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**Land Partition (Type III) LP-19-03**

**STAFF REPORT**

**Date Submitted:** January 9th, 2020

**Agenda Date Requested:** January 14, 2020

**To:** John Day Planning Commission

**From:** Nick Green

John Day City Manager

**Subject:** Land Partition (Type III Quasi-Judicial)

**Location:** 603 NW Canton Street

Map: 13S31E23CA Tax Lot: 2600

**Type of Action Requested:**

|  |  |
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| **[ ] Resolution** | **[ ] Ordinance** |
| **[ X ] Formal Action** | **[ ] Report Only** |

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1. **BACKGROUND**

Sally Knowles is the owner of the property located at 13S31E23CA Tax Lot: 2600 in John Day, OR (140 NE Dayton Street). This property is zoned Residential Limited (RL). Miss Knowles wishes to partition this property into two parcels: one parcel of .81 acres and the other approximately .38 acres with the purpose of developing the acerage for multifamily housing. Land partitions of lots larger than one (1) acre shall be processed using a Type III procedure under Section 5-4.1.040 of the City of John Day Development Code (the “Code”), which requires a hearing before the John Day Planning Commission prior to approval of the preliminary plat. All preliminary plats shall be reviewed using approval criteria in Section 5-4.3.070 of the Code. The land partition application is enclosed as Exhibit A and the preliminary plat is enclosed as Exhibit B.

1. **APPLICABLE CRITERIA**

Land Divisions and Property Line Adjustments are subject to the standards in Section 5-4.3 of the City of John Day Development Code (the Code).

Staff has reviewed the application pursuant to the Code and the requirements for a land partition. The application was deemed technically complete (ready for review) on November 21, 2019. The City must make a final decision, including a final city council decision on any appeal, within 120 days, or by March 21, 2020.

1. **BURDEN OF PROOF**

The applicant has the burden of demonstrating that the proposal meets all applicable Code requirements. The applicant is also responsible for complying with building code requirements and applicable state or federal requirements. It is the Planning Commission’s responsibility to interpret the Code based on findings of fact.

1. **PLANNING COMMISSION AND CITY COUNCIL CONSIDERATIONS**

 The Planning Commission’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type III Land Partition under section 5- 4.1.040.

1. **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission **approve the preliminary plat for LP 19-03, with final plat subject to conditions as outlined in Section 7.**

1. **PUBLIC NOTIFICATION**

The City of John Day mailed public notice to all affected property owners on December 20th and published notice in the Blue Mountain Eagle as required by the Development Code.

1. **ADOPTION PROCEDURE AND FINDINGS**

Section 5.4-3 contains approval criteria for Land Divisions and Property Line Adjustments. Section 5-4.3.070 contains approval criteria for preliminary plats. The Planning Commission’s evaluation of the project must focus on the relevant code criteria under Section 5-4.3.070 and follow the public hearing procedures for Type III (quasi-judicial) review under Section 5-4.1.040.

The applicable code criteria are provided below in *italics* typeface; staff’s findings follow each code provision in regular typeface. The findings, which are based on information submitted by the applicant, are preliminary. The plans, exhibits, and narrative submitted by the applicant and used in making the findings are attached to this report and include:

* Land Partition Application (Exhibit A)
* Preliminary Plat (Exhibit B)

All of the above documents are hereby incorporated and made part of the public record.

***5-4.3.020 Land Divisions and Property Line Adjustments: General Requirements***

1. *Subdivision and Partition Approval Through Two-step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:*
2. *The preliminary plat must be approved before the final plat can be submitted for approval consideration; and*
3. *The final plat must include all conditions of approval of the preliminary plat.*

**Findings:** The preliminary plat has been provided for Planning Commission review.

1. *Compliance with Oregon Revised Statutes (ORS) Chapter 92. All subdivision and*

*partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.*

**Findings:** This proposal conforms to state regulations.

1. *Future Re-Division Plan. When subdividing or partitioning tracts into large lots (i.e.,*

*greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:*

1. *Potential future lot division(s), consistent with the density and minimum lot size standards of Article 5-2;*
2. *Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;*
3. *A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.*

**Findings:** Not Applicable.

1. *Lot Size Averaging. Single family residential lot size may be averaged to allow lots less than the minimum lot size in Residential districts, pursuant to Section 2.2.030, or through approval of a Master Planned Development under Chapter 5-4.5.*

**Findings**: Not Applicable.

1. *Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 5-4.9.010, Temporary Uses, and subject to the requirements for mobile homes and recreational vehicles in Chapter 5-2.5, as applicable.*

**Findings:** Not Applicable.

1. *Minimize Flood Damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the National Flood Insurance Program, State building code requirements, including elevating structures above the base flood elevation, and the City of John day Flood Plain Overlay The applicant shall be responsible for obtaining floodplain development permit from the NFIP and local jurisdiction.*

**Findings:** The property is partially but not entirely within the floodway. Portions of both proposed lots are within the 100-year flood plain. Applicant must comply with state and local floodplain requirements where applicable.

1. *Determination of Base Flood Elevation. Where a development site consists of five (5) or more acres or 50 or more lots, and is located in or near areas prone to inundation for which the base flood elevation has not been mapped, the applicant shall have the base flood elevation it shall be prepared by a qualified professional as part of the land division application.*

**Findings:** Not Applicable.

1. *Need for Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems. These systems shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.*

**Findings:** Water and Sewer are located within the NW Canton Street Right of Way. Connections to city water and sewer we be approved by public works. An access easement is proposed between the two lots.

1. *Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.*

**Findings:** Proposal meets surface water drainage requirements.

1. *Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City’s adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development’s impact to the park and/or trail system, or as may be required for stormwater management.*

**Findings:** Not Applicable

***5-4.3.070 Approval Criteria: Preliminary Plat***

*A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:*

1. *The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable chapters and sections of Article 5-2 (Land Use Districts) and Article 5-3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5-5;*

**Findings:** Proposed Parcels are located entirely within the city limits of the City of John Day and will be subject to the standards of the City of John Day Development Code. Proposed parcels will retain their current uses after the land partition. Both Proposed Parcels meet the design criteria of Article 5-2 for *Minimum Lot Area (2,000 SF); Minimum Lot Width (20 feet); Minimum Lot Depth (2x Width).* Community Design Standards for Article 5-3 will be addressed in the subsequent site design review process for any future improvements proposed at either location.

1. *The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;*

**Findings:** No conflicts exist with ORS 92.

1. *The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition 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. All proposed public improvements and dedications are identified on the preliminary plat;*

**Findings:** No alterations to streets, roads, sidewalks, bicycle lanes, pathways, utilities, or surface water management facilities are proposed in this land partition. ODOT right of way (ROW) and permitted driveways are identified in the Preliminary Plat. Driveways will be evaluated for change of use (trip generation) if/when the future development is proposed.

1. *All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and*

**Findings:** Not applicable.

1. *Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;*

**Findings:** Not applicable.

1. *Evidence that improvements or conditions required by the City, road authority, Grant County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and*

**Findings:** Applicant will need utility easements to be recorded for all utility lines servicing both plots.

1. *If any part of the site is located within an Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.*

**Findings:** Not applicable.

*B. Layout and Design of Streets, Blocks and Lots. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:*

**Findings:** Not Applicable

*C. Conditions of Approval. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 5-3.4 Public Facilities.*

**Findings:** None required unless requested by the planning commission.

1. **PLANNING COMMISSION MOTION**

 After hearing the staff presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

“I move to approve LP-19-03 based on the findings contained in the staff report [with conditions, if any].”

 *The staff report may be amended during the course of the hearing.*

Respectfully submitted this 9th day of January 2020,

Nicholas Green

City Manager / City Planning Official

City of John Day

Enclosures