



AGENDA

**CITY PLANNING COMMISSION
520 E Cascade Avenue Sisters, OR 97759**

Thursday, October 15, 2015– 5:30 P.M.

I. CALL TO ORDER

II. VISITOR COMMUNICATION

This is the time provided for individuals wishing to address the Planning Commission, at the Commission's discretion, regarding issues that are not already on the agenda. Citizens who wish to speak should sign up prior to the beginning of the meeting on the sign-up sheet at the podium. Please use the microphone and state your name and address at the time the Planning Commission calls on you to speak.

III. APPROVAL OF MINUTES- none

IV. PUBLIC HEARINGS:

A. MOD #15-06: Modification of subdivision preliminary plat (SUB #15-01) to revise the rear yard setbacks along northern property line. This application is being processed as a Type IV decision.

B. TA #15-03: Various text amendments

V. WORKSHOP:

A. Conversion of Table of Uses format to NAICS.

VI. OTHER COMMISSION BUSINESS

VII. ADJOURN

This agenda is also available via the Internet at www.ci.sisters.or.us. The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling Kathy Nelson, City Recorder, at the number below.

520 E. Cascade Ave. – P.O. Box 39, Sisters, OR 97759 – 541-323-5213.

**CITY OF SISTERS
PLANNING COMMISSION**



STAFF REPORT

File #: MOD 15-06

Applicant: Peter Hall
Property Owners: **3 Sisters Partners**

Request: Modification of an approved preliminary subdivision plat (SUB #15-01)

Hearing Date: October 15, 2015, 5:30 pm, Sisters City Council Chambers, 520 E. Cascade Avenue, Sisters, Oregon

Location: ClearPine Subdivision

Planner: Patrick T. Davenport

1. Project Request

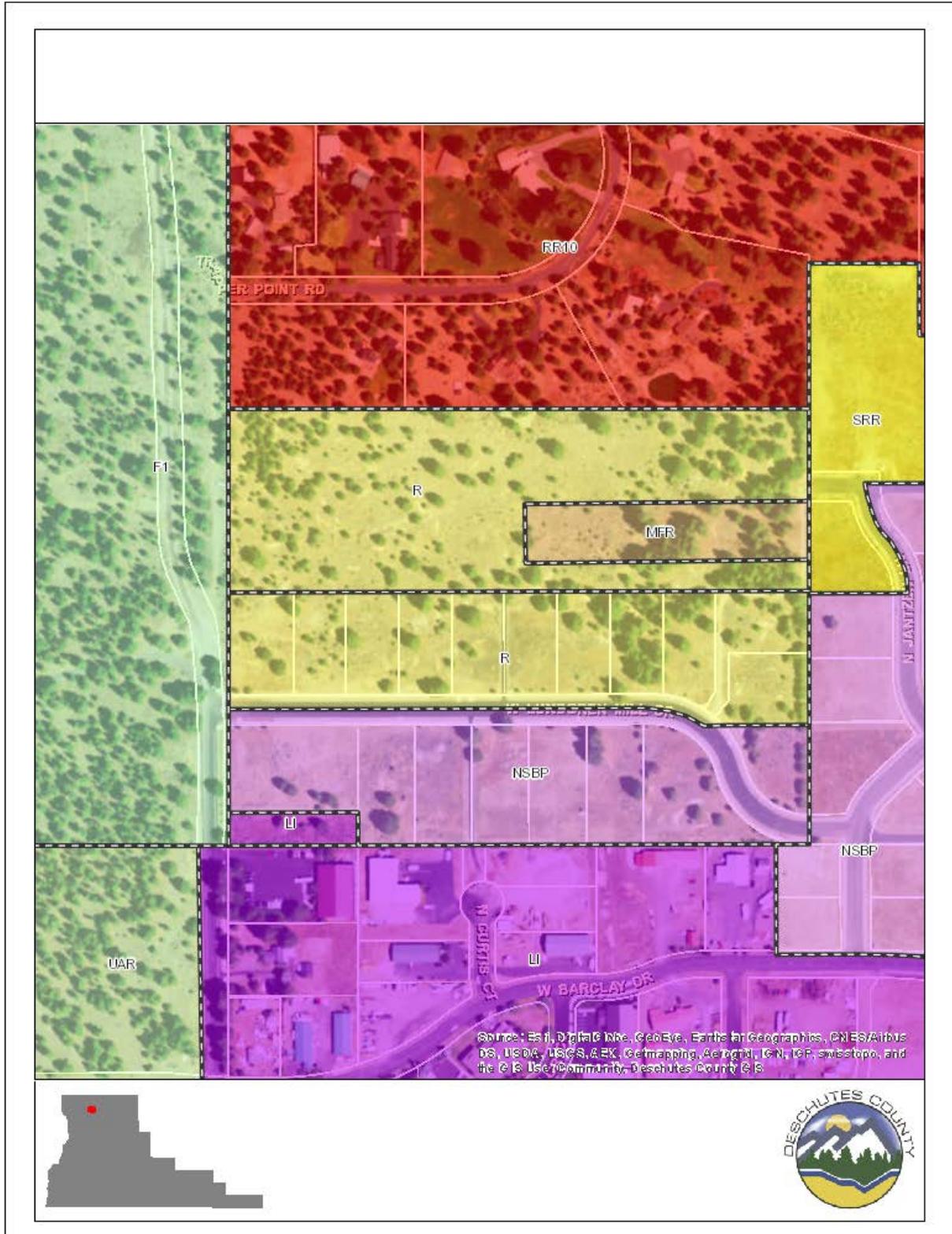
The Applicant requests modification of an approved subdivision plat (SUB #15-01) to revise the setbacks along the northern property line.

2. Property Description

The subject site consists of a 77- lot subdivision known as ClearPine. The development has received approval for a master plan and tentative subdivision plat. The lots range in size from approximately 5,000 to 6,500 square feet. Adjacent land uses and zoning designations for the surrounding properties are summarized as follows:

Direction	Current Zoning District	Current Use
North	Deschutes County jurisdiction	Rural/residential
East	Sun Ranch Residential (SRR) and North Sisters Business Park (NSBP)	Vacant lots
South	North Sisters Business Park (NSBP)	Vacant lots
West	Deschutes County Jurisdiction	US Forest Service

ZONING/LOCATION MAP



3. Background

The subject property is existing ClearPine subdivision. The Master Plan and Subdivision applications (MP 15-01 and SUB 15-01) were approved by the Planning Commission on 04/30/2015 and an additional review was performed by the City Council via its call up authority on 06/25/15. Historical land use decisions are provided below:

- PA-99-4 / ZC 99-1 Deschutes County Decisions that were followed by Annexation
- SUB 05-07– Three Sisters Business Park Subdivision
- CP06-04, CP06-03, Z05-02 -Comprehensive Plan Amendment converting 12.58 acres to R and MFR and 16.91 acres to LI/NSBP
- CP14-01 and ZC 14-01 – Comprehensive Plan Amendment and Zone Change converting 8.32 acres of LI/NSBP to R
- MP 15-01 and SUB 15-01 – Master Plan and Tentative Subdivision Plan on 20.02 acres, for a 77 – lot subdivision

The subdivision is zoned Residential (R) and Multifamily Residential (MFR) and its existing approval enables the construction of 77 single family detached residential units on lots ranging from approximately 5,000 to 6,500 square feet in area. A detailed development plan for the MFR zone of the property was not part of the previously approved master plan and subdivision application.

Setbacks Along Northern Property Line

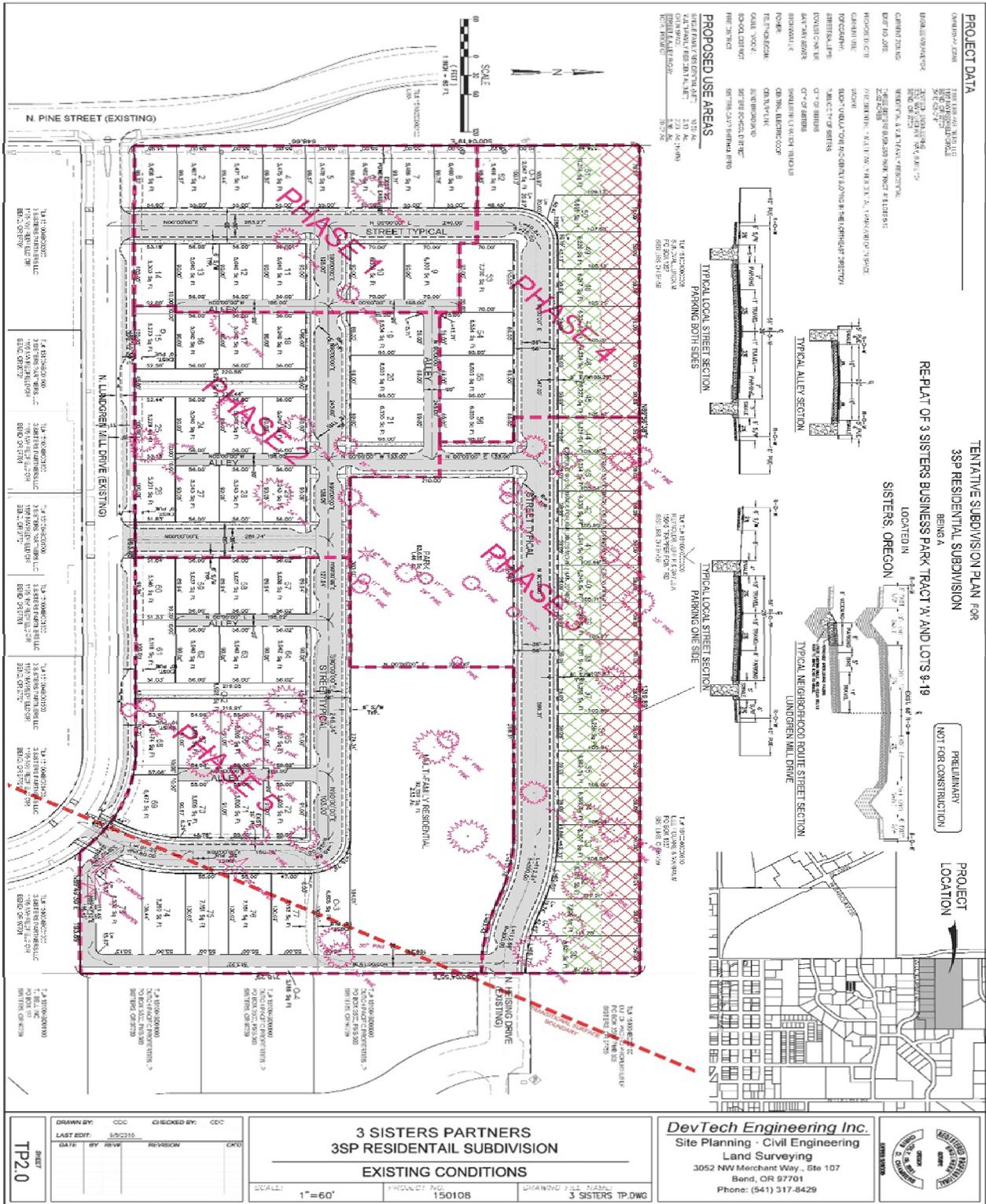
The original UGB annexation agreement for this property specified setbacks for industrial buildings along the northern property as follows: 50' setback for structures less than 20' in height and a 100' setback for structures greater than 20' in height. The purpose of the setbacks was to reduce the impact of future industrial uses on the residential property to the north. The 2001 Development Agreement containing these setback provisions expired in 2008, under ORS 94.504, which imposed a seven-year term on the Agreement. These setback requirements have been carried forward in subsequent land use applications since the Development Agreement was approved, therefore the setbacks as specified may still be applicable.

The applicant/developer has submitted a modification request to revise the aforementioned setbacks along the northern property line. The current setback provisions restrict normal building standards on approximately 3 acres, or 15% of the Applicant's (ClearPine) subdivision and has offered two Options for consideration:

- Option 1: Apply a 20' no build zone (20' setbacks for all structures along the northern property line)
- Option 2: Revert to the minimum Sisters Development Code setbacks per 2.2.2:

Rear Yard Setbacks	
Primary Building/Living Space (Enclosed habitable area)/Attached garage (street accessed)	15 ft. min
Accessory Building	5 ft. per story min.
Detached Garage (street accessed)	5 ft. per story min.

APPLICANT'S PRELIMINARY PLAT: EXISTING CONDITIONS



4. Review Procedures

Conclusionary Findings. Pursuant to the applicable chapters found in the Sisters Development Code, this modification request can either be approved, approved with conditions, or denied on the basis of whether the applicable standards and criteria can be satisfied either as submitted, or as mitigated through conditions of approval. The applicant has provided a Burden of Proof dated September 4, 2015 and is attached to this staff report.

Applicable Criteria; Sisters Development Code (SDC) - Chapter 2.2 (Residential District); 4.1 (Types of Applications and Review Procedures); and 4.3 (Land Divisions and Lot Lines Adjustments).

4.1.700.J General Provisions: Major Modifications.

1. **An applicant may apply to modify an approval at any time after a period of 60 days has elapsed from the time a development approval has become final.**

Response: The application was approved on 06/25/15. The applicant meets this criteria.

2. **Unless otherwise specified in this Code and is not considered a minor modification, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.**

Response: The request is not considered a minor modification and is not a substitute for an appeal. The modification is not a substantially new proposal and although the reduction of setbacks from the existing requirements may impact the adjoining properties, staff does not consider the request to have *significant, additional* impacts from what has been previously approved.

3. **An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.**

Response: Only one aspect of the previously approved subdivision plat is requested to be modified. The request is not considered to have *significant, additional* impacts on the surrounding properties beyond what is already approved.

4. **An application for a modification of a Type I approval shall be processed as a Type I application. An application for a modification of a Type II approval shall be processed as a Type II application. An application for a Type III approval shall be processed as a Type III application. The Communication Development Director shall have the discretion to forward any Type I or Type II modification to the Planning Commission for review.**

Response: The original application (SUB #15-01) was reviewed and approved by the Planning Commission as a Type III application but the City Council called up the decision, provided a de novo review and conditionally approved both MP #15-01 and SUB #15-01.

The setbacks along the northern property line were approved by City Council via a development agreement dated April 20, 2001. Therefore, the proposed Modification to the setbacks specified in the April 20, 2001 Development Agreement will require a review by the Planning Commission and a recommendation to the City Council for the final decision.

5. **The effect, if any, of a modification upon the original approval time limitation shall be established in the modification decision.** The approval time limitation will be discussed below and conditioned as part of this land decision.

Public Notices

On September 25, 2015, the City mailed a notice to properties located within 250 feet of the project. One written comment has been received from adjoining property owner and has been attached to this staff report. The City also posted the site with a notice of land use action on September 25, 2015 and published a notice in the Nugget newspaper on September 30, 2015.

Public Comments

A letter dated September 21, 2015 sent by Mr. Duane Lee, an adjoining property owner to the north in County jurisdiction, was received prior to publishing this staff report. Mr. Lee expressed concerns regarding heights of future dwellings and lack of fencing being proposed by the applicant/developer. The Development Code does not specifically require a fence, berm or other type of screening when the subject residential development is proposed adjacent to lower density residential development. The height limit restrictions for the proposed dwellings which were imposed upon the subject property are still in effect and are the subject of the modification request.

Recommendations:

The Planning Commission is being requested to hear statements from all participants and make a recommendation with draft conditions to the City Council for final approval.

Exhibits

The following exhibits make up the record in this matter. These are contained in file MOD #15-06 and are available for review at the City of Sisters City Hall:

- A- Application and applicant's request**
- B- Staff report**
- C- Tentative plats illustrating Option #1 and #2**
- D- Original Development Agreement dated April 21, 2001**
- E- Letter from Duane Lee dated 09/21/15**
- F- Draft Resolution 2015-15**

MOD 15-06 Clear Pine subdivision
PC Hearing Date: October 15, 2015

Conditions of Approval. Below are the DRAFT Conditions of Approval for the Planning Commission's Consideration.

1. (Option #1 or Option #2) is hereby approved.
2. All applicable conditions of approval specified in previously approved land use applications affecting the subject property not modified by this application remain in effect.
3. Other conditions as approved by the Planning Commission (if any).

MASTER PLANNING APPLICATION FORM

CITY OF SISTERS Community Development Department P.O. Box 39, 520 E. Cascade Avenue Sisters, OR 97759 Ph: 541-323-5207 Fax: 541- 549-0561



- ACCESSORY DWELLINGS, ANNEXATION (III/IV), APPEAL, CODE TEXT AMENDMENT, COMP. PLAN AMENDMENT, CODE INTERPRETATION, CONDITIONAL USE PERMIT, MINOR CONDITIONAL USE, DEVELOPMENT REVIEW, FINAL PLAT REVIEW, HISTORIC LANMARKS COMM., FLOOD PLAIN REVIEW, LOT CONSOLIDATION, LOT LINE ADJUSTMENT, MASTER PLAN, MODIFICATION, PARTITION, REPLAT, SITE PLAN REVIEW, SUBDIVISION, TIME EXTENSION, TEMPORARY USE, TYPE I, VACATION RENTALS, VARIANCE, ZONE CHANGE

APPLICANT: 3 Sisters Partners, LLC PHONE: 541 468-0141
ADDRESS OF APPLICANT: 1195 NW Redfield Circle Bend, OR 97703
PROPERTY OWNER: Peter Hall PHONE:
ADDRESS OF PROPERTY OWNER: same
PROPERTY ADDRESS: W. Lundgren Mill Drive
TAX LOT NUMBER: T15 R10 Section Tax lot(s)
PROPERTY SIZE (ACRES OR SQUARE FEET): 20.02 acres
EXISTING ZONING OF PROPERTY: Residential
COMPREHENSIVE PLAN DESIGNATION OF PROPERTY: Residential
DESCRIBE PROJECT OR REASON FOR THIS REQUEST: To remove property line setbacks on northern boundary. Related to SUB-15-01.

*The applicant will be the primary contact for all correspondence and contact from the City unless other arrangements are made in writing.

Signature of Applicant: [Signature] Printed Name: Peter B. Hall Date: 9/3/15
Signature of Property Owner: [Signature] Printed Name: Same Date: [Blank]

PLEASE DO NOT WRITE BELOW THIS LINE — FOR OFFICE USE ONLY

DATE RECEIVED: 9/3/15 FILE NO. MOD 15-06 CHECK NO. 1445
CASH: - AMOUNT PAID: \$1000.00 RECEIPT NO. 125608
CHECKED BY: pd



September 4, 2015

Patrick Davenport, Planning Director
City of Sisters, Oregon
P.O. Box 39
Sisters, Oregon 97759

RE: MOD #15-06

This letter shall serve as the Burden of Proof for the requested land use action contained with MOD #15-06.

Applicant: Peter Hall, 3 Sisters Partners, LLC, 1195 NW Redfield Circle, Bend Oregon, 97703.

Intent of Modification to an Approved Decision: To remove certain property setbacks from the Deschutes County plat for the northerly property line in "Tract A" that include a "50-foot setback for buildings of 20 feet or less in height" and "100-foot setback for buildings more than 20-feet high".

Background: The setbacks were originally imposed in conjunction with a prior development agreement (Deschutes County document 2001-21131). The intent of the 2001 agreement was to impose significant setbacks on future Industrial development on Tract A, as a result of Tract A being annexed into the City of Sisters UGB. The setbacks were intended to keep large industrial buildings some distance away from the adjacent property owners in Trapper Point Subdivision. According to ORS statute 94.504, the 2001 Development Agreement expired in April 2008 (7-year agreement expiration).

Recent Land Use: IN 2014, MP #15-01 and SUB #15-01 granted Applicant approval to build a new residential subdivision called ClearPine on Tract A. Construction of Phase 1 infrastructure is currently nearing completion, as authorized by these land use actions.

Applicable Code: According to City of Sisters Development Code section 2.2.300, rear-yard setbacks in the Residential District (R) are provided as follows:

- Primary Building/Living Space w/Attached Garage = 15ft minimum.
- Detached Garage = 5' per story min. (therefore 5-10 ft minimum).



- Eaves are allowed to encroach another 3 feet (making the effective edge of structure setbacks 2' & 7' for detached garages, and 12' for living space).

Proposal

The Applicant is proposing the current 50' and 100' setback restrictions be removed and replaced with either, a) standard R District rear-yard setbacks, or alternatively, b) a 20' residential rear-yard building setback along the entire northern boundary of Tract A, with its boundary against the Trapper Point Subdivision. The latter will provide additional separation between new housing units in ClearPine, and existing, more rural housing units in Trapper Point. For this reason, the Applicant is willing to offer the compromise in option b.

Request: The Applicant, 3 Sisters Partners, LLC, requests the Planning Commission recommend one of the two options in the Applicant's Proposal. Further, the Applicant requests the City Council approve one of the two options proposed, and provide the required release to Deschutes County to allow removal of the setback restrictions originally imposed on the plat by Development Agreement 2001-21131.



Peter Hall, 3 Sisters Partners, LLC

9/4/15
Date

PROJECT DATA

OWNER/APPLICANT: 3 SISTERS PARTNERS, LLC
1195 NW REDFIELD CIRCLE
BEND, OR 97701
(541) 408-0141

ENGINEER/SURVEYOR: DEVTECH ENGINEERING
3052 NW MERCHANT WAY, SUITE 107
BEND, OR 97701

CURRENT ZONING: RESIDENTIAL & MULTI-FAMILY RESIDENTIAL

EXISTING LOTS: THREE SISTERS BUSINESS PARK TRACT 'A' & LOTS 9-19
20.02 ACRES

PROPOSED LOTS: 77 RESIDENTIAL, 1 MULTI-FAMILY RESIDENTIAL, 1 PARK AND OPEN SPACE

CURRENT USE: VACANT

TOPOGRAPHY: SLIGHT UNDULATIONS AND GENTLY SLOPING IN THE NORTHEAST DIRECTION

STREETS/ALLEYS: PUBLIC CITY OF SISTERS

DOMESTIC WATER: CITY OF SISTERS

SANITARY SEWER: CITY OF SISTERS

STORMWATER: SWALES/FILTRATION TRENCHES

POWER: CENTRAL ELECTRIC COOP

TELEPHONE/COM.: CENTURY LINK

CABLE TV/COM.: BEND BROADBAND

SCHOOL DISTRICT: SISTERS SCHOOL DISTRICT

FIRE DISTRICT: SISTERS-CAMP SHERMAN RFPD

PROPOSED USE AREAS

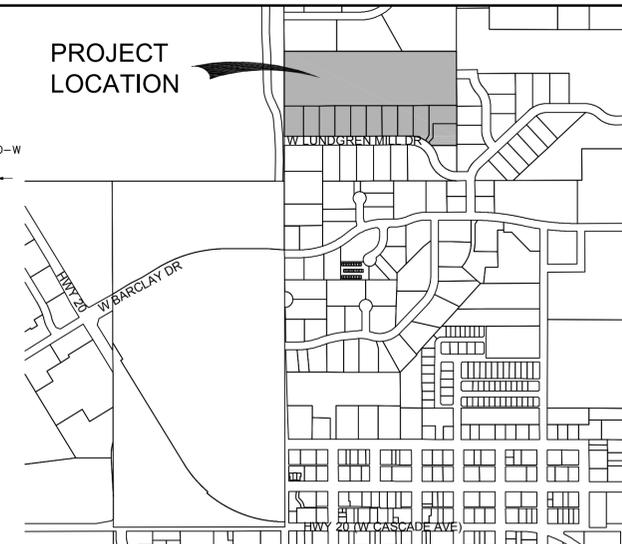
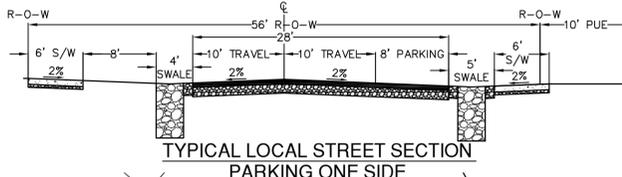
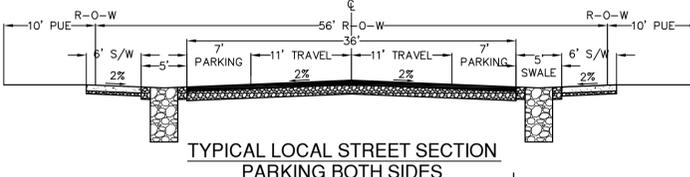
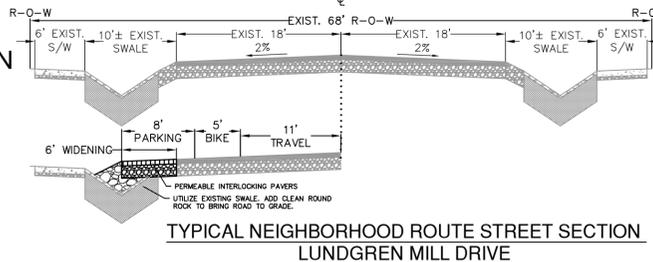
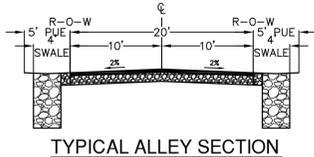
SINGLE FAMILY RESIDENTIAL (NET)	10.50 Ac.
MULTI-FAMILY RESIDENTIAL (NET)	2.13 Ac.
OPEN SPACE	2.23 Ac. (15.0%)
STREET & ALLEY R-O-W	5.16 Ac.
TOTAL PROJECT	20.02 Ac.

**TENTATIVE SUBDIVISION PLAN FOR
3SP RESIDENTIAL SUBDIVISION**

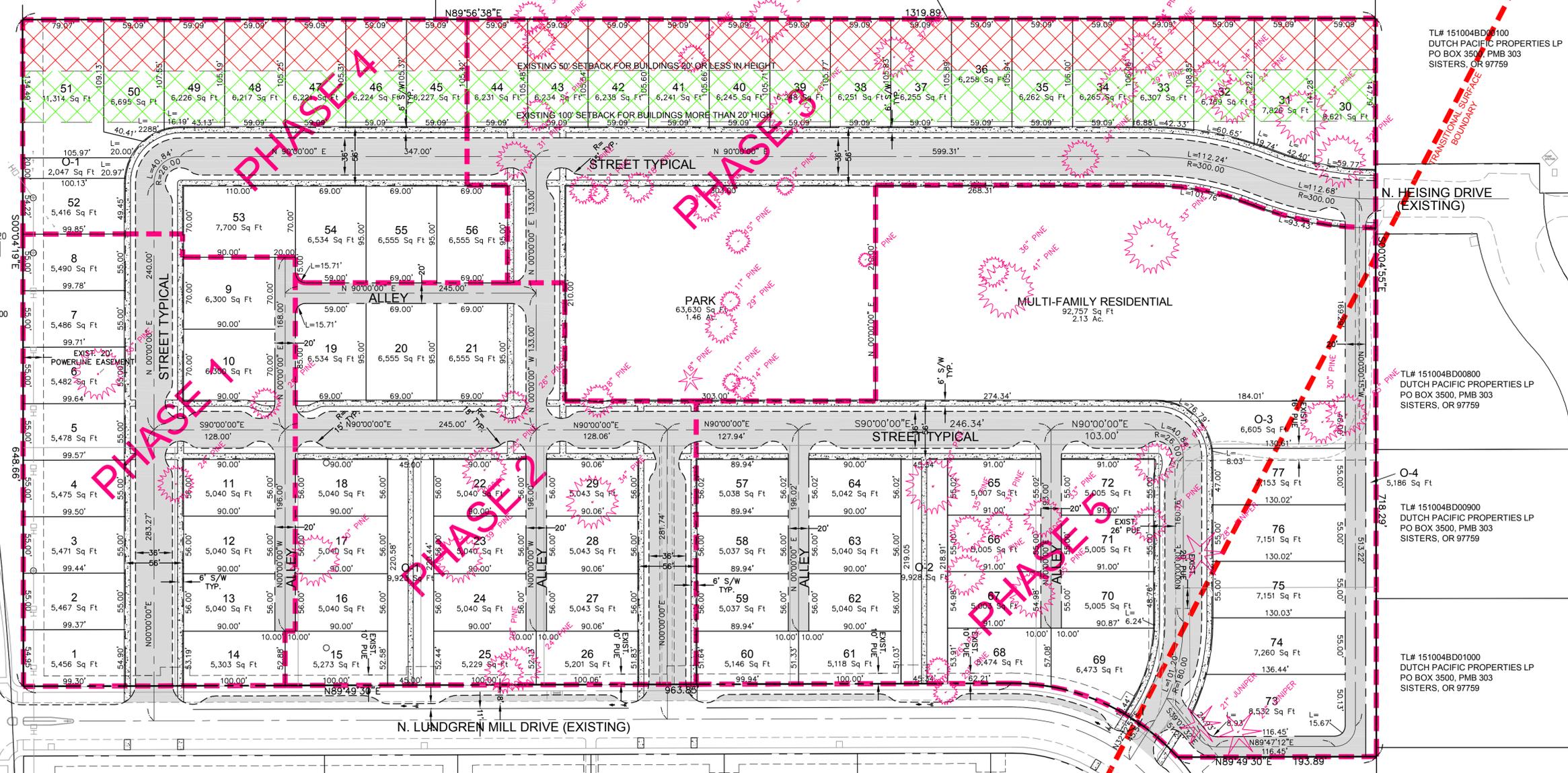
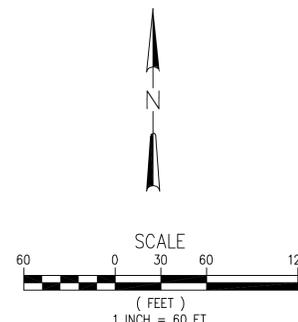
BEING A
RE-PLAT OF 3 SISTERS BUSINESS PARK TRACT 'A' AND LOTS 9-19
LOCATED IN
SISTERS, OREGON

PRELIMINARY
NOT FOR CONSTRUCTION

PROJECT
LOCATION



DevTech Engineering Inc.
Site Planning · Civil Engineering
Land Surveying
3052 NW Merchant Way., Ste 107
Bend, OR 97701
Phone: (541) 317-8429



TL# 151005000100
USA

TL# 151004BC0200
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01900
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01800
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01700
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01600
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01500
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01400
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01300
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BD00100
DUTCH PACIFIC PROPERTIES LP
PO BOX 3500, PMB 303
SISTERS, OR 97759

TL# 151004BD00800
DUTCH PACIFIC PROPERTIES LP
PO BOX 3500, PMB 303
SISTERS, OR 97759

TL# 151004BD00900
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PO BOX 3500, PMB 303
SISTERS, OR 97759

TL# 151004BD01000
DUTCH PACIFIC PROPERTIES LP
PO BOX 3500, PMB 303
SISTERS, OR 97759

TL# 151004BD01100
TJ BELL INC
PO BOX 177
SISTERS, OR 97759

DRAWN BY: CDC
CHECKED BY: CDC
LAST EDIT: 9/8/2015
DATE BY: REW
REVISION: CKD

**3 SISTERS PARTNERS
3SP RESIDENTIAL SUBDIVISION**

EXISTING CONDITIONS

SCALE: 1" = 60'

PROJECT NO. 150108

DRAWING FILE NAME: 3 SISTERS TP.DWG

DATE	BY	REVISION	CKD

SHEET
TP2.0

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BEND, OR 97701
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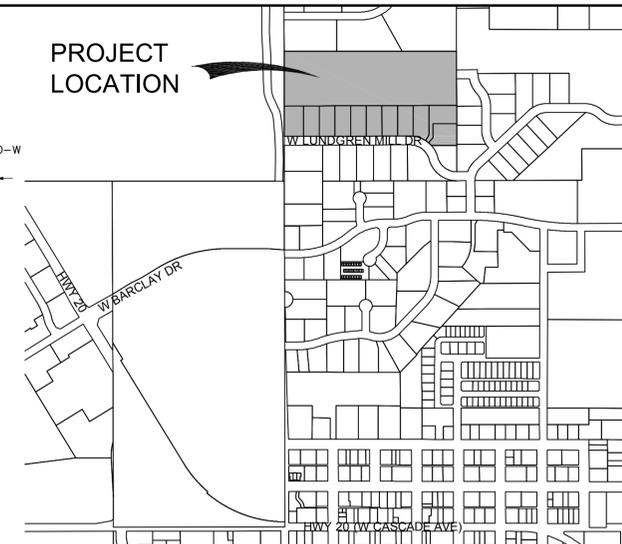
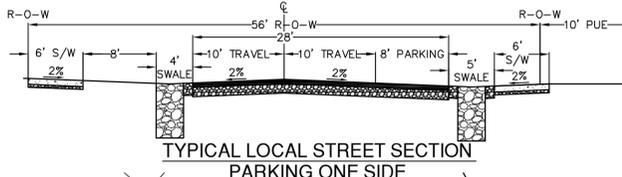
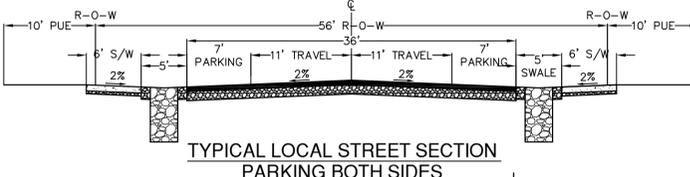
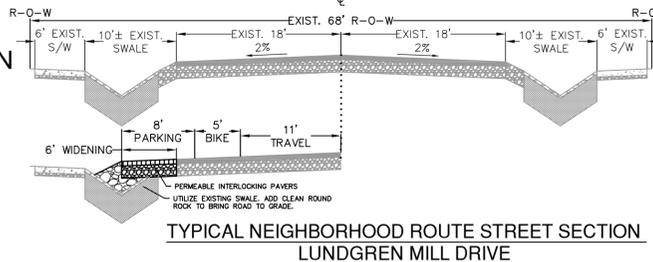
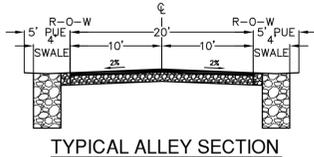
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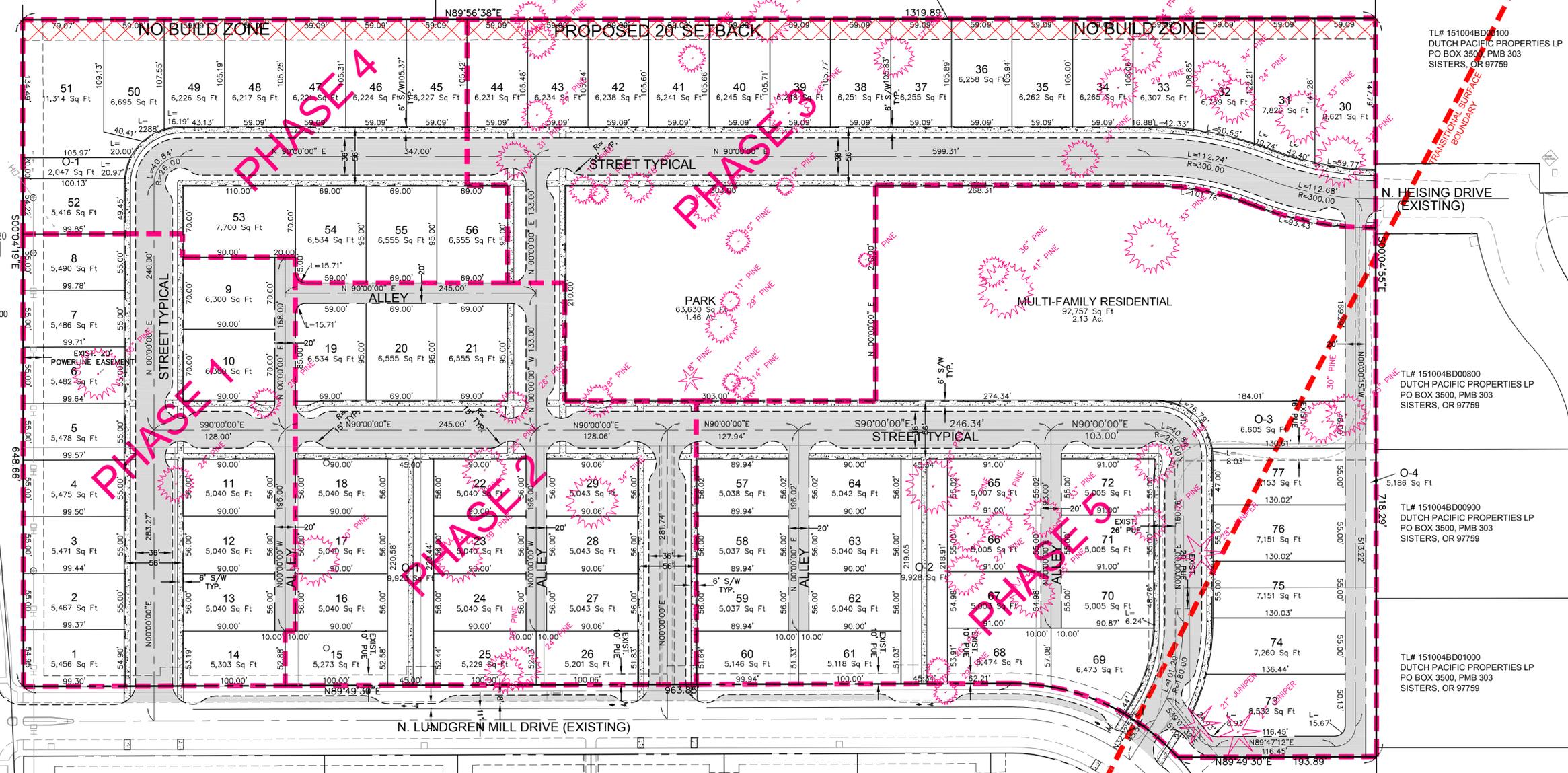
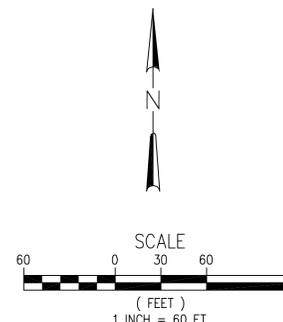
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Bend, OR 97701
Phone: (541) 317-8429



PHASE 1

PHASE 2

PHASE 3

TL# 151004BC02000
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01900
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01800
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01700
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

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3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01500
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01400
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

TL# 151004BC01300
3 SISTERS PARTNERS LLC
1195 NW REDFIELD CIR
BEND, OR 97701

DRAWN BY:	CDC	CHECKED BY:	CDC
DATE:	9/8/2015	REVISION:	
BY:	REW	REVISION:	
DATE:		REVISION:	

SHEET
TP2.0

**3 SISTERS PARTNERS
3SP RESIDENTIAL SUBDIVISION**

PROPOSED CONDITIONS

SCALE: 1" = 60'

PROJECT NO. 150108

DRAWING FILE NAME: 3 SISTERS TP.DWG

VOL: 2001 PAGE: 21131
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



*2001-21131 * Vol-Page

Printed: 05/04/2001 13:15:05

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 4, 2001; 1:12 p.m.

RECEIPT NO: 35251

DOCUMENT TYPE: Development Agreement

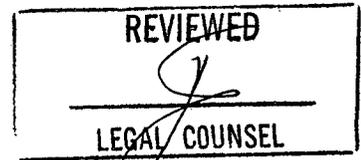
FEE PAID: \$0.00

NUMBER OF PAGES: 15

A handwritten signature in cursive script that reads "Mary Sue Penhollow".

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

APRIL 20, 2001



2001-21131-1

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT, hereinafter referred to as "Agreement," is made and entered into by and between CITY OF SISTERS, hereinafter referred to as "City"; SISTERS SCHOOL DISTRICT NO. 6, hereinafter referred to as "School District;" and DESCHUTES COUNTY, hereinafter referred to as "County."

RECITALS

- A. School District owns a 29 acre parcel of real property identified on the Deschutes County Assessor's Map as 15-10-04, Tax Lot 500, as more particularly described in the attached Exhibit "A," and hereinafter referred to as "School District property."
- B. Barclay Meadows Business Park, LLC, hereinafter referred to as "Barclay Meadows" owns a 35 acre parcel of real property, hereinafter referred to as "Barclay property," which is adjacent to the east of the School District property described above.
- C. Both the School District property and the Barclay property are currently zoned EFU and are located in Deschutes County immediately adjacent to the north but just outside of the Sisters UGB boundary and the Sisters City limits.
- D. School District (Deschutes County File No. PA-99-5/ZC-99-3) and Barclay Meadows (Deschutes County File No. PA-99-4/ZC-99-1) have filed separate land use applications with Deschutes County to bring their respective properties within the Sisters UGB and rezone them Light Industrial. Both properties have been approved for annexation to the City of Sisters as light industrial property. Once the properties are inside the UGB, annexed to the City and zoned Light Industrial, Barclay Meadows and School District intend to subdivide their respective properties for ultimate light industrial development.
- E. The intent of this Agreement is to provide for limitations on the types of industrial uses allowed on the School District property described above, to provide a conceptual plan for future subdivision and industrial development of the School District property and to provide a plan for traffic improvements to address the impacts from development of the School District property. This Agreement was developed in conjunction with a similar agreement involving the Barclay property. The two agreements are separate and distinct from one another but both are based on similar development plans for the two properties, the material in the two land use files referenced herein and on a transportation impact study prepared by David Evans and Associates analyzing the traffic impacts associated with industrial development of the two properties.

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- F. It is also the intent of this Agreement to plan for the transportation improvements and contributions that will be required under this Agreement. School District, together with its respective assigns, voluntarily agrees to the limitations and contributions described herein in order to gain the certainty and benefits that this Agreement provides. City and County will benefit in that they also will have certainty as to the development limitations, future subdivision and industrial use plans and contributions to the transportation system as described herein.
- G. The parties acknowledge that City and the Oregon Department of Transportation ("ODOT") have initiated development of a Transportation System Plan ("TSP") for City which will identify the locations of future transportation improvements such as, but not limited to, traffic signals, turn lanes, parallel arterials and collector routes, etc., set costs estimates and plan for funding of those improvements, and establish street designations and levels of service or other mobility standards for area roads and intersections, including recognizing Sisters as a Special Transportation Area ("STA"). This Agreement is not intended to supersede or impact the development of the TSP. Instead, this Agreement is intended to provide a plan for transportation improvements to address the traffic impacts from development of the two properties pursuant to the planning responsibilities set forth in the Transportation Planning Rule at OAR-660-012-0060. To the extent that the transportation facilities identified through the TSP process differ or conflict with those facilities identified herein, the TSP shall control and the monies contributed herein shall be used for the facilities identified in the TSP.
- H. Pursuant to the January 2000 Update to the Transportation Impact Study and the Addendum to January 2000 Update to the Transportation Impact Study prepared by David Evans and Associates and submitted to Deschutes County in the two land use files referenced herein, the parties agree that the streets and intersections which will be impacted by the ultimate development of the two properties include U.S. Highway 20/Locust Street, U.S. Highway 20/Pine Street, and the future intersection of U.S. Highway 20/McKinney Butte.
- I. U.S. Highway 20 is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Pine Street, Locust Street and most of the future McKinney Butte collector are a part of the City road system under the jurisdiction and control of the City. Some of the conceptual alignment of the future McKinney Butte collector may lie outside the Sisters UGB, which would be under the control of the County.
- J. By the authority granted in ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where ODOT deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than ODOT, except with its written approval.
- K. By the authority granted in ORS 366.425, ODOT may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm,

- or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, ODOT shall proceed with the project on a schedule determined by ODOT. Money so deposited shall be disbursed for the purpose for which it was deposited.
- L. By the authority granted in ORS 94.504 through 94.528, City and County are authorized to enter into Development Agreements to govern the development of property within their respective jurisdictions.
 - M. To the extent that any of the monies paid to City under this Agreement are used to fund improvements or a portion of improvements which are outside the jurisdiction or control of the City, including traffic improvements on Highway 20 that fall within ODOT's jurisdiction and any portion of the future McKinney Butte collector that may fall within Deschutes County's jurisdiction, City shall enter into an appropriate agreement or take the necessary actions to disburse those monies to the jurisdiction or agency responsible for installation of and/or control of the improvement as part of the City's contribution for those improvements.
 - N. On behalf of City, this Agreement is to be authorized by City of Sisters Ordinance No. 316 following a hearing held on December 27, 2000. Notice of the hearing was provided to County, ODOT, nearby property owners and other interested parties consistent with applicable law.
 - O. On behalf of the County, this Agreement was authorized by County Ordinance No. 2001-012. That ordinance was adopted by the Deschutes County Board of Commissioners following a hearing held on December 27, 2000. Notice of the hearing was provided to the City, ODOT, nearby property owners and other interested parties consistent with applicable law.
 - P. The execution of this Agreement is in the best interest of the public health, safety and welfare and is consistent with the Deschutes County Comprehensive Plan and implementing ordinances and the Sisters Urban Area Comprehensive Plan and implementing ordinances.

AGREEMENT

In consideration for the mutual promises and performance obligations of each party set out in this Agreement, the parties agree as follows:

1. Effective Date and Term of Agreement:

This Agreement shall be effective following adoption of the City and County ordinances approving this Agreement pursuant to ORS 94.508, and upon the effective date of final adoption of the City ordinance finalizing annexation and approving the zone change to the City Light Industrial Zone. This Agreement shall begin as set forth above and its duration shall be in accordance with the provisions of ORS 94.504(2)(a).

2. Conditions to Parties' Obligations:

The parties shall not be required to perform their respective obligations set out herein unless and until the land use and development approvals listed in Section 1 above have been granted, the period for appeal of such approvals has passed with no appeal being filed, or if an appeal is filed, the appeal has been finally resolved to School District's satisfaction.

3. Permitted Uses:

School District shall be permitted, subject to Site Plan Review and, if necessary, Conditional Use Approval, to use the property described herein for the uses allowed under the current City of Sisters Zoning Ordinance, Section 15.02.150, Light Industrial Zoning, except that the following uses shall not be allowed on the property referenced herein, the legal description of which is attached hereto as Exhibit "A": boat building, fuel oil distributor, manufacture of concrete products, concrete or asphalt batch plant, and wrecking and junk yard. Other than the specific prohibitions described above, the uses allowed through this Agreement do not preclude other uses allowed through a change of zoning regulations or through additional permits or agreements. The maximum height and size of any structures shall be as set forth in the applicable zoning ordinance.

4. Minimum Setback:

Minimum setback from the north property line of the School District property shall be 50' for any building that does not exceed 20' in height and 100' for any building over 20' in height. The setbacks from all other property lines shall be as set forth in the applicable zoning ordinance.

5. Plan for Infrastructure Improvements and Conditions:

5.1 Pursuant to the January 2000 Update to Transportation Impact Study and the Addendum to January 2000 Update to Transportation Impact Study, the maximum development allowable on the subject properties would result in 15% of the available 29 acres for the School District and the available 28 acres for Barclay Meadows being reserved for infrastructure and the remaining lot coverage being 35%. This results in a total industrial park development of 375,815 square feet for School District and 362,855 for Barclay Meadows. Based on Institute of Traffic Engineers (ITE) trip generation equations for an industrial park, 569 PM peak hour trips would be generated by the two sites (290 for School District and 279 for Barclay Meadows).

5.2 Pursuant to the January 2000 Update to Transportation Impact Study, School District at worst case scenario buildout in 2015 could generate the following percentages of critical moves ("critical move" is the left-through movement on the minor street) in the p.m. peak hour at these intersections: 8.3% at the future McKinney Butte/U.S. Hwy. 20; 37.4% at Locust/U.S. Hwy. 20; and 16.4% at Pine Street/U.S. Hwy. 20. Of the total traffic entering

the intersection from the McKinney Butte collector in 2015, the School District property would contribute 11.8%.

- 5.3 Pursuant to the January 2000 Update to Transportation Impact Study and the Addendum to January 2000 Update to Traffic Impact Study, Barclay Meadows at worst case scenario buildout in 2015 could generate the following percentages of critical moves in the p.m. peak hour at these intersections: 11.2% at future McKinney Butte/U.S. Hwy. 20; 36.0% at Locust/U.S. Hwy 20; and 15.7% at Pine Street/U.S. Hwy. 20. Of the total traffic entering the intersection from the McKinney Butte collector in 2015, the Barclay Meadows property would contribute 11.2%.
- 5.4 Subject to the contingencies provided for herein, School District agrees to restrict development on its property to uses which will not produce in excess of 210 PM peak hour trips which, when combined with a similar restriction on the Barclay property (203 PM peak hour trips) through the development agreement referenced herein for that property represents 68% of the "worst case scenario" PM peak hour trips per day which would occur if unrestricted development were allowed.
- 5.5 ODOT anticipates that traffic signals, if ultimately approved through the TSP process, at the future McKinney Butte/U.S. Hwy. 20, Pine/U.S. Hwy. 20 and Locust/U.S. Hwy. 20 will cost \$150,000 each and that the future McKinney Butte collector will cost \$700,000 to construct. If the TSP does not identify the transportation facility improvements referenced herein as a part of the TSP, the School District and Barclay Meadows monies will be put toward the transportation facility improvements, which are identified in the TSP.
- 5.6 In accordance with the timing and procedures set forth in paragraph 5.9, School District agrees to pay fees to City to be used to fund the future McKinney Butte collector, a traffic signal at each of the intersections of US Hwy. 20/Locust, U.S. Hwy. 20/Pine Street and U.S. Hwy. 20/McKinney Butte.
- 5.7 With regard to the 413 trips identified herein, School District agrees to calculate its contribution at the amounts identified in Table 1, as identified in the Addendum to January 2000 Update to Transportation Impact Study, in order to mitigate its traffic impacts.

TABLE 1

SCHOOL DISTRICT	Total Cost	% Share	\$ Cost
Locust Street Signal	\$ 150,000	33.9%	\$ 50,850
McKinney Butte Signal	\$ 150,000	6.3%	\$ 9,450
McKinney Butte Collector	\$ 700,000	9.1%	\$ 63,700

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Pine Street Signal	\$ 150,000		\$ 19,950
Subtotal			\$143,950
10% Contingency Fund			\$ 14,395
TOTAL			\$158,345
Cost Per PM Peak Hour Trip			\$ 754
BARCLAY MEADOWS	Total Cost	% Share	\$ Cost
Locust Street Signal	\$ 150,000	32.9%	\$ 49,350
McKinney Butte Signal	\$ 150,000	6.3%	\$ 9,450
McKinney Butte Collector	\$ 700,000	8.7%	\$ 60,900
Pine Street Signal	\$ 150,000	12.5%	\$ 18,750
Subtotal			\$138,450
10% Contingency Fund			\$ 13,845
TOTAL			\$152,295
Cost Per PM Peak Hour Trip			\$ 754

The 10% Contingency Fund referenced in the Table above is intended to provide protection to the agencies and jurisdictions in the event the cost of the improvements identified in the TSP for the intersections referenced herein exceeds the costs estimated herein. In the event the cost of such improvements does not exceed the costs estimated herein, School District and Barclay Meadows shall be given transportation SDC credits up to the amount of the 10% contingency paid by each, as set forth above. Such SDC credits shall be assignable and transferable.

- 5.8 It is intended that the School District property will be subdivided or partitioned and ultimately developed through a site plan review and possibly a conditional use process. The exaction payments referenced herein shall be paid to the City upon subdivision or partition approval or, if the property is not subdivided or partitioned, upon site plan approval, whichever occurs first. The parties agree that the exaction payments set forth herein are not personal obligations but instead apply to run with the land for the property described in Exhibit "A." The School District's exaction referenced in Table 1 will be due and payable by the owner of the property described in Exhibit "A" upon the sooner of subdivision/partition approval or site plan approval for the property, regardless of the development status of the Barclay Meadows property.

- 5.9 The parties agree that the improvements planned for in this Agreement mitigate all foreseeable impacts that the proposed developments will have on the Sisters area transportation system as long as the land uses are consistent with the development limitations as set forth herein. Once development of either of the subject properties reaches a level that generates the maximum trips allowed for that property as set forth in paragraph 5.4, the owners of the remaining undeveloped lots will be required to address the transportation impacts of their respective developments in accordance with the law in effect at the time.
- 5.10 This Agreement contemplates that School District and Barclay Meadows will contribute a total of 18% of the estimated cost of the future McKinney Butte collector. In the event public or private grant funds become available to fund the McKinney Butte collector in an amount in excess of 82% of the cost of the collector as identified in the adopted TSP, then School District and Barclay Meadows shall be given a credit against transportation SDC's equal to the total dollar amount by which such grants or other funds exceeds 82% of the cost of the collector. Such SDC credits shall be pro-rated with 9% to School District and 9% to Barclay Meadows and shall be assignable and transferable.
- 5.11 In the event the provisions of OAR 660-012-0055(3) and (4) are found to apply to the developments referenced herein, School District agrees to comply with the relevant sections of the rule, including the provisions at OAR 660-012-0045(3), (4)(a) - (f) and 5(d).

6. Form of Payment and Accounting:

- 6.1 In accordance with the timing and procedures set forth herein, School District or its assigns, shall make all payments in the form of cash or check.
- 6.2 City shall accept and deposit School District's funds into a designated fund. Receipt of the funds shall be acknowledged in writing by the recipient and credited towards the overall contribution of School District.

7. Continuing Effect of Agreement:

In the case of any change in regional policy or federal or state law or other change in circumstance which renders compliance with the Agreement impossible or unlawful, the parties will attempt to give effect to the remainder of the Agreement, but only if such effect does not prejudice the substantial rights of any party under the Agreement. If the substantial rights of any party are prejudiced by giving effect to the remainder of the Agreement, then the parties shall negotiate in good faith to revise the Agreement to give effect to its original intent. If the parties fail to agree to an amended Agreement within ninety (90) days of the commencement of negotiations, then any party may request that an arbitrator give an equitable effect to the remainder of the Agreement, and the Agreement shall thereafter be amended pursuant to the order of the arbitrator.

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If, because of a change in policy, law or circumstance, the Agreement fails of its essential purpose (vesting of allowed uses, limitations on uses and development conditions, planning for transportation facility improvements), then the parties shall be placed into their original position to the extent practical. As used herein, however, "change in circumstance" does not include changes in local government land development or land division regulations. It is the intent of this Agreement to vest development rights and conditions, including but not limited to the permitted uses, infrastructure improvements and fees and charges as set forth herein, notwithstanding any change in local ordinance or policy. To the extent any local rule, ordinance, regulation or policy is adopted on a jurisdiction-wide bases, and is not inconsistent with the vested development rights and conditions, the local rule, ordinance, regulation or policy shall be applicable.

8. Assignability of Agreement:

This Agreement shall be fully assignable, in whole or in part, by any party and shall bind and inure to the benefit of the parties and their respective assigns and successors. If any lot of the School District property is sold, the rights and interests of School District under this Agreement shall inure to benefit of the purchaser. The transfer of any property subject to this Agreement shall relieve School District of all further obligations under this Agreement as those obligations pertain to or are proportionally allocable to the property transferred.

9. Land Use/Annexation:

9.1 Consistent with the above provisions, the parties agree to cooperate to secure the necessary permits and approvals for the annexation, subdivision of and ultimate light industrial development of the properties referenced herein. The following approvals are the anticipated future approvals necessary for the development described herein:

9.1.1 Plan amendment, goal exception and zone change as pending before Deschutes County in File Nos. PA-99-4/ZC-99-1 (Barclay Meadows) and PA-99-5/ZC-99-3 (School District);

9.1.2 Annexation to City of Sisters and zone change approval to City Light Industrial Zoning;

9.1.3 Subdivision approval pursuant to the terms, restrictions and requirements set forth in the City of Sisters Code; and

9.1.4 Development permit approval pursuant to the terms, restrictions and requirements set forth in the City of Sisters Code.

10. Default; Remedy:

10.1 Default/Cure. The following shall constitute defaults on the part of a party:

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10.1.1 A breach of a material provision of this Agreement, whether by action or inaction of a party which continues and is not remedied within sixty (60) days after the other party has given notice specifying the breach; provided that if the non-breaching party determines that such breach cannot with due diligence be cured within a period of sixty (60) days, the non-breaching party may allow the breaching party a longer period of time to cure the breach, and in such event the breach shall not constitute a default so long as the breaching party diligently proceeds to affect a cure and the cure is accomplished within the longer period of time granted by the non-breaching party; or

10.1.2 Any assignment by a party for the benefit of creditors, or adjudication as a bankrupt, or appointment of a receiver, trustee or creditor's committee over a party.

10.2 Remedies. Each party shall have all available remedies at law or in equity to recover damages and compel the performance of the other party pursuant to this Agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by any party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by the other parties, including, without limitation, the right to compel specific performance.

11. Amendment or Termination of Agreement:

11.1 This Agreement may be amended or terminated by the mutual consent of the parties or their assigns or successors in interest. Any amendment which relates to the permitted uses, development limitations or monetary contributions shall require a public hearing before the parties may execute an amendment. Any other amendment shall not require a public hearing.

11.2 Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

11.3 In the event of termination, City shall return all funds collected under this Agreement to the person who paid the funds and adjust any SDC credits accordingly.

12. Miscellaneous Provisions:

12.1 Notice. A notice or communication under this Agreement by any Party shall be dispatched by registered or certified mail, postage prepaid, return receipt requested, and

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12.1.1 In the case of a notice or communication to County, addressed as follows:

117 NW Lafayette Ave
Bend, OR 97701
ATTN: LEGAL COUNSEL

In the case of a notice or communication to the School District, addressed as follows:

220 S. Pine Street
Sisters, OR
97759
ATTN: SUPERINTENDENT

In the case of a notice or communication to City, addressed as follows:

150 N. Fir Street
Sisters, OR
97759
ATTN: LEGAL COUNSEL

or addressed in such a way in respect to a Party as that Party may, from time to time, designate in writing dispatched as provided in this section.

- 12.2 Enforcement. Both City and County shall have the power to enforce this Agreement until such time as the property described in Exhibit "A" is annexed to City and all applicable appeal deadlines associated with the annexation have expired. After annexation is complete and all applicable appeal deadlines have expired, the subject property will be outside of County jurisdictional boundaries and City will be the sole regulatory body authorized to administer, monitor compliance and enforce this Agreement.
- 12.3 Compliance Review. The City shall monitor compliance on a continual basis as School District submits subdivision and/or development applications.
- 12.4 Construction of Improvements. Construction of any approved structures may begin at anytime after the effective date of this Agreement and final approval of the structure. Such construction shall be completed within the time period specified in the construction approval document.
- 12.5 Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

201-21131-11

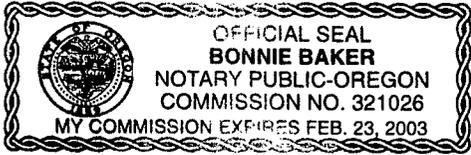
- 12.6 Counterparts. This Agreement may be executed in one or more original counterparts, each of which shall be deemed to be an original for all purposes but all of which shall constitute one and the same Agreement.
- 12.7 Waivers. No waiver made by any Party with respect to the performance, or manner or time thereof, of any obligation of the other parties or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.
- 12.8 Attorneys' Fees. In the event of a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing Party shall be entitled to recover from the losing Party its reasonable attorneys, paralegals, accountants, and other experts fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.
- 12.9 Time of the Essence. Time is of the essence of this Agreement.
- 12.10 Choice of Law. This Agreement shall be interpreted under the laws of the State of Oregon.
- 12.11 Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Oregon, the period shall be extended to include the next days which is not a Saturday, Sunday, or such a holiday.
- 12.12 Construction. In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.
- 12.13 Severability. If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

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- 12.14 Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Deschutes County, or the United States District Court for the District of Oregon.
- 12.15 Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of a Party being given "sole discretion" or being allowed to make a decision in its "sole judgment."
- 12.16 Condition of City/County Obligations. All City/County obligations pursuant to this Agreement which require the expenditure of funds are contingent upon future appropriations by the City/County as part of the local budget process. Nothing in this Agreement implies an obligation on the City/County to appropriate any such monies.
- 12.17 Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties agree to cooperate in defending such action.
- 12.18 Enforced Delay, Extension of Times of Performance. In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the City of Sisters or Deschutes County, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance which is not within reasonable control of the party to be excused.
- 12.19 No Third-Party Beneficiaries. School District, City and County and their successors and assigns are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 12.20 Other Necessary Acts. All parties shall execute and deliver to the other parties all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to

2001-21131-14

The foregoing was acknowledged before me by Tom DeWolf
as Chair, BoCC for the Deschutes County, this 31st day of
January, 2001.



Bonnie Baker
Notary Public for Oregon

Sisters School District

By William R. Reed
Title CHAIRMAN OF SCHOOL BOARD

Date 4-20-01

STATE OF OREGON)
) ss.
County of Deschutes)

The foregoing was acknowledged before me by William R. Reed
as Chairman of the Board for the Sisters School District, this 20th day of
April, 2001.



Emma J. Sivers
Notary Public for Oregon

2001-21131-15

A parcel of land located in the Northwest one-quarter (NW1/4) of Section 4, Township 15 South, Range 10 East, of the Willamette Meridian, Deschutes County, Oregon described as follows:

Beginning at the West one-quarter corner of said Section 4; thence North $00^{\circ}03'45''$ West 991.18 feet to the Southwest corner of TRAPPER POINT, 1ST ADDITION; thence North $89^{\circ}56'58''$ East 1,319.31 feet to the Southeast corner of TRAPPER POINT, 1ST ADDITION; thence South $00^{\circ}04'50''$ East 998.04 feet to the South line of the Northwest Quarter of said Section 4; thence South $89^{\circ}48'24''$ West 1,026.40 feet; thence South $89^{\circ}50'12''$ West 293.72 feet to the point of beginning.

SUBJECT TO:

1. Easement including the terms and conditions thereof, granted to Central Electric Cooperative, Inc. by instrument recorded June 19, 1963 in Book 135, page 368, Deed Records.
2. The existence of roads, railroads, irrigation ditches, corrals, telephone, telegraph and power facilities, and the rights of third parties therein.
3. Easement, including the terms and conditions thereof, granted to Central Electric Cooperative, Inc. by instrument recorded July 6, 1967 in Book 154, page 49, Deed Records.

EXHIBIT A

F. Duane Lee, P. E., CWRE, Retired

15665 Trapper Point Road

P. O. Box 1657

Sisters, OR 97759-1657

September 21, 2015

Patrick T. Davenport
Community Development Director
City of Sisters
520 E. Cascade Avenue
Sisters, Oregon 97759

Refer: Ongoing Issues 3 Sisters Partners vs Trapper Point Property Owners

Dear Mr. Davenport:

My wife and I have met with you two times these past couple of weeks to discuss the proposed city Council meeting on October 15 at which time the city Council intends to address the issue of the development agreement that was established on property to our south. In previous actions by the city, the condition established by Deschutes County in 1991 continues to be on the city's records. It is my understanding that the city may attempt to clarify some of its previous actions since 1991 by correcting an apparent oversight. The issues established in 1991 by Deschutes County dealt with concerns of the hearing officer regarding the proposal by the city to annex said property and to rezone the property from exclusive farm use to light industrial. At that time, my wife and I owned the property in the Trapper Point development referred to as Lot 6, Block 2. The address of the property is 15665 Trapper Point Rd.

In action's concerning these matter before the land use Board of Appeals, the Alliance for Responsible Land Use In Deschutes County brought suit in which my wife and I were listed as intervenors. Concerning our property, the hearings officer in this matter suggested including restrictions to the level of development, planning for future traffic improvements, prohibiting heavier industry uses and providing increased setbacks for the northern property line. Based on the evidence in the record the board of commissioners was satisfied. It is our opinion and that of the other adjoining property owners abutting the northern boundary of the proposed development that Mr. Hall has failed to address adequately appropriate buffers, setbacks, and restrictions as to the heights of proposed building improvements. These issues remain unresolved. We believe that it is appropriate for the city Council to continue to set these issues aside and allow further time for the affected property owners and the developer to reach an acceptable conclusion to these matters. Mr. Hall continues to change the plans for this area and continues to submit

options that are unacceptable. Another example is his refusal to provide fencing to address our concerns for additional buffering between our rural residential character and his proposed high to medium density residential character. We have horses, a pond as a part of our pasture irrigation system, electric fences, etc. Are we and the other property owners to bear the expense of over 1320 feet of new fence along our common boundary to the benefit of his development?

The developer is currently under construction with Phase 1 of this proposed new revised project. We understand that the city Council has approved the new project in concept. However, it is not too late to continue to deal with some of the details relating to improvements along our common boundary. The affected property owners include F. Duane and Marian M. Lee, Jeff and Gayle Reynolds, and Linda Sandvall. In recent conversations with the Reynolds and Linda Sandvall, they agree with my wife and I that the issues regarding buffers, setbacks, and height restrictions remain unresolved. The proposed development for Phase 3 and Phase 4 along our southern boundaries will not be constructed anytime soon, probably several years. We suggest that the city instruct its Development Director to work with the affected property owners and the developer over a set period of time to solve these issues once and for all. A reasonable period of time would be six months.

My wife and I are planning and have planned for a two week vacation to Arizona starting September 23. We will return on or about October 7. I would also like to involve my attorney, Mr. Ken Brinich. He will not be available until sometime after October 10. If he must address these issues, it will take a fair amount of time for Mr. Brinich to familiarize himself and offer his advice. During the most recent actions by the city Council on June 25 I was not able to address issues or involve an attorney because of serious unrelated conflicts. I plead with the Council to allow my attorney and I and the other affected property owners sufficient time to address Council concerns before they consider any final action that would jeopardize our input on this revised project.

Respectfully submitted,

F. Duane Lee Marian M. Lee

F. Duane Lee and Marian M. Lee,
Trapper Point Property Owners

Cc:

Ken Brinich, Attorney
Jeff and Gayle Reynolds
Linda Sandvall



**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2015-15**

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

WHEREAS, the applicant, 3 Sisters Partners, LLC, requests approval of a Modification to a previously approved subdivision plat (SUB #15-01) on a 20.02 acre property for a 5 - Phase, 77 single family residential lot subdivision; and,

WHEREAS, this proposed modification assists in providing needed residential dwellings and is not detrimental to the general welfare, health or safety of the City of Sisters; 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 (MOD #15-06) was held by the Sisters Planning Commission on October 15, 2015 at which time findings were reviewed, witnesses were heard, and evidence and written testimony was received.

WHEREAS, the Planning Commission approved (Option #1 or Option #2) as submitted by the applicant;

**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 and Other Attachments.

**NOW THEREFORE, BE IT FURTHER RESOLVED THAT BASED ON THE FINDINGS, THE
PLANNING COMMISSION HEREBY APPROVES THE MODIFICATION (FILE NO. MOD15-
05) SUBJECT TO THE FOLLOWING EXHIBITS:**

1. Application and applicant's request
2. Staff report
3. Tentative plats illustrating Option #1 and #2
4. Original Development Agreement dated April 21, 2001
5. Letter from Duane Lee dated 09/21/15
6. Draft Resolution 2015-15

CITY OF SISTERS
Planning Commission Resolution

(FILE: MOD #15-06; CONSIDERATION BY THE PLANNING COMMISSION, OCTOBER 15, 2015)

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 15TH DAY OF OCTOBER, 2015.

Members of the Commission: Dean, Detweiler, Gentry, Nagel, Seymour, Tewalt, Wright,

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Signed: _____ David Gentry, Chairman



CITY OF SISTERS PLANNING COMMISSION

STAFF REPORT

Exhibit A

File #: Text Amendment #15-03

Applicant: City of Sisters

Request: The proposal includes several Development Code text amendments, including amending the definition of Formula Food Establishments in the Chapter 1.3 (Definitions), amending Chapters 2.2 (Residential District), 2.3 (Multi-Family Residential District), and 2.4 (Downtown Commercial District) to better define garage setbacks and development requirements in a consistent manner, amendments to the development and density standards for multi-family development in Chapter 2.3, and reducing the minimum caliper size for planting of street trees Chapter 3.2 (Landscaping and Screening).

Hearing Date: October 15, 2015, 5:30 pm, Sisters City Council Chambers, 520 E. Cascade Avenue, Sisters, Oregon

Location: Applicable zoning districts

Planner: Darcy Reed

I. Background

The City of Sisters is proposing to amend various sections of the Development Code. After discussing this proposal during two workshops, on August 20, 2015 and September 17, 2015, staff is recommending the following text amendments based on input received by the Commissioners.

The first text amendment involves clarifying the definition of Formula Food Establishments which are permitted in the Downtown Commercial and Highway Commercial zones. Staff has also recognized the need to better clarify the language for garage setbacks in the Residential, Multi-Family Residential, and Downtown Commercial (for residential dwellings fronting Adams Ave) and to eliminate the requirement to provide a fully enclosed garage for residential development. This amendment does not relieve developers from providing residential parking. Instead, it provides an option to build covered/non-covered parking or fully enclosed parking spaces in order to meet the minimum number of on-site parking required for the proposed use.

Staff has participated in discussions on affordable housing in Sisters. As a result of those discussions, staff is recommending to amend the Use and Development Standards sections

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in Chapter 2.3 (Multi-Family Residential) to establish more efficient use of land for multi-family dwelling projects consisting of 5 or more units. Lastly, Staff received input from the Urban Forestry Board during an August 12, 2015 meeting regarding the preferred caliper size of street trees to be planted. The Board recommended that reducing the caliper size from 2-inch minimum to 1 ½-inch minimum would provide numerous benefits.

II. Project Request

The proposal includes a Development Code amendment to the definition of Formula Food Establishments in the Definitions Chapter (Ch. 1.3). The proposal also includes amending Chapters 2.2 (Residential District), 2.3 (Multi-Family Residential District), and 2.4 (Downtown Commercial District) to better define garage setbacks and development requirements in a consistent manner. Additional amendments to Chapter 2.3 include amending the development and density standards for multi-family units. Lastly, the amendment includes reducing the minimum caliper size for planting of street trees as defined in Section 3.2.600.

-----The following are the proposed amendments by Chapter. (Within the highlighted areas, all text additions are underlined and deletions are struck out.) -----

➤ Chapter 1.3 — Definitions

Development Code Section 1.3.300 Meaning of Specific Words and Terms is amended as follows:

Formula Food Establishment - An eating or drinking establishment that: (a) is required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design; or (b) adopts a name, appearance or food presentation format that causes it to be substantially identical to ~~three~~ twenty or more other establishments regardless of ownership or location.

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➤ **Chapter 2.2 Residential District (R)**

Development Code Section 2.2.300 Development Standards is amended as follows:

Section 2.2.300 Development Standards

Table 2.2.2 Development Standards in the Residential District

Development Standard	Residential District	Comments/Other Requirements
Exterior Side Yard Setbacks		
Primary Building/Living Space (Enclosed habitable area)/Accessory Building		10 ft. min
Garage (front-loaded street accessed) <u>when accessed from a street</u>		20 ft. min
Garage (side-loaded street accessed) <u>when accessed from a street</u>		10 ft. min
<u>Garage (front-loaded) when accessed from an alley</u>		<u>10 ft. min.</u>
<u>Garage (side-loaded) when accessed from an alley</u>		<u>3 ft. min.</u>
Rear Yard Setbacks		
Primary Building/Living Space (Enclosed habitable area)/Attached garage (street accessed)		15 ft. min
Accessory Building		5 ft. per story min.
Detached Garage (street accessed)		5 ft. per story min.
Garage setbacks <u>(front-loaded) when accessed from an alley</u>		20 <u>10</u> ft. min.
Side loaded garages <u>Garage (side-loaded) when accessed from an alley</u>		3 ft. min.

A. Garage Requirements. In addition to Table 2.2.2, the following standards shall apply;

- ~~1. Minimum one car garage shall be required per unit for single family detached dwelling, manufactured dwelling on individual lot, zero lot line dwelling, townhome and duplex dwelling~~
2. Garages and carports shall be accessed from alleys where available.
3. Side loaded street accessed garages. The street facing elevation of the garage shall include windows and landscaping shall be provided between the dwelling unit and the driveway and between the street facing elevation of the garage and front property line. The throat of the driveway shall be a maximum of 12 feet in width.

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➤ **Chapter 2.3 Multi-Family Residential District (MFR) Development Standards**

Development Code Sections 2.3.200 Uses and 2.3.300 Development Standards are amended as follows:

2.3.200 Uses

Table 2.3.1 Use Table for the Multi-Family Residential District

Land Use Category	Permitted/Special Provisions/Conditional Use
Residential	
Multifamily dwelling units with a <u>density of greater than 15 gross units per acre up to 20 gross units per acres</u>	<u>CU</u>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit CU = Conditional Use

2.3.300 Development Standards

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	
<u>Fourplex dwelling</u>	<u>10,000 square feet</u>	
Attached dwelling (townhomes)	3,500 square feet	
Multi-family dwelling (4 <u>5</u> or more units)	10,000 <u>12,000</u> square feet for first 4 units, plus 2,000 square feet each additional unit	<u>Structures with 5 or more units shall provide an additional 200 square feet of usable open space per dwelling unit</u>
Child Care Center, Public and Institutional uses and Residential facility	none	
Building Height		
	30' for all residential uses <u>except 5 or more multifamily units</u> ; 35' for all non-residential uses.	<u>Multifamily: 5 or more units 35' within habitable area, 35' to 45' may include non-habitable area</u>

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Continued - Table 2.3.2 Development Standards in the Multi-Family Residential District

Setbacks	
Exterior Side Yard Setbacks	
Primary Building/Living Space (Enclosed habitable area)/Accessory Building	10 ft. min
Garage (front-loaded street accessed) <u>when accessed from a street</u>	20 ft. min
Garage (side-loaded street accessed) <u>when accessed from a street</u>	10 ft. min
Garage (front-loaded) <u>when accessed from an alley</u>	<u>10 ft. min.</u>
Garage (side-loaded) <u>when accessed from an alley</u>	<u>3 ft. min.</u>
Rear Yard Setbacks	
Primary Building/Living Space (Enclosed habitable area)/Attached garage (street accessed)	15 ft. min
Accessory Building	5 ft. per story min.
Detached Garage (street accessed)	5 ft. per story min.
Garage setbacks (<u>front-loaded</u>) when accessed from an alley	20 <u>10</u> ft. min.
Side loaded garages <u>Garage (side-loaded) when accessed from an alley</u>	3 ft. min.
See also garage requirements 2.3.300.E	
Accessory dwelling units shall comply with living space setbacks	

E. Garage Requirements. In addition to Table 2.3.2, the following standards shall apply;

1. ~~Minimum one car garage shall be required per unit for single-family detached dwelling, manufactured dwelling on individual lot, zero lot line dwelling, town home, duplex and triplex dwelling.~~
2. Garages and carports shall be accessed from alleys where available.
3. Side loaded street accessed garages. The street facing elevation of the garage shall include windows and landscaping shall be provided between the dwelling unit and the driveway and between the street facing elevation of the garage and front property line. The throat of the driveway shall be a maximum of 12 feet in width.
4. Garage and Carport Requirements for Multi-Family. Minimum one car garage or carport shall be required for 50 percent of the units provided. Garage and carport design shall use the same architectural features as the multi-family dwelling units. Affordable multi-family dwelling units are exempt from the garage and carport requirements.

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G. Residential Density Standards. The following residential density standards apply to all land divisions in the Multi-Family Residential District and to multi-family housing on individual lots.

1. The density range for the Multi-Family Residential District shall be 9 ~~7~~ units per gross acre minimum and 20 ~~15~~ units per gross acre maximum; more than 15 units per acre up to 20 units per acre allowed via Conditional Use
2. Minimum and maximum residential densities are calculated by multiplying the gross acres by the applicable density standard. For example, if the parcel size is 5 acres, the minimum density is 45 units and the maximum is 100 units. When calculating minimum and maximum densities, figures are rounded down to the closest whole number.
3. Accessory dwelling units are exempt from the minimum density standards.

K. Additional Design Standards for Multi-Family Housing. In addition to the design standards set forth in Section 2.3.300.H above, development of multi-family housing (4 ~~5~~ or more units) shall also comply with the following additional standards.

1. ~~Common Usable~~ open space shall be ~~A minimum of 15 percent of site area, inclusive of required setbacks but~~ exclusive of dedicated street right-of-ways, land dedicated to other public uses like parks and schools, and vehicular circulation and parking areas. Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.

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➤ **Chapter 2.4 Downtown Commercial (DC) District**

Development Code Section 2.4.300 Development Standards is amended as follows:

Table 2.4.2.a Development Standards for Stand-Alone Residential Uses located within the Downtown Commercial District. These standards only apply to lots fronting Adams Avenue and on lots that are located within 114' of Adams Avenue to the south, and 256' to the north of Adams Avenue

Development Standard	Downtown Commercial District	Comments/Other Requirements
Exterior Side Yard Setbacks		
Primary Building/Living Space (Enclosed habitable area)/Accessory Building		10 ft. min
Garage (front-loaded street accessed) <u>when accessed from a street</u>		20 ft. min
Garage (side-loaded street accessed) <u>when accessed from a street</u>		10 ft. min
<u>Garage (front-loaded) when accessed from an alley</u>		<u>10 ft. min.</u>
<u>Garage (side-loaded) when accessed from an alley</u>		<u>3 ft. min.</u>
Rear Yard Setbacks		
Primary Building/Living Space (Enclosed habitable area)/Attached garage (street accessed)		15 ft. min
Accessory Building		5 ft. per story min.
Detached Garage (street accessed)		5 ft. per story min.
Garage setbacks (front-loaded) <u>when accessed from an alley</u>		20 <u>10</u> ft. min.
Side loaded garages <u>Garage (side-loaded) when accessed from an alley</u>		3 ft. min.

1. **Garage Requirements.** In addition to Table 2.4.2.a, the following standards shall apply;

1. ~~Minimum one car garage shall be required per unit for single family detached dwelling, town home, duplex and triplex dwelling.~~
2. Garages and carports shall be accessed from alleys where available.
3. Side loaded street accessed garages. The street facing elevation of the garage shall include windows and landscaping shall be provided between the dwelling unit and the driveway and between the street facing elevation of the garage and front property line. The throat of the driveway shall be a maximum of 12 feet in width.
4. Garage and Carport Requirements for Multi-Family. Minimum one car garage or carport shall be required for 50 percent of the units provided. Garage and carport design shall use the same architectural features as the multi-family dwelling units. Affordable multi-family dwelling units are exempt from the garage and carport requirements.

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➤ **Chapter 3.2 Landscaping and Screening**

Development Code Section 3.2.600 Street Trees is amended as follows:

3.2.600 Street Trees

C. Caliper Size. Planted trees shall have a minimum caliper size of ~~two (2)~~ one and one-half (1½) inches and shall conform to the standards described by the ANSI A300 standards for nursery stock, latest edition.

-----**End of proposed text amendments**-----

III. Conclusionary Findings

Sisters Development Code (SDC) Chapter 4, Table 4.1.200 lists a code amendment as a Type IV decision, regulated by Chapter 4.7 (Land Use District Map and Text Amendments). Section 4.7.200 states that legislative amendments are policy decisions made by the City Council and shall be reviewed using the Type IV procedure found in SDC Section 4.1.600 and shall conform to SDC section 4.7.600 Transportation Planning Rule compliance (if applicable).

Pursuant to the SDC Section 4.1.600, the City may approve, approve with modifications, approve with conditions, deny the proposed change or recommend an alternative to the code text amendment based on the following four criteria and standards.

Section 4.1.600 of the SDC states:

- E. Decision-Making Considerations.** The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
1. Approval of the request is consistent with the Statewide Planning Goals;
 2. Approval of the request is consistent with the Comprehensive Plan; and
 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated levels and densities of use allowed by the District without adversely impacting current levels of service provided to existing users; or applicant's proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

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4. SDC 4.7.600, Transportation Planning Rule (TPR) Compliance

1. Approval of the request is consistent with applicable Statewide Planning Goals.

The Sisters Development Code requires all text amendments to comply with the requirements of the Statewide Planning Goals. Compliance with the relevant goals is as follows.

Goal 1 - Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Response: On August 20, 2015 and September 17, 2015 Planning Commission held a workshop to gather feedback regarding these changes. Two public hearings are required by the Development Code; the first requires a recommendation to City Council by the Planning Commission, the second hearing requires a public hearing on the part of the City Council to decide whether to amend the Development Code. The Text Amendment (TA #15-03) was noticed in the Nugget Newspaper on September 30, 2015, two weeks prior to the October 15, 2015 Planning Commission hearing.

Staff finds the Text Amendment (TA #15-03) complies with Goal 1.

Goal 2 - Land Use Planning. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Response: As previously stated, the proposal includes a Development Code amendment to the definition of Formula Food Establishments in the Chapter 1.3 (Definitions), and to amend Chapters 2.2 (Residential District), 2.3 (Multi-Family Residential District), and 2.4 (Downtown Commercial District) to better define garage setbacks and requirements in a consistent manner. This proposal also includes amending the Use and Development Standards sections in Chapter 2.3 (Multi-Family Residential) to establish more efficient use of land for multi-family dwelling projects consisting of 5 or more units. Lastly, the proposal includes reducing the minimum caliper size for planting of street trees Chapter 3.2 (Landscaping and Screening). This builds upon the planning process and ensures that the Planning Commission and City Council are aware of these Decisions.

Staff finds the Text Amendment (TA #15-03) complies with Goal 2.

Goal 9 – Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Response: Several of the proposed changes provide more flexibility in housing development options, thereby encouraging residents to live in Sisters and contribute to the economy. Changes to the definition of Formula Food Establishment (FFE) will also contribute to a greater variety of regional based FFE's that may look to Sisters as a future base location.

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Staff finds that the proposed Text Amendment complies with Goal 1, 2 and 9 of the Statewide Planning Goals.

2. **Approval of the request is consistent with the Comprehensive Plan.** The City of Sisters Comprehensive Plan is organized in a manner that follows the format of the statewide planning goals. The evaluation for consistency with the Comprehensive Plan text relies on whether the proposal aligns with specific tasks, policies and objectives within the relevant portions of the Plan, which are as follows.

Goal 1: Citizen Involvement

1.4 POLICIES

1. The City of Sisters shall seek out and encourage public participation in all aspects of the City planning process.

Tasks –

- a. Planning Commission and City Council meetings shall be held on a regularly scheduled basis.
- b. Planning Commission and City Council meeting agendas shall be publicized in a manner that makes this information widely available.
- d. The City shall use a variety of methods to achieve citizen involvement.

Response: The Planning Commission held two workshops, one on August 20, 2015 and one on September 17, 2015 to discuss these text amendments. The Text Amendment (TA #15-03) was noticed in the Nugget Newspaper on September 30, 2015, at least two weeks prior to the October 15, 2015 Planning Commission hearing.

Staff finds that the proposed Text Amendment comply with all relevant policies provided within Goal 1 of the Comprehensive Plan.

Goal 2: Land Use Planning

2.4 POLICIES

3. As economic and social conditions change, it may be appropriate for the City to create new zoning designations that will work to assist the City in meeting the goals and policies of the Comprehensive Plan, the requirements of state law, and state land use goals.

Tasks -

- a. The City shall periodically review the Sisters Development Code to determine whether the districts set forth therein are adequate to address the goals, policies and objectives of the Comprehensive Plan and whether economic and social conditions warrant revision of the district codes, or creation of new districts. Any application for a code amendment shall address the policies and facts supporting the proposed code amendments.

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Response: The City of Sisters has developed a unique community character in its commercial districts, and the City desires to maintain this unique character. The proposed amendments continue to protect the community's character, culture and economic vitality by ensuring a diversity of businesses with sufficient opportunities to locate in Sisters and for residential development standards to be better defined.

Staff finds that the proposed Text Amendment complies with all relevant policies provided within Goal 2 of the Comprehensive Plan.

Goal 9: Economic Development

A. 9.4 POLICIES

1. The City shall guide growth in a manner that will result in a balance between economic and environmental interests.

Tasks -

a. The City shall maintain and enhance the appearance and function of the Commercial Districts by providing a safe and aesthetically pleasing pedestrian environment, mixed use development, and requiring adherence to the Sisters Western Frontier Architectural Design for all types of development and signage. The Sisters Western Frontier Architectural Design Theme does not apply to the Sun Ranch Tourist Commercial District. In its place, a more historically accurate 1900s Rural Farm/Ranch House design standard applies. The City shall establish standards for this design theme in the Development Code.

Response: The proposed text amendments include an amendment to the definition of Formula Food Establishments, amending the residential garage setbacks and development standards to be clearer and applied in a consistent manner, amendments to the development and density standards for multi-family development to promote more efficient use of the land, and reducing the minimum caliper size for planting of street trees. The amendments are intended to protect the community's culture and economic vitality by ensuring a diversity of businesses with sufficient opportunities to locate in Sisters and for clearer development standards for residential development and street tree planting.

Staff finds that the proposed Text Amendment complies with all relevant policies provided within Goal 1, 2, and 9 of the Comprehensive Plan.

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant shall update City of Sisters Masters Plans for Water, Sewer, Parks and Transportation Systems subject to City Council approval, to reflect impacts of the rezoning on those facilities and long-range plans. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated

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levels and densities of use allowed by the District without adversely impacting current levels of service provided to existing users; or applicant's proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

Response: The amendments do not negatively affect public facilities, services and transportation networks.

4. **Transportation Planning Rule (TPR) Compliance.**

Legislative changes are reviewed to verify compliance with the TPR, which is found in Oregon Administrative Rules, Division 12, Section 660-012-0060.

SDC Section 4.7.600 Transportation Planning Rule Compliance

A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed by the City to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. Significant means the proposal would:

1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal is projected to cause future traffic to exceed the capacity of "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the Transportation System Plan; or
2. Change the standards implementing a functional classification system; or
3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility;
4. The effect of the proposal would reduce the performance standards of a public utility or facility below the minimum acceptable level identified in the Transportation System Plan.

B. Amendments to the Comprehensive Plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

Response: This change has no significant effect on either the Comprehensive Plan or any of the land use districts. Residential Densities will not be increased if this text

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amendment is approved. Additionally, the functional classifications of the streets will remain as shown on the 2010 Transportation System Plan (TSP).

IV. Public Comments

During the workshops on August 20, 2015 and September 17, 2015, the Planning Commission discussed these amendments to the Development Code, however no public comments were presented. The Text Amendment (TA 15-03) was noticed in the Nugget Newspaper on September 30, 2015, two weeks prior to the October 15, 2015 Planning Commission hearing.

I. Composition of the Record

The following make up the record in this matter, and are contained in file TA #15-03 and are available for review at the City of Sisters City Hall:

1. Staff Report
2. DLCD Notice
3. Draft Resolution 2015-16



NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.:
Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing.** (See [OAR 660-018-0020](#) for a post-acknowledgment plan amendment and [OAR 660-025-0080](#) for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of Sisters**

Local file no.: **TA #15-03**

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (*e.g.*, a post-acknowledgement plan amendment)

Local contact person (name and title): Patrick T. Davenport Community Development Director

Phone: 541-323-5219 E-mail: pdavenport@ci.sisters.or.us

Street address: 520 E. Cascade Ave City: Sisters Zip: 97759-

Briefly summarize the proposal in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

Various revisions to Development Code: Chapter 1.3 Definitions; Chapter 2.2 - Residential District; Chapter 2.3 - Multifamily District; Chapter 2.4 - Downtown Commercial; Chapter 3.2 - Landscaping

Date of first evidentiary hearing: 10/15/2015

Date of final hearing: 11/12/2015

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from _____ to _____
Change from _____ to _____
- New or amended land use regulation
- Zoning map amendment(s) – Change from _____ to _____
Change from _____ to _____
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:
- Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts:

NOTICE OF A PROPOSED CHANGE – SUBMITTAL INSTRUCTIONS

1. Except under certain circumstances,¹ proposed amendments must be submitted to DLCD's Salem office at least 35 days before the first evidentiary hearing on the proposal. The 35 days begins the day of the postmark if mailed, or, if submitted by means other than US Postal Service, on the day DLCD receives the proposal in its Salem office. **DLCD will not confirm receipt of a Notice of a Proposed Change unless requested.**

2. A Notice of a Proposed Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of a Proposed Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of a Proposed Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 1 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line "Notice of Proposed Amendment."

Submittals may also be uploaded to DLCD's FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 1 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of a Proposed Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Text:** Submittal of a Notice of a Proposed Change for a comprehensive plan or land use regulation text amendment must include the text of the amendment and any other information necessary to advise DLCD of the effect of the proposal. "Text" means the specific language proposed to be amended, added to, or deleted from the currently acknowledged plan or land use regulation. A general description of the proposal is not adequate. The notice may be deemed incomplete without this documentation.

7. **Staff report:** Attach any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.

8. **Local hearing notice:** Attach the notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable.

9. **Maps:** Submittal of a proposed map amendment must include a map of the affected area showing existing and proposed plan and zone designations. A paper map must be legible if printed on 8½" x 11" paper. Include text regarding background, justification for the change, and the application if there was one accepted by the local government. A map by itself is not a complete notice.

10. **Goal exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.

¹ 660-018-0022 provides:

(1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change is not required [a notice of adoption is still required, however]; and

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline, the local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.

<http://www.oregon.gov/LCD/Pages/forms.aspx>

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal



**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2015-16**

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

WHEREAS, the City of Sisters, applicant, proposes a Development Code text amendment to the definition of Formula Food Establishments in the Definitions Chapter (Ch. 1.3). The proposal also includes amending Chapters 2.2 (Residential District), 2.3 (Multi-Family Residential District), and 2.4 (Downtown Commercial District) to better define garage setbacks and development requirements in a consistent manner. Additional amendments to Chapter 2.3 include amending the development and density standards for multi-family development. Lastly, the amendment includes reducing the minimum caliper size for planting of street trees as defined in Section 3.2.600.

WHEREAS, in accordance to the provisions found in the Sisters Development Code Chapter 4.1, text amendments are processed as a Type IV application; and,

WHEREAS, the findings presented within City file number TA 15-03 have determined that the changes proposed to the Development Code will not adversely impact the City's sewer, water and/or road infrastructure; and,

WHEREAS, staff has made findings that this request is consistent with the applicable Statewide Planning Goals, the City's adopted Comprehensive Plan, Transportation System Plan, and the City's adopted Development Code; and,

WHEREAS, the Department of Land Conservation and Development (DLCD) received the Notice of Proposed Amendment on September 11, 2015 at least 35 days prior to the first evidentiary hearing; and,

WHEREAS, after due notice was published in the Nugget newspaper on September 30, 2015, a public hearing on the proposed text amendment was held before the Sisters Planning Commission on October 15, 2015, at which time findings were reviewed, witnesses were heard and evidence was received; and,

WHEREAS, adopting the changes proposed to the Development Code are in the best interest of the City of Sisters.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF SISTERS PLANNING COMMISSION HEREBY FINDS AND RECOMMENDS THAT THE CITY COUNCIL ADOPT THE COMPREHENSIVE PLAN AMENDMENT, FILE NO. TA 15-03 SUBJECT TO THE FOLLOWING EXHIBIT:

Exhibit A – Staff Report with attachments as noted and proposed Development Code text

CITY OF SISTERS
Planning Commission Resolution

(CONSIDERED BY THE PLANNING COMMISSION OCTOBER 15, 2015)

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 15th DAY OF OCTOBER, 2015.

Members of the Commission: Dean, Detweiler, Gentry, Nagel, Seymour, Tewalt, Wright

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Signed: David Gentry, Chairman