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Land Partition (Type III) LP-20-01

STAFF REPORT

Date Submitted: February 14th, 2020

Agenda Date Requested: February 18th, 2020

To: John Day Planning Commission

From: Nick Green
John Day City Manager

Subject: Land Partition (Type III Quasi-Judicial)

Location: 742 W Main Street
Map: 13S31E22D Tax Lots: 303 & 305

Type of Action Requested:

<input type="checkbox"/>	Resolution	<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	Formal Action	<input type="checkbox"/>	Report Only

1. BACKGROUND

Iron Triangle LLC is the owner of 742 W Main St (Map Number 13S31E22D, Tax Lots 303 & 305) and wishes to partition this property into three parcels: Parcel 1: 1.22 acres; Parcel 2: 1.58 acres; and Parcel 3: 18.17 acres. Land partitions 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. This property is zoned General Commercial (GC) and shall be reviewed with regard to the requirements and limitations of the GC zone. The land partition application (including future division plan) is enclosed as Exhibit A and the preliminary plat is enclosed as Exhibit B.

2. 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 January 26th, 2020. The City must make a final decision, including a final city council decision on any appeal, within 120 days, or by May 25, 2020.

3. 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.

4. 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 (Quasi-Judicial) Land Partition under section 5-4.1.040.

5. STAFF RECOMMENDATION

Staff recommends that the Planning Commission **approve the preliminary plat for LP 20-01.**

6. PUBLIC NOTIFICATION

The City of John Day mailed public notice to all affected property owners on January 27th and published notice in the Blue Mountain Eagle 14 days in advance of the hearing as required by the Development Code.

7. 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 and Future Re-Division Plan (Exhibit B)
- FEMA Special Flood Hazard Areas (Exhibit D)

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

- A. *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:*
1. *The preliminary plat must be approved before the final plat can be submitted for approval consideration; and*
 2. *The final plat must include all conditions of approval of the preliminary plat.*

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

- B. *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.

- C. *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: A Future Re-Division Plan is required because the tracts are more than 200 percent the minimum lot size allowed in the GC zone, which is 2,000 SF. Proposed Parcel 3 would be 18.17 acres upon completion of this land partition. The future Re-Division Plan is provided in the Preliminary Plat (Exhibit B) and meets these requirements.

D. 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.

E. 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.

F. 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: No portion of the property is within the floodway. Portions of two out of the three proposed lots are within the 100-year flood plain (Exhibit D). Applicant must comply with state and local floodplain requirements where applicable.

G. 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: The base flood elevation for this site was updated with a FEMA Letter of Map Revision effective October 17, 2019.

H. 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: City utilities are available and currently in use at proposed Parcel 1 and are at the property line along Main Street for Proposed Parcel 2 and Parcel 3.

I. *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: Curb and gutter is in place at proposed Parcel 1. Stormwater management will be required for future development at Parcel 2 and Parcel 3.

J. *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 1 and 2 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 Parcel 3 is partly within the city limits and partly in the City's urban growth management area, which is subject to the standards of the City of John Day Comprehensive Plan and the City's respective public facility plans under the *City of John Day-Grant County Urban Growth Management Agreement*, effective December 2010. 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 any of the three lots. Future development, including connections to city utilities, requires a City policy requires annexation or "consent of annexation" in order to receive development approval.

- 2. 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.

3. *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.

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

Findings: Not applicable.

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

Findings: Not applicable.

6. *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 plats as well as access easements to Parcel 3.

7. *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.

8. 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-20-01 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 14th day of February 2020,



Nicholas Green
City Manager / City Planning Official
City of John Day