



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT TO PLANNING COMMISSION

HEARING DATE: August 21st, 2012

PROJECT NUMBER: AM-2012-101

APPLICANT: City of Prineville
387 NE 3rd St.
Prineville, OR, 97754

PROPOSAL: Text Amendment to the subdivision and partition criteria of the City of Prineville's Land Use Code.

STAFF: Joshua Smith,
Senior Planner

Background

In 2011 the City of Prineville updated its Land Use Code. Within that code update, language was added to allow for remainder lots that are not master planned. The intent of this was to allow a large piece of property to subdivide and utilize a portion of the lot without having to fully construct street, water and sewer infrastructure through the entire property per the City's standards and specifications while still acquiring any right-of-way that will be necessary in the future.

In 2012 this code language was tested and used to subdivide 30 acres into a 9 lot subdivision. As written, the code leaves the Planning Commission with full control over what is appropriate as to the number of remainder lots, remainder lot size, right-of-way dedication and infrastructure requirements. As the Commission went through the process it became evident that this process is far too ambiguous and subjective and could become very inconsistent.

Without sufficient guidelines or limits, the Commission is put in the position of arguing the potential development of these remainder lots as well as trying to predict future streets, parks and infrastructure without a clear vision of how these lots may develop, like a phased development master plan would provide. Also allowing multiple remainder lots of only a few acres in size promotes disorderly growth and inefficient rural development within an urban setting. This is not only inefficient but also causes an imbalance in the use of infrastructure and the ability to fund the maintenance.

Due to these issues, staff asked the Planning Commission if they would like to amend these sections of code. The Commission agreed and, several workshops later, the following text amendment was proposed for a public hearing.

Proposed Amendments (with track changes)

153.157 SUBDIVISIONS-APPLICATIONS.....

~~(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 public use are to be dedicated to the public without any reservation or restriction consistent with the City's Standards and Specifications and streets and roads~~ for private use are approved by the city as a variance to public access requirements. (O.R.S. 92.090(2)(b))

(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.

(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.

(3) Street right of way shall be dedicated, in compliance with the City's Standards and Specifications and frontage requirements, 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.

~~(3) All public utilities are available to each lot line.~~

(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

(b) Certain aspects of the "to and through" standard may be deferred for one ~~C~~ clearly defined ~~project area where the~~ remainder lot ~~is~~ of at least 5 acres such a large size that 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.

~~(c) The City determines certain aspects of the "to and through" standard can be deferred. For example, right of way may be extended to and through but street, water and sewer infrastructure are differed until new development or Division of property.~~

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

~~(65)~~ Paved access is guaranteed to each lot.

~~(76)~~ Future development is to be connected to the City's sewer and water systems

153.160 LAND PARTITIONING.....

(G) Improvement Requirements. The approval of any land partitioning, the need for a survey, and the need for street and other public facility improvements shall be considered and such may be required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including infrastructure, bonding or other assurance of compliance.

(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.

(2) All required agreements shall be recorded at the Crook County Clerk's Office at the same time of recording of the final partition plat.

(3) Street right of way shall be dedicated, in compliance with the City's Standards and Specifications and frontage requirements, 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.

~~(4) All public utilities are available to each lot line.~~

~~(45)~~ 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 partition; unless otherwise approved by the City due to the following:

(a) Certain aspects of the "to and through" standard may be deferred for one clearly defined project area where the remainder lot is of at least 5 acres such a large size that 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.

~~(b) The City determines certain aspects of the "to and through" standard can be deferred. For example, right of way may be extended to and through but street, water and sewer infrastructure are deferred until new development or Division of property.~~

(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.

Process

This proposed text amendment does not apply to a single property but to every property within the City that is capable of partitioning or subdividing. This is a legislative process (as opposed to a quasi-judicial process, such as a site plan review or zone change which would only address a single site). As a legislative process, the role of the Planning Commission is to consider written and verbal public testimony, the findings in this staff report and their own deliberations in making a formal recommendation to City Council. Council will then hold a separate public hearing to consider the recommendation of the Planning Commission.

Impact of Amendment

The current code allows a developer to create a remainder lot and not have to extend full improvements through that lot until future development or additional division. The proposed amendment will continue to allow remainder lots except that the amendment will establish basic rules for creating a remainder lot while the current code leaves it to the Planning Commission to decide what is appropriate.

This amendment will provide for orderly growth of infrastructure as well as surety and fairness for subdividers wishing to create a remainder lot. The current process is very arbitrary and open to inconsistency. The proposed amendment will apply equally to all properties.

Staff Findings

Staff findings are based on two primary considerations:

1. The State of Oregon infrastructure requirements for subdivisions and partitions, & The City's infrastructure standards for subdivisions and partitions.
2. The City's Comprehensive Plan.

ORS 92.044 Adoption of standards and procedures governing approval of plats and plans; delegation; fees.

(1)(a) The governing body of a county or a city shall, by regulation or ordinance, adopt standards and procedures, in addition to those otherwise provided by law, governing, in the area over which the county or the city has jurisdiction under ORS 92.042, the submission and approval of tentative plans and plats of subdivisions, tentative plans and plats of partitions in exclusive farm use zones established under ORS 215.203.

(b) The standards shall include, taking into consideration the location and surrounding area of the proposed subdivisions or partitions, requirements for:

(A) Placement of utilities subject to subsection (7) of this section, for the width and location of streets or for minimum lot sizes and other requirements the governing body considers necessary for lessening congestion in the streets;

(B) Securing safety from fire, flood, slides, pollution or other dangers;

(C) Providing adequate light and air including protection and assurance of access to incident solar radiation for potential future use;

(D) Preventing overcrowding of land;

(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; and

(F) Protection and assurance of access to wind for potential electrical generation or mechanical application.

(c) The ordinances or regulations shall establish the form and contents of tentative plans of partitions and subdivisions submitted for approval.

(d) The procedures established by each ordinance or regulation shall provide for the coordination in the review of the tentative plan of any subdivision or partition with all affected city, county, state and federal agencies and all affected special districts.

ORS 92.090 Approval of subdivision plat names; requisites for approval of tentative subdivision or partition plan or plat.

(3) No plat of a proposed subdivision or partition shall be approved unless:

(a) Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public or private utilities.

(4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

(5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

Staff Finding 1: Above are portions of two Oregon Statutes that pertain to this text amendment. ORS 92.044 & ORS 92.090 provides the City with the authority to regulate multiple aspects of development.

The City has adopted its own standards and specifications that go beyond the State requirements. This document includes the provision for constructing streets, water and sewer “to and through” a property with new construction or when subdividing or partitioning. This “to and through” standard and the ability to create multiple remainder lots are the subject of this text amendment.

The intention of the existing code was to provide some relief of infrastructure costs for owners of large parcels that may only want to develop or sell a portion of the parcel. The

first time the code was used it became evident that this process is far too opinionated and arbitrary and could become very inconsistent.

Without sufficient guidelines or limits the Commission was put in the position of arguing the potential development of these remainder lots as well as trying to predict future streets, parks and infrastructure without a clear vision of how these lots may develop, like a phased development master plan would provide. It also created the unforeseen issue of allowing multiple remainder lots only a few acres in size. These types of lots promote disorderly growth and inefficient rural development within an urban setting. This is not only inefficient but also causes an imbalance in the use of infrastructure and the ability to fund the maintenance.

In regard to consistency with the City's Comprehensive Plan, the following are excerpts that support the proposed text amendment.

Public Facility Values and Policies

- *Providing needed services in an economic and effective manner is good business and a good growth management tool.*

Staff Finding 2: Infrastructure should move from the center outward to provide growth in an orderly fashion. The "to and through" standard accomplishes this by requiring each property owner to be responsible for their own frontage. Allowing remainder lots when dividing large parcels also promotes orderly growth by allowing development to occur in stages without a full master plan and excessive infrastructure requirements. However, allowing multiple remainder lots only a few acres in size promotes disorderly growth and inefficient rural development within an urban setting. Rural development with City services is not only inefficient but also causes an imbalance in the use of infrastructure and the ability to fund the maintenance.

- *A public facility or service should not be provided to outlying urbanizable areas unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.*

Staff Finding 3: The primary change to the code is to eliminate the ability to create multiple remainder lots only a few acres in size. These types of lots have a greater potential to remain at a rural level of development, essentially promoting the extension of public services to outlying urbanizable areas that are not fully planned. A single remainder lot of 5 acres or more is appropriate because it sets up progressive stages of development similar to a master plan that can be fully coordinated with adjacent property at the time the property is subdivided.

Conclusions:

The proposed text amendment will still provide the ability to create a remainder lot and defer infrastructure for a single remainder lot as originally intended. It will eliminate the ability to create multiple remainder lots and require dedication of right-of-way if needed through the remainder lot. It will also eliminate the uncertainty of subjective standards when applications are reviewed by City Staff or Planning Commission.

MOTION IN FAVOR

The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Favor of this amendment to the City of Prineville Land Use Code. I Move that the Planning Commission makes a formal recommendation to City Council in favor of the proposed amendment.

MOTION IN OPPOSITION

The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Opposition to this amendment to the City of Prineville Land Use Code. I Move that the Planning Commission makes a formal recommendation to City Council in opposition of the proposed amendment.