

**CITY OF SISTERS
PLANNING COMMISSION**



STAFF REPORT

File #: CI 15-01

Applicant: Michael Black

Property Owners: Michael Black

Request: The Applicant request a land use approval clarification/code interpretation of SDC 2.3.300 Development Standards, Table 2.3.2 as it relates to future development within SUB 02-01.

Applicable Criteria: Sisters Development Code (SDC) - Chapter 2.3 (Multi-Family Residential District); 2.15 (Special Provisions), Chapter 3 (Design Standards); and 4.1 (Types of Applications and Review Procedures).

Hearing Date: April 30, 2015, 5:30 pm, Sisters City Council Chambers, 520 E. Cascade Avenue, Sisters, Oregon

Location: Tax Lot 151004CD05506 and others in the vicinity of Aspenwood Avenue, within the existing Aspenwood Subdivision.

Planner: Darcy Reed

I. Project Request

The Applicant is requesting a code interpretation and land use approval clarification to allow an option to build single family detached dwellings or attached dwellings (townhomes) on 21 remaining lots in the Aspenwood Subdivision.

Under a previous Development Code, all but Lots 1 and 12 of the 26-lot subdivision were designated townhome lots per the approved File no. SUB 02-01. Subsequent changes to the City's Development Code and prior conflicting interpretation by two separate Planning Staff has prompted the Applicant to seek the code interpretation to allow single family detached dwellings on the designated townhome lots. Approval of the requested code interpretation would allow a mixture of smaller single family detached dwellings and townhomes to be built on the remaining lots within the subdivision.

Staff declined to provide a code interpretation and instead is forwarding this request to the Planning Commission for rehearing and decision.

II. Property Description

The subject site consists of an existing 26- lot subdivision known as Aspenwood Subdivision. The lots range in size from approximately 3,018-sq.ft. to 6,565-sq.ft. The lots will continue to be accessed by the following public street(s) and/or alley(s): East Aspenwood Avenue and alleys located to the north and south of the subdivision.

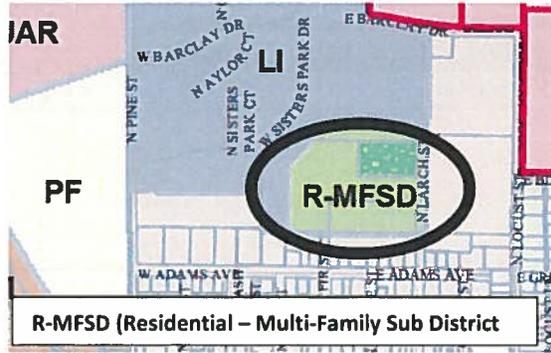
Adjacent land uses and zoning designations for the surrounding properties are summarized in the following table:

Direction	Current Zoning District	Current Use
North	Multi-Family Residential (MFR)	Residential
East	Downtown Commercial (DC)	Vacant
South	Downtown Commercial (DC)	Church; Vacant land
West	Multi-Family Residential (MFR)	Residential

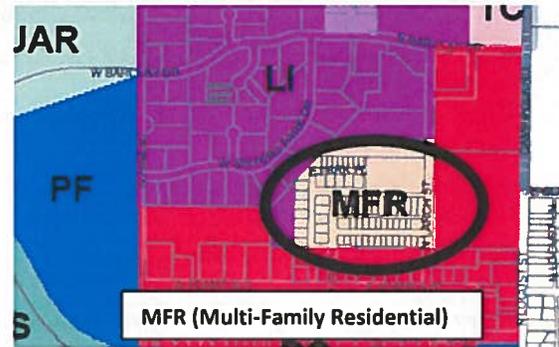
PROJECT SITE/EXISTING SUBDIVISION



Archival Zoning Map (Circa 2003)

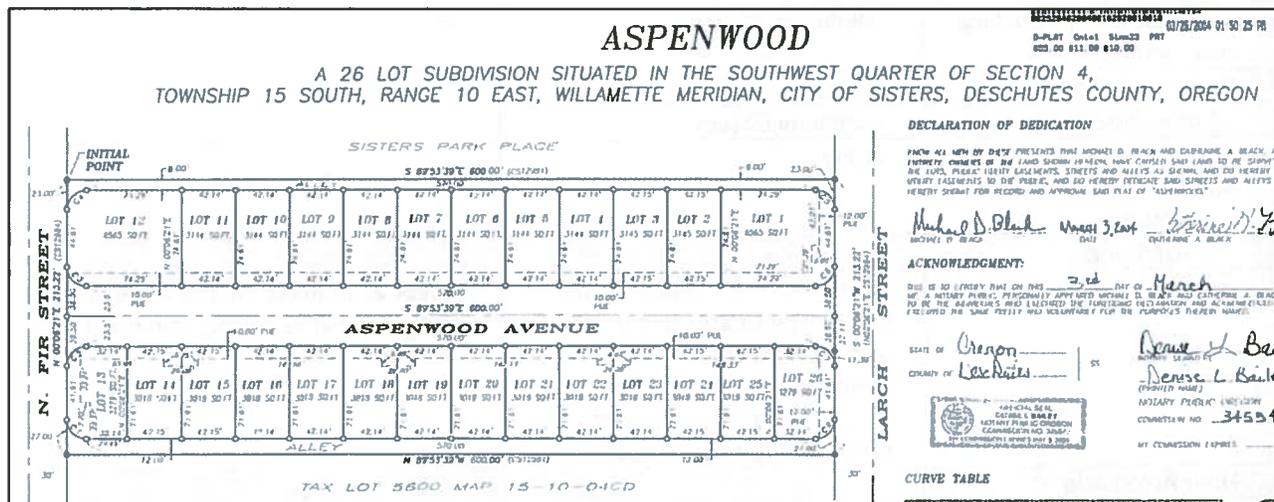


Current Zoning Map



III. Background

A land decision approving a 2.94 acre subdivision for lots ranging in size from 3,018-sq.ft. to 6,565-sq.ft. was approved March 20, 2002 (SUB 02-01). The subdivision, which is known as the Aspenwood Subdivision, has been zoned for multi-family residential uses since the approval of SUB 02-01 (see Zone Maps above). Under this decision, the approval granted lots 2 through 11 and lots 13 through 26 (see map below and attached graphic) to be built with attached townhomes and lots 1 and 12 with the option to build a detached single family home or duplex. At the time of this decision, the minimum lot size for an attached townhome in the R-MFSD zone was 3,000 sq.ft. and the minimum lot size for a detached single family home was 6,000 sq.ft. In 2004, lots 2 and 3 were built with attached townhomes which was consistent with the lot size requirements.



Prior to 2010, regulation of residential development within the R-MFSD District occurred using Chapter 2.1 (Residential) of the Sisters Development Code. In 2010, the City made changes to the Development Code. Instead of having a standalone chapter for all of Residential (including the Multi-Family Sub District), a new section of the Code was created specifically for Multi-Family Residential, which was adopted as Chapter 2.3 (Multi-Family Residential). The following section of the Development Code is now used for all permitted uses in the MFR District:

Table 2.3.2 Development Standards in the Multi-Family Residential District

Development Standard	Multi-Family Residential District	Comments/Other Requirements
Minimum lot area		
Single family detached dwelling, including manufactured dwelling on individual lot and zero lot line dwelling	4,500 square feet	
Duplex dwelling	7,500 square feet	
Triplex dwelling	9,000 square feet	
Attached dwelling (townhomes)	3,500 square feet	
Multi-family dwelling (4 or more units)	10,000 square feet for first 4 units, plus 2,000 square feet each additional unit	
Child Care Center, Public and Institutional uses and Residential facility	none	
Lot width at front property line		
Single-family detached, zero lot line and manufactured dwellings	Minimum 40 feet	Except for flag lots and Driveway Courts – see Land Divisions and Lot Line Adjustments; or as required by this Code to protect sensitive lands, significant trees, etc.
Duplex	Minimum 50 feet	
Triplex	Minimum 55 feet	
Attached dwelling (townhome)	Minimum 35 feet	
Cul-de-sac, all uses	30-feet	
All other housing types	minimum 60 feet	
Child Care Center, Public and Institutional uses and Residential facility	None	
Lot depth		
Lot depth	No maximum lot depth for multi-family, Child Care Center, Public and Institutional uses and Residential facility; for all other uses, maximum lot depth of three (3) times the lot width	Except as required by this Code to protect sensitive lands, significant trees, etc.
Floor Area Ratio		
	Building construction may not exceed .60 FAR (60%) of the total lot area.	<p>The areas of a building subject to this development standard shall include the following:</p> <ul style="list-style-type: none"> a. Areas within the building footprint considered to be habitable space. b. Individual garages exceeding 500 sq ft in size. <p>Exceptions to FAR: Accessory structures less than 10 ft in height and 200 sq ft in</p>

Development Standard	Multi-Family Residential District	Comments/Other Requirements
		area, residential facility, public and institutional uses and child care centers
Lot Coverage		
	Maximum of 60 percent, except Child Care Center, Public and Institutional uses and Residential facility shall be 80 percent	-
Building Height		
	30' for all residential uses; 35' for all non-residential uses.	-
<p>Pre-existing lots. A single family, town home or manufactured dwelling may be developed on a lot or parcel smaller than the requirements listed above provided all other applicable Development Standards can be met.</p>		

In 2010, the Applicant submitted plans for a Single Family Detached (SFD) home on Lot 4, followed by plans for a SFD home on Lot 5 in 2011. The Staff Planner approved the building permits in accordance with the "Pre-existing lots" clause highlighted in red in Table 2.3.2. Both homes were built and sold.

In 2015, the Applicant was informed by the then Community Development Director (Ms. Hardie) that only SFD homes could be built on Lots 1 and 12, according to the original land use decision, and no further building permits for SFD homes would be approved for the remaining unbuilt Lots 2 through 11 and Lots 13 through 26.

IV. Request for Code Interpretation: The Applicant applied for a code interpretation and land use approval clarification. Staff is requesting the Planning Commission provide the applicant a land use approval clarification to determine which dwelling types can be constructed on which remaining lots in accordance with highlighted text found in Table 2.3.2. The Applicant has provided clarification for future development to include the following:

- | | | | |
|--------|-------------------------------------|--------|---------------------|
| Lot 1 | <i>Sold-undeveloped</i> | Lot 13 | SFD |
| Lot 2 | <i>Existing Townhome (Attached)</i> | Lot 14 | Townhome (Attached) |
| Lot 3 | <i>Existing Townhome (Attached)</i> | Lot 15 | Townhome (Attached) |
| Lot 4 | <i>Existing SFD</i> | Lot 16 | SFD |
| Lot 5 | <i>Existing SFD</i> | Lot 17 | Townhome (Attached) |
| Lot 6 | SFD | Lot 18 | Townhome (Attached) |
| Lot 7 | Townhome (Attached) | Lot 19 | SFD |
| Lot 8 | Townhome (Attached) | Lot 20 | Townhome (Attached) |
| Lot 9 | Townhome (Attached) | Lot 21 | Townhome (Attached) |
| Lot 10 | Townhome (Attached) | Lot 22 | SFD |
| Lot 11 | SFD | Lot 23 | Townhome (Attached) |
| Lot 12 | SFD | Lot 24 | Townhome (Attached) |
| | | Lot 25 | SFD |
| | | Lot 26 | SFD |

- V. **Conclusionary Findings:** The following findings relate to compliance with applicable Sisters Development Code standards and criteria. Compliance with Oregon Revised Statute 92 is assumed if compliance with the City's development code can be verified.

4.8.200 Code Interpretation Procedure

- A. **Requests.** A request for a code interpretation ("interpretation") shall be made in writing to the Community Development Director or designee. The Community Development Director may develop written guidelines for the application process. The request for a code interpretation was received on 03/18/2015. The applicant meets this criteria.
- B. **Decision to Issue Interpretation.** The Community Development Director or designee shall have the authority to review a request for an interpretation. The Community Development Director or designee shall advise the requester in writing within 14 days after the request is made, on whether or not the City will issue the requested interpretation. On 03/31/15, Staff declined to issue the requested interpretation and forwarded the request to Planning Commission in accordance with SDC 4.1.400.C.

SDC 4.1.400.C. Administrative Decision Requirements. The Community Development Director or designee shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Community Development Director or designee shall approve, approve with conditions, or deny the requested permit or action. The decision may include a requirement for non-remonstration for future road improvements. At the discretion of the Community Development Director or designee, any Type II application may be forwarded to the Planning Commission for decision.

- C. **Declining Requests for Interpretations.** The Community Development Department staff is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The Community Development Department staff decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation and the decision is not subject to any further local appeal. See Staff's response to Procedure Item B.
- D. **Written Interpretation.** If the Community Development Department staff decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the City advises the requester that an interpretation shall be issued. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E-G below. See Staff's response to Procedure Item B.

- E. Appeals.** The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the Community Development Department pursuant to Chapter 4.1.400.F. See Staff's response to Procedure Item B.
- F. Appeal Procedure.** City Council shall hear all appeals of a Community Development Department staff interpretation as a Type III action pursuant to Chapter 4.1.500, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice. See Staff's response to Procedure Item B.
- G. Final Decision/Effective Date.** The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction. See Staff's response to Procedure Item B.
- H. Interpretations On File.** The City shall keep on file a record of all code interpretations. The decision for the code interpretation will be kept on file.

VI. Addressing the specific request:

The applicant has requested the following code interpretation as it applies to SUB 02-01:

1. In accordance with the 2010 updates to the Development Code Section 2.3.300, Table 2.3.2 (text highlighted on page 5), permit Single Family Detached homes on previously designated townhome lots approved under SUB 02-01.

Consideration of Request #1

Request: In accordance with the 2010 updates to the Development Code Section 2.3.300, Table 2.3.2 (text highlighted on page 5), permit Single Family Detached homes on previously designated townhome lots approved under SUB 02-01.

Staff Response: The request to permit Single Family Detached homes on remaining undeveloped lots in a subdivision where there are two (2) existing SFD homes is reasonable. The Applicant has demonstrated his intent is to build smaller, more affordable homes and the request will not increase the density or number of homes in the Aspenwood Subdivision. The request does not release the obligation of future building permit applicants from satisfying all other Development Standards for the MFR District (i.e. setbacks, building height). Staff recommends the Planning Commission approve the requested code interpretation as it relates to all remaining undeveloped lots within SUB 02-01.

Public Notices/Public Comments. On April 10, 2015, the City mailed a notice to properties located within 250 feet of the project. No written comments have been received. The City also posted the site with a notice of land use action and published a notice in the Nugget newspaper on April 15, 2015.

Exhibits. The following exhibits make up the record in this matter (these are contained in file CI 15-01 and are available for review at the City of Sisters City Hall):

- A- Staff report
- B- Applicant's narrative and supporting plat map
- C- Previous Decision SUB 02-01

Conditions of Approval. Below are the DRAFT Conditions of Approval for the Planning Commission's Consideration. Conditions related to the request are specified. General conditions follow.

1. Permit Single Family Detached Units,
 - a. This request applies to all undeveloped lots within the Aspenwood Subdivision.
 - b. Approval of the condition does not release the obligation of future building permit applicants from satisfying all other current Development Standards for the MFR District (i.e. setbacks, building height).

General conditions:

2. All conditions of approval specified in previously approved applications (SUB 02-01), not modified by this application, remain in effect.

March 17, 2015

City of Sisters
Community Development Department

Re; code interpretation on existing lots in Aspenwood Subdivision.

Applicant- Michael Black is requesting a hearing/code interpretation on denial by planning director to build Single Family homes on lots that were previously designated townhome lots.

In 2002 an approval was granted for the Aspenwood Subdivision to build town homes on lots 2-11 and lots 13-26 with lots 1 & 12 the option of Single Family homes or duplex.

June/2004 lots 2 & 3 were built with town homes.

2010 the City changed the development code standards, when after a visit to the city planner Eric Porter at the time about what the new code meant for my lots he informed me that the last sentence of the Development Standards 2.3.300 in the table 2.3.2 which states " Pre-existing lots. A single family, town home or manufactured dwelling may be developed on a lot or parcel than the requirements listed above provided all other applicable Development Standards can be met". I asked him if I can meet all the standards required if I can build a SFR as mentioned and he said yes.

06-28-2010 plans were submitted for a SFR on lot 4 and were approved and home built and sold.

06-02-2011 plans were submitted for a SFR on lot 5 and were approved and home built and sold.

12-04-2012 plans were submitted for a SFR on lot 6 and were approved and were placed on hold due to economic reasons.

06-20-2013 Extension letter written to Planning asking for extension of approval was granted.

06-23-2014 Site plans for approved plans was changed to lot 1 and approved pending premits and SDC's charges.

01-01-2015 after inquiry (due-diligence) from buyer on lot 1 about validity of approved plans and ability to build I was told by planning that the only SFR's that can be built in Aspenwood are on lots 1 & 12 and that the balance of the lots can only be built with what was approved (town homes) back in 02. I was told by Pauline Hardie that granting me approval to build SFR's was a mistake made by Eric Porter and cannot continue.

I am only asking that I would be allowed to continue building SFR's which I was told was ok or have the option of building town homes as what was originally approved. My intent with building Single Family homes is to build smaller, more affordable homes. Nothing else changes- the density or number of homes whether attached or detached.

Sincerely,

Michael Black

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APR 01 2015
CITY OF SISTERS

April 1, 2015

Darcy Reed
Associate Planner
City of Sisters Community Development Department

Re: File no. CI 15-01

Dear Ms. Reed,

Additional information herein provided to clarify my intentions for the future development of the remaining 21 lots of the 26 lot Aspenwood Subdivision. My overall intent has always been to provide smaller, more affordable homes on a smaller foot print and that intent remains my focus. I would like to continue building as I am now with the mix of housing from all attached single family townhomes with a blend of detached single family homes to provide some space between units. My proposed plan for future lot development is;

Lot 6	SFR
Lot 7	Townhome
Lot 8	Townhome
Lot 9	Townhome
Lot 10	Townhome
Lot 11	SFR
Lot 12	SFR

Lot 13	SFR
Lot 14	Townhome
Lot 15	Townhome
Lot 16	SFR
Lot 17	Townhome
Lot 18	Townhome
Lot 19	SFR
Lot 20	Townhome
Lot 21	Townhome
Lot 22	SFR
Lot 23	Townhome
Lot 24	Townhome
Lot 25	SFR
Lot 26	SFR

Lot 1	Sold-undeveloped
Lots 2&3	Townhomes built and lived in full time.
Lots 4&5	SFR's built and lived in full time.

Sincerely;

Michael Black



**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2015- 10**

**A RESOLUTION OF THE CITY OF SISTERS PLANNING COMMISSION
RECOMMENDING APPROVAL OF A CODE INTERPRETATION (CI 15-01)**

THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:

WHEREAS, the Applicant, Michael Black, requests approval of a Code Interpretation for a 2.94 acre subdivision, known as the Aspenwood Subdivision; and,

WHEREAS, Oregon Revised Statutes Chapter 92 establishes a process through which land located in urban areas that is properly zoned can be divided through a subdivision process if findings can be made that the land division will not adversely impact the infrastructure of the jurisdiction, and,

WHEREAS, after due notice, a public hearing on the proposed application (CI 15-01) was held by the Sisters Planning Commission on April 30, 2015 at which time findings were reviewed, witnesses were heard, and evidence and written testimony was received.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF SISTERS PLANNING COMMISSION FINDS THAT:

1. All required notices have been sent in the time and in the manner required by state law and city code; and,
2. The findings of fact in this matter are located in the staff report attached and by this reference incorporated herein as Exhibit A.

NOW THEREFORE, BE IT FURTHER RESOLVED THAT BASED ON THE FINDINGS, THE PLANNING COMMISSION HEREBY APPROVES THE CODE INTERPRETATION (FILE NO. CI 15-01) SUBJECT TO THE FOLLOWING EXHIBITS:

Exhibit A – Staff Report with Findings and Conditions of Approval

Exhibit B – Applicant's Burden of Proof

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 30TH DAY OF APRIL 2015.

Commissioners: Dean, Gentry, Layne, Nagel, Seymour, Tewart, Wright

AYES:
NOES:
ABSENT:
ABSTAIN:

Signed: David Gentry, Chairman

Date

FINDINGS AND DECISION MINOR MODIFICATION REQUEST

FILE: SUB02-01 REVISED

REQUEST: Land division approval of a 2.94 acre Residential (R) District Multi-family lot, into 21 lots, ranging in size from 3,018-sq.ft. to 6,565-sq.ft. lots.

**APPLICANT/
OWNER:** Michael Black
P.O. Box 351
Sisters, OR 97759
541-549-9219

HEARING DATE: March 20, 2002

MODIFICATION: February 21, 2003

REVIEWER: Neil Thompson

APPLICABLE ORDINANCES:

1. City of Sisters Urban Area Comprehensive Plan
2. City of Sisters Development Code
Chapter 2.1 Residential District
Chapter 3.4 Public Works Standards
Chapter 4.3 Land Division and Lot Line Adjustments
Chapter 4.6 Modifications to Approved Plans

EXHIBITS:

1. Application and revised application
2. Proposed plat and revised plat
3. Notification to property owners within 250', dated March 1, 2002
4. Notification in The Nugget, March 6, 2002
5. Application for Minor Modification
6. Modification to Approve Plat proposal plan

1. **LOCATION.** This property is located on N. Larch St., Sisters, Oregon, further known as T15 R10 S04CD, tax lot 5500.

2. **ZONING.** The subject property is in the Residential (R) District, multi-family.

2.1.100 Purpose

The Residential District is intended to promote the livability, stability and improvement of the City of Sisters' neighborhoods. This chapter provides standards for the orderly expansion and improvement of neighborhoods based on the following principles:

- Make efficient use of land and public services, and implement the Comprehensive Plan, by providing minimum and maximum density standards for housing.
- Accommodate a range of housing needs, including owner-occupied and rental housing.
- Provide for compatible building and site design at an appropriate neighborhood scale.
- Reduce reliance on the automobile for neighborhood travel and provide options for walking and bicycling. Provide direct and convenient access to schools, parks and neighborhood services.
- Maintain and enhance the City's historic characteristics.

FINDING: The proposed division is consistent with the purpose of the Code, providing a variety of lot sizes for different housing configurations in close proximity to industrial and commercial uses, potentially minimizing dependence on automobile use. The revised drawing depicts 14 townhome lots on the south side of Aspenwood accessed via a 12 foot alley on the south side of the lots

MODIFICATION FINDING: Applicant is now requesting that 5 of the single family lots on the north side of Aspenwood, lots 2, 3, 4, 5, and 6, be converted to town home lots, renumbered lots 2 through 11.

- 3. COMPREHENSIVE PLAN DESIGNATION.** The subject is within the Sisters City Limits and subject to the Sisters Urban Area Comprehensive Plan and ORS Chapter 92, and is designated Residential.
- 4. SITE DESCRIPTION.** The parcel is vacant with native ground cover. The parcel is bordered on the north by undeveloped Residential District property, subject of a coincident application, on the east by Commercial District property across Larch Street, on the south by Commercial District property held by the Lutheran Church, to the west, the proposed extension of Fir Street.
- 5. PROPOSAL.** To create 21 residential lots ranging from 3,018 to 6,565-sq.ft..

2.1.110 Permitted Land Uses

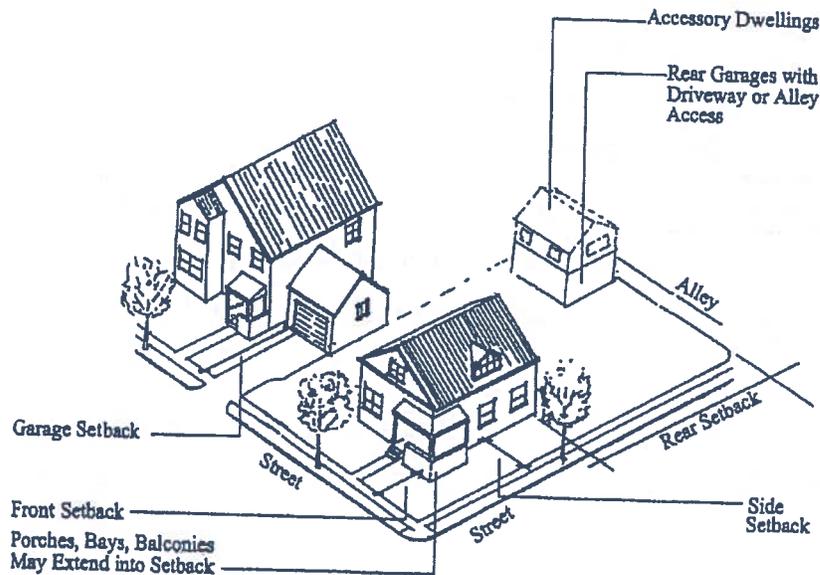
A. Permitted Uses. The land uses listed in Table 2.1.110.A are permitted in the Residential District, subject to the provisions of this Chapter. Only land uses which are specifically listed in Table 2.1.110.A, and land uses which are approved as "similar" to those in Table 2.1.110, may be permitted. Land uses identified as "Sub-district Only" are permitted only within the applicable sub-district. The land uses identified with a "CU" in Table 2.1.110.A require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.

Table 2.1.110.A Land Uses and Building Types Permitted in the Residential District		
1. Residential: <i>Single-family</i> a. Single-family detached housing b. Single-family detached zero-lot line*	3. Public and Institutional (CU)*: a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities	5. Neighborhood Commercial (MF Sub-district only)*: Each of the following uses is "size limited" and subject to provisions in Section 2.1.200 Special Standards for Certain Uses:

<p>c. Accessory dwellings*</p> <p>d. Manufactured homes – individual lots*</p> <p>e. Single-family attached townhomes</p> <p><i>Two- and Three-Family</i></p> <p>f. Two- and three-family housing (duplex and triplex)*</p> <p><i>Multi-family</i></p> <p>g. Multi-family housing (MF Sub-district only)*</p> <p>h. Manufactured Home Park (CU)*</p> <p>i. Recreational Vehicle Park (CU)*</p> <p>j. <i>Residential care..</i> Residential care homes and facilities*</p> <p>k. Family daycare</p> <p>2. Home occupations*</p>	<p>(administration, public safety, transportation, utilities, and similar uses)</p> <p>d. Libraries, museums, community centers, and similar uses</p> <p>e. Private utilities</p> <p>f. Public parks and recreational facilities</p> <p>g. Schools (public and private)</p> <p>h. Uses similar to those listed above</p> <p>4. Accessory Uses and Structures *</p>	<p>a. Child Care Center (care for more than 12 children)</p> <p>b. Food services, excluding automobile-oriented uses</p> <p>c. Laundromats and dry cleaners</p> <p>d. Light manufacture, conducted entirely within building without noise, light or odor emissions.</p> <p>e. Retail goods and services</p> <p>f. Medical and dental offices, clinics and laboratories</p> <p>g. Personal services (e.g., barber shops, salons, similar uses)</p> <p>h. Professional and administrative offices</p> <p>i. Mixed use building (residential with other permitted use</p> <p>j. Other similar uses</p> <p>6. Bed & breakfast inns and vacation rentals (CU)*</p> <p>7. Master Planned Neighborhoods (CU)*</p>
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RESPONSE: Single Family and Single Family Attached Townhomes are permitted uses. The type and scale of the proposal is in keeping with the code and the neighborhood.

MODIFICATION RESPONSE: Applicant now proposed 26 single family and townhome lots, size range unchanged but 5 of the single family lots are converted to ten townhome lots.



Building Setbacks

Building setbacks provide space for private yards, and building separation for fire protection/security, building maintenance, sunlight and air circulation. This section is also intended to promote human-scale design and traffic by minimizing the visual presence of garages along the street and encouraging the use of extra-wide sidewalks and pocket parks in front of markets and other non-residential uses. Setback standards also encourage placement of residences close to the street for public safety and neighborhood security.

Building setbacks are measured from the dripline of the eave of a building, excluding porches to the respective property line. Decks and/or porches greater than 30" in height that require a building permit are not exempt from setback standards. Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page and illustrated above, apply to primary structures as well as accessory structures. A Variance is required in accordance with Chapter 5.1 to modify any setback standard.

A. Front Yard Setbacks

1. Residential Uses (single family, duplex and triplex, multi-family housing types)

- a. A minimum setback of 10 feet is required, except that an unenclosed porch not requiring a building permit may be within 6 feet, as long as it does not encroach into a public utility easement. See also, Section F, which provides standards for Setbacks for Established Residential Areas.
- b. Garages and carports shall be accessed from alleys or otherwise recessed behind the front building elevation by a minimum of 10 feet. Alternatively, garage and carport

entrances may be built flush with the front building elevation when the building is set back by at least 20 feet.

- e. Multi-family housing shall also comply with the building orientation standards in Section 2.1.180.

B. Rear Yard Setbacks

The minimum rear yard setback shall be 15 feet for street-access lots, and 6 feet for alley-access lots. Garages may have 0 lot line setback when accessed from a lane or alley and located in the rear portion of a lot.

C. Side Yard Setbacks

The minimum side yard setback shall be 5 feet on interior side yards, and 10 feet on street corner yards; or when zero-lot line development is permitted, the minimum side yard setbacks shall be 10 feet minimum on one side of the dwelling unit, and no setback required on the opposite side. See standards for zero-lot line housing in Section 2.1.200.

D. Setback Exceptions

Porches, decks and similar structures not exceeding 30 inches in height may encroach into setbacks by no more than 6 feet, subject to the front yard setback provisions in "A". Walls and fences may be placed on property lines, subject to the standards in Chapter 3.2 - Landscaping and Fences and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Section 3.1.2.

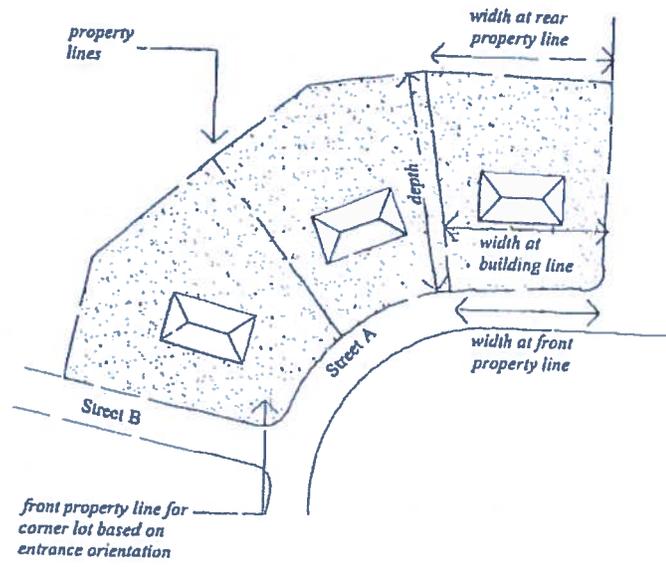
E. Special Yards - Distance Between Buildings on the Same Lot

To provide usable yard area and allow air circulation and light, the minimum distance between buildings on the same lot shall be at least one-half (½) the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same buildings separated from each other by a court, landscape yard, or other open space.

RESPONSE: The submitted plan depicts building sites that are capable of meeting the setback requirements. Individual building plans proposed for each lot shall comply.

2.1.130 - Lot Area and Dimensions

Figure 2.1.130 - Lot Dimensions



<i>Land Use</i>	<i>Lot Area*</i>	<i>Lot Width/Depth</i>	<i>Related Standards</i>
Detached Single Family Housing; Manufactured Homes on Lots	Minimum: 6,000 square feet. *note maximum only applied to subdivisions. See section 2.1.150 Maximum: 10,000 square feet.	Minimum Width: 30 feet at front property line, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width; except as may be required by this code (e.g., to protect sensitive lands, etc.)	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 – Building Size.
Two-and Three-Family Housing (duplex and triplex)	Minimum area for two-family: 6,000 square feet. Minimum area for three-family: 9,000 square feet Max: 12,000 square feet.	Minimum Width: 60 feet at front property line, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width; except as required to protect sensitive lands, etc.	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 – Building Size.
Attached (Townhome) Single Family Housing	Minimum area: 3,000 square feet. Maximum: 5,000 square feet	Minimum Width: 30 feet at front property line, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width except as may be required by this code (e.g., to protect sensitive lands, etc.)	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 Building Size.

*Lot sizes in proposed subdivisions may be averaged so that average lot size is in this range.

RESPONSE: The submitted plan complies with the lot dimension standards of this section, for single family, duplex and attached townhomes. This analysis is for 21 total lots on the submitted plan, for 21 to 28 potential dwelling units.

MODIFICATION RESPONSE: This modification request maximizes the potential dwelling units at 30 units, assuming potential for duplexes on lots 1 and 12.

2.1.150 – Residential Density and Building Size

A. Residential Density Minimum and maximum housing densities are calculated by multiplying the parcel or lot area by the applicable density standard. For example, if the total site area is five (5) acres, and the minimum allowable density is 6 dwelling units per acre, then a minimum of 30 units is required. The equivalent average lot size (i.e., for single family dwellings) is determined by subtracting street right-of-way, water quality facilities and other non-buildable areas from the 5-acre site, then dividing the remaining (net) area by the number of units; assuming 25 percent for streets and other non-buildable areas, (such as slopes greater than 25% or wetlands) this equals an “average single family lot size” as follows: $(217,800 \text{ square feet} \times 0.75) / 30 \text{ units} = 5,445 \text{ square feet}$. This is only one example; actual lot sizes will vary based on the proposed building type and the lot area standards in Section 2.1.130. Flag poles on flag lots shall be considered not buildable for the purpose of calculating densities (see Figure 2.1.140B). Exceptions for affordable housing Section 2.1.200 M.

B. Minimum Residential Density Standard. The following density standards apply to all new subdivisions. The standards are intended to ensure efficient use of buildable lands and provide for a range of needed housing, in conformance with the Comprehensive Plan.

9. New subdivisions shall provide for housing at densities between 6 dwelling units per net acre minimum and 7 units per net acre maximum, except in sub-districts with different density standards.
10. The density standards may be averaged over more than one development phase (i.e., as in master planned development). Duplex and triplex lots used to comply with the density standard shall be so designated on the final subdivision plat.
11. The following types of housing are exempt from the minimum density standards: Partitions of three lots or less and Residential care homes/facilities, accessory dwelling units, and bed and breakfast inns and development of subdivisions that includes 75% of land area on slopes greater than 25%.
12. Development that is not a subdivision, such as a partition of three lots or less, or construction of a single family home, shall be planned so that land is used efficiently and future development can occur at minimum densities.

RESPONSE: The net buildable lot area of 2.2 acres when divided by the potential range of living units yield between 7 and 14 units per acre, with the target residential range being 6 to 24 units per acre.

MODIFICATION RESPONSE: The proposed modification does not have a material impact on density, remaining within the guidelines for residential development.

2.1.160 – Maximum Lot Coverage

- A. **Maximum Lot Coverage.** The following maximum lot coverage standards shall apply to all development in this district:
- a. Single Family Detached Houses - 60 percent
 - b. Duplexes and Triplexes - 60 percent
 - c. Single Family Attached Townhomes - 60 percent
 - d. Multiple Family Housing - 60 percent
 - e. Neighborhood Commercial and Public/Institutional Uses - 80 percent
- B. **Lot Coverage Defined.** "Lot Coverage" means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 30 inches above the finished grade.
- E. Compliance with other sections of this Code may preclude development of the maximum lot coverage for some land uses.

RESPONSE: The submitted plan is capable of supporting this code section. Individual site plan submissions shall comply.

6. COMMENTS:

A. Public Works:

- (1). Public and Private streets, lanes, alleys, pathways and their rights of way shall be constructed to City of Sisters Public Works Construction Standards.
 - (2). An engineered plan for domestic water supply and wastewater collection built to City and Oregon State Health Division standard shall be submitted to Public Works Director and the City of Sisters designated engineer of record for approval. Water and sewer lines shall be sized to accommodate the potential density associated with development of the entire site.
 - (3). This checklist is a guide only and does not guarantee accuracy for all situations.
- Contractor/ Developer shall have a City of Sisters Public Works Document (latest edition), have read and understand document. If contractor/developer does not have one, they can purchase one from City of Sisters for \$25.00.
 - Submission of letters from all applicable agencies, ie: Central Elec Coop, Bend Cable, Qwest, DEQ, Watermaster, Deschutes County, etc.

- Payments to the City of Sisters for all applicable fees ie: drywell, curb/sidewalk and/or road crossing permits, plan review check by City Engineer (currently \$250.00),etc.
- All work shall conform to the latest City standards, but not limited to planning and zoning ordinances, subdivision ordinance, and Oregon APWA standards.
- All approvals required by State and Federal authorities shall also be obtained and submitted to the City of Sisters prior to commencing construction of improvements.
- All plans shall be prepared in a manner, which is acceptable to the Oregon State Health Division, the Oregon Department of Environment Quality, or other state and federal regulatory agencies.
- Update City of Sisters Water Management/Conversation Plan.

The City of Sisters has obtained authority for plan review on water systems by the Oregon Health Division, which will permit local review of planned water improvements by the City Engineer (fee will be charged at going rate).

- All plans shall be prepared in accordance with requirements of the City of Sisters and shall be prepared by or under direction of an Engineer registered as a Professional Engineer in the State of Oregon.

No work in the public right of way shall be commence until construction plans have been reviewed for adequacy and approved by the City of Sisters.

- Submission and approval of detailed construction plans and specifications prepared by a registered Professional Engineer. Three sets of blue-line plans shall be submitted. If acceptable, one set of plans and specifications shall be marked "approved for construction", and shall be returned to the applicant. If not acceptable, any deficiencies shall be noted when these documents are returned to the applicant; the applicant shall then make the necessary corrections and resubmit the documents for approval prior to any construction activity.

These plans shall meet the "to and through policy for all improvements"
Utility plans (plan and profile sheets) shall be submitted for each utility. More than one utility will not be permitted per sheet.

- All contractors must be licensed, bonded and have a minimum of \$1,000,000.00 liability insurance. They must also have a current City of Sisters City business license on file at City of Sisters. A copy of license, bond and insurance must be on file with the City of Sisters.
- The developer/owner, or their agent shall provide certified-engineered drawings of all work to be done in a format acceptable to the City of Sisters. Along with the drawings, the developer shall provide a cost estimate of all work to be done. The City of Sisters designated engineer shall review the drawings and estimates, determine adequacy and establish an amount of guarantee set at 120% of the accepted amount.

The guarantee may be in the form of assignment of funds, cash deposit, surety bonds, letter of credit of other form approved by City attorney and in the amount (120%) deemed adequate for the completion of project.

- B. Sisters-Camp Sherman Rural Fire Protection District:** Review by Don Rowe, Sisters Camp Sherman Rural Fire Protection District is required prior to final plat approval to insure emergency vehicle access plan.

Applicant shall submit a detailed plan for placement of fire fighting hydrants in compliance with state fire code and a letter of approval from the district to the Planning Department.

RESPONSE: Applicant shall comply with the above inter-departmental comments.

MODIFICATION RESPONSE: Applicant's engineer has submitted draft plan for review, that process is ongoing. It is still the applicant's responsibility to produce plans acceptable to the City Engineer and Public Works for review, pay for that review, and follow all development code and Public Works Standards.

4. Access Design Considerations

Chapter 3.1 — Access and Circulation

Sections:

- 3.1.1 – Purpose
- 3.1.2 – Vehicular Access and Circulation
- 3.1.3 – Pedestrian Access and Circulation

3.1.1 - Purpose.

The purpose of this chapter is to help insure that developments provide safe and efficient access and circulation, for pedestrians and vehicles. Section 3.1.2 provides standards for vehicular access and circulation. Section 3.1.3 provides standards for pedestrian access and circulation. Standards for transportation improvements are provided in Section 3.4.1.

- F. Access Options.** When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods. These methods are "options" to the developer/subdivider, unless one method is specifically required by Chapter 2 (i.e., under "Special Standards for Certain Uses"). A minimum of 10 feet per lane is required.
1. Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.
 2. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

3. **Option 3.** Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Section G, below.
 4. **Subdivisions Fronting Onto an Arterial Street.** New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).
- G. Access Spacing.** Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards and procedures:
1. **Local Streets.** A minimum of 50 feet separation (as measured from the sides of the driveway/street) shall be required on local streets (i.e., streets not designated as collectors or arterials), except as provided in subsection 3, below.
 3. **Arterial and Collector Streets.** Access spacing on collector and arterial streets and at controlled intersections (i.e., with four-way stop sign or traffic signal) shall be determined based on the policies and standards contained in the City's Transportation System Plan. **Access to Highway** shall be subject to the applicable standards and policies contained in the Salem to Bend Corridor Master Plan, 1998.
 4. **Special Provisions for All Streets.** Direct street access may be restricted for some land uses, in conformance with the provisions of Chapter 2 - Land Use Districts. For example, access consolidation, shared access, and/or access separation greater than that specified by subsections 1-2, may be required by the City, County or ODOT for the purpose of protecting the function, safety and operation of the street for all users. (See Section 'I' herein) Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.
 5. **Corner Clearance.** The distance from a street intersection to a driveway or other street access shall meet or exceed the minimum spacing requirements for the street classification in the City's Transportation System Plan.
- J. Number of Access Points.** For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), subject to the access spacing standards in Section 'G', herein). The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Section I, below, in order to maintain the required access spacing, and minimize the number of access points.

RESPONSE: These access and circulation provisions allow local street and alley access to the development to the points of contact to adjacent local streets of Larch and the extension of Fir Street. Internal circulation and access is achieved using a portion of the north adjacent alley and the narrow public street Aspenwood Avenue and driveways. Driveways to individual lots shall meet City of Sisters spacing standard and shall be combined where possible to minimize street **No lot access driveways are permitted on Larch and Fir Streets. Lots on Aspenwood shall have vehicle access only from the alleys on the north and south sides of the lots.**

MODIFICATION RESPONSE: Applicant has submitted an independent proposal from the adjacent residential development, but street continuity for both projects are required either collectively or independently, depending on the timing of development. Applicant is shall provide continuous City standard paving from edge of pavement north side of Adams Avenue to and through the applicant's property. All required dedications of right of way shall be secured by the applicant, singly or cooperatively with the adjacent property owners at no expense to the City. All townhomes shall have shared driveways accessed from the alleys.

5. Public Works Standards

Chapter 3.4 — Public Works Standards

Sections:

- 3.4.000 Purpose and Applicability**
- 3.4.100 Standards and Specifications**
- 3.4.200 Transportation Improvements and Public Use Areas**
- 3.4.300 Sanitary Sewer and Water Service Improvements**
- 3.4.400 Storm Drainage Improvements**
- 3.4.500 Utilities**
- 3.4.600 Easements**
- 3.4.700 Construction Plan Approval and Assurances**
- 3.4.800 Installation**
- 3.4.900 Purpose and Applicability**

3.4.0 Purpose and Applicability

- A. Purpose.** The purpose of this chapter is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking and bicycling. This Chapter is also intended to implement the City's Transportation System Plan

Important cross-reference to other standards: All public improvements shall be in conformance with the City of Sisters Public Works Construction Standards for the City of Sisters, Oregon, November, 1999. The City requires that streets provide direct and convenient access, including regular intersections. Chapter 3.1 - Access and Circulation, provides standards for intersections and blocks, and requires pedestrian access ways to break up long blocks.

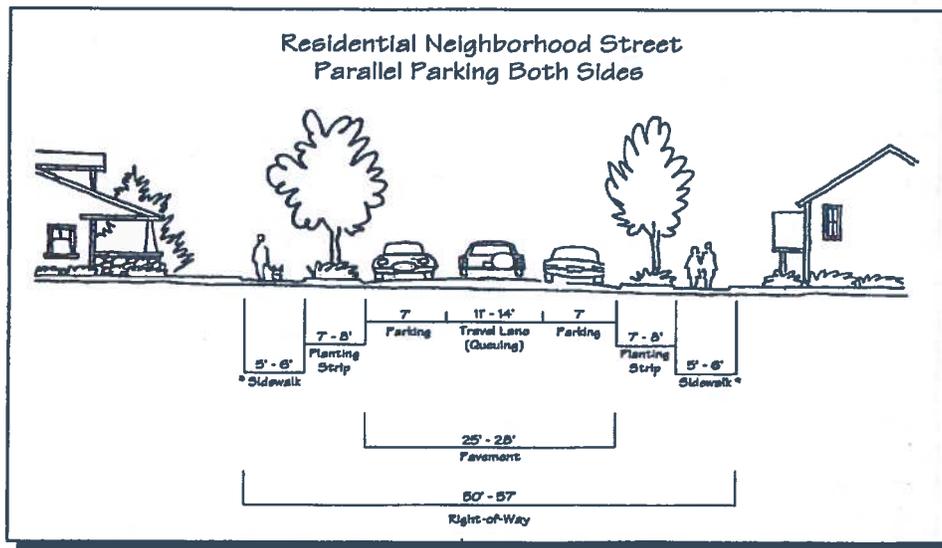
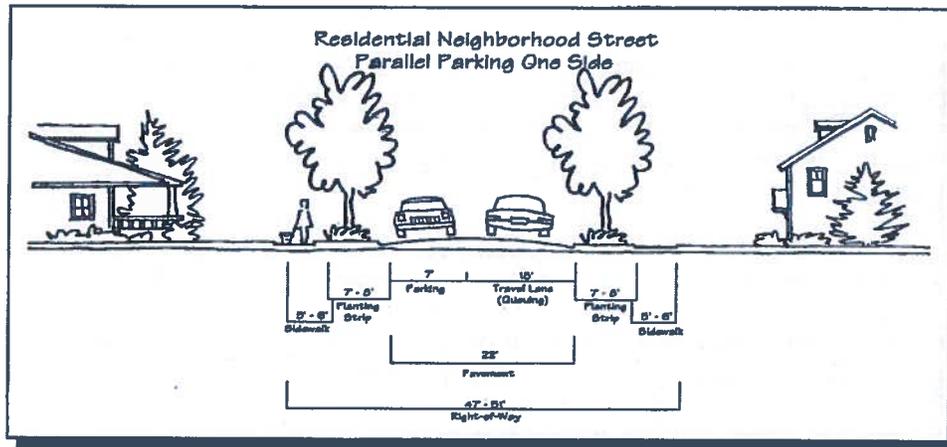
- B. When Standards Apply.** Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public works requirements established in this Chapter.

3.4.1 Public Works Standards and Specifications

A. General.

This section is a reference to the "Public Works Construction Standards for the City of Sisters Oregon", November 1999, adopted by ordinance no. 298. All required standards and specifications as stated within the referenced document are applicable to this section.

STAFF RESPONSE: City of Sisters Residential Streets cross streets are reproduced below. Right-of-way for Aspenwood Ave. shall be increased from the submitted 40 feet to 47 feet minimum to comply to the example below, and the extension of Fir Street may be decreased. Streets extensions shall center line align with existing rights of way. Developer/owner shall be responsible for the "to and through" extension of adjacent local street improvements, proportionately with the adjacent developer or individually if the applicant proceeds without the adjacent developer.



F. Future Street Plan and Extension of Streets.

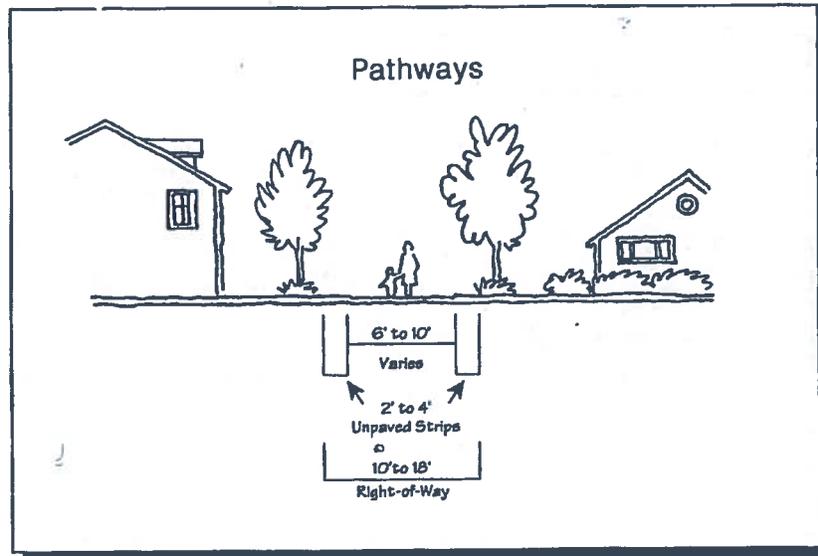
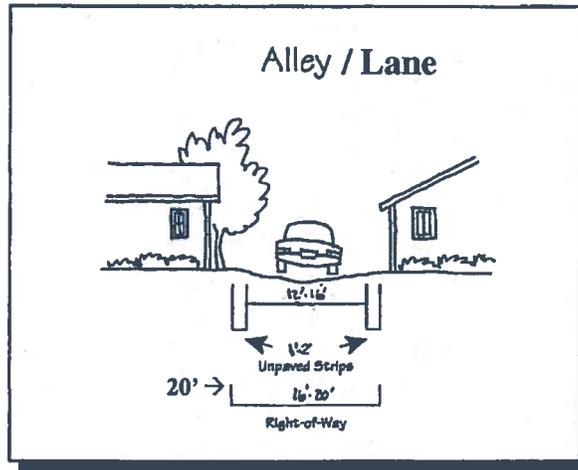
1. A future Street Plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The Plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within 400 feet surrounding and

adjacent to the proposed land division. The Street Plan is not binding; rather it is intended to show potential future street extensions with future development

2. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the Planning Commission determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a-c, below:
 - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.
 - b. A barricade (e.g., fence, bollards, boulders or similar vehicle barrier) shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.
 - c. Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.

- G. Alleys and Lanes. . Alleys and Lanes shall conform to the standards in Table 3.4.100. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.

STAFF RESPONSE: Alley and pathway standards are reproduced below. The alley behind the lots on the north side of Aspenwood Avenue between Fir and Larch Streets is shown to be developed cooperatively with the adjacent developer, with the applicant providing 8 feet of the proposed 20 foot right of way. In the event that the applicant develops individually, his portion of the alley shall be 12 feet minimum to provide vehicle access. The alley behind the lots on the south side of Aspenwood shall be developed to 12 feet minimum to serve those lots.



- H. Private Streets. Private streets shall not be used to avoid connections with public streets. Gated communities (i.e., where a gate limits access to a development from a public street) are prohibited. Design standards for private streets shall conform to the provisions of Table 3.4.100; and
- K. Street Names. No street name shall be used which will duplicate or be confused with the names of existing streets in Deschutes County, except for extensions of existing streets.

Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.

- J. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be reestablished and protected.
- K. Street Signs. The city, county or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- L. Mail Boxes. Plans for mailboxes to be used shall be approved by the United States Postal Service.

RESPONSE: Applicant shall provide documentation from Deschutes County as to the applicability of Subdivision and Street Name. Applicant shall comply to these standards.

3.4.3 Sanitary Sewer and Water Service Improvements.

All sanitary sewer and water improvements associated with a project shall meet all applicable requirements within the City's Public Works Construction Standards, adopted November 1999

- A. Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's Construction Standards, adopted November 1999, and the applicable Comprehensive Plan policies.
- B. Sewer and Water Plan approval. Development permits for sewer and water improvements shall not be issued until the City Engineer and/or DEQ and/or State Health Division has approved all sanitary sewer and water plans in conformance with City standards.

RESPONSE: Applicant shall comply.

3.4.5 Utilities

- A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above. The following additional standards apply to all new subdivisions, in order to facilitate underground placement of utilities:
 - 1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic (Chapter 3.1);

2. The City reserves the right to approve the location of all surface mounted facilities;
3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

B. Easements. Easements shall be provided for all underground utility facilities.

C. Exception to Under-Grounding Requirement. The standard applies only to proposed subdivisions. An exception to the under-grounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands (Chapter 3.7), or existing development conditions.

RESPONSE: Applicant shall comply.

3.4.6 Easements

Easements for sewers, storm drainage and water quality facilities, water mains, electric lines or other public utilities shall be dedicated on a final plat, or provided for in the deed restrictions. See also, Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions. The developer or applicant shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The City's standard width for public main line utility easements shall be 20 feet unless otherwise specified by the utility company, applicable district, or Public Works Director or designee.

RESPONSE: Applicant shall comply.

3.4.7 Construction Plan Approval and Assurances

No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council. The City may require the developer or sub-divider to provide bonding or other performance guarantees to ensure completion of required public improvements. See also, Chapter 4.2.4 - Site Design Review, and Chapter 4.3.180 - Land Divisions.

RESPONSE: Applicant shall comply.

3.4.8 Installation

- A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the

City and found within the City's Public Works Construction Standards document adopted November 1999.

- E. Adopted Installation Standards. The Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A. shall be a part of the City's adopted installation standard(s); other standards may also be required upon recommendation of the Public Works Director or designee.
- C. Commencement. Work shall not begin until the City has been notified in advance.
- D. Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified.
- E. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Chapter 4.6 - Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans. A registered engineer shall provide written certification in a form required by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide 10 set(s) of "as-built" plans, in conformance with the City Engineer's specifications, for permanent filing with the City.

RESPONSE: Applicant shall comply.

6. The Decision Process.

- 1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
- 2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
- 3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;

4. **Decision-making time limits.** A final order for any Type II Administrative Appeal or Type III action shall be filed with the *Planning Director* within ten business days after the close of the deliberation.
- F. **Notice of Decision.** Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The decision may include a requirement for non-remonstration for future road improvements.
- F. **Final Decision and Effective Date.** The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

DECISION:

Based on these Findings, the Planning Commission voted preliminary plat approval of SUB02-01 subject to the following conditions being met:

1. Applicant shall sign an **IMPROVEMENT/DEVELOPMENT AGREEMENT** with the City of Sisters.
2. With the Improvement Agreement the applicant shall file a an irrevocable letter of credit or other form of guarantee acceptable to the City of Sisters for 120% of the costs of the improvements and repairs as determined by the City of Sisters.
3. **SEWAGE SYSTEMS:** Individual sewer services shall be extended to each lot at applicants expense.
4. **ROADS:** Street must be built to City of Sisters Public Works Construction Standards Ordinance. All road work shall be completed as approved. The applicant shall file improvement plans with the final plat.
5. **IMPROVEMENT PLANS:**
 - A. A complete set of plans for the proposed water system, sewer collection and fire hydrants shall be presented and accepted by the City per City standards before final plat approval.
 - B. A map showing public improvements shall be filed with the Planning Director upon completion of the improvements
 - C. A complete set of certified mylar improvement plans shall be approved by the City of Sisters Public Works Director prior to the start of construction or the signing of a final plat.
 - D. The Public Works Director is the designated representative from the Subdivision Committee to review improvement plans. He shall review all street improvement

plans prior to work commencing. This map shall be filed with the Public Works Director.

6. **DRAINAGE:**

A complete set of drainage plans including hydraulic and hydrologic calculations shall be incorporated in all road improvement plans.

7. **UTILITIES:**

- A. All utilities shall be underground.
- B. The minimum cover between the top of a buried utility and road or ground surface shall be 36 inches.

8. **INSURANCE:** The applicant shall carry during the term of this License, public liability and property damage insurance in a responsible company, with limits of not less than \$1,000,000 combined single limit.

9. **FINAL PLAT:**

- A. Prior to the sale of any lot within a subdivision, a final subdivision plat shall be approved and recorded, and the sub-divider shall file a "Notice of Intent" with the Oregon State Real Estate Division, **if still required by the Oregon State Real Estate Division.**
- B. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the subdivision or which will become a lien during the calendar year, have been paid.
- C. An easement for the water line shall be required, in the right-of-way, if applicable.
- D. Within one (1) year of the approval date (by the Planning Commission) of the tentative plan for a subdivision, the applicant shall submit the original drawing, a filing fee and any supplementary information required by this ordinance and the Planning Commission. If the applicant fails to proceed with the submission before the expiration of the one (1) year period following the approval of the tentative plan, the plan approval shall be void. The applicant, may, however, submit a new tentative plan together with the appropriate filing fee.
- E. After the final plat has been checked and approved as provided in the Ordinance, and when all signatures appear thereon, the Planning Director shall certify the final plat and submit it to the City Council for final approval. **No title to any property shall pass until the final plat has been recorded.**

7. Applicant shall record all deed restrictions required above, for driveway access and waiver of remonstrance if so chosen by applicant.

8. A copy of the approval for the Sister-Camp Sherman Rural Fire Protection District shall be submitted to the Planning Department. Applicant shall submit a detailed plan for placement of fire hydrants in compliance with state fire code.

NO BUILDING PERMIT SHALL BE ISSUED UNTIL ALL CONDITIONS AND (15) DAYS AFTER APPROVAL BY THE PLANNING COMMISSION. AN APPEAL SHALL AUTOMATICALLY STAY THE ISSUANCE OF PERMITS UNTIL SUCH APPEAL HAS BEEN COMPLETED.

Chapter 4.6 — Modifications to Approved Plans and Conditions of Approval

Sections:

- 4.6.1 Purpose**
- 4.6.2 Applicability**
- 4.6.3 Major Modifications**
- 4.6.4 Minor Modifications**

4.6.1 Purpose.

The purpose of this Chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

4.6.2 Applicability.

A This Chapter applies to all development applications approved through the provisions of Chapter 4, including:

1. Site Design Review approvals;
2. Subdivisions, Partitions, and Lot Line Adjustments;
3. Conditional Use Permits;
4. Master Planned Developments; and
5. Conditions of approval on any of the above application types.

B. This Chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits

4.6.3 Major Modifications

A. **Major Modification Defined.** The City Manager shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
4. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
5. A reduction of more than 10% percent of the area reserved for common open space and/or usable open space;
6. A reduction to specified setback requirements by more than 10% percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

B. **Major Modification Request.** An applicant may request a major modification as follows:

1. Upon the Planning Director determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure.

4.6.4 Minor Modifications

A. **Minor modification defined.** Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in Section 4.6.3, above, shall be considered a minor modification.

B. **Minor Modification Request.** An application for approval of a minor modification is reviewed using Type II procedure in Section 4.14. A minor modification shall be approved, approved with conditions, or denied by the City Manager based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the Development Code; and,
2. The modification is not a major modification as defined in Section 4.6.3, above.

ALL ABOVE CONDITIONS REMAIN IN FORCE, INCLUDING TIME RESTRAINTS

Neil Thompson
Neil Thompson, PLANNING DIRECTOR

DATE 2/24/03