

**Burden of Proof Statement**  
*Response To Incomplete Letter*  
PLLD20220311

**Applicant/  
Owner:** 325 NW Arizona Ave LLC  
Greg Broderick  
180 NW Skyliner Summit  
Bend, OR 97703

**Planner:** Blackmore Planning and Development Services, LLC  
Greg Blackmore  
19454 Sunshine Way  
Bend, OR 97702

Dear Ms. LaFleur and Ms. Clough,

Please accept this letter and the documents that have been added to the file as the Applicant's response to the Incomplete Letter that was mailed on May 20, 2022. Below is a response to each of the items identified as incomplete.

**1. *Traffic Analysis Memo - issued by the City of Bend - The TAM you have submitted is for a substantially different development proposal than what is currently applied for--5-lot subdivision and phased Site Plan Review for 3 mixed-use buildings.***

***Please apply for your Traffic Analysis Memo through the Engineering applications on the Online Permit Center Portal prior to submittal of this land use application. This memo is required to be uploaded as part of your land use application.***

**2. *Transportation Facilities Report (TFR) - The site has been redesigned. A subdivision is significantly different than the two lot partition site plan previously submitted. An amended TFR is required. Include information on new access points and any proposed shared access and shared parking. Please apply for your Traffic Analysis Memo through the Engineering applications on the Online Permit Center Portal prior to submittal of this land use application. This memo is required to be uploaded as part of your land use application. A Transportation Facilities Report (TFR) is required in accordance with Bend Development Code 4.7.400. Please apply for your Transportation Review through the Engineering CityView portal prior to submittal of this land use application. Upon completion of the Transportation Review, you will receive a Traffic Analysis Memo. This memo is required to be uploaded as part of your land use application.***

**Applicant Response:** An updated TAM has been added to the record. Regarding the TAM, the following comments are provided:

**Mitigation 1: A dedication of 80 feet is required for the extension of Sisemore Street. The extension will continue south of NW Arizona Avenue through the proposed development.**

**Response:** The City has informed the applicant (along with Killian Pacific), that 72 of right-of-way is acceptable along NW Sisemore and a waiver to public improvements has been submitted for this item (PLMISC20220462).

**Mitigation 2: Right of way dedication on NW Arizona Avenue will be required along the property frontage where the full 60 feet of right of way does not exist. This is primarily along the newly created eastern parcel. Where the proposed parking stalls and sidewalks do not fit within the existing right of way, additional right of way dedication shall be provided. The dedication is required prior to issuance of building permits.**

**Response:** The applicant understands that if warranted, additional right-of-way may need to be dedicated in association with the subdivision.

**Mitigation 3: Construction of Sisemore Street to the City of Bend collector standard is required. The street section must include asphalt bound by curbs, sidewalk on both sides, and all pertinent drainage, signage, and striping.**

**Response:** The City has informed the applicant along with Killian Pacific, that the proposed street design is acceptable along NW Sisemore and a waiver to public improvements has been submitted for this item (PLMISC20220462).

**Mitigation 4: A Waiver to Public Improvements Standards is required for the reduced right of way and special setbacks on NW Arizona Avenue from 80 feet to the existing 60 feet.**

**Response:** A waiver to public improvements has been submitted for this item (PLMISC20220462).

**Mitigation 5: A Waiver to Public Improvements Standards is required for the reduction in pavement width from the Development Code required 56-foot wide pavement width to a 46-foot pavement width on Sisemore Street.**

**Response:** A waiver to public improvements has been submitted for this item (PLMISC20220462).

**Mitigation 6: Frontage Improvements required to be constructed on NW Arizona Avenue will include a ten-foot sidewalk with tree wells, bulb-outs and curb realignment for parking bays, and possible relocation of drainage facilities.**

**Response:** It is understood that the Code section from which this mitigation originates is BDC 3.4.200.L.2, which states, "In areas with high pedestrian volumes, the City Engineer may approve a minimum 10-foot-wide sidewalk, curb tight, with street trees in tree wells and/or landscape planters." This provision establishes that the City engineer "may approve" a particular standard. This standard is permissive, but does not establish a requirement. That applicant is proposing to exceed the required minimum and while the 10 allowance is not met, the proposed width approaches the standard.

With the Subdivision and the associated Site Plan, the applicant is proposing a sidewalk system that will utilize available right-of-way and enhance the area with on-site walkway elements for public use, creating a safe and user-friendly walkway along NW Arizona Avenue. The width of the combined public and private elements will be at least 8' as noted in Exhibits. The general area is expected to have high pedestrian volumes in the future and as proposed pedestrian areas are separated from travel lanes by on-street parking and/or landscape areas. Furthermore, tree wells are planned.

Given the mixed needs or vibrancy, parking, and pedestrian access, the proposed design strikes a reasonable balance and conforms to all Code standards.

**Mitigation 7: Parking on NW Arizona Avenue must comply with the Development Code 3.3.500. No more than 4 vehicles can be parked in a row without a bulb constructed. Parking must not be within clear vision area of intersections or driveways and not within the sight distance agrees as determined by AASHTO. The curb extensions will be installed where clear vision and sight distances are identified as being compromised by the on-street parking to prevent parking.**

**Response:** A waiver to public improvements has been submitted for this item (PLMISC20220462).

**Mitigation 8: ADA ramps that are compliant with the City of Bend and PROWAG standards will be constructed on the corners of NW Arizona Avenue and Sisemore Street. Where the ramps to the north of Arizona Avenue do not align with the new ramp along the frontage, the northern ramps must be removed and replaced to conform to City standards. A marked crosswalk on the west side of Sisemore Street crossing NW Arizona Avenue will be installed. A luminaire will be installed to illuminate the pedestrian painted cross walk.**

**Mitigation 9: Two access points will be allowed onto NW Arizona Avenue. One access point on the western parcel will align with the entrance to Market of Choice. A second access point will be permitted on the eastern parcel. Both accesses are required to be constructed to City of Bend driveway apron standards and comply with PROWAG standards.**

**Mitigation 10: The new subdivision will provide one shared access point to lot C for the benefit of lots A, B, and D. Lots A, B and D will not have direct access points to NW Arizona Avenue. A shared access isle, 20-feet wide, extended from the east property line to the west property line of lot C without a spite strip will be required. The shared access, isle and no access to NW Arizona Avenue from lots A, B and D will be recorded on the subdivision plat.**

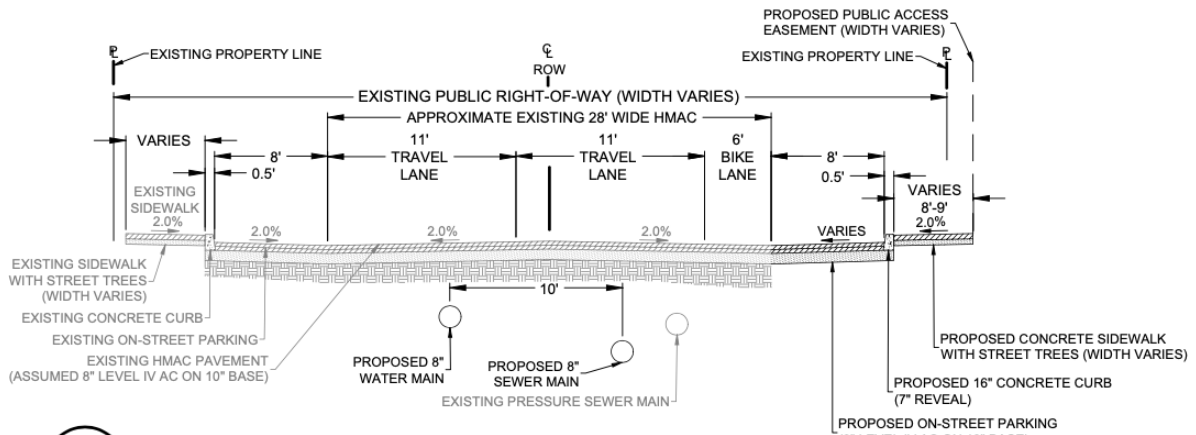
**Response:** It is expected that items 8, 9 and 10 will become a conditions of approval.

**3. *Tentative Plan - Looks like sidewalk will be partially on private property. Additional dedication or public access easement to accommodate sidewalk will be required. BDC 3.4.200.F. Table B 6' sidewalks and 5' planter strips. But width of entire sidewalk looks to be 6' with street trees in grates and no planter strips. City Engineer may require 10' sidewalks BDC 3.4.200.L.3. Need updated TFR and TAM to determine if Tentative Plan is showing accurate information.***

***Describe/indicate treatment of west frontage of proposed Lot A.***

***Show proposed lots with sizes and dimensions, phase lines if applicable, rights of way, easements, utility and street infrastructure. See BDC 4.3.300.B.3 - <https://www.codepublis hing.co m/OR/Bend/html/BendDC04/BendDC0403.html#4.3>***

**Applicant Response:** The plans and submittal items clearly indicate that the sidewalk will 8-9 feet in width and partially located on private property, within a public access easement (see cross section on sheet C0.1).



Regarding the suggestion that 10 foot wide sidewalks, the design provides 8-9 foot wide sidewalks along NW Arizona Avenue and 10 foot wide sidewalks along NW Sisemore Street. The proposed widths are reasonable, given the location and pedestrian usage in the area.

**4. Public Meeting Documents - Provide copies of the notice that was mailed for the public meeting, the mailing list for the meeting, and the Priority Mail Delivery Confirmation for the notice sent to the designated Neighborhood Association representative(s). Per BDC 4.1.215.C. Applications must be submitted to the City within 180 days of the public meeting. If an application is not submitted in this time frame, the applicant will be required to hold a new public meeting.**

**Public meeting was held 9/30/201. The 180st day from the meeting date was 3/29/2022. New public meeting is required.**

**5. Verification of Compliance Public Meeting Form - Per BDC 4.1.215.C. Applications must be submitted to the City within 180 days of the public meeting. If an application is not submitted in this time frame, the applicant will be required to hold a new public meeting.**

**Public meeting was held 9/30/201. The 180st day from the meeting date was 3/29/2022. New public meeting is required.**

**Applicant Response:** A new public meeting was held on Wednesday, June 22, 2022. Documentation of the meeting and the Verification Form are included in the record.

**6. Water and Sewer Analysis - A Water and Sewer Analysis Memo is required. Please apply for your Water and Sewer Analysis through the Engineering CityView portal prior to submittal of this land use application. Upon completion of the Water and Sewer Analysis, you will receive a Utility Availability Memo. This memo is required to be uploaded as part of your land use application.**

**Applicant Response:** An updated Water and Sewer Analysis Memo has been added to the record.

**7. *Narrative - Letter or narrative report documenting compliance with the applicable approval criteria***

**Applicant Response:** A narrative addressing all applicable criteria is included in the record.

**8. *Title Report - Provide a Title Report or a Subdivision Guarantee prepared within the previous ninety (90) days. Uploaded report is dated Sept 2021.***

**Applicant Response:** An updated title report has been added to the record.

**9. *Authorization signed by the Property Owner - Provide documentation that Greg and Amy Broderick have authority to represent 325 NW Arizona Ave. Steele and Associates is listed as applicant on form. Greg Blackmore is listed as the applicant/primary contact in CV. Please revise authorization form to reflect Greg Blackmore (or request applicant name change in CityView).***

**Applicant Response:** An updated Authorization Form and Oregon Secretary of State Articles of Organization have been added to the file.

**10. *Preliminary grading plan - Provide a preliminary grading and drainage plan prepared by a registered professional engineer or registered landscape architect showing the location and extent of proposed grading, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Show all significant vegetation in accordance with BDC 3.2.200 and indicate which trees are to be removed - <https://www.codepublishing.com/OR/Bend/html/BendDC03/BendDC0302.html#3.2>***

**11. *Preliminary drainage plan - Provide a plan prepared by a registered professional engineer or registered landscape architect showing all drainage retention areas, catch basins, and storm piping.***

**Applicant Response:** A Grading and Drainage Plan for the subdivision has been added to the record.

**12. *Deed Restrictions / Easements - Provide copies of existing or proposed deed restrictions and/or easements including access restrictions or protective covenants if such are proposed to be utilized, applicable to the subdivision, partition or replat.***

**Applicant Response:** The subdivision does not result in the need for any deed restrictions and/or easements. The subsequent Site Plan does necessitate an access and shared parking agreement, as such any restrictions and/or easements could/would be applied to that decision.

**13. *Homeowner's Association Agreements and/or CC&Rs - Provide a copy of any existing or proposed homeowner's association agreements and/or Covenants Conditions & Restrictions (CC&Rs).***

**Applicant Response:** The current land division does not include an HOA or CC&Rs. It is anticipated that the buildings may be made into condominiums at some point in the future. In the event that occurs, HOA and/or CC&Rs documents would be established, reviewed, approved and/or recorded with that process; a Condominium Plat process.

As documented herein, the applicant has provided the missing information and requests that the application be deemed complete for processing and review in accordance with BDC Chapter 4.1.412.

Should you have any questions, comments, or concerns, please do not hesitate to give me a call or send me an email.

Sincerely,

Greg Blackmore, Land Use Planning Consultant  
Blackmore Planning and Development Services, LLC