



FINDINGS AND DECISION

- FILE NUMBER:** 07PA-24
- APPLICANT:** First Cabin Investments
723 NW Negus Pl
Redmond, OR 97756
- OWNER:** First Cabin Investments LLC
723 NW Negus Pl
Redmond, OR 97756
- LOCATION:** The subject property is located at 52510 Pine Drive, La Pine, Oregon 97739. The Tax Lot number is 1400 on Deschutes County Assessor's Map 21-10-36C.
- REQUEST:** The applicant is requesting to partition the subject property into three lots.
- STAFF CONTACT:** Rachel Vickers, Associate Planner
Email: rvickers@lapineoregon.gov
Phone: (541) 280-5680
- DECISION:** Approved, subject to the conditions of approval identified below.

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

- City of La Pine Development Code
 - Article 3. Zoning Districts
 - Section 15.18, Residential Zones
 - Article 9. Land Divisions
 - Section 15.402, General Provisions
 - Section 15.410, Land Partitions
 - Section 15.418, Processing and Recording Procedures
- Oregon Revised Statute
 - Chapter 92, Subdivisions and Partitions

II. BASIC FINDINGS

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

PARCEL SIZE: The subject property is 1.14-acres in size.

LOT LEGALITY: The subject property was originally platted as Lot 8 within Block 2 of the Cagle Subdivision Plat No 8, recorded January 28, 1958.

REVIEW PERIOD: The subject application was submitted on April 29, 2024, and deemed complete on May 29, 2024. The 120th day on which the City must take final action on this application is September 26, 2024.

PROPOSAL: The applicant proposes to partition the subject property into three parcels detailed in Figure 1 below. No further development is proposed at this time.

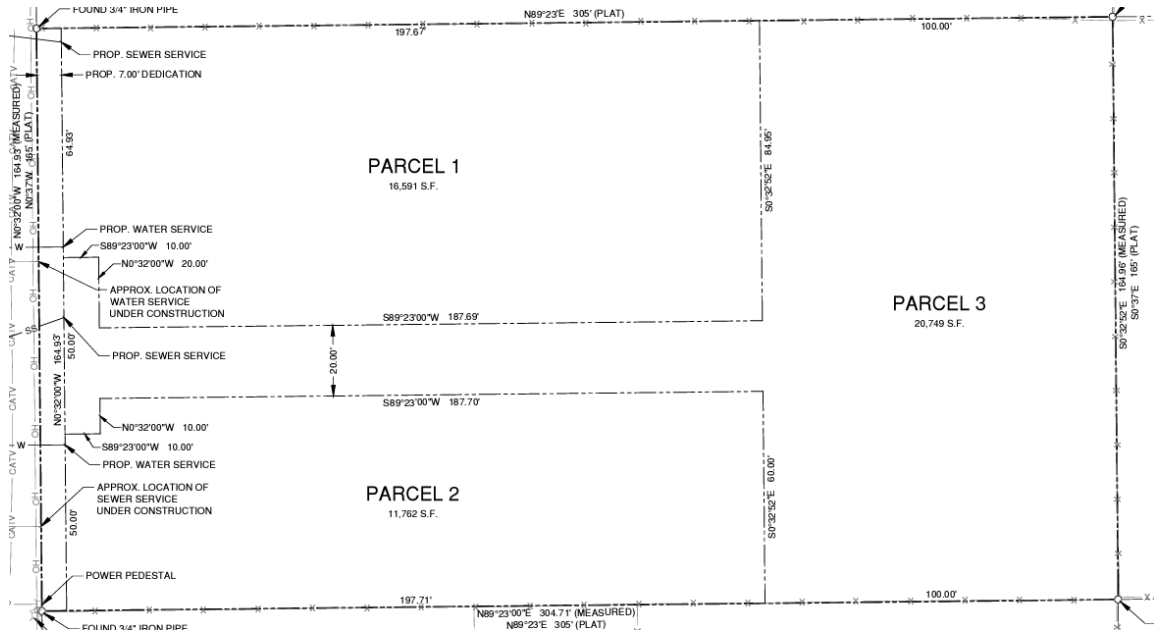


Figure 1: Proposed Tentative Plat

EXISTING DEVELOPMENT: The subject property is currently undeveloped and is rectangular in shape. The property fronts on Pine Drive to the west. The grade of the property is relatively even.

SURROUNDING LAND USES: Surrounding properties are zoned Residential Single Family that are similar in shape and size.

PERMIT HISTORY:

There is no known land use history for the subject property.

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice on June 6, 2024, to several public agencies and received the following comments:

07PA-24, 52510 Pine

City of La Pine Engineering, Erik Huffman

Prior to final plat approval, applicant shall prepare and design engineered stamped construction plans to construct 29 foot wide asphalt pavement on Pine Drive (two 11 foot travel lanes and one 7 foot parallel parking lane) along the project frontage, 6 foot wide concrete sidewalk on Pine Drive project frontage, drainage swales on Pine Drive frontage, street trees at an average of 35 foot spacing, and water and sewer services to each of the three proposed parcels in accordance with City of La Pine standards. Construction plans shall be submitted to the City for review and approval. Final plans shall be submitted to the City with a signature line for City of La Pine Public Works Director.

Prior to final plat approval, 7' right-of-way along the entirety of frontage of Pine Drive shall be dedicated to the public on the partition plat map.

Prior to final plat approval, at the discretion of the City, as an alternative to construction of roadway and sidewalk improvements, the applicant may pay a fee in lieu of construction in the amount equivalent to the cost of the improvements, the cost to be reviewed and approved by the City.

Prior to final plat approval, and only for those improvements which are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120% of the cost of improvements prior to beginning construction. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff.

At the completion of construction of required improvements, the City will require a one-year maintenance surety bond for 10% of the value of all improvements, to guarantee maintenance and performance for a period of one year from the date of acceptance of the improvements.

STAFF COMMENT: In order to ensure compliance with the City Engineers' comments, the following conditions of approval have been added.

Pine Drive ROW Improvements: ***Prior to final plat approval***, applicant shall prepare and design engineered stamped construction plans to construct 29 foot wide asphalt pavement on Pine Drive (two 11 foot travel lanes and one 7 foot parallel parking lane) along the project frontage, 6 foot wide concrete sidewalk on Pine Drive project frontage, drainage swales on Pine Drive frontage, street trees at an average of 35 foot spacing, and water and sewer services to each of the three proposed parcels in accordance with City of La Pine standards. Construction plans shall be submitted to the City for review and approval. Final plans shall be submitted to the City with a signature line for City of La Pine Public Works Director.

Right of Way Dedication: ***Prior to final plat approval***, 7' right-of-way along the entirety of frontage of Pine Drive shall be dedicated to the public on the partition plat map.

Fee in Lieu Option: ***Prior to final plat approval***, at the discretion of the City, as an alternative to construction of roadway and sidewalk improvements, the applicant may pay a fee in lieu of construction in the amount equivalent to the cost of the improvements, the cost to be reviewed and approved by the City.

Performance Bond Construction: ***Prior to final plat approval***, and only for those improvements which are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120% of the cost of improvements prior to beginning construction. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff.

Maintenance Bond: At the completion of construction of required improvements, the City will require a one-year maintenance surety bond for 10% of the value of all improvements, to guarantee maintenance and performance for a period of one year from the date of acceptance of the improvements.

The following agencies did not respond to the notice: Deschutes County Surveyor, City of La Pine Public Works, City of La Pine Fire Department, and Midstate Electric.

PUBLIC COMMENTS: The La Pine Community Development Department mailed notice of the application to all property owners within 100 feet of the subject property on June 6, 2024. No public comments were received.

IV. FINDINGS OF FACT

PART III, CITY OF LA PINE DEVELOPMENT CODE

Article 3, Zoning Districts

Chapter 15.18 – Residential Zones

Section 15.18.200, Characteristics of the Residential Zones

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

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

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

Section 15.18.300, Use Regulations

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

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

2. **Retail sales and service.** Retail sales and service uses in the RSF and RMF zones are limited to veterinary clinics and commercial kennels where the animal-related facilities are primarily indoors.
 3. **Self-service storage.** Self-service storage uses are required to have a minimum lot size of five acres.
 4. **Parks and open areas.** Cemeteries require a conditional use permit in the RSF and RMF zones. All other parks and open areas uses permitted outright.
- C. **Conditional uses (CU).** Uses which are allowed if approved through the conditional use review process are listed in Table 15.18-1 with a "CU." These uses are allowed provided they comply with the conditional use requirements of chapter 15.316, conditional uses. Uses listed with a "CU" that also have a footnote number in the table are subject to the regulations cited in the footnote.
- D. **Prohibited uses (N).** Uses listed in Table 15.18-1 with an "N" are prohibited. Existing uses in categories listed as prohibited may be subject to the regulations of chapter 15.08, non-conforming uses and structures.

FINDING: The applicant proposes a three-parcel partition with no further development at this time, therefore these criteria are not applicable. Staff notes that the applicant's proposed parcel sized will be reviewed so that they could reasonably fit a use allowed within the RSF zone while meeting applicable development standards.

Section 15.18.400, Development Standards

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

Table 15.18-2. Development Standards in the Residential Zones		
Standard	RSF	RMF
Minimum Density	1 unit per acre	5 units per acre
Maximum Density	7 units per acre	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 of 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	

FINDING: The applicant proposes a 3-parcel partition. Parcel 1 will be 16, 591 square feet, Parcel 2 will be 11,762 square feet, and Parcel 3 will be 20,749 square feet. While no development is proposed at this time, staff finds that the proposed lots are large enough to accommodate a use in the RSF zone while complying with the setback and lot coverage requirements of LPDC Table 15.18-2. Compliance with LPDC section 15.18.400 will be reviewed once development is proposed.

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 is not proposing development at this time, therefore compliance with LPDC Section 15.18.500 will be reviewed once development is proposed.

Article 5, Development Standards

Chapter 15.80 – Development Standards, Generally

Section 15.80.030, Exemption – Lot Size Requirements

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

FINDING: The applicant is not requesting an exemption to the lot size requirements for the RSF zone, therefore

these criteria are not applicable.

Chapter 15.90, Public Facilities

Section 15.90.010, Public Facility Improvement

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

Section 15.90.020, Developer Responsibility for Streets and Other Public Facilities

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

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

Duties of Developer: Unless the applicant pays a fee in lieu, it shall be the responsibility of the developer to construct all streets, curbs, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the use or development in accordance with the specifications of the city and/or the serving entity.

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

FINDING: Comments from the City Engineer did not indicate the need for oversizing; therefore, this criterion is not applicable.

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

FINDING: The City Engineer provided several comments regarding right-of-way improvements on Pine Drive. Those comments have previously been incorporated into this land use decision. Staff notes that the Engineer also provided the option for a fee in lieu for some of the required improvements. AS conditioned, this criterion is met.

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

FINDING: The applicant's proposal does not include half streets; therefore, this criterion is not applicable.

Section 15.90.030, Sewer and Water

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

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

Sewer and Water Plan Approval: 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.

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

FINDING: Comments from the City Engineering did not indicate the deficiencies in the existing water or sewer systems could not be rectified through the conditions of approval that have been added to this decision. This criterion is not applicable.

Section 15.90.040, Stormwater

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

FINDING: While no development is proposed at this time, to ensure future compliance with LPDC Section 15.90.040, the following condition of approval has been added.

Stormwater: Prior to the issuance of building permits, the City must review and approve the drainage facilities on site for compliance with SPDC Section 15.90.040.

Section 15.90.050, Utilities

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

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

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

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

FINDING: The applicant is not proposing a new subdivision; therefore, these criteria are not applicable.

- D. Exception to undergrounding requirement. The city may grant exceptions to the undergrounding standard where existing physical constraints, such as geologic conditions, streams, or existing development conditions make underground placement impractical.**

FINDING: The applicant is not requesting an exception to the undergrounding requirements; therefore, this criterion is not applicable.

Section 15.90.060, Public Street/Highway Improvement

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

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

FINDING: The applicant's proposal does not include the addition of passing lanes, therefore this criterion is not applicable.

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

FINDING: The applicant's proposal does not include the reconstruction or modification of public roads. This criterion is not applicable.

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

FINDING: The applicant's proposal does not include any temporary public roads or highway detours. This criterion is not applicable.

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

FINDING: The applicant's proposal does not include the minor betterment of any of the existing public road facilities mentioned above. This criterion is not applicable.

- E. *The construction, reconstruction, or modification of a public street or highway that is identified as a priority project in a transportation system plan (TSP) or the state transportation improvement plan (STIP) that was duly adopted on or before the effective date of this chapter.***

FINDING: The applicant's proposal does not include the construction, reconstruction, or modification of a public street that is identified in the TSP or STIP. This criterion is not applicable.

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

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

Section 15.90.070, Design of Streets and Other Public Facilities

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

FINDING: Comments from the City Engineer did not identify any needed improvements to the traffic circulation system in relation to intersection angles, grades, tangents, and curves. This criterion is not applicable.

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

FINDING: The applicant's proposal does not include new streets and therefore these criteria are not applicable.

- C. *Access ways. The city, in approving a land use application with conditions, may require a developer to provide an access way where the creation of a cul-de-sac or dead-end street is unavoidable and the access way connects the end of the street to another street, a park, or a***

public access way. Where an access way is required, it shall be not less than ten feet wide and shall contain a minimum six-foot-wide paved surface or other all-weather surface approved by the city. Access ways shall be contained within a public right-of-way or public access easement, as required by the city.

FINDING: Comments from the City Engineer did not identify the need for additional access ways. This criterion is not applicable.

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

FINDING: Comments from the City Engineer did not anticipate the need for future street extensions as detailed above. This criterion is not applicable.

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

FINDING: Comments from the City Engineer did not indicate any road dedications would be required for this project; therefore, this criterion is not applicable.

- 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: Comments from the City Engineer indicated that per the requirements of the La Pine Transportation System Plan sidewalk improvements on Pine Drive would be required, or a fee in lieu. These conditions have previously been added to this land use decision. As conditioned, this criterion is met.

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

FINDING: Comments from the City Engineer did not indicate bike lanes would be required for this project; therefore, this criterion is not applicable.

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

FINDING: Comments from the City Engineering did not indicate a cul-de-sac would be required for this proposal; therefore, these criteria are not applicable.

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

FINDING: Comments from the City Engineer indicated that street trees with an average of 35 foot spacing would be required on Pine Drive. These requirements have previously been conditioned in this land use decision. As conditioned, this criterion is met.

- J. *Streets adjacent to railroad right-of-way.* Whenever a proposed land development contains or is adjacent to a railroad right-of-way, provisions may be required for a street approximately parallel to the ROW at a distance suitable for the appropriate use of land between the street and the ROW. The distance shall be determined with consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting or other separation requirements along the ROW.**

FINDING: The subject property is not adjacent to a railroad right-of-way; therefore, this criterion is not applicable.

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

FINDING: The applicant's proposal did not include reserve strips; therefore, this criterion is met.

- L. *Alignment.* All streets, as far as practicable, shall be in alignment with existing streets by continuations of the center lines thereof. Necessary staggered street alignment resulting in**

intersections shall, wherever possible, leave a minimum distance of 200 feet between the center lines of streets of approximately the same direction, and in no case shall the off-set be less than 100 feet.

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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: The applicant's proposal did not include any new streets or intersections; therefore, this criterion is not applicable.

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.*

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

O. *Street grades. Street grades shall not exceed eight percent on arterials, ten percent on collectors and 12 percent on all other streets including private driveways entering upon a public street or highway; however, for streets at intersections, and for driveways entering upon a public street or highway, there should be a distance of three or more car lengths (approximately 50 feet) where the grade should not exceed six percent to provide for proper stopping distance during inclement weather conditions.*

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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

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

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

FINDING: The applicant's proposal did not include any new streets; therefore, this criterion is not applicable.

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

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

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

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

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

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

FINDING: Comments from the City Engineer indicated that a drainage swale would be required on Pine Drive. These requirements have previously been conditioned in this land use decision. As conditioned, this criterion is met.

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

FINDING: The applicant's proposal did not include the addition of a gate; therefore, this criterion is not applicable.

Section 15.90.080, Traffic Impact Analysis

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

traffic impact analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a traffic impact analysis; and who is qualified to prepare the analysis.

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

FINDING: The applicant's proposed partition is not required under any of the criteria listed under subsection B of this section. Furthermore, comments from the City Engineer did not indicate a need for a traffic impact analysis. Therefore, LPDC Section 15.90.080 does not apply to this land use application.

Chapter 15.92, Additional Standards for Land Divisions

Section 15.92.010, Lots and Blocks

- A.** *Blocks. The resulting or proposed length, width and shape of blocks shall take into account the requirements for adequate building lot sizes, street widths, access needs and topographical limitations.*
- 1. No block shall be more than 660 feet in length between street corner lines with a maximum 1,400-foot perimeter unless it is adjacent to an arterial street, or unless topography or the location of adjoining streets justifies an exception, and is so approved*

by the reviewing authority.

2. *The recommended minimum length of a block along an arterial street is 1,260 feet.*
3. *A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception; a standard exception is a block in which the building lots have rear yards fronting on an arterial or collector street.*

FINDING: The applicant's proposed three parcel partition does not create any new blocks; therefore, the above criteria are not applicable.

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

FINDING: The applicant's proposed three parcel partition does not include plans for future development at this time, however staff can assume that based on the setbacks and development regulations of the Residential Single-Family zone, residential development will be feasible on each newly created parcel. This criterion is met.

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

FINDING: Each newly created parcel will have at least 50 feet of frontage onto Pine Drive, which is classified as a City maintained public road. This criterion is met.

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

FINDING: Each newly created lot line will run at right angles from Pine Drive. This criterion is met.

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

FINDING: The applicants proposed three parcel partition does not divide the property by any of the above listed means, this criterion is met.

- F. *Grading, cutting and filling of building lots or sites. Grading, cutting and filling of building lots or sites shall conform to the following standards unless physical conditions warrant other standards as demonstrated by a licensed engineer or geologist, and that the documentation justifying such other standards shall be set forth in writing thereby:***
1. *Lot elevations may not be altered to more than an average of three feet from the natural pre-existing grade or contour unless approved otherwise by the city.*
 2. *Cut slopes shall not exceed one foot vertically to 1½ feet horizontally.*
 3. *Fill slopes shall not exceed one foot vertically to two feet horizontally.*
 4. *Where grading, cutting or filling is proposed or necessary in excess of the foregoing standards, a site investigation by a registered geologist or engineer shall be prepared and*

submitted to the city as a part of the tentative plan application.

- a. *The report shall demonstrate construction feasibility, and the geologist or engineer shall attest to such feasibility and shall certify an opinion that construction on the cut or fill will not be hazardous to the development of the property or to surrounding properties.*
- b. *The planning commission shall hold a public hearing on the matter in conformance with the requirements for a conditional use permit, however, such may be included within the initial hearing process on the proposed development.*
- c. *The planning commission's decision on the proposal shall be based on the following considerations:*
 - (1) *That based on the geologist's or engineer's report, that construction on the cut or fill will not be hazardous or detrimental to development of the property or to surrounding properties.*
 - (2) *That construction on such a cut or fill will not adversely affect the views of adjacent property(ies) over and above the subject site without land alteration, or that modifications to the design and/or placement of the proposed structure will minimize the adverse impact.*
 - (3) *That the proposed grading and/or filling will not have an adverse impact on the drainage on adjacent properties, or other properties down slope.*
 - (4) *That the characteristics of soil to be used for fill, and the characteristics of lots made usable by fill shall be suitable for the use intended.*

FINDING: The applicants proposed three parcel partition does not include any grading, cutting, or filling of building lots or sites, therefore these criteria are not applicable to this application however staff includes the following condition of approval to ensure future compliance.

Grading, Cutting, and Filling: Grading, cutting and filling of building lots or sites shall conform to LPDC Section 15.92.010(F).

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

FINDING: None of the newly created lots will have double frontage therefore this criterion is not applicable.

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

FINDING: The applicant's proposal does not include any special setback lines; therefore, this criterion is not applicable.

- I. *Large building lots; redivision. In the case where lots or parcels are of a size and shape that future redivision is likely or possible, the city may require that the blocks be of a size and shape so that they may be redivided into building sites as intended by the underlying zone. The development*

approval and site restrictions may require provisions for the extension and opening of streets at intervals which will permit a subsequent redivision of any tract of land into lots or parcels of smaller sizes than originally platted.

FINDING: Being that all three parcels are rectangular and similar in size, staff finds that they are proposed so that future redivision is possible. This criterion is met.

Section 15.92.020, Easements

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

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

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

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

FINDING: The subject property is not traversed by a water course; therefore, this criterion is not applicable.

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

FINDING: Staff finds the proposed partition will not require an added pedestrian or bicycle way due to the proposed parcels size, orientation, and proximity to existing sidewalks. This criterion is not applicable.

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

FINDING: The Public Works Director indicated that there is no need for additional sewer and water line easements as part of this partition, therefore this criterion is not applicable to the current application.

Section 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 five percent 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.*
- E.** *If the nature and design, or approval, of a development is such that over 30 percent 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 percent.*

FINDING: The City has not identified any need to acquire a portion of the proposed parcels for any other public purpose. These criteria are not applicable to the current application.

Chapter 15.94, Improvement Procedures and Guarantees

Section 15.94.010, Improvement Procedures

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

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

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

Plan Review and Approval: Improvement work shall not be commenced until development 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.*

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

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.***

FINDING: The applicant is not proposing development that is in conjunction with a recent final plat approval, therefore this criterion is not applicable.

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

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

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

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

FINDING: No new streets are included in this proposal; therefore, this criterion is not applicable.

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

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

As Built Plans: If needed, 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.

Section 15.94.020, Completion or Assurance of Improvements

- A. *Agreement for improvements. Prior to final plat approval for a subdivision, partition, PUD or other land development, or the final approval of a land use or development pursuant to applicable zoning provisions, where public improvements are required, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an***

agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and, providing that if the work is not completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.

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

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

FINDING: As detailed in LPDC Section 15.94.040, a Maintenance Surety Bond will be required as part of this project. To ensure compliance with the above criteria, the following condition of approval has been added.

Bond or Other Performance Assurance: The developer shall file with the agreement, to ensure his/her full and faithful performance thereof, one of the following, pursuant to approval of the city attorney and city manager, and approval and acceptance by the city council:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the city attorney.
 2. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to proceed in accordance with the agreement.
 3. Cash deposit.
 4. Such other security as may be approved and deemed necessary by the city council to adequately ensure completion of the required improvements.
- C. *Amount of security required. The assurance of full and faithful performance shall be for a sum approved by the city as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.***

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

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

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

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

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.

Section 15.94.040, Maintenance Surety Bond

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

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

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

Article 9, Land Divisions¹

Chapter 15.410, Land Partitions²

Section 15.410.010, Applicability and Exemptions

- A. *Applicability of regulations. All land partitions (as defined in article 2) within the city, except as***

¹ State Law reference— *Subdivision and other divisions of land, ORS 92.010 et seq.; city planning, ORS 227.010 et seq.*

² State Law reference— *Partition of land, ORS 92.010 et seq.*

set forth in division [subsection] B of this section, must be approved by the city as provided for in this section. Minor partitions are reviewed in accordance with the Type II procedures in article 7 and major partitions are reviewed in accordance with the Type III procedures in article 7.

FINDING: The applicant is applying for a three-parcel partition, which is being reviewed in accordance with the Type II procedures for a minor partition. Applicable criteria are addressed herein.

- B. Exemptions. In addition to those exclusions set forth in the definition of "partition" in article 2, the following land divisions shall be exempt from the land partitioning requirements set forth by this section and this chapter:**
- 1. The partitioning of a tract of land in which not more than one parcel is created and the parcel is being transferred to a public or semi-public agency for the purpose of a public road, street, canal or utility right-of-way, or for public park, school, recreation facility, trail, bikeway, natural area or other similar public purpose.**
 - 2. The transfer of one area of land between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the transfer is not reduced below the minimum lot size of the applicable zone. A boundary line adjustment is still required, however, and the requirements are set forth in chapter 15.414.**

FINDING: The applicant's three parcel partition does not meet any of the above exemptions, therefore these criteria are not applicable.

Section 15.410.030, Decisions – Partitions

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

FINDING: The applicant's three parcel partition is considered a minor partition and is being reviewed in accordance with Type II review procedures. This criterion is met.

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

FINDING: The applicant's three parcel partition is not considered a major partition; therefore, this criterion is not applicable.

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

FINDING: LPDC Section 15.12.020 defines series partitioning as follows:

Partition, series, means a series of partitions, major or minor, of a tract of land resulting in the creation of four or more parcels over a period of more than one calendar year, resulting in a de facto subdivision of land.

Based on the land use history for the subject property, and the applicant's proposal, staff finds that the applicant's proposed partition does not qualify as a series partition, therefore this criterion is not applicable.

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

FINDING: Relevant criteria under LPDC Section 15.414. and 15.418 will be reviewed for compliance during final plat review.

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

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

FINDING: As discussed herein, the applicants three parcel partition is in compliance with the applicable zoning regulations for the Residential Single Family zone. This criterion is met.

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

FINDING: As discussed previously, each newly created parcel will be suited for uses listed in the Residential Single Family zone, including but not limited to sewage disposal, water supply, access, and utilities. This criterion is met.

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

FINDING: Staff finds that based on the applicant's proposal, as well as comments from the City Engineer, public services will be reasonable available to each newly created parcel. This criterion is met.

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

FINDING: Notice of Application was sent to all relevant public agencies and property owners within 100 feet of the subject property. Staff did not receive any comments from neighboring properties, and all comments from relevant agencies have been incorporated herein. This criterion is met.

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

FINDING: Comments from the City Engineer did not identify any need for a survey or other improvement requirements. This criterion is not applicable.

Section 15.410.050, Final Map Requirements

Within two years of the approval of a partition, the partitioner shall have prepared and submitted to the

city planning official a final partition map prepared by a licensed surveyor and any other materials or documents required by the approval.

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

FINDING: Staff includes LPDC Section 15.410.050 as a condition of approval to ensure compliance with the final plat review process.

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

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

Chapter 15.418, Processing and Recording Procedures³

Section 15.418.010, Processing and Recording Subdivision and Partition Maps

- A. Submit one reproducible paper, vellum or Mylar map copy to the county surveyor.*
- B. Submit closure sheets for the surveyor's certificate and a closure sheet for each lot or parcel created, and a closure sheet for dedicated areas such as roadways or public facility lots.*
- C. Submit the required county surveyor review fee as appropriate for the subdivision or partition.*
- D. Submit a title report for the subdivision.*
- E. Submit a post-monumentation certificate stating the intent and completion date and a bonding estimate for all subdivision plats proposed for post-monumentation. The bonding estimate is to be 120 percent of the estimated actual costs, office and field.*
- F. After preliminary initial review of the plat, resubmit the final plat prepared on double matte four mil minimum thickness Mylar, with corrections made, to the county surveyor for final approval and signature.*
- G. Remaining approval signatures shall then be executed and the final maps and an exact copy thereof submitted to the county surveyor for recording into the survey records prior to submittal*

³ State law reference – final approval of plats and plans, ORS 92.010 et seq.

to the county clerk for recording. The exact copy shall comply with the requirements of ORS 92 and other applicable statutes and be submitted on four mil thickness Mylar.

- H. The county surveyor recording fee shall be submitted with the final plat along with any required post-monumentation bond or letter executed by the city attorney that the bonding requirements are met.*
- I. The plat shall then be submitted to the county clerk along with the required recording fee. After recording information is placed on the exact copy by the county clerk, the exact copy and the required number of prints showing the recording information shall be submitted to the county surveyor to complete the process. The number of prints required shall be 12 for a subdivision plat and six prints for a partition unless a greater number is requested by the county surveyor at initial review.*
- J. Copies of the exact copy of the final plat showing the recording information shall also be submitted to the city planning official, together with an electronic copy in a format approved by the city. The scale and format of the plans and the number of copies required shall be as specified on the application form.*

FINDING: Staff includes this section for reference to the applicant, so they are aware of the process to record a partition map.

V. CONCLUSION

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

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

VI. DECISION

APPROVAL, subject to the following conditions of approval.

VII. CONDITIONS OF APPROVAL:

AT ALL TIMES

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

- E. 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.
- F. Stormwater: Prior to the issuance of building permits, the City must review and approve the drainage facilities on site for compliance with SPDC Section 15.90.040.
- G. Underground Utilities: All new electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.
- H. Utility Installation: 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.
- I. Grading, Cutting, and Filling: Grading, cutting and filling of building lots or sites shall conform to LPDC Section 15.92.010(F).
- J. Plan Review and Approval: Improvement work shall not be commenced until development 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.
- K. 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.
- L. 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.
- M. As Built Plans: If needed, 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.
- N. Bond or Other Performance Assurance: The developer shall file with the agreement, to ensure his/her full and faithful performance thereof, one of the following, pursuant to approval of the city attorney and city manager, and approval and acceptance by the city council:
 - 1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the city attorney.
 - 2. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to proceed in accordance with the agreement.
 - 3. Cash deposit.
 - 4. Such other security as may be approved and deemed necessary by the city council to adequately

ensure completion of the required improvements.

- O. Amount of Security Required: The assurance of full and faithful performance shall be for a sum approved by the city as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20 percent for contingencies.
- P. 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.
- Q. Maintenance Surety Bond: ***Prior to sale and occupancy of any lot***, parcel or building unit erected upon a lot within a subdivision, partitioning, PUD or other development, and as a condition of acceptance of improvements, the city will require a one-year maintenance surety bond in an amount not to exceed 20 percent of the value of all improvements, to guarantee maintenance and performance for a period of not less than one year from the date of acceptance.

PRIOR TO FINAL PLAT APPROVAL

- R. Pine Drive ROW Improvements: ***Prior to final plat approval***, applicant shall prepare and design engineered stamped construction plans to construct 29 foot wide asphalt pavement on Pine Drive (two 11 foot travel lanes and one 7 foot parallel parking lane) along the project frontage, 6 foot wide concrete sidewalk on Pine Drive project frontage, drainage swales on Pine Drive frontage, street trees at an average of 35 foot spacing, and water and sewer services to each of the three proposed parcels in accordance with City of La Pine standards. Construction plans shall be submitted to the City for review and approval. Final plans shall be submitted to the City with a signature line for City of La Pine Public Works Director.
- S. Right of Way Dedication: ***Prior to final plat approval***, 7' right-of-way along the entirety of frontage of Pine Drive shall be dedicated to the public on the partition plat map.
- T. Fee In Lieu Option: ***Prior to final plat approval***, at the discretion of the City, as an alternative to construction of roadway and sidewalk improvements, the applicant may pay a fee in lieu of construction in the amount equivalent to the cost of the improvements, the cost to be reviewed and approved by the City.
- U. Maintenance Bond: ***At the completion of construction of required improvements***, the City will require a one-year maintenance surety bond for 10% of the value of all improvements, to guarantee maintenance and performance for a period of one year from the date of acceptance of the improvements.
- V. Performance Bond Construction: ***Prior to final plat approval***, and only for those improvements which are to be constructed and not otherwise paid for separately by fee in lieu, the applicant shall provide the City with a performance bond of 120% of the cost of improvements prior to beginning construction. Prior to construction, a pre-construction meeting with the construction contractor shall be held with City staff.
- W. Agreement for Improvements: ***Prior to final plat approval***, 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.

WITHIN TWO YEARS OF THIS APPROVAL

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

VIII. DURATION OF APPROVAL, NOTICE, AND APPEALS

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

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

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

Written By: Rachel Vickers, Associate Planner

Attachments: Tentative Plat