



CITY OF LA PINE, OREGON

PLANNING COMMISSION MEETING

Wednesday, August 18, 2021 at 5:30 PM
La Pine City Hall: 16345 Sixth Street, La Pine, Oregon 97739

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.

APPROVAL OF PRIOR MEETING MINUTES

- [1.](#) 06.16.21 Planning Commission Meeting Minutes

PUBLIC HEARINGS

All public hearings will follow the following procedure:

- | | | |
|------------------------|--------------------------|------------------|
| A. Open Public Hearing | D. Open Public Testimony | G. Close Hearing |
| B. Staff Report | E. Applicant Rebuttal | |
| C. Applicant Testimony | F. Deliberations | |

- [2.](#) 01 SUB-21 West Pine Landing Staff Report

- [3.](#) 02SUB-21 Finley Butte Ranch Staff Report

NEW BUSINESS

OLD BUSINESS

OTHER MATTERS

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

PUBLIC COMMENTS

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 Meeting to consider or discuss additional subjects. This meeting is subject to cancellation without notice. The regular meeting is open to the public and interested citizens are invited to attend.



CITY of LA PINE PLANNING COMMISSION MINUTES

Wednesday, June 16, 2021

5:30 p.m.

16345 Sixth Street, La Pine, Oregon 97739

1. Call to Order:

The meeting was called to order at 5:30 p.m. by Russell Smith.

2. Establish Quorum:

A quorum was established. There were no additions to the agenda.

Members Present: Russell Smith, John Cameron, Teri Myers, Mary Hatfield, Jeannine Earls.

Members Absent: None.

Staff Present: Geoff Wullschlager, City Manager, Alexa Repko, Assistant Planner, Stacie Skeeters, Account/Utility Clerk.

Pledge of Allegiance:

Approve Minutes from 05.19.21:

Teri Meyers made a motion to approve the meeting minutes from the meeting held on May 19th, 2021. The motion was seconded by Mary Hatfield and carried by a unanimous voice vote.

3. Determination of Positions:

- The Planning Commission discussed Russ Smith's position as acting Chair.
- Geoff Wullschlager explained the duties of the Vice Chair and Chair.
- Russ Smith asked the Planning Commission to vote for Russ as Chair. All in favor, Russ abstained.
- John Cameron nominated Teri Meyers for Vice Chair. Russ Smith seconded the vote. No objections.
- Russ Smith asked Planning Commission to vote for Teri Meyers as Vice Chair. All in favor, Teri abstained.

4. Public Hearing Preparation:

Alexa explains future hearings.

Geoff goes over reason for public hearing.

Geoff goes over public hearing script.

Russ asks about public comment time limit, 3 minutes.

Alexa asks about ex parte contact.

Geoff explains ex parte contact.



Geoff goes over public comment requirements.
Geoff explains LUBA.
Geoff asks PC to review.

Item #1.

5. Land Use Updates:

Alexa Repko also gave a brief update on the following applications:

Completed:

- Conditional Use Permit on 16345 First Street for a manufactured dwelling
- Final Plat on 51430 Hinkle Way for Pine Landing Subdivision
- Lot Line Adjustment on 51340 Highway 97 for Deschutes County
- Partition on 16528 Sly Drive for three lots

Pending:

- North Pine Village: Site Plan, Partition, Zone Change
- Kerbow Partition

Geoff Wullschlager discussed the details of the North Pine Village Zone Change application as well as the Industrial RFP.

6. Staff Comments

None.

7. Adjourn

Meeting adjourned at 6:15 P.M by a unanimous vote.



16345 Sixth Street — PO Box 2460
La Pine, Oregon 97739
TEL (541) 536-1432
www.lapineoregon.gov

**CITY OF LA PINE PLANNING DIVISION
Staff Report to Planning Commission**

FILE No. 01SUB-21

**OWNER/
APPLICANT:** Robert Marx
688 Kinoole Street #105
Hilo, HI 96720

ENGINEER: Sun Country Engineering, Inc.
920 SE Armour Drive
Bend, OR 97702

**LAND USE
CONSULTANT:** Chris Schmoyer, Principle Planner
Schmoyer Land Use Consulting, LLC
60939 Zircon Drive
Bend, OR 97702

LOCATION: The subject properties are identified as Tax Lot 2400 and 2500 on the Deschutes County Tax Assessor Map 22-10-14BD and have assigned addresses of 51411 and 51425 Hinkle Way, La Pine.

REQUEST: The applicant is requesting approval of a Tentative Plan for a 9-lot residential subdivision in the Residential Single-Family (RSF) Zone.

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA:

City of La Pine Development Code

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 15.406 Subdivisions and Planned Unit Developments (PUD)
- Chapter 15.418 Processing and Recording Procedures

City of La Pine Transportation System Plan

II. INTRODUCTION

The proposed 9-lot subdivision is on Hinkle Way, south of the Newberry Business Park. Staff recommends several conditions of approval at the end of the staff report, for compliance with the La Pine Development Code. Comments from City Public Works and Engineering are incorporated in this staff report. At the time of drafting the staff report, no public comments had been received.

III. FINDINGS OF FACT:

LOCATION: The subject properties are identified as Tax Lot 2400 and 2500 on the Deschutes County Tax Assessor Map 22-10-14BD and have assigned addresses of 51411 and 51425 Hinkle Way, La Pine. The property is located on the west side of Hinkle Way and is north of Finley Butte Road and south of William Foss Road. The subject property is identified in the figure below.



ZONING: The subject property is zoned Residential Single Family Zone (RSF) and Residential Single Family Zone (RSF) on the La Pine Comprehensive Plan Map.

SITE DESCRIPTION: The subject properties are approximately 2.27 acres in size and rectangular in shape. The properties are currently vacant and the topography is relatively level supporting a cover of pine trees with native underbrush. The subject property is located outside of any FEMA designated floodway and/or floodplain, and no mapped wetlands are on site. The property abuts Hinkle Way, a public right-of-way that is classified as an Industrial Collector in the La Pine Transportation System Plan and maintained by Deschutes County.

SURROUNDING USES: Surrounding properties are all within the RSF Zone as well, the majority of which are residentially developed. To the south and east are residential lots within the Hinkle Park and Wheeler Ranch Phase 2 subdivisions. These lots are of a similar size and configuration to those proposed. To the west are developed and vacant properties slightly over one acre in size. The property to the north is 1.16 acres and is residentially developed as well. Approximately 200 feet south is the Finely Butte Park/Audia Park.

LOT LEGALITY: Pursuant to Section 15.304.020(A), the subject properties are legal lots of record as they are Lot 5 & 6 of the Hinkle Road Tracts Phase 1 subdivision, recorded as County Survey 14106 on July 3, 2000.

PUBLIC NOTICE AND COMMENTS: The City of La Pine sent notice of the application to the Planning Commission, City Council, and to the property owners within 100 feet of the subject property on 7/29/21. Notice was published the local paper, Wisebuys, on 8/3. Notice was also posted on the City website. No public comments were received. The City will mail the notice of decision to the same distribution list.

AGENCY/DEPARTMENT COMMENTS: The City of La Pine requested review and comments from the following departments: City Fire Chief, ODOT, Republic Services, Deschutes County Building Division, Deschutes County Road Department, City Engineer, Public Works Department, and the Office of the State Fire Marshal. All comments received are incorporated herein.

IV. APPLICATION OF THE CRITERIA:

CONFORMANCE WITH CITY OF LA PINE ZONING ORDINANCE

Article 3. Zoning Districts

- **Chapter 15.18 Residential Zones**

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 assure 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,

Variations. 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 (1)	5 units per acre
Maximum density	7 units per acre (2)	40 units per acre
Minimum lot size	None	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.
Minimum street frontage	50 feet 35 feet on cul-de-sac street 25 feet for townhomes	50 feet 35 feet on a cul-de-sac street 25 feet for townhomes
Minimum setbacks	--	--
- Front or street-side yard	20 feet	20 feet
- Side yard	10 feet None for townhomes	10 feet None for townhomes
- Rear yard	20 feet	20 feet
Maximum building height	45 feet	45 feet
Maximum lot coverage	75% for townhomes 50% for all other uses	75% for townhomes 50% for all other uses
Minimum landscaped area	See Chapter 15.82	See Chapter 15.82

FINDING: Per the Applicant’s Burden of Proof and tentative plan, the Applicant is proposing a density of approximately 4 dwelling units per acre (9 lots/2.27 acres), well within the range of 1 to 7 units per acre requirement as specified above. Every proposed lot has at least 58 feet of street frontage. As such, these requirements are satisfied.

The proposed lot sizes range between 6,699 and 7,308 square feet and are of a large enough size to accommodate dwellings and garages, as well as accessory structures, and comply with the front side and rear setbacks and maximum lot coverage requirements. Compliance with setbacks, lot coverage and building height will be verified for compliance during the building permit review process for the development of each lot. Pursuant to 15.82.010, minimum landscape areas do not apply to single-family dwelling construction. The proposed tentative plan complies, or can comply upon development, with the standards of this section.

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: The Applicant’s Burden of Proof states that the proposed subdivision is designed to comply with all applicable development standards for the RSF Zone. No buildings are proposed as part of this application. Future development will be reviewed in detail for conformance as applicable to Building Codes during the building permit review process.

Article 5. Development Standards

- **Chapter 15.80 Development Standards, Generally**

15.80.010 Purpose

Article 5 contains development and design standards for the built environment. The standards are intended to protect the public health, safety, and welfare through the provision of landscaping and buffering, parking and loading facilities, multimodal accessibility and interconnectivity, and adequate public facilities.

In interpreting and applying this title, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

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 Code, other city ordinances, or state statutes or administrative rules may also apply.

FINDING: The application is for subdivision, which is by definition a land division. As such, the standards of Chapter 15.80 are applicable and are reviewed herein. In addition, future development will be reviewed in detail for conformance as applicable to building codes during the building permit review process.

15.80.030 Exemption - Lot Size Requirements

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

- a. 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.
- b. 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: Per Table 15.18-2 — Development Standards in the Residential Zones, there is no minimum lot size requirement for the RSF zone, except as determined based upon maximum density requirements. The proposal meets the density and lot size requirements. No other exemptions apply.

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 ordinance, or as otherwise approved by the city.

FINDING: No buildings are proposed at this time, but future buildings and structures will be reviewed for conformance with the Development Code when specific development is proposed. Lots shall comply with dimensional and setback requirements as required by this decision and applicable sections of the Development Code.

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 1 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 1 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 buildings are proposed at this time, but future buildings and structures will be reviewed for conformance with the Development Code when specific development is proposed.

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 anytime, 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: The Applicant has not indicated any proposed use of metal containers.

Article 5. Development Standards
• **Chapter 15.88 Access and Circulation**

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.

15.88.020 Applicability

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

FINDING: The proposed subdivision is new development and necessitates the construction of new streets. As such, Chapter 15.88 applies.

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: This standard can be met through a condition of approval requiring approach permits to be secured. The proposed lots will access City streets and driveways will be reviewed through the building permit process. If driveway access permits are required at the time of building permit application, they shall be reviewed and approved prior to release of building permits.

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 Code.

FINDING: Due to minimal traffic volumes from this proposed 9-lot subdivision, a traffic study was not required.

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.

- a. Access points to arterials and collectors may be restricted through the use of the following techniques.
 - i. Restricting spacing between access points based on the type of development and the speed along the serving collector or arterial.
 - ii. Sharing of access points between adjacent properties and developments.
 - iii. 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.
 - iv. Constructing frontage or marginal access roads to separate local traffic from through traffic.
 - v. Providing service drives to prevent overflow of vehicle queues onto adjoining roadways.

- b. Consideration of the following traffic and facility improvements for access management.
 - i. Providing of acceleration, deceleration and right-turn-only lanes.
 - ii. Offsetting driveways to produce T-intersections to minimize the number of conflict points between traffic using the driveways and through traffic.
 - iii. Installation of median barriers to control conflicts associated with left turn movements.
 - iv. Installing side barriers to the property along the serving arterial or collector to restrict access width to a minimum.

FINDING: The Applicant indicated that access management restrictions and limitation are not needed as the proposal is for a 9-lot subdivision that will only access local access roads.

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: No access to Highway 97, a state highway, is proposed nor is a change of use from a use that accesses the highway proposed. This criterion does not apply.

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: It does not appear that the proposed development will cross a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency. However, Hinkle Way is a County-maintained road, and approval for access to and modifications of the public right-of-way will require a permit from the County Road Department. This has been included as a condition of approval.

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 proposing any exceptions or adjustments. As such, this requirement does not apply at this time.

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 any joint use driveways. As such, this requirement does not apply at this time.

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 three and one-half 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.

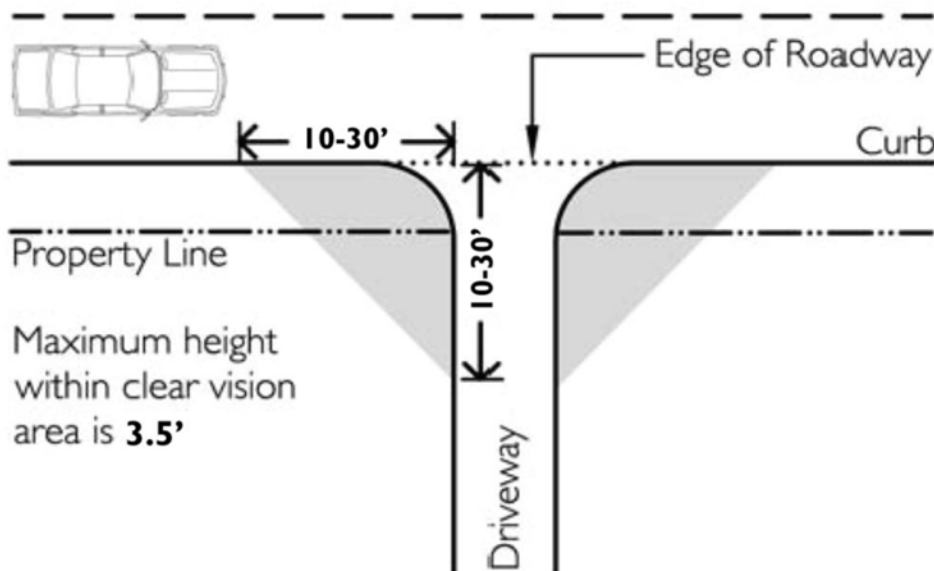
B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad (see Figure 18.88-1). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a 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, 10 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

Figure 15.88-1. Clear Vision Areas



FINDING: The Applicant has stated that clear vision standards can be provided for throughout the development of the subdivision. Street trees must be omitted in these clear vision areas, if necessary, to maintain a clear vision area. Accessible crossings must be provided at all intersections within the subdivision. These standards will be imposed as ongoing conditions of approval for a tentative plan.

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:

- a. **Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
- b. **Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:
 - i. The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of- direction travel.
 - ii. The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The City may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
 - iii. **Vehicle/Walkway Separation.** Except as required for crosswalks, per subsection 4, below, where a walkway abuts a driveway or street it shall be raised six inches and curbed along the edge of the driveway or street. Alternatively, the City may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
 - iv. **Crosswalks.** Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver- visibility of pedestrians.
 - v. **Walkway Construction.** Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other City-approved durable surface meeting ADA requirements. Walkways shall be not less than four feet in width, except that the City may require five- foot wide, or wider, sidewalks in developments where pedestrian traffic warrants walkways wider than four feet.
 - vi. **Multi-Use Pathways.** Multi-use pathways, where approved, shall be 10 feet wide and constructed of asphalt, concrete or other City-approved durable surface meeting ADA requirements consistent with the applicable City engineering standards.

FINDING: The Applicant stated in their submitted narrative, “Depicted on the submitted Tentative Plan is the location of proposed sidewalks within rights-of-way abutting all proposed lots in the subdivision. The pedestrian sidewalks, as designed, comply with applicable standards of this section as they provide

practical connectivity, as well as safe, reasonably direct, and convenient pedestrian access and circulation. The pedestrian sidewalk system extends throughout the development site and will connect to proposed new sidewalk along Hinkle Way where abutting the property, which will provide for future connection with a future sidewalk to south along the north side of Finley Butte Road. Additionally, the sidewalk system extends to the west and north property lines allowing for connectivity with future subdivisions on abutting properties. The sidewalk system within the subdivision have been designed to comply with this section and sidewalks can be constructed to comply with applicable City of La Pine standards." Criteria satisfied.

Article 5. Development Standards

- **Chapter 15.90 Public Facilities**

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.
- 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: The applicant proposes to construct all necessary streets, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the proposed subdivision in accordance with City of La Pine Standards and Specifications and/or the serving entity.

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

FINDING: The Applicant stated in their submitted narrative is proposing a half street, "Marx Lane". Marx Lane shall be constructed to a half street City standard which shall also be constructed to meet Oregon Fire Code standards and include 6 foot wide sidewalks along the south side, a stormwater drainage facility on the south side, 20 foot wide pavement, and a means to control stormwater on the north side. The right of way width on Marx Lane shall be 32 feet.

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: Staff verified adequate facilities during the pre-application meeting. Per City of La Pine Ordinance No 2015-05 Section 6.12, the property owner of all proposed parcels will be responsible for maintenance and repair of the sewer/septic system to the point where the building sewer is connected to a City sewer main. This responsibility includes any costs of maintenance, repair, damage, and/or injury. The owner will be liable for any damage to the City system caused by an act of the owner and/or its tenants(s), agent(s), employee(s), contractor(s), licensee(s), and/or permittee(s). If any break, leak, and/or other damage to a building sewer occurs, the owner of the property served by the building sewer will cause repairs to be made immediately to minimize any sewer spillage.

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 developer, applicant or builder shall contribute \$568.75 per EDU toward a fund for replacement of the Industrial Park lift station.

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: Drainage systems associated with the subdivision must be designed to comply with all applicable standards and specifications and provide capacity for all runoff generated on site. The Applicant notes that the proposed landscape swales in the right-of-way are designed to accommodate all anticipated drainage and run-off demands resulting from the development. Grading and drainage plans shall be submitted to the City Engineer for review and approval for compliance with this standard and City Public Works standards, prior to construction and prior to issuance final plat.

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.

FINDING: The Applicant noted in their burden of proof that they are prepared to coordinate the development plan with all applicable utility providers in accordance with this standard.

B. Underground Utilities. All new electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.

FINDING: The Applicant has stated in their Burden of Proof that all utilities serving the development will be provided by underground service. Criterion is satisfied.

C. Subdivisions. In order to facilitate underground placement of utilities, the following additional standards apply to all new subdivisions:

- a. 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.
- b. The City reserves the right to approve the location of all surface-mounted facilities.
- c. All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets.
- d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

FINDING: The applicant notes in their burden of proof that all utilities serving the development will be provided by underground service. They further state that measures will be taken to ensure that above ground equipment does not obstruct vision clearance areas for vehicular traffic. Compliance with 15.90.050 (C)(1) through (4) can be ensured through a conditions of approval that all construction and utility plans be reviewed by the City Engineer and Public Works Manager prior to any construction.

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: An exception to the undergrounding standard is not anticipated by the applicant and has not been requested.

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 Code.

- A. Installation of additional and/or passing lanes, including pedestrian ways and/or bikeways, within a public street or highway right-of-way existing as of the effective date of this chapter, unless such adversely impacts on-street parking capacities and patterns.
- B. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, and/or no new land parcels result.
- C. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time when no longer needed.
- D. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations, waysides, and, rest areas within a right-of-way existing as of the effective date of this Code. In addition, also exempt are contiguous public-owned property utilized to support the operation

and maintenance of public roads and highways provided such is not located within a duly designated Residential Zone, or adjacent to or across the street from a lot or parcel within such a zone.

- E. The construction, reconstruction, or modification of a public street or highway that is identified as a priority project in a transportation system plan (TSP) or the State Transportation Improvement Plan (STIP) that was duly adopted on or before the effective date of this chapter.
- F. The design, construction, operation, and maintenance of a tourist-oriented or public wayside.

FINDING: Items 15.90.060 (A) through (F) are not applicable to the proposed Subdivision.

15.90.070 Design of Streets and Other Public Facilities

A. Traffic circulation system. The overall street system shall assure 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 there from 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: Due to the size and configuration of the subject property and the resulting number of lots, only a single new full street is proposed. It is proposed to meet Hinkle Way at an approximate right angle and at relatively flat grades. The new street is proposed to be constructed to the City's TSP requirements for a local street. A trip generation report was submitted, indicating generation of a total of 10 trips in the weekday PM peak hour. As these limited number of trips are not anticipated to have a significant effect on any area roadways, a traffic analysis was not required.

- B. Street location and pattern.** The proposed street location and pattern shall be shown on the development plan, and the arrangement of streets shall:
- a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - b. 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
 - c. Conform to the adopted La Pine Transportation System Plan as may be amended.

FINDING: The Applicant stated in the submitted narrative, "The proposed location and pattern of proposed streets are not adversely affected. As depicted on the tentative plan, the street grid proposed is of a simple and practicable design consisting of one street extending from Hinkle way that terminates in at the west property line (Ascha Lane) and a second street (Marx Road) that extends northward from Ascha Lane terminating at the north property line. These streets are designed to provide for sufficient emergency vehicular access and a sufficient turn around can be constructed on either one of the northern lots until the street is extended, as these streets also provide for future connectivity to abutting properties."

The initial street location and pattern has been revised by the City Engineer as well as the Applicant's Engineer to meet these standards. A "new road" is proposed through the north and south boundary of

the subdivision with a half street, "Marx Lane" at the northern end and an alley at the southern end. With the Conditions of Approval noted herein, the new proposed streets will conform to the TSP.

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 10 feet wide and shall contain a minimum six-foot-wide paved surface or other all-weather surface approved by the City. Access ways shall be contained within a public right-of-way or public access easement, as required by the City.

FINDING: The Applicant stated in the submitted narrative, "No cul-de-sacs are proposed. All proposed streets are designed for connectivity. Access ways as described in this standard are not applicable to the proposed subdivision." Criteria satisfied.

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: The Applicant did not submit a future street plan in conjunction with the application, as required by this section.

East: The properties to the east are approved to be developed residential lots within the Pine Landing subdivision that obtain access from Hinkle Way. As these lots are going to be developed as there is no adjoining divisible land or right-of-way, no future street extension to the east is required.

West: The properties to the west are developed residential lots on Evans Way. As these lots are already developed and there is no adjoining divisible land or right-of-way, no future street extension to the west is required.

North: The property directly north of the subject property (Tax Lot 1700) is developed as a residential lot. As this lot is already developed and there is no adjoining divisible land or right-of-way, no future street extension to the south is required.

South: The properties to the south are developed residential lots within the Hinkle Park subdivision that obtain access from Ascha Court and Hinkle Way. As these lots are already developed and there is no adjoining divisible land or right-of-way, no future street extension to the south is required.

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: Below is Table 4-4 excerpted from page 61 and cross sections from pages 64-65 of the La Pine TSP identifying Roadway Cross-Section Standards:

Roadway Cross Section Standards

Table 4-4 presents the dimensional standards for the five proposed functional classifications in La Pine.

Functional Classification	Features/Dimensions (Each Direction)					Left Turn Lane/ Median	Total Paved Width	Total Right-of-Way Width
	Travel Lane	Bike Lane	On-Street Parking	Sidewalk	Planter Strip			
Arterial	12'	6'	None	6'	8'	Left-Turn Lanes, 14'	36' to 50'	78'
Major Collector	11'	6' ¹	7' ²	6'	8'	None	34 ¹ - 48'	76'
Local Street	11'	None	7'	6'	8'	None	36'	64'
Downtown Arterial	12'	6'	Optional, 7'	8'	8'	Optional Landscaped Median, 14'	50'	82'
Minor Collector	11'	6'	None	6'	8'	None	34'	62'
Industrial Collector	14'	6'	None	6'	None	None	40'	52'

¹ On low volume, low speed (>30 mph) facilities, alternative bicycle facilities can be considered at the discretion of the City
² On-street parking provide adjacent to commercially zoned properties

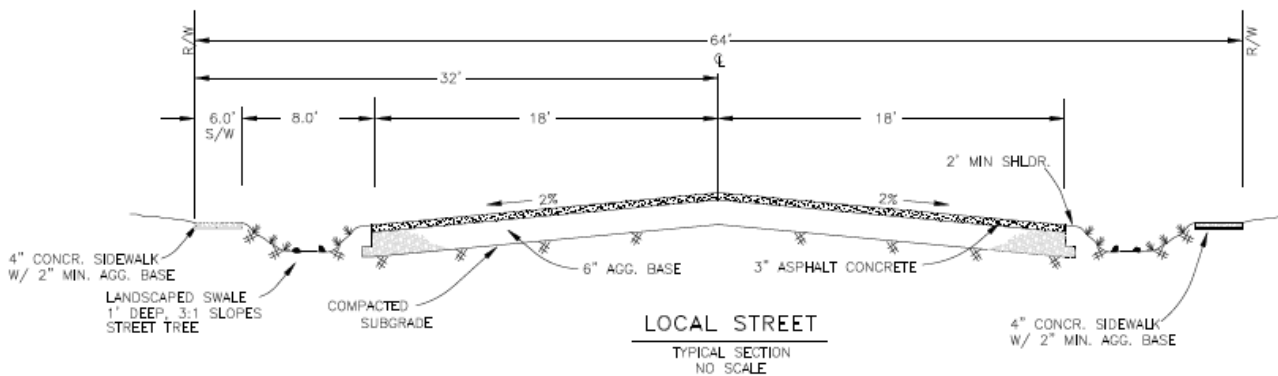
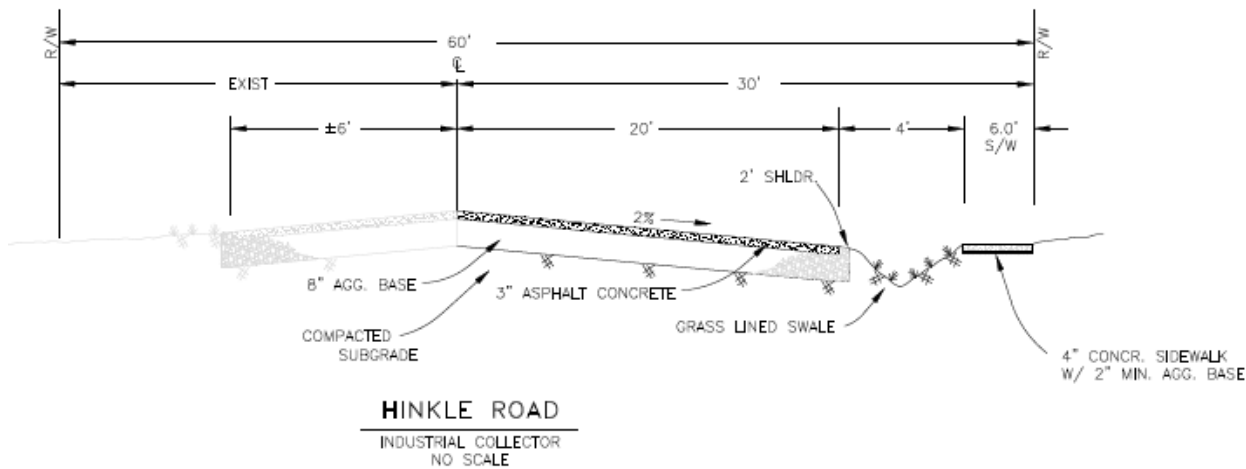
Table 4-4 Roadway Cross-Section Standards



Industrial Collector



Hinkle Way is classified as an Industrial Collector while the proposed new road will be designated as a local road. The street labeled "New Road" shall be constructed to City of La Pine local street standards. The right of way width on New Road shall be 64 feet.



The Applicant proposes utilizing an 8-foot landscape strip along the local street for storm drainage and street trees. Minimum right-of-way and roadway widths, including street, sidewalk, and surfacing widths, comply with the minimum widths set forth in the La Pine Transportation System Plan, and the Applicant

states that they will be constructed in conformance with applicable standards and specifications set forth by the City of La Pine. Construction plans and landscaping plans shall be submitted to the City for review prior to construction.

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

FINDING: The Applicant stated in their submitted narrative, "As depicted on the submitted Tentative Plan, the local street cross section identifies a 6-foot-wide, property-tight sidewalk on each side of the proposed local street rights-of-way abutting all proposed lots". 6-foot sidewalks and street trees shall be constructed along Hinkle Lane along the project frontage.

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: Bike lanes are not required on the new local streets per the La Pine Transportation System Plan (Table 4-4 above), as cyclists can use the roadway surface of the proposed local street network. Industrial Collectors require 6-foot bicycle lanes. The applicant's submitted road sections do not indicate bicycle lanes, but do demonstrate adequate paved width to accommodate a bicycle lane. As Hinkle Way has no lane markings or other surface paint, it appears the width to accommodate vehicles and cyclists is adequate. Should the Planning Commission wish to require lane markings, this can be included as a condition of approval.

H. Cul-de-sacs. 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:

- a. 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.
- b. 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.
- c. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle access way between it and adjacent developable lands.

FINDING: The proposal does not include any cul-de-sacs. Criterion doesn't apply.

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 subject property does not abut any arterial streets. This criterion does not apply.

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: Standards in 15.90.070 (J) are not applicable to the proposed subdivision.

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

FINDING: Reserve strips or street plugs have not been proposed.

L. Alignment. All streets, as far as practicable, shall be in alignment with existing streets by continuations of the centerlines 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.

FINDING: Due to the existing development and street pattern, this criterion does not apply.

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.

FINDING: Proposed streets intersect at right angles, in compliance with this criterion.

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 8% on arterials, 10% on collectors and 12% 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 6% to provide for proper stopping distance during inclement weather conditions.

P. Street names. Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the city or within a radius of six miles

of the city or within the boundaries of a special service district such as fire or ambulance. Such street names shall be approved by the Deschutes County street name coordinator.

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

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: The Applicant states that the development of the subdivision will comply with the above standards 15.90.070 (N) through (R) where applicable. The existing topography of the subject property does not contain any severe slopes. Actual curves, street grades, street names, signage and other traffic control devices will be reviewed through Construction Document review by the City Engineer. Prior to construction, Applicant shall submit construction documents to the City for review and approval.

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: The 20' alley shall be constructed with 20 foot wide pavement to meet Oregon Fire Code requirements. The alley also shall have stormwater facilities to contain stormwater runoff from flowing to adjacent properties.

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

FINDING: This standard allows the City Engineer to waive curb requirements during tentative plan review on the basis of special circumstances. Curbs are not proposed with the subdivision, rather, a landscape swale and vegetation is proposed. Landscape swales containing street trees and vegetation can provide improved drainage capacity and flow during times of snow melt and heavy rains, if the grading is designed appropriately. The applicant also states that this streetscape design is consistent with the nearby approvals for development.

Concentrated flow created by curb lines requires point containment and disposal, which can be less effective in areas of higher groundwater, such as the subject property. Conversely, vegetated swales allow the storm waters to dissipate over a greater area, causing fewer areas of storm water concentration. Additionally, the Applicant notes that areas between street trees can provide for much-needed snow storage during excessive winter storms, when curbs can also be obscured by snow. The street trees and vegetation within the swales will also provide a higher level of class to the Subdivision than curbs. The La Pine TSP allows for flexibility or variation to street sections. Specifically, page 62 of the TSP provides (excerpted):

Context-Sensitive Variation

The street sections in the City of La Pine vary depending on whether they are located downtown core areas, residential sections, commercial hubs, or more rural environments.

Context-specific considerations include:

- *Planter strips outside urbanized areas are optional, due to maintenance costs.*
- *Constrained roadways in more rural areas can be designed with shoulders to accommodate bikes and pedestrians when the right-of-way is limited.*
- *On-street parking can be provided or not provided based on the context of the area being served.*
- *Curbs should be included in the downtown core area. However, they may be optional in areas outside the downtown core when drainage issues warrant such consideration.*

...

Based on the above, the location of the proposed project being in an outlying area of the city, with no curbed streets in the vicinity, curbs may not be necessary for the proposed subdivision and the applicant proposes the landscape swales as depicted on in the local street cross section illustrated on the submitted Tentative Plan are more appropriate, efficient, and effective in this area.

The City Engineer has not specifically approved the street design without curbs. Staff suggests that prior to construction, the applicant shall submit construction documents including the presence of special circumstances to the City for review and approval of the curb-less street design.

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 (1) fixture and be located at the intersection of streets.

FINDING: The proposed Tentative Plan does not include any street lighting. Street lights shall be required at the street intersection of Hinkle Way and Marx Lane, per City design standards.

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: The applicant will be responsible for making the necessary arrangements with all applicable utility companies serving the subdivision for installation. The demonstrate feasibility, prior to approval of the final plat, the developer shall submit letters from relevant utility providers indicating the utility is willing and able to serve the proposed subdivision.

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

FINDING: The applicant notes that the proposed drainage swales will be in accordance with applicable standards. Prior to construction, applicant shall submit construction plans and stormwater calculations to the City Engineer for review and approval. With this condition, this criterion is satisfied.

X. Gates. Except where approved as part of a Master Planned Development, private streets and gated drives serving more than two dwellings (i.e., where a gate limits access to a development from a public street), are prohibited.

FINDING: Gates are not proposed as part of the subdivision.

15.90.080 Traffic Impact Analysis

A. Purpose. The purpose of this subsection is 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:

- a. A change in zoning or a plan amendment designation;
- b. Operational or safety concerns documented in writing by a road authority;
- c. An increase in site traffic volume generation by [300] Average Daily Trips (ADT) or more;
- d. An increase in peak hour volume of a particular movement to and from a street or highway by [20] percent or more;
- e. An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;
- f. 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;
- g. A change in internal traffic patterns that may cause safety concerns; or
- h. 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.

FINDING: The submitted trip generation letter indicates that the proposed subdivision will result in 10 weekday PM peak hour trips and 94 ADT. This ADT is well under the threshold to require a TIA and the peak hour trips are small enough that no significant impacts are anticipated. As such, the submittal of a Transportation Impact Analysis (TIA) was not required.

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 (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.

- a. The standard improvement conflicts with an adopted capital improvement plan.
- b. The standard improvement would create a safety hazard.
- c. 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.
- d. 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: Applicant does not propose deferral of street improvements. These criteria do not apply.

Article 5. Development Standards

- **Chapter 15.92 Additional Standards for Land Divisions**

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 stated in their submitted narrative, "As evident from the submitted Tentative Plan, the proposal is for a 9-lot subdivision that includes a new east-west street extending from Hinkle Way through the property to the west property line that is located along the south property line of the subject property. Block length from Marx Lane to Finley Butte Road to the south is approximately 100 feet, therefore, block length requirements are met.

Being an infill project with properties to the west and north having no east-west streets, the block perimeter maximum cannot be met. The subject property does not abut an arterial street, thus, criterion (2) above is not feasible, thus is inapplicable. Criterion (3) is met as the block is of sufficient width to provide two tiers of building sites. The subdivision as proposed does include an east-west street, as well as a north-south street, that will provide opportunities for future compliance with block perimeter upon development of abutting and nearby properties. The subdivision complies with the block length requirements above and with block perimeter requirements to the extent possible." Criteria satisfied.

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 proposed lot size, shape and orientation are appropriate for the intended residential development and are consistent with the RSF Zone. There are no topographical constraints imposed by the terrain of the subject property as the entire site is relatively featureless and flat. As such, this criterion is satisfied.

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 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 proposed lots will abut a public street for a width in excess of 50 feet. This standard 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: The Applicant stated in the submitted narrative, "All side lines of proposed lots are at right angles to the street upon which they front. The submitted tentative plan demonstrates that all lots are designed to comply with this standard." Criteria satisfied.

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 submitted tentative plan does not propose a division by boundary, ROW or drainage way.

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.

- a. 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.
- b. Cut slopes shall not exceed one foot vertically to one and one-half feet horizontally.
- c. Fill slopes shall not exceed one foot vertically to two feet horizontally.
- d. 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.
 - i. 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.

- ii. 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.
- iii. 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 subject property is relatively flat, and no significant cut or fill are proposed. The Applicant notes that grading for infrastructure installation associated with preparation for development of the proposed lots can comply with these requirements. These provisions can be reviewed in detail for conformance as applicable to Building Codes during the building permit review process.

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

FINDING: The Applicant stated in their submitted narrative, "Lots 1 through 5 are double frontage lots as they front along both Hinkle Way and Marx Road. Vehicular access to the double frontage lots will be taken from Marx Road, as access from Hinkle Way (Industrial Collector) is prohibited, hence requiring double frontage. A planting screen easement as discussed above is not needed due to the low volume of traffic along Hinkle Road and because there are no abutting incompatible uses. Double frontage lots as designed are acceptable for the proposed subdivision." Criteria satisfied.

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: Special building setback lines are not proposed as part of the subdivision.

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: This standard is not applicable as the subdivision does not include large lots where future redivision is likely or possible.

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 10 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 5 feet in width.

FINDING: The submitted tentative plan is generally designed with lots large enough to accommodate utility easements in accordance with this section.

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 storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further widths as deemed necessary.

FINDING: The applicant notes in their burden of proof that no watercourses traverse the subject properties. As such, this standard is not applicable.

C. Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than 10 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 5-foot wide paved or other suitable surface will be required.

FINDING: No additional pedestrian or bicycle way is required.

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 depicted on the Tentative Plan, sewer and water lines will be provided within the rights-of-way of the local streets within the subdivision. No sewer or water easements are anticipated at this time.

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.

B. Within a development, or adjacent to a development in contiguous property owned by the developer, a parcel of land of not more than 5% of the gross area of the development may be required to be set aside and dedicated to the public for parks and recreation purposes by the developer. The parcel of land, if required, shall be determined to be suitable for the park and/or recreation purpose(s) intended, and the city may require the development of the land for the park or recreation use intended or identified as a need within the community.

- C. In the event no such area is available that is found to be suitable for parks and/or recreation uses, the developer may be required, in lieu of setting aside land to pay to the appropriate parks and recreation agency a sum of money equal to the market value of the area required for dedication, plus the additional funds necessary for the development thereof if so required; if such is required, the money may only be utilized for capital improvements by the appropriate parks and recreation agency.
- D. If there is a systems development charge in effect for parks, the foregoing land and development or money dedication (if required) may be provided for in lieu of an equal value of systems development charge assessment if so approved by the collecting agency in accordance with the applicable provisions of the system development charge ordinance. If the collecting agency will not permit the land or money dedication in lieu of an applicable systems development charge, then the land and development or money dedication shall not be required.

FINDING: The City has not identified any need to acquire a portion of the proposed development for any other public purpose besides right-of-way for transportation, access, and utilities, nor is there a systems development charge in effect for parks.

- E. If the nature and design, or approval, of a development is such that over 30% of the tract of land to be developed is dedicated to public uses such as streets, water or sewer system facilities and the like, then the requirements of this subsection shall be reduced so that the total obligation of the developer to the public does not exceed 30%.

FINDING: The proposed subdivision does not appear to meet the 30% threshold.

Article 5. Development Standards

- **Chapter 15.94 Improvement Procedures and Guarantees**

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 therefore have been reviewed and approved by the City or a designated representative thereof. The review and approval shall be at the expense of the developer.
- B. Modification.** Improvement work shall not commence until after the City has been notified and approval therefore has been granted, and if work is discontinued for any reason, it shall not be resumed until after the City is notified and approval thereof granted.
- 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.
- 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.

- 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.
- 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: Construction plans shall be submitted to the City for review and approval prior to construction. These above requirements for utilities, improvement construction, inspections and as built plans are recommended conditions of approval.

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.
- B. Bond or other performance assurance.** The developer shall file with the agreement, to assure 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.
- a. 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.
 - b. 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.
 - c. Cash deposit.
 - d. Such other security as may be approved and deemed necessary by the City Council to adequately assure completion of the required improvements.
- C. Amount of security required.** The assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20% 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: The Applicant plans to install and construct all required infrastructure improvement as required. For informational purposes, and as approved by the City Engineer, public improvements must be constructed prior to final plat, or an approved performance assurance mechanism and associated improvement agreement with specific construction times outlined, may be filed with the City for construction of items not necessary for safety or required connectivity. All such agreements shall be reviewed and approved by the City Engineer and shall be in compliance with LPDC 15.94.020.

15.94.030 Building and Occupancy Permits

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

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

FINDING: These shall be a condition of approval. Prior to issuance of building permits or sale/occupancy of any lot, all lots shall be served by sewer and water service and streets shall be constructed/improved as required by this decision and approval of construction plans by the City Engineer.

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% 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: This is a recommended condition of approval. Prior to sale and/or occupancy of any lot and as a condition of acceptance of the improvements, the applicant shall submit to the City a one-year maintenance surety bond in an amount not to exceed 10% 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.

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.

FINDING: While this need is not anticipated, the applicant acknowledges the possibility of the provisions of this section in their burden of proof.

Article 7. Procedures

- **Chapter 15.204 Application Procedures**

15.204.030 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 that prior to becoming effective, all quasi-judicial Comprehensive Plan amendments and Zone changes shall be adopted by the City Council. In considering all quasi-judicial Comprehensive Plan amendments and Zone changes on which the Planning Commission has authority to make a decision, the City Council shall, in the absence of an appeal or review initiated by the Council, adopt the Planning Commission decision. No argument or further testimony will be taken by the Council.

A. Application Requirements.

- a. Application Forms.** Applications requiring Quasi-Judicial review shall be made on forms provided by the City Planning Official.
- b. Submittal Information.** The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - i. The information requested on the application form;
 - ii. Plans and exhibits required for the specific approval(s) being sought;
 - iii. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - iv. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
 - v. The required fee; and
 - vi. Evidence of neighborhood contact, as applicable, pursuant to Section 15.202.050.

FINDING: The Applicant submitted an application, tentative plan, burden of proof, fee, and supporting materials required for Type III review of a Preliminary Plat for a Subdivision. The application requirements were met.

B. Mailed and Posted Notice of a Public Hearing.

- a. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. 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. Notice shall be mailed to:

- i. The applicant;
 - ii. 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;
 - iii. The owner of a public use airport if the airport is located within 10,000 feet of the subject property;
 - iv. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park;
 - v. The Planning Commission;
 - vi. Any neighborhood or community organization formally recognized by the City Council, whose boundaries include the site;
 - vii. Any person who submits a written request to receive a notice; and
 - viii. 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 Code.
- b. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 10 days prior to the hearing
 - c. At least 14 days before the first hearing, the City shall post notice of the hearing on the project site in clear view from a public right-of-way.
 - d. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:
 - i. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
 - ii. The date, time, and location of the scheduled hearing;
 - iii. The street address or other clear reference to the location of the proposed use or development;
 - iv. A disclosure statement 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 City Council,

Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;

- v. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
- vi. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- vii. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- viii. A statement that after the public hearing 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: Notice of the public hearing was sent to neighbors within 100 feet and to the City's agency notification list on 7/29/21. The notice followed the City's standard notice format for a quasi-judicial land use application and included the above required elements. Notice was posted on site and in the local paper (Wise Buys) in the 8/3/21 edition in compliance with these requirements.

C. Setting the hearing.

- A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the City staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with Subsection G.
- B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120-day time limit set forth in Section 15.202.020.

FINDING: The hearing date was set for August 18, 2021. Continuances may be allowed in accordance with subsection (G) below.

D. Ex Parte Contact, Personal Knowledge and Bias.

- a. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the parties in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

Prior to making a decision, the Hearings Body or any member thereof shall not communicate directly or indirectly with any party or his representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication whether written or oral occur, the Hearings Body member shall:

- i. Publicly announce for the record the substance of such communication; and
 - ii. Announce the parties' right to rebut the substance of the ex parte communication during the hearing. Communication between City staff and the Hearings Body shall not be considered to be an ex parte contact.
- b. If the Hearings Body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the Hearings Body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record. For the purposes of this section, a site visit by the Hearings Body shall be deemed to fall within this rule. After the site visit has concluded, the Hearings Body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.
- c. Prior to or at the commencement of a hearing, any party may challenge the qualification of the Hearings Body, or a member thereof, for bias, prejudice or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the Hearings Body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear.

FINDING: The Planning Commission will host a hearing in accordance with these standards and will follow standard procedures, including disclosure of ex parte contact, personal knowledge and bias.

E. Conduct of a Quasi-Judicial Public Hearing. A hearing shall be conducted as follows:

- a. The Hearings Body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
- b. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
- c. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.
- d. Challenges to the Hearings Body's qualifications to hear the matter shall be stated and challenges entertained.
- e. The Hearings Body shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue.
- f. Order of presentation:

1. Open the hearing.
 2. Staff report.
 3. Proponents' presentation.
 4. Opponents' presentation.
 5. Proponents' rebuttal.
 6. Opponents' rebuttal may be allowed at the Hearings Body's discretion.
 7. Staff comment.
 8. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.
 9. Close the hearing.
- g. The record shall be available for public review at the hearing.
 - h. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the record.
 - i. Throughout all local land use proceedings, the burden of proof rests on the applicant.
 - j. Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous hearing on the subject application. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

FINDING: These hearing procedures will be followed.

F. Close of the record.

- a. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.
- b. If the hearing is continued or the record is held open under Subsection G, further evidence or testimony shall be taken only in accordance with the provisions of Subsection G.
- c. Otherwise, further testimony or evidence will be allowed only if the record is reopened under Subsection H.
- d. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day time limit for decision.

G. Continuances or record extensions.

- a. Grounds.
 - i. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding suspension of the 120 day limit for decision. If a continuance request is made after the published or mailed

notice has been provided by the City, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.

- ii. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:
 - i. Where additional documents or evidence are submitted by any party; or
 - ii. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (i), "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

- iii. The grant of a continuance or record extension in any other circumstance shall be at the discretion of the Hearings Body.
- b. Continuances.
- i. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.
 - ii. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.
 - iii. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.
- c. Leaving record open. If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 14 additional days, allowing at least the first seven days for submittal of new written evidence or testimony and at least seven additional days for response to the evidence received while the record was held open. Written evidence or testimony submitted during the period the record is held open shall be limited to evidence or testimony that rebuts previously submitted evidence or testimony.
- d. A continuance or record extension granted ... shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day time limit is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

H. Reopening the record.

A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. The Hearings Body shall not reopen the record at the request of an applicant unless the applicant has agreed in writing to a suspension of the 120-day time limit.

B. Procedures.

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record shall be at the discretion at the Hearings Body.
2. The Hearings Body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

FINDING: The procedures for closing the record, continuing the record, and reopening the record will be followed.

I. **Notice of Quasi-Judicial Decision.** A Hearings Body's decision shall be in writing and mailed to all parties; however, one person may be designated by the Hearings Body to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants. The Notice of Quasi- Judicial 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 Planning Commission's decision to City Council pursuant to Subsection K or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

FINDING: Notice of the Planning Commission decision will be mailed in accordance with these procedures.

J. **Effective Date of Decision.** Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to Subsection K or unless the decision is called up for review by the City Council pursuant to Section 15.204.020(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, but any development that occurs during the pendency of appeals beyond the local level are at the sole risk of the applicant and the City may require execution of an instrument acknowledging such fact prior to issuance of any building permits.

FINDING: In accordance with this requirement, the effective date of the Planning Commission decision will be 12 days after the City mails the decision notice, unless an appeal is filed in accordance with Subsection K, or the decision is called up by Council for review. No building permits will be issued until the decision is final.

K. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:

- a. Who may appeal. The following people have legal standing to appeal:
 - i. The applicant or owner of the subject property; and
 - ii. Any other person who testified orally or in writing during the subject public hearing before the close of the record.
- b. Appeal filing procedure. Appeals shall be filed in accordance with Chapter 15.212.

FINDING: If the decision is appealed, these procedures must be followed.

Article 9. Land Divisions

- **Chapter 15.402 General Provisions**

15.402.010 Purpose

It is the purpose of this Article 9, in accordance with the provisions of ORS Chapters 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.

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 Chapters 92.012 and 277.100.

FINDING: The submitted application is for a Tentative Plan for a subdivision and is subject to the subdivision requirements and criteria of Article 9.

Article 9. Land Divisions

- **Chapter 15.406 Subdivisions and Planned Unit Developments (PUD)**

15.406.010 Subdivision Applications

A. Application. Any person proposing a subdivision, or the authorized agent or representative thereof, shall submit an application for a subdivision to the City. The application shall be accompanied with either an outline development plan as provided for in division (B) of this section, or a tentative plan as set forth in division (C) of this section, together with improvement plans and other supplementary material as may be required, and the materials required for the applicable review type as specified in Article 7. The number of copies required shall be as specified on the application form. The date of

filing shall be construed to be the date on which all of the foregoing materials are received and accepted by the appropriate city official.

B. Outline development plan. The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer. If an outline development plan is prepared and submitted with the application for a subdivision, it shall include both maps and written statements as set forth below.

...

FINDING: The Applicant chose to skip the step of submitting an outline plan and instead submitted a tentative plan, as allowed by this section.

C. Tentative plan required. Following or in conjunction with submittal and approval of an outline development plan and subdivision application, or as an initial subdivision application, any person proposing a subdivision shall submit a tentative plan together with the accompanying information and supplemental data, prepared and submitted in accordance with the provisions of this section and materials required for a Type III review as specified in Article 7. (ORS 92.040). Note: Applicants should review the design standards set forth in Article 5 prior to preparing a tentative plan for a development.

- a. Scale of tentative plan.** The tentative plan of a proposed subdivision shall be drawn on a sheet 18 by 24 inches in size or multiples thereof at a scale of one inch equals 100 feet or multiples thereof as approved by the Planning Official. (ORS 92.080). In addition, at least one copy of the plan on a sheet of paper measuring 8 1/2 inches by 11 inches or 11 inches by 17 inches shall be provided for public notice requirements.
- b. Information requirements.** The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete, unless all such information is provided unless approved otherwise by the Planning Official.

i. General information required.

1. Proposed name of the subdivision.
2. Names, addresses and phone numbers of the owner of record and subdivider, authorized agents or representatives, and surveyor and any assumed business names filed or to be filed by the owner or subdivider in connection with the development.
3. Date of preparation, north point, scale and gross area of the development.
4. Identification of the drawing as a tentative plan for a subdivision.
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

ii. Information concerning existing conditions.

1. Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development.
2. Location of any existing features such as section lines, section corners, city and special district boundaries and survey monuments.
3. Location of existing structures, fences, irrigation canals and ditches, pipelines, waterways, railroads and natural features, such as rock outcroppings, marshes, wetlands, geological features and natural hazards.
4. Location and direction of water courses, and the location of areas subject to erosion, high water tables, and storm water runoff and flooding
5. Location, width and use or purpose of any existing easements or rights-of-way within and adjacent to the proposed development.
6. Existing and proposed sewer lines, water mains, culverts and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and locations.
7. Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of not more than 20 feet.

iii. Information concerning proposed subdivision.

1. Location, names, width, typical improvements, cross-sections, approximate grades, curve radii and length of all proposed streets, and the relationship to all existing and projected streets.
2. Location, width and purpose of all proposed easements or rights-of-way, and the relationship to all existing easements or rights-of-way.
3. Location of at least one temporary benchmark within the proposed subdivision boundary.
4. Location, approximate area and dimensions of each lot and proposed lot and block numbers.
5. Location, approximate area and dimensions of any lot or area proposed for public, community or common use, including park or other recreation areas, and the use proposed and plans for improvements or development thereof.
6. Proposed use, location, area and dimensions of any lot which is intended for nonresidential use and the use designated thereof.
7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.
8. Source, method and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal and all utilities.

9. Stormwater and other drainage plans.

FINDING: This application is for approval of a Tentative Plan for a subdivision on a vacant and undeveloped parcel with little to no existing infrastructure or features. Any information for which the City needs additional details is noted as a recommended condition of approval.

D. Master development plan required. An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. The plan shall include, but not be limited to, the following elements.

- a. Overall development plan, including phase or unit sequences and the planned development schedule thereof.
- b. Schedule of improvements initiation and completion.
- c. Sales program timetable projection.
- d. Development plans of any common elements or facilities.
- e. Financing plan for all improvements.

FINDING: The Applicant has not requested approval of a phased development plan.

E. Supplemental information required. The following supplemental information shall be submitted with the tentative plan for a subdivision.

- f. Proposed deed restrictions or protective covenants, if such are proposed to be utilized for the proposed development.

FINDING: The Applicant is not proposing deed restrictions or covenants.

- g. Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations or any other applicable local, state or federal ordinance, rule or regulation.

FINDING: The applicant requested an exception on the construction of curbs (requesting no curbs), which is subject to approval by the City Engineer.

F. Tentative plan review procedures.

- a. Tentative plan review shall follow the Type III review procedures in Article 7.
- b. The decision on a tentative plat shall be set forth in a written decision, and in the case of approval shall be noted on not less than two copies of the tentative plan, including references to any attached documents setting forth specific conditions.

FINDING: The tentative plan review is following the Type III review procedures in Article 7. Following a hearing, the Planning Commission will decide on the proposal and will issue a written decision in accordance with this requirement.

G. Tentative approval relative to final plan. Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat and the city may require only such changes as are deemed necessary for compliance with the terms of its approval of the tentative plan.

H. Resubmission of denied tentative plan. Resubmittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this chapter.

FINDING: These tentative plan and final plan requirements and procedures will be followed and enforced by the City.

I. Requirements for approval. An outline development plan or a tentative plan for a subdivision shall not be approved unless it is found, in addition to other requirements and standards set forth by this chapter and other applicable City of La Pine ordinances, standards and regulations, that the following requirements have been met:

- a. The proposed development is consistent with applicable density and development standards set forth of the applicable zone in Article 3. All lots conform to the applicable lot standards of the zoning district including density, lot area, dimensions, setbacks, and coverage.

FINDING: The proposed density is approximately 4 units per acre in the residential district. Compliance with the relevant development standards is reviewed in sections above. If the proposal is deemed to meet all relevant development requirements and standards, as conditioned, then this criterion will be met as well.

- b. The proposal is in compliance with any applicable overlay zone regulations in Article 4.

FINDING: The subject property is not included in any overlay zones.

- c. The proposal is in compliance with the design and improvement standards and requirements set forth in Article 5, or as otherwise approved by the city, or that such compliance can be assured by conditions of approval.

FINDING: This application is reviewed herein for compliance with the design and improvement standards and requirements of Article 5. Staff finds that the application either meets these standards or can meet them with conditions of approval.

- d. The applicant has demonstrated that adequate public facilities are available or can be made available at the time of development, and if necessary that the developer has proposed adequate and equitable improvements and expansions to the facilities to bring the facilities and services up to an acceptable capacity level.

FINDING: "Public facilities" for this criterion are understood by Staff to include: water, sewer, transportation, electricity, and police.

Water and Sewer: Water and sewer service is provided in this area by the City of La Pine. As discussed above,

- 8-inch public waterline shall be constructed along Marx Lane, New Road, and the 20 foot alley, connecting to Hinkle Way at both ends. 8-inch public waterline shall also be extended to the westerly terminus of Marx Lane.
- 8-inch sewer main shall be constructed within the New Road and within the 20 foot alley, connecting to existing sewer main in Hinkle Way.

Transportation: The application includes construction or modification of three roadways: a new proposed local street, a new half street “Marx Lane”, and the existing industrial collector Hinkle Way. The TSP requires the local street to be 64’ wide, with sidewalks and landscape strips on both sides. The TSP requires industrial collectors to be 52’ wide, with sidewalks on both sides. The existing width of Hinkle Way exceeds the required right of way width and the submitted plan includes construction of a six-foot sidewalk along the frontage with Hinkle.

Electric: The applicant submitted a “will-serve” letter from Midstate Electric indicated the utility will provide service to the subdivision in accordance with their Line Extension Policy.

Police: The subject property is within the Deschutes County Sheriff’s service area and it is staff’s understanding that the City’s agreement with the Sheriff’s department, as well as funding mechanisms, are still valid and viable.

- e. The development provides for the preservation of significant scenic, archaeological, natural, historic and unique resources in accordance with applicable provisions of this Code and the Comprehensive Plan.

FINDING: The Applicant notes that, “there are no significant scenic, archaeological, natural, historic and unique resources on the property.” It appears to staff the none of these resources are present. As such, unless proven otherwise, this criterion is not applicable.

- f. The proposed name of the subdivision is not the same as, similar to or pronounced the same as the name of any other subdivision in the city or within a six mile radius thereof, unless the land platted is contiguous to and platted as an extension of an existing subdivision. (ORS 92.090)

FINDING: The Applicant proposes the name, “West Pine Landing” in the Burden of Proof document and on the tentative plan.

- g. The streets and roads are laid out so as to conform to an adopted Transportation System Plan for the area, and to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.

FINDING: The application includes construction or modification of three roadways: a new proposed local street, a new half street “Marx Lane”, and the existing industrial collector Hinkle Way. The TSP requires the local street to be 64’ wide, with sidewalks and landscape strips on both sides. The TSP requires industrial collectors to be 52’ wide, with sidewalks on both sides. The existing width of Hinkle Way exceeds the required right of way width and the submitted plan includes construction of a six-foot sidewalk along the frontage with Hinkle.

- h. Streets and roads for public use are to be dedicated to the public without any reservation or restriction; and streets and roads for private use are approved by the city as a variance to public access requirements.

FINDING: The Applicant indicated in their submitted narrative that proposed streets will be dedicated to the public. No private streets are proposed.

- i. Adequate mitigation measures are provided for any identified and measurable adverse impacts on or by neighboring properties or the uses thereof or on the natural environment.

FINDING: No specific measurable adverse impacts to neighboring properties have been identified.

- j. Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services and utilities.

FINDING: The discussions under sections in 15.90, which address public facilities including transportation, sewer, and water, address these topics. The proposed plans, combined with the adjustments requested by the City Engineer and included in this report as suggested conditions of approval, can meet this criterion.

15.406.020 Final Plat for a Subdivision

A. Submission of final plat.

1. Time requirement.

- a. Except as otherwise approved in accordance with the approval of a master plan for a subdivision planned for unit or phase development, the subdivider shall, within two years after the date of approval of the tentative plan for a subdivision, prepare and submit the final plat for a subdivision that is in conformance with the tentative plan as approved and with all conditions applicable thereto. The number of copies required shall be as specified on the application form.

...

FINDING: The applicant is not proposing phases. A condition of approval will ensure compliance with this timing requirement.

15.406.040 Subdivisions and PUD Review

- A. Review of a subdivision or planned unit development shall follow the Type III review procedures set forth in Article 7.
- B. Public hearing and notice required. Neither an outline development plan or a tentative plan for a proposed subdivision or PUD may be approved unless the City first advertises and holds a public hearing thereon according to applicable requirement in Article 7.

FINDING: Review of the proposed subdivision is following the Type III review procedures set forth in Article 7. A hearing was scheduled for August 18, 2021 and as noted herein, was properly noticed through mailings, on site posting, and newspaper notice.

Article 9. Land Divisions

- **Chapter 15.418 Processing and Recording Procedures**

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% 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 Ch. 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 twelve 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: The Applicant shall follow these procedures for all final plat submittals.

V. CONCLUSION AND RECOMMENDATION:

Based on the submitted application materials and the above Findings, Staff recommends that the Applicant has met or can meet with the Conditions of Approval noted herein, the applicable criteria for a Tentative Plan for a subdivision to include 9 residential lots and associated infrastructure improvements.

Recommended Conditions of Approval:**GENERAL:**

1. Final plat shall be recorded within two years of the tentative plan decision.
2. 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. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
3. No above ground equipment shall obstruct vision clearance areas for vehicular traffic.
4. Accessible crossings must be provided at all intersections within the subdivision.
5. Prior to sale and/or occupancy of any lot and as a condition of acceptance of the improvements, the Applicant shall submit to the City a one-year maintenance surety bond in an amount not to exceed 10% 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.
6. Per City of La Pine Ordinance No 2015-05 Section 6.12, the property owner of all proposed parcels will be responsible for maintenance and repair of the sewer/septic system to the point where the building sewer is connected to a City sewer main. This responsibility includes any costs of maintenance, repair, damage, and/or injury. The owner will be liable for any damage to the City system caused by an act of the owner and/or its tenants(s), agent(s), employee(s), contractor(s), licensee(s), and/or permittee(s). If any break, leak, and/or other damage to a building sewer occurs, the owner of the property served by the building sewer will cause repairs to be made immediately to minimize any sewer spillage.
7. Hinkle Way is County-maintained road, and approval for access to and modifications of the public right-of-way will require a permit from the Deschutes County Road Department.

PRIOR TO FILING FINAL PLAT:

1. Marx Lane shall be constructed to a half street City standard which shall also be constructed to meet Oregon Fire Code standards and include 6 foot wide sidewalks along the south side, a stormwater drainage facility on the south side, 20 foot wide pavement, and a means to control stormwater on the north side. The right of way width on Marx Lane shall be 32 feet.
2. The street labeled "New Road" shall be constructed to City of La Pine local street standards. The right of way width on New Road shall be 64 feet.
3. The 20' alley shall be constructed with 20 foot wide pavement to meet Oregon Fire Code requirements. The alley also shall have stormwater facilities to contain stormwater runoff from flowing to adjacent properties.
4. 6-foot sidewalks and street trees shall be constructed along Hinkle Lane along the project frontage.
5. 8-inch public waterline shall be constructed along Marx Lane, New Road, and the 20 foot alley, connecting to Hinkle Way at both ends. 8-inch public waterline shall also be extended to the westerly terminus of Marx Lane.

6. 8-inch sewer main shall be constructed within the New Road and within the 20 foot alley, connecting to existing sewer main in Hinkle Way.
7. Construction plans that include all proposed and/or required public improvements, water/sewer service connections, site grading/drainage and utilities shall be submitted to the City for review and approval.
8. 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.
9. Sewer mains and sewer infrastructure shall be constructed in accordance with City of La Pine Public Works Standards.
10. Street lights shall be required at the street intersection of Hinkle Way and Marx Lane, per City design standards.
11. 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 three and one-half 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. Construction plans shall demonstrate compliance with these clear vision standards and shall be submitted to the City for review and approval prior to construction.
12. As approved by the City Engineer, public improvements must be constructed prior to final plat or an approved performance assurance mechanism and associated improvement agreement with specific construction times outlined, may be filed with the City for construction of items not necessary for safety or required connectivity. All such agreements shall be reviewed and approved by the City Engineer and shall be in compliance with LPDC 15.94.020.

PRIOR TO CONSTRUCTION:

1. All street construction, landscaping, and utility plans shall be reviewed and approved by the City Engineer and Public Works Manager. Permits for sewer and water improvements will not be issued until the Public Works Director has approved all sanitary sewer and water plans for conformance with City standards, including but not limited to, final sizing for all water/sewer pipes, protection of hydrants with four bollards, and configuration of service lines without angle fittings or couplers.
2. Grading and drainage plans and stormwater calculations shall be submitted to the City Engineer for review and approval for compliance with this standard, City Public Works standards and any other applicable standard.
 - a. All site drainage shall be maintained on site and shall not drain onto public streets or neighboring properties. Storm water runoff from private property shall not impact public right-of-way or easements unless otherwise approved by the Public Works Director or City Engineer.

- b. Site grading and drainage plans shall be submitted for Engineering review and shall be subject to City and Central Oregon Stormwater Manual (COSM) design, construction, and testing standards.
 - c. Proposed site drainage facilities and stormwater systems shall be designed for a 25-year/24-hour storm event (2.6 inches) and have appropriate pretreatment per City standards. Infiltration rates must be supported by a geotechnical report or other verifiable documentation.
 3. Prior to construction of public improvements, developer shall provide a performance guarantee in the amount of 120% of the public and required improvements. 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. Alternatively, the final plat may be filed upon completion of infrastructure for water, sewer, road base, and street signs.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

1. Lots shall comply with dimensional and setback requirements as required by this decision and applicable sections of the Development Code.
2. If driveway access permits are required at the time of building permit application, they shall be reviewed and approved prior to release of building permits.
3. All lots shall be served by sewer and water service and streets shall be constructed/improved as required by this decision and approval of construction plans by the City Engineer.
4. The developer, applicant or builder shall contribute \$568.75 per EDU toward a fund for replacement of the Industrial Park lift station.



CITY OF LA PINE

16345 Sixth Street — PO Box 2460
La Pine, Oregon 97739
TEL (541) 536-1432
www.lapineoregon.gov

**CITY OF LA PINE PLANNING DIVISION
Staff Report to Planning Commission**

FILE No. 02SUB-21

**OWNER/
APPLICANT:** Evans Property Holdings, LLC
c/o Chris Clute
Sunriver, OR 97707

ENGINEER: Sun Country Engineering, Inc.
920 SE Armour Drive
Bend, OR 97702

**LAND USE
CONSULTANT:** Chris Schmoyer, Principal Planner
Schmoyer Land Use Consulting, LLC
60939 Zircon Drive
Bend, OR 97702

**LAND USE
ATTORNEY:** Liz Fancher, Attorney
2465 NW Sacagawea Lane
Bend, OR 97703

LOCATION: The subject property is located at 51305 Evans Way, La Pine and is also identified as Tax Lot 100 on Deschutes County Assessor's Map 22-10-14CD.

REQUEST: Approval of a Tentative Plan to divide the approximate 19-acre subject parcel into 89 residential lots, in three (3) phases, in the La Pine Residential Single-Family (RSF) Zone. Phase 1: 15 Lots (1-15), Phase 2: 38 Lots (16-53), Phase 3: 36 Lots (54-89).

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA:

City of La Pine Development Code
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 15.406 Subdivisions and Planned Unit Developments (PUD)
- Chapter 15.418 Processing and Recording Procedures

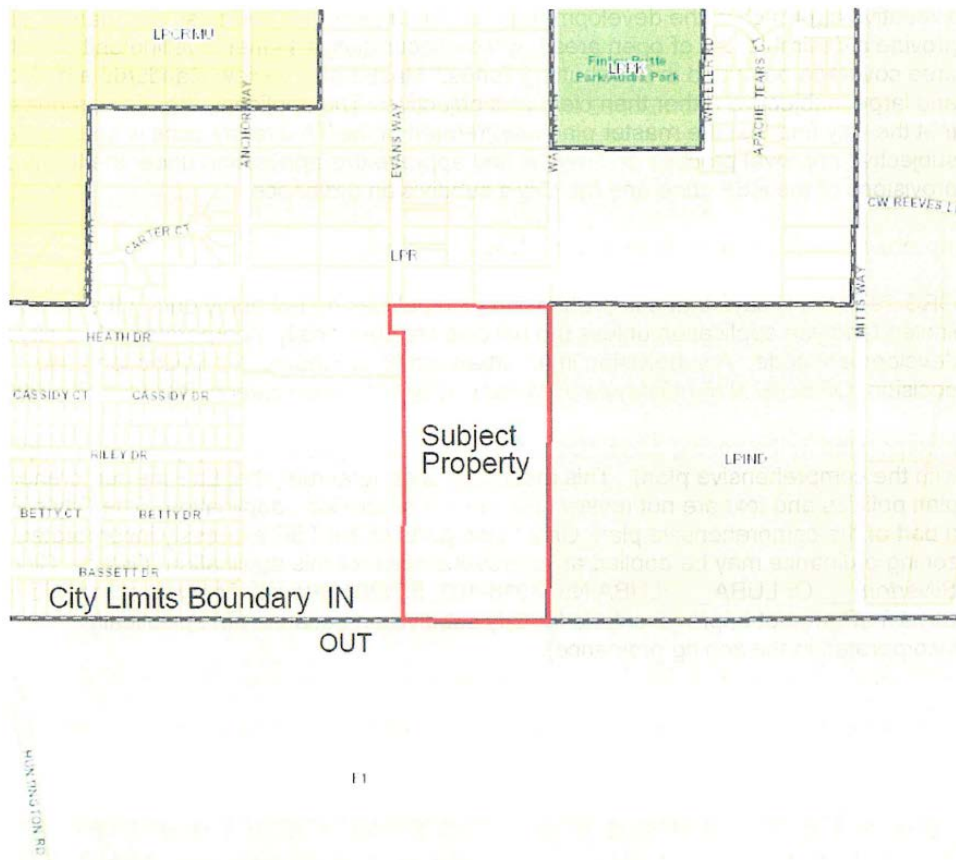
City of La Pine Transportation System Plan

II. INTRODUCTION

The proposed 89-lot subdivision is on Evans Way, east of the Huntington Meadows Subdivison. Staff recommends several conditions of approval at the end of the staff report, for compliance with the La Pine Development Code. Comments from City Public Works and Engineering are incorporated in this staff report. At the time of drafting the staff report, no public comments had been received.

III. FINDINGS OF FACT:

LOCATION: The subject property is located at 51305 Evans Way, La Pine and is also identified as Tax Lot 100 on Deschutes County Assessor’s Map 22-10-14CD.



Source: Deschutes County Interactive Mapping (DIAL)

ZONING: The subject property is zoned Residential Single Family Zone (RSF) and Residential Single Family Zone (RSF) on the La Pine Comprehensive Plan Map.

SITE DESCRIPTION: The subject property is approximately 18.9 acres in size and rectangular in shape. The property is currently vacant and the topography is relatively level supporting a cover of pine trees with native underbrush. The subject property is located outside of any FEMA designated floodway and/or floodplain, and no mapped wetlands are on site. The property abuts Evans Way, a public right-of-way maintained by Deschutes County.

SURROUNDING USES: To the north are unplatted 1.2-1.5 acre lots, one of which supports a single-family dwelling. To the east is Tax Lot 302 on Deschutes County Assessor’s Map 22-10-14. It is a vacant 38.7 acre parcel zoned Industrial and owned by the County. To the west is a City approved 61 lot subdivision to be developed with single-family residences. To the south is property owned by the Bureau of Land Management and is zoned Forest Use by Deschutes County.

LOT LEGALITY: Pursuant to Section 15.304.020(A), the subject property is a legal lot of record as it is Parcel 1 of Partition Plat 2018-45, recorded in Official Records 2018-48789 on December 11, 2018.

PUBLIC NOTICE AND COMMENTS: The City of La Pine sent notice of the application to the Planning Commission, City Council, and to the property owners within 100 feet of the subject property on 7/29/21. Notice was published the local paper, Wisebuys, on 8/3. Notice was also posted on the City website. No public comments were received. The City will mail the notice of decision to the same distribution list.

AGENCY/DEPARTMENT COMMENTS: The City of La Pine requested review and comments from the following departments: City Fire Chief, ODOT, Republic Services, Deschutes County Building Division, Deschutes County Road Department, City Engineer, Public Works Department, and the Office of the State Fire Marshal. All comments received are incorporated herein.

IV. APPLICATION OF THE CRITERIA:

CONFORMANCE WITH CITY OF LA PINE ZONING ORDINANCE

Article 3. Zoning Districts

- **Chapter 15.18 Residential Zones**

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 assure 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 (1)	5 units per acre
Maximum density	7 units per acre (2)	40 units per acre
Minimum lot size	None	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.
Minimum street frontage	50 feet 35 feet on cul-de-sac street 25 feet for townhomes	50 feet 35 feet on a cul-de-sac street 25 feet for townhomes
Minimum setbacks	--	--
- Front or street-side yard	20 feet	20 feet
- Side yard	10 feet None for townhomes	10 feet None for townhomes
- Rear yard	20 feet	20 feet
Maximum building height	45 feet	45 feet
Maximum lot coverage	75% for townhomes 50% for all other uses	75% for townhomes 50% for all other uses
Minimum landscaped area	See Chapter 15.82	See Chapter 15.82

FINDING: Per the Applicant’s Burden of Proof and tentative plan, the Applicant is proposing a density of approximately 4.7 dwelling units per acre (89 lots/18.9 acres), well within the range of 1 to 7 units per acre requirement as specified above. Every proposed lot has at least 50 feet of street frontage. As such, these requirements are satisfied.

The proposed lot sizes range between 5,200 and 10,014 square feet and are of a large enough size to accommodate dwellings and garages, as well as accessory structures, and comply with the front side and rear setbacks and maximum lot coverage requirements. Compliance with setbacks, lot coverage and building height will be verified for compliance during the building permit review process for the development of each lot. Pursuant to 15.82.010, minimum landscape areas do not apply to single-family

dwelling construction. The proposed tentative plan complies, or can comply upon development, with the standards of this section.

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: The Applicant’s Burden of Proof states that the proposed subdivision is designed to comply with all applicable development standards for the RSF Zone. No buildings are proposed as part of this application. Future development will be reviewed in detail for conformance as applicable to Building Codes during the building permit review process.

Article 5. Development Standards

- **Chapter 15.80 Development Standards, Generally**

15.80.010 Purpose

Article 5 contains development and design standards for the built environment. The standards are intended to protect the public health, safety, and welfare through the provision of landscaping and buffering, parking and loading facilities, multimodal accessibility and interconnectivity, and adequate public facilities.

In interpreting and applying this title, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

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 Code, other city ordinances, or state statutes or administrative rules may also apply.

FINDING: The application is for subdivision, which is by definition a land division. As such, the standards of Chapter 15.80 are applicable and are reviewed herein. In addition, future development will be reviewed in detail for conformance as applicable to building codes during the building permit review process.

15.80.030 Exemption - Lot Size Requirements

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

- b. 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: Per Table 15.18-2 — Development Standards in the Residential Zones, there is no minimum lot size requirement for the RSF zone, except as determined based upon maximum density requirements. The proposal meets the density and lot size requirements. No other exemptions apply.

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 ordinance, or as otherwise approved by the city.

FINDING: No buildings are proposed at this time, but future buildings and structures will be reviewed for conformance with the Development Code when specific development is proposed. Lots shall comply with dimensional and setback requirements as required by this decision and applicable sections of the Development Code.

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 1 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 1 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 buildings are proposed at this time, but future buildings and structures will be reviewed for conformance with the Development Code when specific development is proposed.

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 anytime, 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: The Applicant has not indicated any proposed use of metal containers.

Article 5. Development Standards
• **Chapter 15.88 Access and Circulation**

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.

15.88.020 Applicability

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

FINDING: The proposed subdivision is new development and necessitates the construction of new streets. As such, Chapter 15.88 applies.

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: This standard can be met through a condition of approval requiring approach permits to be secured. The proposed lots will access City streets and driveways will be reviewed through the building permit process. If driveway access permits are required at the time of building permit application, they shall be reviewed and approved prior to release of building permits.

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 Code.

FINDING: The Applicant submitted a Traffic Impact Analysis, prepared by Transight Consulting LLC, as part of their application. The document was reviewed by Staff and findings are incorporated herein.

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.

- a. Access points to arterials and collectors may be restricted through the use of the following techniques.
 - i. Restricting spacing between access points based on the type of development and the speed along the serving collector or arterial.
 - ii. Sharing of access points between adjacent properties and developments.
 - iii. 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.
 - iv. Constructing frontage or marginal access roads to separate local traffic from through traffic.
 - v. Providing service drives to prevent overflow of vehicle queues onto adjoining roadways.

- b. Consideration of the following traffic and facility improvements for access management.
 - i. Providing of acceleration, deceleration and right-turn-only lanes.
 - ii. Offsetting driveways to produce T-intersections to minimize the number of conflict points between traffic using the driveways and through traffic.
 - iii. Installation of median barriers to control conflicts associated with left turn movements.
 - iv. Installing side barriers to the property along the serving arterial or collector to restrict access width to a minimum.

FINDING: The Applicant indicated that access management restrictions and limitation are not needed as the proposal is for an 89-lot subdivision that will only access local access roads.

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: No access to Highway 97, a state highway, is proposed nor is a change of use from a use that accesses the highway proposed. This criterion does not apply.

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: It does not appear that the proposed development will cross a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency. However, Evans Way is a County-maintained road, and approval for access to and modifications of the public right-of-way will require a permit from the County Road Department. This has been included as a condition of approval.

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 proposing any exceptions or adjustments. As such, this requirement does not apply at this time.

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 any joint use driveways. As such, this requirement does not apply at this time.

15.88.040 Clear Vision Areas (Visibility at Intersections)

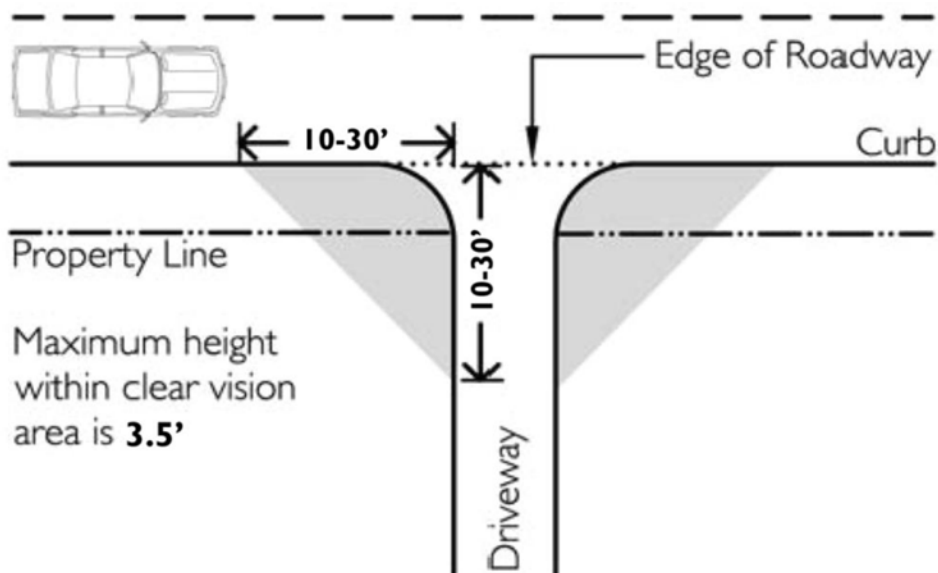
A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, wall, structure, private signage, or temporary or permanent obstruction exceeding three and one-half feet 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, 10 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

Figure 15.88-1. Clear Vision Areas



FINDING: The Applicant has stated that clear vision standards can be provided for throughout the development of the subdivision. Street trees must be omitted in these clear vision areas, if necessary, to maintain a clear vision area. Clear vision standards be provided for through the development of the Subdivision. Proposed street trees will be omitted in these areas. This standard is typically imposed as an ongoing condition of approval for a tentative plan. 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.

Accessible crossings must be provided at all intersections within the subdivision. These standards will be imposed as ongoing conditions of approval for a tentative plan.

Construction plans shall demonstrate compliance with these clear vision standards and shall be submitted to the City for review and approval prior to construction.

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:
- a. Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
 - b. Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:
 - i.** The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of- direction travel.
 - ii.** The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The City may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
 - iii.** Vehicle/Walkway Separation. Except as required for crosswalks, per subsection 4, below, where a walkway abuts a driveway or street it shall be raised six inches and curbed along the edge of the driveway or street. Alternatively, the City may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
 - iv.** Crosswalks. Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver- visibility of pedestrians.
 - v.** Walkway Construction. Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other City-approved durable surface meeting ADA requirements. Walkways shall be not less than four feet in width, except that the City may require five- foot wide, or wider, sidewalks in developments where pedestrian traffic warrants walkways wider than four feet.

- vi. **Multi-Use Pathways.** Multi-use pathways, where approved, shall be 10 feet wide and constructed of asphalt, concrete or other City-approved durable surface meeting ADA requirements consistent with the applicable City engineering standards.

FINDING: The east-west multi-use path shall be designed to City standards, with an additional 2 feet unpaved buffer (one foot each side) within a separate tract, or as approved by the City Engineer. The multi-use path shall be an asphalt, concrete or other City-approved durable surface meeting ADA requirements consistent with the applicable City engineering standards.

Article 5. Development Standards

- **Chapter 15.90 Public Facilities**

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.
- 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: The applicant proposes to construct all necessary streets, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the proposed subdivision in accordance with City of La Pine Standards and Specifications and/or the serving entity.

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

FINDING: The Applicant is not proposing half streets.

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: Per City of La Pine Ordinance No 2015-05 Section 6.12, the property owner of all proposed parcels will be responsible for maintenance and repair of the sewer/septic system to the point where the building sewer is connected to a City sewer main. This responsibility includes any costs of maintenance, repair, damage, and/or injury. The owner will be liable for any damage to the City

system caused by an act of the owner and/or its tenants(s), agent(s), employee(s), contractor(s), licensee(s), and/or permittee(s). If any break, leak, and/or other damage to a building sewer occurs, the owner of the property served by the building sewer will cause repairs to be made immediately to minimize any sewer spillage.

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 developer, applicant or builder shall contribute \$568.75 per EDU toward a fund for replacement of the Industrial Park lift station.

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: Drainage systems associated with the subdivision must be designed to comply with all applicable standards and specifications and provide capacity for all runoff generated on site. The Applicant notes that the proposed landscape swales in the right-of-way are designed to accommodate all anticipated drainage and run-off demands resulting from the development. Grading and drainage plans shall be submitted to the City Engineer for review and approval for compliance with this standard and City Public Works standards, prior to construction and prior to issuance final plat.

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.

FINDING: The Applicant noted in their burden of proof that they are prepared to coordinate the development plan with all applicable utility providers in accordance with this standard.

B. Underground Utilities. All new electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.

FINDING: The Applicant has stated in their Burden of Proof that all utilities serving the development will be provided by underground service. This will be an ongoing condition of approval.

C. Subdivisions. In order to facilitate underground placement of utilities, the following additional standards apply to all new subdivisions:

- a. 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.
- b. The City reserves the right to approve the location of all surface-mounted facilities.
- c. All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets.
- d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

FINDING: The applicant notes in their burden of proof that all utilities serving the development will be provided by underground service. They further state that measures will be taken to ensure that above ground equipment does not obstruct vision clearance areas for vehicular traffic. Compliance with 15.90.050 (C)(1) through (4) can be ensured through a conditions of approval that all construction and utility plans be reviewed by the City Engineer and Public Works Manager prior to any construction.

All construction, landscaping and utility plans shall be reviewed and approved by the City Engineer and Public Works Manager. Permits for sewer and water improvements will not be issued until the Public Works Director has approved all sanitary sewer and water plans for conformance with City standards.

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: An exception to the undergrounding standard is not anticipated by the applicant and has not been requested.

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 Code.

- A. Installation of additional and/or passing lanes, including pedestrian ways and/or bikeways, within a public street or highway right-of-way existing as of the effective date of this chapter, unless such adversely impacts on-street parking capacities and patterns.
- B. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, and/or no new land parcels result.
- C. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time when no longer needed.
- D. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations, waysides, and, rest areas within a right-of-way existing as of the effective date of this Code. In addition, also exempt are contiguous public-owned property utilized to support the operation

and maintenance of public roads and highways provided such is not located within a duly designated Residential Zone, or adjacent to or across the street from a lot or parcel within such a zone.

- E. The construction, reconstruction, or modification of a public street or highway that is identified as a priority project in a transportation system plan (TSP) or the State Transportation Improvement Plan (STIP) that was duly adopted on or before the effective date of this chapter.
- F. The design, construction, operation, and maintenance of a tourist-oriented or public wayside.

FINDING: Items 15.90.060 (A) through (F) are not applicable to the proposed Subdivision.

15.90.070 Design of Streets and Other Public Facilities

A. Traffic circulation system. The overall street system shall assure 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 there from 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: The Applicant stated in the submitted narrative, "The applicant has submitted a Traffic Impact Analysis (TIA) prepared by Transportation Engineer Joe Bessman, P.E. with Transight Consulting, LLC with its application. It provides information regarding the traffic circulation system that will serve the proposed subdivision. That information supports a finding that the overall street system will provide for adequate traffic circulation with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain of the development and the area." Criteria satisfied.

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

- a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- b. 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
- c. Conform to the adopted La Pine Transportation System Plan as may be amended.

FINDING: The Applicant stated in the submitted narrative, "As depicted on the tentative plan, the proposed location and pattern of proposed streets provides for appropriate and practical continuation of existing local street on abutting properties. The street grid proposed extends Bassett and Heath drives into the proposed development, being the principal through streets to Huntington Road (an Arterial class roadway) following the development of Evans Way Estates subdivision to the west. Both Bassett and Heath Drives are extended through the development to the east property line allowing for continuation as part of future development of the County-owned, industrial-zoned property to the east, Ta Lot 302, 22-10-14. Heath Drive and Bassett Drive are proposed to extend to the eastern boundary of the proposed subdivision, providing connectivity to future the undeveloped of property to the east. An Evans Way right-of-way dedication is proposed with this application to extend Evans Way from that portion approved with

the Evans Way Estates plat. Interim secondary access via Walling Lane can be provided for alternative circulation until further development occurs. Such location and pattern of proposed streets conforms to the La Pine Transportation Plan and these standards can be satisfied." Criteria satisfied.

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 10 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: No cul-de-sacs are proposed. All proposed streets are designed for connectivity. Access ways as described in this standard are not applicable to the proposed subdivision.

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: The Applicant did not submit a future street plan in conjunction with the application, as required by this section.

East: To the east is Tax Lot 302 on Deschutes County Assessor's Map 22-10-14. It is a vacant 38.7 acre parcel zoned Industrial and owned by the County. As this lot is going to be developed as there is no adjoining divisible land or right-of-way, no future street extension to the east is required.

West: To the west is a City approved 61 lot subdivision to be developed with single-family residences. As these lots are going to be developed and there is no adjoining divisible land or right-of-way, no future street extension to the west is required.

North: To the north are uplatted 1.2-1.5 acre lots, one of which supports a single-family dwelling. As this lot is already developed and there is no adjoining divisible land or right-of-way, no future street extension to the south is required.

South: To the south is property owned by the Bureau of Land Management and is zoned Forest Use by Deschutes County. As this land is undevelopable, no future street extension to the south is required.

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: Below is Table 4-4 excerpted from page 61 and cross sections from pages 64-65 of the La Pine TSP identifying Roadway Cross-Section Standards:

Roadway Cross Section Standards

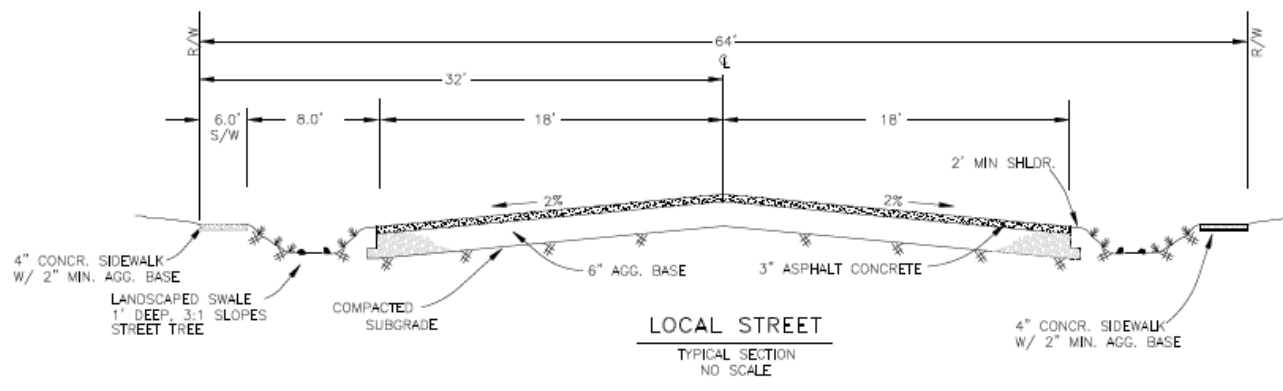
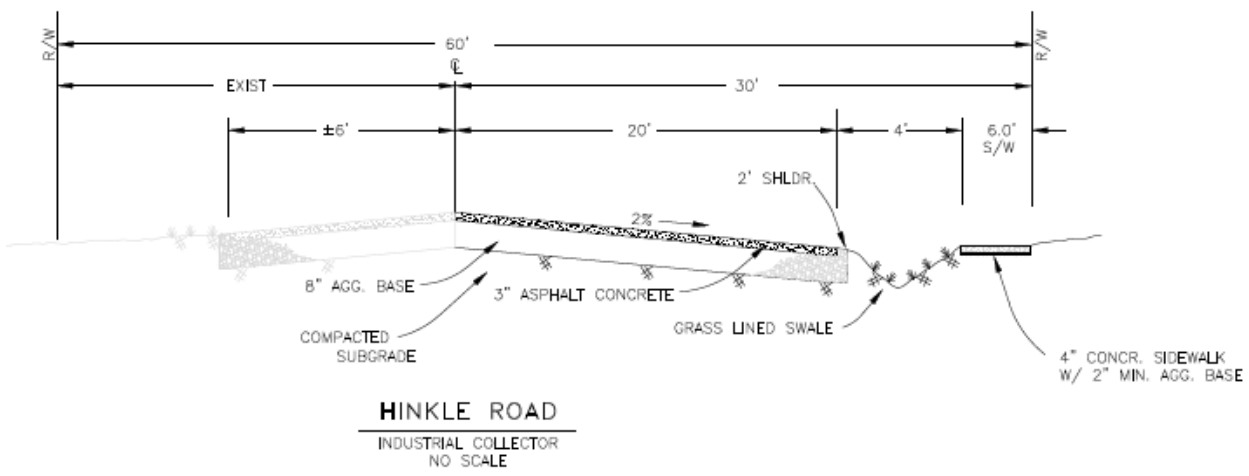
Table 4-4 presents the dimensional standards for the five proposed functional classifications in La Pine.

Functional Classification	Features/Dimensions (Each Direction)					Left Turn Lane/ Median	Total Paved Width	Total Right-of-Way Width
	Travel Lane	Bike Lane	On-Street Parking	Sidewalk	Planter Strip			
Arterial	12'	6'	None	6'	8'	Left-Turn Lanes, 14'	36' to 50'	78'
Major Collector	11'	6' ¹	7' ²	6'	8'	None	34 ¹ - 48'	76'
Local Street	11'	None	7'	6'	8'	None	36'	64'
Downtown Arterial	12'	6'	Optional, 7'	8'	8'	Optional Landscaped Median, 14'	50'	82'
Minor Collector	11'	6'	None	6'	8'	None	34'	62'
Industrial Collector	14'	6'	None	6'	None	None	40'	52'

¹ On low volume, low speed (>30 mph) facilities, alternative bicycle facilities can be considered at the discretion of the City
² On-street parking provide adjacent to commercially zoned properties

Table 4-4 Roadway Cross-Section Standards





The Applicant stated in their submitted narrative, “As depicted in the Local Street Cross-Section on the Tentative Plan street rights-of way are 64 feet in width and comply with dimensional properties of the La Pine Transportation System Plan. Applicant proposes utilizing the 8-foot-wide landscape strip for storm drainage and street trees in addition to standard landscape plantings between driveways. Minimum right-of-way and roadway width, including street, sidewalk, and surfacing widths, comply with the minimum conformance with applicable standards and specifications set forth by the City of La Pine.” Criteria have been met.

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

FINDING: The Applicant stated in their submitted narrative, “As depicted on the submitted Tentative Plan, the local street cross section identifies a 6-foot-wide, property-tight sidewalk on each side of the proposed local street rights-of-way abutting all proposed lots”. 6-foot sidewalks and street trees shall be constructed along Hinkle Lane along the project frontage.

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: Bike lanes are not required on the new local streets per the La Pine Transportation System Plan (Table 4-4 above), as cyclists can use the roadway surface of the proposed local street network.

H. Cul-de-sacs. 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:

- a. 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.
- b. 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.
- c. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle access way between it and adjacent developable lands.

FINDING: The proposal does not include any cul-de-sacs. Criterion doesn't apply.

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 subject property does not abut any arterial streets. This criterion does not apply.

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: Standards in 15.90.070 (J) are not applicable to the proposed subdivision.

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

FINDING: Reserve strips or street plugs have not been proposed.

L. Alignment. All streets, as far as practicable, shall be in alignment with existing streets by continuations of the centerlines 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.

FINDING: The Applicant stated in their submitted narrative, "The tentative plan illustrates compliance with this standard. Aligned connections are provided at Heath Drive and Bassett Drive to connect with streets shown on the approved Evans Way Estates subdivision tentative plan." Criteria satisfied.

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.

FINDING: Proposed streets intersect at right angles, in compliance with this criterion.

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 8% on arterials, 10% on collectors and 12% 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 6% to provide for proper stopping distance during inclement weather conditions.

P. Street names. Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the city or within a radius of six miles of the city or within the boundaries of a special service district such as fire or ambulance. Such street names shall be approved by the Deschutes County street name coordinator.

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

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: The Applicant states that the development of the subdivision will comply with the above standards 15.90.070 (N) through (R) where applicable. The existing topography of the subject property does not contain any severe slopes. Actual curves, street grades, street names, signage and other traffic control devices will be reviewed through Construction Document review by the City Engineer. Prior to construction, Applicant shall submit construction documents to the City for review and approval.

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: The subdivision does not proposed alleys.

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

FINDING: This standard allows the City Engineer to waive curb requirements during tentative plan review on the basis of special circumstances. Curbs are not proposed with the subdivision, rather, a landscape swale and vegetation is proposed. Landscape swales containing street trees and vegetation can provide improved drainage capacity and flow during times of snow melt and heavy rains, if the grading is designed appropriately. The applicant also states that this streetscape design is consistent with the nearby approvals for development.

Concentrated flow created by curb lines requires point containment and disposal, which can be less effective in areas of higher groundwater, such as the subject property. Conversely, vegetated swales allow the storm waters to dissipate over a greater area, causing fewer areas of storm water concentration. Additionally, the Applicant notes that areas between street trees can provide for much-needed snow storage during excessive winter storms, when curbs can also be obscured by snow. The street trees and vegetation within the swales will also provide a higher level of class to the Subdivision than curbs. The La Pine TSP allows for flexibility or variation to street sections. Specifically, page 62 of the TSP provides (excerpted):

Context-Sensitive Variation

The street sections in the City of La Pine vary depending on whether they are located downtown core areas, residential sections, commercial hubs, or more rural environments. Context-specific considerations include:

- *Planter strips outside urbanized areas are optional, due to maintenance costs.*
- *Constrained roadways in more rural areas can be designed with shoulders to accommodate bikes and pedestrians when the right-of-way is limited.*
- *On-street parking can be provided or not provided based on the context of the area being served.*
- *Curbs should be included in the downtown core area. However, they may be optional in areas outside the downtown core when drainage issues warrant such consideration.*

...

Based on the above, the location of the proposed project being in an outlying area of the city, with no curbed streets in the vicinity, curbs may not be necessary for the proposed subdivision and the applicant proposes the landscape swales as depicted on in the local street cross section illustrated on the submitted Tentative Plan are more appropriate, efficient, and effective in this area.

The City Engineer has not specifically approved the street design without curbs. Staff suggests that prior to construction, the applicant shall submit construction documents including the presence of special circumstances to the City for review and approval of the curb-less street design.

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 (1) fixture and be located at the intersection of streets.

FINDING: The proposed Tentative Plan does not include any street lighting. Street lights shall be installed on the plans and provided at the following locations: Intersections, Mid-block for blocks longer than 400 feet from center of intersection to center of intersection, and at the crosswalks for the multi-use path intersection with both proposed streets. Poles and fixtures shall conform to the power provider standards. Standard Midstate Electric head fixtures shall be used.

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: The applicant will be responsible for making the necessary arrangements with all applicable utility companies serving the subdivision for installation. The demonstrate feasibility, prior to approval of the final plat, the developer shall submit letters from relevant utility providers indicating the utility is willing and able to serve the proposed subdivision.

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

FINDING: The applicant notes that the proposed drainage swales will be in accordance with applicable standards. Prior to construction, applicant shall submit construction plans and stormwater calculations to the City Engineer for review and approval. With this condition, this criterion is satisfied.

X. Gates. Except where approved as part of a Master Planned Development, private streets and gated drives serving more than two dwellings (i.e., where a gate limits access to a development from a public street), are prohibited.

FINDING: Gates are not proposed as part of the subdivision.

15.90.080 Traffic Impact Analysis

A. Purpose. The purpose of this subsection is 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:

- a. A change in zoning or a plan amendment designation;
- b. Operational or safety concerns documented in writing by a road authority;

- c. An increase in site traffic volume generation by [300] Average Daily Trips (ADT) or more;
- d. An increase in peak hour volume of a particular movement to and from a street or highway by [20] percent or more;
- e. An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;
- f. 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;
- g. A change in internal traffic patterns that may cause safety concerns; or
- h. 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.

FINDING: The Applicant stated in their submitted narrative, "Pursuant to (B)(3) above, a Traffic Impact Analysis (TIA) is required with this application. Accordingly, submitted with the application is a TIA prepared by Transportation Engineer Joe Bessman, P.E. with Transight Consulting, LLC." The City Engineering Consultant has reviewed the submitted TIA and is satisfied with the findings. Criteria satisfied.

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 (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.

- a. The standard improvement conflicts with an adopted capital improvement plan.
- b. The standard improvement would create a safety hazard.
- c. 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.
- d. 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: Applicant does not propose deferral of street improvements. These criteria do not apply.

Article 5. Development Standards

- **Chapter 15.92 Additional Standards for Land Divisions**

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 stated in the submitted narrative:

RESPONSE: As shown on the submitted Tentative Plan, block length and block perimeter is exceeded on proposed 'A' and 'B' Streets. Applicant seeks an exception to this standard on the basis that this exception is required in order to provide larger mid-range lots and promote additional accessory uses on the lots with additional space for vehicles to park off street.

The existing development pattern established by Huntington Meadows, particularly the east-west street grid, was carried eastward in the development design for Evans Way Estates, but limited to-and-through streets to Heath Drive and Bassett Drive. Applicant proposes to continue the pattern of development approved under Evans Way Estates by orienting the lots mostly in east-west fashion, with north-south oriented lots being at the north and south ends of the development, and extend Heath and Bassett Drive through the proposed development.

The block length standard of LDC 15.92.010 allows the City to grant an exception to the maximum block length due to topography or location of adjoining streets. The subject property is relatively flat, without topographical challenges. The proposed subdivision is flanked on its north and south by Heath Drive and Bassett Drive, both of which will connect to and terminate at Huntington Road, the nearest north-south arterial. Traffic traveling south from the proposed subdivision will utilize the route through Bassett Drive, while traffic traveling north can utilize Heath Drive or Evans Way.

Further, maximum block lengths are typically provided to both minimize pedestrian walking distances and to provide traffic-calming to minimize a "thoroughfare" effect. The proposed subdivision includes a multi-use path, identified as "Tract (Pedestrian Path)" on the Tentative Plan, for pedestrians and bicyclists that is in alignment with the multi-use path approved for Evans Way Estates subdivision to the west.

Inclusion of the multi-use path will minimize walking and bicycling distances, as well as provide traffic calming at the intersections/crosswalks of the path with A and B Streets. To provide this ped/bike connection at the time when the block length of B Street exceeds City maximum lengths, the multi-use path will be constructed. Applicant believes that the proposed subdivision warrants an exception to maximum block length due to the location of adjoining streets and the inclusion of the mid-block multi-use path.

Staff agrees and allows the exception to block length and perimeter.

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 proposed lot size, shape and orientation are appropriate for the intended residential development and are consistent with the RSF Zone. There are no topographical constraints imposed by the terrain of the subject property as the entire site is relatively featureless and flat. As such, this criterion is satisfied.

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 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 proposed lots will abut a public street for a width in excess of 50 feet. This standard 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: The Applicant stated in the submitted narrative, "The submitted Tentative Plan demonstrates that all lots are designed to comply with this standard as practicable." Criteria satisfied.

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 submitted tentative plan does not propose a division by boundary, ROW or drainage way.

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.

- a. 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.
- b. Cut slopes shall not exceed one foot vertically to one and one-half feet horizontally.
- c. Fill slopes shall not exceed one foot vertically to two feet horizontally.
- d. 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.
 - i. 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.
 - ii. 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.

- iii. 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 subject property is relatively flat, and no significant cut or fill are proposed. The Applicant notes that grading for infrastructure installation associated with preparation for development of the proposed lots can comply with these requirements. These provisions can be reviewed in detail for conformance as applicable to Building Codes during the building permit review process.

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: Through or double-frontage lots are not proposed as part of the subdivision.

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: Special building setback lines are not proposed as part of the subdivision.

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: This standard is not applicable as the subdivision does not include large lots where future redivision is likely or possible.

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 10 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 5 feet in width.

FINDING: The submitted tentative plan is generally designed with lots large enough to accommodate utility easements in accordance with this section.

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 storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further widths as deemed necessary.

FINDING: The applicant notes in their burden of proof that no watercourses traverse the subject properties. As such, this standard is not applicable.

C. Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than 10 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 5-foot wide paved or other suitable surface will be required.

FINDING: The Applicant stated in their submitted narrative, "A multi-use path is proposed to pass through an unusually long block. It lies within a 12 foot wide Common Tract and will be improved with a path that is 10 feet wide." Criteria satisfied.

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 depicted on the Tentative Plan, sewer and water lines will be provided within the rights-of-way of the local streets within the subdivision. No sewer or water easements are anticipated at this time.

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.

B. Within a development, or adjacent to a development in contiguous property owned by the developer, a parcel of land of not more than 5% of the gross area of the development may be required to be set aside and dedicated to the public for parks and recreation purposes by the developer. The parcel of land, if required, shall be determined to be suitable for the park and/or recreation purpose(s) intended, and the city may require the development of the land for the park or recreation use intended or identified as a need within the community.

C. In the event no such area is available that is found to be suitable for parks and/or recreation uses, the developer may be required, in lieu of setting aside land to pay to the appropriate parks and recreation agency a sum of money equal to the market value of the area required for dedication, plus the additional funds necessary for the development thereof if so required; if such is required, the money may only be utilized for capital improvements by the appropriate parks and recreation agency.

- D. If there is a systems development charge in effect for parks, the foregoing land and development or money dedication (if required) may be provided for in lieu of an equal value of systems development charge assessment if so approved by the collecting agency in accordance with the applicable provisions of the system development charge ordinance. If the collecting agency will not permit the land or money dedication in lieu of an applicable systems development charge, then the land and development or money dedication shall not be required.

FINDING: The City has not identified any need to acquire a portion of the proposed development for any other public purpose besides right-of-way for transportation, access, and utilities, nor is there a systems development charge in effect for parks.

- E. If the nature and design, or approval, of a development is such that over 30% of the tract of land to be developed is dedicated to public uses such as streets, water or sewer system facilities and the like, then the requirements of this subsection shall be reduced so that the total obligation of the developer to the public does not exceed 30%.

FINDING: The proposed subdivision does not appear to meet the 30% threshold.

Article 5. Development Standards

- **Chapter 15.94 Improvement Procedures and Guarantees**

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 therefore have been reviewed and approved by the City or a designated representative thereof. The review and approval shall be at the expense of the developer.
- B. **Modification.** Improvement work shall not commence until after the City has been notified and approval therefore has been granted, and if work is discontinued for any reason, it shall not be resumed until after the City is notified and approval thereof granted.
- 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.
- 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.
- 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.

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: Construction plans shall be submitted to the City for review and approval prior to construction. These above requirements for utilities, improvement construction, inspections and as built plans are recommended conditions of approval.

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.

B. Bond or other performance assurance. The developer shall file with the agreement, to assure 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.

- a. 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.
- b. 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.
- c. Cash deposit.
- d. Such other security as may be approved and deemed necessary by the City Council to adequately assure completion of the required improvements.

C. Amount of security required. The assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20% 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: The Applicant plans to install and construct all required infrastructure improvement as required. For informational purposes, and as approved by the City Engineer, public improvements must be constructed prior to final plat, or an approved performance assurance mechanism and associated improvement agreement with specific construction times outlined, may be filed with the City for construction of items not necessary for safety or required connectivity. All such agreements shall be reviewed and approved by the City Engineer and shall be in compliance with LPDC 15.94.020.

15.94.030 Building and Occupancy Permits

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

FINDING: These shall be a condition of approval. Prior to issuance of building permits or sale/occupancy of any lot, all lots shall be served by sewer and water service and streets shall be constructed/improved as required by this decision and approval of construction plans by the City Engineer.

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% 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: This is a recommended condition of approval. Prior to sale and/or occupancy of any lot and as a condition of acceptance of the improvements, the applicant shall submit to the City a one-year maintenance surety bond in an amount not to exceed 20% 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.

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.

FINDING: While this need is not anticipated, the applicant acknowledges the possibility of the provisions of this section in their burden of proof.

Article 7. Procedures

- **Chapter 15.204 Application Procedures**

15.204.030 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 that prior to becoming effective, all quasi-judicial Comprehensive Plan amendments and Zone changes shall be adopted by the City Council. In considering all quasi-judicial Comprehensive Plan amendments and Zone changes on which the Planning Commission has authority to make a decision, the City Council shall, in the absence of an appeal or review initiated by the Council, adopt the Planning Commission decision. No argument or further testimony will be taken by the Council.

A. Application Requirements.

- a. **Application Forms.** Applications requiring Quasi-Judicial review shall be made on forms provided by the City Planning Official.
- b. **Submittal Information.** The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - i. The information requested on the application form;
 - ii. Plans and exhibits required for the specific approval(s) being sought;
 - iii. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - iv. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
 - v. The required fee; and
 - vi. Evidence of neighborhood contact, as applicable, pursuant to Section 15.202.050.

FINDING: The Applicant submitted an application, tentative plan, burden of proof, fee, and supporting materials required for Type III review of a Preliminary Plat for a Subdivision. The application requirements were met.

B. Mailed and Posted Notice of a Public Hearing.

- a. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. 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. Notice shall be mailed to:
 - i. The applicant;

- ii. 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;
 - iii. The owner of a public use airport if the airport is located within 10,000 feet of the subject property;
 - iv. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park;
 - v. The Planning Commission;
 - vi. Any neighborhood or community organization formally recognized by the City Council, whose boundaries include the site;
 - vii. Any person who submits a written request to receive a notice; and
 - viii. 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 Code.
- b. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 10 days prior to the hearing
- c. At least 14 days before the first hearing, the City shall post notice of the hearing on the project site in clear view from a public right-of-way.
- d. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:
- i. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
 - ii. The date, time, and location of the scheduled hearing;
 - iii. The street address or other clear reference to the location of the proposed use or development;
 - iv. A disclosure statement 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 City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - v. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;

- vi. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- vii. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- viii. A statement that after the public hearing 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: Notice of the public hearing was sent to neighbors within 100 feet and to the City's agency notification list on 7/29/21. The notice followed the City's standard notice format for a quasi-judicial land use application and included the above required elements. Notice was posted on site and the in the local paper (Wise Buys) in the 8/3/21 edition in compliance with these requirements.

C. Setting the hearing.

- A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the City staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with Subsection G.
- B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120-day time limit set forth in Section 15.202.020.

FINDING: The hearing date was set for August 18, 2021. Continuances may be allowed in accordance with subsection (G) below.

D. Ex Parte Contact, Personal Knowledge and Bias.

- a. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the parties in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

Prior to making a decision, the Hearings Body or any member thereof shall not communicate directly or indirectly with any party or his representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication whether written or oral occur, the Hearings Body member shall:

- i. Publicly announce for the record the substance of such communication; and
 - ii. Announce the parties' right to rebut the substance of the ex parte communication during the hearing. Communication between City staff and the Hearings Body shall not be considered to be an ex parte contact.
- b. If the Hearings Body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the Hearings Body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record. For the purposes of this section, a site visit by the Hearings Body shall be deemed to fall within this rule. After the site visit has concluded, the Hearings Body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.
- c. Prior to or at the commencement of a hearing, any party may challenge the qualification of the Hearings Body, or a member thereof, for bias, prejudice or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the Hearings Body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear.

FINDING: The Planning Commission will host a hearing in accordance with these standards and will follow standard procedures, including disclosure of ex parte contact, personal knowledge and bias.

E. Conduct of a Quasi-Judicial Public Hearing. A hearing shall be conducted as follows:

- a. The Hearings Body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
- b. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
- c. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.
- d. Challenges to the Hearings Body's qualifications to hear the matter shall be stated and challenges entertained.
- e. The Hearings Body shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue.
- f. Order of presentation:
 - 1. Open the hearing.
 - 2. Staff report.
 - 3. Proponents' presentation.
 - 4. Opponents' presentation.
 - 5. Proponents' rebuttal.
 - 6. Opponents' rebuttal may be allowed at the Hearings Body's discretion.

7. Staff comment.
8. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.
9. Close the hearing.
 - g. The record shall be available for public review at the hearing.
 - h. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the record.
 - i. Throughout all local land use proceedings, the burden of proof rests on the applicant.
 - j. Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous hearing on the subject application. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

FINDING: These hearing procedures will be followed.

F. Close of the record.

- a. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.
- b. If the hearing is continued or the record is held open under Subsection G, further evidence or testimony shall be taken only in accordance with the provisions of Subsection G.
- c. Otherwise, further testimony or evidence will be allowed only if the record is reopened under Subsection H.
- d. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day time limit for decision.

G. Continuances or record extensions.

- a. Grounds.
 - i. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding suspension of the 120 day limit for decision. If a continuance request is made after the published or mailed notice has been provided by the City, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.
 - ii. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

- i. Where additional documents or evidence are submitted by any party; or
- ii. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (i), "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

- iii. The grant of a continuance or record extension in any other circumstance shall be at the discretion of the Hearings Body.
- b. Continuances.**
- i. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.
 - ii. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.
 - iii. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.
- c. Leaving record open.** If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 14 additional days, allowing at least the first seven days for submittal of new written evidence or testimony and at least seven additional days for response to the evidence received while the record was held open. Written evidence or testimony submitted during the period the record is held open shall be limited to evidence or testimony that rebuts previously submitted evidence or testimony.
- d. A continuance or record extension granted ... shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day time limit is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.**

H. Reopening the record.

A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. The Hearings Body shall not reopen the record at the request of an applicant unless the applicant has agreed in writing to a suspension of the 120-day time limit.

B. Procedures.

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record shall be at the discretion at the Hearings Body.

2. The Hearings Body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

FINDING: The procedures for closing the record, continuing the record, and reopening the record will be followed.

- I. **Notice of Quasi-Judicial Decision.** A Hearings Body's decision shall be in writing and mailed to all parties; however, one person may be designated by the Hearings Body to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants. The Notice of Quasi- Judicial 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 Planning Commission's decision to City Council pursuant to Subsection K or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

FINDING: Notice of the Planning Commission decision will be mailed in accordance with these procedures.

- J. **Effective Date of Decision.** Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to Subsection K or unless the decision is called up for review by the City Council pursuant to Section 15.204.020(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, but any development that occurs during the pendency of appeals beyond the local level are at the sole risk of the applicant and the City may require execution of an instrument acknowledging such fact prior to issuance of any building permits.

FINDING: In accordance with this requirement, the effective date of the Planning Commission decision will be 12 days after the City mails the decision notice, unless an appeal is filed in accordance with Subsection K, or the decision is called up by Council for review. No building permits will be issued until the decision is final.

- K. **Appeal of Planning Commission Decision.** The Planning Commission's decision may be appealed to the City Council as follows:
 - a. Who may appeal. The following people have legal standing to appeal:

- i. The applicant or owner of the subject property; and
 - ii. Any other person who testified orally or in writing during the subject public hearing before the close of the record.
- b. Appeal filing procedure. Appeals shall be filed in accordance with Chapter 15.212.

FINDING: If the decision is appealed, these procedures must be followed.

Article 9. Land Divisions

- **Chapter 15.402 General Provisions**

15.402.010 Purpose

It is the purpose of this Article 9, in accordance with the provisions of ORS Chapters 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.

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 Chapters 92.012 and 277.100.

FINDING: The submitted application is for a Tentative Plan for a subdivision and is subject to the subdivision requirements and criteria of Article 9.

Article 9. Land Divisions

- **Chapter 15.406 Subdivisions and Planned Unit Developments (PUD)**

15.406.010 Subdivision Applications

A. Application. Any person proposing a subdivision, or the authorized agent or representative thereof, shall submit an application for a subdivision to the City. The application shall be accompanied with either an outline development plan as provided for in division (B) of this section, or a tentative plan as set forth in division (C) of this section, together with improvement plans and other supplementary material as may be required, and the materials required for the applicable review type as specified in Article 7. The number of copies required shall be as specified on the application form. The date of filing shall be construed to be the date on which all of the foregoing materials are received and accepted by the appropriate city official.

B. Outline development plan. The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer. If an outline development plan is prepared and submitted with the application for a subdivision, it shall include both maps and written statements as set forth below.

...

FINDING: The Applicant chose to skip the step of submitting an outline plan and instead submitted a tentative plan, as allowed by this section.

C. Tentative plan required. Following or in conjunction with submittal and approval of an outline development plan and subdivision application, or as an initial subdivision application, any person proposing a subdivision shall submit a tentative plan together with the accompanying information and supplemental data, prepared and submitted in accordance with the provisions of this section and materials required for a Type III review as specified in Article 7. (ORS 92.040). Note: Applicants should review the design standards set forth in Article 5 prior to preparing a tentative plan for a development.

- a. Scale of tentative plan.** The tentative plan of a proposed subdivision shall be drawn on a sheet 18 by 24 inches in size or multiples thereof at a scale of one inch equals 100 feet or multiples thereof as approved by the Planning Official. (ORS 92.080). In addition, at least one copy of the plan on a sheet of paper measuring 8 1/2 inches by 11 inches or 11 inches by 17 inches shall be provided for public notice requirements.
- b. Information requirements.** The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete, unless all such information is provided unless approved otherwise by the Planning Official.

i. General information required.

1. Proposed name of the subdivision.
2. Names, addresses and phone numbers of the owner of record and subdivider, authorized agents or representatives, and surveyor and any assumed business names filed or to be filed by the owner or subdivider in connection with the development.
3. Date of preparation, north point, scale and gross area of the development.
4. Identification of the drawing as a tentative plan for a subdivision.
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

ii. Information concerning existing conditions.

1. Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development.
2. Location of any existing features such as section lines, section corners, city and special district boundaries and survey monuments.
3. Location of existing structures, fences, irrigation canals and ditches, pipelines, waterways, railroads and natural features, such as rock outcroppings, marshes, wetlands, geological features and natural hazards.

4. Location and direction of water courses, and the location of areas subject to erosion, high water tables, and storm water runoff and flooding
5. Location, width and use or purpose of any existing easements or rights-of-way within and adjacent to the proposed development.
6. Existing and proposed sewer lines, water mains, culverts and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and locations.
7. Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of not more than 20 feet.

iii. Information concerning proposed subdivision.

1. Location, names, width, typical improvements, cross-sections, approximate grades, curve radii and length of all proposed streets, and the relationship to all existing and projected streets.
2. Location, width and purpose of all proposed easements or rights-of-way, and the relationship to all existing easements or rights-of-way.
3. Location of at least one temporary benchmark within the proposed subdivision boundary.
4. Location, approximate area and dimensions of each lot and proposed lot and block numbers.
5. Location, approximate area and dimensions of any lot or area proposed for public, community or common use, including park or other recreation areas, and the use proposed and plans for improvements or development thereof.
6. Proposed use, location, area and dimensions of any lot which is intended for nonresidential use and the use designated thereof.
7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.
8. Source, method and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal and all utilities.
9. Stormwater and other drainage plans.

FINDING: This application is for approval of a Tentative Plan for a subdivision on a vacant and undeveloped parcel with little to no existing infrastructure or features. Any information for which the City needs additional details is noted as a recommended condition of approval.

D. Master development plan required. An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. The plan shall include, but not be limited to, the following elements.

- a. Overall development plan, including phase or unit sequences and the planned development schedule thereof.
- b. Schedule of improvements initiation and completion.
- c. Sales program timetable projection.
- d. Development plans of any common elements or facilities.
- e. Financing plan for all improvements.

FINDING: The Applicant stated in their submitted narrative, "The proposal does not include a Master Planned Development, but does propose to plat and develop the subdivision in phases. Regarding, (D)(1) above, as evident from the submitted Tentative Plan, Applicant proposes three (3) phases to the subdivision. The applicant proposes to plat the first Phase within two (2) years of Land Use approval and the remaining two (2) phases within the following three (3) years. The intent is to complete each phase within the spring paving window, initiating underground construction in the late winter months as physically possible. There are no common elements proposed other than drainage swales. All construction financing will be private and internal funding." Criteria satisfied.

E. Supplemental information required. The following supplemental information shall be submitted with the tentative plan for a subdivision.

- f. Proposed deed restrictions or protective covenants, if such are proposed to be utilized for the proposed development.

FINDING: The Applicant stated in their submitted narrative, "Applicant proposes CC&R's for review and consideration because it is proposing the use of drainage swales in lieu of curbs. The swales will be maintained by future lot owners. An exception is being requested to exclude curbs from the development in accordance with applicable provisions of the development code. As the outcome of that exception request is uncertain, the applicant requests that the City defer review of the CC&Rs until final plat review. CC&R review is only needed if the drainage exception is approved." City Staff approves the use of drainage swales as opposed to curbs. Prior to final plat, City Staff will review the proposed CC&R's.

- g. Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations or any other applicable local, state or federal ordinance, rule or regulation.

FINDING: The applicant requested an exception on the construction of curbs (requesting no curbs), which is subject to approval by the City Engineer. City Staff approves the use of drainage swales as opposed to curbs.

F. Tentative plan review procedures.

- a. Tentative plan review shall follow the Type III review procedures in Article 7.
- b. The decision on a tentative plat shall be set forth in a written decision, and in the case of approval shall be noted on not less than two copies of the tentative plan, including references to any attached documents setting forth specific conditions.

FINDING: The tentative plan review is following the Type III review procedures in Article 7. Following a hearing, the Planning Commission will decide on the proposal and will issue a written decision in accordance with this requirement.

G. Tentative approval relative to final plan. Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat and the city may require only such changes as are deemed necessary for compliance with the terms of its approval of the tentative plan.

H. Resubmission of denied tentative plan. Resubmittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this chapter.

FINDING: These tentative plan and final plan requirements and procedures will be followed and enforced by the City.

I. Requirements for approval. An outline development plan or a tentative plan for a subdivision shall not be approved unless it is found, in addition to other requirements and standards set forth by this chapter and other applicable City of La Pine ordinances, standards and regulations, that the following requirements have been met:

- a. The proposed development is consistent with applicable density and development standards set forth of the applicable zone in Article 3. All lots conform to the applicable lot standards of the zoning district including density, lot area, dimensions, setbacks, and coverage.

FINDING: The proposed density is approximately 4.7 units per acre in the residential district. Compliance with the relevant development standards is reviewed in sections above. If the proposal is deemed to meet all relevant development requirements and standards, as conditioned, then this criterion will be met as well.

- b. The proposal is in compliance with any applicable overlay zone regulations in Article 4.

FINDING: A City Zoning Map dated August 2012 that was sent to DLCDC as the acknowledged zoning map, shows the subject property in the Transitional Overlay Zone. As an ordinance adopting this map cannot be found City Staff agree to using the current City of La Pine Zoning Map. The current map does not include the subject property in any overlay zones.

- c. The proposal is in compliance with the design and improvement standards and requirements set forth in Article 5, or as otherwise approved by the city, or that such compliance can be assured by conditions of approval.

FINDING: This application is reviewed herein for compliance with the design and improvement standards and requirements of Article 5. Staff finds that the application either meets these standards or can meet them with conditions of approval.

- d. The applicant has demonstrated that adequate public facilities are available or can be made available at the time of development, and if necessary that the developer has proposed adequate and equitable improvements and expansions to the facilities to bring the facilities and services up to an acceptable capacity level.

FINDING: “Public facilities” for this criterion are understood by Staff to include: water, sewer, transportation, electricity, and police.

Water and Sewer: Water and sewer service is provided in this area by the City of La Pine. As discussed above, sewer mains and sewer infrastructure shall be constructed in accordance with City of La Pine Public Works Standards. Sewer main lines shall be minimum 8" diameter.

Transportation: The application includes construction of two roadways: a new proposed local street, “A Street” and another new local street, “B Street”. The TSP requires the local street to be 64’ wide, with sidewalks and landscape strips on both sides.

Electric: The applicant submitted a “will-serve” letter from Midstate Electric indicated the utility will provide service to the subdivision in accordance with their Line Extension Policy.

Police: The subject property is within the Deschutes County Sheriff’s service area and it is staff’s understanding that the City’s agreement with the Sheriff’s department, as well as funding mechanisms, are still valid and viable.

- e. The development provides for the preservation of significant scenic, archaeological, natural, historic and unique resources in accordance with applicable provisions of this Code and the Comprehensive Plan.

FINDING: The Applicant notes that, “there are no significant scenic, archaeological, natural, historic and unique resources on the property.” It appears to staff the none of these resources are present. As such, unless proven otherwise, this criterion is not applicable.

- f. The proposed name of the subdivision is not the same as, similar to or pronounced the same as the name of any other subdivision in the city or within a six mile radius thereof, unless the land platted is contiguous to and platted as an extension of an existing subdivision. (ORS 92.090)

FINDING: The Applicant proposes the name, “Finley Butte Ranch” in the Burden of Proof document and on the tentative plan. Applicant shall submit the proposed name to the County Surveyor for review and approval.

- g. The streets and roads are laid out so as to conform to an adopted Transportation System Plan for the area, and to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.

FINDING: The application includes construction of two roadways: a new proposed local street, “A Street” and another new local street, “B Street”. The TSP requires the local street to be 64’ wide, with sidewalks and landscape strips on both sides.

- h. Streets and roads for public use are to be dedicated to the public without any reservation or restriction; and streets and roads for private use are approved by the city as a variance to public access requirements.

FINDING: The Applicant indicated in their submitted narrative that proposed streets will be dedicated to the public. No private streets are proposed.

- i. Adequate mitigation measures are provided for any identified and measurable adverse impacts on or by neighboring properties or the uses thereof or on the natural environment.

FINDING: No specific measurable adverse impacts to neighboring properties have been identified.

- j. Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services and utilities.

FINDING: The discussions under sections in 15.90, which address public facilities including transportation, sewer, and water, address these topics. The proposed plans, combined with the adjustments requested by the City Engineer and included in this report as suggested conditions of approval, can meet this criterion.

15.406.020 Final Plat for a Subdivision

A. Submission of final plat.

1. Time requirement.

- a. Except as otherwise approved in accordance with the approval of a master plan for a subdivision planned for unit or phase development, the subdivider shall, within two years after the date of approval of the tentative plan for a subdivision, prepare and submit the final plat for a subdivision that is in conformance with the tentative plan as approved and with all conditions applicable thereto. The number of copies required shall be as specified on the application form.

...

FINDING: Final plat for the first phase shall be recorded within two years of the tentative plan decision. Final plat for all remaining phases shall be recorded within five years of the tentative plan decision.

15.406.040 Subdivisions and PUD Review

- A. Review of a subdivision or planned unit development shall follow the Type III review procedures set forth in Article 7.
- B. Public hearing and notice required. Neither an outline development plan or a tentative plan for a proposed subdivision or PUD may be approved unless the City first advertises and holds a public hearing thereon according to applicable requirement in Article 7.

FINDING: Review of the proposed subdivision is following the Type III review procedures set forth in Article 7. A hearing was scheduled for August 18, 2021 and as noted herein, was properly noticed through mailings, on site posting, and newspaper notice.

Article 9. Land Divisions

- **Chapter 15.418 Processing and Recording Procedures**

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% 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 Ch. 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 twelve 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: The Applicant shall follow these procedures for all final plat submittals.

V. CONCLUSION AND RECOMMENDATION:

Based on the submitted application materials and the above Findings, Staff recommends that the Applicant has met or can meet with the Conditions of Approval noted herein, the applicable criteria for a Tentative Plan for a subdivision to include 89 residential lots and associated infrastructure improvements.

Recommended Conditions of Approval:

GENERAL:

1. 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. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

2. No above ground equipment shall obstruct vision clearance areas for vehicular traffic.
3. Clear vision standards be provided for through the development of the Subdivision. Proposed street trees will be omitted in these areas. This standard is typically imposed as an ongoing condition of approval for a tentative plan. 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.
4. Accessible crossings must be provided at all intersections within the subdivision.
5. The east-west multi-use path shall be designed to City standards, with an additional 2 feet unpaved buffer (one foot each side) within a separate tract, or as approved by the City Engineer. The multi-use path shall be an asphalt, concrete or other City-approved durable surface meeting ADA requirements consistent with the applicable City engineering standards.
6. Final plat for the first phase shall be recorded within two years of the tentative plan decision. Final plat for all remaining phases shall be recorded within five years of the tentative plan decision.
7. Prior to sale and/or occupancy of any lot and as a condition of acceptance of the improvements, the Applicant shall submit to the City a one-year maintenance surety bond in an amount not to exceed 20% 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.
8. Per City of La Pine Ordinance No 2015-05 Section 6.12, the property owner of all proposed parcels will be responsible for maintenance and repair of the sewer/septic system to the point where the building sewer is connected to a City sewer main. This responsibility includes any costs of maintenance, repair, damage, and/or injury. The owner will be liable for any damage to the City system caused by an act of the owner and/or its tenants(s), agent(s), employee(s), contractor(s), licensee(s), and/or permittee(s). If any break, leak, and/or other damage to a building sewer occurs, the owner of the property served by the building sewer will cause repairs to be made immediately to minimize any sewer spillage.

PRIOR TO FILING FINAL PLAT:

1. Applicant shall submit the proposed name to the County Surveyor for review and approval.
2. 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.
3. 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.

4. 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 three and one-half 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. Construction plans shall demonstrate compliance with these clear vision standards and shall be submitted to the City for review and approval prior to construction.
5. Sewer mains and sewer infrastructure shall be constructed in accordance with City of La Pine Public Works Standards. Sewer main lines shall be a minimum 8' diameter.
6. Street lights shall be installed on the plans and provided at the following locations: Intersections, Mid-block for blocks longer than 400 feet from center of intersection to center of intersection, and at the crosswalks for the multi-use path intersection with both proposed streets. Poles and fixtures shall conform to the power provider standards. Standard Midstate Electric head fixtures shall be used.
7. As approved by the City Engineer, public improvements must be constructed prior to final plat or an approved performance assurance mechanism and associated improvement agreement with specific construction times outlined, may be filed with the City for construction of items not necessary for safety or required connectivity. All such agreements shall be reviewed and approved by the City Engineer and shall be in compliance with LPDC 15.94.020.
8. Construction plans shall be submitted to the City for review and approval prior to construction. These above requirements for utilities, improvement construction, inspections and as built plans are recommended conditions of approval.
9. Prior to final plat, City Staff will review the proposed CC&R's.

PRIOR TO CONSTRUCTION:

1. All construction, landscaping and utility plans shall be reviewed and approved by the City Engineer and Public Works Manager. Permits for sewer and water improvements will not be issued until the Public Works Director has approved all sanitary sewer and water plans for conformance with City standards.
2. Grading and drainage plans and stormwater calculations shall be submitted to the City Engineer for review and approval for compliance with this standard, City Public Works standards and any other applicable standard.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

1. Lots shall comply with dimensional and setback requirements as required by this decision and applicable sections of the Development Code.
2. If driveway access permits are required at the time of building permit application, they shall be reviewed and approved prior to release of building permits.

3. All lots shall be served by sewer and water service and streets shall be constructed/improved as required by this decision and approval of construction plans by the City Engineer.
4. The developer, applicant or builder shall contribute \$568.75 per EDU toward a fund for replacement of the Industrial Park lift station.