

**CITY OF BEND PLANNING DIVISION  
TYPE II ADMINISTRATIVE REVIEW AND DECISION**



COMMUNITY  
DEVELOPMENT

**PROJECT NUMBERS:** PLPLAM20220320, 0321, 0322, 0323, 0324

**DATE MAILED:** October 28, 2022  
Day 51 in the 120-day review period

**APPLICANT/  
OWNER:** Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

**SURVEYOR:** AKS Engineering & Forestry, LLC  
2777 NW Lolo Drive, Suite 150  
Bend, OR 97703

**LOCATION:** Tax Lots 800 & 801 on County Assessor's Map 18-12-07,  
Tax Lots 800 & 801 on County Assessor's Map 18-12-08B.

**REQUEST:** Five property line adjustment applications, as follows -

Tax Lot (Deschutes County Assessor's Map)	Existing Area (acres)	PLA #1 Adjusted Area (acres)	PLA # 2 Adjusted Area (acres)	PLA #3 Adjusted Area (acres)	PLA #4 Adjusted Area (acres)	PLA #5 Adjusted Area (acres)	Final Configuration Adjusted Area (acres)
800 (181207)	±100.95	±97.32	±55.44	N/A	±26.08	N/A	±26.08
801 (181207)	±32.60	±36.23	N/A	N/A	N/A	N/A	±36.23
800 (181208B)	±3.05	N/A	N/A	±20.30	±49.66	±37.52	±37.52
801 (181208B)	±5.69	N/A	±47.57	±30.32	N/A	±42.46	±42.46
<b>Totals</b>	<b>±142.29</b>	<b>±142.29</b>	<b>±142.29</b>	<b>±142.29</b>	<b>±142.29</b>	<b>±142.29</b>	<b>±142.29</b>

**STAFF REVIEWER:** Aaron Henson, AICP, Senior Planner  
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**I. APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:**

City of Bend Development Code

**Criteria**

Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments

**Standards**





Chapter 2.1, Residential Districts  
Chapter 3.0, Development Standards Administration  
Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation

**Procedures**

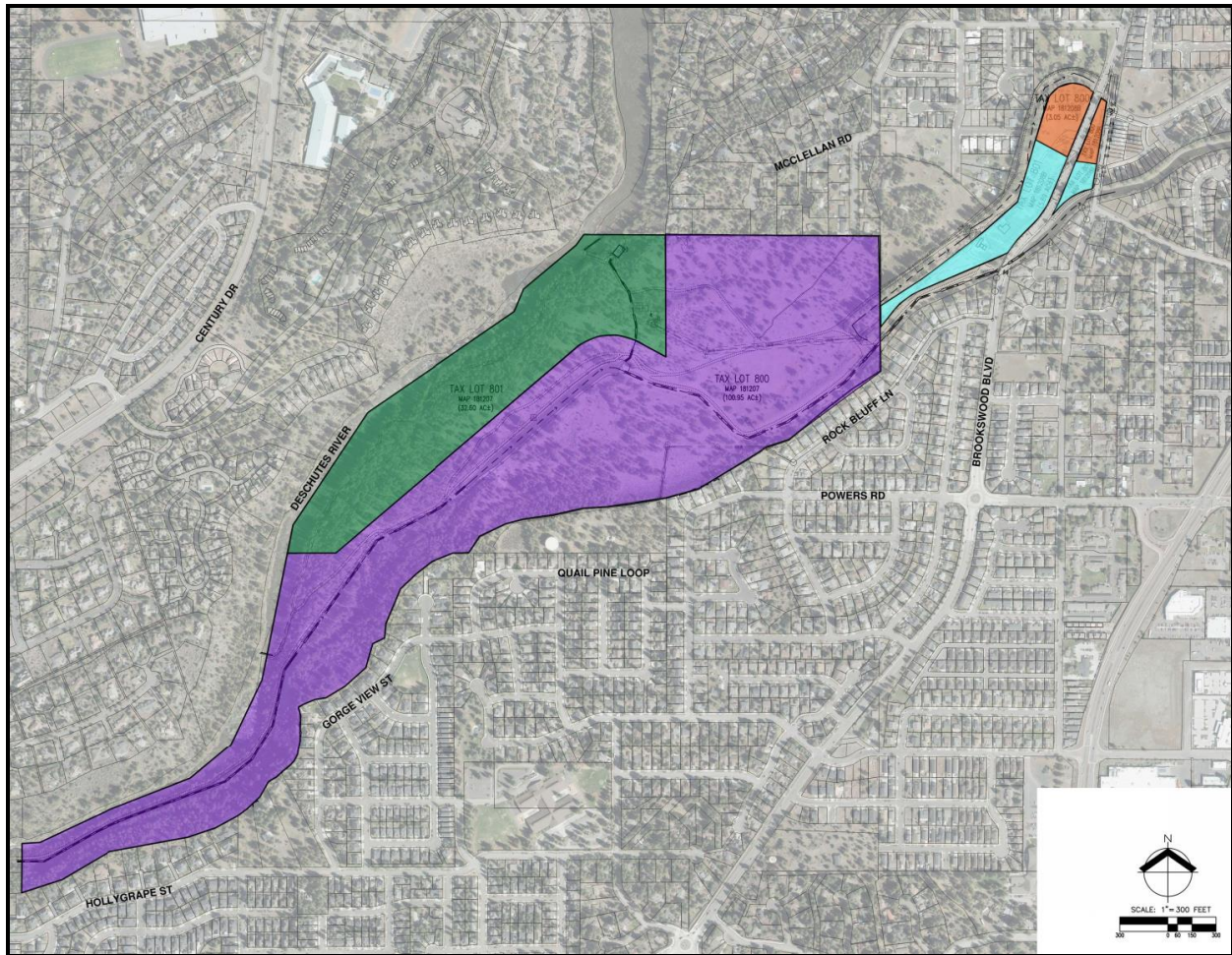
Chapter 4.1, Development Review and Procedures

## II. FINDINGS OF FACT:

- LOCATION:** The four properties included in this application, Tax Lots 800 and 801 on County Assessor's Map 18-12-07 and Tax Lots 800 and 801 on Map 18-12-08B, are located east of the Deschutes River and west of Brookwood Boulevard. These comprise a total area of ±142.29 acres and are owned and operated by COID. The subject properties are zoned Standard Density Residential (RS), except for a small portion of Tax Lots 800 and 801 (Map 181208B), which are zoned Medium Density Residential (RM). The properties are primarily undeveloped other than the existing Central Oregon Siphon Power Project, which includes a pumphouse, substation, and canal facilities. Tax Lot 801 (Map 181208B) includes an existing dwelling and outbuildings.
- LOT OF RECORD:** Based on the submitted Legal Lot of Record Summary, the subject property consists of four legal lots of record. Because there are two tax lots identified as 800 and two as 801, they are color-coded for additional clarity.

Map Legend	Assessor's Map	Tax Lot	Size (AC)	Date Created in Current Configuration	Legal Lot
	181207	800	±96.60	January 2, 1990	Yes
Deschutes County approved an application for a Minor Land Partition (MP-89-21) on June 23, 1989. Final approval was issued on January 2, 1990 and the partition plat was filed with the County Surveyor on January 10, 1990. The subject property is Parcel 1 of CS03775. The subject property is a legal lot of record because it was created via partition demonstrating conformance with all applicable partition requirements in effect when it was created.					
	181207	801	±33.60	November 15, 1972	Yes
This property was divided from Tax Lot 800 of Map 181207 via B&S Deed Vol 189, Pg.319, recorded on November 15, 1972. The parcel was located outside Bend City Limits when it was created in its current configuration and conveyed to separate ownership. Because the parent property was divided by deed into three lots or less prior to Deschutes County Partition Ordinance PL-7 (adopted January 5, 1977) it is a legal lot of record.					
	181208B	801	±6.0	January 26, 1970	Yes
This parcel was originally apart of Tax Lot 800 of Map 181208B. 6 acres were conveyed via Deed (Vol 168, Pg. 394) on January 26, 1970. The parcel was located outside Bend City Limits when it was created in its current configuration and conveyed to separate ownership. Because the parent property was divided by deed into three lots or less prior to Deschutes County Partition Ordinance PL-7 (adopted January 5, 1977) it is a legal lot of record.					
	181208B	800	±3.30	January 26, 1970	Yes
Original parcel was 10.80 acres. 1.50 acres for roadway deeded off and TL 801 of Map 181208B was deeded off via Deed Vol 168, Pg. 394 on January 26, 1970. The remaining parcel is 3.30 acres. The parcel was located outside Bend City Limits when it was created in its current configuration and conveyed to separate ownership. Because the parent property was divided by deed into three lots or less prior to Deschutes County Partition Ordinance PL-7 (adopted January 5, 1977) it is a legal lot of record.					





3. **ZONING & COMPREHENSIVE PLAN DESIGNATIONS:** The subject properties are zoned and designated Standard Density Residential (RS), except for a small portion of Tax Lots 800 and 801 located on Tax Map 18-12-08B, which are zoned and designated Medium Density Residential (RM).
4. **PROPOSAL:** Central Oregon Irrigation District (COID) proposes a series of five sequential property line adjustments (PLAs). The PLAs meet the definition of “property line adjustment” in local and state law. Oregon law allows concurrent review and approval of the five PLAs. The planned PLAs will neither increase nor decrease the number of existing units of land, and do not include any new development or change of use on the subject properties. The five PLAs are not included in the local and state law definitions of “development” and therefore are not land use or limited land use decisions subject to public notice and the opportunity to comment by the public. A subsequent development application for the property will provide all required public notice and public opportunity to comment on the development application. The PLAs are necessary to accommodate the current layout of the Central Oregon Siphon Power Project located on the properties. The Central Oregon Siphon Power Project includes a pumphouse, substation, and canal facilities. The purpose of the reconfiguration is to locate the Central Oregon Siphon Power Project facilities in a single unit of land in order to help the project continue to meet the permitting requirements of the Federal Energy Regulatory Commission (FERC). Neither a pre-application meeting nor a public meeting is required prior to submittal of the applications.

Each property line adjustment is described below:

- Tentative Property Line Adjustment #1:

The first property line adjustment is between Tax Lots 800 and 801 of Deschutes County Assessor's Map 181207. The pumphouse of the Central Oregon Siphon Power Project is located in the northeast corner of Tax Lot 801. As illustrated on the tentative plans, the first PLA results in the pumphouse being located on Tax Lot 800 of Map 181207.

- Tentative Property Line Adjustment #2:

The second property line adjustment is between Tax Lot 800 on Map 181207 and Tax Lot 801 on Map 181208B. As shown on the tentative plans, the existing property boundary line located between these two tax lots lies at the east end of Tax Lot 800 on Map 181207. The adjustment will move the boundary line to extend Tax Lot 801 on Map 181208B to the west. The PLA therefore increases the size of Tax Lot 801 on Map 181208B, resulting in property extents that will include the Central Oregon Siphon Power Project and associated buildings.

- Tentative Property Line Adjustment #3:

This adjustment will modify Tax Lot 800 on Map 181208B to include the canal that spans through Tax Lot 801 on Map 181208B, following the adjustment made in Tentative Property Line Adjustment #2. This PLA will help to further consolidate the Central Oregon Siphon Power Project onto one Tax Lot.

- Tentative Property Line Adjustment #4:

The planned adjustment is between the previously adjusted Tax Lot 800 on Map 181208B and Tax Lot 800 on Map 181207. This PLA will extend the property line of Tax Lot 800 (Map 181208B) down the southwest portion of the properties to encompass the existing canal.

- Tentative Property Line Adjustment #5:

The final PLA will adjust property boundaries between Tax Lots 800 and 801 on Map 181208B. The last adjustment will extend Tax Lot 801 (Map 181208B) up to the northeast corner of the subject lots.

**5. APPLICATION ACCEPTANCE DATE:** Applications for the five proposed property line adjustments were received by the City of Bend Planning Division on April 29, 2022 and deemed complete on May 23, 2022. On August 9, 2022, the applicant extended the 120-day review period for 7 days. On August 17, 2022, the applicant extended the review period for an additional 7 days. On August 22, 2022, the Director of the Community and Economic Development elevated the property line adjustment applications to a Type II review, as authorized by BDC 4.1.310.B. "when there is a need to interpret or exercise policy or legal judgment, or to apply discretionary land use standards." The applicant also agreed to extend the 120-day review period until December 31, 2022.

On September 7, 2022, the applicant submitted a new Legal Lot of Record Summary into the record and agreed to extend the review period an additional 120 days to January 5, 2023, although the submittal of this new evidence into the record by the applicant restarted the 120-day review period.

- 6. PUBLIC NOTICE AND COMMENTS:** On September 14, 2022, the Bend Planning Division mailed a notice of the applicant’s proposed property line adjustments to all property owners of record and to the addresses based on the City’s current addressing record, for properties within 250 feet of the subject site, as well as the designated representatives of the Southern Crossing, Southwest Bend, and Century West Neighborhood Associations as required by BDC 4.1.420. On September 19, 2022, the applicant also posted “Notice of Proposed Development” signs along the two road frontages of the site as required by BDC 4.1.425. In response, the City received dozens of public comment emails in opposition to the proposed property line adjustments.

**Staff’s Responses to Public Comments that address the applicable approval criteria for property line adjustments are found throughout this review.**

### **III. APPLICATION OF THE CRITERIA:**

#### **Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments**

##### **4.3.600 Property Line Adjustments**

###### **A. Applicability**

- 1. The relocation or elimination of a common property line between abutting properties may be granted in accordance with the provisions of this section. The Property Line Adjustment provisions of this section shall not apply to:**
  - a. A property line adjustment that affects more than two abutting units of land.**
  - b. A property line adjustment that adjusts a property which was approved and/or created as open space, common area, private park, private road, or other unit of land specifically required and/or designated by a previous land use approval.**

**FINDING:** The applicant is proposing five property line adjustments, each of which adjusts one property line affecting two abutting units of land, which were not created as an open space, common area, private park, private road, or other specifically required and/or designated unit of land. Therefore, the provisions of this section may be applied.

###### **C. Criteria for Tentative Approval.**

- 1. No application for property line adjustment shall be approved unless the following criteria are met:**
  - a. The adjustment does not result in property sizes that are less than those established by the underlying zoning designation.**

**FINDING:** The four subject properties are zoned Standard Density Residential (RS), except for small portions of Tax Lots 800 and 801 on Map 181208B located on the east side of Brookwood Boulevard that are zoned Medium Density Residential (RM). The properties contain irrigation facilities and the Central Oregon Siphon Power Project. The RS and RM zoning districts do not have minimum lot sizes for irrigation or hydroelectric power facilities. However, each property line adjustment does not result in property sizes less than the largest lot sizes listed in BDC Table 2.1.500 for the RS and RM zones. Therefore, the application satisfies the above requirements.

### ***Chapter 3.0, Development Standards Administration***

#### ***3.0.100 Applicability***

***All developments within the City must comply with the provisions of this code. Some developments, such as major projects requiring land division and/or site design review approval, may require detailed findings demonstrating compliance with each chapter of the code. For smaller, less complex projects, fewer code provisions may apply. Though some projects will not require land use or development permit approval, they are still required to comply with the provisions of this chapter.***

### ***Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation***

#### ***3.1.200 Lot, Parcel and Block Design***

***A. Purpose. The purpose of this section is to create orderly development as the City grows and redevelops. The size, width, topography and orientation of lots or parcels shall be appropriate for the location of the land division and for the type of development and use contemplated.***

***B. Applicability. New development shall be consistent with the provisions of this chapter and other applicable sections of this code.***

#### ***C. General Requirements for Lots and Parcels***

- 1. Depth and width of new lots or parcels shall meet the minimum standards specified for the zoning district. Where no minimum standards are specified, the depth and width shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.***
- 2. On steep slopes, increased lot or parcel sizes may be required to avoid excessive cuts, fills and steep driveways.***
- 3. On tracts containing watercourses or rock outcroppings, increased lot or parcel sizes may be required to allow adequate room for development and protection of the topographic or natural feature.***
- 4. Each lot or parcel must abut upon a street other than an alley for the minimum width required for lots or parcels in the zone, except:***

- a. For lots or parcels fronting on the bulb of a cul-de-sac, the minimum frontage is 30 feet, except for townhomes;**
- b. For approved flag lots or parcels, the minimum frontage is 15 feet;**
- c. For townhomes and lots or parcels in zero lot line developments, the minimum frontage is 20 feet; and**
- d. In zones where a minimum frontage width is not specified, the minimum frontage is 50 feet.**

**FINDING:** The RS & RM zones specify a minimum property width at the front property line (also known as frontage) of 20 to 40 feet for each property, based on the intended use, and a minimum property depth of 50 feet. Based on the submitted maps, after the proposed property line adjustments are complete, the width and depth of each property will exceed the relevant standards, except that Tax Lots 800 & 801 on Map 181207 and Tax Lot 800 on Map 181208B will have no frontage. (Tax Lot 801 on Map 181208B will meet the minimum lot width / frontage on Brookwood Boulevard and Milo Avenue.) The applicant will record a restrictive covenant that requires a Master Plan under BDC Chapter 4.5 be approved prior to future development of this property. The Master Plan must show public streets to serve all areas within the Master Plan with adequate access, which will include frontage for all lots. This ensures that the frontage standard will be met.

**Condition of Approval:** With the recording of the new deeds, the applicant must record a restrictive covenant on all four adjusted properties, acceptable to the Director, that requires a Master Plan under BDC Chapter 4.5 for the whole area (all four properties) prior to any development. The covenant must run with the land and be perpetual unless released by the City. The applicant shall apply for the restrictive covenant through the Online Permit Center under the “Engineering & Agreements” Portal.

#### **4.3.600(C) Criteria for Tentative Approval (*continued*)**

- b. Nonconforming properties that are less than the minimum size established for the zone shall not be further reduced in size.**

**FINDING:** The RS and RM zoning districts do not have a minimum lot size for irrigation or hydropower facilities. However, each property in its original configuration is larger than the largest lot sizes listed in BDC Table 2.1.500 for the RS and RM zones, and each will remain larger than the largest lot sizes listed in BDC Table 2.1.500 for the RS and RM zone with each PLA in the sequence. COID owns the subject property and is trying to reconfigure the existing lots, not develop them, and none of the relevant approval criteria for a property line adjustment require an action to remedy existing lawful lots that do not meet today’s development standards. That, however, will be required in the future when development is proposed, and depending on the particular land use application submitted, the public will be able to fully participate in a Type II or Type III review procedure.

- c. Existing structures shall not be made nonconforming with regard to setbacks, lot coverage or other requirements of the underlying zone, or this code.**

**FINDING:** The submitted Tentative Property Line Adjustment Plans show the existing structures on Tax Lot 800 (Map 181207) and Tax Lot 801 (Map 181208B) meet the applicable minimum setbacks outlined for both the RS and RM zoning districts. Therefore, these structures will not be made nonconforming by the planned PLAs. The applications satisfy the requirement.

- d. Existing water and sewer service lines to the adjusted lots or parcels shall be in conformance with current City standards or shall be constructed to conform with current City standards.**

**FINDING:** The subject properties are not currently serviced with City sewer, though the existing septic system on Tax Lot 801 (Map 181208B) has an approved permit and meets applicable standards. Water is provided by Avion Water Co. Any future water or sewer service lines to these properties will meet City standards. This requirement will be met.

- e. The applicant has submitted documentation from the Deschutes County Environmental Health Division that any existing sanitary septic systems on the adjusted properties meet all requirements of the County Environmental Health Division.**

**FINDING:** The existing dwelling on Tax Lot 801 (Map 181208B) is served by a septic system. The applicant submitted a copy of the approved septic permit, showing compliance with all applicable requirements. Therefore, this approval criterion is satisfied.

#### **D. Requirements for Final Approval.**

- 1. In order to obtain final approval of a property line adjustment, the following requirements shall be completed within one year of the tentative approval:**
  - a. New deeds or other instrument conveying ownership containing the legal descriptions for the adjusted properties shall be recorded with the County Clerk, if applicable.**
  - b. A survey drawing containing the stamp and signature of a licensed surveyor shall be recorded with the County Surveyor.**
  - c. Verification of acceptance of water and sewer line construction to the adjusted properties by the City Engineering Division, if applicable.**

**FINDING:** In order to obtain final approval of these property line adjustments, the property owner must record new deeds with the Deschutes County Clerk's Office containing the new legal descriptions for the adjusted properties and a Covenant that requires all four properties be master planned together. The property owner must also record a survey of the adjusted properties with the County Surveyor's Office. The survey drawing shall contain the stamp and signature of a licensed land surveyor.



#### IV. DECISION:

Based on the submitted maps and supporting materials, all five Property Line Adjustment applications (PLPLAM20220320, 0321, 0322, 0323 & 0324) are tentatively approved, subject to the following requirements for final approval:

1. The property owner shall record new deeds with the Deschutes County Clerk's Office containing the new legal descriptions for the adjusted properties.
2. The property owner shall record a survey of the adjusted properties with the Deschutes County Surveyor's Office. The survey drawing shall contain the stamp and signature of a licensed land surveyor.
3. With the recording of the new deeds, the applicant must record a restrictive covenant on all four adjusted properties, acceptable to the Director, that requires a Master Plan under BDC Chapter 4.5 for the whole area (all four properties) prior to any development. The covenant must run with the land and be perpetual unless released by the City. The applicant shall apply for the restrictive covenant through the Online Permit Center under the "Engineering & Agreements" Portal.

#### V. DURATION OF APPROVAL:

In accordance with Section 4.3.600(D) of the City of Bend Development Code, if the above requirements for final approval are not completed within 1 year of the date of this decision, this tentative property line adjustment approval shall be void.

**THIS DECISION BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE MAILED, UNLESS APPEALED BY A PARTY OF INTEREST.**

Written by: Aaron Henson  
Aaron Henson, AICP, Senior Planner

Reviewed by: Colin Stephens  
Colin Stephens, AICP,  
Community and Economic Development Director