

# Ochoco Pointe Expansion: Planned Unit Development, Conditional Use Permit, and Tentative Subdivision

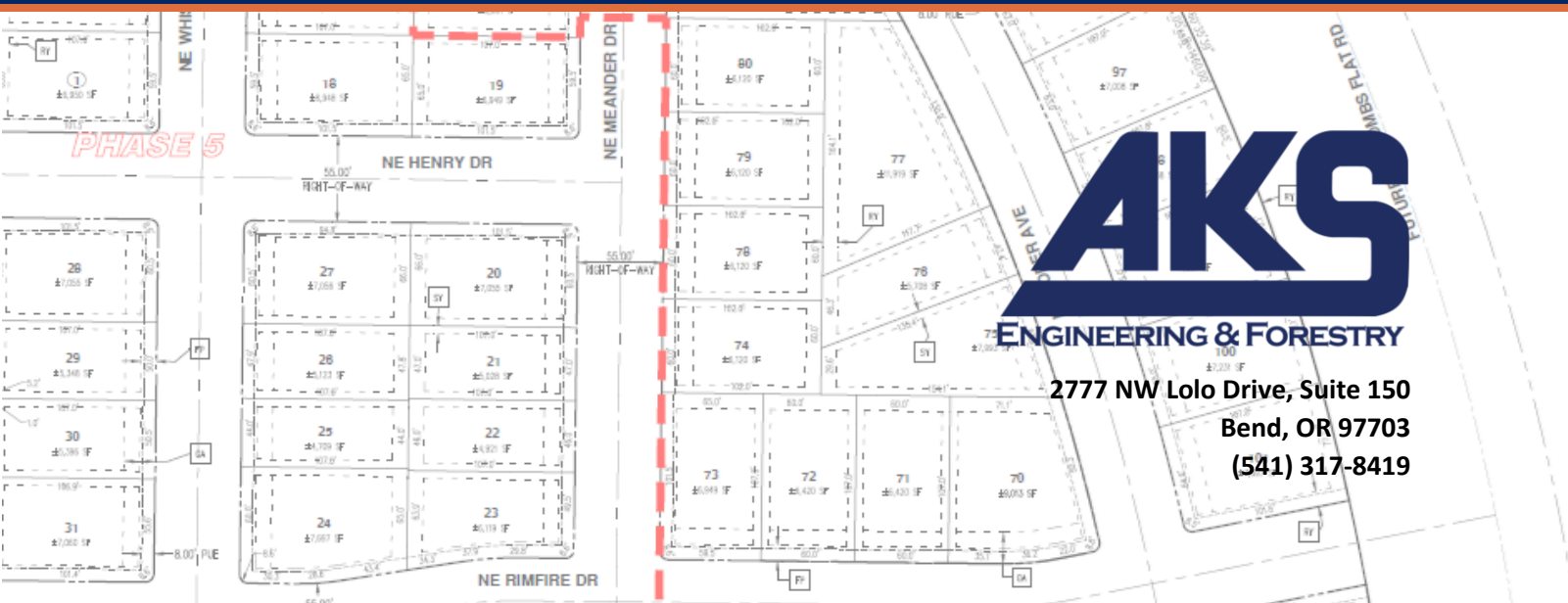
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**Date:** December 2021

**Submitted to:** City of Prineville  
387 NE Third Street  
Prineville, OR 97754

**Applicant:** Pahlisch Homes, Inc.  
210 SW Wilson Ave., Suite 100  
Bend, OR 97702

**AKS Job Number:** 6221-01



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**Exhibits**

- Exhibit A:** Preliminary Plans
  - Exhibit B:** Land Use Application Form
  - Exhibit C:** Title Report
  - Exhibit D:** Crook County Assessor’s Map
  - Exhibit E:** Transportation Impact Analysis
  - Exhibit F:** Development Standards Amendments
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# Ochoco Pointe Expansion: Planned Unit Development, Conditional Use Permit, and Tentative Subdivision

<b>Submitted to:</b>	City of Prineville Community Development 387 NE Third Street Prineville, OR 97754
<b>Applicant:</b>	Pahlisch Homes, Inc. 210 SW Wilson Avenue., Suite 100 Bend, OR 97702
<b>Property Owners:</b>	City of Prineville (Tax Lots 1600) 387 NE 3 <sup>rd</sup> Street Prineville, OR 97754  Ironhorse Development LLC (Tax Lots 1608) 409 NW Franklin Avenue Bend, OR 97703  Pahlisch Homes at Ochoco Pointe Ph 5-7 (Tax Lot 1609) 210 SW Wilson Avenue., Suite 100 Bend, OR 97702
<b>Applicant's Consultant:</b>	AKS Engineering & Forestry, LLC 2777 NW Lolo Drive, Suite 150 Bend, OR 97703  Contact(s): Joey Shearer, AICP Email: shearerj@aks-eng.com Phone: 541-317-8429
<b>Site Location:</b>	East of Ochoco Pointe Phase 4 and north of NE Loper Ave, City of Prineville
<b>Crook Co. Assessor's Map:</b>	14S16E; Tax Lots 1600, 1608, and 609
<b>Site Size:</b>	±32.36 acres



## **I. Executive Summary**

Pahlisch Homes, Inc. (Applicant) is submitting this application for a Subdivision and a Conditional Use Permit to facilitate the eastward expansion of Ochoco Pointe as a Planned Unit Development (PUD). Ochoco Pointe was originally approved by City of Prineville as a PUD in 2004 (SUB 04-01), and included ±247 lots. The final plat for Phase 4, the last phase within the existing approval, recorded on November 19, 2021.

Ochoco Pointe is a 247-lot residential neighborhood with open space, amenities and trails encompassing ±60 acres. Ochoco Pointe was originally approved by the City of Prineville Planning Commission in 2004 and is nearing build-out. There will be a need for more housing with the influx of jobs that is expected to come with the expansion of Facebook's data center to a nearly 4 million-square-foot nine-building campus, located about three miles southwest of the project.

The project site is located within the Ironhorse PUD Outline Development Plan (ODP) boundary. Adjacent to the established community and its amenities, parks, and trails, the planned expansion of Ochoco Pointe will continue Ochoco Pointe's distinct architectural style, landscape design and lotting pattern, creating a cohesive transition to the completed portions of the Ironhorse PUD.

The essential components of this project include:

- ±149 lots for future detached single-family homes continuing the pattern established with the Ochoco Pointe PUD
- Dedication and full-street improvements for the eastward extension of NE Henry Drive, NE Rimfire Drive, and NE Sunrise Street to local street standards complying with applicable City requirements and recommendations from Crook County Fire & Rescue
- Dedication and full-street improvements for the northward extension of NE Whistle Way, NE Meander Drive, and NE Loper Avenue to local street standards complying with applicable City requirements and recommendations from Crook County Fire & Rescue
- Dedication of right-of-way for future construction of Combs Flat Road (Major Collector)
- An interconnected public street system with sidewalks and landscaping strips throughout
- Extension of a complete range of services including public sanitary sewer, public water, stormwater management, and other necessary utilities such as power, telecommunications, etc.
- Dedication of land to accommodate the realignment and piping of the IronHorse section of Ochoco Irrigation District's Crooked River Distribution Canal

This application includes the City application forms, written materials, and preliminary plans necessary for staff and the Planning Commission to review and determine compliance with the applicable approval criteria. The evidence is substantial and supports the City's approval of the application.

## **II. Site Setting**

The project area is ±32.36 gross acres and consists of three tax lots: a ±0.64-acre portion of Tax Lot 1608, all ±10.69 acres of Tax Lot 1609, and a ±21.03-acre portion of Tax Lot 1600. The subject property is

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zoned R2 and is located within the IronHorse ODP. Land to the west has been subdivided and contains single-family homes within the Ochoco Pointe PUD. Land to the south has been subdivided and contains single-family homes within the IronHorse ODP. Land to the north and east is largely undeveloped except for Barnes Butte Elementary School located on the north side of NE Ironhorse Drive. Ochoco Irrigation District's Crooked River Distribution Canal runs along the eastern edge of the site, separating it from the planned extension of NE Combs Flat Road. There are six additional local streets that are stubbed for future connection through the site (NE Henry Drive, NE Rimfire Drive, NE Sunrise Street, NE Whistle Way, NE Meander Drive, and NE Loper Avenue).

As part of the Combs Flat Road realignment, the canal will be realigned to the east and piped underground. The Prineville Transportation System Plan shows a Major Collector Street (NE Combs Flat Road) planned for extension along the site. The Applicant and its consultant team have coordinated with the City and its consultant team to integrate the project so that the planned realignment of the canal and NE Combs Flat Road forms the eastern boundary of the project.

### **III. Background**

Ochoco Pointe was originally approved by City of Prineville as a PUD in 2004 (SUB 04-01). The project included ±247 lots and a portion of the approved Three Pines Subdivision (SUB 99-3). The open space, amenities, trails, and most of the lots in Ochoco Pointe have been built out. The final plat for Phase 4, the last phase within the existing approval, recorded on November 19, 2021.

The planned Ochoco Pointe Expansion is located within the IronHorse Outline Development Plan (ODP), first approved in 2006 and later updated in 2013 and 2017. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement. The IronHorse ODP approval also included findings that public facilities—including City water, sewer, and streets—could accommodate planned development.

### **IV. Clear & Objective Housing Standards**

This application involves the development of land for housing. ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the provision of housing, and that such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging housing through unreasonable cost or delay. In addition, this application involves a "limited land use decision" as that term is defined in ORS 197.015(12). The significance of this statutory provision is also discussed below.

Oregon Courts and the Land Use Board of Appeals (LUBA), have generally held that an approval standard is not clear and objective if it imposes on an applicant "subjective, value-laden analyses that are designed to balance or mitigate impacts of the development" (Rogue Valley Association of Realtors v. City of Ashland, 35 Or LUBA 139, 158 [1998] aff'd, 158 Or App 1 [1999]). ORS 197.831 places the burden on local governments to demonstrate that the standards and conditions placed on housing applications can be imposed only in a clear and objective manner. While this application addresses all standards and conditions, the Applicant reserves the right to object to the enforcement of standards or conditions that

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are not clear and objective and does not waive its right to assert that the housing statutes apply to this application. [The exceptions in ORS 197.307(5) do not apply to this application].

ORS 197.195(1) describes how certain standards can be applied to a limited land use application. The applicable land use regulations for this subdivision application are found in the City of Prineville Land Development Code. Pursuant to ORS 197.195(1) Comprehensive Plan provisions (as well as goals, policies, etc. from within the adopted elements of the Comprehensive Plan) may not be used as a basis for a decision or an appeal of a decision unless they are specifically incorporated into the land use regulations. While this application may respond to Comprehensive Plan and/or related documents, such a response does not imply or concede that said provisions are applicable approval criteria. Similarly, the applicant does not waive its right to object to the attempted implementation of these provisions unless they are specifically listed in the applicable land use regulations, as is required by ORS 197.195(1).

Pursuant to ORS 197.522, if this application is found to be inconsistent with the applicable land use regulations, the applicant may offer an amendment or propose conditions of approval to make the application consistent with applicable regulations. The local government is obligated to consider and impose any conditions of approval proposed by the applicant if such conditions would allow the local government to approve an application that would not otherwise meet applicable approval criteria.

## **V. Applicable Review Criteria**

### **CITY OF PRINEVILLE MUNICIPAL CODE**

#### **TITLE XV – Land Usage**

#### **Chapter 153: Land Development**

#### **GENERAL PROVISIONS**

##### **153.014 GENERAL CRITERIA.**

In determining whether or not any application shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval:

- (A) The proposal is compatible with the City Comprehensive Plan and applicable policies set forth thereby.

**Response:** The Applicant asserts that the criterion listed above is neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering it inapplicable as decision criteria for this needed housing application. Terms and phrases such as “compatible” and “applicable policies” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed. Applicable City Comprehensive Plan policies are addressed above in the responses to Chapter 7: Housing. The criterion is met.

- (B) The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable combining or overlay zone, and other provisions set forth by this chapter that are determined applicable to the subject use.

**Response:** The Applicant asserts that the criterion listed above is neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering it inapplicable as decision criteria for this needed housing application. Terms and phrases such as “determined applicable” necessitate subjective analysis and weighing of multiple factors if they are to

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be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed. The requirements in the applicable primary zone are addressed in the responses to is addressed in the responses to Section 153.046, below. Other applicable standards are addressed throughout this narrative. The applicable criteria are met.

- (C) That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.

**Response:** To the extent such approvals are necessary, the Applicant will obtain any required approvals from other agencies.

- (D) The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this chapter.

**Response:** The requirements in the applicable primary zone are addressed in the responses to is addressed in the responses to Section 153.046, below. Other applicable standards are addressed throughout this narrative. The applicable criteria are met.

- (E) That no approval be granted for any use which is or expected to be found to exceed resource or public facility carrying capacities.

**Response:** The planned subdivision is located within, and is generally consistent with impacts anticipated with, the approved IronHorse ODP. The original IronHorse ODP approval included findings that public facilities—including City water, sewer, and streets—could accommodate planned development. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is now open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement.

The Applicant and its consultants have coordinated with City of Prineville staff on the current application. The planned subdivision will extend streets and construct sewer and water infrastructure. The demand on public facilities and services generated by the planned subdivision for future single-family homes has been contemplated since the 2006 approval of the IronHorse ODP and will not exceed resource or public facility carrying capacities. The criteria is met.

- (F) For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.

**Response:** ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the provision of housing, and that such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging housing through unreasonable cost or delay. Pursuant to ORS 197.522, if this application is found to be inconsistent with the applicable land use regulations, the applicant may offer an amendment or propose conditions of approval to make the application consistent with applicable regulations. The local government is obligated to consider and impose any conditions of approval proposed by the applicant



if such conditions would allow the local government to approve an application that would not otherwise meet applicable approval criteria.

- (G) As applicable, a city business license shall be required, and if a requirement, the continual maintenance of the license shall be a continuing condition of approval and failure to maintain the compliance shall constitute grounds for permit revocation.

**Response:** The Applicant intends to comply with all applicable City requirements, including permits and licenses. The criterion can be met.

- (H) Boats, trailers, travel trailers, pick-up campers, recreational vehicles, motor homes and similar recreational vehicles and equipment that is operational and licensed as required may be stored on a lot owned by the same person or family member, but shall not be used for permanent occupancy other than that permitted in 153.095(D), (E) and (F).

**Response:** The Applicant intends to comply with all applicable City requirements, including the use of the listed vehicles and equipment. The criterion can be met.

- (I) Requiring an emergency management and response plan approved by the Fire Marshal for projects larger than 20,000 square feet in residential, mixed use, industrial or commercial zones. The plan shall address the major concerns associated with the terrain, dry conditions and limited access. The plan shall verify that the district has the appropriate equipment, training and personnel to respond to fires. If the local fire department or district does not have adequate rescue capability, the applicant shall provide a plan for providing such in case of an emergency.

**Response:** The current application does not include any buildings. Crook County Fire & Rescue attended the February 11, 2021 pre-application conference, reviewed the preliminary layout and requested that the applicant widen planned rights-of-way to 55 feet and provide a 36-foot-wide paved surface in order to accommodate a 20-foot-wide fire lane even with parking on both sides. The Preliminary Street and Utility Plan (Exhibit A) shows that comments from Crook County Fire & Rescue have been incorporated into project design.

#### 153.016 MUNICIPAL SEWER AND WATER REQUIRED.

(\*\*\*)

- (C) Approval of subdivisions and land partitions shall require municipal sewer and water service to and through each lot in accordance with the city's standards and specifications unless specifically exempted in this chapter.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows that the project provides municipal sewer and water service to each lot. The standard is met.

#### 153.035 RESIDENTIAL USE TABLE.

Use Classifications	R-2	Comments
RESIDENTIAL/ACCESSORY USES		
Single-family dwelling, excluding manufactured dwellings	Outright	
LAND DIVISION PROCESSES		
Nonstandard subdivision	Type II Conditional Use	153.159

**Response:** This project creates lots for future construction of detached single-family homes, a use that is permitted outright in the underlying zone. This application involves a Planned Unit Development (PUD), which is permitted with a Type II Conditional Use approval.

**153.036 RESIDENTIAL DIMENSIONAL STANDARDS.**

Standard	R-2 District
<b>Minimum Lot Area (public water and sewer required)</b>	
Single-family dwelling/duplex	5,000 sf
Minimum net density for subdivision <sup>1</sup>	4/acre
Maximum net density for land division	Calculated based on "net density" definition
<b>Minimum Setbacks for Structures (ft.): See 153.117 for exceptions to setbacks.</b>	
Front yard (local street)	10
Front yard (collector or arterial) <sup>3</sup>	10
Carport/garage entrance to public street/alley	20
Carport/garage entrance to public sidewalk	25
Side yard	5
Side yard corner lot (street side)	10
Rear yard	10
Rear yard corner lot	5
Projections into setback <sup>4</sup>	2
<b>Minimum Street Frontage (ft.): See 153.191(C) for exceptions.</b>	
Standard street	50
Cul-de-sac	35
<b>Maximum Building Coverage (%): Open air covered porches are excluded from lot coverage.</b>	
All buildings (percentage of lot)	35%
<b>Maximum Height (ft.): Measured to the highest point from the natural grade, grade is averaged on sloped properties.</b>	
All buildings/structures	35 ft.
Clear vision - street intersection (measured from curb)	25 ft.

<sup>1</sup> The city may grant an exception to the minimum density standards based on site specific issues that make such density infeasible such as: steep slopes, floodplains, and wetlands.

<sup>3</sup> Plus that which is necessary to meet street and sidewalk right-of-way standards.

<sup>4</sup> May project two feet into a setback, provided the projection is not closer than three feet to a property line.

**Response:** The Ochoco Pointe Expansion continues the pattern established in 2004, with some minor modifications to the approved development standards, primarily to clarify how those standards have been applied over the past ±15 years. The Ochoco Pointe Approved Development Standards are provided in Figure 1, below. Planned amendments to these standards are included as Exhibit H. Section 153.158(E) explicitly allows flexibility to the applicable dimensional standards in order to encourage innovative community design and provide greater freedom in land development. This flexibility also helps blend the community design between the Ochoco Pointe Expansion (zoned R2) and the abutting phases of Ochoco Pointe (zoned R1).

**Figure 1: Ochoco Pointe Approved Development Standards**

Lot Area	3,215 –5,379 sq ft. O-lot line/Cottage		3,780- 5,199 sq ft.		5,200- 6,199 sq ft.		6,200 sq ft +	Discussion
Lot Width (Min)	30' minimum		42' minimum		52' minimum		62' +	Variety of lot sizes, housing types, price.
	1-story	2-story	1-story	2-story	1-story	2-story		
* Max lot coverage	57%		49%		47%		44%	Variety of houses, 1 and 2 story, porches.
Setbacks front	House: 10' Porch: 8' rear garage	House:10' Porch: 8' rear garage	House:12' Porch: 10' Garage: 20'	House:12' Porch: 10' Garage: 20'	House:12' Porch: 10' Garage: 20'	House: 12' Porch: 10' Garage: 20'	House:12' Porch: 10' Garage: 20'	Min. setbacks for each lot. Setbacks may be increased lot by lot basis
side	0' one side 8' one side <u>OR</u> 4' both sides of house**	0' one side 8' one side <u>OR</u> 4' both sides of house**	4' w/ 1' allowance for bldg projection (example: fire place or bay window)	4' w/ 1' allowance for bldg projection (example: fire place or bay window)	5'	5'	5'	Allows for architectural projections provide greater interest along side of house. ** larger side yard usage
rear	10' to living space  18' to garage	10' to living space  18' to garage	10'	10'	10'	10'	10'	Allows houses set back further on lot for increased front yard and staggered bldg frontages.
Height (max)	30'	30'	30'	30'	30'	30'	30'	Meets R-1 standard & exceeds R-2 standard

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## SPECIFIC ZONE REQUIREMENTS

### 153.046 GENERAL RESIDENTIAL R-2 ZONE.

In an R-2 Zone, the following regulations shall apply:

- (A) Purpose. It is the purpose of the R-2 Zone to provide for residential areas which permit a mixture of a variety of housing types at various densities in a more planned type of development design, including a minimum of nonresidential commercial convenience and service type uses in more accessible proximities for the purposes of providing for conveniences and services to the dominant intended residential users of the area.

**Response:** Absent wording to the contrary, generally worded zoning district purpose statements are not mandatory approval criteria for permits or other site-specific land use decisions [Mariposa Townhouses v. City of Medford, 68 Or LUBA 479 (2013)]. Nonetheless, the Preliminary Plat (Exhibit A) shows the project continues the approved pattern established with Ochoco Pointe in 2004 and provides a range of lot widths and areas, which will accommodate homes of different sizes and configurations. This standard is met.

- (B) Specific conditions. Section 153.083 contains a list of uses with specific conditions that may apply to specific types of uses.

**Response:** This project includes public and private facilities, utilities and services, for which specific standards are applicable, per Section 153.083. The responses to that code section are included in the narrative below.

- (C) Design review. Provisions set forth in 153.020. Except single-family and two-family/duplex dwellings and their accessory structures.

**Response:** This project creates lots for future single-family homes. Therefore, design review provisions do not apply.

- (D) Off-street parking and loading. Provisions set forth in 153.085 and 153.086.

**Response:** Required parking will be evaluated with future building permit applications. However, lots are sized so that applicable standards can be met. Responses to Sections 153.085 and 153.086 are included in this narrative below.

- (E) Minimum landscaping requirements. When design review is required, a minimum level of landscaping in accordance with 153.087 shall be required.

**Response:** Minimum landscaping requirements do not apply to this project because design review is not required for single-family homes.

- (F) Streets and public facilities. When design review is required, streets and public facilities shall be required in accordance with section 153.194 and the City's Standards and Specifications. These improvements include but are not limited to right-of-way dedication, streets, storm water management, sidewalks, water lines, sewer lines, access management and the like.

**Response:** Design review is not required for single-family homes. Applicable requirements for streets and public facilities are addressed in the responses to Section 153.157, below.

- (G) Chapter 155, Natural Features Overlay District (NFOD) and Slope Hazard Requirements. This chapter contains provisions for the protection of riparian areas, wetlands, rimrock, Barnes Butte and construction on steep slopes.

**Response:** The project site does not contain riparian areas, wetlands, rimrock or steep slopes.

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- (H) Minimum sidewalk requirements. Whether replacing or required by design review, sidewalks shall be constructed to City Standards and Specifications. The minimum sidewalk width in an R-2 Zone is five feet, unless otherwise approved under 153.194(V)(1).

**Response:** As shown on the Preliminary Street and Utility Plan (Exhibit A), street improvements will include five-foot-wide sidewalks.

- (I) Signs. In an R-2 Zone, signs are permitted in accordance with the provisions set forth in Chapter 152 as amended.

**Response:** This project does not include signs.

- (J) Limitations on use. No structure or land shall be occupied or used for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, noise, vibration, flashing light or any hazard to the general health, safety and welfare of the area. Domestic livestock are permitted, but only in compliance with those provisions set forth in 153.096. No animal is permitted to run at large, animals shall be confined to an individual owner's property. Any animals permitted to run at large are hereby declared a nuisance and may be abated as such.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as "public nuisance" and "including but not limited to" necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, the project creates lots for future detached single-family homes, a common and permitted use in the underlying zone. Single-family homes do not create public nuisance. The standard is met.

## SUPPLEMENTARY PROVISIONS

### 153.081 CLEAR VISION AREAS.

In all zones, a clear vision area shall be maintained at the intersection of two streets, a street and a bike or pedestrian way and a street and an alley. A clear vision area shall contain no plantings, sight-obscuring fences, walls, structures or temporary or permanent obstructions exceeding two and one-half feet in height measured from the grade of the street centerline, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade, and trunk diameter does not exceed 18 inches.

- (A) Measurement of clear vision areas. A clear vision area shall consist of a triangular area, two sides of which are measured from the corner intersection of the street curb or location where street curb would be located if the right-of-way were developed to full city standards (ignoring any corner radius) for a distance of 25 feet. The third side is a line across the corner of the lot adjoining the nonintersecting ends of the other two sides. The vertical clear vision area is the area above the triangle, between two and one-half feet and eight feet in height (ten feet if located along a designated school bus route). In the case of an intersection of a street with an alley or bike/pedestrian way, the measurement shall be made along the nearest edge of the alley or bike/pedestrian way to the intersection for a distance of 15 feet.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows typical clear vision triangles. The standard is met or can be met.

### 153.082 ON-SITE LIGHTING.

As part of any application for a development or any use within the city, all on-site lighting shall be designed, located, shielded or deflected, so as not to shine directly onto adjoining properties, impair the vision of a driver of any vehicle or be a hazard to aircraft operations within the area.

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**Response:** No private, on-site lighting is included with this application. The standard does not apply.

**153.083 STANDARDS FOR SPECIFIC USES.**

A use shall comply with the standards of the zone in which it is located, with the specific standards that may be applicable thereto as set forth by this section, with any additional standards and conditions that may be set forth by the reviewing authority and with any other applicable local, state and/or federal regulations.

(L) Public or private facilities, utilities and services.

- (1) Public facilities including, but not limited to, utility substations, sewage treatment plants, storm water and water lines, water storage tanks, radio and television transmitters, cell towers, electrical generation and transmission devices, fire stations and other public facilities shall be located so as to best serve the community or area with a minimum impact on neighborhoods, and with consideration for natural aesthetic values.
- (2) Structures shall be designed to be as unobtrusive as possible.
- (3) Wherever feasible, all utility components shall be placed underground.
- (4) Public facilities and services proposed within a wetland or riparian area shall provide findings of the following:
  - (a) The location is required and a public need exists.
  - (b) Dredging, fill and other adverse impacts are avoided, minimized or mitigated to the maximum extent reasonable.
- (5) Co-locating on existing utility poles or cellular towers is required unless demonstrated that it is not feasible.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows planned public sewer, storm drainage, and potable water infrastructure. These improvements include underground piping, manholes, catch basins, fire hydrants, etc. and are planned to be designed and constructed in accordance with applicable City requirements. The applicable standards are met or can be met.

**153.085 OFF-STREET PARKING AND LOADING: PROVISIONS AND REQUIREMENTS.**

[...]

(D) Specific parking requirements by zone.

- (1) R-1, R-2, R-3 and R-4 Zones.
  - (a) No specific requirements; the number of spaces required are listed in the table below; spaces shall meet city standards.

(E) Parking table. Off-street parking spaces meeting the minimum dimensional standards in 153.086(I) may include spaces in garages, carports, parking lots, and/or driveways if spaces are accessible and vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes). Parking spaces in a public street, including an alley, shall not be eligible as fulfilling any part of the parking requirement.

Use Description	Minimum Requirements
Residential	
Single-family dwelling (includes townhomes)	2 spaces per dwelling.

**Response:** Required parking will be evaluated with future building permit applications. However, lots are sized so that applicable standards can be met. Consistent with earlier phases of

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Ochoco Pointe, future homes are planned to include a two-car or three-car garage. The standard can be met.

**153.086 OFF-STREET PARKING AND LOADING: DESIGN/IMPROVEMENT STANDARDS.**

**Response:** Designated loading areas are not required for single-family homes. Required parking will be evaluated with future building permit applications. However, lots are sized so that applicable standards can be met. Consistent with earlier phases of Ochoco Pointe, future homes are planned to include a two-car or three-car garage. The standard can be met.

**153.089 CUTTING AND FILLING.**

(A) 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; in such a case, the documentation justifying such other standards shall be set forth in writing thereby.

- (1) The city may require a grading plan by a licensed engineer for any new construction or proposed alteration of a site.
- (2) Alterations greater than three feet from the natural pre-existing grade or any alteration greater than one foot within ten feet of a property line shall require a grading permit from the City Engineer; at the discretion of the City Engineer the applicant may be required to submit a plan prepared by a licensed engineer and public notice of neighboring properties.
- (3) A grading plan, if required, shall demonstrate construction feasibility, and the 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.
- (4) The City Engineer's decision on the proposal shall be based on the following considerations:
  - (a) That based on the 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.
  - (b) That construction on such a cut or fill will not adversely affect the views or privacy of any adjacent property beyond that which could reasonably be expected without the cut or fill based on the provisions of the underlying zone; or that modifications to the design and/or placement of the proposed structure would be sufficient to minimize such adverse impact.
  - (c) That the proposed grading and/or filling will not have an adverse impact on the drainage on adjacent properties, or other properties down slope.
  - (d) 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.
  - (e) Cut slopes shall not exceed one foot vertically to one and one-half feet horizontally.
  - (f) Fill slopes shall not exceed one foot vertically to two feet horizontally.

**Response:** The Preliminary Grading Plan included in Exhibit A was prepared by a licensed engineer and shows that applicable requirements are met.

- (5) Filling of wetlands shall only be permitted outside of the Natural Features Overlay District (Chapter 155) and after a permit has been issued by the Division of State Lands (DSL) and U.S. Army Corps of Engineers (if applicable). The City Planning



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Official, the Building Official, and City Public Works Superintendent shall find that the filling will not cause flooding of adjacent properties or public streets or drainage systems, and that drainage systems are adequate to handle actual or projected storm runoff.

**Response:** The project does not contain wetlands; therefore this requirement is not applicable.

- (B) Filling within the designated floodway of Ochoco Creek and Crooked River is prohibited. Filling within the floodplain is prohibited unless necessary to elevate a structure to meet the standards of Chapter 151, Flood Damage Prevention. Filling for any reason is discouraged within the floodplain while a no-net-fill approach or structural solutions such as raised stem walls with pass through vents is preferred.

**Response:** The project does not contain lands within floodways or floodplains.

#### CONDITIONAL USES

##### 153.135 AUTHORIZATION TO GRANT OR DENY.

Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this chapter. In the case of a use existing prior to the effective date of this chapter, a change in use, enlargement or alteration of such use shall conform to the provisions of a conditional use if so classified. An application for a conditional use may be approved, modified, approved with conditions or denied by the designated reviewing authority.

- (A) A conditional use that is utilizing an existing building may be transferred to a new owner or user for the same type of use. Conditions of the approval shall still apply.
- (B) A conditional use that is utilizing an existing building may be transferred to a new owner or user for a similar type of impact as determined by the Planning Director. A change of use application shall be required and may be referred to the Planning Commission if one or more concerns are received or if 3 or more Commissioners believe the application warrants a Commission review.

**Response:** ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the provision of housing. Nonetheless, the Residential Use Table in Section 153.035 establishes a PUD as a conditional use in the R2 zone. Therefore, applicable provisions for conditional uses are addressed for the Ochoco Pointe Expansion.

##### 153.137 APPLICATION FOR CONDITIONAL USE.

A property owner or duly authorized agent may initiate a request for conditional use or the modification of an existing conditional use by filing an application with the city using forms prescribed therefor by the city. The standard application form shall be completed in its entirety and shall be accompanied by a site plan, drawn to scale, and showing the dimensions, arrangement and intended use of the proposed development. The application shall also be accompanied by a vicinity map showing the subject property, all properties within 100 feet and the names and addresses of all property owners within 100 feet as reported by the current County Assessor's records. If an application is submitted by any person or persons other than the property owner or authorized agent thereof, the application shall be jointly signed by the owner or agent, or there shall be submitted an accompanying certified statement from the owner or agent attesting to the knowledge and approval of the submittal. An application shall not be deemed complete unless accompanied by the required filing fee established by the City Council by ordinance or resolution.

**Response:** The Applicant is authorized to initiate conditional use application process. Please see Exhibit B for the fully completed and executed City application form. The Tentative



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Subdivision Plans (Exhibit A) include a Vicinity Map and Preliminary Plat, and the required fee is included with the application materials.

**153.138 TIME LIMIT ON A CONDITIONAL USE PERMIT.**

- (A) Authorization of a conditional use permit shall be null and void after one year or such other time as may be specified in the approval thereof unless substantial development, compliance and/or investment is clearly evident.
- (B) Issuance of a conditional use permit shall confer no right to the applicant beyond the time period for which it was issued.
- (C) If the conditions applicable to a conditional use permit are not fulfilled within a reasonable time, the Commission may revoke the permit after giving notice to the applicant, affected property owners and other affected persons or parties, and upon holding a public hearing to make the determination.

**Response:** The Applicant requests the maximum available time limit for the conditional use permit.

**SUBDIVISIONS, PARTITIONINGS, LOT CONSOLIDATIONS & REPLATS**

**153.157 SUBDIVISIONS-APPLICATIONS.**

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

**Response:** The signed Subdivision and Planned Unit Development Application form (Exhibit B), Tentative Subdivision Plans (Exhibit A), and other supplementary materials are attached. Please refer to the list of exhibits included with the application.

- (B) *Outline development plan (ODP).* The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer unless required as part of a non-standard subdivision such as a planned unit development (PUD) or cluster development. If an outline development plan is prepared and submitted with the application for a subdivision, it shall include both maps and written statements as set forth in this division (B).
  - (1) The maps which are part of an outline development plan may be in schematic form, but shall be to scale and shall contain the following information.
    - (a) The existing topographic character of the land.
    - (b) Existing and proposed land uses, and the approximate location of buildings and other structures on the project site and adjoining lands, existing and proposed.
    - (c) The character and approximate density of the proposed development.
    - (d) Public uses including schools, parks, playgrounds and other public spaces or facilities proposed.
    - (e) Common open spaces and recreation facilities and a description of the proposed uses thereof.
    - (f) Landscaping, irrigation and drainage plans.
    - (g) Road, street and other transportation facility schematic plans and proposals.

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- (2) Written statements which shall be part of the outline development plan submittal shall contain the following information.
    - (a) A statement and description of all proposed on-site and off-site improvements.
    - (b) A general schedule of development and improvements.
    - (c) A statement setting forth proposed types of housing and other uses to be accommodated, and a projection of traffic generation and population.
    - (d) A statement relative to the impact on the carrying capacities of public facilities and services, including water and sewer systems, schools, serving utilities, streets and the like.
    - (e) A statement relative to compatibility with adjoining land uses, present and future, environmental protection and/or preservation measures and impacts on natural resource carrying capacities of the site and surrounding/adjacent areas.
  - (3) Approval of an outline development plan for a subdivision shall constitute only a conceptual approval of the proposed development for general compliance with the city's Urban Area Comprehensive Plan, applicable zoning and this chapter.
  - (4) Review and action on an outline development plan shall follow the requirements for review of land use action procedures, hearings and decisions in sections 153.254, 153.255 and 153.256.

**Response:**

The planned subdivision is located on ±32.36 acres zoned R2 within the approved Ironhorse ODP. Land to the west has been subdivided and contains single-family homes within the Ochoco Pointe PUD. Land to the south has been subdivided and contains single-family homes within the IronHorse ODP. Land to the north and east is largely undeveloped except for Barnes Butte Elementary School located on the north side of NE Ironhorse Drive. Ochoco Irrigation District's Crooked River Distribution Canal runs along the eastern edge of the site, separating it from the planned extension of NE Combs Flat Road.

The Preliminary Plat (Exhibit A) shows ±149 lots for future single-family homes spread over three phases. The phasing schedule will depend on market conditions and the timing of NE Combs Flat Road and canal realignment. The project will extend six local streets that are currently stubbed to the site (NE Henry Drive, NE Rimfire Drive, NE Sunrise Street, NE Whistle Way, NE Meander Drive, and NE Loper Avenue), including required sewer, water, and stormwater infrastructure. A Transportation Impact Analysis, prepared by Transight Consulting is included as Exhibit E.

The maps from the 2017 Ironhorse ODP update designate the subject property as appropriate for residential uses, with a flexible street network accounting for the planned realignment and piping of the IronHorse section of Ochoco Irrigation District's Crooked River Distribution Canal. The original IronHorse ODP approval included findings that public facilities—including City water, sewer, and streets—could accommodate planned development. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement.

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The subject property does not include any inventoried Goal 5 resources. Therefore, the planned subdivision will not affect the preservation of any significant scenic, archeological, natural, or historic resources. In the 2006 decision, the City Council found the Ironhorse project would “create harmony with adjoining land uses and natural resources.” The Tentative Subdivision Plans, this narrative, and other supplementary materials satisfy the listed Outline Development Plan requirements.

(C) *Tentative plan required.* Following submittal and approval of an outline development plan and subdivision application, or as an initial subdivision application, any person proposing a subdivision shall submit a tentative plan together with the required application form, accompanying information and supplemental data and required filing fee, prepared and submitted in accordance with the provisions of this division (C). (O.R.S. 92.040) Note: Applicants should review the design standards set forth in 153.190 et seq. of this chapter prior to preparing a tentative plan for a development.

(1) *Scale of tentative plan.* The tentative plan of a proposed subdivision shall be drawn on a sheet 18 by 24 inches in size or multiples thereof at a scale of 1 inch equals 100 feet or multiples thereof as approved by the City Planning Official. (O.R.S. 92.080). In addition, at least 1 copy of the plan on a sheet of paper measuring 11 inches by 17 inches shall be provided for public notice requirements.

(2) *Information requirements.* Along with showing compliance with the Comprehensive Plan and applicable land use standards and policies, the following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete, unless all such information is provided unless approved otherwise by the Planning Official.

(a) *General information required.*

1. *Proposed name of the subdivision.*
2. *Names, addresses and phone numbers of the owner of record and subdivider, authorized agents or representatives, and surveyor and any assumed business names filed or to be filed by the owner or subdivider in connection with the development.*
3. *Date of preparation, north point, scale and gross area of the development.*
4. *Identification of the drawing as a tentative plan for a subdivision. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.*
5. *Title report issued in the last 90 days and supporting documents of all easements identified on the property.*

(b) *Information concerning existing conditions.*

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

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4. Location and direction of water courses, and the location of areas subject to erosion, high water tables, stormwater runoff and flooding.
  5. Location, width and use or purpose of any existing easements or right-of-ways within and adjacent to the proposed development.
  6. Existing and proposed sewer lines or septic tanks, water mains, wells, fire hydrants, culverts and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and locations.
  7. Contour lines related to some established bench mark or other engineering acceptable datum and having minimum intervals of 2 feet for slopes < 5%, 5 feet for slopes < 15%, 10 feet for slopes < 20% and 20 feet for slopes > 20%.
  8. Address numbers of adjoining properties.
  9. Existing covenants, codes and restrictions.
  10. Distance to nearest park or recreational area.
- (c) Information concerning proposed subdivision.
1. Location and size of all required and proposed public infrastructure and connections to existing infrastructure. This includes but is not limited to names, width, typical improvements, cross-sections, approximate grades, curve radii and length of streets. Connections to future infrastructure associated with an Outline Development Plan, Master Plan or the City Master Plans for Water, Sewer Transportation and Stormwater shall also be shown.
  2. Location, width and purpose of all proposed easements or right-of-ways, and the relationship to all existing easements or rights-of-way.
  3. Location of at least 1 temporary bench mark within the proposed subdivision boundary.
  4. Location, approximate area and dimensions of each lot and proposed lot and block numbers.
  5. Location, approximate area and dimensions of any lot or area proposed for public, community or common use, including park or other recreation areas, and the use proposed and plans for improvements or development thereof.
  6. Proposed use, location, area and dimensions of any lot which is intended for nonresidential use and the use designated thereof.
  7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.
  8. Source, method and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal and all utilities.
  9. Storm water, drainage facility and grading plans.
  10. Statement from each utility company proposed to serve the subdivision stating their willingness to serve the subdivision as set forth in the tentative plan.
  11. Proposed fire protection or fire hydrant system and written approval thereof by the appropriate fire protection agency.

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12. Solar Access. Demonstrate that this proposal will not unduly affect the solar access of existing homes.
  13. Location and type of street trees.
  14. Availability of open space, parks and recreational areas meets the requirements of section 153.193 (Land for Public Purposes).

**Response:** This information is provided in the Tentative Subdivision Plans, included as Exhibit A.

(D) Master development plan required. An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. In addition to the tentative plan requirements of section (C) above the plan shall include, but not be limited to, the following elements.

- (1) Overall development plan, including phase or unit sequences and the planned development schedule thereof.
- (2) Show compliance with the Comprehensive Plan and applicable land use standards and policies.
- (3) Schedule of improvements initiation and completion.
- (4) Development plans of any common elements or facilities.
- (5) Financing plan for all improvements.

**Response:** The Preliminary Plat (Exhibit A) shows ±149 lots for future single-family homes spread over three phases. The phasing schedule and financing plan will depend on market conditions and the timing of NE Combs Flat Road and canal realignment. Applicable Comprehensive Plan policies and land use standards are addressed throughout this narrative.

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

- (1) Proposed deed restrictions or protective covenants, if such is proposed to be utilized for the proposed development.
- (2) Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations or any other applicable local, state or federal ordinance, rule or regulation.

**Response:** The project is not requesting variances from applicable regulations.

(F) Tentative plan review procedures.

- (1) Tentative plan review shall follow the requirements for review of land use action procedures, hearings and decisions in 153.254 through 153.256 et seq.
- (2) The decision on a tentative plat shall be set forth in a written decision, and in the case of approval shall be noted on not less than two copies of the tentative plan, including references to any attached documents setting forth specific conditions.

(G) Tentative approval relative to final plat. Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat and the city may require only such changes as are deemed necessary for compliance with the terms of its approval of the tentative plan. (O.R.S. 92.040)

**Response:** These requirements are understood. The Applicant intends to comply with all applicable review procedures.

[...]

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- (1) Requirements for approval. The reviewing authority shall not approve an outline development plan (ODP) or a tentative plan for a subdivision unless the reviewing authority finds, in addition to other requirements and standards set forth by this chapter and other applicable city ordinances, standards and regulations, the following:

- (1) The proposal is in compliance with ORS Chapter 92, applicable goals, objectives and policies set forth by the City's Comprehensive Plan, Master Plans, Standards and Specifications and applicable zoning. (ORS 92.090(2)(c), 197.175(2)(b) and 227.175(4))

**Response:** The Tentative Sub is a "Limited Land Use Decision" as that term is defined in ORS 197.015(12) because it is a local government decision on a subdivision, as described in ORS 92.040, within the City of Prineville Urban Growth Boundary (UGB). Oregon Revised Statutes 197.195(1) prohibits a local government from directly applying comprehensive plan requirements as a basis for its decision on an application for a limited land use decision where the comprehensive plan requirements have not been incorporated into the local government's land use regulations. Therefore, Comprehensive Plan policies may not be applied to the Subdivision application under ORS 197.195(1) because the applicable Prineville Municipal Code (PMC) approval criteria do not make the application subject to specific Comprehensive Plan policies. This Tentative Subdivision Application complies with ORS 92 and the applicable goals, objectives, and policies of the City's long-range plans. The proposed subdivision will help the City make substantial progress towards achieving several goals within the transportation, housing, and public facilities elements of the Prineville Comprehensive Plan.

- (2) Each lot is suited for the use intended or to be offered, including but not limited to sewage disposal, water supply, guaranteed public street access and utilities.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as "suited for the use intended" and "including but not limited to" necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Street and Utility Plan (Exhibit A) shows how lots can be served by public streets and utilities. The applicable requirements are met.

- (3) The proposal is in compliance with the design and improvement standards and requirements set forth in 153.190 et seq. and the City's Standards and Specifications or as otherwise approved by the city, or that such compliance can be assured by conditions of approval.

**Response:** The referenced design and improvement standards are addressed in the responses to Section 153.190. The project complies with all applicable standards and specifications.

- (4) The subdivision will not create an excessive demand on public facilities and services required to serve the proposed development, or that the developer has proposed adequate and equitable improvements and expansions to the facilities with corresponding approved financing therefor to bring the facilities and services up to an acceptable capacity level (Goal 11).

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision



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criteria for this needed housing application. Terms and phrases such as “excessive” and “adequate and equitable” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The planned subdivision is located within, and is generally consistent with, the approved IronHorse ODP. The original IronHorse ODP approval included findings that public facilities—including City water, sewer, and streets—could accommodate planned development. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement. The Applicant and its consultants held a pre-application meeting with City of Prineville staff and no concerns with excessive demand on public facilities and services were identified. The demand on public facilities and services generated by the planned subdivision for future single-family homes has been contemplated since the 2006 approval of the IronHorse ODP and will not be excessive. The applicable requirements are met.

- (5) The development provides for the preservation of significant scenic, archaeological, natural, historic and unique resources in accordance with applicable provisions of this chapter and the Comprehensive Plan (Goal 5).

**Response:** The subject property does not include any inventoried Goal 5 resources. Therefore, the planned subdivision will not affect the preservation of any significant scenic, archeological, natural, historic, and unique resources. The requirement is met.

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

**Response:** The planned subdivision is contiguous to and platted as an extension of the existing Ochoco Pointe Subdivision.

- (7) The streets and roads are laid out so as to conform to an adopted Transportation System Plan for the area, and to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern. (ORS 92.090(2)(a))

**Response:** The Preliminary Plat (Exhibit A) shows that the planned subdivision dedicates right-of-way for, and constructs extension of, streets to and through the project. These street extensions comply with the plats of adjoining subdivisions. The eastern boundary of the project has been coordinated with City staff to align with the right-of-way for Combs and is generally consistent with the TSP. The requirement is met.

- (8) Streets and roads for public use are to be dedicated to the public without any reservation or restriction; and streets and roads for private use are approved by the city as a variance to public access requirements. (ORS 92.090(2)(b))

**Response:** The Preliminary Plat (Exhibit A) shows right-of-way dedications for public streets to the City. No private streets are proposed at this time. The requirement is met.

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

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “adequate” and “adverse impacts” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The planned subdivision is located within, and is generally consistent with, the IronHorse ODP approved by the City in 2006. In the 2006 decision, the City Council found the project to “create harmony with adjoining land uses and natural resources.” The applicable requirement is met.

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

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “provisions” and “likely need” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Plat (Exhibit A) shows right-of-way dedication to allow for vehicular and pedestrian traffic through the site and to reduce barriers to development by allowing for the completion of the transportation system. Construction of streets connecting to Combs Flat Road is planned to occur once that alignment is established and the Crooked River Distribution Canal has been realigned and undergrounded. The requirement is met.

- (11) Provisions of the proposed development to provide for a range of housing needs, particularly those types identified as needed or being in demand. (Goal 10 and ORS 197.303 through 197.307)

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “provisions” and “identified as needed or being in demand” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The planned subdivision is located within, and is generally consistent with, the IronHorse ODP approved by the City in 2006. The IronHorse ODP provides for a variety of housing types, including “needed housing” as defined in ORS 197.303. The requirement is met.

- (12) Provisions for open space, parks and recreational areas shall be provided for in accordance with 153.193, Land for public purposes.

**Response:** Provisions for open space parks and recreational areas are addressed in the responses to Section 153.193, below. The applicable requirements are met.



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- (j) Improvement requirements. In the approval of any subdivision, the need for a survey and the need for street and other public facility improvements shall be required as a condition of approval. Streets and roads for private use are approved by the city as a variance to public access requirements. (ORS 92.090(2)(b))

**Response:** The property was professionally surveyed and an Existing Conditions and Demolition Plan is included in Exhibit A. The Preliminary Street and Utility Plan shows streets and public utilities. This project does not propose private streets. The standards are met.

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

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “provisions” and “likely need” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Plat (Exhibit A) shows right-of-way dedication to allow for vehicular and pedestrian traffic through the site and to reduce barriers to development by allowing for the completion of the transportation system. Construction of streets connecting to Combs Flat Road is planned to occur once that alignment is established and the Crooked River Distribution Canal has been realigned and undergrounded. The requirement is met.

- (2) All required agreements shall be recorded at the Crook County Clerk’s office at the same time of recording of the final subdivision plat.

**Response:** Any required agreements can be recorded at the Crook County Clerk’s office at the same time of recording of the final subdivision plat. The requirement can be met.

- (3) If the existing street right-of-way is not consistent with city standards or new right-of-way is required through a city master plan or “to and through” standard, street right-of-way shall be dedicated, in compliance with the City’s Standards and Specifications and frontage requirements.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows the planned street sections, which are generally wider than the existing streets in the abutting sections of Ochoco Pointe. Crook County Fire & Rescue attended the February 11, 2021 pre-application conference, reviewed the preliminary layout and requested that the applicant widen planned rights-of-way to 55 feet and provide a 36-foot-wide paved surface in order to accommodate a 20-foot-wide fire lane even with parking on both sides. The Preliminary Street and Utility Plan shows rights-of-way will be 55 feet wide and provide a 36-foot-wide paved surface in addition to landscape strips and 5-foot-wide sidewalks on both sides. The standard is met.

- (4) Public infrastructure including right-of-way, water, sewer, streets and sidewalks shall be extended and constructed, per the City’s Standards and Specifications, “to and through” each lot created by the subdivision, unless otherwise approved by the city due to the following:

- (a) Phased development.

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- (b) Certain aspects of the “to and through” standard may be deferred for one clearly defined remainder lot of at least five acres where future development or division is likely and the infrastructure will be brought through the remainder lot at that time. Right-of-way shall be extended to and through but street, water and sewer infrastructure may be deferred until new development or division of the remainder lot.

(5) All public utilities are available to each lot line within an adjacent street or alley.

(6) Paved access is guaranteed to each lot.

(7) Future development is to be connected to the city’s sewer and water systems.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows public infrastructure including right-of-way, water, sewer, streets and sidewalks extended to and through the project. Public utilities are available to each lot and each lot will have a paved driveway connecting to a public street. The applicable standards are met.

- (K) Final plat approval. The submission of a final plat shall follow the requirements set forth in 153.164.

**Response:** The Applicant will submit a final plat for approval after the tentative plan is approved.

#### 153.158 PLANNED UNIT DEVELOPMENT (PUD).

- (A) Authorization. When a planned unit development is authorized pursuant to the provisions of the applicable zoning or by other provisions of this chapter, the development may be approved by the city in accordance with the provisions of this section and this chapter. A PLANNED UNIT DEVELOPMENT (PUD) is a development technique where the development of an area of land is developed as a single entity for a number and/or mixture of housing types, or a mixture of other types of uses, or a combination thereof, according to a specific development plan which does not necessarily correspond relative to lot sizes, bulk or types of dwelling units, density, lot coverages or required open space as required by the standard provisions set forth by this chapter and the specific applicable zoning designation.

**Response:** A PUD is permitted in the R-2 zone with a Type II Conditional Use approval.

- (B) Applicability of regulations. The requirements for a planned unit development set forth in this section are in addition to the requirements set forth for a standard subdivision by 153.157, and in addition to those requirements set forth in 153.094.

**Response:** Applicable regulations are addressed throughout this narrative. Sections 153.094 and 153.157 are addressed above. The applicable regulations are met.

- (C) Purpose. The purpose of the planned unit development provisions is to permit the application of innovative designs and to allow greater freedom in land development that is not possible under the strict application of the applicable zoning provisions and this chapter. In permitting such design and development freedom, the intent is to encourage more efficient uses of land and public facilities and services, to maximize community needs for a variety of housing, commercial and recreational needs and to maintain as high of a quality living environment.

**Response:** Absent wording to the contrary, generally worded zoning district purpose statements are not mandatory approval criteria for permits or other site-specific land use decisions [Mariposa Townhouses v. City of Medford, 68 Or LUBA 479 (2013)]. Nonetheless, the Preliminary Plat (Exhibit A) shows the project continues the successful pattern established with Ochoco Pointe in 2004. Through the implementation of flexibility afforded PUDs, the project will create an attractive and cohesive community that

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provides a variety of housing choices to future residents. The applicable standards are met.

**(D) Principal and accessory uses.**

- (1) The principal uses permitted within a planned unit development may include any use permitted, outright or conditional in the zone in which the subject proposed development is located.

**Response:** The project creates lots for future single-family homes, a use permitted outright in the R-2 zone.

- (2) Except for open land uses such as golf courses, parks, natural areas or natural resources and the like, accessory uses shall not occupy more than 25% of the total area of the development, must be approved as a part of the initial development approval and may include the following uses:

- (a) Commercial uses such as a grocery store, convenience store, cafe, bakery, book store, salon, and professional offices.
- (b) Tourist accommodations including convention or destination resort facilities.
- (c) Recreation areas, buildings, clubhouse or other facilities of a similar use or type.
- (d) Other uses which the city finds are designed to serve primarily the residents of the proposed development or are open to and of benefit to the general public, and are compatible to the overall design of the proposed development and with the City's Comprehensive Plan.

**Response:** The project does not include accessor uses. Therefore, the standard is met.

**(E) Dimensional standards.**

- (1) The minimum lot area, width, depth, frontage and yard (setback) requirements otherwise applying to individual lots in the applicable zone may be altered for a planned unit development; provided, that the overall density factor calculated for the applicable zone is not exceeded by more than 25%.

**Response:** The project complies with the Ochoco Pointe Approved Development Standards (SUB 04-01) with the minor amendments shown in Exhibit H. These amendments allow greater flexibility in housing design, better reflect of the development standards have been implemented since approval, and respond to homebuyer demand.

The project does not exceed the overall density allowed in the R-2 zone. The site is ±23.48 net acres, or 1,022,789 net square feet. The minimum lot area required in the R-2 zone is 5,000 square feet, which provides a maximum density of ±204 units on this site. The Preliminary Plat (Exhibit A) shows ±149 lots. The standards are met.

- (2) Building heights exceeding those prescribed for by the applicable zone may only be approved if surrounding open space and building setbacks and other design features are used to avoid any adverse impacts due to the greater height. As a guideline, setback requirements should be required to be at least two-thirds of the height of a building.
- (3) The building coverage for any PUD shall not exceed 40% of the total land area of the proposed development.

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**Response:** Setbacks, building heights, lot coverage, and other dimensional standards will be evaluated with future building permit applications. Setbacks will be consistent with the Ochoco Pointe Approved Development Standards, except as modified in Exhibit H.

- (4) Common open space and other community amenities such as community buildings, recreation buildings and school playgrounds, exclusive of streets, shall constitute at least 30% of the total land area of the development. Landscaped planter strips and medians within the street right-of-way may be approved by the Planning Commission as part of the open space requirement provided they are maintained by a homeowners association.

(a) At least half of the required open space shall be open to the general public.

**Response:** The project is located within the Ironhorse Outline Development Plan (ODP), originally approved in 2006, and then modified in 2013 and 2017. In its 2006 approval (SUB-05-707), the City Council found that 32.8 percent of the proposed development was designated for parks and other open spaces, thus meeting the applicable requirement. The 2013 update (MOD-2013-101) subsequently increased the parks/open space to ±317 acres. The City has since acquired much of the planned open space within the Ironhorse ODP, including the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement, and the preliminary plans show the Ochoco Pointe Expansion aligns with the open space program approved with the Ironhorse ODP. The Ochoco Pointe Expansion is located in a portion of the ODP dedicated to residential uses and not containing any planned open space. Therefore, the applicable open space requirements are met.

Additionally, as part of the planned extension/realignment of Combs Flat Road and piping of the abutting Ochoco Irrigation District (OID) canal, a new streetscape will be created along the eastern edge of the Ochoco Pointe Expansion. This new streetscape presents an opportunity to create and maintain an open space corridor and pathway, increasing multimodal connections through the east side of the City. Consequently, the Applicant has agreed to establish maintenance responsibilities for the landscaping along the west side of Combs Flat Road with their Homeowners Association (HOA). The applicable open space requirements are met.

- (5) No PUD in a residential zone may be approved on a site with a total land area less than five acres, and in a commercial zone on a site less than two acres.

**Response:** The Tentative Subdivision Plans (Exhibit A) show the site area is ±32.36 acres. The standard is met.

- (F) Project density approval. If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by this section for a PUD, it may either prohibit any increase or may limit the increase as deemed necessary to avoid the creation of any of the following conditions:

- (1) Inconvenient or unsafe access to the proposed development or adjoining developments or properties.
- (2) Generation of traffic loads in excess of the capacity of streets which adjoin or will serve the proposed development and in the overall street system in the area of the development.

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- (3) Creation of an excessive burden on sewage, water supply, parks, recreational facilities, areas or programs, schools and other public facilities which serve or are proposed to serve the proposed development.

**Response:** The project does not exceed the overall density allowed in the R-2 zone. The site is ±23.48 net acres, or 1,022,789 net square feet. The minimum lot area required in the R-2 zone is 5,000 square feet, which provides a maximum density of ±204 units on this site. The Preliminary Plat (Exhibit A) shows ±149 lots. The applicable standards are met.

(G) Common open space. No open area may be accepted as common open space within a PUD unless it meets the following requirements:

- (1) The common open space is for an identified and designated amenity or recreational purpose(s), and the uses proposed or authorized therefore are appropriate to the scale and character of the proposed development.
- (2) The common open space will be suitably improved for its intended use, except that the open space containing significant natural features worthy of preservation in the natural state may be left unimproved, but there shall be approved plans and/or provisions for the continued preservation thereof.
- (3) The buildings, structures and improvements to be permitted in the open space are determined to be appropriate and accessory to the uses which are authorized for the open space.
- (4) No common open space may be put to a use not authorized and approved in the final development plan of the subject development unless an amendment thereto is duly approved by the city.

**Response:** No common open space is planned in the Ochoco Pointe Expansion. Open space is addressed in greater detail in the response to Section 153.158(E)(4), above. The applicable requirements are met.

(H) Application and procedures. The application for a PUD, and the procedures for the processing of the applications, shall be the same as set forth for a standard subdivision in 153.157 and for a conditional use as set forth in 153.135 et seq.

**Response:** This application is for a subdivision and for a conditional use, as required by the Code.

#### 153.159 REVIEW NONSTANDARD SUBDIVISIONS.

Nonstandard subdivisions are subdivisions or development plans for subdivisions that do not conform to clear and objective standards. These include but are not limited to: cluster developments in 153.094, outline development plans (ODPs) in 153.157(B) and planned unit developments (PUDs) in 153.158. Review of nonstandard subdivisions shall follow the process listed in the zoning use tables of this chapter and follow the procedures and policies for land use action applications, hearings and decisions set forth in 153.254 through 153.256.

**Response:** Applicable standards are addressed throughout this narrative. Sections 153.157(B) and Section 153.158 are addressed above. Applicable standards are met.

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## DESIGN AND IMPROVEMENT STANDARDS/REQUIREMENTS

### 153.190 COMPLIANCE REQUIRED.

Any land division or development and the improvements required therefore, whether by subdivision, PUD, partitioning, creation of a street or other right-of-way, zoning approval or other land development requiring approval pursuant to the provisions of this chapter, shall be in compliance with the design and improvement standards and requirements set forth in this subchapter, in any other applicable provisions of this chapter, in any other provisions of any other applicable city ordinance, in any applicable provisions of county ordinances or regulations or in any applicable state statutes or administrative rules.

**Response:** The Tentative Subdivision Plans (Exhibit A) show the project is designed in compliance with the design and improvement standards and requirements of the City of Prineville. The applicable standards are met.

### 153.191 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 1,000 feet in length between street corner lines 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.

**Response:** As demonstrated on the Preliminary Street and Utility Plan (Exhibit A), block requirements are met.

(2) The recommended minimum length of a block along an arterial street is 1,800 feet.

**Response:** The project does not have frontage on an arterial.

(3) A block shall have sufficient width to provide for 2 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 major collector street.

**Response:** The only block that provides a single tier of lots is proposed along Combs Flat Road, which is designated as a major collector street in the TSP. Those lots will have rear yards abutting Combs Flat Road with access from Loper Avenue. The rest of the blocks within the project provide for two tiers of lots. The standard is met.

(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.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “appropriate for the type of development” and “consistent with the...topographical conditions” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Plat (Exhibit A) shows the planned lots meet the



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dimensional standards in Section 153.036 applicable to single-family development in the R2 zone. The applicable criteria are met.

(C) Access. Each resulting or proposed lot or parcel shall have legal access and abut or front upon a public street, other than an alley, for a width of at least 50 feet or 35 feet in the case of a cul-de-sac.

(1) The following are situations where the reviewing authority may allow reductions to the frontage rule.

[...]

(b) Cluster Developments or PUD.

[...]

**Response:** The Preliminary Plat (Exhibit A) shows each lot has legal access and abuts a public street for consistent with the Ochoco Pointe Approved Development Standards, as modified in Exhibit H. This criterion is met.

(D) Side lot lines. The side lines of lots and parcels, as far as practicable, shall be perpendicular to the street upon which they front; or radial to the curve as applicable.

**Response:** The Preliminary Plat (Exhibit A) shows side lines are perpendicular to abutting streets to the extent practical. 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.

**Response:** The Ochoco Irrigation District's Crooked River Distribution Canal cross through the property. However, this facility is planned to be undergrounded and realigned adjacent to the future Combs Flat Road. The criterion is met.

(F) Flag Lots. The intent of the following criteria is to promote infill in residential areas but not disrupt the existing nature of the neighborhood. It is also to provide dedicated public street access for these infill lots while avoiding the need for joint access easements that lead to neighbor disputes. Flag lots may be created by a boundary line adjustment, partition or subdivision with the following limitations:

**Response:** Flag lots are not planned with this project, so the flag lot criteria does not apply.

(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 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.

**Response:** The Preliminary Plat (Exhibit A) shows a block with a single tier of lots abutting Combs Flat Road, a major collector. A landscaped buffer and trail corridor will separate the lots from Combs Flat Road, and vehicular access will only be available from the local street internal to the project. The standard is met.

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- (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.

**Response:** The Preliminary Plat (Exhibit A) shows required right-of-way dedications. No special building setback lines are required.

- (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 Commission may require that the blocks be of a size and shape so that they may be redivided into building sites, and 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.

**Response:** This subdivision does not create large lots that could be subsequently divided into smaller lots.

#### 153.192 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 12 feet wide and centered on a rear and/or side lot line unless approved otherwise by the city. Utility pole anchor or guy wire easements may be reduced to 6 feet in width.

**Response:** The Preliminary Plat (Exhibit A) shows planned utility easements. Final locations and easement widths will be coordinated with the City and platted on the final plat.

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

**Response:** The Crooked River Distribution Canal currently crosses through the subject property but is planned to be realigned and piped abutting Combs Flat Road. No additional easements are required.

- (C) Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than 5 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.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “when desirable for public convenience” and “unusually long or oddly shaped” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. Additional pedestrian and/or bicycle ways are not necessary at this time to support alternative modes of transportation. Existing and planned streets contain sidewalks on both sides. The standard is met.

- (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 Department of Public Works.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows sewer and water lines located in the public streets. No additional easements are required.



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153.193 LAND FOR PUBLIC PURPOSES.

- (A) If the city has an interest in acquiring a portion of a proposed development for a public purpose, or if the city has been advised of the interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the city may require that portion of the development be reserved for public acquisition for a period not to exceed one year.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “has an interest” and “reasonable assurance” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The planned subdivision is located within, and is generally consistent with, the approved IronHorse ODP. The original IronHorse ODP approval included findings that public facilities—including City water, sewer, and streets—could accommodate planned development. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement. The Preliminary Plat (Exhibit A) shows dedication of right-of-way for future public streets.

- (B) Subdivisions containing 20 or more residential lots may be required (based on size and potential density) to develop and dedicated to the public a parcel of land at least 5% of the gross area of the development for parks and recreation purposes. The parcel of land shall be determined to be suitable for the park and/or recreation purpose(s) intended. This land may be within the development or adjacent to the development on continuous property owned by the developer. Parks approved as part of a subdivision may not be used to satisfy obligations of adjacent subdivisions.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “may be required” and “determined to be suitable” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Plat (Exhibit A) shows the planned subdivision contains more than 20 residential lots. However, the planned subdivision is located within, and is generally consistent with, the approved IronHorse ODP. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement. The standard does not apply.

- (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.

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- (D) The foregoing land and development or a monetary contribution may be provided for in lieu of an equal value of systems development charge assessment if so approved by the collecting agency (Crook County Parks and Recreation) in accordance with the applicable provisions of the SDC ordinance. If the collecting agency will not accept the land or monetary contribution in lieu of an applicable systems development charge, the land and development of a park may still be required by the City. Such a park would need to be managed with a Home Owners Association unless an alternate arrangement can be reached with Crook County Parks and Recreation.
- (E) If the nature and design, or approval, of a development is such that over 30% of the tract of land to be developed is dedicated to the public such as parks, rights-of-way, water or sewer system facilities and the like, then the requirements shall be reduced so that the total obligation of the developer to the public does not exceed 35%.

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “may be required” and “found to be suitable” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The planned subdivision is located within, and is generally consistent with, the approved IronHorse ODP. The IronHorse ODP planned for parks and other public open spaces, including land since acquired by the City such as the Barnes Butte Recreation Area, which is open to the public. The Ironhorse ODP established the amount and locations of open space necessary to meet the applicable requirement. No fee-in-lieu or other exaction is necessary. The standards do not apply.

#### 153.194 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, gas, telephone cable, and other utilities necessary to serve the use or development in accordance with the Standards and Specifications of the city and/or the serving entity.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows streets and utilities extended from existing stubs to serve future lots. The standard can be met.

- (B) Underground installation of utility lines. All electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.

**Response:** All utilities are planned for underground installation. The criterion can be met.

- (C) Location, width, and grade of streets. 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.

**Response:** The street network was designed to align with the existing streets in the adjacent neighborhoods and to provide direct, convenient, and safe circulation.

- (D) Traffic circulation system. The overall street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain of the development and the area, per the City's Standards and Specifications.

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

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- (1) Provide for the continuation or appropriate projection of existing principal streets to surrounding areas; or adjacent lots.
  - (2) Conform to a plan for the general area of the development approved by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; and
  - (3) Conform to the adopted urban area transportation system plan as may be amended.

(F) 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 set forth in the City's Standards and Specifications. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be dedicated at the time of land division or development."

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows the planned street sections, which are generally wider than the existing streets in the abutting sections of Ochoco Pointe. Crook County Fire & Rescue attended the February 11, 2021 pre-application conference, reviewed the preliminary layout and requested that the applicant widen planned rights-of-way to 55 feet and provide a 36-foot-wide paved surface in order to accommodate a 20-foot-wide fire lane even with parking on both sides. The Preliminary Street and Utility Plan shows rights-of-way will be 55 feet wide and provide a 36-foot-wide paved surface in addition to landscape strips and 5-foot-wide sidewalks on both sides. The standard is met. The project will extend six local streets that are currently stubbed to the site (NE Henry Drive, NE Rimfire Drive, NE Sunrise Street, NE Whistle Way, NE Meander Drive, and NE Loper Avenue). A Transportation Impact Analysis, prepared by Transight Consulting is included as Exhibit E.

(G) 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.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows proposed streets align with existing streets' centerlines.

(H) 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.

**Response:** This project is adjacent to existing subdivision and approved developments which are presently under construction; therefore the above requirement does not apply to this project.

(I) 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. 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.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows the project design meets the above standards.

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- (J) 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.
- Response:** The Preliminary Street and Utility Plan (Exhibit A) shows there are no existing streets within the project. All streets will be constructed to meet applicable City standards.
- (K) Cul-de-sacs. A cul-de-sac shall terminate with a circular turn around with a minimum paved surface and right-of-way determined by the City's Standards and Specifications or Fire Code whichever is greater.
- Response:** The Preliminary Street and Utility Plan (Exhibit A) shows no cul-de-sacs are planned.
- (L) 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.
- Response:** The project site does not abut or contain arterial streets; this standard is not applicable.
- (M) Streets adjacent to railroad or canal right-of-way. Whenever a proposed land development contains or is adjacent to a railroad or main canal 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.
- Response:** The project site does not contain and is not adjacent to a railroad or main canal right-of-way; this standard is not applicable.
- (N) Reserve Strips. Reserve strips or street plugs controlling access to streets shall not be approved.
- Response:** The project is not proposing reserve strips.
- (O) Half streets. Half streets, while generally not acceptable, may be approved where reasonably essential to a proposed land development, and when the Commission or other reviewing authority 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.
- Response:** The Preliminary Street and Utility Plan (Exhibit A) shows the project will construct all proposed streets to their ultimate width.
- (P) Streets. All street design criteria shall conform to the City's Standards and Specifications and State design Standards as determined by the City Engineer.
- Response:** The Preliminary Street and Utility Plan (Exhibit A) shows street design conforms applicable City standards.
- (Q) 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.

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**Response:** Except for one new street (Street C), this project extends existing streets through the site. The developer will propose a new street name for review and approval by the Building Department and submission to the City Council, as required by Ordinance No. 1066.

- (R) 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.

**Response:** Street name signs will be installed in compliance with these requirements.

- (S) 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.

**Response:** Traffic control signs will be installed in compliance with applicable requirements.

- (T) Alleys. Alleys are not necessary in residential developments, but should and 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.

**Response:** This project does not include alleys.

- (U) Curbs. Curbs shall be required on all streets in all developments and with all new commercial and multifamily construction. Curbs shall be installed by the developer in accordance with the City's Standards and Specifications unless otherwise approved by the city.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows streets will have curbs.

- (V) Sidewalks. Unless otherwise required in this chapter or other city ordinances or other regulations, sidewalks shall be required as set forth hereinafter on all streets in all developments and with all new commercial and multifamily construction. In lieu of these requirements, however, the reviewing authority may approve a development without sidewalks if alternative pedestrian routes and facilities are provided.

- (1) All streets. In general all streets shall have sidewalks at a minimum of 5 feet in width in residential and industrial areas and 8 feet in width in commercial areas unless otherwise provided for in the applicable zone or conditional use approval.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows streets will have five-foot-wide sidewalks on both sides.

- (W) Bike lanes. Unless otherwise required in this chapter or other city ordinances or other regulations, bike lanes shall be required as follows, 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.

- (1) Local streets. Bike lanes may be required on local streets, and if required shall not be less than 5 feet in width for one-way bike lanes and 8 feet in width for two-way bike lanes.
- (2) Collector streets. Bike lanes are required on both sides of major collector streets, and shall not be less than 6 feet in width.
- (3) Arterial streets. Bike lanes are required on both sides of arterial streets, and shall not be less than 6 feet in width.

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**Response:** All proposed streets are local streets. The Preliminary Street and Utility Plan (Exhibit A) shows rights-of-way will be 55 feet wide and provide a 36-foot-wide paved surface in addition to landscape strips and 5-foot-wide sidewalks on both sides. A Transportation Impact Analysis, prepared by Transight Consulting is included as Exhibit E.

(X) 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.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows the planned street sections, which are generally wider than the existing streets in the abutting sections of Ochoco Pointe. The standard can be met.

(Y) 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.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows planned utilities extending to and through the project. The standard can be met.

(Z) Drainage facilities. Drainage facilities shall be provided as required by the City's Standards and Specifications.

**Response:** The Preliminary Street and Utility Plan (Exhibit A) shows planned drainage facilities that meet applicable requirements. The standard is met.

#### 153.195 ACCESS MANAGEMENT.

[...]

(B) Access management techniques and considerations. In the review of all new development, the reviewing authority shall consider the following techniques or considerations in providing for or restricting access to certain transportation facilities.

(1) Access points to arterials and collectors may be restricted through the use of the following techniques.

- (a) Restricting spacing between access points based on the type of development and the speed along the serving major collector or arterial.
- (b) Sharing of access points between adjacent properties and developments.
- (c) Providing access via a local order of street; for example, using a collector for access to an arterial, and using a local street for access to a collector.
- (d) Constructing frontage or marginal access roads to separate local traffic from through traffic.
- (e) Providing service drives to prevent spill-over of vehicle queues onto adjoining roadways.
- (f) Requiring internal circulation with adjoining lots for pedestrians and vehicles (Internal Parcel Circulation) to avoid additional access points and unnecessary trips on and off the public street.

(C) General access management guidelines. In the review and approval of new developments, the reviewing authority shall consider the following guidelines.

(1) Minimum spacing between driveways and/or streets:

Major arterial	500 feet
Minor arterial	300 feet



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	Major Collector	50 feet
	Minor Collector	access to each lot
	Local streets	access to each lot
(2)	Minimum spacing between street intersections:	
	Major arterial	1/4 mile
	Minor arterial	600 feet
	Collector	300 feet
	Local streets	300 feet

**Response:** The Applicant asserts that the criteria listed above are neither clear nor objective, therefore conflicting with ORS 197.307(4) and rendering them inapplicable as decision criteria for this needed housing application. Terms and phrases such as “may be restricted” and “guidelines” necessitate subjective analysis and weighing of multiple factors if they are to be applied as standards or decision criteria. Nonetheless, for purposes of completeness, the criteria are addressed below. The Preliminary Street and Utility Plan (Exhibit A) shows the planned street sections, which are generally wider than the existing streets in the abutting sections of Ochoco Pointe. Crook County Fire & Rescue attended the February 11, 2021 pre-application conference, reviewed the preliminary layout and requested that the applicant widen planned rights-of-way to 55 feet and provide a 36-foot-wide paved surface in order to accommodate a 20-foot-wide fire lane even with parking on both sides. The Preliminary Street and Utility Plan shows rights-of-way will be 55 feet wide and provide a 36-foot-wide paved surface in addition to landscape strips and 5-foot-wide sidewalks on both sides.

The project will extend six local streets that are currently stubbed to the site (NE Henry Drive, NE Rimfire Drive, NE Sunrise Street, NE Whistle Way, NE Meander Drive, and NE Loper Avenue). Several intersections in the project are slightly below the 300-foot intersection spacing guidelines due to site-specific constraints. The street spacing within this project site was predetermined by the location of existing streets stubs to the west and south. It is not practicable to increase spacing between those intersections. Per City of Prineville TSP, Code Section 153.195 minimum spacing is presented as “guidelines” that the reviewing authority “shall consider” in the review and approval of new development rather than clear and objective standards. The City can make a finding that the proposed access management is adequate based on the analysis presented in the Transportation Impact Analysis (Exhibit E), prepared by Transight Consulting.

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## ADMINISTRATION AND ENFORCEMENT

### 153.251 GENERAL PROVISIONS.

#### 153.251.005 Pre-application conference.

A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the Comprehensive Plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The applicable zoning ordinance may require that a pre-application conference be held for particular types of applications.

**Response:** The Applicant held a preapplication conference with City staff on February 2, 2021, and has subsequently had several discussions regarding applicable requirements and the design of Combs Flat Road.

#### 153.251.010 APPLICATION REQUIREMENTS.

- (A) **Property Owner.** For the purposes of this section, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.
- (B) **Applications for development actions or land use actions shall:**
  - (1) Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
  - (2) Be completed on a form prescribed by the city;
  - (3) Include supporting information required by the zoning ordinance and that information necessary to demonstrate compliance with applicable criteria (burden of proof); and
  - (4) Be accompanied by the appropriate filing fee, unless such fees are waived by the City Council.

(\*\*\*)

**Response:** City application forms completed by the "Property Owner" are included as Exhibit B. Supporting information is included as exhibits and the decision criteria are addressed throughout this narrative.

## VI. Conclusion

The required findings have been made and this written narrative and accompanying documentation demonstrate that the application is consistent with the applicable provisions of the City of Prineville Land Use Code. The evidence in the record is substantial and supports approval of the application. Therefore, the Applicant respectfully requests that the City approve this Tentative Subdivision and PUD application.



## Exhibit A: Preliminary Plans

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## **Exhibit B: Land Use Application Form**

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## Exhibit C: Title Report

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## **Exhibit D: Crook County Assessor's Map**

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## **Exhibit E: Transportation Impact Analysis**

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## **Exhibit F: Development Standards Amendments**

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