



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT

APPLICATION RECEIVED: March 14th, 2022
HEARING DATE: April 19th, 2022
PROJECT NUMBER: CU-2022-101
APPLICANT/OWNER: Creations NW LLC.
14020 SE Johnson Road, Suite 102
Milwaukie OR 97267
ENGINEER/PLANNING: DOWL, Ben Hughes
8410 154th Avenue NE, Suite 120
Redmond, Washington 98052
PROJECT REVIEWER: Joshua Smith
Planning Director

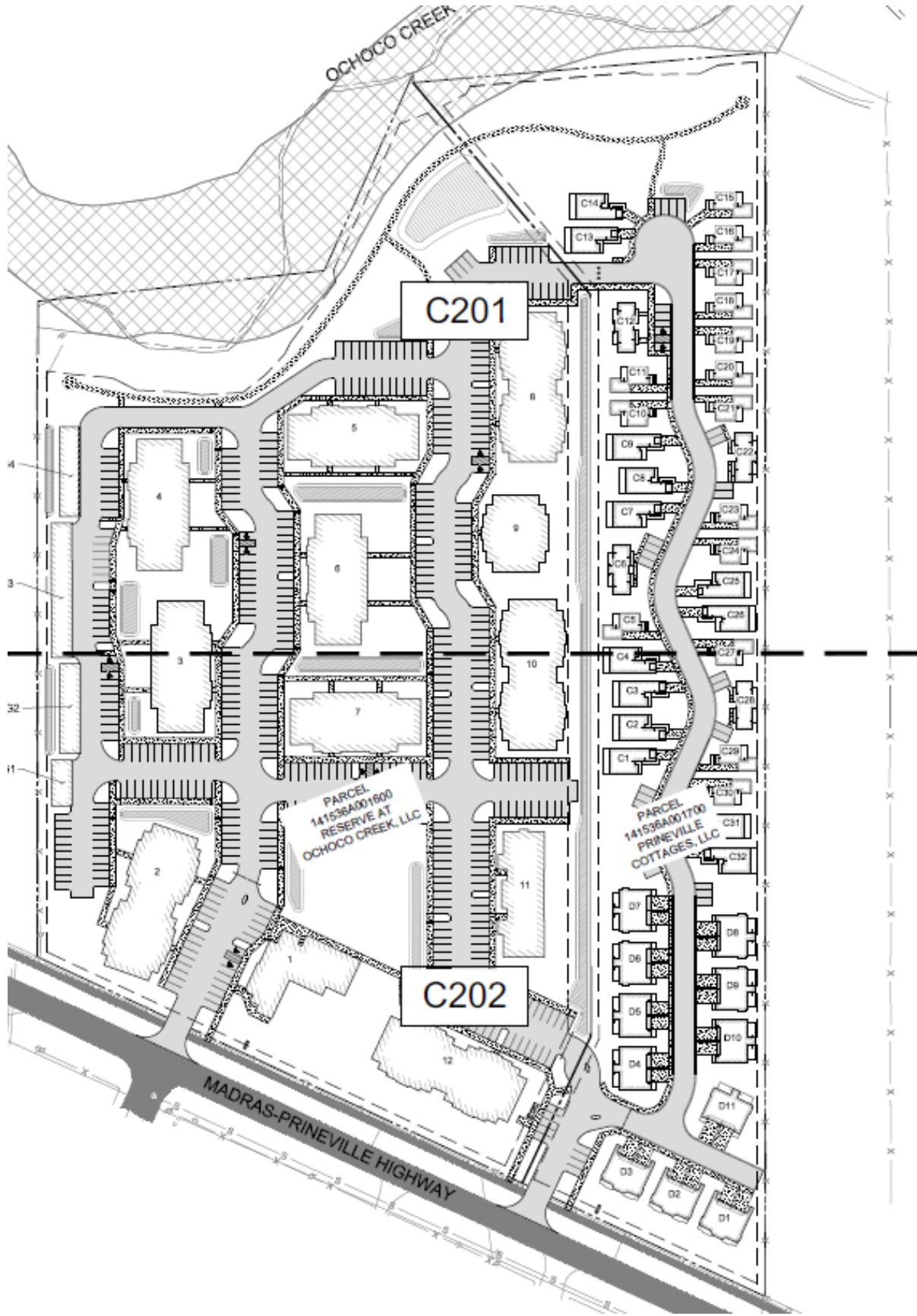
APPLICABLE CRITERIA:

(1) City of Prineville Code of Ordinances, Chapter 153; sections 153.009, 153.014, 153.020, 153.035, 153.036, 153.046, 153.081, 153.082, 153.083, 153.085-153.089, 153.135 - 153.138, 153.163, 153.190 - 153.200, 153.210 - 215, Chapter 151 Flood Damage Prevention, Chapter 155 Natural Features Overlay, ORS 197.307(needed housing).

FINDINGS OF FACT:

1. **LOCATION:** The proposed multifamily complex will be located along NW Madras Hwy, north of NW Gardner Road and across from NW McDougal Court. Also described as Map and Tax lots 14-16-36A 001600 & 001700.
2. **ZONING:** The property is zoned General Residential (R2) and designated residential on the Comprehensive Plan map.
3. **LOT OF RECORD:** The properties are legal lots of record by deed. A boundary line adjustment has been approved to accommodate the development proposal.
4. **Related Documents:** PA-2021-102 (Pre-app), BA-2022-100 (Boundary adjustment)
5. **PROPOSAL:** The applicant is applying for a Type II Conditional Use permit for the development of 328 dwelling units totaling approximately 188,600 square feet of residential living space. On the project site, there are 11 proposed 3-story apartment buildings that house 270 dwelling units on tax lot (TL 1600) and a 58 unit cottage development consisting of single and duplex-style dwelling units on tax lot (TL 1700). A Boundary Line Adjustment has already been approved to separate the two styles of development.
6. **SITE DESCRIPTION:** The site consists of two vacant lots totaling 22.34 acres that was previously used for agricultural purposes. Ochoco Creek borders the properties to the north with the Madras Hwy to the south and residential uses to the east and west. A 2021 aerial view and basic site plan is shown below.





7. **COMMENTS:** A pre-application meeting was held on May 27th, 2021 and a revised plan was reviewed on October 26th, 2021. A Development review meeting was held on March 17th, 2022. Notice was sent on March 30th, 2022.

Neighbors – At the time this staff report was written the City has not received any verbal or written comments.

City – Planning, Public Works, Fire Department and ODOT provided comments to the applicant prior to and during the Pre-application meeting. The applicant made alterations to their plan based on those comments prior to submitting their application. After application and during the development review meeting comments were limited to the details of their infrastructure plans.

8. **FINDINGS SUMMARY:** The plans submitted by the applicant are the foundation of this application. This property is currently zoned (R2) General Residential. The Complex will be assessed system development charges (SDC) for water, sewer, traffic and parks. The applicant is meeting all setback, lot coverage and height requirements with approved variances. Staff believes the proposed design as submitted is meeting the intent of the City's design review code. Open space and landscape areas are proposed around the property and along the street to provide an attractive look and feel to the site. The applicant shall extend City sewer and water "to and through" the development along the Hwy frontage to City standards. The applicant shall connect the buildings to City water and sewer and other utilities. The applicant shall provide fire hydrants and FDCs with appropriate easements internal to the site per Fire Department requirements. All access, maneuvering and parking areas shall be paved in accordance with City standards and all stormwater drainage shall be maintained on site. Clear vision areas shall be maintained at all times and may be enforced at any time. The applicant is meeting the standards required for multifamily complexes, including the minimum landscaping standards of at least 20% and is exceeding the parking standards. A 6 foot sight obscuring fence shall be provided along the property line at the SW corner of the property connecting to the garage structures. Permits from DEQ, ODOT and FEMA shall be acquired where applicable and any required improvements shall be adhered to.

Criteria: 153.009 COMPLIANCE WITH OTHER RULES AND REGULATIONS.

(A) Approval of any use or development proposal pursuant to the provisions of this chapter shall require compliance with and consideration of all applicable city, county, state and federal rules and regulations.

(B) The compliance shall be evident prior to the final approval of any affected land use or development proposal; for example, the compliance may be set forth as a condition of final approval.

(C) Specific city, county, state and federal rules and regulations that may affect a specific land use or development for which compliance therewith is required if applicable include, but are not necessarily limited to the following.

(1) Air quality standards administered by the State Department of Environmental Quality (DEQ) and/or the Federal Environmental Protection Agency (EPA).

(2) Noise pollution standards administered by DEQ and/or EPA.

(3) Water quality standards administered by DEQ, state Water Resources Department (WRD) and/or EPA.

(4) Sewage disposal regulations administered by DEQ, County Environmental Health and/or EPA.

(5) Solid waste disposal regulations administered by DEQ and/or EPA, including those applicable to hazardous wastes.

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(6) *Uniform Building Code administered by the City-County Building Department and State Building Codes Agency.*

(7) *Surface and ground water withdrawals regulated by WRD.*

(8) *Scenic area rules administered by the State Highway Division (OSHD), state parks and/or other state or federal agencies.*

(9) *Access control and management regulations administered by OSHD and/or the County Road Department.*

(10) *Surface mining regulations administered by the State Department of Geology and Mineral Industries (DOGAMI), DEQ and other state or federal agencies.*

(11) *Wild and scenic river regulations administered by the State Parks and Recreation Department (OPRD), the U.S. Bureau of Land Management (BLM) or other state and federal agencies.*

(12) *Cut and fill, and wetland regulations administered by the Division of State Lands (DSL).*

(13) *Fish and wildlife habitat protection rules administered by the State Department of Fish and Wildlife (ODFW) and/or the U.S. Fish and Wildlife Department (USFW).*

(14) *Applicable City and/or County ordinances, resolutions, agreements, regulating master plans or other land use decisions.*

Finding 1: There may be rules and regulation at a State and Federal level that the applicant is required to comply with. City approval of this project does not supersede those requirements. Known permit requirements are a 1200-C permit from the Department of Environmental Quality (DEQ) and an access permit from the Oregon Department of Transportation (ODOT). Compliance with these permits shall be a condition of approval and permits shall be received prior to development. The owner has also expressed interest in removing portions of the floodplain which would require a "Letter of Map Revision based on Fill" (LOMR-F) from the Federal Emergency Management Agency (FEMA). If a LOMR-F has not been approved prior to construction, the structures within the floodplain will be required to meet floodplain building standards.

Criteria: 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.*

(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.*

(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.*

(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.*

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

(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.*

(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.*

(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)(F).*

Finding 2:

A) The plans submitted by the applicant are the foundation of this application. The proposal is compatible with the Comprehensive Plan by meeting the City’s zoning regulations and housing needs in Chapter 7 of the Comprehensive Plan, as well as the housing needs and processes identified in ORS 197.307.

B) The proposal is in compliance with the applicable zone (R2) as a conditional use. The natural features overlay district and floodplain overlay is affected by this proposal and will be discussed further in this report. The proposal is meeting or can meet applicable provisions through conditions of approval.

C) The applicant shall obtain a DEQ 1200-C permit and ODOT access permits prior to development. A LOMR-F from FEMA is required prior to building permit to avoid floodplain building standards. The City is not aware of any other permits required from state or federal agencies. The applicant shall obtain occupancy permits from the Crook County Building Department.

D) Specific standards related to this application are listed in section 153.083(H). Specific standards are discussed further in Finding 9.

E) The proposal is not expected to exceed resources carrying capacities. The Complex will be assessed system development charges (SDC) for water, sewer, traffic and parks. Water and sewer SDCs are based on the size and number of the water meters installed, which will be determined by the applicant’s construction drawings in coordination with the Crook County Building Department. A Parks SDC per unit is required by the Parks and Recreation District. This project directly accesses a State Hwy facility (Hwy 26). The applicant has applied for ODOT access permits and has a draft Traffic Impact Study that is being reviewed by ODOT. The City has also had an independent traffic engineer review the study and provided ODOT and the applicant with comments and suggested improvements. ODOT will ultimately determine what is required within their jurisdiction. Traffic SDCs are calculated on a per unit basis, based on the applicable multifamily trip count in the current ITE manual and the submitted traffic study. SDCs are charged concurrent with building permits and therefore may change over time as individual buildings are constructed at different times.

F) All uses are required to comply with local, state or federal pollution standards. If it is identified that such standards are being exceeded, measures shall be taken to come back into compliance.

Criteria:

153.035 RESIDENTIAL USE TABLE

Conditional Type II use in R2 zone: Multi-family dwelling or complex, of more than ten dwelling units

153.036 RESIDENTIAL DIMENSIONAL STANDARDS

Minimum lot area:

Fourplex: 10,500s.f.

Additional area for each unit over 4: 1,500s.f.

Front setbacks: 10ft.

Side & Rear setback: 10ft. (Plus 1ft. for every foot above 25ft.)

Building Height: 35ft.

Lot Coverage: 35%

Riparian: 50ft.

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.*

Finding 3: The proposed use is a conditional use within the R2 zone because it is proposing more than 10 units. The proposal meets the purpose of the R2 zone by providing a planned development with a housing type and density that is not prevalent in the area. The property is near commercial zoning and adjoins an off street paved path connecting to City facilities and other trail systems.

In review of the submitted site plan the applicant is complying with minimum setbacks, lot coverage, and density standards. The proposed multi-family buildings are three stories and exceed the height limit by 5ft. - 6ft. due to several factors. This will be discussed further under the variance criteria in Finding 18 & 19.

The applicant is buffering the western property line adjacent to the single family home with single story garages, parking and access areas. The multi-family structures themselves are ~90ft. from property line. The northern property boundary abuts City property within Ochoco Creek where the applicant is providing more than the required 50ft. setback. The applicant is also providing a trail system, drainage facilities and recreational open space while also protecting portions of the floodplain. The eastern property boundary abuts a vacant agricultural field with the only home being over 200ft. away on a different property. The eastern portion of the property is proposed to be a cottage development consisting of single family and duplex style homes. The applicant is meeting or exceeding the minimum 10ft. setback. The southern property boundary abuts Hwy 26 and is meeting the required setbacks for the respective building types.

A boundary line adjustment (BLA) has been approved (BA-2022-100) to separate the two styles of development, though they will be operating together. After the adjustment building lot coverage for the apartment side is calculated at 20.5% and the cottage side at 17.3%, well under the maximum of 35%. The 270 units on the apartment site would require 9.4 acres and the cottage style site would require 2.1 acres. After the BLA the properties will consist of 14.85 and 7.49 respectively, well under the maximum density standard. Requirements within the R2 zone for parking, landscaping, public improvements, signs, use limitations and specific conditions are addressed in the findings below.

Criteria: 153.046 (I) Signs. *In an R-2 Zone, signs are permitted in accordance with the provisions set forth in Chapter 152 as amended.*

Finding 4: Signs for multifamily dwellings shall not exceed 32 s.f. Signs meeting the City's sign code are considered approved as part of this application. Sign proposals shall be submitted for review and code compliance but are still made a part of this application.

Criteria: 153.020 SITE PLAN AND DESIGN REVIEW PROVISIONS.

(A) Purpose.

(1) *The purpose of the design review provisions of this chapter is to ensure that development within the city complies with standards and limitations set forth within the applicable zoning regulations, other city standards and requirements, and with applicable county, state and federal regulations. It is also the intent of these provisions that some level of review be exercised regarding the aesthetics of developments for the goal of maintaining the desirable character and living quality of the community or of specific areas within the community. The overall community character and living quality is defined by the following: keeping buildings in scale; honoring the beauty and ecology of the city's natural setting; and recognizing that historical and natural features are an integral part of the community's overall character.*

(2) *This broad purpose is furthered by the following specific purposes of design review.*

(a) *To implement the goals and policies of the Comprehensive Plan.*

(b) *To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset.*

(c) *To encourage originality and creativity in site design, architecture and landscape design.*

(d) *To ensure required public and site improvements and ensure that the arrangement of all functions, uses and improvements of a development reflect the natural amenities, capabilities and limitations of its site and adjacent areas.*

(e) *To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious within the development and the surrounding area.*

(f) *To encourage development and landscape design that complements the natural landscape and setting, improves the general appearance of the community and enhances specific elements of the manmade environment, both presently and historically.*

(B) Applicability. *The following uses and developments shall be subject to the provisions of this section:*

(1) *All new development and changes of use. A building permit shall not be issued prior to approval by the City. Site clearance activities such as grading, excavation or filling shall not be permitted unless specifically allowed by the City prior to approval.*

Finding 5: The plans submitted by the applicant are the foundation of this application. The improvements and services required under the City's standards and specifications and land use code are anticipated to be constructed, and may not be called out directly in this report. The proposed use is subject to design review and may also be subject to ORS 197.307 for needed housing, which requires local governments to apply only clear and objective standards. Staff believes the proposed design as submitted is meeting the intent of the City's design review code and the City's clear and objective standards. The proposed design uses a mixture of materials, site lines and articulation to break up the large structures. The site utilizes landscaping, garages, access and parking areas to provide large buffers to neighboring properties while also providing large areas of recreation space and larger than required setbacks. Landscaping areas are proposed along the street to provide an attractive look and feel to the site.

Criteria: (D) Improvements Required. *Uses requiring a design review application shall be subject to public improvements and or site improvements. Improvement requirements and standards are found in section 153.194 and the City's Standards and Specifications. Public improvements and site improvements include but are not limited to the following:*

- (1) Streets. Right of Way dedication, street extensions, sidewalks, access management. Double frontage lots may require improvements on both frontages.*
- (2) Utilities. Connection to municipal water and sewer and other utilities as necessary.*
- (3) Landscaping. Per standards set forth in section 153.087.*
- (4) Paved parking including access and maneuvering areas as set forth in section 153.085 and 153.086.*
- (5) Storm Water Drainage. Per the City's Standards and Specifications.*

Finding 6:

1) This project abuts Hwy 26, which is in the jurisdiction of ODOT. ODOT will determine needed improvements to the Hwy through their access permit process. ODOT will analyze the draft traffic study, review their own plans for this section of Hwy and consider comments submitted by City's traffic consultant. The current Hwy right-of-way (ROW) is 100', additional ROW is not expected to be needed. There is currently an off-street path in place of a sidewalk along the Hwy that may need to be widened and improved with crossings at vehicle access points.

2) As part of this development the applicant shall connect to the City's water and sewer systems. The City's water and sewer lines shall be extended "to and through" the site along Hwy 26. The water line shall be extended as a 12" line to City and ODOT standards including the appropriate service connections, valves and fire hydrants. Water lines on site may also be public to serve hydrants and other fire suppression systems to avoid large double check valves at the property line. All public lines shall be placed in 20' public utility easements and built to City standards. The sewer line shall be a pressure line (force main) extended from Gardner Road including appropriate service connections and valves to City and ODOT standards and sized to serve future areas of the UGB. This line will serve as the public collection system with a private gravity system on-site feeding into a private pump station. All other utilities such as power, communications, gas, etc., shall be extended underground as necessary to serve the site. All on-site utility development shall also meet Crook County Building Department and Fire Departments requirements.

3) Landscaping is discussed in Finding 12.

4) All access, maneuvering and parking areas are meeting required dimensional standards and are proposed to be paved and shall be paved in accordance with City code. This will be further discussed in Finding 10 & 11.

5) The applicant has submitted a drainage plan that meets City requirements to maintain all drainage on site. The system is designed to fully infiltrate the 100yr storm. Each infiltration basin will provide an overflow that is routed to a detention facility north of the project. At this time no direct overflow of stormwater into Ochoco creek is planned or needed.

Criteria: 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 2 ½' 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 8 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 non-intersecting ends of the other two sides. The vertical clear vision area is the area above the triangle, between 2 ½' and 8' in height (10' 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'.*

Finding 7: Clear vision areas shall be maintained at all times and may be enforced at any time based on the requirements above or as amended. The applicant's site plan is showing open landscaped areas at the access to the complex that should meet this clear vision standard.

Criteria: 153.082 ONSITE LIGHTING.

*(A) **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.***

Finding 8: Lighting shall be shielded and focused downward to prevent light from directly shining onto adjoining properties or public rights-of-way. Additional shielding may be required to accomplish this. The applicant has provided cut sheets of proposed lighting. One of the proposed lights is not shielded or directed downward. These lights are only proposed on the fronts of the garage buildings that face inward toward the development. In this location the lights should not pose a problem.

Criteria: 153.083 STANDARDS FOR SPECIFIC USES

*(H) **Multi-family dwelling complex.** A multi-family dwelling complex permitted as a conditional use shall comply with the following standards and conditions, and the compliance shall be evident prior to occupancy except as may otherwise be approved by the city.*

*(1) **All such complexes with more than 20 dwelling units shall be so located as to have direct access onto an improved arterial or major collector street unless approved otherwise by the city.***

*(2) **All such complexes shall provide both an improved ingress and egress.***

*(3) **Each access road permitting two-way traffic and intersecting a public street shall have a minimum surface width of not less than 30 feet, and not less than 16 feet in width for single-lane, one-way traffic. Interior complex driveways shall not be less than 24 feet in width for two-way traffic, and not less than 12 feet in width for single-lane traffic. For interior driveways providing on-street parking, an additional eight feet of width shall be added for each parking lane or area. All access roads, driveways and parking facilities shall be improved and maintained with "durable and dustless surfaces" as defined in 153.086, and as approved by the City Superintendent of Streets.***

*(4) **Sidewalks, walkways, bicycle paths and other pedestrian ways may be required. The walks, paths and ways shall not be less than four feet in width and shall be surfaced with concrete, asphalt, asphaltic concrete or paving bricks as approved by the City Superintendent of Streets.***

*(5) **The complexes may be required to provide storage facilities and/or extra parking spaces as deemed necessary to provide for tenant storage of household goods, equipment, extra furnishings and/or recreation vehicles.***

(6) *Each complex, and each individual unit contained therein, shall be serviced with public water and sewer, electrical power, receptacles for garbage disposal and collection service, and fire hydrants shall be installed as deemed necessary by the City Fire Department.*

(7) *Facilities for incoming and outgoing mail shall be installed in accordance with the requirements of the U.S. Postal Service.*

(8) *The overall density of the complex shall not exceed the dimensional standards set forth by the applicable zone, except as approved otherwise by the city in accordance with the following factors.*

(a) *An increase of 5% in the maximum allowable density for dedicated and improved open space equaling 25% or more of the total land area of the development.*

(b) *An increase of 5% in the maximum allowable density for the development and maintenance of an approved recreation and/or common use building or other indoor facility.*

(c) *An increase of 5% for a developed playground area*

(d) *An increase of 5% for a developed recreation area including a covered picnic area, basketball and/or tennis court facilities and the like.*

(e) *As an incentive for development excellent, a total increase of 25% may be permitted if three or more of the foregoing are provided.*

(9) *A complex shall provide recreational space of at least 2,500 square feet plus 50 square feet for each unit in the complex. The recreational space shall be improved with landscaping to provide open recreation and shall be secured from driveways and parking areas. Facilities such as picnic tables, barbecues and playground equipment are recommended.*

(10) *For any complex permitting tenants to have recreation vehicles, camp trailers, boats and similar recreational equipment, there shall be provided a separate, designated parking area for such uses at a ratio of one space per each three units in the complex.*

(11) *If each unit in the complex is not provided with clothes washing and drying facilities, and there is not a private commercial coin-operated laundry facility within a reasonable walking distance, then there shall be provided within the complex a separate laundry facility providing not less than one washer and one dryer for each six units in the complex.*

(12) *The total land area of the complex may be required to be surrounded, except at entry and exit locations, by a sight-obscuring fence or hedge not less than six feet in height.*

Finding 9:

(H)(1,2) – The applicant is proposing more than 20 dwelling units. Access to the site is directly onto State Hwy 26 (Major Arterial). All access shall meet City standards for a multi-family complex and comply with ODOT access permit improvements.

(H)(3) – The applicant is proposing a 30 foot access that reduces to 24'-26' access aisles for the apartments and 26' drive aisle for the cottage development. All parking and maneuvering shown on the submitted plans meet City standards. The submitted plans have also been reviewed by the Fire Department. The drive aisle for the cottage development is not wide enough for parking and shall be marked as a fire lane with no parking. The development consists of two separate properties that share access to the Hwy and between each other. Access easements shall be established between the two properties to maintain vehicle circulation and traffic flow.

(H)(4) – The applicant's submitted plan shows sidewalks connecting from the current ODOT path to internal 5 foot sidewalks that serve each building in the apartment complex and half of the cottage development along the main drive aisle. Sidewalks on both sides of the drive aisle for the cottage development is something the Planning Commission could require if they find it necessary to serve those units. The applicant is also providing a gravel pedestrian creek trail. A public trail system is identified in the City's Parks Master Plan. As a condition of approval the City is requesting a 20' public access easement be centered on this trail for future development of a public trail system.

(H)(5,10) – The applicant is providing ~40s.f. secured storage areas off of each patio but is not proposing boat or RV storage, nor are they allowing such storage. There are; however, several existing mini storage facilities within the area. The applicant is providing 131 more parking spaces than required on the apartment side, including 32 garage units and 54 more spaces than required on the cottage development side.

(H)(6,7) – All public and private utilities listed in this section are planned and shall be provided to each individual unit. Fire hydrants shall be installed to City and Fire Department standards. Garbage disposal shall be provided and coordinated with Republic Services (formally Prineville Disposal) and shall be in screened enclosures. Mail service shall be installed in accordance with the requirements of the U.S. Postal Service and will likely be near the clubhouse.

(H)(8) – The applicant is below the maximum density of the R2 zone as stated in Finding 3. The applicant could have utilize a 5% increase in density due to the inclusion of a recreation center.

(H)(9) – This development consists of two properties with two different styles of housing operating together. Each property must meet the open space standard on its own. The apartment side would require 16,000s.f. of recreational open space that is easily provided around the clubhouse with other areas around individual buildings and along the creek side. The cottage development would require 5,400s.f. of recreational open space that is easily provided at the north end along the creek and within the yards of individual units. The applicant is well above the minimum requirement for recreational space, meeting the standards of the R2 zone.

(H)(11) – The applicant is proposing that each unit have its own laundry facilities.

(H)(12) – The applicant at a minimum shall provide a 6 foot sight obscuring fence along the property line at the SW corner of the property connecting to the garage structures. The purpose of this fence is to buffer the neighboring single family home. The garage structures will significantly buffer the remaining portion of the property boundary. The fence shall be either cedar fencing, chain link with slats or equivalent fencing that is attractive and well maintained. On the east side the less intensive cottage development will abut a large vacant parcel with the only home being more than 200 feet away on a different property. The future development of this parcel is unknown. The existing barbed wire fence should be adequate to delineate the property boundary at this time. A fence is not required along the Hwy frontage; or to the north along the City property and Ochoco Creek.

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

(A) The provision and maintenance of off-street parking and loading facilities are continuing obligations of the property owner. No building permit shall be issued until plans are submitted and approved by the city that show property that is and will remain available for exclusive use as off-street parking and loading facilities as required by this section and this chapter. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the required parking and loading facilities set forth by this section and this chapter. It is not, however, the intent of these provisions to require off-street parking and loading facilities in a manner as to unreasonably limit improvements to existing structures and uses, particularly in that area identified as the downtown core commercial area.

(B) Applicability. *Unless exempted by this section, all construction, reconstruction, enlargement of a structure or at the time a use is changed in any zone off-street parking facilities shall be provided in accordance with the requirements set forth by this section and section 153.086*

Multi-family complex	1.5 spaces per unit from 5 to 8 units; 1.25 spaces per each unit thereafter, plus 2 spaces for owner/manager.
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Finding 10: This development consists of two properties with two different styles of housing operating together. Each property must meet the parking standard on its own. The apartment side consists of 270 units requiring 344 spaces. The applicant is providing 443 spaces including 12 ADA spaces and in addition is providing 32 garage units. The cottage development is still considered multi-family because it is all one property, even though it consists of single and duplex style units. The cottage development consists of 58 units requiring 77 spaces. The applicant is providing 130 spaces including 2 ADA. There is no parking within the drive aisle. Each unit will have 2 spaces that typically includes a garage or carport as one of the spaces. There are 13 additional spaces not associated with the units. The applicant is exceeding the minimum requirements for parking.

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

(F) *The following off-street parking development standards shall apply.*

(1) *Parking areas, aisles and turnarounds shall be paved with concrete, asphaltic or comparable durable and dustless surfaces as defined in division (E) of this section, or as otherwise approved by an authorized official of the City.*

(2) *Approaches to driveways providing ingress and egress to parking areas shall be paved with asphalt, asphaltic concrete or concrete surfacing and inspected by the City Street Superintendent. In the event that a serving street is not paved, the approach may be maintained to the same standard as the street until the street is paved.*

(3) *Parking areas, aisles and turnarounds shall have provisions made for the onsite collection of drainage waters to filter contaminants and eliminate sheet flow of the waters onto or across sidewalks and other pedestrian ways, bike paths, public rights-of-ways and abutting private property.*

(4) *In areas that are duly designated for parking, parking spaces shall be permanently and clearly marked except as otherwise approved by the city.*

(5) *Wheel stops and bumper guards shall be provided where appropriate for parking spaces abutting a property line or building and no vehicle shall overhang a public right-of-way or other property line. Unless otherwise approved, parking spaces along the outer boundaries of a parking lot shall be contained by a curb which is at least 4 inches high and set back a minimum of 4.5 feet from the property line or by a bumper rail.*

(6) *Artificial lighting for parking areas which may be provided or required shall be shielded or deflected so as not to shine directly into adjoining properties, dwellings or businesses and so as not to create a hazard to the public use of a street.*

Finding 11: All vehicle access, parking spaces and drive isles shall be paved as indicated above and shown in the applicant's submittal.

Criteria: 153.087 LANDSCAPING REQUIREMENTS.

The following minimum landscape requirements are established for all developments subject to design review plan approval, unless approved otherwise by the reviewing authority.

(A) *Landscaping defined. Required landscaping may include, but is not limited to, a combination of any of the following materials: living plant material such as trees, shrubs, groundcover, flowers and lawn (including native vegetation); and nonliving materials such as benches, walkways and courtyards, consisting of brick, decorative rock or other decorative materials.*

(B) Existing vegetation. Existing site vegetation may be utilized to the maximum extent possible consistent with building placement and the applicable proposed landscape plan.

(C) Area required. Minimum area requirements may include requirements for landscaping around buildings, along fence lines, in parking and loading areas, outdoor recreational use areas and screening and buffering areas. Except as approved otherwise by the reviewing authority, the area required for landscaping is expressed as a percentage within the zone dimensional tables and/or the following:

- (1) Multifamily dwellings & complexes:** 20%.
- (2) Downtown Enhancement Plan C-1 Zone.**
- (3) Parking lots.** Parking areas shall be required to be landscaped in accordance

with the following minimum requirements:

(a) In commercial and residential developments, parking areas shall be divided into bays of 12 spaces and between or at the end of each parking bay a curbed planter containing at least 16 square feet shall be required. Parking areas less than 12 spaces may require curbed planters as part of the landscape standard.

(b) Each planter should contain at least 1 tree and ground cover. An applicant may submit alternate plans for review and approval.

(c) The areas shall be designed to be protected from being damaged by vehicles using the parking area.

(d) Clear vision at the intersection within a parking area shall be maintained to provide adequate vision of vehicles and pedestrians.

(e) Unless sidewalks are provided adjacent to a structure, customer or resident parking areas should be separated from the exterior wall of a commercial or residential structure by a minimum 4 foot strip of landscaping.

(f) Where a parking, loading or driveway area serving a multi-family, commercial, industrial or government use abuts a public right-of-way of a collector or arterial street or a local street across from a residential zone, or abuts a residential zone, a screen planting or other approved landscaped planter strip may be required between the parking area and the right-of-way without encroaching into a clear vision area or sidewalk.

(4) Buffering and screening. Requirements for buffering and screening may exceed the area requirement listed above. When required, buffering and screening areas shall conform to the following minimum requirements.

(a) Purpose. The purposes of buffering and screening requirements are to reduce the impacts of a proposed use on adjacent uses and zones which provide for different types of uses. The reviewing authority may waive or reduce the requirements where existing topography or vegetation is appropriate or otherwise negates the effectiveness or intended purpose or benefits of the buffering and screening.

(D) Plant material installation standards. Except as otherwise approved by the city, the following standards shall apply to plant materials and the installation thereof as provided in accordance with the provisions of this section.

(1) Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.

(2) Trees shall be a minimum size of 8 feet in height and be fully branched at the time of planting.

(3) Shrubs shall be supplied in 1 gallon containers or 6 inch burlap balls with a minimum spread of 12 inches.

(4) Rows of plants should be staggered to provide for more effective coverage.

(E) Maintenance and plant survival. All landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.

Finding 12: Multifamily complexes are required to provide at least 20% landscaping, which would equal 129,372 s.f. for the apartment side and 65,252 s.f. for the cottage development. In review of the applicant's site plan, the total open space and landscaping after excluding buildings and impervious surfaces is 296,160 s.f. and 176,410 s.f. respectively. The applicant is providing landscaping within the parking areas consistent with the criteria above. Landscaping along the street frontage is adequate to promote an attractive site, however more trees may be desired to screen the Hwy. Staff does not see a need for buffering and screening the sides of the development. On the apartment side the garages will screen most of the west side, a fence will be required for the remainder of the side to the Hwy and the neighboring home has significant landscaping in that corner already. On the cottage development side the units look and feel like single family and duplex homes that are compatible with other residential development that may occur on the neighboring property. The remainder of landscaping around the development is also adequate unless concerns arise during the public hearings process. The City understands that this landscape plan is conceptual and there may be a desire to modify the plan for different species and location as the project is constructed. Changes to the proposed plan shall be submitted in writing or map form for an informal City review and approval to ensure the plan is meeting City's landscaping standards.

Criteria: 153.136 SPECIFIC CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this subchapter, this chapter and other applicable local, county, state and/or federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area, the city as a whole and the general public. No condition may be imposed which violates federal or state law with regard to needed housing. The conditions may include, but are not limited to, the following.

(A) *Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.*

(B) *Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.*

(C) *Limiting the height, size or location of a building or other structure or use.*

(D) *Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.*

(E) *Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.*

(F) *Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.*

(G) *Requiring diking, screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.*

(H) *Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or manmade significant resources.*

Finding 13: Above is a list of conditions the Planning Commission may consider to mitigate impacts to the surrounding area; however, these conditions cannot violate State law with regard to needed housing referenced in ORS 197.307. This ORS states that “a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing”. Clear and objective standards are such things as density, setbacks, height limits or anything in the land use code that requires a specific number or measurement of something. This statement does not infringe on the local government prerogative to impose other special conditions such as screening, buffering, fencing, lighting, access and public facilities.

Criteria: 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.*

Finding 14: As stated above, the applicant shall be aware that a conditional use permit is void after one year unless substantial development, compliance or investment is clearly evident. This is generally established by evidence of a building permit, but may include other site work. Should development cease and not continue in a reasonable manner the Commission may revoke the permit as described above.

Criteria: 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 1 year.*

Finding 15: As mentioned in Finding 9, the City’s Parks Master Plan identifies and envisions a future public trail system along Ochoco Creek. The City would be open to acquiring property along Ochoco Creek if desired by the property owner. At this time all the City is requesting that a 20’ public access easement be centered on the trail to allow for the future development of a public trail system if it were to connect.

Criteria: 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.*

(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.*

(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.*

(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.*

Finding 16:

(A,D) This project is being developed on two separate properties that will operate together. Any shared utilities such as sewer, water, power, gas, communications, etc., shall be placed in easements for the benefit of the other property. This will allow the individual properties to function on their own should ownership ever change.

(B) Ochoco Creek does traverse a portion of the property. The creek is a significant water feature traversing the community, with its own specific setback and floodplain regulations. It is not typically placed in an easement, as with other more localized features such as drainages and wetlands.

(C) As stated in Finding 15, the City's Parks Master Plan envisions a public trail system along Ochoco Creek. A public access easement of 20' centered on the proposed trail is being required for the future development of a public trail system.

Criteria: Chapter 151 Flood Damage Prevention

Finding 17: This property is within the FEMA mapped floodplain of Ochoco Creek. The floodplain is broken into to regulated parts, the 100 year "floodplain" and the "floodway". The floodway is a portion of the 100 year floodplain that shall not be developed or filled in anyway. Outside the floodway may be developed under certain rules or in some cases filled to remove that portion of the property from the floodplain. The owner has also expressed interest in removing portions of the floodplain which would require a "Letter of Map Revision based on Fill" (LOMR-F) from the Federal Emergency Management Agency (FEMA). If a LOMR-F has not been approved prior to construction, the structures within the floodplain will be required to meet floodplain building standards.

Criteria: 153.210 AUTHORIZATION TO GRANT OR DENY.

(A) *Variances from the provisions and requirements of this chapter may be approved in accordance with the provisions of this subchapter where it can be shown that, owing to special and unusual circumstances related to a specific lot, parcel or tract of land, strict application of certain provisions of this chapter would cause an undue or unnecessary hardship.*

(B) *No variance shall be granted that would allow the use of property for a purpose not authorized within the zone in which the proposed use or development is located.*

(C) *In granting a variance, conditions may be attached that are found necessary to protect the best interests of the adjoining or surrounding properties or the vicinity, and to otherwise achieve the purposes of this chapter, the specific applicable zoning and the objectives and policies of the city's Comprehensive Plan.*

Finding 18: A variance to the height limit has been requested due to the site and building design. The City of Prineville's land use code does not have a provision to allow the Planning Commission to approve alternate dimensional standards through a normal type II conditional use review as it does with commercial development. Therefore, a variance process must be used. The applicant has requested a 6ft. variance to the height limit of 35ft. based on an unnecessary hardship. The variance would not grant a use not allowed in the zone. A typical condition to a variance of this type would be to increase setbacks. A multifamily residential building of 41ft. would calculate to 26ft. setback. The proposed buildings are setback from the side yard a minimum of 80ft., with the majority of the buildings being over 90ft. from the west property line.

Criteria: 153.211 CIRCUMSTANCES FOR GRANTING A MAJOR VARIANCE.

A MAJOR VARIANCE is a request for a variance that does not qualify as a minor variance. Major variances can only be reviewed as a type II conditional use. A major variance may be granted without restrictions, or may be granted subject to prescribed conditions and limitations, provided that the following findings are evident.

(A) That the literal application of specific provisions of the chapter would create practical difficulties for the applicant resulting in greater private expense than public benefit, however, a variance is not to be granted simply because it would afford the owner a higher profit or prevent a mere inconvenience.

(B) That the condition creating the difficulty is not general throughout the surrounding area, but is unique to the applicant's site or property; therefore, the granting of the requested variance will not set a precedent for future applications.

(C) That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the specific restriction or provision at the time the site was purchased. Self-created hardship also results when an owner and/or developer negligently or knowingly violates a provision of this chapter. A substandard lot, deliberately made so by the owner's conveyance, is considered a self-created hardship. Violations made in good faith, or circumstances arising from pre-existing conditions or circumstances are treated more leniently, as is the condition of an area deficiency created by the expansion of a public right-of-way, public utility easement or other public use in the public interest.

Finding 19:

(A) The applicant has designed buildings to reduce building footprints, ensure adequate buffers, parking, and open space, while also preserving critical areas associated with Ochoco Creek. The buildings are also double-sided which provides aesthetic benefits to the site, but increases ridge height. The applicant has reduced the ridge height as much as possible and still meet building code. In order to meet the current height limit the buildings and site layout would have to be drastically re-designed and may cause buildings to be closer to neighboring properties and encroaching further into the floodplain of Ochoco Creek. Staff finds that the literal application of the height limit would result in a much greater private expense than public benefit. The intent of the height limit is to buffer residences, particularly single family homes from large obtrusive structures. Staff finds the increased setbacks to be more than adequate to meet the intent of the height limit and finds it reasonable to approve a 6ft. height variance that will go relatively unnoticed by the public. It should also be noted that the literal interpretation of the height definition would start the measurement from "the curb or street serving the property". That street would be Hwy 26, which is ~5ft. higher than the property, rendering the variance nearly unnecessary.

(B, C) The condition creating the difficulty has several competing issues. One is the need for housing in the community and the region as a whole, so there is a need to maximize the number of units. The second is creating a desirable place to live. The third is providing significant buffers to neighboring properties and natural features such as Ochoco Creek and its floodplain. The only precedent being set is that you have to reasonably mitigate for the developments impact. Staff finds that the applicant has provided a design that creates a reasonable balance between the competing issues.

RECOMMENDED CONDITIONS OF APPROVAL: If approved the following conditions are recommended for application **Cu-2022-101** for a multifamily complex consisting of eleven 3-story apartment buildings with a height variance, that house 270 dwellings on one property and 58 cottage-style and duplex-style dwelling units on the adjacent property. Such an approval is subject to the submitted plans, findings stated in the staff report, those conditions contained within and the following conditions of approval set forth below:

General Conditions

1. The plans submitted by the applicant and the improvements depicted therein are the foundation of this approval to meet the requirements of the City's standards and specifications and land use code.
2. The applicant shall comply with the Fire Department requirements for fire flows, sprinkler systems, fire hydrants, addressing, fire lanes, Knox Box locks and all other UFC requirements. Final plans shall be signed off by the Fire Department prior to submitting for building permits.
3. The applicant shall mark the drive aisle within the cottage development as a fire lane with no parking to Fire Department standards.
4. The applicant shall receive a 1200-C permit from DEQ prior to development of the site.
5. The applicant shall construct all public improvements in accordance with the City's standards and specifications. This includes but is not limited to the extension of a 12" water line and pressure sewer line along the Hwy frontage of the property. Water lines on site may also be public to serve hydrants and other fire suppression systems. All public lines extending into the property shall be placed in 20' public utility easements and built to City standards. All buildings shall be connected to City water and sewer and other serving utilizes as applicable. Garbage disposal shall be coordinated with Republic Services and be within screened enclosures. Mail serves shall be coordinated with the U.S. Postal Service.
6. The applicant shall place all utilities underground.
7. The applicant shall provide paved parking, access and maneuvering areas as well as sidewalk and trail connections consistent with their site plan and to City Standards.
8. The applicant shall provide a legal mechanism to maintain vehicle circulation and traffic flow between the two properties such as access or cross-over easements. The applicant shall also provide easements to the benefit of the other property for any shared utilities such as sewer, water, power, gas, communications, etc. These easements are necessary to allow the individual properties to function on their own should ownership ever change.
9. The applicant shall provide a public access easement of 20' for the length of the property centered on the proposed trail for the potential future development of a public trail system along Ochoco Creek.
10. The applicant shall meet the required landscaping percentage for multifamily complexes (20%). The applicant shall adhere to the general concept of the submitted landscape plan; however, the City understands that this landscape plan is

conceptual and there may be a desire to adjust the plan as the project is constructed. Major changes to the proposed plan as determined by the Planning Director, shall be submitted in map form or writing for an informal City review and approval to ensure the plan is meeting the City's landscaping and buffering standards.

11. The applicant shall provide the improved recreational space as shown in the submitted site plan and landscape plan. The recreational area may change based on final conditions but shall generally adhere to the submitted concept of providing recreational areas around buildings and large more active areas near the clubhouse and creek trail.
12. The applicant shall at a minimum maintain the existing fence on the eastern side of the property and shall provide a 6 foot sight obscuring fence along the property line at the SW corner of the property connecting to the garage structures. The fence shall be either cedar fencing, chain link with slats or equivalent fencing that is attractive and well maintained. A fence is not required along the Hwy frontage; or to the north along the City property and Ochoco Creek.
13. The applicant shall comply with required setbacks and height requirements set forth in the R2 zone and as shown on the submitted site plan. As part of this application a height variance of no more than 6ft. is allowed for the apartment buildings only. The cottage development side shall adhere to the standard height limit.
14. The applicant shall provide connections for clothes washing and drying within each dwelling or provide an onsite laundry facility with one washer and dryer per each 6 units.
15. Signs for multifamily dwellings shall not exceed 32 s.f. Signs meeting the City's sign code are considered approved as part of this application. Sign proposals shall be submitted for code compliance and made a part of this application.

Prior to Building Permit

16. The applicant shall receive ODOT access permits prior to receiving a building permit and adhere to the required improvements prior to certificate of occupancy for any structure.
17. The applicant shall complete a letter of map revision with FEMA based on fill (LOMR-F), prior to receiving building permits of those buildings currently mapped within the floodplain. If a LOMR-F is not acquired, the structures within the floodplain shall complete flood elevation certificates and be constructed to floodplain building standards.
18. The applicant shall prepare a final plat for the boundary adjustment approved through application BA-2022-100 or apply for a lot consolidation to re-configure the lots to meet City standards and development criteria. Plats shall be in accordance with Oregon State law. The applicant shall submit the final map to the City of Prineville for final approval and signature by the City. It is preferred that all required easements be shown on the final map. If necessary a boundary adjustment map may be delayed until easements can be recorded and shown on the final map.

Creations NW LLC.

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19. The applicant shall pay all applicable system development charges (SDCs) and connections fees prior to issuance of a building permit. SDCs are charged concurrent with building permits and therefore may change over time as individual buildings are constructed at different times.

On-going Responsibilities

20. The floodway as mapped by FEMA and the 50ft. setback to Ochoco Creek shall not be developed, altered or filled in anyway with the exception of native vegetation rehabilitation or approved engineered plans for restoration and flood mitigation projects.
21. All stormwater drainage shall be maintained on-site per the applicant's drainage plan.
22. No storage of materials is allowed in a manner which may cause a nuisance. The applicant shall not store unused vehicles, junk or debris within view of persons on a public street or adjacent properties. All outdoor storage and any equipment on site shall be screened from adjacent public rights-of-way.
23. All exterior lighting shall be shielded and focus light downward onto the site and shall not shine onto adjacent rights-of-way or properties or cause a hazard to vehicles or aircraft. Additional shielding may be required to accomplish this.
24. The applicant is required to comply with all relevant portions of the City of Prineville Code of Ordinances and secure any permits required by the Crook County Building Department or State and Federal agencies.

Written by:



Joshua Smith
Planning Director