

# Southeast Area Plan Advisory Committee

## Meeting #11 – December 3, 2020 (Packet Part 1 of 2)

- Draft Minutes for October 8, 2020 SEAPAC Meeting
- Draft Comprehensive Plan and Development Code amendments for Southeast Area Plan – November 19, 2020
- Comments from Ken Atwell – November 19, 2020

# Minutes

## Southeast Area Plan Advisory Committee

### Meeting #10

Southeast Area Expansion Plan

October 8, 2020

Remote, via WebEx



CITY OF BEND

#### Committee Members

---

Ken Atwell, *Member*

Casey Bergh, *Member*

Sarah Bodo, *Member*

Butch Hansen, *Member*

William Hubbert, *Member (absent)*

Don Myll, *Member*

Anthony Oddo, *Member (absent)*

Jeff Reed, *Member (absent)*

Jacob Schumacher, *Member (absent)*

Sharon Smith, *Chair*

Rachel Strickland, *Member (absent)*

Dixon Ward, *Member (absent)*

Rick Williams, *Member*

Steve Wilson, *Member*

Rachel Zakem, *Member*

#### City Staff

Dustin Elmore, *Assistant City Engineer*

BreAnne Gale, *Senior Planner*

Russ Grayson, *Community Development Director*

Pauline Hardie, *Senior Planner*

Ryan Oster, *Engineering & Infrastructure Director*

Allison Platt, *Senior Planner*

Brian Rankin, *Long-range Planning Manager*

Karen Swenson, *Senior Planner*

Damian Syrnyk, *Senior Planner*

Jenny Umbarger, *Administrative Support*

Sharon Wojda, *Chief Financial Officer*

#### Consultants

Joe Dills, *Angelo Planning Group*

Kyra Haggart, *Angelo Planning Group*

## 1. Welcome, Introductory Items

Mr. Syrnyk reviewed virtual meeting guidelines. Chair Smith conducted a roll call of attendance and asked members to disclose conflicts of interest:

- Sharon Smith, legal counsel for Bend-La Pine School District (BLSD) which owns property in the Elbow
- Steve Wilson, property owner within the southeast area
- Don Myll, no conflicts

- Casey Bergh, no conflicts
- Sarah Bodo, representing Bend Park and Recreation District (BPRD) which owns property within the southeast area
- Rachel Zakem, employed by Cascades East Transit (CET)
- Butch Hansen, no conflicts
- Ken Atwell, absent during roll call
- Rick Williams, absent during roll call

Member Wilson moved to approve the previous meeting's minutes; Member Myll seconded. Minutes were approved unanimously.

## **2. Public Comment**

No public comment

## **3. Agenda Overview and Where We Are in the Process**

Mr. Dills reviewed the status of the project, as outlined in the presentation.

## **4. SEAP Summary Report**

Mr. Dills and Ms. Haggart reviewed the Summary Report outline with emphasis on Chapters 5, 6, and 7, as outlined in the presentation.

Member Atwell joined the meeting. He declared no conflicts of interest and expressed approval for the previous meeting's minutes. He shared his objection to presenting at the upcoming open house anything that has not been approved by affected property owners, and recommended sewer infrastructure be determined.

Member Williams joined the meeting. He declared no conflicts of interest and expressed approval for the previous meeting's minutes. He expressed support for committee discussion of changes to the area plan before presentation to the public.

Chair Smith recommended noting in the Summary Report that the final location of a future elementary school site is dependent upon development and growth.

Member Wilson expressed concerns about changes to the area plan identified in the Summary Report that have not been discussed, as well as concern over sewer infrastructure.

Member Bodo indicated that the changes to the future park site have not been discussed with BPRD and recommended that when presented to the public, it be represented as a possible location.

Member Hansen expressed support for discussion prior to moving forward with any changes.

Chair Smith expressed support for the area plan. She shared concern about development costs, and urged the City of Bend to assist in developing a finance plan that will help the area

develop. She also recommended providing an opportunity to make future changes to the plan if the area is determined too costly to develop.

Mr. Dills indicated staff will add to the Summary Report a potential school to the BLSD property along 27<sup>th</sup> Street, and add language that identifies suggested school locations as “possible locations”, with text to indicate intended flexibility. Staff will also add “conceptual” to the added park location.

Mr. Oster reviewed the status of sewer infrastructure planning, as outlined in the presentation. Chair Smith noted the report is not a regulatory document so there is a need to be clear that the information in the report is conceptual. She expressed concern that a goal of this process was to develop a finance plan, which may not happen, and property owners must have confidence so they can proceed with development. Member Atwell expressed concern about the location of an interim pump station that leads to future development. Member Wilson expressed support for developing sewer infrastructure cost assumptions those potential developers could base assessments on. Mr. Grayson shared the City of Bend is currently discussing infrastructure plans with the developer of the Department of State Lands (DSL) property.

Chair Smith moved to forward the draft report for public review, with the following staff-recommended changes:

- Changes to be clear about the conceptual and flexible nature of schools
- Changes to be clear about the conceptual nature of the park shown in the northeast plan
- Break the Southeast area plan into two sub-areas (SE and SW)

Member Wilson seconded the motion. The motion was approved unanimously.

## **5. Code Updates**

Mr. Syrnyk reviewed draft code updates, as outlined in the presentation. Member Atwell suggested reviewing the code exception made for the Easton property to ensure setbacks and lot sizes are consistent with code language. Chair Smith requested code language be provided to the committee for review prior to its next meeting, and that code language address how existing trees in rights-of-way be treated. Member Wilson expressed support for drive-through-related code language that ensures owners are able to utilize property as desired. Mr. Syrnyk indicated the draft code language for the next meeting would be released two weeks prior to the meeting to provide opportunity for review of updated code language.

## **6. Infrastructure Updates**

Mr. Syrnyk reviewed transportation, sewer, and water infrastructure planning, as outlined in the presentation. Chair Smith indicated that BLSD is willing to dedicate right-of-way in advance of its own development to facilitate neighboring development.

## 7. Public Comments

No public comment.

## 8. Next steps

Mr. Dills reviewed next steps in the process, including incorporating recommended changes to the Summary Report per this meeting, moving forward with the online open house, and working on the funding plan.

Respectfully submitted,

Jenny Umbarger  
Damian Syrnyk  
Growth Management Department

### Accessible Meeting/Alternate Format Notification



This meeting/event location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format such as Braille, large print, electronic formats, language translations or any other accommodations are available upon advance request at no cost. Please contact Jenny Umbarger no later than 24 hours in advance of the meeting at [jeumbarger@bendoregon.gov](mailto:jeumbarger@bendoregon.gov), 541-323-8509, or fax 541-385-6676. Providing at least 3 days' notice prior to the event will help ensure availability.



# Southeast Area Plan - Draft Comprehensive Plan and Development Code Changes

PREPARED FOR: Southeast Area Plan Advisory Committee  
COPY TO: Project File  
PREPARED BY: Damian Syrnyk, Senior Planner  
DATE: November 19, 2020

## Purpose

This memorandum transmits for your review the draft amendments to the Bend Comprehensive Plan and the Bend Development Code (BDC) for implementing the Southeast Area Plan. The draft amendments were developed based on SEAPAC's discussion and feedback to the project team during your December 3, 2019 and June 4<sup>th</sup>, July 28<sup>th</sup>, and October 8<sup>th</sup> meetings. Please review the attached draft ahead of the final Southeast Area Plan Advisory Committee scheduled for December 3, 2020. Our goal at the meeting is to answer questions about the draft amendments and request your recommendation to the Bend Planning Commission for their consideration at a public hearing.

## Bend Comprehensive Plan Amendments

The draft amendments to the Bend Comprehensive Plan include changes to the text of the policies for the Elbow (aka Southeast) expansion area. You will also find conforming amendments in the form of new policies in Chapter 6 (Economy) and Chapter 11 (Growth Management) of the Comprehensive Plan. Several of these changes reflect the changes in the Southeast Expansion Area comprehensive plan map designations developed through this work. Other changes to plan policies are either conforming amendments or included as "clean-up" after the adoption of the Petrosa Master Plan.

## Bend Development Code Amendments

The attached amendments to the text of the Bend Development Code (BDC) include the addition of new text to BDC Chapter 2.7, Special Planned Districts, Area Plans, Master Plans, and Refinement plans, to incorporate the specific code language for the Southeast Area Plan. This section incorporates the Code Concepts discussed at the previously mentioned SEAPAC meetings. The one new element you will see is a proposed standard for the improvement of the segments of 27<sup>th</sup> Street and Knott Road adjacent to the Southeast Expansion Area. This was proposed after conversations between the City and the development team for the DSL property on improvements to the segment of 27<sup>th</sup> Street abutting the DSL property. You will also find draft conforming amendments that incorporate references to the area plan along with changes to the text of review procedures and annexation.

**DRAFT**  
**Development Code Update**  
**November 19, 2020**

Prepared by: Community Development Department

Note:

Text in underlined typeface is proposed to be added

Text in ~~strikethrough~~ typeface is proposed to be deleted.

\*\*\*Indicates where text from the existing code has been omitted because it will remain unchanged.

Staff comments are ***bold and italicized***

**Bend Comprehensive Plan**

**Chapter 6, Economy**

6-23 The City must replace lands designated for industrial land uses on the Comprehensive Plan map that are subsequently changed to non-industrial designations through adoption of an area plan. The City will ensure these lands are replaced either through a rezoning of land within the UGB and/or an amendment to the UGB to ensure an adequate supply of industrial land for industrial jobs.

**Master Planning Policies**

**11-35** Master plans are required for developments over 20 acres unless otherwise specified in the Development Code. Properties in UGB expansion areas where a master plan is required are shown on Figure 11-47.

**11-36** Where an approved City-initiated Area Plan exists, the City may find that some or all elements of a required master plan have been addressed and satisfied if they are already addressed by the Area Plan.

**11-37** Approval of a City-initiated Area Plan that encompasses one or more properties over 20 acres (including abutting land in common ownership) does not exempt such properties from master plan ~~requirements~~ approval criteria.

## Annexation Policies

**11-50** Properties over 20 acres (including adjacent property in common ownership) ~~as of the adoption of the UGB expansion (shown on Figure 11-74)~~ are subject to master plan requirements unless they are part of an adopted area plan, regardless of property acreage upon annexation. When properties are over 20 acres (including adjacent property in common ownership) and are part of an approved area plan they are subject to the master plan approval criteria.

### Northeast – Butler Market Village:

**11-56** ~~The City will initiate an Area Plan for the Northeast – Butler Market Village area. The Area Plan will address policies 11-57 through 11-63. Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application, which includes a framework level Area Plan for the rest of the subarea. Following adoption of the Area Plan, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved.~~

The Northeast- Butler Market Village Expansion Area includes the Petrosa Master Plan. Properties of any size located within the Petrosa Master Plan may apply to annex and develop, consistent with the Petrosa Plan. Annexation and development of individual properties or groups of properties of any size outside of the Petrosa Master Plan must comply with policies 11-57 and 11-60 through 11-63, and may be approved in compliance with the Bend Development Code.

### The Elbow a.k.a. Southeast Expansion Area

**11-75** ~~The City will initiate~~ adopted an Area Plan for the Elbow area, also known as the Southeast Expansion Area, which became effective on (insert date). The Area Plan ~~will~~ addresses policies 11-76 through 11-~~86~~. ~~Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level Area Plan for the rest of the subarea. Following adoption of the Area Plan, a~~ Annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved in compliance with the Bend Development Code.

**11-77** This area ~~shall~~ provides for a mix of residential, commercial and industrial uses, including ~~at least 153 422~~ gross acres of residential plan designations, ~~67 43~~ gross acres of commercial plan designations, ~~76 38~~ gross acres of industrial designations, at least ~~403 140~~ gross acres of mixed employment plan designations, and ~~75 66~~ gross acres of public facilities (excluding existing right of way).



**11-78** In order to provide sufficient housing capacity and mix, the residential plan designations shall include at least ~~77~~ 105 acres of RS, ~~36~~ 35 acres of RM, and ~~9~~ 10 acres of RH (excluding existing right of way). Alternatively, the Area Plan may demonstrate that this area will provide capacity for a minimum of 820 housing units, including at least 17% single family attached housing and at least 47% multifamily and duplex/triplex housing types. The Area Plan may include and rely on plan designations, zones, special plan districts, and/or other binding development regulations to demonstrate compliance with the specified mix and capacity.

\*\*\*

**11-85** The City will ensure that a total of 38 acres designated for industrial land uses on the Comprehensive Plan map with the 2016 UGB expansion that were subsequently changed to non-industrial designations through adoption of the Southeast Area Plan will be replaced to ensure an adequate supply of industrial land for industrial jobs. The City will designate new industrial lands on the Comprehensive Plan map through a rezoning of land within the UGB and/or an amendment adding land to the UGB, and within five years of the City Council's adoption of the Southeast Area Plan.

**11-86** The City will ensure that a total of 43 acres of land designated for Commercial land uses on the Comprehensive Plan map with the 2016 UGB expansion that were subsequently changed to non-employment designations through adoption of the Southeast Area Plan will be replaced to ensure an adequate supply of commercially designated land for commercial uses. The City will complete an inventory of existing Commercial lands and evaluation of need for new Commercial lands within seven years of the City Council's adoption of the Southeast Area Plan. The City may replace these of commercial lands through a rezoning of land within the UGB, an amendment to the UGB that adds land for commercial land uses, or some combination of the two.

## **North Triangle**

**11-122** The City will initiate an Area Plan for the North Triangle area. The Area Plan will address policies 11-123 through 11-131. ~~Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application. Following adoption of the Area Plan which includes a framework level Area Plan for the rest of the subarea, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved.~~ Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level Area Plan for the rest of the subarea. Following adoption of the Area Plan, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved in compliance with the Bend Development Code.

**OB Riley area:**

**11-116** The City will initiate an Area Plan for the OB Riley area. The Area Plan will address policies 11-117 through 11-121. Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level Area Plan for the rest of the subarea. Following adoption of the Area Plan, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved in compliance with the Bend Development Code.

\*\*\*

**11-122** The City will initiate an Area Plan for the North Triangle area. The Area Plan will address policies 11-123 through 11-131. Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application. Following adoption of the Area Plan which includes a framework level Area Plan for the rest of the subarea, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved in compliance with the Bend Development Code.

\*\*\*

**Bend Development Code**

**CHAPTER 1.2**

**DEFINITIONS**

\*\*\*

Low Stress Facility: Transportation infrastructure, including, but not limited to protected bike lanes, separated pathways, crossings, sidewalks, and neighborhood greenways, that have a Level of Traffic Stress (LTS) of either 1 or 2, as calculated per the ODOT Analysis and Procedures Manual.

\*\*\*

**CHAPTER 2.7**

**SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS**

\*\*\*

### **2.7.3XXX Southeast Area Plan**

#### **2.7.3XXX Purpose**

The purpose of the Southeast Area Plan is to implement Bend Comprehensive Plan policies regarding the Elbow UGB Expansion Area (Southeast Expansion Area), under Chapter 11 of the Bend Comprehensive Plan. This area plan creates development standards for the districts within the Southeast Expansion Area. The land use and development standards will:

- A. Provide a varied mix of housing types and densities that reflects the City's commitment to providing a variety of housing choices;
- B. Support employment and light industrial uses such as in-demand flex space;
- C. Create neighborhood commercial developments that will serve both future new residents and residents in existing, adjacent neighborhoods;
- D. Establish compatible transitions between existing and future development;
- E. Provide public facilities and amenities such as neighborhood parks, community parks, and schools; and
- F. Implement the relevant policies of the Bend Comprehensive Plan 11-75 through 11-86.

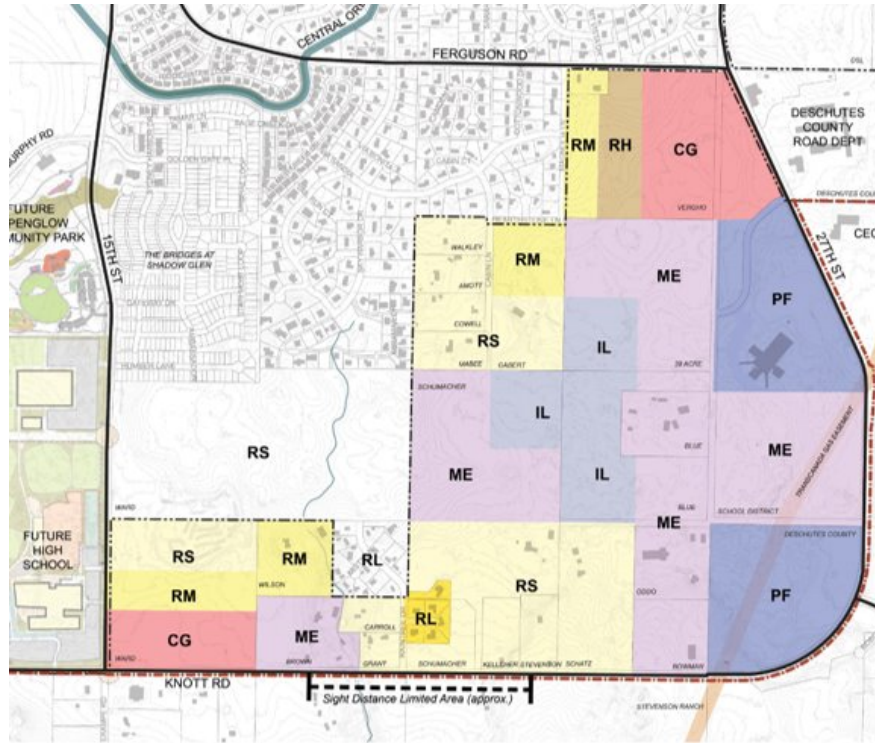
#### **2.7.3XXX Definitions**

**Live/work townhome** means a residential townhome unit in which a minimum of 50 percent of the unit's ground floor square footage is used as commercial.

#### **2.7.3XXX Applicability**

- A. In addition to the provisions of the underlying zone, the Southeast Area Plan standards apply to lands within the Southeast Area Plan as identified on Figure XXX. Where there is a conflict between the provisions of the BDC and those of the underlying zone or other portions of the Development Code, the provisions of the Southeast Area Plan will control. The final determination of the zone boundary will be established at the time of subdivision platting and right-of-way dedication or site plan review.
- B. The standards in this Section may not be modified by a master plan approval, except as allowed by BDC 4.5.100.F, Modifications to Approved Area Plans, Master Plans, PUDs and Special Planned Districts.
- C. Existing Uses. Uses that are not in conformance with the provisions in this section but that were lawfully established prior to the adoption of this code are considered a permitted use for that site on which they were established. Expansion or enlargement will be allowed subject to the provisions of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review.

**Figure 2.7.3XXX Southeast Area Plan**



**2.7.3### General Commercial Districts (CG).**

**A. Permitted Uses.**

1. All uses permitted or conditionally permitted in Table 2.2.300 except the following, which are prohibited:
  - a. Marijuana Wholesale (more than 75% of sales are wholesale)
  - b. Commercial and Public Parking
2. Live/Work Townhomes.
3. Accessory dwelling units, single-family attached townhomes, duplexes, triplexes, and multifamily.

**B. Front Setbacks. 10' minimum, 10' maximum.**

1. Exceptions.
  - a. The maximum setback standard may be increased to accommodate an approved usable public space with pedestrian amenities (e.g., extra-wide sidewalk, multi-use path, plaza, outdoor dining area or landscaped area with seating) between the building and front property line. This exception does not apply to Shopping Streets under BDC 2.7.3##(C).

- b. Fences (except if 3.5 feet or less in height for outdoor patios and dwelling units), storage and parking are not allowed in the front setback.
- c. Awnings, marquees, balconies, overhangs, fabric tensile structures, building appendages, or other projections may extend into the front setback.
- d. When abutting a shopping street, no front yard setback is required when an entrance to the building is oriented to the front lot line and the building is abutting a sidewalk 10 feet or wider in a public or private street right-of-way.

C. Shopping Street.

- 1. Properties over 20 acres (including abutting land in common ownership), that contain 10 acres or greater of area with a plan designation of General Commercial (CG), are required to provide a minimum of one “shopping street.” The shopping street must be identified and designated at the time of master plan, site plan, land division, and/or annexation with a development application and identified on the plat and development agreement, if applicable. In addition to the required elements in BDC 2.2.500.C.2, a “shopping street” must comply with the following standards:
  - a. The length of the shopping street must have a minimum block length of 300 feet.
  - b. Off-street Parking must be located behind the primary structure.
  - c. Vehicular access is not permitted from a shopping street.
- 2. The following uses are prohibited on sites abutting a Shopping Street: Residential uses that are not part of a mixed-use development, Automobile Dependent and Automobile Oriented Retail Sales and Services, Drive-In and Drive-Through Facilities, standalone Commercial and Public Parking, and Commercial Storage. Ground-floor residential uses on shopping street frontages are prohibited except ground-floor entrances or breezeways are permitted for housing located above or behind a nonresidential storefront use.

D. Special Standards and Regulations for Certain Uses.

- 1. Standalone residential uses, including live/work townhome dwelling units, that are not part of a mixed-use development must meet the following standards:
  - a. Location. Must not be located on a development site that has frontage on a “Shopping Street” or arterial.
  - b. Density. The minimum residential density standards of the RH Zone apply. There is no maximum density.
  - c. Development Standards. The following table provides numerical development standards for standalone residential uses, including live/work townhomes that are not part of a mixed-use development.

**Table 2.7.XXX**

<b><u>Standards</u></b>	<b><u>CG</u></b>	<b><u>ME</u></b>
<b><u>Minimum lot area</u></b>	<b><u>No minimum</u></b>	<b><u>No Minimum</u></b>
<b><u>Minimum lot width</u></b>	<b><u>15 feet</u></b>	<b><u>15 feet</u></b>
<b><u>Minimum front setback (see subsection 2.7.3###.B of this section)</u></b>	<b><u>10 feet</u></b>	<b><u>None</u></b>
<b><u>Maximum front setback (see subsection 2.7.3###.B of this section)</u></b>	<b><u>10 feet</u></b>	<b><u>10 feet</u></b>
<b><u>Rear and Side setback</u></b>	<b><u>None</u></b>	<b><u>None</u></b>

- d. Design Standards. These standards are in addition to the regulations of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, but replace the design standards of the CG zoning district and all the standards in BDC 3.6.200(D), Single-Family Attached Townhomes, BDC 3.6.200(H), Duplex and Triplex Development and BDC 3.6.200(I), Residential Uses within Commercial Districts.
  - i. Building and Entry Orientation. Each building must provide a primary building entrance oriented to each abutting street.
  - ii. Transparency. Facades must include transparency/glazing (i.e. glass windows and/or glass doors) totaling a minimum of 25% of the ground level wall area and 20% on the upper level(s) wall area, as shown in Figure XXXX. Ground level wall area includes the exterior wall area up to 10 feet above the finished grade.

**Figure XXXXX**



- iii. Building Articulation. One or more of the following façade treatments must be incorporated on each level of all street-facing facades:
  - (A) Building offsets (projections or recesses) at least two feet deep and six feet wide;
  - (B) Upper level balconies (projecting or recessed) at least six feet wide;
  - (C) Building canopies, awnings, pergolas, architectural sun shade structures, or similar weather protection (minimum projection of four feet for overhead weather protection when located on the ground level and over a sidewalk or other pedestrian space);
  - (D) Transparency at least five percent greater than the minimum required by subsection 2.7.3###(D)(1)(d)(ii);
  - (E) Recessed building entries at least six feet wide;
  - (F) Use of masonry material (i.e. brick, brick veneer, stone, concrete, or stucco) for a minimum of 75% of the total wall area of the street facing façade level as measured from floor-to-floor height, not including windows; and/or
  - (G) On upper levels, use of two or more façade materials and/or façade colors.
- e. Parking. The minimum number of required off-street vehicle parking spaces is established below. The number of parking spaces provided by any particular use in ground surface parking lots must not exceed the required minimum number of spaces provided by Table 3.3.300, Required Off-Street Vehicle Parking Spaces by more than 50 percent. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multi-level parking above or below surface lots, do not apply toward the maximum number of allowable spaces. Parking spaces provided through “shared parking” also do not apply toward the maximum number.

- i. Single-family attached townhome, duplex, triplex, and multifamily residential: 1 space per dwelling unit.
          - ii. Affordable housing projects in accordance with BDC 3.6.200(C)(1-3). 0.5 spaces per affordable dwelling unit.
        - f. Open Space. The provisions in BDC 2.1.1000 apply with the following exception:
          - i. The common open space requirement in BDC 2.1.1000(B)(1) does not apply to any property with a residential building located within one-quarter mile of a public park; and there is a direct, accessible, and maintained trail or sidewalk between the development and the park that does not cross an arterial or collector street.
          - g. Lots and parcels may have one access point, except as authorized in BDC 3.1.400(F)(4)(c).
2. Live/Work Townhomes. In addition to the applicable standards in 2.7.3###.D.1 above, Live/Work Townhomes must meet the following standards:
  - a. Residential ground livable space is limited to a maximum of 50 percent of the ground floor square footage, excluding the garage.
  - b. Residential ground livable space must be located above or behind the commercial space and must not be located adjacent to the street.
  - c. The ground floor commercial space must have visibility, signage and access from the street.
  - d. Vehicular alley access is required to preserve the pedestrian orientation of the commercial space.
  - e. A live/work townhome is allowed instead of, or in addition to, home occupation as defined by this code.
  - f. The location of lots or parcels where live/work townhomes may be developed must be included with the development application.
  - g. Live/Work Townhome Lot and Parcel Standards:
    - i. The lot and parcel requirements of the RM Zone in BDC 2.1.300 and 2.1.500 apply to live/work townhomes, except that the minimum side setback is zero feet.
    - ii. There is no maximum lot coverage standard for live/work townhomes.
3. Public and Institutional Uses. Public and Institutional Uses are limited to a development site of no more than five acres.
4. Automobile-Oriented and Automobile-Dependent Uses and Facilities. Where permitted, automobile-oriented uses and automobile-dependent facilities must meet all of the following standards. The standards are intended to provide a vibrant, storefront character, slow traffic, and encourage walking and transit use.



- a. Drive-In and Drive-Through Facilities. Drive-in and drive-through facilities, such as teller machines, service windows, drop-boxes and similar features associated with the drive-up and drive-through components of restaurants, banks and similar uses, must meet all of the following standards:
  - i. Primary buildings must meet the front setback requirements in 2.7.3###(B) above.
  - ii. Drive-up, drive-in, and drive-through drives or lanes must not be located between a building and a public or private street.
  - iii. Drive-in and drive-through facilities (i.e. drive-through pick up windows) must not be oriented towards a public street.
- b. Automobile Services and Gas Station: The following special standards apply to automobile service stations and gas stations:
  - i. A landscape buffer 10 feet or wider with a mature vegetation height of at least three feet within three years of planting is required between all onsite vehicular circulation areas and the street.
  - ii. The primary building must meet the minimum building setback requirements in 2.7.3###(B) above.
  - iii. A minimum of one pedestrian entrance must be oriented to the street.

### **2.7.3### Mixed Employment Districts (ME).**

#### **A. Permitted Uses.**

- 1. All uses permitted or conditionally permitted in Table 2.3.200 except the following, which is prohibited:
  - a. Marijuana Wholesale (more than 75% of sales are wholesale).
- 2. Live/work townhomes.
- 3. Automobile-Oriented and Automobile-Dependent Uses and Facilities (including uses with a \*drive-through).
- 4. Government facilities where the public is generally not received (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities), on property owned by school district.

#### **B. Special Standards and Regulations for Certain Uses.**

- 1. Residential Uses identified as “L” in Table 2.3.200. Residential Uses identified as “L” in Table 2.3.200, are subject to the limitations set forth in 2.3.200.C. except that commercial or public/institutional uses are only required to occupy at least 75% of the floor area equivalent to the entire ground-floor area of

the development. The commercial or public/institutional uses must be constructed prior to or concurrently with the residential uses.

2. Live/Work Townhomes. Live/Work townhomes must meet the following standards:

- i. Residential ground floor livable space is limited to a maximum of 50 percent of the ground floor square footage, excluding the garage.
- ii. Residential ground floor livable space must be located above or behind the commercial space and must not be located adjacent to the street.
- iii. The ground floor commercial space must have visibility, signage and access from the street.
- iv. Vehicular alley access is required to preserve the pedestrian orientation of the commercial space.
- v. A live/work townhome is allowed instead of, or in addition to, home occupation as defined by this code.
- vi. The location of lots where live/work townhome dwellings may be sited must be included with the development application.

3. Automobile-Oriented and Automobile-Dependent Uses and Facilities (including uses with a \*drive-through). Automobile-Oriented and Automobile-Dependent Uses and Facilities. Where permitted, automobile-oriented uses and automobile-dependent facilities must meet all of the following standards. The standards are intended to provide a vibrant, storefront character, slow traffic, and encourage walking and transit use:

- a. Drive-In and Drive-Through Facilities. Drive-in and drive-through facilities, such as teller machines, service windows, drop-boxes and similar features associated with the drive-up and drive-through components of restaurants, banks and similar uses, must meet all of the following standards:
  - i. The maximum front setback for primary buildings is 10 feet.
  - ii. Drive-up, drive-in, and drive-through drives or lanes must not be located between a building and a public or private street.
  - iii. Drive-in and drive-through facilities (i.e. drive-through pick up windows) must not be oriented towards a public street.

**2.7.3### Light Industrial Districts (IL).**

A. Permitted Uses. All uses permitted or conditionally permitted in Table 2.4.300 except the following which are prohibited:

1. Heavy Manufacturing, assembly, and processing of raw materials and recycling
2. Marijuana grow sites and marijuana producing

B. Design Standards. In addition to the applicable standards in BDC 2.4.700, the following design standards apply:

1. Building Entries. Primary building entries must include architectural features such as awnings, projections, recesses, changes in materials or similar features. Entries must also include pedestrian scaled elements including but not limited to lighting and signage.
2. Materials and Design. Durable, quality materials including but not limited to brick, stone, concrete, concrete masonry units, and wood must be included on a minimum of 20% of each façade in order to break up large building facades and create a human scale.
3. Parking. Parking must not be located between the primary structure and a property line abutting an arterial street.

### **2.7.3### Public Facilities Districts (PF).**

A. Permitted and Conditional Uses. All uses permitted or conditionally permitted in Table 2.6.200.

B. Uses under (B)(1) are permitted outright on a community park in the Southeast Area Plan. Uses under (B)(2) may be permitted outright on a community park in the Southeast Area Plan if they comply with BDC 2.7.XXXX(B)(3) :

1. Ball fields, sport complexes, and similar outdoor recreational areas that have night lighting or amplified sound systems
2. Park sites with outdoor amphitheater or facilities for community events such as music or theater performances, and similar events
3. In addition to the applicable criteria contained in Chapter 4.2 Minimum Development Standards Review, Site Plan Review and Design Review the following uses and must comply with these additional standards:
  - a. Music performances, or theater performances that use amplified sounds systems are conducted on portions of the park located at least 100 feet from a property line
  - b. Outdoor performance facilities such as stages and amphitheaters must face toward property lines that abut the higher classification street.

### **2.7.3XXX Tree Preservation and Rock Outcropping Standards.**

A. Applicability. “The following preservation and landscaping standards are required in addition to the requirements in BDC 3.2. Landscaping, Street Trees, Fences and Walls

B. Tree Preservation. For properties two acres or larger, at least 50 percent of all trees measuring 24 inches or greater or larger stands of trees as measured four feet above the ground (known as DBH, “diameter at

breast height”) must be retained on site unless exempted in subsection (C) of this section. The following exceptions are permitted to implement this subsection:

1. Reduction of setbacks up to 30 percent.
2. Reduction of required on-site parking up to 15 percent.
3. Increased lot coverage up to 20 percent.
4. Reduced landscape coverage up to 10 percent.
5. Reduction to lot dimensions, including lot size, by up to 10 percent to preserve individual significant trees or tree groves.

C. Exemptions:

1. Where the minimum density for the zone cannot be met without removing more than 50 percent of the trees with a DBH of 24 inches or greater, after exhausting all available incentives in subsection 1, up to 70 percent may be removed to accommodate the minimum density as demonstrated on the Tree Protection Plan.
2. If a development site contains an individual building larger than 40,000 square feet, more than 50 percent of the trees with a DBH of 24 inches or greater may be removed to accommodate buildings, accessory uses (e.g. ball fields), and required parking as demonstrated on the Tree Protection Plan. Trees not within the building footprint or foot print of the accessory use(s) or required parking must be retained.
3. Trees within an existing public right of way, in existence on the date this code becomes effective (effective date) are not required to be protected under these regulations.

C. Rock Outcrops. Existing on-site rock outcrops, defined as lava rocks or clusters of naturally occurring lava rock that are incorporated into the development’s landscaping that do not qualify as Significant Rock Outcrop Areas, may be credited toward meeting the minimum landscape area standards in 3.2.300.C. Credit will be granted based on the total square footage of the preserved rock outcrop area.

D. Significant Rock Outcrop Areas. Significant Rock Outcrop Areas are defined as rocks or clusters of naturally occurring rock that 1) have at least one point a height of at least 8 feet from the surrounding terrain, and 2) are over 3,000 square feet in area.

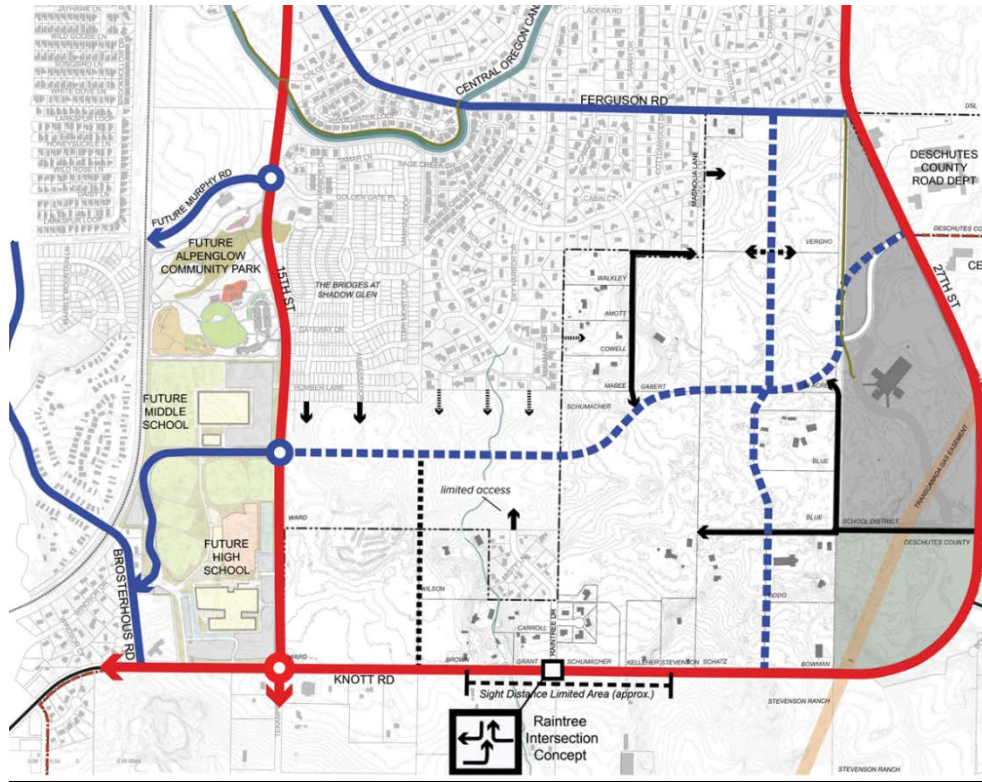
1. Mapping Required. Significant Rock Outcrop Areas must be identified in an inventory and a map, and included with a development application.
2. Protection Standards.
  - a. No development may occur in a Significant Rock Outcrop Area except, pedestrian amenities, multi-use trails, and multi-use paths, unless exempted in subsection (D)(1)(4) of this section.
  - b. Grading, operation of vehicles and heavy equipment, and storage of supplies and construction materials are prohibited within a Significant Rock Outcrop Area, except as approved in writing by the City for installation of streets and public utilities that are located within public and/or private streets and/or easement. Such approval will only be granted after the City concludes in writing that there is no other reasonable alternative to avoid the protected area. The written approval must include the specific facts that support the conclusion.

3. The City may allow one or more of the following exceptions when a Significant Rock Outcrop Area is preserved:
  - a. Reductions of setbacks up to 30 percent.
  - b. Reduction of required on-site parking up to 15 percent.
  - c. Increased lot coverage up to 20 percent.
  - d. For public facilities, an increase in maximum parking by up to 15 percent.
  - e. Reduced landscape area requirements. Significant Rock Outcrop Areas may be credited toward meeting the minimum landscape area standards in BDC 3.2.300(C). Credit will be granted based on the total square footage of the preserved area.
4. Exemptions:
  - a. If a Significant Rock Outcrop Area exceeds more than three percent of a total development site area, the area in excess of three percent may be developed and is not subject to the Protection Standards in subsection (D)(2).
  - b. Where the minimum density for the zone cannot be met without removing significant rock outcrop areas after exhausting all available incentives identified in subsection (D)(3) as demonstrated in an inventory and map. Significant rock outcrop areas not located within the building footprint or foot print of the accessory use(s) or accessory structure(s) must be retained.
  - c. Significant rock outcrops located within a public right of way in existence on the date this code becomes effective (insert effective date) not required to be preserved under these regulations.

### **2.7.3### Collector Street Standards**

The Southeast Area Plan includes two new collector streets shown in Figure 2.7. ### Below.

#### **Figure 2.7.####, Street Plan for Southeast Area Plan**



The collector street that connects 15<sup>th</sup> Street and 27<sup>th</sup> Street is identified as the East-West collector or as SE Caldera Drive. The collector street that connects Ferguson Road to Knott Road is identified as the North-South collector. Each street must be constructed according to the alternative collector standard in Table 2.7.3###. The actual location may be different than as shown on this diagram, as long as the connectivity between arterials is maintained, and precise alignments will be determined at Master Plan or Site Plan.

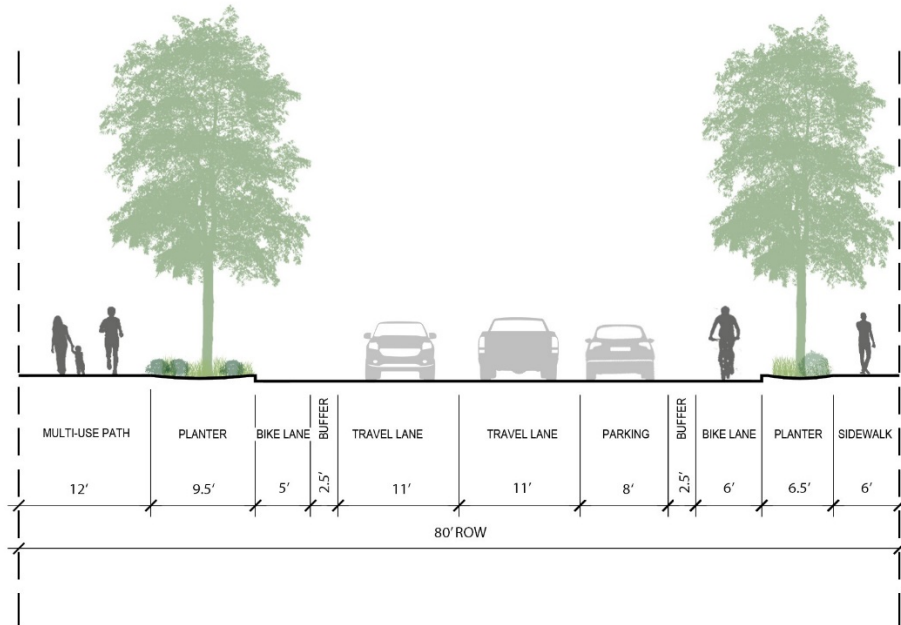
**Table 2.7.3###: Alternative Improvement Standards for Dedicated Public Collector Roads**

<u>Minimum Right of way</u>	<u>Minimum travel lane width</u>	<u>Planter strips</u>	<u>Minimum Turn Lane/Median Island Width (2)</u>	<u>Maximum Grade</u>	<u>Bike Lanes (5)</u>	<u>Direct Site Access (3)</u>	<u>Sidewalks Both Sides (4)</u>	<u>Curbs</u>
80'	11'/11.5'	4' to 6'	13'/10'	6%	6.5' + 2.5'	Yes	6' to 8'	Yes

Requirements

1. Travel lanes must be at least 11 feet in width (11.5 feet when opposing flow is immediately adjacent (head on)).
2. The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections.
3. Site access allowed per BDC 3.1.400, Vehicular Access Management
4. A sidewalk is not required on the side of a collector developed under this standard if a multi-use path is provided and is at least 12 feet on one side for two-way travel. This type of path is dedicated for pedestrian and bicycle trips only.
5. Bike lanes must be at least 6.5 feet in width and include a buffer of 2.5 feet for car door opening.

**Figure 2.7.####, Cross Section for Alternative Collector Standard**



**2.7.3### Arterial Street Cross Section Standards for 27<sup>th</sup> Street and Knott Road**

The Southeast Area Plan abuts sections of 27<sup>th</sup> Street and Knott Road, as shown in Figure 2.7.3## above. The following arterial road standards shall apply to improvements of the sections of 27<sup>th</sup> Street and Knott Road that abut the Southeast Area Plan.

<u>Minimum Right of way</u>	<u>Minimum Pavement Width</u>	<u>Sidewalk w/Shared Use Path</u>	<u>Planter strips</u>	<u>Bike Lanes</u>	<u>Travel Lane width</u>	<u>Left turn Lane</u>	<u>Median Safety Island</u>
<u>100'</u>	<u>52'</u>	<u>12'</u> <u>(4)</u>	<u>VARIES</u>	<u>6' +</u> <u>2.5'</u> <u>buffer</u>	<u>11'</u>	<u>13'</u> <u>(1)</u>	<u>10'</u>

Notes:

1. Two-way left turn lanes and safety islands are standard on all arterial and collector roadways unless otherwise permitted through an approved development application. Landscape medians may be required by the City Engineer, when authorized by the Bend Code and Standards and Specifications.



2. Parking is not permitted on arterial streets. Parking on collector streets is permitted as directed by the Bend Development Code.

3. These cross sections provide Level of Stress 1 and 2 for walking and biking, as calculated per the ODOT Analysis and Procedures Manual.

4. Wider pedestrian paths are required by the Transportation System Plan's Low Stress Network and Key Route maps. When matching existing conditions on the corridor or as required by an approved development application, widths may be allowed to vary with approval of the City Engineer.

5. Streets to be constructed at the right of way centerline unless otherwise approved by the City Engineer.

6. Where sidewalks/multi-use paths are constructed outside the right of way, additional dedication of right of way or access easement shall be provided to the appropriate agency for the property where the sidewalk/multi-use path is located.

### **2.7.3### Bicycle Facilities and Multi-Use Paths**

The Southeast Area Plan includes an interconnected network of complete streets that provides safe, optimized travel of all modes. Low Stress Bicycle facilities and Multi-Use Paths will provide connections to schools, parks, destinations, as well as cross-City travel. Multi-Use Paths can be used to provide low-stress facilities through the area. Multi-Use Paths will serve as Primary Trails, as represented in BPRD's Comprehensive Plan, for the Bend Park and Recreation District and will require coordination with the District, as detailed below.

A. All development is subject to standards identified in BDC 3.1.300 Multi-Modal Access and Circulation in addition to the standards established below.

1. Multi-use paths as shown on Figure X must be developed in conjunction with roadway construction or as part of land division. If no land division precedes or accompanies site development, construction of the path must occur with site development.

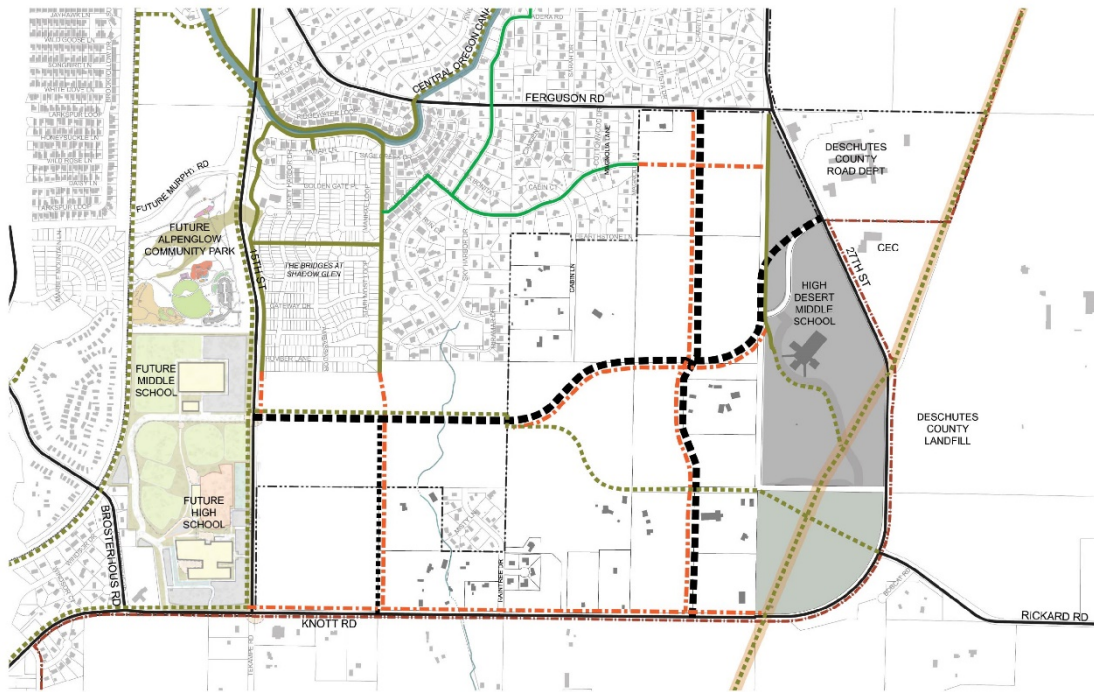
2. Multi-use Path Locations.

a. Multi-use paths will be located in the general alignment as shown on Figure X. The paths may be incorporated into a roadway design. The actual location will be approved by the City through the development review process, and in consultation with the Bend Park and Recreation District where applicable, in order to accommodate site development, minimize grade, accommodate street crossings and other safety issues, and to fit the context of the natural terrain and topographic/geographic constraints.

- b. Multi-use paths can be constructed in place of a sidewalk, at a minimum of 6 feet from the curb.
- 3. Multi-use paths must be a minimum of 10 feet in width.
- 4. Multi-use paths developed outside of the right-of-way must be located within a 20-foot wide easement and be dedicated to the appropriate public agency as part of the following applicable development application. See Figure X for multi-use paths that will be owned and maintained by the Bend Park and Recreation District (BPRD).
  - i. Site Plan Review applications. The easement must be granted to the appropriate agency prior to final occupancy.
  - ii. Land Division Applications. The easement must be granted to the appropriate agency and shown on the final plat, prior to recording.
- 5. Multi-use path easements may be used to meet either open space requirements for a master plan under BDC 4.5 or landscaping for a site plan review under BDC 4.2.
- B. Enhanced crosswalks, where identified by the City, must be provided to complete the walking and bicycling networks.
- C. Multi-Use Paths must be developed and constructed as a paved surface and to a minimum of 10 feet in width and as a low-stress facility in accordance with the ODOT Analysis and Procedures Manual. Where approved by the City, multi-use paths may be located in place of the sidewalk and must be located at minimum of six feet from the roadway travel lanes. See alternative collector standard in Figure X.

Multi-Use Path surfaces must conform to accessibility requirements. Asphalt, brick/masonry pavers, or other durable surface that makes a smooth surface texture, and conforms to accessibility requirements, may be allowed as determined by the City.

**Figure 2.7.####, Multi-Use Paths in Southeast Area Plan**



**SOUTHEAST AREA PLAN  
MULTI-USE PATHS**

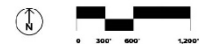
- Existing Facility
- Existing City Boundary
- Piped Canal
- BPRD Multi-Use Path\*
- Urban Growth Boundary
- Canal
- Multi-Use Path
- Tax Lots
- TransCanada
- 2- or 3-Lane Collector
- Railroad
- 2-Lane Local or Collector
- Natural Gas Pipeline
- Low Stress Network Route

Note: Multi-use paths can be incorporated into roadway design

SUBJECT TO CHANGE  
7/10/2020



\*Trails identified in the BPRD Comprehensive Plan are referred to as multi-use paths in the City's development code



\*\*\*

**Chapter 2.8  
URBANIZABLE AREA DISTRICT (UA)**

**2.8.100 Purpose and Applicability.**

- A. Purpose. The Urbanizable Area (UA) District is intended to preserve large areas of undeveloped or rural land for future urban development prior to annexation. The UA District promotes the livability, stability, safety and improvement of the City of Bend by allowing orderly development consistent with the Bend Comprehensive Plan.

- B. Applicability. The provisions of the UA District apply to all land inside the Urban Growth Boundary but outside the City limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459.

The UA District will automatically be removed upon annexation to the City and the zoning that implements the Bend Comprehensive Plan designation for the property will apply.

- C. Development Applications

- 1. Area and Master Planning. The City has the authority to process area plans under [BDC Chapters 4.1](#), Development Review and Procedures, and 4.6; Land Use District Map and Text Amendments (Type IV process), master plans under [BDC Chapters 4.5](#), Master Planning and Development Alternatives and 4.6; Land Use District Map and Text Amendments (Type III process); land divisions and site plan review applications in the UA District prior to annexation. However, development of the property with the uses authorized by the area or master plan may only occur after annexation.

- 2. The City has the authority to process development applications for uses authorized in BDC Table 2.8.200, Permitted Land Uses and for land divisions consistent with Table 2.8.300, Lot Area and Dimensions.

\*\*\*

## Chapter 4.1

### DEVELOPMENT REVIEW AND PROCEDURES

\*\*\*

#### 4.1.1325 Modification of Approval.

- A. An approval may be modified at any time after a decision becomes final.
- B. Modification Review Procedures.

1. A modification that does not have significant additional impacts on surrounding properties must be reviewed only under the criteria applicable to the aspect(s) of the proposal that are to be modified.
  2. A modification that has significant additional impacts on surrounding properties must be reviewed under all criteria applicable to the entire approval and may, at the discretion of the City, require the filing of a new application.
  3. A modification must not be considered to have significant additional impacts on surrounding properties if the identified impacts could be addressed under the applicable provisions of this code at the time of future development (e.g., a future site plan review or conditional use permit application).
  4. A modification that is a new proposal must be filed as a new application.
- C. An application for a modification of a Type I approval must be processed as a Type I application. All other modifications must be processed as a Type II application unless elevated to a Type III process by the Development Services Director.
- D. The original approval time limitation is governed by BDC 4.1.1310.
- E. Modifications of development approvals must meet the approval criteria required in subsection (B) of this section in the appropriate corresponding section of this code (e.g., modification of a site plan review approval is subject to BDC Chapter 4.2; modification of a conditional use permit is subject to BDC Chapter 4.4, modification of a master plan, area plan or special planned district is subject to the applicable sections in BDC Chapter 4.5). For modifications of a master plan, PUD or special planned district approved under land use regulations in place prior to April 14, 2017, see subsection (F) of this section.
- F. Modifications of a master plan, PUD or special planned district approved under land use regulations in place prior to April 14, 2017, must meet the approval criteria required in subsection (B) of this section in one of the following sections in BDC Chapter 4.5, Master Planning and Development Alternatives:
1. The modification of a master plan, PUD or special planned district that is primarily for residential uses is subject to the applicable approval criteria in BDC 4.5.200(D).
  2. The modification of a master plan, PUD or special planned district that is primarily for institutional uses is subject to the applicable approval criteria in BDC 4.5.300(E).

3. The modification of a master plan, PUD or special planned district that is primarily for employment uses is subject to the applicable approval criteria in BDC 4.5.400(D).

\*\*\*

## **CHAPTER 4.2**

### **MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW**

\*\*\*

#### **4.2.500 Site Plan Review.**

\*\*\*

- D. Site Plan Review Approval Criteria. The City shall approve, approve with conditions, or deny the proposed Site Plan Review application based on the following criteria:

\*\*\*

9. The proposal is in substantial conformance with any applicable approved master plan, master facilities plan, refinement plan, area plan and/or special planned district.

## **CHAPTER 4.3**

### **SUBDIVISIONS, PARTITIONS, REPLATS AND PROPERTY LINE ADJUSTMENTS**

\*\*\*

#### **4.3.300 Tentative Plan.**

\*\*\*

- E. Criteria for Subdivision, Partition or Replat Approval. The Review Authority shall not approve a tentative plan for a proposed subdivision, partition or replat unless the Review Authority finds that the subdivision, partition or replat will satisfy the following criteria of approval:

\*\*\*

9. The proposal is in substantial conformance with any applicable approved master plan, master facilities plan, refinement plan, area plan, and/or special planned district.

\*\*\*

## Chapter 4.5

### MASTER PLANNING AND DEVELOPMENT ALTERNATIVES

\*\*\*

#### 4.5.100 Master Plan General Provisions.

F. Modifications to Approved Area Plan, Master Plans, PUDs and Special Planned Districts.

1. The following modifications to a master plan, area plan, PUD or special planned district may be approved with a land division or with an application in compliance with BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review, and Design Review, unless the Development Services Director elevates the application to the Planning Commission for hearing as a Type III application.

\*\*\*

#### 4.5.200 Community Master Plan.

A. Purpose. The community master plan is intended to provide complete neighborhoods with varied housing options, services, and amenities needed for daily living, including public schools, parks and open spaces, shops, and services, all within a convenient walking or biking distance. The community master plan is also intended to provide convenient access to public transportation and employment areas.

B. Applicability.

1. Community master plans in conformance with this section may be submitted for any property or combination of properties three acres or larger in size.
2. Community master plans are required for any property or combination of adjacent properties under common ownership totaling 20 acres or larger unless exempted below.

- a. Exemptions.

- i. When a property is 40 acres or larger and is part of a proposed land division or property line adjustment application where all the proposed lots/parcels will be 20 acres or larger, a community master plan will not be required until further development is proposed for the newly created lots/parcels; however, lots or parcels smaller than 20 acres may be created and developed prior to an approved community master plan application if they are intended for schools and/or parks.
- ii. When a property is 20 acres or larger and a majority of it includes an existing development (e.g., golf course), a community master plan will not be required unless there are two land division applications submitted of the parent property within a five-year period. A community master plan will be required to be processed prior to submitting the second land division application during the five-year period.
- iii. The City determines that the master plan category is an institutional master plan or employment master plan.
- iv. The property is part of a special planned district in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans. Properties that are part of an approved Area Plan must comply with the approval criteria of this Chapter in addition to the land division or Site Plan Review criteria at the time of development.
- v. The property is part of a master plan or planned unit development approved prior to April 14, 2017, and remains in effect or has initiated the use according to BDC 4.1.1315.

\*\*\*

#### **4.5.300 Institutional Master Plan.**

- A. Purpose. The institutional master plan is intended to facilitate an efficient and flexible review process for development of institutions which control large areas of land within the City, contain a greater intensity of development than surrounding areas, are a source of substantial employment, and are usually located adjacent to residential neighborhoods. An institutional master plan is intended to permit flexibility, while providing a level of understanding by the community and neighboring properties about the future growth of the institution.
- B. Applicability.



1. Institutional master plans in conformance with this section may be submitted for any property or combination of properties three acres or larger in size.
2. Unless exempted below, institutional master plans in conformance with this section are required for any property or combination of adjacent properties under common ownership at the date of adoption of this code for the following:
  - a. Institutions of higher education: 10 acres or larger.
  - b. All other institutions: 20 acres or larger.
3. Exemptions. Unless the applicant elects to apply for an institutional master plan, the following are exempt:
  - a. The property is part of a special planned district in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans. Properties that are part of an approved Area Plan must comply with the approval criteria of this Chapter in addition to the land division or Site Plan Review criteria at the time of development.
  - b. Cemeteries and public maintenance facilities in existence prior to 2016.
  - c. The City determines that the master plan category is a community master plan or employment master plan.

\*\*\*

#### **4.5.400 Employment Master Plans.**

- A. Purpose. The employment master plan is intended to provide a method by which the City may permit a variety of commercial and/or industrial development types, designs or arrangements that may not be permissible under traditional zoning regulations yet still provide for the ability to plan for full build-out of large employment centers. The employment master plan will provide a mechanism to achieve development which will contribute to the diversification of the City's economic base.
- B. Applicability.

1. Employment master plans in conformance with this section may be submitted for any property or combination of properties three acres or larger in size.
2. Employment master plans in conformance with this section are required for any property or combination of adjacent properties under common ownership totaling 20 acres or larger at the date of adoption of this code, unless exempted below.
3. Exemptions. Unless the applicant elects to apply for an employment master plan, the following are exempt:
  - a. The property is part of a special planned district in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans. Properties that are part of an approved Area Plan must comply with the approval criteria of this Chapter in addition to the land division or Site Plan Review criteria at the time of development.
  - b. The City determines that the master plan category is a community master plan or institutional master plan.

\*\*\*

## Chapter 4.9 ANNEXATIONS

\*\*\*

### 4.9.300 Review Procedures

- A. Annexation.** The following general processes apply to all annexation proposals:
1. Annexations are reviewed using the Type III or Type IV process as determined by the City, based on a consideration of the factors for treating an application as quasi-judicial or legislative. Since annexations are a jurisdictional transfer, the City Council is the sole review authority.
  2. City Council approval of annexations will be by ordinance.
  3. Notice of the City Council hearing to consider the annexation proposal must follow the notification process required for the Type III or Type IV application, except a notice of the hearing must be published in a newspaper of general circulation in the City once each week for two successive weeks

prior to the day of hearing, and notices of the hearing must be posted in four public places in the City for a like period.

**B. ~~Area and Master Planning~~ Land Use Approval Development Review Requirements.**

1. Unless exempted in subsection (B)(1)(a) of this section, expansion areas as shown in Figure 4.9.300 will require ~~area and/or master plan~~ land use approval in accordance with Table 4.9.300 prior to or concurrently with annexation. For properties located within an approved Area Plan, also see subsection (B)(2) of this section. The exemptions to master planning in BDC Chapter 4.5, Master Planning and Development Alternatives, are not applicable to properties in the Urbanizable Area (UA) District. ~~Development in expansion areas must comply with the applicable Bend Comprehensive Plan Specific Expansion Area Policies in Table 4.9.300.~~

~~a. 4-~~ Exemptions from Area and Master Planning.

~~i. a.~~ Land not subject to an area plan or master plan as shown in Figure 4.9.300, Expansion Areas.

~~ii. b.~~ Public elementary schools on lots or parcels smaller than 20 acres. Notwithstanding BDC 3.4.400(A), an interim septic system may be installed if approved by the Department of Environmental Quality and the School District agrees to connect to the sewer system when it becomes available. Applicant must submit the following in addition to the requirements of BDC Chapter 4.7, Transportation Analysis:

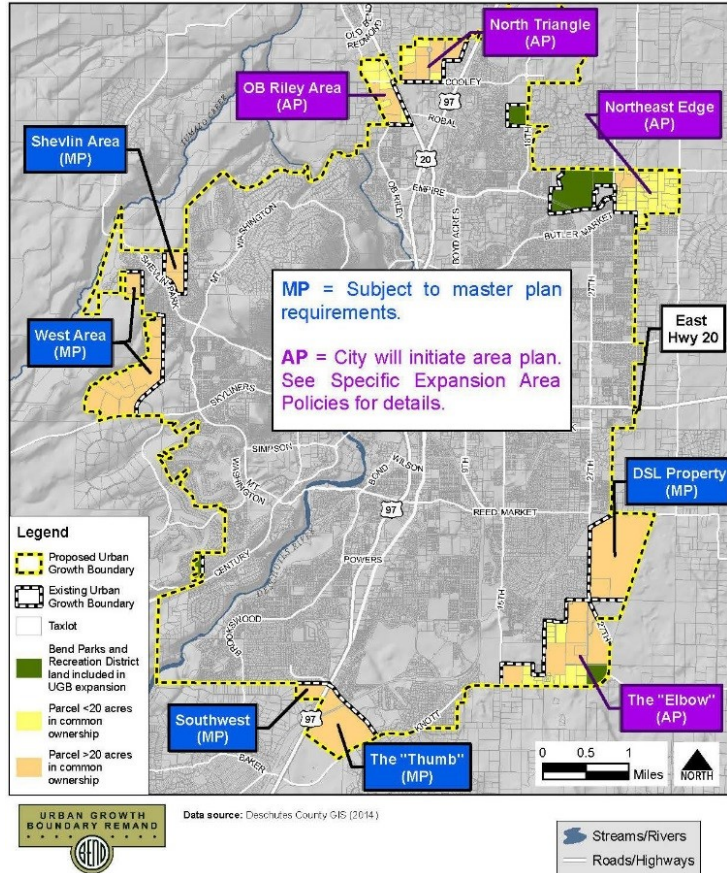
~~(A) i-~~ An analysis of walking, biking and transit facilities to destinations within the UGB for a distance of one mile from the boundary of the school site along and across arterial and collector roadways to accommodate safe, accessible and convenient access to and from the school. Based on the analysis, the City may require, through an annexation agreement or other binding mechanism, improvements to ensure safe and accessible paths of travel to and from the school, which may include walking, biking, provision of transit stops and/or accessibility improvements, including compliant curb ramps along the access routes.

~~iii. e-~~ City-initiated annexations of property intended for uses such as publicly owned rights-of-way or City-initiated annexation of additional lands brought into the Urban Growth Boundary

for affordable or market rate housing, in programs such as authorized under Oregon House Bill 4079, or other specified uses as authorized by Oregon statute.

- iv. Annexation and development of individual properties or groups of properties of any size located within the Northeast- Butler Market Village Expansion Area but outside of the Petrosa Master Plan.
  - v. For areas subject to these exemptions, ~~an applicant may~~ must submit ~~annexation and a development applications for processing~~ proposal for the entirety of the annexation area ~~concurrently~~ under the anticipated zoning district prior to annexation for evaluation of compliance with the applicable approval criteria (e.g., a Site Plan Review proposal is subject to BDC Chapter 4.2.500.D and a land division is subject to BDC 4.300.E)) and Specific Expansion Area Policies in the Bend Comprehensive Plan Chapter 11, Growth Management. ~~Any development approvals will be final decisions for processing purposes but will not be effective until completion of annexation.~~
2. Properties located within an approved area plan must comply with the following prior to or concurrently with annexation:
- a. An applicant must provide a development proposal (e.g., Site Plan Review or land division) for the entire property for evaluation of compliance with the applicable approval criteria (e.g., a Site Plan Review proposal is subject to [BDC Chapter 4.2.500.D](#) and a land division is subject to [BDC 4.3.300.E](#)), and Specific Expansion Area Policies in the Bend Comprehensive Plan Chapter 11, Growth Management.
  - b. In lieu of a master plan application for any property or combination of adjacent properties under common ownership totaling 20 acres or larger, the applicable master plan approval criteria in BDC Chapter 4.5, Master Planning and Development Alternatives will be assessed along with the approval criteria of the respective development proposal cited above in subsection (2)(a).
3. Final procedural steps and decision issuance for concurrent development applications will occur immediately after the annexation becomes effective.

**Figure 4.9.300**  
**Expansion Areas**



**Table 4.9.300 – Specific Expansion Area Policies and Land Use Approval Requirements**

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	Land Use Approval Required Prior to or Concurrently with Annexation
Northeast – Butler Market Village	11-56 through 11-63	Property located outside of the Petrosa Master Plan will require a Site Plan Review and Design Review site plan or land division proposal that demonstrates how the entire property will be developed. See BDC 4.9.300(B)(1)(a)(iv)
East Highway 20	11-64	See BDC 4.9.300(B)(1)(a)(i)

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	<u>Land Use Approval Required Prior to or Concurrently with Annexation</u>
DSL Property	11-65 through 11-74	<u>Master plan in compliance with BDC Chapter 4.5, Master Planning and Development Alternatives.</u>
The Elbow	11-75 through 11-84	<u>Southeast Area Plan approved. See BDC 4.9.300(B)(2).</u>
The Thumb	11-85 through 11-91	<u>Master plan in compliance with BDC Chapter 4.5, Master Planning and Development Alternatives.</u>
Southwest	11-92 through 11-99	<u>Master plan in compliance with BDC Chapter 4.5, Master Planning and Development Alternatives.</u>
West Area#3	11-100 through 11-108	<u>Master plan in compliance with BDC Chapter 4.5, Master Planning and Development Alternatives.</u>
Shevlin Area	11-109 through 11-115	<u>See BDC 2.7.3XXX, Shevlin Area Master Plan</u>
OB Riley Area	11-116 through 11-121	<u>Area plan in compliance with BDC 2.7.100. Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level area plan for the rest of the subarea. Following adoption of the area plan, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved.</u>
North Triangle	11-122 through 11-131	<u>Area plan in compliance with BDC 2.7.100. Prior to completion of the Area Plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level Area Plan for the rest of the subarea. Following adoption of the Area</u>

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	<u>Land Use Approval Required Prior to or Concurrently with Annexation</u>
		<u>Plan, annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved.</u>

TO: Southeast Expansion Area Property Owners  
 FR: Ken Atwell  
 Southeast Bend Neighborhood Assoc. SEBNA  
 Land Use Chair, SEAPAC member

It is important to understand that a vote to approve the area plan before SEAPAC tonight is not an approval that binds property owners in the plan area to the funding budget presented in the area plan, and it is not a vote that binds area property owners to annexation. Each of those issues require a separate vote by all property owners according to the processes summarized here.

The first question is: Can the City initiate the creation of a *special improvement district* without the area to be assessed having already been annexed. If not, then the first hurdle to clear is annexation which requires:

- a. approval of all owners and 50% of resident electors
- b. half of the owners and a majority of resident electors
- c. more than half of the owners that also own more than half of the acreage that is worth more than half of the current assessed value for the area

The second question is: Can a *special improvement district* or *supplemental SDC* plan be considered as a realistic approach to avoid significant City funding of the \$30 million offsite infrastructure budget. With a minimum estimate of \$25-30 million in SDC revenue generated through build-out of this area and with the affordable ownership thrust of current development approvals, to gain voter approval the City may need to take more responsibility for offsite street and sewer costs than has been proposed to date.

How the deck is stacked

Owner	Acres	% Total	% Assessed		
Reed	76	23%	3.8%	469	
School	75				
Schumacher	65	19%	13.8%	1714	
Ward	39	12%	3.6%	445	
Blue	38	11%	7.7%	954	
Parks	33				
Schatz	20	6%	3.9%	482	
Gabert	18	5%	2.3%	282	
Brown	12	4%	6.0%	739	
Wilson	10	3%	6.7%	834	
Bowman	9.4	3%	2.4%	304	
Odo	9.5	3%	4.6%	568	
Kelleher	4.9	1%	5.9%	735	
Stevenson	5.3	2%	2.9%	361	
Mabee	5	1%	2.4%	302	
Cowell	4.8	1%	2.7%	341	
Amott	4.8	1%	2.8%	346	
Walkley	4.8	1%	1.9%	232	
Raintree					
	1	0.9	0%	4.2%	526
	2	0.6	0%	3.3%	410
	3	0.6	0%	3.7%	453
	4	0.6	0%	4.0%	491
	5	0.6	0%	3.8%	468
	6	0.6	0%	4.2%	516
	7	2.5	1%	2.2%	272
	8	3.7	1%	1.3%	165
	444.6				12409

**CODE SUMMARY**

**Annexation 4.9.400 Initiation Procedures.**

A. An annexation proposal for the contiguous territory proposed to be annexed may be initiated by petition in compliance with one of the following initiation procedures:

1. All of the owners of land in the contiguous territory proposed to be annexed and not less than 50 percent of the electors, if any, residing in the territory, consent in writing to the annexation of their land in the territory and file a statement of their consent with the City;

2. A majority of the electors registered in the contiguous territory proposed to be annexed consent in writing to the annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the City; or

3. More than half the owners of land in the contiguous territory proposed to be annexed, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory, consent in writing to the annexation of their land in the territory and file a statement of their consent with the City. ....

C. An annexation proposal may be initiated by City Council resolution. The Council may terminate proceedings under this section at any time.

D. An annexation proposal may be initiated pursuant to the State law health hazard abatement annexation process.

[Ord. NS-2302, 2018]



#### **4.9.500 Submittal Requirements. Revised 2/18**

##### **A. The application must include:**

1. A completed and signed annexation application packet on forms provided by the City.
2. A petition including the statement of consent, on City forms, completed by property owners and/or electors residing in the territory that meets the requirements of [BDC 4.9.400](#), Initiation Procedures.
3. Legal description of the territory including abutting right-of-way to be annexed and a boundary survey certified by a registered engineer or surveyor.

.....

9. Territories with irrigation district water rights or other irrigation district facilities must include the following:
  - a. A map of all appurtenant water rights.
  - b. A surveyed map of any district facility (e.g., canal, head gate, and crossing) that clearly identifies easements, rights-of-way, access roads, etc., for any conveyance facilities that may remain that are either irrigation district owned or privately owned on the property upon annexation.
  - c. A signed statement by the applicant, including any letters or other written documentation provided by the irrigation district, confirming that the applicant has met with the irrigation district to discuss the proposed annexation and the extent to which any issues identified in [BDC 4.9.600\(A\)\(6\)](#) have been resolved or, if they have not yet been resolved, setting forth a plan with a timeline to resolve any issues.
10. If the City has not yet amended its public facilities and transportation plans for the affected expansion area, inclusion of an applicant initiated amendment to the relevant plan(s) or other evidence that the necessary infrastructure planning under Statewide Planning Goals 11 and 12 will take place prior to or concurrently with annexation. [Ord. NS-2302, 2018]

#### **4.9.600 Approval Criteria. Revised 2/18**

##### **A. The City Council may approve, or approve with conditions, the proposed annexation application if all of the following criteria are met:**

1. The annexation proposal is consistent with the Bend Comprehensive Plan policies and plan designations applicable to the territory as determined by the Planning Director or designee.
2. The annexation proposal is consistent with an approved area plan and/or master plan, unless exempted in [BDC 4.9.300\(B\)\(1\)](#).
3. The proposal demonstrates how the annexed territory is capable of being served by public facilities and services with adequate capacity as determined by the City, including sanitary sewer collection, domestic water, transportation, schools, and parks, consistent with the City's adopted public facility plans, transportation system plan, and applicable district plans, either as provided in an applicable area or master plan or by demonstrating how such public facilities and services will be provided in an orderly, efficient and timely manner.
4. The proposal demonstrates how public facility and service impacts, including as applicable: on- and off-site improvements, construction and modernization of existing infrastructure (water, sewer, stormwater, transportation) to City standards and specifications, and impacts to existing infrastructure inside the City's current city limits, will be adequately mitigated through an annexation agreement or other funding mechanism approved by the City Council prior to annexation. The City will use the standards and criteria of [BDC Chapter 4.7](#), Transportation Analysis, for analysis and mitigation of transportation impacts.
5. Owner(s) have committed to transfer all irrigation district water rights from the property, unless exempted in subsection (A)(5)(a)(i) of this section. The timing of the transfer of irrigation district water rights may be worked out between the owner(s) and the irrigation district, but, in any event, the transfer must occur prior to the platting of a land division or prior to certification of final occupancy for developments subject to site plan review, whichever occurs first. For phased subdivisions or developments, however, the transfer may occur by individual phase prior to the platting of each phase or prior to certification of final occupancy of the development on each phase.
  - a. Exemption.
    - i. In limited instances where the City Council finds that continued use of irrigation district water rights will not conflict with the Bend Comprehensive Plan specific expansion area policies for the land to be annexed and the transition to urban land uses, an owner may continue to use the irrigation district water rights until certain events occur or certain conditions are met as set forth in a written agreement. Council may also consider, in its discretion, whether the property owner has satisfactorily shown that continued use of irrigation water would be

more efficient based on the size of the lot or parcel, lack of environmental harm and sustainable use of water, protection of public health, or cost to the city or other public entities.

6. Sufficient evidence acceptable to the City has been provided demonstrating that the irrigation district had an opportunity to review the layout and design for any impacts on irrigation district conveyance facilities and to recommend reasonable protections for such facilities consistent with the irrigation district's adopted rules and regulations, system improvement plans and/or development policies.

7. The proposal demonstrates that approval of the annexation and zoning districts that implement the underlying Bend Comprehensive Plan map designations is consistent with the provisions of [BDC 4.6.600](#), Transportation Planning Rule Compliance.

8. The proposal demonstrates how rights-of-way will be improved to urban standards as determined by the City, including rights-of-way in cherry stem annexations. [Ord. NS-2302, 2018]

#### **Improvement District 2.10.020 Notice of Hearing on District Formation.**

A. For projects that involve improvements other than sidewalks and associated curbs, unless all owners of specially benefited property have petitioned for formation of the local improvement district and waived the right of remonstrance, the City shall mail notice to property owners of a Council hearing on the proposed district at least 10 days prior to the hearing. Notice will be mailed to the property owners' addresses as listed in the County tax records as of the date of the notice. The City may provide additional notice if determined to be in the interest of property owners.

#### **2.10.025 Hearing on District Formation.**

A. For improvements other than sidewalk improvements, the Council shall hold a public hearing on the proposed improvement and formation of the district and consider oral and written testimony, as well as remonstrances.

B. **If property owners owning two-thirds of the property area within the district to be specially assessed remonstrate against the improvement, the Council shall not proceed** with forming the district and financing the improvement by special assessment. This provision shall not apply if the only improvements to be constructed are sidewalks or if the Council unanimously declares the improvement to be needed because of an emergency or public health concern. If a property has multiple owners, a remonstrance by an owner shall be considered a fraction of a remonstrance to the extent of the interest in the property of the person filing the remonstrance.

C. All remonstrances must be in writing and filed with the City Recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.

D. If insufficient remonstrances are filed to prevent the formation of the local improvement district, the Council shall have discretion whether or not to form the district and proceed with the public improvement.

E. **Based on testimony at the hearing, the Council may modify the scope of the improvements and/or the district boundary.** The Council may use any reasonable method of determining the extent of the local improvement district based on the benefits of the proposed local improvement(s). If any modifications approved by Council include additional property or result in a likely increase in assessments on any property, the City shall hold another hearing and provide notice of the additional hearing in the same manner as it provided notice of the initial hearing.

F. A decision to accept the engineer's report, form the local improvement district and proceed with making the local improvements shall be by resolution.