

ORDINANCE NO. NS - 2421

AN ORDINANCE ANNEXING APPROXIMATELY 365 ACRES OF LAND ENCOMPASSING THE “DSL” UGB EXPANSION MASTER PLAN AREA, FOR THE STEVENS RANCH MASTER PLANNED DEVELOPMENT AND REQUESTING JURISDICTIONAL TRANSFER OF THE RIGHT OF WAY PER ORS 373.270.

Findings:

- A. Bend Development Code Section 4.9.400A.3 provides for annexation of real property to the City when 100 percent of the property owners that represent more than half the assessed value of all real property in the contiguous territory proposed to be annexed consent to the annexation.
- B. The City received an application for annexation of the territory describe in Exhibit A and shown on Exhibit B (the “Area”).
- C. One hundred percent of property owners within the Area have filed statements of consent to this annexation.
- D. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On August 5, 2021, notice was mailed by the Planning Division to surrounding owners of record of property within 500 feet of the subject properties, and to the Old Farm and Larkspur Neighborhood Association representatives. Notice was also posted in four public places on August 6, 2021, and posted in The Bulletin on August 8, 2021 and August 15, 2021. On August 6, 2021, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at five locations, no more than 10 feet from adjacent rights of way.
- E. The City Council held a public hearing on August 18, 2021 to receive evidence and comments on the question of annexation.
- F. The Area is contiguous to the City limits of the City of Bend along the west boundary of the properties within the Area.
- G. The applicant and the City have reached agreement on a proposed Annexation Agreement that sets forth the obligations of the applicant for the provision of urban infrastructure needed to serve the newly annexed area and other areas.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The territory containing approximately 365 acres of land as described in Exhibit A and depicted in Exhibit B, is annexed to the City of Bend upon the Annexation Agreement (Exhibit C) taking effect.

- Section 2. The City Manager is authorized to execute the Annexation Agreement (Exhibit C) in the substantially the form presented to Council.
- Section 3. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit D.
- Section 4. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated in accordance with the Stevens Ranch Master Planned Development zoning scheme (PLMOD20210316).

First Reading: August 18, 2021

Second reading and adoption by roll call vote: September 1, 2021

YES: Mayor Sally Russell
Mayor Pro Tem Gena Goodman Campbell
Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Rita Schenkelberg

NO: none


Sally Russell, Mayor

Attest:


Robyn Christie, City Recorder

Approved as to form:

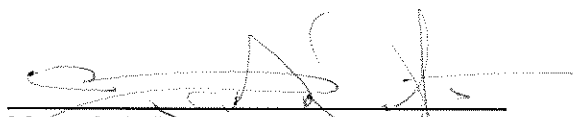

Mary A. Winters, City Attorney



EXHIBIT A ANNEXATION DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER (NE1/4), THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER (W1/2 SE1/4) AND THE WEST ONE-HALF (W1/2) OF SECTION 11, TOWNSHIP 18 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY OREGON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST ONE-SIXTEENTH CORNER COMMON TO SECTION 2 AND SECTION 11, TOWNSHIP 18 SOUTH, RANGE 12 EAST, MARKED BY A 2 1/2 INCH ALUMINUM DISC STAMPED "1/16 - 1980 - PLS 1020", THENCE SOUTH 89° 26' 37" EAST, ALONG THE NORTH LINE OF SAID SECTION 11, 163.86 FEET TO THE NORTHERLY RIGHT OF WAY OF A.E. STEVENS ROAD (25.00 FEET FROM CENTER LINE) AND A POINT OF NON-TANGENT CURVATURE;

THENCE LEAVING SAID NORTH LINE, ALONG THE NORTHERLY RIGHT OF WAY OF A.E. STEVENS ROAD, ALONG THE ARC OF A 598.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 19° 16' 26", AN ARC LENGTH OF 201.16 FEET (THE CHORD OF WHICH BEARS NORTH 81° 15' 00" EAST A DISTANCE OF 200.22 FEET) TO A POINT OF TANGENCY;

THENCE SOUTH 89° 06' 47" EAST, CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY, 2312.18 FEET TO A POINT ON THE NORTHEASTERLY PROLONGATION OF THE WESTERLY RIGHT OF WAY OF A PG&E TRANSMISSION GAS LINE, SAID POINT BEARS NORTH 18° 22' 26" EAST, 19.83 FEET FROM A 2 INCH ALUMINUM DISC STAMPED "BECON";

THENCE SOUTH 18° 22' 26" WEST, ALONG SAID NORTHEASTERLY PROLONGATION AND THE WESTERLY RIGHT OF WAY OF SAID PG&E TRANSMISSION GAS LINE, 5,557.09 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF W.J. MCGILLVRAY ROAD (20 FEET FROM CENTERLINE), SAID POINT BEARS NORTH 18° 22' 26" EAST, 21.03 FEET FROM A 2 INCH ALUMINUM DISC STAMPED "BECON";

THENCE LEAVING THE WESTERLY RIGHT OF WAY OF SAID PG&E TRANSMISSION GAS LINE, NORTH 89° 36' 19" WEST, ALONG THE NORTHERLY RIGHT OF WAY OF W.J. MCGILLVRAY ROAD, 979.96 FEET TO THE NORTHERLY RIGHT OF WAY OF FERGUSON ROAD (20 FEET FROM CENTER LINE);

THENCE LEAVING SAID W.J. MCGILLVRAY ROAD RIGHT OF WAY, NORTH 89° 36' 19" WEST, ALONG THE NORTHERLY RIGHT OF WAY OF FERGUSON ROAD, 1305.79 FEET TO THE EASTERLY RIGHT OF WAY OF M.W. WILSON ROAD (20 FEET FROM CENTER LINE);

THENCE LEAVING SAID FERGUSON ROAD, NORTH 00° 41' 32" EAST, ALONG THE EASTERLY RIGHT OF WAY OF M.W. WILSON ROAD, 2629.01 FEET;

THENCE CONTINUING ALONG THE EASTERLY RIGHT OF WAY OF SAID M.W. WILSON ROAD, NORTH 00° 41' 54" EAST, 1769.49 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF A.E. STEVENS ROAD (25 FEET FROM CENTERLINE);

THENCE LEAVING THE EASTERLY RIGHT OF WAY M.W. WILSON ROAD, NORTH 60° 55' 13" EAST, ALONG THE SOUTHERLY RIGHT OF WAY OF A.E. STEVENS ROAD, 1497.67 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NE1/4 NW1/4) OF SAID SECTION 11;

THENCE LEAVING THE SOUTHERLY RIGHT OF WAY OF SAID A.E. STEVENS ROAD, NORTH 00° 37' 48" EAST, ALONG SAID WEST LINE, 138.90 FEET TO THE NORTH LINE OF SAID SECTION 11 AND THE POINT OF BEGINNING;

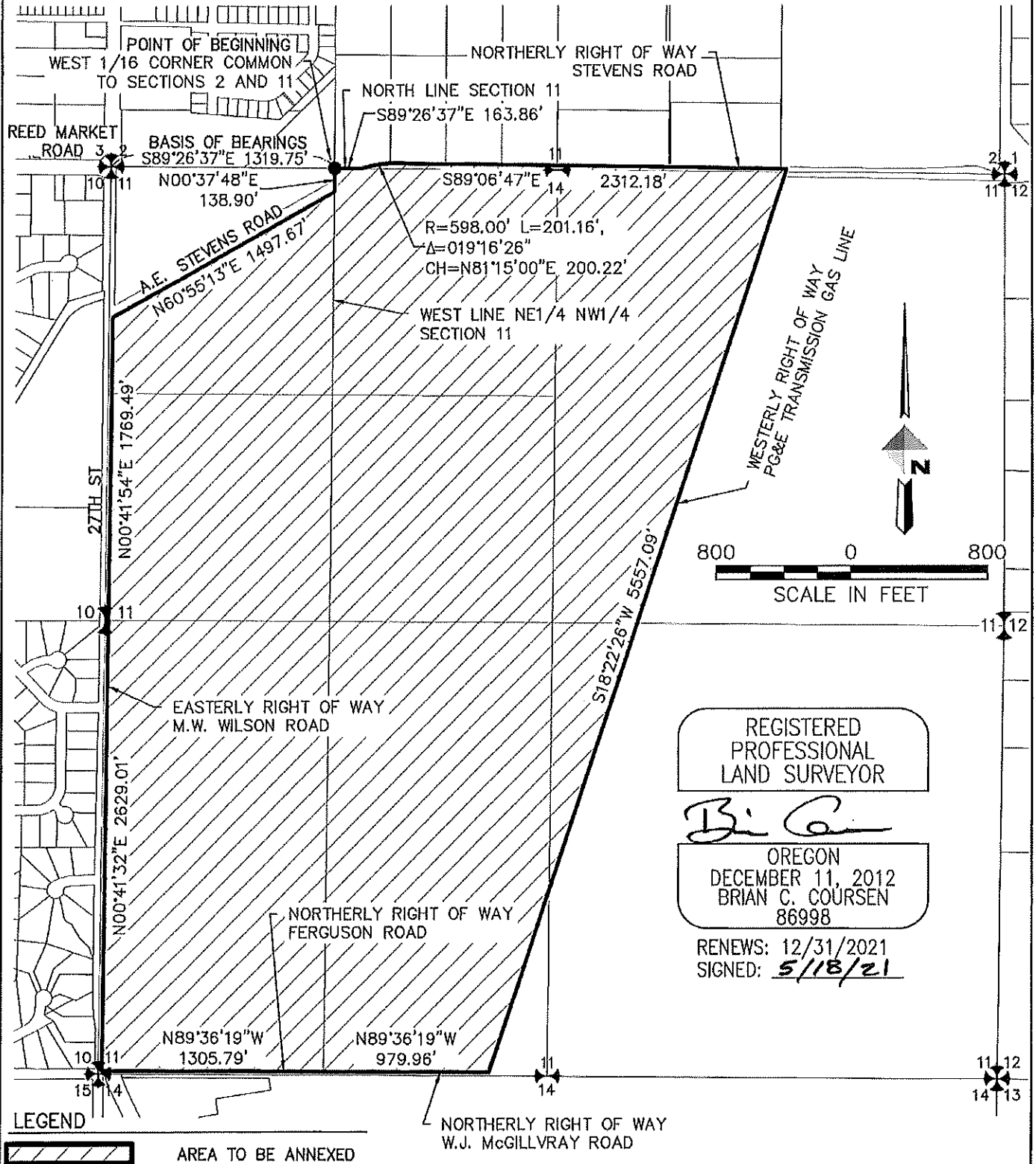
HEREIN DESCRIBED TRACT OF LAND CONTAINS 365 ACRES, MORE OR LESS.

BASIS OF BEARINGS IS SOUTH 89° 26' 37" EAST BETWEEN THE NORTHWEST CORNER OF SECTION 11 AND THE WEST ONE-SIXTEENTH CORNER COMMON TO SECTIONS 2 AND 11.



Renews: 12-31-2021

LOCATED IN THE NORTHEAST 1/4, WEST 1/2 SOUTHEAST 1/4, AND WEST 1/2, OF SECTION 11, TOWNSHIP 18 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON.



DOWL
WWW.DOWL.COM
963 SW Simpson Avenue, #200
Bend, Oregon 97702
541-385-4772

ANNEXATION EXHIBIT
STEVENS RANCH
BEND, OREGON

PROJECT	14647-01
DATE	05/18/2021
EXHIBIT B	

After recording, return to:

STEVEN'S RANCH ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is made this 1st day of September, 2021 between the City of Bend ("City") and Stevens Ranch, LLC who is the owner of record of the property described in Exhibit A and shown on Exhibit B ("Property").

The purposes of this Agreement are:

1. to memorialize the agreement between the parties to annex the Property into the City;
2. to assign responsibilities among the parties for performance of certain requirements to develop the Property;
3. to memorialize the Agreement among the parties on the allocation of financial responsibility for the public facilities and services that are necessary to serve the Property; and
4. to guarantee the City's requirements for the provision of urban services to the Property.

RECITALS

A. Owner intends to develop the Property pursuant to the Bend Comprehensive Plan (the "BCP"), the Bend Development Code (the "BDC") and a City-approved Major Master Plan. The Property is within the City's Urban Growth Boundary (UGB) and is contiguous to the city limits at 27th Street, Ferguson Road and Reed Market. Therefore, the Property is eligible for annexation subject to BDC Chapter 4.9.

B. Owner intends to develop the residential components of the Property with a mix of single family and multi-family housing as required by BCP Growth Management Policies for the subject property (formerly the DSL property). This Agreement is predicated in part on an understanding between the City and Owner that Owner anticipated development of the Property will provide a complete community that accommodates a diverse mix of housing and employment uses, including the planned large lot industrial site as described in the BCP Growth Management Policy and the Steven's Ranch Master Plan.

C. The Property consists of approximately 365 acres identified as the DSL Property Expansion Area that is subject to the requirements and limitations of the BCP Growth Management Specific Expansion Area Policies, including the requirement that development is subject to a major community master plan approval under BDC Chapter 4.5.

D. The Property is currently zoned Urbanizable Area ("UA") and is designated Residential Standard ("RS"), Residential Medium Density ("RM"), Residential High Density ("RH"), General Commercial ("GC"), Commercial Limited ("CL") and General Industrial ("IG") on the BCP Map pursuant to the applicable Growth Management Policies of the Bend Comprehensive Plan.

E. On March 25, 2021, Owner submitted a request to the City for approval of a Major Community Master Plan (City File No. PL5PD20210316) ("Steven's Ranch Master Plan").

F. On June 25, 2021, Owner submitted a request to the City to annex the Property to the City (City File No. PLANX20210637).

G. Annexation of the Property requires Owner to prove that all criteria under BDC 4.9.600 are met.

H. In order to meet the BDC 4.9.600 criteria and to satisfy the City's conditions for an affirmative decision to annex the Property, and in exchange for the obligations of the City set forth in Section 2 of this Agreement, Owner agrees to comply with all requirements imposed in this Agreement and all other City codes, regulations, and standards applicable to the Property, including the Steven's Ranch Master Plan. This Agreement is consistent with and intended to implement the BCP Growth Management Specific Expansion Area Policies for the subject property and other applicable policies of the BCP.

AGREEMENT

Based upon the Recitals, which are incorporated as part of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Obligations of Owner.** Consistent with the above Recitals, Owner agrees to perform the obligations of this Agreement and comply with and meet all City codes, standards, and regulations, including and except as modified by the Steven's Ranch Master Plan. All exhibits attached are conceptual and nothing in this Agreement prohibits refinements to meet City standards as part of the required development applications.

2. **Master Plan Approval.** Owner will seek approval of a Major Community Master Plan under BDC Chapter 4.5 for the Steven's Ranch Master Plan concurrent with approval of this Annexation Agreement. This Agreement will become effective upon authorized signatures of all parties, approval of the Steven's Ranch Master Plan by the City Council, and expiration of all applicable appeal periods or when the City's approval of the Master Plan is otherwise final.

3. **Water.** In order to serve the Property consistent with BCP Growth Management Specific Expansion Area Policies for the subject property and other applicable policies of the BCP and the BDC, the water system improvements identified on Exhibit C will be constructed by Owner pursuant to the phasing and development schedule set forth in the Steven's Ranch Master Plan. The property is in the Avion service territory and will be served by Avion water.

4. **Sewer.** In order to serve the Property consistent with BCP Growth Management Specific Expansion Area Policies for the subject property and other applicable policies of the BCP and the BDC, the wastewater collection system improvements identified on Exhibit D will be constructed pursuant to the phasing and development schedule set forth in the Steven's Ranch Master Plan.

4.1 **Wastewater System SDC Credits.** Owner and the City acknowledge that Owner is required to construct certain wastewater collection infrastructure as more particularly set forth in the Steven's Ranch Master Plan. Owner has agreed to upsize its gravity sewer from 8" to 12", together with a required increased depth, in the area shown on Exhibit D-1 to serve properties west of 27th Street which are currently in the City limits provided the increased improvement costs shown on Exhibit D-2 are eligible for SDC credits at 100%. City agrees to undertake the necessary amendment to the SDC Project List and/or adopted CIP to include the improvements shown on D1, together with the estimated improvement costs shown on D-2 at 100% eligibility to be funded with improvement fee revenue. As of the Effective Date none of the wastewater collection infrastructure is included on any SDC Project List or adopted Capital Improvement Program ("CIP") and are therefore currently not eligible for SDC Credits under Bend Code ("BC") 12.10.130. If any of the wastewater collection infrastructure required under this Agreement and the Steven's Ranch Master Plan are later included on any SDC Project List or CIP, Owner will be permitted to apply for SDC Credits under BC 12.10.130 for any such improvements, subject at all times to the requirements of BC Chapter 12.10 in effect at the time of application.

5. **Transportation.** In order to serve the Property consistent with BCP Growth Management Specific Expansion Area Policies for the subject property and other applicable policies of the BCP and the BDC, together with the Transportation Planning Rule (OAR 660-012-0060) the transportation system improvements identified on Exhibit E will be constructed by Owner pursuant to the phasing and development schedule set forth in the Steven's Ranch Master Plan (the "SDC Projects"). In addition to the SDC Projects, the Steven's Ranch Master Plan identifies additional on- and off-site transportation projects which are necessary to serve the Property (the "Non-SDC Projects"). Owner will construct the Non- SDC Projects pursuant to the phasing and development schedule set forth in the Steven's Ranch Master Plan.

5.1 **Transportation SDC Project List.** The City will consider an amendment to the transportation system SDC Project List to include the SDC Projects, together with the estimated cost of such improvements and the percentage of such cost eligible to be funded with improvement fee revenues, as set forth on Exhibit E-1.

5.2 **Transportation System SDC Credits.** Pursuant to BDC 12.10.130(C), the transportation system improvements identified on Exhibit E-1 will be eligible for SDC credits in the percentages set forth on Exhibit E-1, to the extent the improvements are on the adopted Transportation SDC Project List. Owner and the City acknowledge that Owner is required to construct the Non-SDC Projects. As of the Effective Date, the Non-SDC Projects are not included on any SDC Project List or adopted CIP. If any of the Non-SDC Projects are later included on any SDC Project List or CIP, Owner will be permitted to seek SDC Credits under BDC 12.10.130 for any such improvements, subject at all times to the requirements of BDC Chapter 12.10 then in effect.

5.3 **Transportation Planning Rule Compliance.** The Parties acknowledge that (i) the construction of the SDC Projects and the Non-SDC Projects will benefit multiple transportation modes and provide improvements to locations other than the affected facilities; and (ii) the system-wide benefits are sufficient to balance the significant effects identified in the Annexation Transportation Impact Analysis (TIA), even though the improvements will not result in consistency for all performance standards. Attached as Exhibits F and G are written statements of approval from the Oregon Department of Transportation ("ODOT") and Deschutes County pursuant to OAR 660- 012-0060(2)(e) acknowledging compliance with the

Transportation Planning Rule, OAR 660-012-0060.

5.3.1 Owner will mitigate the impacts of the Steven's Ranch Master Plan development on county transportation facilities through an Improvement Agreement (IA) with Deschutes County as described in Exhibit G.

5.3.2 Owner will mitigate the impacts of the Steven's Ranch Master Plan development on state transportation facilities through a Memorandum of Understanding (MOU) with ODOT as described in Exhibit F.

5.4 **Dedication/Acquisition of Right of Way.** Owner agrees to dedicate right-of-way (ROW) under Owner' control to the City to accommodate the transportation improvements described above and described by and shown in the Steven's Ranch Master Plan (which does not exceed 50 feet from arterial centerlines of M.W. Wilson Road (27th Street), Stevens Road, and W.J. McGillvray Road (Ferguson Road) and 40 feet from collector centerlines).

5.4.1 Except for the intersection improvements at Reed Market/27th Street, for any improvements identified herein where additional ROW is required beyond the property boundaries to support regional transportation improvements identified within the City's Transportation System Plan, the following process will be applied:

- Engineering designs will be reviewed to understand potential options that could avoid or reduce ROW while maintaining the desired regional roadway alignments and sections.
- Where additional ROW is required, Owner will make a good-faith effort to privately obtain the additional ROW the acquisition of which will be 100% SDC reimbursable/creditable.
- If these efforts prove unsuccessful, as a last resort, the City will consider ROW condemnation proceedings. In the event the City considers and/or initiates ROW condemnation proceedings, Owner will be solely responsible for any and all fees and costs associated with the proceedings, including but not limited to any attorneys fees and/or costs whether payable to a third party or to outside counsel retained at the City's discretion, which will be 100% SDC reimbursable/creditable.

5.4.2 Intersection improvements at Reed Market/27th Street could include either an expanded traffic signal or a multi-lane roundabout.

- Where additional ROW is identified that does not impact structures, the developer will make a good-faith effort to privately obtain the additional right-of-way at fair market value, the acquisition of which will be 100% SDC reimbursable/creditable. If these efforts prove unsuccessful; the City will support this process with ROW condemnation proceedings
- Where additional ROW is identified that impacts structures, the City of Bend will initiate all negotiations and obtain the right-of-way. If the City initiates negotiations and obtains right-of-way, the negotiations and acquisition will occur on the City's schedule based on availability of City resources, at the City's discretion.
- Any costs associated with utility relocations will be SDC reimbursable/creditable at the rate identified for the specific improvement.

5.5 Affordable Housing Incentive. To encourage the development of an affordable housing project on the Property, the parties agree any residential housing project (up to a total of 200 units, creating 88 PM peak hour trips) meeting the definition of affordable housing in the City's Comprehensive Plan will be excepted from the trip trigger of 527 pm peak hour trips for the 27th Street/Ferguson Road intersection improvement. All other mitigations shall account for any trips associated with an Affordable Housing Project.

6. **Stormwater.** Unless otherwise approved and consistent with the Steven's Ranch Master Plan, Owner will hold all stormwater on site and develop the Property consistent with all City requirements. Owner will complete all on-site stormwater requirements as required by the Steven's Ranch Master Plan approval and all subsequent development applications (e.g., site plan review, subdivision).

7. **Obligations of the City.** Consistent with the above recitals, the City agrees to:

7.1 Process the application for annexing the Property into the City Limits.

7.2 Conduct a timely review of and issue a decision on the Steven's Crossing Master Plan applications.

7.3 The City acknowledges that the value of the right-of-way to be dedicated by Owner exceeds the value of right-of-way to be vacated in connection with the relocation of Steven's Road. Accordingly, the City does not anticipate recommending that payment will be required as a condition of any future vacation in connection with Stevens Road. This expectation does not extend to normally applicable application and processing fees, utility relocation costs, or other costs that will be the responsibility of Owner or third parties, all of which will be allocated in the normal fashion.

7.4 Owner acknowledges that the City cannot prospectively agree to any specific outcomes.

8. **Covenants Running with the Land.** It is the intention of the parties that the terms and obligations of this Agreement are necessary for the annexation and development of the Property and as such will run with the Property and will be binding upon the heirs, executors, assigns, administrators, and successors of the parties and are construed to be a benefit and burden upon the Property. This Agreement must be recorded with the Deschutes County Recorder upon execution. Execution and recording of this agreement are preconditions to the annexation of the Property into the City. These covenants will expire for each portion of the Property upon recording of a final plat for that portion of the Property under the Steven's Crossing Master Plan. The parties will execute and record any document necessary to release such covenants at the time of recording of the final plat.

9. **Limitations on Development.** Owner agrees that no portion of the Property may be developed prior to the City's final approval of the Steven's Ranch Master Plan and Annexation. Development of the Property under the Steven's Ranch Master Plan will be subject to additional land use and permit approval as provided in the BDC.

10. **Mutual Cooperation.** The City and Owner will endeavor to cooperate with each other in implementing the terms of this Agreement.

11. **Modification of Agreement.** This Agreement may be modified only in writing upon mutual agreement of all parties.

12. **Land Use Approval.** Nothing in this Agreement is to be construed as waiving any requirements of the Bend Code, Bend Development Code or Bend Comprehensive Plan provisions which may be applicable to the use and development of the Property. Nothing in this Agreement is to be construed as the City providing or agreeing to provide approval of any building, land use, or other development application or grading permit application.

13. **Exactions.** Owner knows and understands its rights under *Dolan v. City of Tigard* and its progeny. By entering into this Agreement, Owner waives any requirement that the City demonstrate that the public improvements and other obligations imposed on Owner in this Agreement or the Steven's Ranch Master Plan are roughly proportional to the burden and demands placed upon the urban facilities and services by the development of the Property. Owner acknowledges that the requirements and obligations of Owner, including but not limited to the required public improvements, are roughly proportional to the burden and demands on urban facilities and services that will result from development of the Property.

14. **Invalidity.** If any provision of this Agreement is deemed unenforceable or invalid, such enforceability or invalidity will not affect the enforceability or validity of any other provision of this Agreement.

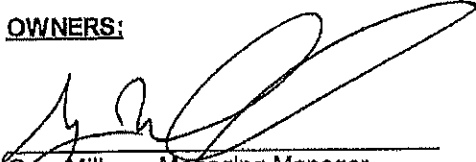
15. **State Law.** The validity, meaning, enforceability and effect of this Agreement and the rights and liabilities of the parties shall be determined in accordance with the laws of the State of Oregon.

16. **Effective Date.** This Agreement will become effective upon authorized signatures by all parties, approval of the Steven's Ranch Master Plan by the City Council, and expiration of all applicable appeal periods or when the City's approval of the Master Plan is otherwise final.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

OWNERS:

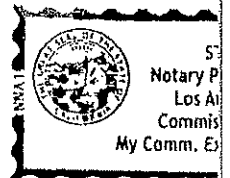


Gary Miller, Managing Manager
Stevens Ranch, LLC

STATE OF OREGON)
)
County of Deschutes)

This Instrument was acknowledged before me on _____, 2021, by Gary Miller,
Managing Manager of Stevens Ranch, LLC

See attached.



Notary Public for Oregon


CITY OF BEND:



Eric King, City Manager

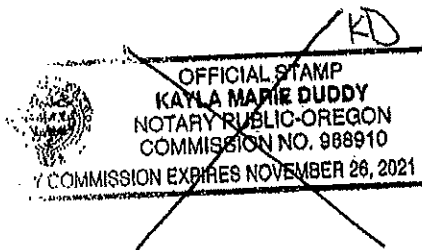
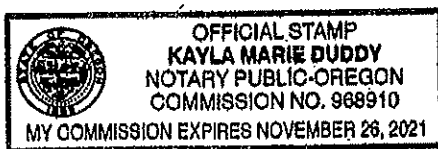
STATE OF OREGON)
)
County of Deschutes)

This Instrument was acknowledged before me on September 1, 2021, by Eric King as City
Manager of the City of Bend.



Notary Public for Oregon

PDX\126189\255108\TML\31074912.1



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

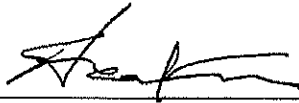
State of California
County of Los Angeles

On **August 26, 2021** before me, Steven Kim, Notary Public personally appeared **GARY MILLER**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

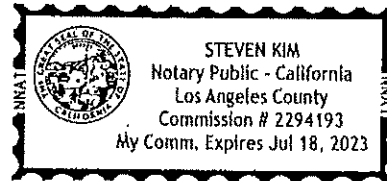
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



EVEN KIM
Notary Public - California
Los Angeles County
Commission # 2294193
My Comm. Expires Jul 18, 2023

EXHIBIT D

FINDINGS FOR STEVENS RANCH ANNEXATION



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLANX20210637

HEARING DATE: August 18, 2021

**APPLICANT/
OWNER:** Stevens Ranch LLC.
721 S. Brea Canyon Rd., Ste. 7
Diamond Bar, California 91789

LOCATION: No situs address – east of 27th Street, south of Reed Market Road; Bend Urban Growth Boundary Expansion Area, DSL Property Subarea; tax lot 200 of Deschutes County Assessor Map 18-12-11

REQUEST: A Type III Quasi-judicial request for Annexation of 365 acres of the DSL UGB Expansion Area for the Stevens Ranch Master Planned Development.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Criteria

Bend Development Code

Chapter 4.9 Annexations

Bend Comprehensive Plan

Chapter 7, Transportation Systems

Chapter 11, Growth Management

Oregon Administrative Rules

Chapter 660-012-0000, Transportation Planning

Procedures

Bend Development Code

Chapter 4.1 Development Review and Procedures

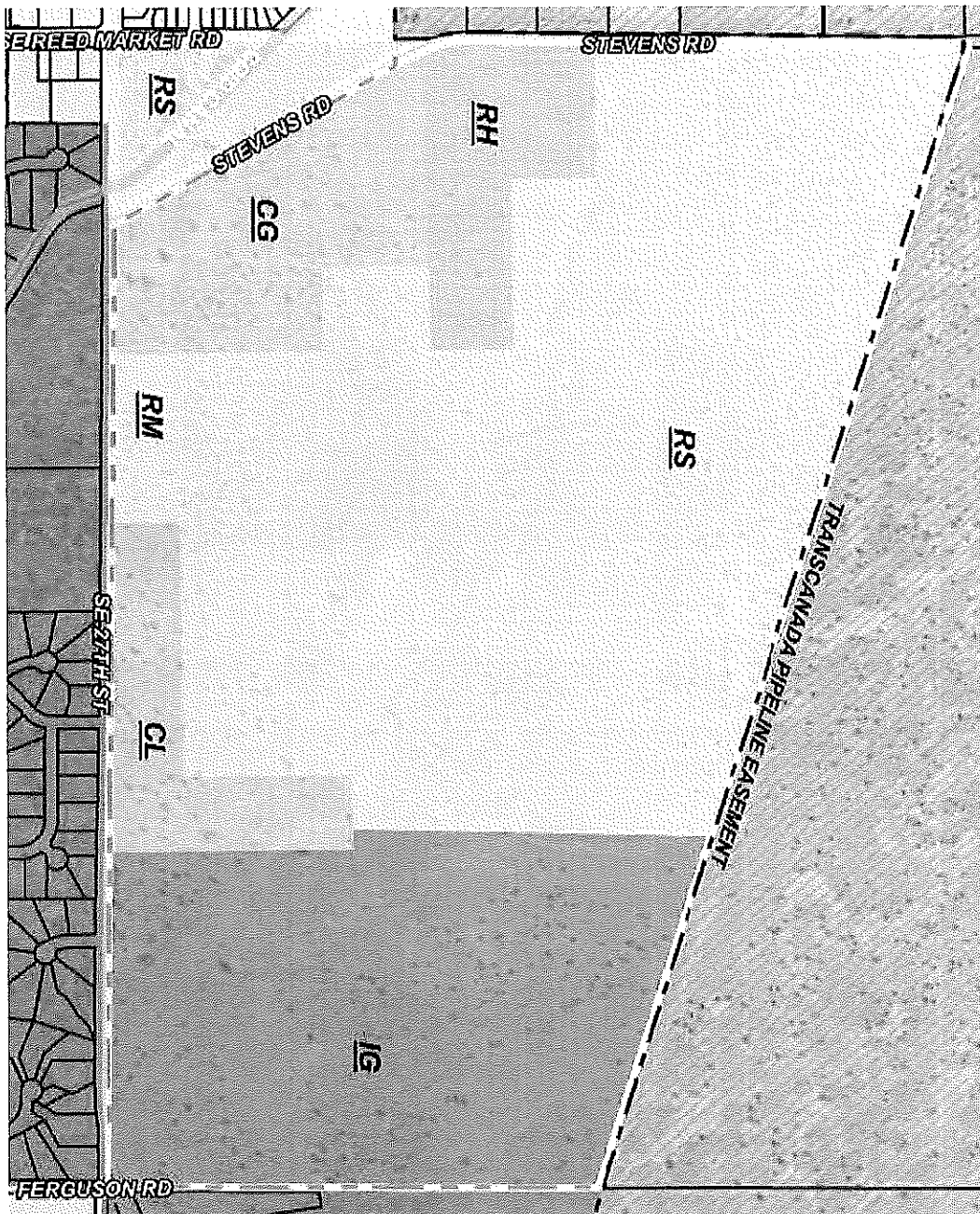
4.1.400 Type II and Type III Applications

4.1.800 Quasi-Judicial Hearings

FINDINGS OF FACT:

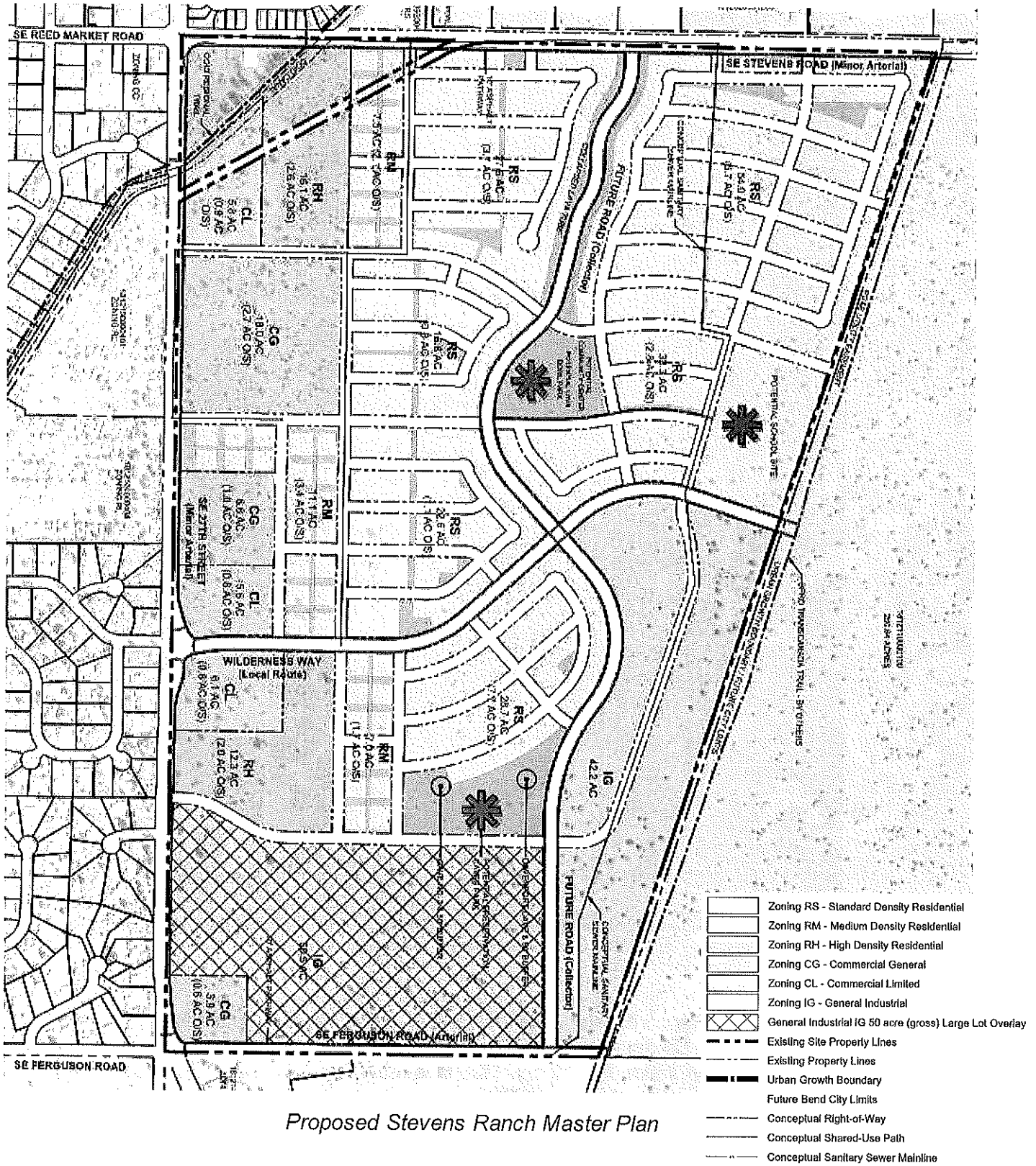
- 1. SITE DESCRIPTION AND LOCATION:** The Stevens Ranch Annexation encompasses 365 acres of the "DSL Property" subarea of the 2016 Urban Growth Boundary (UGB) Expansion Area. The site is comprised of a single tax lot, tax lot 200 of Deschutes County Assessor Map 18-12-11, with an address of 21425 Stevens Road in Bend. The property is bounded by Stevens Road (future minor arterial) to the north, SE 27th Street (minor arterial) to the west, vacant State land and the TransCanada pipeline easement to the east, and the Humane Society of Central Oregon and Deschutes County facilities including Knott Landfill to the south as well as the future extension of Ferguson Road (future arterial) to the south.

2. **ZONING:** The properties are within the UGB and are currently zoned Urbanizable Area (UA). The property in DSL UGB Expansion Master Plan Area is designated Residential Urban Standard Density (RS), Residential Urban Medium Density (RM), Residential Urban High Density (RH), and Commercial General (CG).
3. **PROPOSAL:** A Type III Quasi-judicial request for Annexation of 365 acres of the DSL UGB Expansion Area for the Stevens Ranch Master Planned Development.
4. **PUBLIC NOTICE AND COMMENTS:** Prior to submittal of this application and related applications, the applicants hosted a public meeting on January 12, 2021, in accordance with BDC 4.1.215. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On August 5, 2021, the Planning Division mailed notice to surrounding owners of record of property within 400 feet of the subject properties, and to the Larkspur, Old Farm and Southeast Bend Neighborhood Association representatives. Notice was also posted in four public places on August 6, 2021, and posted in *The Bulletin* on August 8 and 15, 2021. On August 6, 2021, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at five locations, visible from adjacent rights of way.
5. **APPLICATION ACCEPTANCE DATE:** This Type III Quasi-judicial Annexation petition was submitted on June 25, 2021. The application was deemed complete on July 9, 2021 when the application fee was paid.



Existing Comprehensive Plan Designations

Note: The Stevens Ranch Master Plan includes planned changes to the location and configurations of the Comprehensive Plan Map designations. However, the area of each Plan Map designation inside the Master Plan Boundary is within 1% of the areas listed in the Bend Comprehensive Plan Policies 11-85 and 11-86. Therefore, the expansion area will retain the same total area of all plan designations contemplated when it was brought inside the UGB.



APPLICATION OF THE CRITERIA:

Bend Development Code

Chapter 4.9, Annexations

4.9.200 Applicability.

Land to be annexed must be contiguous to the existing City limits.

FINDING: The land to be annexed is contiguous to the existing City limits along the western boundary.

4.9.300 Review Processes.

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.**

FINDING: The proposed annexation is initiated by the sole property owner, and is therefore considered a quasi-judicial application. Notice for the City Council Hearing followed the notification process required for Type III applications, as well the requirements for publishing notice in the newspaper and in four public places as required under BDC4.9.300.A.3.

On August 5, 2020, notice was mailed by the Planning Division to surrounding owners of record of property within 400 feet of the subject properties, and to the Old Farm, Southeast Bend, and Larkspur Neighborhood Association representatives and to those who submitted comments prior to the hearing before the Planning Commission for the Stevens Ranch Master Plan (PLSPD20210316). On August 6, 2021, Notice of Proposed Development signs were posted by the applicant along the property frontages at five locations, visible from adjacent rights of way. Notice was also posted in four public places on August 6, 2021, and posted in The Bulletin on August 8 and 15, 2021.

B. Area and Master Planning. Unless exempted in subsection (B)(1) of this section, expansion areas as shown in Figure 4.9.300 will require area and/or master plan approval prior to or concurrently with annexation. 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.

Table 4.9.300 - Specific Expansion Area Policies

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies
DSL Property	11-83 through 11-92

FINDING: The subject property is located in the DSL expansion area. A major community master plan in accordance with BDC Chapter 4.5 was submitted on March 25, 2021, under PLSPD20210316. On July 12, 2021, the Planning Commission made a recommendation to the City Council for approval of the Stevens Ranch Master Plan Development (MPD). The Stevens Ranch MPD is scheduled to be heard by the City Council concurrently with this annexation request. As addressed in the Planning Commission findings for PLSPD20210316, the Stevens Ranch MPD complies with Bend Comprehensive Plan Policies 11-83 through 11-92.

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:**
 - 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.**

FINDING: The Stevens Ranch master plan property is owned by Stevens Ranch, LLC, who has initiated this application and consented in writing to annexation in compliance with the procedures in A.3.

4.9.500 Submittal Requirements.

- 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.**
 - 4. A map showing the territory including abutting right-of-way to be annexed and properties within 300 feet of the territory.**
 - 5. A narrative which addresses the approval criteria in BDC 4.9.600 and the requirements of BDC 4.9.300(B).**

FINDING: The application materials uploaded to CityView for PLANX20210637 contain all of the above requirements.

- 6. A letter or other written documentation from the Bend Park and Recreation District which indicates that the applicant has met with the District to discuss the proposed annexation, and provided the District an opportunity to review the**

annexation area for options to enhance existing parks and trails, and develop new parks and trails.

FINDING: The applicant and BPRD have been in close coordination on the provision of parks and trails within the Stevens Ranch site, as described further and acknowledged in the provided letter from BPRD (Exhibit E of the application). BPRD's 2018 Comprehensive Plan identifies a neighborhood park within the site, as well as two trails. The Stevens Ranch Master Plan provides two conceptual park areas and a network of trails and shared-use paths to assist BPRD in implementing their 2018 Comprehensive Plan. This requirement is met.

- 7. A completed and signed Bend Park and Recreation District annexation agreement, unless the property(s) to be annexed is already located within the Bend Park and Recreation District.**

FINDING: The applicant's petition to annex the Stevens Ranch site into the BPRD service area has been accepted by the County. A hearing was held on June 16, 2021, and the annexation was tentatively approved, as noted in the provided letter from BPRD (Exhibit F). The annexation was subsequently recorded on June 29, 2021 under No. 2021-39024. This requirement is met.

- 8. A letter or other written documentation from the Bend-La Pine School District which indicates that the applicant has met with the District to discuss the proposed annexation and provided the District an opportunity to review and comment on the proposed annexation.**

FINDING: BCP Policy 11-88 requires coordination with BLPS to identify a suitable site for a future elementary school within the Stevens Ranch site. The applicant and BLPS have closely coordinated to determine a site suitable for the school district's needs, as described further and acknowledged in the provided letter from BLPS (Exhibit D). The Stevens Ranch Master Plan provides a potential elementary school site to meet this requirement. This requirement is met.

- 9. Territories with irrigation district water rights or other irrigation district facilities must include the following:**

FINDING: The Stevens Ranch site does not hold any appurtenant water rights. The COID main canal crosses the far northwest corner of the site; however, this portion of the site is already within the City limits and is not included with this annexation request. The location of the COID main canal is identified on the submitted existing conditions map (Exhibit C). The applicant and COID have closely coordinated on the design of the Stevens Ranch Master Plan, including the proposed sanitary sewer crossing of the COID main canal, as described further and acknowledged in the provided correspondence from COID (Exhibit K). This requirement is met.

- 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.**

FINDING: The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the applicant and the City. The Stevens Ranch Master Plan (PLSPD20210316) demonstrates how public facilities,

including sanitary sewer and potable water, are available and planned throughout the master plan area.

Consistent with the Stevens Ranch Master Plan, the land area to be annexed includes a site for a future elementary school to meet BLPS requirements, as well as two conceptual park areas and a network of trails and shared-use paths to assist BPRD in implementing their 2018 Comprehensive Plan. Ongoing coordination between the applicant and BLPS and BPRD is described further and acknowledged in Exhibits D and E, respectively.

The transportation element (Exhibit I), included with the Stevens Ranch Master Plan application, includes a transportation facilities report, transportation impact analysis, TPR analysis, and proposed mitigation measures. The traffic analysis memo (Exhibit H) summarizes the anticipated transportation impacts and mitigation recommended to compensate for these impacts.

The Stevens Ranch Master Plan, in conjunction with the annexation agreement, demonstrates that the necessary infrastructure planning required by Statewide Planning Goals 11 and 12 has occurred and construction of these necessary facilities will occur concurrently with the site's future development. This requirement is met.

4.9.600 Approval Criteria.

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.**

FINDING: The proposed annexation includes the Stevens Ranch site and adjacent rights-of-way, consisting of approximately 365 acres. As identified on Figure 4.9.300 of the Bend Development Code, the Stevens Ranch site (DSL Property) is subject to the master planning process and BCP Policies 11-82 through 11-92. The applicant has submitted a Major Community Master Plan application for the proposed Stevens Ranch Master Plan (PLSPD20210316), which demonstrates compliance with these policies. The Stevens Ranch Master Plan will be incorporated into BDC 2.7 as a master plan, and future land use applications will be required to demonstrate compliance with the master plan overlay code for approval. Further, findings of compliance with applicable annexation policies (11-59 through 11-68) are presented below. This criterion is met.

Chapter 11 Growth Management

Annexation Policies

11-59 Annexations will follow the procedural requirements of state law.

FINDING: This annexation application for the Stevens Ranch site is submitted consistent with the City's identified procedures, which implement the procedural requirements as set by State law.

11-60 Annexations will be consistent with the Comprehensive Plan and applicable annexation procedures and approval criteria.

FINDING: Conformance with applicable Comprehensive Plan policies, annexation procedures, and approval criteria is demonstrated in the findings of this document. This policy is met.

11-61 Requests for annexation must demonstrate how the annexed land is capable of being served by urban services for sanitary sewer collection, domestic water, transportation, schools and parks, consistent with applicable district facility plans and the City's adopted public facility plans.

FINDING: The applicant and City staff have closely coordinated closely to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in the annexation agreement between the applicant and the City. The Stevens Ranch Master Plan (PLSPD20210316) demonstrates how public facilities, including sanitary sewer and potable water, are available and planned throughout the master plan area.

Consistent with the Stevens Ranch Master Plan, the land area to be annexed includes a site for a future elementary school to meet BLPS requirements, as well as two conceptual park areas and a network of trails and shared-use paths to assist BPRD in implementing their 2018 Comprehensive Plan. Ongoing coordination between the applicant and BLPS and BPRD is described further and acknowledged in Exhibits D and E, respectively.

The transportation element of the Stevens Ranch Master Plan (Exhibit I) includes a transportation facilities report, transportation impact analysis, TPR analysis, and proposed mitigation measures. Further, the City Engineering Division has provided a utility availability memo (Exhibit G) and traffic analysis memo (Exhibit H), which further identify necessary mitigation measures. A will serve letter from Avion Water Company is also included with Exhibit J. Therefore, the Stevens Ranch Master Plan demonstrates that public facilities and services will be provided in an orderly, efficient, and timely manner, and that proposed impacts will be mitigated. This policy is met.

11-62 Annexations will be consistent with an approved Area Plan where applicable. The Area Plan may be reviewed and approved concurrent with an annexation application.

FINDING: As shown on Figure 4.9.300, the Stevens Ranch site (DSL Property) is subject to the master planning process per BDC 4.5 and is, therefore, not within an approved area plan and is not subject to specific area plan policies. Therefore, this plan policy is not applicable because there is no approved area plan for the Stevens Ranch site.

11-63 The City may, where appropriate in a specific area, allow annexation and require area planning prior to development approval.

FINDING: This annexation request is for the Stevens Ranch site, which is identified as the DSL Property on Figure 4.9.300. This annexation request includes approximately 365 acres, which includes the majority of tax lot 1812110000200, and portions of public rights-of-way adjacent to the site. The applicant has submitted a Major Community Master Plan application for the site (PLSPD20210316), which is currently under review by the City and was deemed complete on May 27, 2021. Therefore, this plan policy is not applicable because area planning for the site is occurring concurrent with the processing of this annexation request.

11-64 Land to be annexed must be contiguous to the existing City limits unless the property owners requesting annexation show and the City Council finds that a “cherry-stem” annexation will both satisfy a public need and provide a public benefit.

FINDING: The land proposed for annexation abuts the City limits on portions of its western, southern, and northern boundaries, and is therefore contiguous to the existing City limits. A “cherry-stem” annexation is not proposed. This policy is met.

11-65 Compliance with specific expansion area policies and/or Area Plans will be implemented through master plan approval or binding annexation agreement that will control subsequent development approvals.

FINDING: The applicant has submitted a Major Community Master Plan application for the site (PLSPD20210316), which is currently under review by the City and was deemed complete on May 27, 2021. Compliance with BCP Policies 11-82 through 11-92 is demonstrated in the applicant’s Major Community Master Plan application and will be implemented in conjunction with the Stevens Ranch Master Plan. The Stevens Ranch Master Plan will be incorporated into BDC 2.7 as a master plan, and future land use applications will be required to demonstrate compliance with the master plan overlay code for their approval. This policy is met.

11-66 Existing rural infrastructure systems and urban systems (water, sewer, transportation, stormwater) serving annexed areas may be required to be modernized and constructed to the City’s standards and specifications, as determined by the City.

FINDING: The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the applicant and the City. The Stevens Ranch Master Plan (PLSPD20210316) demonstrates how public facilities, including sanitary sewer and potable water, are available and planned throughout the master plan area. Future land division applications, site plan review applications, and site infrastructure permits will include site-specific analysis to ensure adequate infrastructure systems are constructed per applicable City standards. This policy is met.

11-67 The City may consider funding mechanisms and agreements to address on- and off-site improvements, modernization of existing infrastructure to the City’s standards and specifications, and impacts to infrastructure inside the current City limits.

FINDING: The applicant and City staff have coordinated closely to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the applicant and the City. This policy is met.

11-68 Properties over 20 acres (including adjacent property in common ownership) (shown on Figure 11-7) are subject to master plan requirements unless they are part of an adopted area plan. 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.

FINDING: This annexation request is for the Stevens Ranch site, which is identified as the DSL Property on Figure 4.9.300. This annexation request includes approximately 365 acres, which includes the majority of tax lot 1812110000200, and portions of public rights-of-way adjacent to the site. The applicant has submitted a Major Community Master Plan application for the site (PLSPD20210316), which is currently under review by the City and was deemed complete on May 27, 2021. The annexation and master plan applications will be heard concurrently by the City Council for a final decision.

4.9.600 Approval Criteria. (continued)

2. The annexation proposal is consistent with an approved area plan and/or master plan, unless exempted in BDC 4.9.300(B)(1).

FINDING: The proposed annexation includes the Stevens Ranch site and adjacent rights-of-way, consisting of approximately 365 acres. As identified on Figure 4.9.300, the Stevens Ranch site (DSL Property) is subject to the master planning process and BCP Policies 11-82 through 11-92. The applicant has submitted a Major Community Master Plan application for the proposed Stevens Ranch Master Plan (PLSPD20210316), which demonstrates compliance with these policies. The Stevens Ranch Master Plan will be incorporated into BDC 2.7 as a master plan, and future land use applications will be required to demonstrate compliance with the master plan overlay code for their approval. The Major Community Master Plan application for the Stevens Ranch site was deemed complete on May 27, 2021. A public hearing was held before the Bend Planning Commission on July 12, 2021. The annexation and master plan applications will be heard concurrently by the City Council for a final decision. This criterion is met.

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.

FINDING: The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the applicant and the City. The Stevens Ranch Master Plan (PLSPD20210316) demonstrates how public facilities, including sanitary sewer and potable water, are available and planned throughout the master plan area.

Consistent with the Stevens Ranch Master Plan, the land area to be annexed includes a site for a future elementary school to meet BLPS requirements, as well as two conceptual park areas and a network of trails and shared-use paths to assist BPRD in implementing their 2018 Comprehensive Plan. Ongoing coordination between the applicant and BLPS and BPRD is described further and acknowledged in Exhibits D and E, respectively.

The transportation element (Exhibit I), included with the Stevens Ranch Master Plan application, includes a transportation facilities report, transportation impact analysis, TPR

analysis, and proposed mitigation measures. The traffic analysis memo (Exhibit H) summarizes the anticipated transportation impacts and mitigation recommended to compensate for these impacts.

Therefore, the Stevens Ranch Master Plan demonstrates that public facilities and services will be provided in an orderly, efficient, and timely manner. This criterion is met.

- 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.**

FINDING: The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Stevens Ranch site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the applicant and the City. The Stevens Ranch Master Plan (PLSPD20210316) demonstrates how public facilities, including sanitary sewer and potable water, are available and planned throughout the master plan area.

The transportation element (Exhibit I), included with the Stevens Ranch Master Plan application, includes a transportation facilities report, transportation impact analysis, TPR analysis, and proposed mitigation measures. Further, the City Engineering Division has provided a utility availability memo (Exhibit G) and traffic analysis memo (Exhibit H), which further identifies necessary mitigation measures. A will serve letter from Avion Water Company is also included with Exhibit J. Therefore, the Stevens Ranch Master Plan demonstrates that public facilities and services will be provided in an orderly, efficient, and timely manner, and that proposed impacts will be mitigated. This criterion is met.

- 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.**

FINDING: The Stevens Ranch site (tax lot 1812110000200) does not hold any irrigation district water rights. This criterion does not apply.

- 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.**

FINDING: The COID main canal crosses the far northwest corner of the site; however, this portion of the site is already within the City limits and is not included with this annexation request. The location of the COID main canal is identified on the submitted existing conditions map (Exhibit C). The applicant and COID have closely coordinated on the design of the Stevens Ranch Master Plan, including the proposed sanitary sewer crossing of the COID main

canal, as described further and acknowledged in the attached correspondence from COID (Exhibit K). This criterion is met.

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.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed Comprehensive Plan amendment or annexation, the proposal must be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The Stevens Ranch site was identified within the City's 2016 UGB expansion for mixed-use development and a large-lot industrial site, with specific acreages for each planned zoning designation as identified within the Chapter 11 (Growth Management) of the City's Comprehensive Plan. During this UGB expansion process, the City used a comparative analysis process to assess the transportation system needs, which relied on provisions within the TPR to defer compliance until the master planning process. The City then prepared a revised Transportation System Plan (TSP) that accounts for development of all UGB expansion area lands, including the Stevens Ranch site. As a result, the City's adopted Comprehensive Plan, Utility Infrastructure Plans, and 2020 TSP already account for the development of this site, as does the analysis that was prepared for the adjacent Southeast Area Plan (SEAP) lands, which includes an overlapping study area. Nonetheless, the future development of the Stevens Ranch site as contemplated in the City's Comprehensive Plan will have effects on adjacent transportation facilities, as identified in the City's TSP and the SEAP analysis. Therefore, compliance with OAR 660-012-0060(2) is necessary.

660-012-0060 - Plan and Land Use Regulations Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);***
- (b) Change standards implementing a functional classification system; or***
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.***

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule.

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;

(B) The providers of facilities being improved at other locations provide written statements of approval; and

(C) The local jurisdictions where facilities are being improved provide written statements of approval.

FINDING: OAR 660-012 implements Oregon Statewide Planning Goal 12. Goal 12 imposes a requirement on local governments to develop, maintain and update transportation plans consistent with the planning and implementation guidelines of Goal 12. The City's Comprehensive Plan dictates the minimum number of units to be developed within the DSL expansion area, and the master plan proposes to meet those requirements. However, compliance with the TPR was not addressed at the time of UGB acknowledgement for the expansion areas, instead being deferred to individual master plan/annexation applications.

This section requires a local government to put in place certain measures if an amendment would significantly effect a transportation facility.

The transportation element of the Stevens Ranch Master Plan (Exhibit I), prepared by Transight Consulting, includes a transportation facilities report, transportation impact analysis, TPR

analysis, and proposed mitigation measures. The traffic analysis memo (Exhibit H) summarizes the anticipated transportation impacts and mitigation recommended to address these impacts. The annexation agreement formalizes the transportation improvements necessary to mitigate impacts to, and expand capacity within, the affected transportation facilities, and identifies the specific timing, responsibilities, and cost allocation associated with traffic mitigation. Through collaborative efforts between the applicant, the City, the County, and ODOT, the applicant is relying on OAR 660-012-0060(2)(e) to comply with the TPR.

As described within the transportation element, this is met with proposed improvements to Stevens Road, SE Ferguson Road, and SE 27th Street, which will benefit multiple transportation modes and provide improvements to locations other than the affected facilities. As stated in the transportation element, the systemwide benefits provided with the Stevens Ranch Master Plan are sufficient to balance the significant effects identified in the City's TSP, as well as those identified in the analysis that was prepared for the SEAP lands. The applicable standards are met.

(4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in (b)(A)–(C) are considered planned facilities, improvements and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and

(C) Interstate interchange area means:

(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

FINDING: This section of the Transportation Planning Rule requires coordination with affected transportation service providers. The applicant has coordinated the transportation studies, including discussions regarding necessary mitigation measures with ODOT and Deschutes County. ODOT submitted a letter to the City outlining the required mitigation payments to be made to ODOT and the commitment of those payments to improvements to the U.S. 20 corridor. This mitigation letter is included as an attachment to the annexation agreement (Exhibit F of the Annexation Agreement), which will ensure consistency with the provisions of BDC 4.6.600 and compliance with the requirements of OAR 660-012-0060. Similarly, Deschutes County has submitted documentation (included as an attachment to the annexation agreement) that it agrees with the following condition of approval on this annexation:

Condition of Approval: *The applicant, prior to approval of the final plat which will result in the generation of the 1,756th weekday p.m. peak hour trip, shall have entered into an Improvement Agreement with Deschutes County for the construction of a southbound right turn lane and an eastbound left turn lane at the Stevens Ward/Ward Road intersection, as described and*

supported by the March 8, 2021 supplemental traffic memo submitted with application PLANX20210637.

The applicable coordination requirements have been met and TPR compliance will be met with the formal adoption of the annexation agreement. The proposed mitigation as specified above is captured in the Annexation Agreement, which will ensure consistency with the provisions of BDC 4.6.600, *Transportation Planning Rule Compliance*, and satisfies the requirements of OAR 660-012-0060.

BDC 4.9.600.A. Approval Criteria (Continued)

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.**

FINDING: The Stevens Ranch Master Plan (PLSPD20210316) includes specific street cross-sections showing how all internal and abutting rights-of-way will be improved to urban standards. The annexation agreement further demonstrates how rights-of-way will be improved to the applicable City standard. This criterion is met.

4.9.700 Zoning of Annexed Areas.

The Bend Comprehensive Plan map provides for the future City zoning classifications of all property within the City's Urbanizable Area (UA) District. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated with the zoning district that implements the underlying Comprehensive Plan map designation.

FINDING: While the Stevens Ranch Master Plan proposes to rearrange the locations of the placeholder Comprehensive Plan Map designations, it does so while meeting the requirements of the applicable BCP policies for the DSL Property. As provided by BDC 4.5.200(D)(3)(a), the proposed master plan must retain the same total area of all plan designations within one percent of the same total acreage and maintain the density/housing numbers consistent with the prescribed allocations. The Stevens Ranch Master Plan maintains commercial and industrial plan designations within one percent of those prescribed by BCP Policy 11-85. Further, the applicant has elected to meet the alternative language of BCP Policy 11-86 for residential designations, and is planning to provide 1,710 total residential units, which exceeds the minimum requirement of 1,000 units. Table 2 below further demonstrates how the Stevens Ranch Master Plan is meeting BCP Policies 11-85 and 11-86.

Upon annexation, the current UA zoning will cease to apply, and the zoning map will be automatically updated with the Stevens Ranch Master Plan zoning scheme that implements the applicable Comprehensive Plan Map designation and policies. The applicable criteria are met.

Table 2

BCP Requirement	Requirement	Proposed with Stevens Ranch
Multifamily, Duplex/Triplex Units	At least 41%	41% (701 units planned)
Single-family Attached	At least 11%	21% (486 units planned)
Single-family Detached	No more than 48%	38% (650 units planned)
Total Housing Units	1,000	1,710 total units planned
Commercial Designations	46 acres (gross)	46 acres (approx.)
Industrial Designations	93 acres (gross)	93 acres (approx.)
Parks and Open Space	At least 10%	11.6% planned

RECOMMENDATION: Staff recommends approval of the Type III annexation application with the following condition of approval, which, if the condition is met, will satisfy all of the applicable criteria:

Condition of Approval: *The applicant, prior to approval of the final plat which will result in the generation of the 1,756th weekday p.m. peak hour trip, shall have entered into an Improvement Agreement with Deschutes County for the construction of a southbound right turn lane and an eastbound left turn lane at the Stevens Ward/Ward Road intersection, as described and supported by the March 8, 2021 supplemental traffic memo submitted with application PLANX20210637.*