



## Type II Final Plat Staff Report (FP 24-01)

June 6, 2024

**To:** City of Banks  
**From:** Keegan Gulick, Contract City Planner  
**Through:** Jolynn Becker, City Manager  
**Re:** Request for a Type II Final Plat Review  
**Applicant:** Frank Scott and Jennifer Bailey  
**Location:** Tax Lot 2N331BC05800  
**Address:** 13067 NW Main Street, Banks, OR 97106  
**Zoning:** Medium Density Residential – Low (MDR-L)  
**File #:** FP 24-01

**Exhibits:**

- Land Use Application (Exhibit A)
- Applicant’s Narrative (Exhibit B)
- Email Communication (Exhibit C)
- Final Plat Plan (Exhibit D)
- ODOT Letter (Exhibit E)
- Pre-Screening Site Assessment (Exhibit F)

**Applicable Banks Zoning & Land Division Standards:**

- Section 151.288 Minor Modifications
- Section 152.009 Final Plat Submission Requirements and Approval Criteria
- Section 152.010 Filing and Recording

**Agency Comments:**

- See Preliminary Plat staff report for relevant agency comments.

**Summary Recommendation**

Based on the findings of fact, Staff recommends approval of the Type II Final Plat review subject to the conditions of approval to assure compliance with City standards.

**Report Sections:**

- I. Background
- II. Zoning Code Standards
- III. Land Division Standards
- IV. Recommendation

**Final Plat Background**

The applicant received preliminary plat approval from the Banks Planning Commission on September 23, 2023. Per the standards of Chapter 152 Land Division, an application for a partition is required to receive preliminary plat approval pursuant to a type III procedure. Once the preliminary plat is approved, the applicant must request final plat approval pursuant to a Type II procedure. The below staff report details the applicable approval criteria and procedures for a final plat.

**Preliminary Plat Background:**

The owner of the property at 13067 NW Main Street requested a Type III Partition to allow for the existing tax lot to be split into two separate legal lots. The existing property is currently developed with a single-family dwelling. The newly created lot can support a new single-family dwelling. The MDR-L zone allows for a mix of residential uses including single-family, duplex, townhomes, and cottage clusters as permitted uses. A building permit has not been requested at this time and no new residential construction is proposed. The property is currently zoned Medium Density Residential-Low (MDR-L) and no zoning map amendments are proposed. Properties to the north and south are also zoned MDR-L and developed with single-family dwellings as well. The property to the west is an agricultural use zoned General Industrial (I) and the property to the east is Banks Middle School zoned Community Facilities (CF). The property fronts NW Main Street, which is a segment of State Highway 47. A parking space on State Highway 47 (OR-47) will be removed due to the existing driveway being relocated to the south. A shared driveway will be installed to serve as access for both the existing property and the new lot. The preliminary plat shows proposed utilities are underground except for the overhead power lines. The creation of a new lot will not result in any non-conforming uses or features, including the existing single-family dwelling.

The proposal is required to meet the requirements of the Banks Zoning Code and Land Division Standards detailed below.

## Chapter 151: Zoning Code Standards

### *Section 151.288 Minor Modifications.*

- A. *Minor modification. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in § 151.287(A). The City Planning Official, through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for minor modifications. Minor modifications include technical corrections to comply with codes and regulations, and changes that fall below the thresholds in § 151.287, as determined by the City Planning Official.*

**FINDING:** The applicant is requesting a minor modification to a previous condition of approval which required the species of trees to be provided prior to the final plat being recorded.

- B. *Minor modification applications. An application for minor modification shall include an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City Planning Official may require other relevant information, as necessary, in evaluating the request.*

**FINDING:** The applicant has provided the appropriate application form, fee, and letter describing the minor modification (Exhibit B). This standard is met.

- C. *Minor modification approval criteria. The City Planning Official shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval of the original decision.*

**FINDING:** The request to defer providing the type of street trees does not create any violations or inconsistencies with the zoning code. The applicant is not proposing to develop the new lot at this time. It will be acceptable for the species of street trees to be provided when the property is developed. A new condition of approval has been added to require the species of street trees to be provided when building permits are requested.

## Chapter 152: Land Division Regulations

### *Section 152.009 Final Plat Submission Requirements and Approval Criteria*

- A. *Final plat required. Final plats require review and approval through a Type II review prior to recording with Washington County. The applicant shall submit an application for final plat approval within 4 years of the approval of the preliminary plat. A professional land surveyor licensed by the State of Oregon shall prepare the final plat, which shall conform to O.R.S. Chapter 92.*

**FINDING:** The applicant is requesting a Type II review for the final plat. The preliminary plat was approved less than a year ago, and a professional land surveyor licensed by the State of Oregon has prepared the plat. Therefore, this standard is met.

B. Final plat approval process and criteria. The City Planning Official shall approve, approve with conditions, or deny a final plat application. The decision shall be based on findings of compliance with all of the following approval criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;

**FINDING:** As submitted, the final plat is consistent with the preliminary plat and all conditions of approval. The applicant is requesting a minor modification to the conditions of approval to allow for the species of street trees to be provided at the time of construction. Per the above findings, this request is consistent with the Banks Zoning Code. The applicant has provided an approval letter for a new driveway cut from ODOT (Exhibit E). Other attendant conditions still stand for the final plat and have been added below. This standard is met.

2. All public improvements required by the preliminary plat have been installed and approved by the city, or applicable service provider if different than the City of Banks, or are otherwise bonded with a financial guarantee in a form or amount acceptable to the City Attorney;

**FINDING:** No new public improvements are required by the preliminary plat. The existing street and sidewalk facilities are adequate and meet minimum requirements. The sidewalk will be restored when the driveway cut is moved. Therefore, this standard is met.

3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

**FINDING:** No new roads are included in this proposal. Therefore this standards does not apply.

4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;

**FINDING:** No new streets, access ways, roads, easements, or other dedication is required for this application.

5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, water, and sewer facilities, as applicable;

**FINDING:** No new public improvements or dedication is required with this request. Therefore, this standard does not apply.

6. As applicable, the applicant has furnished acceptable copies of covenants, conditions and restrictions (CC&R's); easements, maintenance agreements (e.g., for access, common areas, surface water facilities, parking, and the like); and other documents pertaining to common improvements recorded and referenced on the plat;

**FINDING:** No covenants and restrictions are proposed with this application. This standard is met.

7. Written verification from clean water services that sanitary sewer service is provided to every lot depicted on the plat and the development conforms to applicable surface water management and storm drainage requirements; and

**FINDING:** The applicant has provided a service provider letter (Exhibit F). This standard is met.

8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by O.R.S. Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the Washington County Surveyor for purposes of identifying its location.

**FINDING:** The plat contains an affidavit by Corey M. Woodruff that the property has been correctly surveyed. The plat indicates the initial point of survey and appropriate references for identifying monuments. This standard is met.

#### *Section 152.010 Filing and Recording*

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in O.R.S. 92.010 - 92.190. The final plat filing and recording requirements are as follows:

- A. Filing plat with county. Within 60 days of the city approval of the final plat, the applicant shall produce required final hardcopy and electronic copies of said plat, obtain required signatures, and submit the final plat to Washington County for signatures of County officials and recording as required by O.R.S. Chapter 92.

**FINDING:** A condition of approval has been added below to require the applicant to file and record the plat within 60 days of approval from the City of Banks. If the final plat is not recorded within 60 days it will become void.

- B. Proof of recording. Upon final recording with the county, the applicant shall submit to the city a mylar copy and 3 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits any newly created lot.

**FINDING:** A condition of approval has been added to require the applicant to submit to the City of Banks a copy of the mylar and 3 paper copies of all sheets recorded on the final plat.

C. Prerequisites to recording the plat

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by O.R.S. Chapter 92.
2. No plat shall be recorded until the County Surveyor approves it in the manner provided by O.R.S. Chapter 92.

**FINDING:** A condition of approval has been added to ensure that all ad valorem taxes and all special assessments, fees, or other charges required by law have been paid and that the plat must be approved by the County Surveyor before recording.

**Recommendation**

Based on the above findings, Staff finds the proposed partition meets the applicable standards of the Banks Zoning Code and Land Division Code. Staff is issuing approval of this Type II Final Plat request with the following conditions of approval:

1. Within 60 days of the city approval of the final plat, the applicant shall produce required final hardcopy and electronic copies of said plat, obtain required signatures, and submit the final plat to Washington County for signatures of County officials and recording as required by O.R.S. Chapter 92.
2. Upon final recording with the county, the applicant shall submit to the city a mylar copy and 3 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits any newly created lot.
3. As verified by the City Engineer, water service on the new lot is currently sufficient for just one single-family dwelling. Development proposed on this lot in the future will be subject to Site Design Review and will need to provide a public facilities and services impact study consistent with Site Design Review submission requirements.
4. The proposed size and species of street trees must be provided to the City when building permits are applied for. The construction plans shall note size and species of the street trees.
5. All ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by O.R.S. Chapter 92.
6. No plat shall be recorded until the County Surveyor approves it in the manner provided by O.R.S. Chapter 92.