure public safety, carrying capacity of the local system, connectivity to neighboring lots or infrastructure that will be developed in the future, and mobility. Additionally, LPDC Sec. 15.92.010.C requires all resulting or proposed lots or parcels shall abut upon a public street. Therefore, there is a legitimate governmental interest in requiring the proposed dedications and improvements. The conditions related to these improvements are imposed only to mitigate project-specific impacts, not as a general infrastructure upgrade

The applicant stated in their proposal that, "to meet the minimum road width, it is assumed 7.00 feet of Pine Drive will be required to be dedicated, as shown on the tentative plan." The above criteria requires street, sidewalk and bike rights-of-way to be no less than the minimum widths in feet set forth in the La Pine Transportation System Plan, and constructed in conformance with the applicable standards and specifications. Pine Drive is classified as a local street, and Burgess Road is classified as an arterial street in the La Pine TSP, with each being subject to the following design standards:

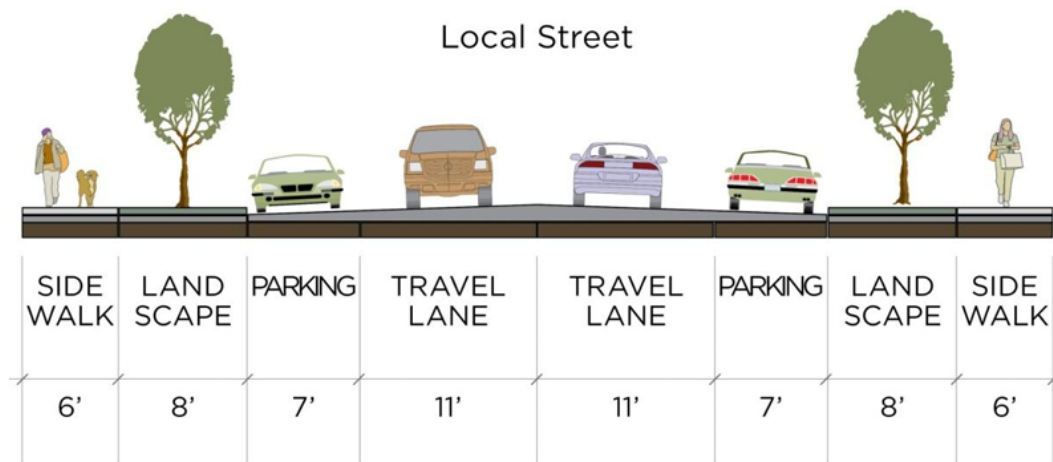


FIGURE 1: LA PINE TRANSPORTATION SYSTEM PLAN, PG 65

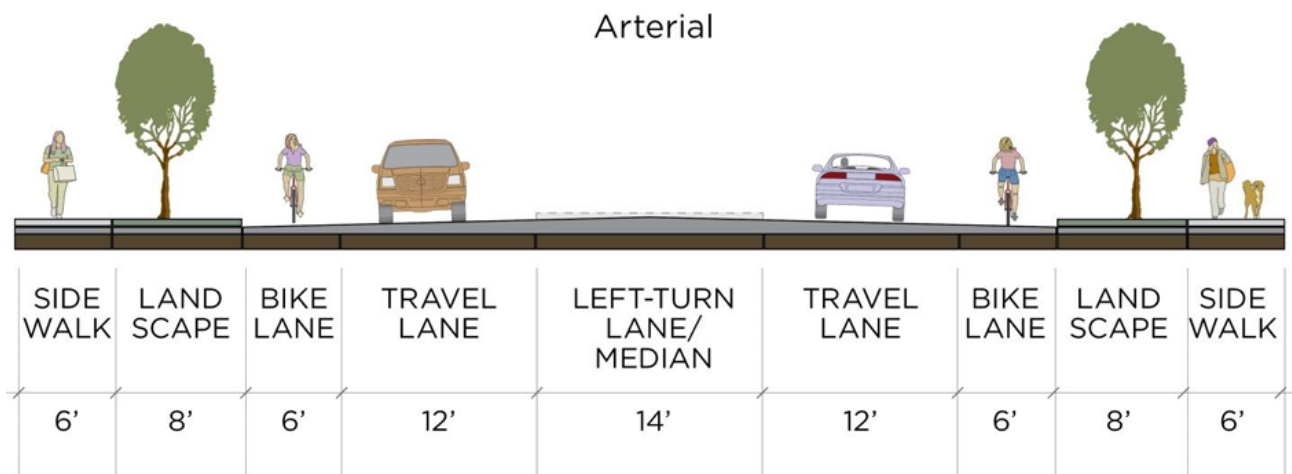


FIGURE 2: LA PINE TRANSPORTATION SYSTEM PLAN, PG 63

Through the proposal, additional properties will be created along right of ways within the city, which in turn will create additional trip counts that will have an effect on public facilities. The US Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineer's evaluation include functional classification and the following site specific factors:

In comments submitted by the City Engineer, Tony Tirico, when quantifying the development he states, "There are approximately 30 existing single family dwellings on Pine Drive, creating 150 average daily trips (ADT). The ADT added to Pine Drive by the partition would be 15 trips for three single family dwellings and 30 trips for three duplexes. The impact of the partition would be an increase of 10 to 20 percent in average daily traffic."

His analysis provides a basis in which the developer must construct two 11-foot wide travel lanes, a 7-foot wide parking lane, an 8-foot wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6-foot wide sidewalk, all to be located along the entirety of the property frontage from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles.

Pine Drive is approximately 3,845 Feet long, and the resulting parcels will extend an aggregate distance of 165 feet along the frontage of Pine Drive, approximately 4% of the right of way. Given that the proposed development will result in a 10-20% increase in average daily traffic, the improvements are roughly proportional to the proposed development.

To ensure compliance, the following conditions of approval are included.

The developer did not include development plans addressing these public facility improvements. As proposed, the existing infrastructure would not meet the above criteria. There is currently inadequate right of way, no sidewalks, no swales with street trees, no on street parking, and the travel lanes in either direction are unpaved with a gravel or dirt surface or are of inadequate width. Instead of denying the permit outright based on the inadequacies, staff has approved the development with conditions of approval that are directly tied to the project's impacts.

As a direct result of the proposal, three additional properties will be created along right of ways within the city, which in turn will create additional trip counts that will have an effect on public facilities.

The above identified legitimate government interests will be substantially impeded by the impacts of the proposed partition application. Appellant's failure to contribute to improvements within and adjacent to the subject property will undermine the City's ability to fairly and equitably ensure a balanced transportation system that serves the subject parcel and neighborhood. The proposed partition will bring more traffic to the area, and without improvements, all local traffic will remain unserved.

The required improvements to adjacent streets (Pine and Burgess) from which the proposed development will take access will help maintain the function and capacity of the road network while providing efficient, safe, and convenient vehicular, bicycle, and pedestrian circulation on two intersecting streets. The essential nexus is clear between the identified governmental interests and the appealed conditions, as further established, below.

Rough Proportionality: An exaction must also be roughly proportional to the impacts of the proposed development. The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations.

Factors considered in the Engineer's evaluation include functional classification and the following site-specific factors.

In comments submitted on August 14, 2025, by the City Engineer, Troy Baker, when quantifying the development he states, "There are approximately 30 existing single-family dwellings on Pine Drive, creating 150 average daily trips (ADT). The ADT added to Pine Drive by the partition would be 15 trips for three single-family dwellings and 30 trips for three duplexes. The impact of the partition would be an increase of 10 to 20 percent in average daily traffic." Baker also states within the memo, "City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 Public Facility Requirement, states: "To provide for orderly and efficient urban development and extension of public facilities, public streets, alleys and public utilities shall be extended along public right-of-way or City easements for the full length of all portions of property frontage being developed or as otherwise determined through the land use approval process..."

The Design Standards referenced above, Development Provisions, contain the minimum development and construction standards for the City of La Pine. These standards were formally adopted by the City of La Pine, City Council, through Ordinance 2016-09. Baker includes only a partial section of the citation within his comment. The Design Standards go on to state,

"Public facilities shall be extended from the point of connection "to and through" to the far boundary of subject property. All public facility extensions and/or improvements shall conform to the City of La Pine Public Works Standards and Specifications, and all applicable Master Plans, Public Facility Plans, and System Plans. All new service or fire hydrant connections to City water and/or sewer systems shall require a public water and/or sewer main line to be located or extended in public right- of-way or City easements along property frontage where applicable. This "to and through" public facility requirement shall be fulfilled except where it is not practical to extend a street or utility because of topography or by boundary and/or land use restrictions prohibiting development (e.g. UGB, public lands, etc.) as determined by the City."

The Appeal challenges improvements required to meet these standards. The required improvements are only required along the frontage of the property, ensuring this "exaction" is limited to the subject property area.

Baker's analysis provides a basis in which the developer must dedicate 7 feet of right of way along the entirety of the Pine Drive frontage, construct two 11-foot-wide travel lanes, a 7-foot-wide parking lane, an 8-foot-wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6-foot-wide sidewalk, all to be located along the entirety of the property frontage from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line.

To ensure the proper development of Burgess Road per City Code and standards, 5 feet of right of way must be dedicated along the entirety of Burgess Road. Baker goes on to further recommend one six-foot wide sidewalk, and an 8-foot-wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The City recognizes that, while such conditions do have an essential nexus with City government interests, material in the record does not provide sufficient calculations to support a finding of rough proportionality. While the City believes such improvements are roughly proportional to the applications burden on City infrastructure, based upon the record, the City is choosing not to require the recommended sidewalks and swales with street trees for Burgess

Road, and will only require the right of way dedication. The conditions entitled “Pine Drive Right of Way”, “Burgess Road Right of Way”, and “Pine Drive Public Improvement Requirements” set out below these findings to address all required dedications and improvements needed to satisfy the above identified criteria.

As Baker’s analysis provides, the proposed partition will result in an increase of 15-30 average daily trips on Pine drive, resulting in a 10-20 percent increase of traffic on Pine Drive. Additionally, the proposal increases pedestrian foot traffic, which coincides with these average daily trips. An increased need for safe access corresponds with this increased activity, further justifying the required dedications and improvements. The right of way dedication referenced above and required in the conditions imposed below will ensure the construction of Pine Drive in accordance with the design standards of the Transportation System Plan. Less will not provide sufficient right of way to ensure safe access. The construction of the two travel lanes will provide safe access in both directions from the development by vehicular travel. The landscaped swales containing street trees will allow for adequate drainage along the constructed roadway, ensuring public facilities are kept safe and not impeded by standing water in the roadway. Sidewalks will ensure that the increased pedestrian traffic will not be forced to walk within the roadway, placing increased numbers at risk of being struck by vehicles travelling along the right of way. Sidewalks would also safely provide ADA access to individuals travelling by wheelchair or other means of transportation.

Pine Drive is approximately 3,845 Feet long, and the resulting parcels will extend an aggregate distance of 165 feet along the frontage of Pine Drive, approximately 4% of the right of way. Given that the proposed development will result in a 10-20% increase in average daily traffic, the improvements are less than half to one quarter of the impact to Pine Drive, thus are roughly proportional to the proposed development. Unlike in *Brown v. City of Medford*, 251 Or App 42 (2012), where the court invalidated an exaction because the City failed to quantify individualized impacts, the City of La Pine has quantified both the frontage length (165 feet, or approximately 4% of Pine Drive) and the projected traffic increase (10–20%). The required improvements are therefore less than the proportionate exaction the city could impose to ameliorate the project’s direct impacts, plus are limited to the property frontage.

The applicant objects to the option the City provides, which would require them to pay a fee in lieu of constructing all improvements merited by his proposed development. Admittedly, a fee in lieu does defer needed public improvements to a future date, but does not undermine the need for or findings supporting such improvements. The fee in lieu is calculated to match the cost to the city, were the City to undertake the required improvements. Therefore, the allowed fee relies upon the same essential nexus and rough proportionality analysis as the improvement conditions. Those findings are, therefore, imported here by this reference.

The fee in lieu option, which is based on the cost of the City to construct the improvements, is not necessarily the most cost-effective option for the applicant, but is offered in recognition that improvements constructed piece meal may deteriorate over time, before adjoining sections are completed.

The cost estimate provided by the City Engineer is based on the average cost of similar projects completed by the engineering firm in other parts of the region. Not only are these average costs incorporated into the estimate, the calculation also includes a line item towards administrative, legal, engineering, and other contingencies which are 35% of the total cost. It also takes into consideration the

fact that projects completed by the city are subject to prevailing wages. Were the applicant to choose to construct the required improvements, the cost to privately develop the facilities necessitated by the proposed development would be less than the estimate provided by the City.

The above identified criteria can be satisfied by the proposed partition with the imposition of the following conditions of approval:

Pine Drive Right-of-Way: **Prior to final plat approval**, seven feet of right-of-way along the entirety of the frontage of Pine Drive shall be dedicated to the public on the partition plat map.

Burgess Road Right-of-Way: **Prior to final plat approval**, five feet of right-of-way along the entirety of the frontage of Burgess Road shall be dedicated to the public on the partition plat map.

Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive and Burgess Road to City local street standards as identified in the Transportation System Plan.

Pine Drive and Burgess Road Public Improvement Requirements: **Prior to final plat**, it is the City's preference the applicant may either complete the following required improvements, or, instead, choose to pay that a fee in lieu be paid for all the deferred required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$62,100, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, for Pine Drive the width of a 28-foot section of pavement needs to be extended from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The improvements shall be constructed starting from the eastern property line to the western property line, all included on the partition side of the street.

With those conditions, the above identified criteria is met.

IV. AMENDED CONDITIONS OF APPROVAL

17. Agreement for Improvements: **Prior to construction of public improvements**, if the applicant chooses to construct the Pine Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, 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 prior to recording 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 The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.

18. Bond or other Performance Assurance: **Prior to construction of public improvements**, if the applicant chooses to construct the Pine Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.
- ~~25. Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive City local street standards as identified in the Transportation System Plan.~~
28. Pine Drive and Burgess Road Public Improvement Requirements: **Prior to final plat**, it is the City's preference the applicant may either complete the following required improvements, or, instead, choose to pay that a fee in lieu be paid for all the deferred required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$103,125, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, for Pine Drive the width of a 28-foot section of pavement needs to be extended from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street. ~~For Burgess Road, one six foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The improvements shall be constructed starting from the eastern property line to the western property line, all included on the partition side of the street.~~
30. Improvements as Platted: **Prior to final plat**, if the applicant chooses to construct the Pine Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, 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.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT



Written By: Brent Bybee, Community Development Director

August 20th, 2025
Administrative Planning
Decision

FINDINGS AND DECISION

DECISION DATE: August 20, 2025

FILE NUMBER: PA-25-0001

APPLICANT: Stephen Williams
19781 Astro Place
Bend, OR 97702

OWNER: John 3:16 Properties, LLC
19781 Astro Place
Bend, OR 97702

LOCATION: The subject property does not have a site address. It is located at the corner of the intersection of Burgess Road and Pine Drive in La Pine, Oregon. The Tax Lot number is 2501 on Deschutes County Assessor's Map 21-10-36C0.

REQUEST: The applicant proposes to partition the subject property into three parcels. No further development is proposed at this time.

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

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

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

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

CHAPTER 15.208. – RECONSIDERATION

CHAPTER 15.212. – APPEALS

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 1.14-acres in size.

LOT LEGALITY: The subject property was originally platted as Lot 16 within Block 1 of the Cagle Subdivision Plat Number 1, recorded January 28th, 1958, with Deschutes County.

REVIEW PERIOD: The subject application was submitted on April 14, 2025, and deemed incomplete by the Planning Department on April 24, 2025. A response to the Incomplete Letter was received and the application was deemed complete on May 15, 2025. The 120th day on which the City must take final action on this application is September 12, 2025.

EXISTING DEVELOPMENT: The subject property is currently undeveloped.

SURROUNDING LAND USES: Properties to the North and East are zoned Residential Single Family. The Northern property is similar in size and the Eastern property is approximately twice the height of the subject property. The property to the South across Burgess Road is zoned Open Space and Parks (OSP). The property to the West is zoned Residential Multi Family (RMF) and is public land owned by BLM.

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

- Water: An existing water service is provided to the East of Parcel 1 along Pine Drive.
- 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:

- The property has no known permit history.

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice on May 19, 2025, to several public agencies and received the following comments:

Deschutes County Building Safety Division, Randy Scheid

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

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

Deschutes County Road Department, Quinn Shubert

Hi Nick,

Thanks for sending over the application materials for the proposed partition, I have reviewed the documents and have the following comments:

Required Planting Screen Easement:

According to DCC 12.28.090(A), the creation of driveway access onto arterial and collector roads is prohibited unless no other feasible access exists. DCC 12.28.090(B) stipulates that when properties abut roads with differing functional classifications, access should be from the road with the lower classification. It is essential to ensure that all newly created parcels have the ability to access Pine Drive so these access restrictions are applied appropriately, the planting screen easement will help with the enforcement of this code referenced above, however, is not strictly necessary for the restriction of access on Burgess Rd.

Improvement Requirements for Parcel Fronting Burgess:

The pavement cross-section complies with the Deschutes County arterial cross-section as per DCC 12.25.170. However, as per DCC 12.25.155(B), bike lanes shall be implemented on new construction of curbed arterials and collectors, If the city is requiring curb, bike lanes should be provided in addition to any required drainage facilities per the COSM.

The ROW cross-section does not meet either the County's 80' or the City's 78' Arterial ROW standard. Adjustments may be necessary to conform to these standards, however, I would defer to the city on this requirement as no plans for improvements on Burgess Rd in this area that would necessitate a wider ROW cross section given that it is located within the City limits.

If you require any further information or clarification, please do not hesitate to reach out.

FINDING: While Deschutes County Road Department's comments regarding the planting screen do not explicitly require the easement, staff have conditioned the requirement for a planting screen in accordance with LPDC 15.92.010 to both satisfy City requirements and as a way to support the County's requirement that all access to the parcels be from Pine.

The County has recommended that if the City requires curb improvements to Burgess, bike lanes should be provided (per DCC 12.25.155(B)) in addition to any required drainage facilities per the Central Oregon Stormwater Manual. Based on the City Engineer's comments, the applicant will be required to dedicate additional right of way, and provide a fee in lieu for the construction of drainage swales and sidewalks along the Burgess Road frontage. Conditions regarding these improvements have been included in this staff report. To ensure compliance with the County Road Department's comments, the following conditions have been included a condition regarding right of way dedication is included in response to the City Engineer's comments below.

Deschutes County Property Address Coordinator, Tracy Griffin

Addresses for the newly created lots will be assigned when the partition has been recorded with the County Clerk's office.

Findings: Comments not accurate, no site plan provided. All fire code requirements shall be met.

WATER:

○ **Fire Safety during Construction – 2022 OFC 501.4**

- *Approved fire department access roads, required water supply, fire hydrants, and safety precautions shall be installed and serviceable prior to and during the time of construction. The requirements of NFPA 241 shall be followed until project is complete.*

Area with Fire Hydrants:

○ **Water Supply – 2022 OFC B105.1**

- *The minimum fire-flow requirements for one- and two- family dwellings having a fire-flow calculation area which does not exceed 3,600 sq ft (including the garage) shall be 1,000 gpm at 20 psi residual flow. Dwellings exceeding 3,600 sq ft shall use Table B105.4*
- *Exception:*
 - *A reduction in required fire flow of up to 50 %, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.3 (NFPA 13D) of the OFC.*

○ **Fire Hydrant – 20122 OFC 507.5.1**

- *Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the building, on-site hydrants and mains shall be provided where required.*
 - *Exception: For Group R3 occupancies, the distance requirement shall be 600 ft.*

○ **Area Separation – 2022 OFC B104.2**

- *Portions of buildings which are separated by fire walls without openings constructed in accordance with the International Building Code are allowed to be considered as separate fire flow calculation areas.*

○ **Obstruction & Protection of Fire Hydrants – 2022 OFC 507.5.4 – 507.5.6**

- *A 3 foot clear space shall be maintained around the circumference of fire hydrant. When exposed to vehicular damage, concrete curbing, sidewalks, or 4 inch concrete filled bollards placed 3 feet from hydrant shall suitably protect fire hydrants.*

○ **Note: Before the application can be deemed complete, a stamped engineered fire flow analysis will be required.**

ACCESS:

○ **Premises Identification – 2022 OFC 505.1**

- *Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street fronting the property. Said numbers shall contrast with their background and visible at night. Number/letter shall be a minimum of 4" high and a .5 "stroke width.*

○ **Required Access – 2022 OFC 504.1**

- *Exterior doors and openings shall be made readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided.*

- **Fire Apparatus Access Roads – 2022 OFC 503 & Appendix D**
 - *Fire apparatus access roads shall extend to within 150 ft of all portions of the building as measured by an approved route around the exterior of the building.*
 - *Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.*
 - *Fire apparatus roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.*
 - *The required turning radius of a fire apparatus access road shall determined by the fire code official. The grade of the fire apparatus access roads shall be within the limits established by the fire code official.*
 - *The angles of approach and departure for fire apparatus access roads shall be within the limits established by the fire code official based on the fire department's apparatus.*
 - *Traffic calming devices shall be prohibited unless approved by the fire code official.*
- **Authority – 2022 OFC 503.2.2**
 - *The fire code official shall have the authority to modify the dimensions specified in 503.2.1.*
- **Fire Lanes – 2022 OFC 503.3 & D103.6**
 - *Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Such signs or notices shall be kept in legible conditions at all times. The stroke shall be 1 inch with letters 6 inches high and read "No Parking Fire Lane". Spacing for signage shall be every 50 feet.*
 - *Recommended to also paint fire lane curbs (in addition to Fire lane signs) in bright red paint with white letters.*
 - *D103.6.1 Roads 20-26 Ft. Wide: Shall have Fire Lane signs posted on both sides of a fire lane.*
 - *D103.6.2 Roads more than 26 Ft. Wide: Roads 26-32 ft wide shall have Fire Lane signs posted on one side of the road as a fire lane.*
- **Dead-Ends – 2022 OFC 503.2.5 and D103.4**
 - *Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.*
 - *D 103.4 Table: Length of Dead end: greater than 500 ft shall meet the turnaround requirements and the width of the road shall be a minimum of 26 ft clear for fire apparatus.*
- **Additional Access – 2022 OFC 503.1.2**
 - *The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, conditions or terrain, climatic conditions or other factors that could limit access.*
- **Emergency Access Road Gates – 2022 OFC D103.5**
 - *Minimum 20 feet wide.*
 - *Gates shall be swinging or sliding type.*
 - *Shall be able to be manually operated by one person.*

- *Electric gates shall be equipped with a means of opening by emergency personnel & approved by fire official.*
- *Locking devices **may** be padlocks.*
- *Section 503.3: Install a sign on the gate “Emergency Access”*
- **Key Boxes – 20122 OFC 506.1**
 - *An approved key box may be installed on all structures equipped with a fire alarm system and /or sprinkler system.*

On June 9th, 2025, Clara provided the following additional comments:

Good morning,

This helps [City staff provided the applicant’s proposed site plan] but does not show me where hydrants are. The flag lot will have to have “No Parking” signs on the pole of the lot on at least on side of it.

They will need to provide a to-scale site plan showing where hydrants are and a fire flow analysis is also required. Per the fire code, and subdivision of [of three lots or more] ~~a lot~~ is considered just that. All fire code requirements will need to be met before I can approve it.

Thank you,

FINDING: To ensure compliance with the State Fire Marshall’s comments, the following condition has been added:

Fire Code Requirements: **Prior to final plat**, the applicant must demonstrate compliance with the entirety of the Deputy State Fire Marshall’s requirements.

City of La Pine Public Works, Ashley Ivans

Public Works will defer to Anderson Perry for comments on the proposed application.

Anderson Perry, Tony Tirico, Contracted City of La Pine Engineer

MEMO – July 22, 2025

Per the City of La Pine’s request, Anderson Perry & Associates, Inc., has reviewed the tentative plan of a three-lot partition of Lot 16 Block 1, Gagle Subdivision, Plat No. 1 on Tax Lot No. 211036BA01100 for the potential impacts to public utilities and roadways. The public improvements shown on the tentative plan were reviewed using the City’s 2016 Standards and Specifications Design Standards (Design Standards). The review comments are listed below by public facility.

Street

- The parcels will be accessed from an existing gravel road in the public right-of-way (ROW). Seven feet of ROW along the entirety of the frontage of Pine Drive shall be dedicated to the public on the partition plat map.
- It is recommended that the applicant pay a fee in lieu rather than constructing a sidewalk. Sidewalk improvement plans shall be submitted to the City for review and fee approval. Improvement plans

should include a 6-foot wide concrete sidewalk, drainage swales on the frontages, and street trees at an average of 35-foot spacing except within site vision triangles.

- The applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive to City local street standards.

Stormwater

- No street improvements are being proposed that will affect the existing stormwater drainage. No stormwater improvement plans for Pine Drive are required.

Sewer

- Show the sewer main and service locations in Pine Drive on the tentative plan.

Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings. Each lot shall be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.

Water

- Show the water main and service locations in Pine Drive on the tentative plan.
- Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.

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.

MEMO – August 14, 2025

Per the City of La Pine, Oregon's request, Anderson Perry & Associates, Inc. (AP) has prepared an opinion of probable cost of the Pine Drive and Burgess Road street improvements for the William Partition, located on Lot 16, Block 1 of the Cagle Subdivision Plat No. 1. This memo also provides a basis for a rough proportionality decision.

There are approximately 30 existing single-family dwellings on Pine Drive, creating 150 average daily trips (ADT). The ADT added to Pine Drive by the partition would be 15 trips for three single-family dwellings and

30 trips for three duplexes. The impact of the partition would be an increase of 10 to 20 percent in average daily traffic.

City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 Public Facility Requirement, states: "To provide for orderly and efficient urban development and extension of public facilities, public streets, alleys and public utilities shall be extended along public right-of-way or City easements for the full length of all portions of property frontage being developed or as otherwise determined through the land use approval process..."

The Tentative Partition Plan shows a 7-foot dedication of right-of-way (ROW) for Pine Drive. A 68-foot ROW is shown for Burgess Road, an arterial street with a required ROW width of 78 feet. The applicant shall also dedicate an additional 5-feet of ROW to Burgess Road.

On Pine Drive, the applicant shall extend a width of 28 feet of paving (3 inches of asphalt concrete on 8 inches of base rock with two 11-foot travel lanes and two 3-foot paved shoulders) from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. The applicant shall also construct a 6-foot wide sidewalk and drainage swale across the Pine Drive frontage. The applicant shall construct a 6-foot wide sidewalk and drainage swale across the Burgess Road frontage.

The attached Table 1 shows the opinion of probable cost including administration, legal, engineering, and contingency costs for the improvements to Pine Drive and Burgess Road.

FINDING: The Memo initially submitted by Engineering on July 22, 2025 did not account for all street improvements, only addressing right of way dedication, sidewalks, and swales with street trees. Improvements along Burgess Road were also not addressed. At the request of City Staff, the Engineer was directed to provide an opinion of probable cost for all required improvements, demonstrating compliance with the improvement requirements of the Transportation System Plan and City Code. To comply with the City Engineer's comments, the following conditions of approval have been added:

Pine Drive Right-of-Way: ***Prior to final plat approval***, seven feet of right-of-way along the entirety of the frontage of Pine Drive shall be dedicated to the public on the partition plat map.

Burgess Road Right-of-Way: ***Prior to final plat approval***, five feet of right-of-way along the entirety of the frontage of Burgess Road shall be dedicated to the public on the partition plat map.

Waiver of Remonstrance: ***Prior to final plat approval***, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive and Burgess Road to City local street standards as identified in the Transportation System Plan.

Sewer Plan Updates: ***Prior to final plat approval***, the applicant shall show the sewer main and service locations in Pine Drive on the tentative plan. Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings. Each lot will be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.

Water Plan Updates: ***Prior to final plat approval***, the applicant shall show the water main and service locations in Pine Drive on the tentative plan. Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.

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.

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

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

Pine Drive and Burgess Road Public Improvement Requirements: ***Prior to final plat***, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$103,125, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, for Pine Drive the width of a 28-foot section of pavement needs to be extended from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The improvements shall be constructed starting from the eastern property line to the western property line, all included on the partition side of the street.

The following agencies did not respond to the notice:

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

PUBLIC COMMENTS: The La Pine Community Development Department mailed notice of the application to all property owners within 100 feet of the subject property on May 19, 2025. 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.

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.

FINDING: The application for a three-parcel partition contains a public access and utility easement of 30'x100' along the northern boundary of the partition. As the definition of a minor partition states, "for the purposes of this definition and this definition only, an easement for access of more than 100 feet in length shall be considered a street or road." As the proposed easement is 100' in length, it is not considered a street or road, thus the definition of a minor partition applies. 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 single family 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

Standard	RSF	RMF
<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 three-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 standards will be evaluated upon development.

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. All three parcels have at least 50 feet of street frontage along Burgess Road. The criterion is met.

Minimum Setbacks, Building Height, and Lot Coverage: No development is proposed so setbacks cannot be evaluated. However, staff finds that each lot could reasonably support the placement of a single family dwelling. Final evaluation will be determined upon development.

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 for the entire partition only apply to development subject to site plan review. Criteria will be addressed upon development. Staff note that landscape standards will apply to the 4' planting screen easement and will be discussed within this review for Section 15.92.010.

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: As no development is proposed, compliance with this Section will be reviewed once development is proposed. This criterion is 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 three-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 the minimum lot size requirements. This criterion is not applicable.

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

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

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

FINDING: The applicant is not requesting an exemption to the yard or setback requirements. These criteria are 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 does not apply.

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

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

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

FINDING: 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 final plat***, an approach permit shall be approved by the City of La Pine Public Works Department for the new access driveway to serve the 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 both Pine Drive, a local street as classified by the La Pine TSP, and Burgess Road, an arterial owned by Deschutes County. The approach and driveway development standards do not apply to Pine Drive, per 15.88.030.D.1. Per Deschutes County Road Department's comments above, access is being restricted along Burgess, the arterial, as the applicant understands that access to the parcels shall only come from Pine Drive; the County will not allow new driveway access along Burgess. Staff also required through the completeness review the addition of a 4' planting screen easement along the southern property boundary to further inhibit the potential for future access along Burgess, in accordance with the requirements for double-frontage parcels in Section 15.92.010. These criteria are met.

- 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 criterion 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.*

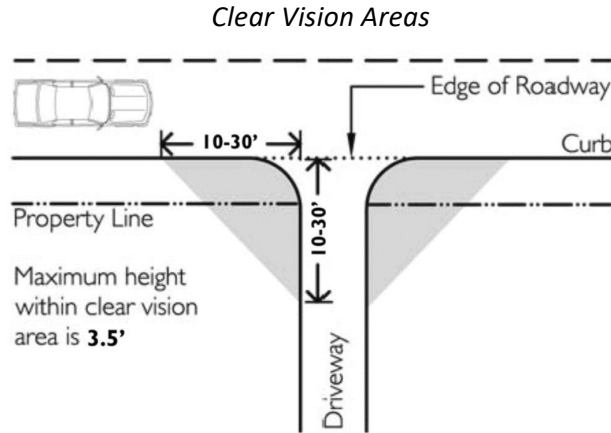
FINDING: The owner is proposing a joint access private easement. In order to comply with the criterion, the following condition of approval has been added:

Joint Use Access Easement and Maintenance Agreement: **Prior to final plat**, the property owners shall record an easement 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 in the deed records, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.

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

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

<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. The required, if any, street trees will be omitted in these areas. 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 condition of approval have been added:

Clear Vision Area: ***At all times***, a 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:*

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

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

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

- C. Inadequate existing streets. Whenever existing streets, adjacent to, within a tract or providing access to and/or from a tract, are of inadequate width and/or improvement standards, additional right-of-way and/or improvements to the existing streets may be required.*

FINDING: The proposal is for a 3 parcel partition located at the northwest corner of Burgess Road and Pine Drive. Pine Drive along the property frontage remains unimproved, with inadequate widths and a dirt/gravel surface , no on street parking, no landscape swales, and no sidewalks. Burgess Road lacks adequate landscape swales, and sidewalks. LPDC Sec. 15.90.070 addresses the design of streets and other public facilities, where roadway width and improvement standards are addressed in accordance with the design standards of the La Pine Transportation System Plan, amongst other required public improvements. Requiring those improvements, however, when analyzed through an exaction analysis, must be completed in a manner that the level of required improvements is roughly proportional between the impacts of the proposed development and the need for the exaction, as found in the US Supreme Court ruling (Dolan v. City of Tigard). No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the proposed development's impact. Findings included within LPDC Sec. 15.90.070 quantify the effect of the development, and are addressed therein. As a result of that analysis, conditions are included within this decision to ensure the effects of the proposal are addressed as they relate to right of way widths and improvement standards for streets. With those conditions, criteria met.

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

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

Sec. 15.90.030. - Sewer and water.

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

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

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

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

FINDING: The City Engineer did not indicate the existence of any inadequate facilities within the area of the 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.*

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

- 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 utility requirement. This criterion is not applicable.

Sec. 15.90.060. - Public street/highway improvement.

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

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

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

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

FINDING: Even though the applicant is electing to pay fee-in-lieu, as this proposal is a partition that results in new land parcels, the proposal does not include the reconstruction or modification of public roads and highways where no removal or displacement of buildings would occur and/or no new land parcels result. This criterion does not apply.

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

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

- D. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations, waysides, and, rest areas within a right-of-way existing as of the effective date of this Development Code. In addition, also exempt are contiguous public-owned property utilized to support the operation and maintenance of public roads and highways provided such is not located within a duly designated residential zone, or adjacent to or across the street from a lot or parcel within such a zone.*

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

- 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.*

FINDING: Pine Drive and Burgess Road are not identified as a priority projects in the City's transportation system plan or ODOT's State Transportation Improvement Plan. This criterion is not applicable.

- F. The design, construction, operation, and maintenance of a tourist-oriented or public wayside.*

FINDING: This proposal does not include the design, construction, operation, or maintenance of a tourist-oriented or public wayside. This criterion is not applicable.

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

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

to topographical conditions, to public convenience and safety and to the proposed use or development to be served thereby.

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

B. Street location and pattern. The proposed street location and pattern shall be shown on the development plan, and the arrangement of streets shall:

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

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

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

FINDING: This 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: The applicant stated in their proposal that, “to meet the minimum road width, it is assumed 7.00 feet of Pine Drive will be required to be dedicated, as shown on the tentative plan.” The above criteria requires street, sidewalk and bike rights-of-way to be no less than the minimum widths in feet set forth in the La Pine Transportation System Plan, and constructed in conformance with the applicable standards and specifications. Pine Drive is classified as a local street, and Burgess Road is classified as an arterial street in the La Pine TSP, with each being subject to the following design standards:

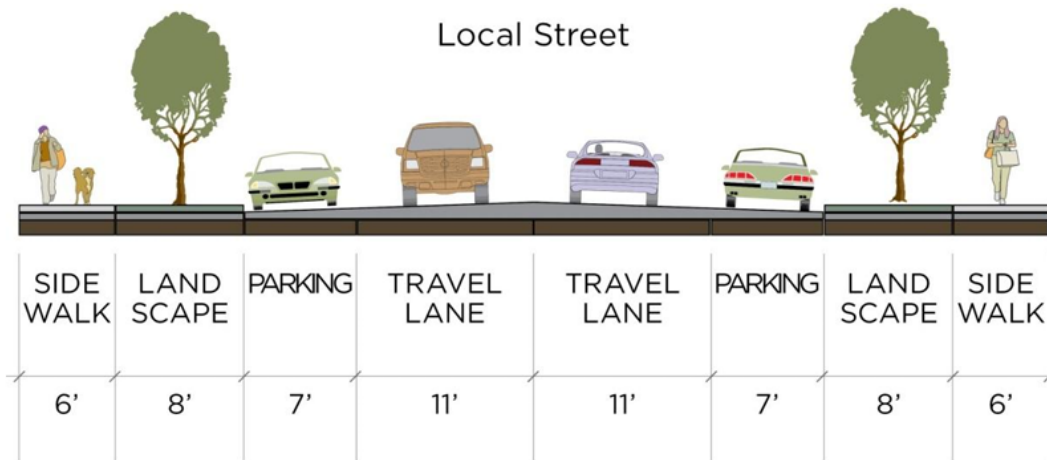


FIGURE 1: LA PINE TRANSPORTATION SYSTEM PLAN, PG 65

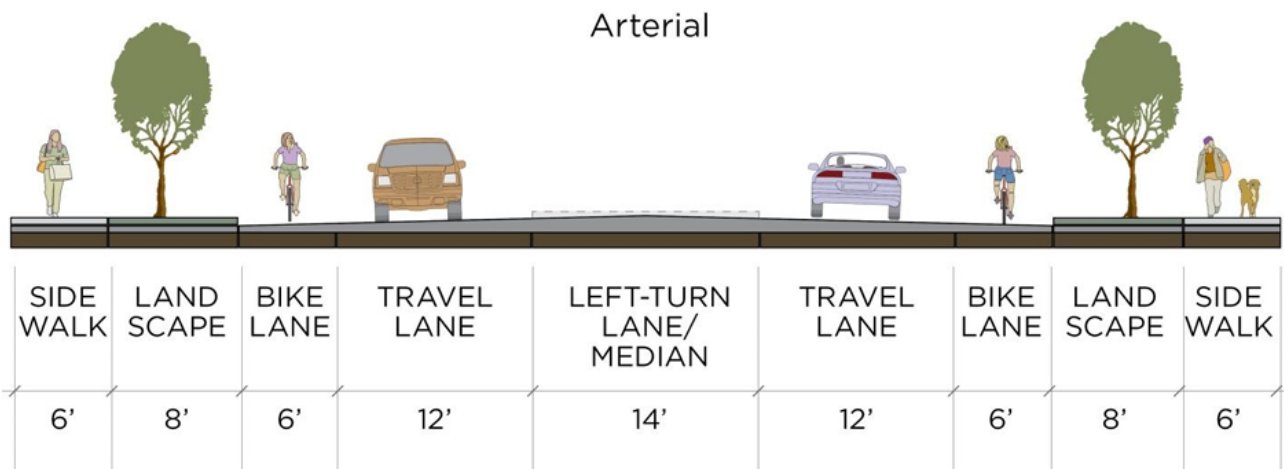


FIGURE 2: LA PINE TRANSPORTATION SYSTEM PLAN, PG 63

Through the proposal, additional properties will be created along right of ways within the city, which in turn will create additional trip counts that will have an effect on public facilities. The US Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineer's evaluation include functional classification and the following site specific factors:

In comments submitted by the City Engineer, Tony Tirico, when quantifying the development he states, "There are approximately 30 existing single-family dwellings on Pine Drive, creating 150 average daily trips (ADT). The ADT added to Pine Drive by the partition would be 15 trips for three single-family dwellings and 30 trips for three duplexes. The impact of the partition would be an increase of 10 to 20 percent in average daily traffic."

His analysis provides a basis in which the developer must construct two 11-foot-wide travel lanes, a 7-foot-wide parking lane, an 8-foot-wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6-foot-wide sidewalk, all to be located along the entirety of the property frontage from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles.

Pine Drive is approximately 3,845 Feet long, and the resulting parcels will extend an aggregate distance of 165 feet along the frontage of Pine Drive, approximately 4% of the right of way. Given that the proposed development will result in a 10-20% increase in average daily traffic, the improvements are roughly proportional to the proposed development.

To ensure compliance, the following conditions of approval are included.

Pine Drive Right-of-Way: ***Prior to final plat approval***, seven feet of right-of-way along the entirety of the frontage of Pine Drive shall be dedicated to the public on the partition plat map.

Burgess Road Right-of-Way: ***Prior to final plat approval***, five feet of right-of-way along the entirety of the frontage of Burgess Road shall be dedicated to the public on the partition plat map.

Waiver of Remonstrance: ***Prior to final plat approval***, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive and Burgess Road to City local street standards as identified in the Transportation System Plan.

Pine Drive and Burgess Road Public Improvement Requirements: ***Prior to final plat***, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$103,125, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, for Pine Drive the width of a 28-foot section of pavement needs to be extended from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the

northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The improvements shall be constructed starting from the eastern property line to the western property line, all included on the partition side of the street.

With those conditions, criteria met.

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

FINDING: As discussed in findings for LPDC Sec. 15.90.070.E, 6-foot-wide sidewalks are required in accordance with the La Pine Transportation System Plan. Through an analysis provided in the findings for that criteria, it is demonstrated that the required sidewalk improvements are roughly proportional to the proposed development. Concurrently with the City Engineer's quantification in his comments, staff also found that Pine Drive is approximately 3,845 Feet long, and the resulting parcels will extend an aggregate distance of 165 feet along the frontage of Pine Drive, approximately 4% of the right of way. Given that the proposed development will result in a 10-20% increase in average daily traffic, the improvements are roughly proportional to the proposed development. Conditions have been included in this staff report addressing sidewalk standards, and a condition allowing for a fee in lieu option was also included allowing the developer to pay a fee in lieu of construction in the amount equivalent to the cost of the improvements, as outlined in the cost analysis provided by the City Engineer in their comments.

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

FINDING: The applicant stated in their burden of proof that "the applicant does not believe bike lanes would be required for this project." As shown above in the referenced illustration of local streets, Pine Drive is considered a local street and bike lanes are not required. However, Burgess Road being arterial road does require 6' wide bike lanes. In coordination with the County Road Department, bike lanes were addressed but were ultimately left to the City for a decision on whether improvements would be required. Discussions with the City Engineer determined that sufficient paving and space existed within the right of way for bikes, and that improvements would not be required. Criteria met.

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

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

FINDING: 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: As stated previously, as this partition contains double frontage and one of the frontages is with Burgess Road, an arterial street, the City required a 4' planting screen easement along the Burgess frontage. This criterion is met.

- 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, criteria L through P do not apply.

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

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

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

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

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

FINDING: An alley is not required with this 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. However, the applicant states "based on the setbacks and development regulations of the Residential Single-Family zone, residential development will be feasible on each newly created parcel." Staff confirm this assessment. 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: All three proposed parcels have at least 50 feet of frontage with Burgess Road, a public arterial street. All three parcels will only have access from Pine Drive. As the code does not specify that the 50 foot minimum frontage requirement must come from the public street from which there is access, the frontage along Burgess qualifies. Parcel 1 also has at least 50 feet of frontage with Pine Drive. Parcel 2 and 3 have access from Pine via a proposed access easement on Parcel 3's flag pole. 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 of the proposed side lot lines run at right angles from Burgess Road and Pine 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: As the proposed parcel 1 has double frontage on Burgess Road and Pine Drive, the applicant was notified through the incomplete letter that a planting screen easement of at least four feet would be required. The applicant amended the tentative plan to include a 4ft wide planting screen easement along the Burgess Road frontage. The required landscaping shall comply with all applicable landscaping standards of Section 15.82.010. In order to ensure compliance, the following condition of approval has been added:

Planting Screen Easement: **Prior to final plat**, landscaping shall be added to the planting screen easement that limits access and conforms to the installation and maintenance requirements set forth in Section 15.82.010. The easement shall be recorded with the City.

- 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: As the City has no minimum lot size in the RSF zone, redivision is possible. Staff find that all three 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: Comments from the City Engineer indicated that joint public access easement proposed across the “pole” of the flag lot would provide sufficient access to required septic tanks, and noted that “onsite utility services are under the jurisdiction of the building department so check with them for the official response.” This criterion is met.

- 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 described above, comments from the City Engineer indicated that the public access easements as proposed are sufficient for access to sewer and water lines. To ensure compliance, the following condition of approval has been added:

Easements for Sewer and Water Lines: ***Prior to final plat approval,*** the applicant shall provide all necessary easements for sewer and water infrastructure, which include, but are not limited to, public access easements as

required by the City of La Pine Public Works Department and/or the applicable utility provider. Easements shall be reviewed and approved by the appropriate agency and recorded with the Deschutes County Clerk.

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.*

*(***)*

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

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

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

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

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

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

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

Sec. 15.94.020. - Completion or assurance of improvements.

- A. Agreement for improvements. Prior to final plat approval for a subdivision, partition, PUD or other land development, or the final approval of a land use or development pursuant to*

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

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

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

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

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

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

- C. Amount of security required. The assurance of full and faithful performance shall be for a sum approved by the city as sufficient to cover the cost of the improvements and repairs,*

including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.

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

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

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

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

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

Sec. 15.94.030. - Building and occupancy permits.

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

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

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

B. Sale or occupancy. All improvements required pursuant to this chapter and other applicable regulations or approval conditions shall be completed, in service and approved by the city, and accepted by the city council, prior to sale or occupancy of any lot, parcel or building unit erected upon a lot within the subdivision, partitioning, PUD or other development.

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

Sale or Occupancy: **Prior to final plat**, 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 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 required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.

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

With regard to any development proposal for which the city deems it necessary to contract for engineering and/or other special technical services for the review thereof or for the design of facility expansions to serve the development, the developer may be required to pay all or part of the special services. In such cases, the choice of the contract service provider shall be at the discretion of the city, and the service provider shall perform the necessary services at the direction of the city. The costs for the services shall be determined reasonable, and an estimate of the costs shall be provided to the developer prior to contracting therefore [therefor].

FINDING: Staff include this criterion for reference only.

ARTICLE 7 - PROCEDURES

CHAPTER 15.202. – SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS

Sec. 15.202.010. - Purpose and applicability.

- A. *Purpose. The purpose of this chapter is to establish decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 15.202-1 provides a key for determining the review procedure and the decision-making body for particular applications.*
- B. *Applicability of review procedures. All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this article as modified by any applicable application-specific procedures identified in articles 8 and 9. The procedure "type" assigned to each application governs the decision-making process for that application. There are four types of review procedures as described in subsections 1—4*

below. Table 15.202-1 lists the city's land use and development applications and corresponding review procedure(s).

1. *Type I procedure (ministerial staff review with no notice). Type I decisions are made by the city planning official, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying city standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). The city planning official may elect to process a Type I application under a Type II procedure.*
2. *Type II procedure (administrative/staff review with notice). Type II decisions are made by the city planning official, with public notice and an opportunity for appeal to the planning commission. Alternatively, the city planning official may refer a Type II application to the planning commission for its review and decision in a public meeting.*
3. *Type III procedure (quasi-judicial review - public hearing). Type III decisions are made by the planning commission after a public hearing, with an opportunity for appeal to the city council except for decisions on all quasi-judicial comprehensive plan amendments and zone changes which must be adopted by the city council before becoming effective. Quasi-judicial decisions involve discretion but implement established policy. They involve the application of existing law or policy to a specific factual situation.*
4. *Type IV procedure (legislative review). The Type IV procedure applies to the adoption of law or policy applicable citywide or to a broad geographical area of the city. Legislative actions provide for the establishment and modification of land use plans, policies, regulations, and guidelines. Type IV reviews are considered by the planning commission, which makes a recommendation to city council. City council makes the final decision on a legislative proposal through the enactment of an ordinance.*

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

Application*	Review Procedures	Applicable Regulations
<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>
Land Divisions		
<i>Subdivisions, PUD or re-plat of > 3 lots</i> <i>Preliminary plat</i> <i>Final plat</i>	<i>Type III</i> <i>Type I</i>	<i>Chapter 15.406</i>
<i>Partition or re-plat of 2-3 lots</i> <i>Minor – preliminary plat</i> <i>Major – preliminary plat</i> <i>Final plat</i>	<i>Type II</i> <i>Type III</i> <i>Type I</i>	<i>Chapter 15.410</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. 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 April 14th 2025 and paid the same day. The application was deemed incomplete on April 24th, 2025 and notice was sent to the applicant on the same day. Following the submission of additional information, the application was deemed complete on May 15th, 2025 and notice of application was sent out to all required parties on May 19th, 2025.

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

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

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

FINDING: The 120th that staff must take final action on this application is September 12th, 2025. This criterion will be met.

- 3. *100-day rule. The city must take final action, including resolution of all local appeals on qualifying applications under ORS 227.180, within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:*
 - a. *The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;*
 - b. *At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and*
 - c. *The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in [paragraph] b of this section [3] as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.*

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

- 4. *The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the*

applicant, but total of all extensions, except as provided in subsection ORS 227.178(11) for mediation, may not exceed 245 days.

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

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

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

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

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

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

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

- A. City planning official's duties. The city planning official, or his or her designee, shall perform all of the following duties with regard to administration of this Development Code:*
- 1. Prepare application forms based on the provisions of this Development Code and applicable state law;*
 - 2. Prepare required notices and process applications for review and action;*
 - 3. Assist the planning commission and city council in administering the hearings process;*
 - 4. Answer questions from the public regarding the city's land use regulations;*
 - 5. Prepare staff reports summarizing pending applications, including applicable decision criteria;*
 - 6. Prepare findings consistent with city decisions on land use and development applications;*
 - 7. Prepare notices of final decisions, file the notices in the city's records, and mail a copy of the notices to all parties entitled to notice under this Development Code; and*

8. *Maintain and preserve the file and record for each application.*

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

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

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

Sec. 15.202.040. - Pre-application conference.

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

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

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

Sec. 15.202.050. - Neighborhood contact.

- A. *Purpose and applicability. Unless waived by the city planning official, applicants for master plans, subdivisions with more than ten lots, major variances and property owner-initiated for zone changes are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the city, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.*
- B. *Notice. Notice of the meeting must be given in writing to all property owners whose property is located within 100 feet of the site, at their addresses of record at the Deschutes County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the city. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.*
- C. *Meeting place, date, and time. The meeting must be held within the city limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.*
- D. *Conduct of meeting. At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, shall complete a form prescribed by the city to certify the occurrence of the meeting.*
- E. *Filing requirements. The meeting certification form, even if no affected property owners attend, is required and must be submitted to the city with a land use application for the application to be deemed complete. Copies of the following information must accompany the meeting certification form: a copy of the notice mailed, all addresses for which notice was mailed (e.g., copy of mailing labels), and copies of all other written materials provided prior to or distributed at the meeting.*

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

Sec. 15.202.060. - Withdrawal of application.

An applicant may withdraw an application in writing at any time prior to the decisioning becoming final. If the landowner is not the applicant, no consent to withdraw the application is

needed from the landowner. Refunds for withdrawn applications shall be determined from the following schedule:

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

FINDING: Staff have included this section for reference.

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

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

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

Sec. 15.202.080. - Modification of application.

- A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of this section, and payment of the required fee.*
- B. The city planning official or planning commission shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day review period as of the date the modification is submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications. For the purposes of this section, "modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site layout (including, but not limited to, changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.*
- C. The city planning official or planning commission may require that the application be re-noticed and additional hearings be held.*

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

FINDING: Staff include this section for reference only.

Sec. 15.202.090. - Reapplication limited.

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

FINDING: Staff include this section for reference only.

Sec. 15.202.110. - Expiration of approval.

- A. *Scope.*
1. *Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under this Development Code.*
 2. *This section does not apply to:*
 - a. *Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of [article 3]. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.*
 - b. *Quasi-judicial map changes.*
- B. *Duration of approvals.*
1. *Except as otherwise provided under this section or under other applicable provisions of this Development Code, a land use approval is void two years after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.*
 2. *Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats shall be void after two years from the date of preliminary approval, unless the final plat has been submitted to the city planning official for final approval*

within that time period, or an extension is sought under subsection C, or the preliminary plat approval has been initiated as defined herein.

3. *The city planning official or planning commission may approve a request to complete developments of five or more acres provided the total time for all phases shall not exceed five years from the date the application becomes final. An extension of any phase of a phased development shall automatically extend all subsequent phases.*

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

C. Extensions.

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

D. Procedures.

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

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

FINDING: Staff include this section as reference only.

Sec. 15.202.120. - Initiation of use.

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

FINDING: Staff include this section as reference only.

Sec. 15.202.130. - Modification of approval.

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

FINDING: Staff include this section as reference only.

Sec. 15.202.140. - Transfer of approvals.

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

- C. *The terms of a land use decision may be enforced against the applicant and any successor in interest.*

FINDING: Staff include this section as reference only.

CHAPTER 15.204. – APPLICATION PROCEDURES

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

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

A. Application requirements.

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

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

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

- 1. The purpose of the notice of pending administrative decision is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the planning official issues the decision. Within ten days of receipt of a complete application for a Type II land use action, the planning official shall mail notice of a pending Type II decision to the individuals and agencies [listed in paragraph 3 of this subsection B].***

2. *The comment period shall be at least 14 days duration from the date notice was mailed or a longer [period] as specified in the notice. The deadline for submitting written comments must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled planning commission meeting date where an application is referred to the commission for review.*

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

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

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

4. *The notice of pending administrative decision, at a minimum, shall contain all of the following information:*
 - a. *The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled planning commission meeting date where an application is referred to the commission for review;*
 - b. *A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable Development Code requirements;*

- c. *The address and city contact person for submitting written comments; and the date, time, and location the city planning official or planning commission, as applicable, is scheduled to make a decision on the application;*
- d. *The street address or other easily understandable reference to the location of the proposed use or development;*
- e. *Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the land use board of appeals or circuit court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;*
- f. *Statement that all evidence relied upon by the city planning official or planning commission, as applicable, to make its decision is in the record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the city; and*
- g. *Statement that after the comment period closes, the city will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.*

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

C. *Decision.*

- 1. *At the conclusion of the comment period, the city planning official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Development Code criteria. Alternatively, the city planning official may transmit all written comments received, if any, along with a copy of the application to the planning commission for review and decision at its next regularly scheduled meeting.*
- 2. *Where the city planning official refers an application subject to administrative review to the planning commission, the planning commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Development Code criteria. The planning commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the commission makes a final decision within the time period prescribed under state law (ORS 227.178) and as described in section 15.202.020 of this Development Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the required timeframe and the commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant to section 15.204.030; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.*

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

D. Notice of decision.

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

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

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

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

F. Appeal of Type II (administrative) decision.

- 1. Who may appeal. The following people have legal standing to appeal a Type II administrative decision:*
 - a. The applicant or owner of the subject property;*

- b. Any person who was entitled to written notice of the Type II decision; and*
- c. Any other person who participated in the proceeding by submitting written comments on the application to the city by the specified deadline.*

2. Appeal filing procedure. Appeals shall be filed in accordance with chapter 15.212.

G. Review by council.

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

FINDING: Staff are including this subsection for reference.

ARTICLE 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, 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 three-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.

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 improvements 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.

- 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 15.418. – 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: This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
2. Additional Permit Requirements: The applicant shall obtain necessary permits from the City of La Pine, Deschutes County Building Department, Deschutes County Onsite Wastewater Department, and any other necessary State or Federal permits.
3. Confirmation of Conditions: The applicant shall be responsible for confirming in detail how each specific condition of approval has been met if requested by City staff.
4. 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**, a 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 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.

PRIOR TO CONSTRUCTION OF PUBLIC IMPROVEMENTS

9. 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.
10. Pre-Construction Meeting: **Prior to construction of public improvements**, a pre-construction meeting with the construction contractor shall be held with City staff. To schedule the preconstruction meeting, the applicant shall reach out to the Community Development Department and submit a narrative describing how each of the required preconstruction conditions of approval have been, or will be, met. The required fee for a preconstruction meeting will be assessed and due prior to the meeting.
11. Maintenance Surety Bond: **Prior to the completion of public improvements**, at the completion of construction of the required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.
12. Sewer and Water Plan Approval: **Prior to the preconstruction meeting**, sanitary sewer and water plans in conformance with city standards shall be provided to the City Public Works Director. Development permits for sewer and water improvements will not be issued until the preconstruction meeting is held, and all plans are approved and signed by the Public Works Director.
13. 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.
14. Plan Review and Approval: **Prior to the preconstruction meeting**, improvement work shall not be commenced until development plans have been reviewed and approved by the city or a designated representative. Public improvements to county roads must be reviewed by Deschutes County Road Department. The review and approval shall be at the expense of the developer.
15. 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.

16. 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.
17. Agreement for Improvements: **Prior to construction of public improvements**, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.
18. Bond or other Performance Assurance: **Prior to construction of public improvements**, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.
19. Amount of Bond Security Required: **Prior to construction of public improvements**, the bond or other performance assurance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.

PRIOR TO FINAL PLAT

20. Approach Permit: **Prior to final plat**, an approach permit shall be approved by the City of La Pine Public Works Department for the new access driveway to serve the proposed properties.
21. Joint Use Access Easement and Maintenance Agreement: **Prior to final plat**, the property owners shall record an easement 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 in the deed records, 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.
22. Fire Code Requirements: **Prior to final plat**, the applicant must demonstrate compliance with the entirety of the Deputy State Fire Marshall's requirements.
23. Pine Drive Right-of-Way: **Prior to final plat approval**, seven feet of right-of-way along the entirety of the frontage of Pine Drive shall be dedicated to the public on the partition plat map.
24. Burgess Road Right-of-Way: **Prior to final plat approval**, five feet of right-of-way along the entirety of the frontage of Burgess Road shall be dedicated to the public on the partition plat map.

25. Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Pine Drive and Burgess Road to City local street standards as identified in the Transportation System Plan.
26. Sewer Plan Updates: **Prior to final plat approval**, the applicant shall show the sewer main and service locations in Pine Drive on the tentative plan. Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings. Each lot will be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.
27. Water Plan Updates: **Prior to final plat approval**, the applicant shall show the water main and service locations in Pine Drive on the tentative plan. Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.
28. Pine Drive and Burgess Road Public Improvement Requirements: **Prior to final plat**, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$103,125, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, for Pine Drive the width of a 28-foot section of pavement needs to be extended from the existing 28 feet width of paving near the intersection of Pine Drive and Burgess Road to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street. For Burgess Road, one six-foot wide sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles. The improvements shall be constructed starting from the eastern property line to the western property line, all included on the partition side of the street.
29. Planting Screen Easement: **Prior to final plat**, landscaping shall be added to the planting screen easement that limits access and conforms to the installation and maintenance requirements set forth in Section 15.82.010. The easement shall be recorded with the City.
30. 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.
31. Utilities: **Prior to final plat**, 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.
32. As Built Plans: **Prior to final plat**, as built plans for all public improvements shall be prepared and completed by a licensed engineer and filed with the city upon the completion of all such improvements. A copy of the as built plans shall be filled with the final plat of a subdivision or other development by and at the cost of the developer. The plans shall be completed and duly filed within 30 days of the completion of the improvements.

33. Sale or Occupancy: ***Prior to final plat***, 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 partition.
34. 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 ISSUANCE OF BUILDING PERMITS

35. 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 single family dwelling, and building permits must be obtained prior to initiating the proposed development.
36. 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 12TH DAY FOLLOWING MAILING OF THIS DECISION.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT



Written By: Brent Bybee, Community Development Director



STAFF REPORT

Appeal of a Land Partition (PA-25-0004)

The following report is provided as a supplement to the original staff decision for the Planning Commission. The report outlines the appeal, and addresses specific code criteria and conditions of approval related to the appeal. Amended findings have been included, indicated with ~~strikes~~ for removal, and underlines for additions.

DATE: September 3, 2025

FILE NUMBER: A-25-0001 (Appeal of File PA-25-0004)

**APPLICANT/
APPELLANT** Stephen Williams
19781 Astro Place
Bend, OR 97702

LOCATION: The subject property does not have a site address. It is located to the west of Elm Drive near the northern terminus of Elm Drive in La Pine, Oregon. The Tax Lot number is 1100 on Deschutes County Assessor's Map 21-10-36BA.

**NEWSPAPER
NOTICE:** August 31, 2025

**NEIGHBOR
NOTICE:** August 27, 2025

HEARING DATE: September 10, 2025

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

I. BACKGROUND

The subject property has historically remained vacant with no development. It was originally platted as Lot 11 within Block 3 of the Cagle Subdivision Plat Number 4, recorded October 5th, 1960, with Deschutes County

The applicant submitted a tentative plan to partition the subject property into three lots on April 30, 2025, which was then deemed incomplete by the Planning Department on May 13, 2025. A response to the Incomplete Letter was received and the application was deemed complete on May 15, 2025. The 120th day on which the City must take final action on this application is September 12, 2025.

On August 20th, a decision was rendered by the Planning Staff, with a notice of decision sent to the owner/applicant, all agencies, and parties of record. The decision approved the partition with conditions of approval. The deadline to appeal was September 1, 2025.

The identified Appellant submitted his appeal application on August 26th, 2025, prior to the deadline. This staff report serves as a summary of the Appellants grounds for appeal. Please reference Appellant's complete grounds for appeal in his application along with the identified criterion below.

II. PROCESS ON APPEAL

The application on appeal is identified as a Type II, limited land use decision, pursuant to Development Code Sec. 15.204.020, and ORS 197.015(12)(a), and 197.195, as amended by SB 1537, Section 44. As allowed by amended ORS 197.195, the City is providing a de novo appeal hearing, which allows for the introduction of additional testimony or evidence. The quasi-judicial hearing procedures of LPDC 15.204.030 govern the appeal, and proper notice shall be provided to all parties once a final decision has been rendered by the Planning Commission. Following the hearing, the Planning Commission body may affirm, overrule, or modify the appealed decision. As the appeal is a review of a limited land use decision, the Planning Commission's decision will be the City's final decision, in accordance with amended ORS 197.195(6). **The Planning Commission decision shall become final on the date the decision and supporting findings of fact are signed by the Planning Commission Chair. The Planning Commission decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days after the notice of decision has been signed and mailed.**

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

There are four issues identified in the appellants' notice of appeal. In brief summary, those issues are:

1. When deciding whether to purchase the subject property, the applicant relied on city staff statements that no public improvements would be required for a partition. Further, staff did not identify required dedications. Once appellant acquired the property and submitted a partition application, the city reversed staff's prior position and imposed multiple conditions, including sidewalk dedications, frontage improvements, and bonding requirements. The applicant argues the city is estopped from imposing these conditions because of the prior over the counter staff representations.
2. The city failed to demonstrate that the required dedications and improvements serve a legitimate governmental interest or are roughly proportionate to project impacts. No project impacts were identified that would justify the conditions. The applicant cites case law, including *Hill v. City of Portland*, 293 Or App 283 (2018) and *Brown v. City of Medford*, 251 Or App 42 (2012) in support of this position.
3. The city required the applicant to waive his statutory right to object to the formation of a local improvement district. The applicant argues this is an unlawful exaction because the city

did not demonstrate a legitimate governmental interest or project impact to justify such a waiver.

4. The applicant asserts that the city has treated similar partitions differently in prior cases where no street improvement exactions were imposed. Imposing them here violates the applicant's right to equal protection under the law.

Each of these issues is examined in greater detail below, including the findings of the Planning Commission decision, the detailed objections of the Appellant, and a response from Staff.

III. GROUNDS FOR APPEAL

Two of Appellant's grounds for appeal do not pertain to the criteria applicable to the submitted partition application. Those arguments are addressed here:

1. Estoppel. Appellant claims that the City is estopped from applying adopted and acknowledged Development Code criteria that governs all City partition applications. He argues that the City is prohibited (i.e., "estopped") from applying that criteria due to City staff representations made during Appellant's due diligence period, upon which he relied when deciding to purchase the subject parcel. Reliance on over-the-counter staff representations during a property purchase due diligence period is not relevant to, nor binding upon the City, during subsequent land use proceedings. The City is bound only to apply duly adopted land use criteria when processing a land use application.

The doctrine of equitable estoppel cannot arise from the actions of local government officials who purport to waive the provisions of a mandatory law or otherwise exceed their authority. *West v. City of Salem*, 61 Or LUBA 166 (2010); [*City of Mosier v. Hood River Sand*, 206 Or App 292, 319, 136 P3d 1160 \(2006\)](#) ("a city cannot be estopped by the acts of a city official who purports to waive the provisions of a mandatory ordinance . . . , citing, [*Mannellin v. DMV*, 176 Or. App. 9, 13–14 \(2001\)](#).) City staff never holds the authority to waive duly adopted and acknowledged Development Code criteria. To do so would have exceeded staff's authority. [*Solberg v. City of Newberg*, 56 Or App 23, 28, 641 P2d 44 \(1982\)](#); [*Bankus v. City of Brookings*, 252 Or. 257, 260, 449 P.2d 646 \(1969\)](#).

Moreover, without a submitted application, staff lacked any ability to evaluate the proposed development or its impact on City infrastructure. *Kaiser Permanente v. City of Portland*, 67 Or LUBA 111 (2013)(where no application that seeks approval of a development proposal has been submitted, even written advice is informal and non-binding.) Here, City staff issued no written advice, nor was an application submitted. The City, therefore, is not now bound by the doctrine of estoppel and, further, lacks the authority to waive mandatory Code requirements in this appeal.

4. Equal Protection. Appellant alleges that, in prior decisions, the city acknowledged that impacts from a similar partition do not provide a legitimate basis to exact street improvements. He further alleges that imposing such improvements on Appellant in this matter violates his right to equal protection under the law. Appellant fails to provide any legal or factual foundation for this allegation. The City is, therefore, unable to properly evaluate this claim.

Even were some evidence of different treatment submitted, City criteria is regularly applied differently to different applications. Circumstances change, City infrastructure needs change, and facts are developed over time as a result of the variety of changes from application to application. The City is not bound to apply its criteria identically from one application to the next, over time. What was required of one applicant is not binding on another application, given the significant differences in proposals, changes in criteria, and City needs over time.

“Finally, unequal administration of the law does not in every case constitute a violation of the Fourteenth Amendment to the U.S. Constitution. See, *Williamson v. Lee Optical Co.*, 348 US 483, 487-88, 75 S Ct 461, 99 L Ed 563 (1955); *Archdiocese of Portland v. Washington County*, 254 Or 77, 88, 458 P2d 682 (1969); *Wagner v. Marion County*, 15 Or LUBA 260, 272, aff'd 85 Or App 220 (1987).” *McCarty v. City of Portland*, 20 Or LUBA 86, 88 (1990). In order to prevail on his equal protection argument, petitioner must show the city's decision to deny his request was based on race, religion, the exercise of constitutional rights or some other arbitrary classification.” *McCarty*, citing, *City of Eugene v. Crooks*, 55 Or App 351, 354-55, 637 P2d 1350 (1981), *rev den* 292 Or 722 (1982); *Wagner v. Marion County*, *supra*.

As in *McCarty*, Appellant’s equal protection challenge must fail as he makes no attempt to demonstrate that he has been singled out, in an impermissible way, for unequal treatment by the city.

The following addresses Appellant’s grounds for appeal that challenge the application of criteria for the requested partition.

PART III, CITY OF LA PINE DEVELOPMENT CODE

(***)

ARTICLE 5 – DEVELOPMENT STANDARDS

(***)

CHAPTER 15.90. – PUBLIC FACILITIES

(***)

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

(***)

- 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.*

APPELLANTS APPEAL GROUNDS: The appellants’ grounds for appeal state the following:

“Before a local government may exact property, which includes public improvements and money to construct them, it has the burden to demonstrate that (1) it has a legitimate governmental interest, (2) that the condition or conditions serve the same legitimate interest, and (3) that project impacts so substantially impeded that interest that the local government has a valid basis to deny the permit outright. *Hill v. City of Portland*, 293 Or App 283 (2018). The city failed to meet its burden in this matter and therefore has no legal basis to impose the challenged conditions. The city has not explained how partitioning land generates impacts that substantially impede any legitimate governmental interest related to the safety, capacity or operation of the streets involved. *Brown v. City of Medford*, 251 Or App 42 (20121). In fact, the city decision acknowledges the lack of project impacts in that it prefers that the Applicant/Owner pay money for the improvements rather than complete them. The fact that the city admits that the improvements are not required now to address any specific impacts means there is no essential nexus to support the conditions exacting property. Furthermore, the city acknowledged in prior partitions that simply partitioning property does not provide a legitimate basis to exact street improvements.”

“Furthermore, the city did not conduct a proper rough proportionality assessment. The city did not identify much less quantify individualized impacts from the partition of property and explain how the impacts of the project are roughly proportional in nature and extent to the impacts on the applicant/owner.”

“Because the city has not met its burden under the Fifth Amendment and related case law, any conditions requiring dedication, street improvements, an improvement agreement, or bonding are not lawful.”

STAFF RESPONSE: The following augments the underlying challenged decision to explain how the requested land partition generates impacts that substantially impede several legitimate governmental interests related to the safety, capacity or operation of the streets involved in the manner requested. The applicable criteria and the City’s Design Standards demonstrate a clear legitimate governmental interest to ensure public safety, carrying capacity of the local system, connectivity to neighboring lots or infrastructure that will be developed in the future, and mobility.

The application’s failure to address the above criteria would impede these governmental interests and provides a basis to deny the application. The conditions associated with the above criteria ensure that these legitimate governmental interests are furthered and protected. The amended findings establish this essential nexus, and the appealed conditions were imposed to avoid denying the partition outright based on the inadequacies of the proposed public infrastructure improvements.

Appellant’s attorney cites *Hill v. City of Portland*, 293 Or App 283 (2018), a case in which he also served as counsel. In *Hill*, the Court of Appeals invalidated exactions because the City of Portland failed to demonstrate that the required improvements were tied to the specific impacts of the proposed development. The court emphasized that, without quantified, project-specific findings, a local government does not meet its burden under *Nollan* and *Dolan*.

At a very high level, the current appeal under review does not suffer the same inadequacies. The decision upon review did quantify the impacts of the proposed partition, including a 30–60 percent increase in average daily trips along Elm Drive, and tied the required dedications and improvements

directly to the subject property frontage (220 feet, or approximately 17% of the right-of-way). Even unamended, the challenged findings demonstrate both an essential nexus and rough proportionality between the impacts of the development and the required conditions. Therefore, unlike in *Hill*, the City has met its burden of individualized determination with regards to Elm Drive improvements. As such, those conditions of approval are lawful.

Appellant also objects to City's conditions of approval as "double dipping." We understand this as objecting to the variety of tools the City uses to ensure the construction of improvements needed to serve proposed development. The amended findings remove the waiver of remonstrance as an option, as the appellant has not demonstrated where the proposal meets the conditions listed in Sec. 15.90.080.D, where the city may provide that as an option to the developer in place of constructing public improvements or providing a fee in lieu.

AMENDED FINDINGS:

Essential Nexus. The appellant repeatedly asserts that City failed to establish an essential nexus for exaction of property rights and related improvements. Appellant identifies three elements for such a demonstration, per *Hill v. City of Portland*, 293 Or App 283 (2018) and *Brown v. Medford*, 251 Or App 42 (2012).

To address this claim, the City makes the following findings. Sec. 15.90.070. - Design of streets and other public facilities, protects public safety by preventing flooding, ensuring driver and biker safety and reduces traffic congestion. The City's Transportation System Plan (TSP) identifies a public need for promoting connectivity and a balanced transportation system which relies almost exclusively upon streets that are constructed or extended in projections that maintain their function, provide accessibility, and continue an orderly pattern of streets and blocks. The City has adopted both the above applicable criteria and its TSP to ensure the smooth development of surrounding, also undeveloped, properties.

The criteria underlying the appealed condition cites to City "specifications and standards" – specifically, the City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 Public Facility Requirement (Design Standards.) The City's Design Standards are required "to provide for orderly and efficient urban development." Requiring the public improvements will ensure public safety, carrying capacity of the local system, connectivity to neighboring lots or infrastructure that will be developed in the future, and mobility. Additionally, LPDC Sec. 15.92.010.C requires all resulting or proposed lots or parcels shall abut upon a public street. Therefore, there is a legitimate governmental interest in requiring the proposed dedications and improvements. The conditions related to these improvements are imposed only to mitigate project-specific impacts, not as a general infrastructure upgrade

The above criteria requires street, sidewalk and bike rights-of-way to be no less than the minimum widths in feet set forth in the La Pine Transportation System Plan and constructed in conformance with

the applicable standards and specifications. Elm Drive is classified as a local street in the La Pine TSP, subject to the following design standards:

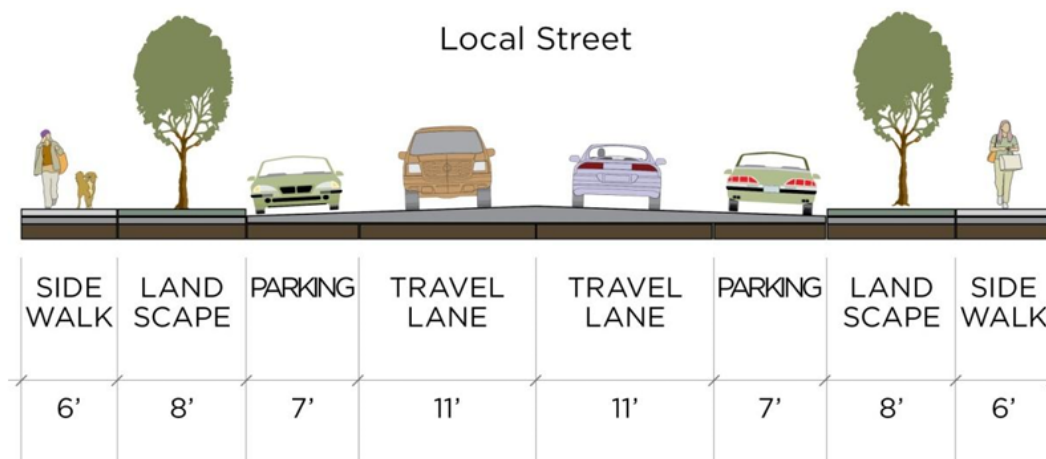


FIGURE 1: LA PINE TRANSPORTATION SYSTEM PLAN, PG 65

Through the proposal, additional properties will be created along a right of way within the city, which in turn will create additional trip counts that will have an effect on public facilities. The US Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineer's evaluation include functional classification and the following site specific factors.

In comments submitted by the City Engineer, Tony Tirico, when quantifying the development he states "Approximately ten existing single-family dwellings are located on Elm Drive, creating 50 average daily trips (ADT). The ADT added to Elm Drive by the partition would be 15 for three single family dwellings and 30 for three duplexes. The impact of the partition would be an increase of 30 to 60 percent in average daily traffic."

His analysis provides a basis in which the developer must construct two 11-foot-wide travel lanes, a 7-foot wide parking lane, an 8 foot wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6 foot wide sidewalk, all to be located along the entirety of the property frontage from the southern property line to the northern property line.

Elm Drive is approximately 1,320 Feet long, and the resulting parcels will extend an aggregate distance of 220 feet along the frontage of Elm Drive, approximately 17% of the right of way. Given

~~that the proposed development will result in a 30-60% increase in average daily traffic, the improvements are roughly proportional to the proposed development.~~

~~To ensure compliance, the following conditions of approval are included.~~

The developer did not include development plans addressing these public facility improvements. As proposed, the existing infrastructure would not meet the above criteria. There is currently inadequate right of way, no sidewalks, no swales with street trees, no on street parking, and the travel lanes in either direction are unpaved with a gravel or dirt surface or are of inadequate width. Instead of denying the permit outright based on the inadequacies, staff has approved the development with conditions of approval that are directly tied to the project's impacts.

As a direct result of the proposal, three additional properties will be created along right of ways within the city, which in turn will create additional trip counts that will have an effect on public facilities.

The above identified legitimate government interests will be substantially impeded by the impacts of the proposed partition application. Appellant's failure to contribute to improvements within and adjacent to the subject property will undermine the City's ability to fairly and equitably ensure a balanced transportation system that serves the subject parcel and neighborhood. The proposed partition will bring more traffic to the area, and without improvements, all local traffic will remain unserved.

The required improvements to the adjacent street (Elm) from which the proposed development will take access will help maintain the function and capacity of the road network while providing efficient, safe, and convenient vehicular, bicycle, and pedestrian circulation on two intersecting streets. The essential nexus is clear between the identified governmental interests and the appealed conditions, as further established, below.

Rough Proportionality: An exaction must also be roughly proportional to the impacts of the proposed development. The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineer's evaluation include functional classification and the following site-specific factors.

In comments submitted on September 2, 2025, by the City Engineer, Troy Baker, when quantifying the development he states, "Approximately ten existing single-family dwellings are located on Elm Drive, creating 50 average daily trips (ADT). The ADT added to Elm Drive by the partition would be 15 for three single-family dwellings and 30 for three duplexes. The impact of the partition would be an increase of 30 to 60 percent in average daily traffic." Baker also states within the memo, "City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 Public Facility Requirement, states: "To provide for orderly and efficient urban development and extension of public facilities, public streets, alleys and public utilities shall be extended along public right-of-way or City easements for the full length of all portions of property frontage being developed or as otherwise determined through the land use approval process..."

The Design Standards referenced above, Development Provisions, contain the minimum development and construction standards for the City of La Pine. These standards were formally adopted by the City

of La Pine, City Council, through Ordinance 2016-09. Baker includes only a partial section of the citation within his comment. The Design Standards go on to state,

“Public facilities shall be extended from the point of connection "to and through" to the far boundary of subject property. All public facility extensions and/or improvements shall conform to the City of La Pine Public Works Standards and Specifications, and all applicable Master Plans, Public Facility Plans, and System Plans. All new service or fire hydrant connections to City water and/or sewer systems shall require a public water and/or sewer main line to be located or extended in public right- of-way or City easements along property frontage where applicable. This "to and through" public facility requirement shall be fulfilled except where it is not practical to extend a street or utility because of topography or by boundary and/or land use restrictions prohibiting development (e.g. UGB, public lands, etc.) as determined by the City.”

The Appeal challenges improvements required to meet these standards. The required improvements are only required along the frontage of the property, ensuring this “exaction” is limited to the subject property area.

Baker’s analysis provides a basis in which the developer must dedicate 7 feet of right of way along the entirety of the Elm Drive frontage, construct two 11-foot-wide travel lanes, a 7-foot-wide parking lane, an 8-foot-wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6-foot-wide sidewalk, all to be located along the entirety of the property frontage from the southern property line to the northern property line. The conditions entitled “Elm Drive Right of Way”, and “Elm Drive Public Improvement Requirements” set out below these findings to address all required dedications and improvements needed to satisfy the above identified criteria.

As Baker’s analysis provides, the proposed partition will result in an increase of 15-30 average daily trips on Elm drive, resulting in a 30-60 percent increase of traffic on Elm Drive. Additionally, the proposal increases pedestrian foot traffic, which coincides with these average daily trips. An increased need for safe access corresponds with this increased activity, further justifying the required dedications and improvements. The right of way dedication referenced above and required in the conditions imposed below will ensure the construction of Elm Drive in accordance with the design standards of the Transportation System Plan. Less will not provide sufficient right of way to ensure safe access. The construction of the two travel lanes will provide safe access in both directions from the development by vehicular travel. The landscaped swales containing street trees will allow for adequate drainage along the constructed roadway, ensuring public facilities are kept safe and not impeded by standing water in the roadway. Sidewalks will ensure that the increased pedestrian traffic will not be forced to walk within the roadway, placing increased numbers at risk of being struck by vehicles travelling along the right of way. Sidewalks would also safely provide ADA access to individuals travelling by wheelchair or other means of transportation.

Elm Drive is approximately 1,320 Feet long, and the resulting parcels will extend an aggregate distance of 220 feet along the frontage of Elm Drive, approximately 17% of the right of way. Given that the proposed development will result in a 30-60% increase in average daily traffic, the improvements are less than half to one quarter of the impact to Elm Drive, thus are roughly proportional to the proposed development. Unlike in *Brown v. City of Medford*, 251 Or App 42 (2012), where the court invalidated an exaction because the City failed to quantify individualized impacts, the City of La Pine has quantified both the frontage length (220 feet, or approximately 17% of Elm Drive)

and the projected traffic increase (30–60%). The required improvements are therefore less than the proportionate exaction the city could impose to ameliorate the project’s direct impacts, plus are limited to the property frontage.

The applicant objects to the option the City provides, which would require them to pay a fee in lieu of constructing all improvements merited by his proposed development. Admittedly, a fee in lieu does defer needed public improvements to a future date, but does not undermine the need for or findings supporting such improvements. The fee in lieu is calculated to match the cost to the city, were the City to undertake the required improvements. Therefore, the allowed fee relies upon the same essential nexus and rough proportionality analysis as the improvement conditions. Those findings are, therefore, imported here by this reference.

The fee in lieu option, which is based on the cost of the City to construct the improvements, is not necessarily the most cost-effective option for the applicant, but is offered in recognition that improvements constructed piece meal may deteriorate over time, before adjoining sections are completed.

The cost estimate provided by the City Engineer is based on the average cost of similar projects completed by the engineering firm in other parts of the region. Not only are these average costs incorporated into the estimate, the calculation also includes a line item towards administrative, legal, engineering, and other contingencies which are 35% of the total cost. It also takes into consideration the fact that projects completed by the city are subject to prevailing wages. Were the applicant to choose to construct the required improvements, the cost to privately develop the facilities necessitated by the proposed development would be less than the estimate provided by the City.

The above identified criteria can be satisfied by the proposed partition with the imposition of the following conditions of approval:

Elm Drive Right-of-Way: **Prior to final plat approval**, seven feet of right-of-way along the entirety of the frontage of Elm Drive shall be dedicated to the public on the partition plat map.

Elm Drive Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards as identified in the Transportation System Plan.

Elm Drive Public Improvement Requirements: **Prior to final plat**, it is the City’s preference the applicant may either complete the following required improvements, or, instead, choose to pay that a fee in lieu be paid for all the deferred required public improvements. The opinion of probable cost submitted by the City’s Engineer calculates the cost of the improvements at \$92,300, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine’s Standards and Specifications, the width of a 29-foot section of pavement needs to be extended from the southern to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine’s Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot

sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street.

With those conditions, the above identified criteria is met.

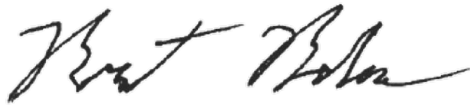
IV. AMENDED CONDITIONS OF APPROVAL

9. Agreement for Improvements: **Prior to construction of public improvements**, if the applicant chooses to construct the Elm Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, 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 prior to recording 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 ~~The agreement shall also~~ provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.
14. Bond or other Performance Assurance: **Prior to construction of public improvements**, if the applicant chooses to construct the Elm Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.
20. Improvements as Platted: **Prior to final plat**, if the applicant chooses to construct the Elm Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, 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.
23. Elm Drive Public Improvement Requirements: **Prior to final plat, Prior to final plat**, it is the City's preference the applicant may either complete the following required improvements, or, instead, choose to pay that a fee in lieu be paid for all the deferred required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$92,300, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, the width of a 29-foot section of pavement needs to be extended from the southern to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot sidewalk, and an 8 foot wide drainage swale containing street trees at an

average 35-foot spacing except when within site vision triangles, all included on the partition side of the street.

24. ~~Elm Drive Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards as identified in the Transportation System Plan.~~
30. Utilities: **Prior to final plat**, if the applicant chooses to construct the Elm Drive travel lanes, on street parking, landscaped swale with street trees, and sidewalk, 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.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

A handwritten signature in black ink, appearing to read "Brent Bybee", written in a cursive style.

Written By: Brent Bybee, Community Development Director

August 20th, 2025
Administrative Planning
Decision

FINDINGS AND DECISION

DECISION DATE: August 20, 2025

FILE NUMBER: PA-25-0004

APPLICANT: Stephen Williams
19781 Astro Place
Bend, OR 97702

OWNER: John 3:16 Properties, LLC
19781 Astro Place
Bend, OR 97702

LOCATION: The subject property does not have a site address. It is located to the west of Elm Drive near the northern terminus of Elm Drive in La Pine, Oregon. The Tax Lot number is 1100 on Deschutes County Assessor's Map 21-10-36BA.

REQUEST: The applicant proposes to partition the subject property into three parcels. No further development is proposed at this time.

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

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

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

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 15.418. – 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 0.94-acres in size.

LOT LEGALITY: The subject property was originally platted as Lot 11 within Block 3 of the Cagle Subdivision Plat Number 4, recorded October 5th, 1960 with Deschutes County.

REVIEW PERIOD: The subject application was submitted on April 30, 2025, and deemed incomplete by the Planning Department on May 13, 2025. A response to the Incomplete Letter was received and the application was deemed complete on May 15, 2025. The 120th day on which the City must take final action on this application is September 12, 2025.

EXISTING DEVELOPMENT: The subject property is currently undeveloped.

SURROUNDING LAND USES: All surrounding properties are zoned Residential Single Family. The property to the east across Elm Drive and the property to the southwest are undeveloped. The rest are developed.

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

- Water: The property has City water available via Elm Drive.
- 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:

- The property has no known permit history.

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice on May 19, 2025, to several public agencies and received the following comments:

Deschutes County Building Safety Division, Randy Scheid

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

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

City of La Pine Public Works, Ashley Ivans

Public Works will defer to Anderson Perry for comments on the proposed application.

Deschutes County Property Address Coordinator, Tracy Griffin

Addresses for the newly created lots will be assigned when the partition has been recorded with the County Clerk's office.

Deputy State Fire Marshal, Clara Butler

Findings: Comments not accurate, no site plan provided. All fire code requirements shall be met.

WATER:

○ ***Fire Safety during Construction – 2022 OFC 501.4***

- *Approved fire department access roads, required water supply, fire hydrants, and safety precautions shall be installed and serviceable prior to and during the time of construction. The requirements of NFPA 241 shall be followed until project is complete.*

Area with Fire Hydrants:

○ ***Water Supply – 2022 OFC B105.1***

- *The minimum fire-flow requirements for one- and two- family dwellings having a fire-flow calculation area which does not exceed 3,600 sq ft (including the garage) shall be 1,000 gpm at 20 psi residual flow. Dwellings exceeding 3,600 sq ft shall use Table B105.4*
- *Exception:*
 - *A reduction in required fire flow of up to 50 %, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.3 (NFPA 13D) of the OFC.*

○ ***Fire Hydrant – 20122 OFC 507.5.1***

- *Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the building, on-site hydrants and mains shall be provided where required.*
 - *Exception: For Group R3 occupancies, the distance requirement shall be 600 ft.*

○ ***Area Separation – 2022 OFC B104.2***

- *Portions of buildings which are separated by fire walls without openings constructed in accordance with the International Building Code are allowed to be considered as separate fire flow calculation areas.*

○ ***Obstruction & Protection of Fire Hydrants – 2022 OFC 507.5.4 – 507.5.6***

- *A 3 foot clear space shall be maintained around the circumference of fire hydrant. When exposed to vehicular damage, concrete curbing, sidewalks, or 4 inch concrete filled bollards placed 3 feet from hydrant shall suitably protect fire hydrants.*

○ ***Note: Before the application can be deemed complete, a stamped engineered fire flow analysis will be required.***

ACCESS:

○ ***Premises Identification – 2022 OFC 505.1***

- *Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street fronting the property. Said numbers shall contrast with their background and visible at night. Number/letter shall be a minimum of 4" high and a .5 "stroke width.*
- **Required Access – 2022 OFC 504.1**
 - *Exterior doors and openings shall be made readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided.*
- **Fire Apparatus Access Roads – 2022 OFC 503 & Appendix D**
 - *Fire apparatus access roads shall extend to within 150 ft of all portions of the building as measured by an approved route around the exterior of the building.*
 - *Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.*
 - *Fire apparatus roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.*
 - *The required turning radius of a fire apparatus access road shall determined by the fire code official. The grade of the fire apparatus access roads shall be within the limits established by the fire code official.*
 - *The angles of approach and departure for fire apparatus access roads shall be within the limits established by the fire code official based on the fire department's apparatus.*
 - *Traffic calming devices shall be prohibited unless approved by the fire code official.*
- **Authority – 2022 OFC 503.2.2**
 - *The fire code official shall have the authority to modify the dimensions specified in 503.2.1.*
- **Fire Lanes – 2022 OFC 503.3 & D103.6**
 - *Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Such signs or notices shall be kept in legible conditions at all times. The stroke shall be 1 inch with letters 6 inches high and read "No Parking Fire Lane". Spacing for signage shall be every 50 feet.*
 - *Recommended to also paint fire lane curbs (in addition to Fire lane signs) in bright red paint with white letters.*
 - *D103.6.1 Roads 20-26 Ft. Wide: Shall have Fire Lane signs posted on both sides of a fire lane.*
 - *D103.6.2 Roads more than 26 Ft. Wide: Roads 26-32 ft wide shall have Fire Lane signs posted on one side of the road as a fire lane.*
- **Dead-Ends – 2022 OFC 503.2.5 and D103.4**
 - *Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.*
 - *D 103.4 Table: Length of Dead end: greater than 500 ft shall meet the turnaround requirements and the width of the road shall be a minimum of 26 ft clear for fire apparatus.*
- **Additional Access – 2022 OFC 503.1.2**

- *The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, conditions or terrain, climatic conditions or other factors that could limit access.*
- **Emergency Access Road Gates – 2022 OFC D103.5**
 - *Minimum 20 feet wide.*
 - *Gates shall be swinging or sliding type.*
 - *Shall be able to be manually operated by one person.*
 - *Electric gates shall be equipped with a means of opening by emergency personnel & approved by fire official.*
 - *Locking devices **may** be padlocks.*
 - *Section 503.3: Install a sign on the gate “Emergency Access”*
- **Key Boxes – 20122 OFC 506.1**
 - *An approved key box may be installed on all structures equipped with a fire alarm system and /or sprinkler system.*

On June 9th, 2025, Clara provided the following additional comments:

Good morning,

This helps [City staff provided the applicant’s proposed site plan] but does not show me where hydrants are. The flag lot will have to have “No Parking” signs on the pole of the lot on at least on side of it.

They will need to provide a to-scale site plan showing where hydrants are and a fire flow analysis is also required. Per the fire code, and subdivision of [of three lots or more] ~~a lot~~ is considered just that. All fire code requirements will need to be met before I can approve it.

Thank you,

FINDING: To ensure compliance with the State Fire Marshall’s comments, the following condition has been added:

Fire Code Requirements: ***Prior to final plat***, the applicant must demonstrate compliance with the entirety of the Deputy State Fire Marshall’s requirements.

Troy Baker, Contracted City Engineer – Anderson Perry

MEMO – July 22, 2025

Per the City of La Pine’s request, Anderson Perry & Associates, Inc., has reviewed the tentative plan of a three-lot partition of Lot 11 Block 3, Gagle Subdivision, Plat No. 4 on Tax Lot No. 211036BA01100 for the potential impacts to public utilities and roadways. The public improvements shown on the tentative plan were reviewed using the City’s 2016 Standards and Specifications Design Standards (Design Standards). The review comments are listed below by public facility.

Street

- *The parcels will be accessed from an existing gravel road in the public right-of-way (ROW). Seven feet of right-of-way along the entirety of the frontage of Elm Drive shall be dedicated to the public on the partition plat map.*
- *It is recommended that the applicant pay a fee in lieu rather than constructing a sidewalk. Sidewalk improvement plans shall be submitted to the City for review and fee approval. Improvement plans should include a 6-foot wide concrete sidewalk, drainage swales on the frontages, and street trees at an average of 35-foot spacing except within site vision triangles.*
- *The applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards.*

Stormwater

- *No street improvements are being proposed that will affect the existing stormwater drainage. No stormwater improvement plans for Elm Drive are required.*

Sewer

- *Show the sewer main and service locations in Elm Drive on the tentative plan.*
- *Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings. Each lot will be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.*

Water

- *Show the water main and service locations in Elm Drive on the tentative plan.*
- *Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.*

Sheet C57 from the City's Water and Wastewater Improvements - Schedule C - Cagle and Glenwood Acres project is attached as a reference for water and sewer service locations.

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.

MEMO – August 7, 2025

Per the City of La Pine, Oregon's request, Anderson Perry & Associates, Inc. has prepared an opinion of probable cost (see the attached Figure 1) of the Elm Drive street improvements for the William Partition, located on Lot 11, Block 3 of the Cagle Subdivision Plat No. 4. This memo also provides a basis for a rough proportionality decision.

Approximately ten existing single-family dwellings are located on Elm Drive, creating 50 average daily trips (ADT). The ADT added to Elm Drive by the partition would be 15 for three single-family dwellings and 30 for three duplexes. The impact of the partition would be an increase of 30 to 60 percent in average daily traffic.

City of La Pine, Oregon, 2016 Standards and Specifications, Development Provisions, Section 03 "Public Facility Requirement," states: "To provide for orderly and efficient urban development and extension of public facilities, public streets, alleys and public utilities shall be extended along public right-of-way or City easements for the full length of all portions of property frontage being developed or as otherwise determined through the land use approval process..."

To comply with Section 03 above, the applicant, John 3:16 Properties, LLC, the width of a 29-foot section of pavement needs to be extended (3 inches of asphalt concrete on 8 inches of base rock with two 11-foot travel lanes and one 7-foot parking lane on the partition side) from the southern to the northern property line. The street improvement would include a six-foot sidewalk, drainage swale, and street trees on the partition side of the street.

The attached Figure 1 shows the opinion of probable cost, including administration, legal, engineering, and contingency costs for the City to construct this roadway. This opinion of probable cost would be suitable for an in-lieu payment for these street improvements.

FINDING: The Memo initially submitted by Engineering on July 22, 2025 did not account for all street improvements, only addressing right of way dedication, sidewalks, and swales with street trees. At the request of City Staff, the Engineer was directed to provide an opinion of probable cost for all required improvements, demonstrating compliance with the improvements requirements of the Transportation System Plan and City Code. To comply with the City Engineer's comments, the following conditions of approval have been added:

Elm Drive Right-of-Way: **Prior to final plat approval**, seven feet of right-of-way along the entirety of the frontage of Elm Drive shall be dedicated to the public on the partition plat map.

Elm Drive Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards as identified in the Transportation System Plan.

Sewer Plan Updates: ***Prior to final plat approval***, the applicant shall show the sewer main and service locations in Elm Drive on the tentative plan. Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III. Drawings. Each lot will be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.

Water Plan Updates: ***Prior to final plat approval***, the applicant shall show the water main and service locations in Elm Drive on the tentative plan. Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.

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.

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

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

Elm Drive Public Improvement Requirements: ***Prior to final plat***, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$92,300, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, the width of a 29-foot section of pavement needs to be extended from the southern to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street.

The following agencies did not respond to the notice:

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

PUBLIC COMMENTS: The La Pine Community Development Department mailed notice of the application to all property owners within 100 feet of the subject property on May 19, 2025. 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.

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.

FINDING: The application for a three-parcel partition conforms to the definition of a minor partition. 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 permit for each constructed or placed dwelling, and County 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

Standard	RSF	RMF
Minimum Density	1 unit per acre	5 units per acre

<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 three parcel partition. All three parcels are proposed as 194.7’x73.32’ at 0.328 acres each. 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 standards will be evaluated upon development.

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. Based on the applicant’s tentative plan, each lot has 73.32’ of street frontage with Elm Drive. This criteria is met.

Minimum Setbacks, Building Height, and Lot Coverage: No development is proposed so setbacks cannot be evaluated. However, staff finds that each lot could reasonably support the placement of a single family dwelling. Final evaluation will be determined upon development.

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: As no development is proposed, compliance with this Section will be reviewed once development is proposed. This criterion is 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 three-parcel partition, the Development Standards apply. Applicable criteria are 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 a minimum lot size 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 does not apply.

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

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

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

FINDING: 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 final plat**, an approach permit shall be approved by the City of La Pine Public Works Department for the new access driveway to serve the 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 Elm Drive, a local street as classified by the La Pine TSP. As Elm is neither 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: No development is proposed. 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.

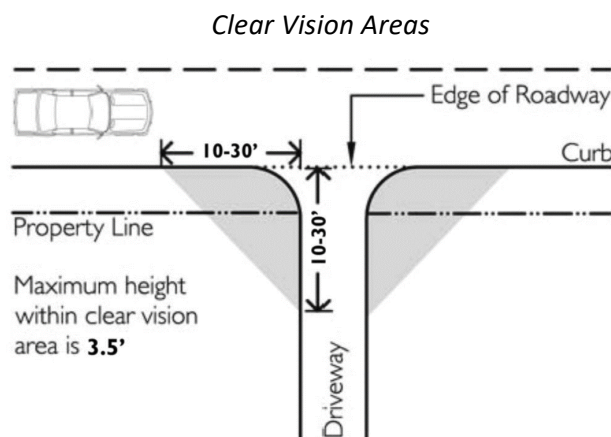
- H. *Joint use access easement and maintenance agreement. Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall 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:

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



FINDING: Clear vision requirements shall be provided for throughout the development of the parcels. The required, if any, street trees will be omitted in these areas. 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**, a 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:*

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

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

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

- C. Inadequate existing streets. Whenever existing streets, adjacent to, within a tract or providing access to and/or from a tract, are of inadequate width and/or improvement standards, additional right-of-way and/or improvements to the existing streets may be required.*

FINDING: The proposal is for a 3 parcel partition located along Elm Drive. Elm Drive along the property frontage remains unimproved, with inadequate right of way widths, a dirt/gravel surface, no on street parking, no landscape swales, and no sidewalks. LPDC Sec. 15.90.070 addresses the design of streets and other public facilities, where roadway width and improvement standards are addressed in accordance with the design standards of the La Pine Transportation System Plan, amongst other required public improvements. Requiring those improvements, however, when analyzed through an exaction analysis, must be completed in a manner that the level of required improvements is roughly proportional between the impacts of the proposed development and the need for the exaction, as found in the US Supreme Court ruling (Dolan v. City of Tigard). No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the proposed development's impact. Findings included within LPDC Sec. 15.90.070 quantify the effect of the development, and are addressed therein. As a result of that analysis, conditions are included within this decision to ensure the effects of the proposal are addressed as they relate to right of way widths and improvement standards for streets. With those conditions, criteria met.

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

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

Sec. 15.90.030. - Sewer and water.

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

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

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

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

FINDING: 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 application is not for a subdivision, so subsection C and D do not apply.

Sec. 15.90.060. - Public street/highway improvement.

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

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

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

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

FINDING: Even though the applicant is electing to pay fee-in-lieu, as this proposal is a partition that results in new land parcels, the proposal does not include the reconstruction or modification of public roads and highways where no removal or displacement of buildings would occur and/or no new land parcels result. This criterion does not apply.

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

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

- D. *Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations, waysides, and, rest areas within a right-of-way existing as of the effective date of this Development Code. In addition, also exempt are contiguous public-owned property utilized to support the operation and maintenance of public roads and highways provided such is not located within a duly designated residential zone, or adjacent to or across the street from a lot or parcel within such a zone.*

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

- 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.*

FINDING: Elm Drive is not identified as a priority project in the City's transportation system plan or ODOT's State Transportation Improvement Plan. This criterion is not applicable.

- F. The design, construction, operation, and maintenance of a tourist-oriented or public wayside.*

FINDING: This proposal does not include the design, construction, operation, or maintenance of a tourist-oriented or public wayside. This criterion is not applicable.

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

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

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

- B. Street location and pattern. The proposed street location and pattern shall be shown on the development plan, and the arrangement of streets shall:*
 - 1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or*
 - 2. Conform to a plan for the general area of the development approved by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; and*
 - 3. Conform to the adopted La Pine Transportation System Plan as may be amended.*

FINDING: The proposal does not include 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.

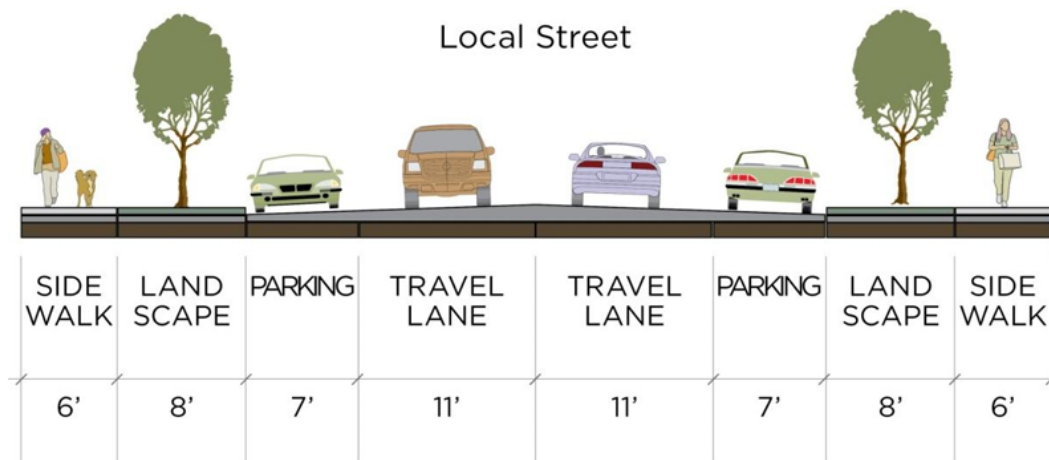
FINDING: This partition does not create a cul-de-sac or a dead-end street and comments from the City Engineer did not identify the need for additional access ways. This criterion is not applicable.

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: The above criteria requires street, sidewalk and bike rights-of-way to be no less than the minimum widths in feet set forth in the La Pine Transportation System Plan and constructed in conformance with the applicable standards and specifications. Elm Drive is classified as a local street in the La Pine TSP, subject to the following design standards:



Through the proposal, additional properties will be created along a right of way within the city, which in turn will create additional trip counts that will have an effect on public facilities. The US Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

The City Engineer has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineer's evaluation include functional classification and the following site specific factors.

In comments submitted by the City Engineer, Tony Tirico, when quantifying the development he states "Approximately ten existing single-family dwellings are located on Elm Drive, creating 50 average daily trips (ADT). The ADT added to Elm Drive by the partition would be 15 for three single-family dwellings and 30 for three duplexes. The impact of the partition would be an increase of 30 to 60 percent in average daily traffic."

His analysis provides a basis in which the developer must construct two 11-foot-wide travel lanes, a 7-foot-wide parking lane, an 8-foot-wide landscaped swale containing 6 street trees at 35 feet spacing, and a 6-foot-wide sidewalk, all to be located along the entirety of the property frontage from the southern property line to the northern property line.

Elm Drive is approximately 1,320 Feet long, and the resulting parcels will extend an aggregate distance of 220 feet along the frontage of Elm Drive, approximately 17% of the right of way. Given that the proposed development will result in a 30-60% increase in average daily traffic, the improvements are roughly proportional to the proposed development.

To ensure compliance, the following conditions of approval are included.

Elm Drive Right-of-Way: **Prior to final plat approval**, seven feet of right-of-way along the entirety of the frontage of Elm Drive shall be dedicated to the public on the partition plat map.

Elm Drive Waiver of Remonstrance: **Prior to final plat approval**, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards as identified in the Transportation System Plan.

Elm Drive Public Improvement Requirements: **Prior to final plat**, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$92,300, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, the width of a 29-foot section of pavement needs to be extended from the southern to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street.

With those conditions, criteria met.

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

FINDING: As discussed in findings for LPDC Sec. 15.90.070.E, 6-foot-wide sidewalks are required in accordance with the La Pine Transportation System Plan. Through an analysis provided in the findings for that criteria, it is demonstrated that the required sidewalk improvements are roughly proportional to the proposed development. Concurrently with the City Engineer's quantification in his comments, staff also found that Elm Drive is approximately 1,320 Feet long, and the resulting parcels will extend an aggregate distance of 220 feet along the frontage of Elm Drive, approximately 17% of the right of way. Given that the proposed development will result in a 30-60% increase in average daily traffic, the improvements are roughly proportional to the proposed development. Conditions have been included in this staff report addressing sidewalk standards, and a condition allowing for a fee in lieu option was also included allowing the developer to pay a fee in lieu of construction in the amount equivalent to the cost of the improvements, as outlined in the cost analysis provided by the City Engineer in their comments.

Based on those finding, and conditions of approval included in this decision, criteria met.

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

FINDING: As shown above in the referenced illustration of local streets, Elm Drive is considered a local street and bike lanes are not required. 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, criteria L through P do not apply.

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

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

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

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

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

FINDING: An alley is not required with this 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. However, the applicant states "based on the setbacks and development regulations of the Residential Single-Family zone, residential development will be feasible on each newly created parcel." Staff confirm this assessment. 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: All three proposed parcels have at least 50 feet of frontage with Elm 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 Elm 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. *Though 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 parcels are not through or double-frontage. 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: As the City has no minimum lot size in the RSF zone, redivision is possible. Staff find that all three 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: The applicants tentative plat shows sewer easements of 10' width, as requested by the City through the incomplete letter. This criterion has been met.

- 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 described above, prior comments from the City Engineer indicated that the public access easements as now proposed are sufficient for access to sewer and water lines. To ensure compliance, the following condition of approval has been added:

Easements for Sewer and Water Lines: **Prior to final plat approval**, the applicant shall provide all necessary easements for sewer and water infrastructure, which include, but are not limited to, public access easements as required by the City of La Pine Public Works Department and/or the applicable utility provider. Easements shall be reviewed and approved by the appropriate agency and recorded with the Deschutes County Clerk.

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.*

*(***)*

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

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

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

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

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

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

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

Sec. 15.94.020. - Completion or assurance of improvements.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 15.94.030. - Building and occupancy permits.

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

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

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

- B. *Sale or occupancy. All improvements required pursuant to this chapter and other applicable regulations or approval conditions shall be completed, in service and approved by the city, and accepted by the city council, prior to sale or occupancy of any lot, parcel or building unit erected upon a lot within the subdivision, partitioning, PUD or other development.*

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

Sale or Occupancy: **Prior to final plat**, 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 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 required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.

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

With regard to any development proposal for which the city deems it necessary to contract for engineering and/or other special technical services for the review thereof or for the design of facility expansions to serve the development, the developer may be required to pay all or part of the special services. In such cases, the choice of the contract service provider shall be at the discretion of the city, and the service provider shall perform the necessary services at the direction of the city. The costs for the services shall be determined reasonable, and an estimate of the costs shall be provided to the developer prior to contracting therefore [therefor].

FINDING: Staff include this criterion for reference only.

ARTICLE 7 - PROCEDURES

CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS

Sec. 15.202.010. - Purpose and applicability.

- A. *Purpose. The purpose of this chapter is to establish decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 15.202-1 provides a key for determining the review procedure and the decision-making body for particular applications.*
- B. *Applicability of review procedures. All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this article as modified by any applicable application-specific procedures identified in articles 8 and 9. The procedure "type" assigned to each application governs the decision-making process for that application. There are four types of review procedures as described in subsections 1—4 below. Table 15.202-1 lists the city's land use and development applications and corresponding review procedure(s).*
 - 1. *Type I procedure (ministerial staff review with no notice). Type I decisions are made by the city planning official, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying city standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). The city planning official may elect to process a Type I application under a Type II procedure.*
 - 2. *Type II procedure (administrative/staff review with notice). Type II decisions are made by the city planning official, with public notice and an opportunity for appeal to the planning commission. Alternatively, the city planning official may refer a Type II application to the planning commission for its review and decision in a public meeting.*

3. *Type III procedure (quasi-judicial review - public hearing). Type III decisions are made by the planning commission after a public hearing, with an opportunity for appeal to the city council except for decisions on all quasi-judicial comprehensive plan amendments and zone changes which must be adopted by the city council before becoming effective. Quasi-judicial decisions involve discretion but implement established policy. They involve the application of existing law or policy to a specific factual situation.*
4. *Type IV procedure (legislative review). The Type IV procedure applies to the adoption of law or policy applicable citywide or to a broad geographical area of the city. Legislative actions provide for the establishment and modification of land use plans, policies, regulations, and guidelines. Type IV reviews are considered by the planning commission, which makes a recommendation to city council. City council makes the final decision on a legislative proposal through the enactment of an ordinance.*

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

Application*	Review Procedures	Applicable Regulations
<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>
Land Divisions		
<i>Subdivisions, PUD or re-plat of > 3 lots</i>	<i>Type III</i>	<i>Chapter 15.406</i>
<i>Preliminary plat</i>		
<i>Final plat</i>	<i>Type I</i>	
<i>Partition or re-plat of 2-3 lots</i>	<i>Type II</i> <i>Type III</i> <i>Type I</i>	<i>Chapter 15.410</i>
<i>Minor – preliminary plat</i>		
<i>Major – preliminary plat</i>		
<i>Final plat</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. 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 April 30th, 2025 and paid the same day. The application was deemed incomplete on May 13th, 2025 and notice was sent to the applicant on the same day. Following the submission of additional information, the application was deemed complete on May 15th, 2025, and notice of application was sent out to all required parties on May 19th, 2025.

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

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

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

FINDING: The 120th that staff must take final action on this decision is September 12th, 2025. This criterion will be met.

3. *100-day rule. The city must take final action, including resolution of all local appeals on qualifying applications under ORS 227.180, within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:*
 - a. *The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;*
 - b. *At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and*
 - c. *The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in [paragraph] b of this section [3] as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.*

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

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

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

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

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

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

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

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

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

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

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

- B. *Development review committee. The development review committee may assist the city planning official in the review of proposed development and preparation of staff reports.*
1. *The following persons, parties and agencies shall constitute the membership of the city development review committee:*
 - a. *Public works official.*
 - b. *Engineering official.*

- c. *Police and/or county sheriff as applicable.*
- d. *Fire and rescue.*
- e. *Public utility representatives (water and sewer districts).*
- f. *School district representatives.*
- g. *Parks and recreation district director.*
- h. *Building official.*
- i. *Any other person, party or agency deemed by city staff to be affected by the land use proposal or to have specific knowledge or expertise in regard to the specific proposal.*

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

Sec. 15.202.040. - Pre-application conference.

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

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

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

Sec. 15.202.050. - Neighborhood contact.

- A. *Purpose and applicability. Unless waived by the city planning official, applicants for master plans, subdivisions with more than ten lots, major variances and property owner-initiated for zone changes are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the city, thereby raising any concerns about*

the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.

- B. Notice. Notice of the meeting must be given in writing to all property owners whose property is located within 100 feet of the site, at their addresses of record at the Deschutes County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the city. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.*
- C. Meeting place, date, and time. The meeting must be held within the city limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.*
- D. Conduct of meeting. At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, shall complete a form prescribed by the city to certify the occurrence of the meeting.*
- E. Filing requirements. The meeting certification form, even if no affected property owners attend, is required and must be submitted to the city with a land use application for the application to be deemed complete. Copies of the following information must accompany the meeting certification form: a copy of the notice mailed, all addresses for which notice was mailed (e.g., copy of mailing labels), and copies of all other written materials provided prior to or distributed at the meeting.*

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

Sec. 15.202.060. - Withdrawal of application.

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

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

FINDING: Staff have included this section for reference.

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

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

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

Sec. 15.202.080. - Modification of application.

- A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of this section, and payment of the required fee.*
- B. The city planning official or planning commission shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day review period as of the date the modification is submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications. For the purposes of this section, "modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site layout (including, but not limited to, changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.*
- C. The city planning official or planning commission may require that the application be re-noticed and additional hearings be held.*
- D. Up until the day a hearing is opened for receipt of oral testimony, the city planning official shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the planning commission shall make such determinations. The city planning official or planning commission determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the city on an application.*

FINDING: Staff include this section for reference only.

Sec. 15.202.090. - Reapplication limited.

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

FINDING: Staff include this section for reference only.

Sec. 15.202.110. - Expiration of approval.

A. Scope.

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

B. Duration of approvals.

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

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

C. Extensions.

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

D. Procedures.

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

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

FINDING: Staff include this section 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, included all the above mentioned parties. These criteria are met.

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

public review. Copies of this evidence can be obtained at a reasonable cost from the city; and

- g. Statement that after the comment period closes, the city will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.*

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

C. Decision.

- 1. At the conclusion of the comment period, the city planning official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Development Code criteria. Alternatively, the city planning official may transmit all written comments received, if any, along with a copy of the application to the planning commission for review and decision at its next regularly scheduled meeting.*
- 2. Where the city planning official refers an application subject to administrative review to the planning commission, the planning commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Development Code criteria. The planning commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the commission makes a final decision within the time period prescribed under state law (ORS 227.178) and as described in section 15.202.020 of this Development Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the required timeframe and the commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant to section 15.204.030; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.*

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

D. Notice of decision.

- 1. Within seven days of a Type II decision, the city planning official shall prepare a notice of decision and mail it to the applicant, property owner (if different), the building official, those who provided written comments on the proposal, and those who requested a copy of the decision. If the decision is not a limited land use decision as defined in ORS 197.015(12), notice shall also be sent to all persons entitled to notice under subsection B.*
- 2. The city planning official shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.*

3. *The administrative notice of decision shall contain all of the following information:*
 - a. *A description of the applicant's proposal and the city's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the record;*
 - b. *The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);*
 - c. *A statement of where the city's decision can be obtained;*
 - d. *The date the decision shall become final, unless appealed; and*
 - e. *A statement that all persons entitled to notice may appeal the decision to city council pursuant to subsection F.*

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

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

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

F. Appeal of Type II (administrative) decision.

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

G. Review by council.

1. *Review of an administrative action or a planning commission decision may be initiated by the city council. The council shall consider calling up for review any administrative decision that a majority of the planning commission recommends be reviewed.*

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

FINDING: Staff are including this subsection for reference.

ARTICLE 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, 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 three-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.

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 improvements 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.

- 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 15.418. – 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: This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
2. Additional Permit Requirements: The applicant shall obtain necessary permits from the City of La Pine, Deschutes County Building Department, Deschutes County Onsite Wastewater Department, and any other necessary State or Federal permits.
3. Confirmation of Conditions: The applicant shall be responsible for confirming in detail how each specific condition of approval has been met if requested by City staff.
4. 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**, a 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 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.

PRIOR TO CONSTRUCTION OF PUBLIC IMPROVEMENTS

9. Agreement for Improvements: ***Prior to construction of public improvements***, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.
10. Pre-Construction Meeting: ***Prior to construction of public improvements***, a pre-construction meeting with the construction contractor shall be held with City staff. To schedule the preconstruction meeting, the applicant shall reach out to the Community Development Department and submit a narrative describing how each of the required preconstruction conditions of approval have been, or will be, met. The required fee for a preconstruction meeting will be assessed and due prior to the meeting.
11. Plan Review and Approval: ***Prior to the preconstruction meeting***, improvement work shall not be commenced until development plans have been reviewed and approved by the city or a designated representative. Public improvements to county roads must be reviewed by Deschutes County Road Department. The review and approval shall be at the expense of the developer.
12. 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 public sewer or water lines may need to be reviewed by DEQ. Development permits for sewer and water improvements will not be issued until the preconstruction meeting is held, and all plans are approved and signed by the Public Works Director.
13. 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.
14. Bond or other Performance Assurance: ***Prior to construction of public improvements***, the applicant shall provide the City with a bond or other performance assurance of 120% of the cost of public improvements that meets the requirements of 15.94.020.B, prior to beginning any public improvements. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff. All such agreements shall be reviewed and approved by the City Engineer.
15. Amount of Bond Security Required: ***Prior to construction of public improvements***, the bond or other performance assurance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.
16. 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.
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 required improvements, the City will require a one-year maintenance surety bond for 20 percent of the value of all improvements to guarantee maintenance and performance for a period of one year from the date of the acceptance of the improvements.

PRIOR TO FINAL PLAT

19. 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.
20. 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.
21. Sale or Occupancy: ***Prior to final plat***, 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 partition.

Required Public Improvements

22. Elm Drive Right-of-Way: ***Prior to final plat approval***, seven feet of right-of-way along the entirety of the frontage of Elm Drive shall be dedicated to the public on the partition plat map.
23. Elm Drive Public Improvement Requirements: ***Prior to final plat***, it is the City's preference that a fee in lieu be paid for all required public improvements. The opinion of probable cost submitted by the City's Engineer calculates the cost of the improvements at \$92,300, which would be suitable for an in-lieu payment. If the applicant wishes to construct these improvements, plans must be submitted to the City and approved prior to construction. If the developer wishes to construct the public improvements, to comply with Section 03 of the City of La Pine's Standards and Specifications, the width of a 29-foot section of pavement needs to be extended from the southern to the northern property line. The extension shall include 3 inches of asphalt concrete on 8 inches of base rock. The street improvements shall meet the standards of the City of La Pine's Transportation System Plan street design standards for local roads, including two 11-foot travel lanes and one 7-foot parking lane, one six-foot sidewalk, and an 8 foot wide drainage swale containing street trees at an average 35-foot spacing except when within site vision triangles, all included on the partition side of the street.
24. Elm Drive Waiver of Remonstrance: ***Prior to final plat approval***, the applicant will agree to sign and cause to be recorded a waiver of remonstrance against the formation of a future local improvement district for Elm Drive to City local street standards as identified in the Transportation System Plan.
25. Sewer Plan Updates: ***Prior to final plat approval***, the applicant shall show the sewer main and service locations in Elm Drive on the tentative plan. Provide details of the connection to the existing sewer main, service, and service cleanout that comply with Design Standards II. Design Parameters, C. Sewer, and III.

Drawings. Each lot will be serviced by its own septic tank. Any accessory dwelling units (ADUs) proposed will be required to have a septic tank separate from the existing dwelling.

26. Water Plan Updates: ***Prior to final plat approval***, the applicant shall show the water main and service locations in Elm Drive on the tentative plan. Provide details of the hot tap on the existing water main, service, and 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. Any ADU proposal will require a larger service.
27. Easements for Sewer and Water Lines: ***Prior to final plat approval***, the applicant shall provide all necessary easements for sewer and water infrastructure, which include, but are not limited to, public access easements as required by the City of La Pine Public Works Department and/or the applicable utility provider. Easements shall be reviewed and approved by the appropriate agency and recorded with the Deschutes County Clerk.
28. Approach Permit: ***Prior to final plat***, an approach permit shall be approved by the City of La Pine Public Works Department for the new access driveway to serve the proposed properties.
29. Fire Code Requirements: ***Prior to final plat***, the applicant must demonstrate compliance with the entirety of the Deputy State Fire Marshall's requirements.
30. Utilities: ***Prior to final plat***, 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.
31. As Built Plans: ***Prior to final plat***, 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.

PRIOR TO ISSUANCE OF BUILDING PERMITS

32. 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.
33. 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 permit for each constructed or placed dwelling, and County building permits must be obtained prior to initiating the proposed development.

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 12TH DAY FOLLOWING MAILING OF THIS DECISION.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

A handwritten signature in black ink, appearing to read "Brent Bybee". The signature is fluid and cursive, with the first name "Brent" and last name "Bybee" clearly distinguishable.

Written By: Brent Bybee, Community Development Director