

ORDINANCE NO. NS - 2469

AN ORDINANCE ANNEXING APPROXIMATELY 40.0 ACRES OF LAND IN THE SOUTHEAST AREA FOR THE FERGUSON ANNEXATION, ASSIGNING A SIGN DISTRICT PER BDC 9.50.040.C 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 described on Exhibit B and depicted in Exhibit C (the "Area").
- C. One hundred percent of property owners within the Area have filed statements of consent to this annexation. There are no registered electors within the Area; the existing structure within the Area is vacant.
- 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 January 25, 2023, notice was mailed by the Planning Division to surrounding residents and owners of record of property within 500 feet of the subject properties, and to the Old Farm Neighborhood Association representatives. Notice was also posted in four public places on February 1, 2023, and posted in The Bulletin on February 15, 2023 and February 22, 2023. On January 26, 2023, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at three locations, no more than 10 feet from adjacent rights of way.
- E. The City Council held a public hearing on March 1, 2023 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 northern and western boundary of the properties within the Area.
- G. The developer and the City have reached agreement on a proposed Annexation Agreement that sets forth the obligations of the developer and the owners for the provision of urban infrastructure needed to serve the newly annexed area and other areas, attached as Exhibit A.

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

- Section 1. The territory containing approximately 40.0 acres of land as described in Exhibit B and depicted in Exhibit C, is annexed to the City of Bend upon the Annexation Agreement (Exhibit A) taking effect.

- Section 2. The City Manager is authorized to execute the Annexation Agreement (Exhibit A) in 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 underlying Comprehensive Plan land use designations (Exhibit E).
- Section 5. On the date the annexation becomes effective, the Sign District Map will be automatically updated (Exhibit F).
- Section 6. The City deems it necessary and expedient for the City to acquire jurisdiction and requests that Deschutes County surrender to the City of Bend jurisdiction over the portion of the unnamed right-of-way within the annexed area in compliance with ORS 373.270.
- Section 7. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: March 1, 2023

Second reading and adoption by roll call vote: March 15, 2023

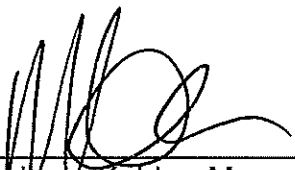
YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Ariel Méndez
Councilor Megan Norris
Councilor Mike Riley

NO: none

Attest:



Robyn Christie, City Recorder



Melanie Kebler, Mayor

Approved as to form: -



Mary Winters, City Attorney

After recording, return to:
City of Bend
Attn: Colin Stephens
Community Development Department
710 NW Wall St.
Bend, OR 97703

NORTH PEAK ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is made this ____ day of _____, 2023 between the City of Bend ("City") and North Peak Development Group, LLC ("North Peak") and the real property owners set forth on Exhibit A of the property described in Exhibit B and depicted on Exhibit C ("Property"). Together, North Peak and property owners set forth on Exhibit A are collectively referred to as the "Owner".

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. North Peak intends to develop the Property pursuant to the Bend Comprehensive Plan (the "BCP") and the Bend Development Code (the "BDC"), including BDC Chapter 2.7.3300, the Southeast Area Plan ("SEAP"). The Property is within the City's Urban Growth Boundary (UGB) and is contiguous to the city limits on the south side of SE Ferguson Road and to the east side of SE Magnolia Lane. Therefore the Property is eligible for annexation subject to BDC Chapter 4.9.

B. North Peak intends to develop the Property with a mix of townhome, multi-family housing and commercial development as required by BCP Specific Expansion Area Policies for the Southeast Expansion Area.

C. The Property consists of approximately 40 acres located in the southeast portion of the Urban Growth Area that is subject to the requirements and limitations of the BCP Specific Expansion Area Policies for the Southeast Expansion Area.

D. The Property is currently zoned Urbanizable Area ("UA") and is designated Residential Medium Density ("RM"), Residential High Density ("RH") and General Commercial ("GC") on the BCP Map pursuant to the BCP Specific Expansion Area Policies for the Southeast Expansion Area.

E. On June 21, 2022, the Owner submitted a request to the City to annex the Property to the City (City File No. PLANX20220463).

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

I. 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 8 of this Agreement, the 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 SEAP. This Agreement is consistent with and intended to implement the SEAP and BCP Specific Expansion Area Policies for the Southeast Expansion Area as these policies specifically relate to the Property and other applicable policies of the BCP and SEAP.

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 the 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 the SEAP. All exhibits attached are conceptual and nothing in this Agreement prohibits refinements to meet City standards as part of the required development applications.
2. **Site Plan and Land Division Approval.** North Peak will seek approval of a Site Plan application under BDC Chapter 4.2 and a land division under BDC Chapter 4.3 concurrent with approval of this Annexation Agreement (together, the "Entitlements").
3. **Water.** In order to serve the Property consistent with BCP Specific Expansion Area Policies for the Southeast Expansion Area and other applicable policies of the BCP, the BDC and SEAP, the Owner must construct the water system improvements pursuant to the phasing and development schedule set forth in the Entitlements, and as identified on Exhibit 3. 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 Specific Expansion Area Policies for the Southeast Expansion Area and other applicable policies of the BCP, the BDC, and SEAP, the Owner must construct the wastewater collection system improvements pursuant to the phasing and development schedule set forth in the Entitlements, and as identified on Exhibits 4 or 5. Nothing in this Section 4 precludes the

Owner from seeking SDC credits for the wastewater collection system improvements required under this Section 4, but the parties acknowledge that such improvements are currently not identified on any SDC Project List or Capital Improvement Plan.

4.1 The City has authorized funding for a regional pump station in the South East Area. Based on the timing of construction of this pump station, the Owner has two options for sewer provision to maximize the use of gravity sewer.

4.1.1 Option A: If the City's regional sewer pump station has not been constructed by the City prior to submittal of infrastructure documents by the Owner after tentative plat approval, a temporary sewer pump station must be constructed along the southern property line of the Property. The northern half of the Property must gravity to the maximum extent possible to the Ferguson Road gravity main. The remaining sewer basin that cannot flow to Ferguson Road must be directed to a gravity main constructed to a pump station on the south Property line. The pump station will discharge by a force main within the north-south collector north to the Ferguson Road gravity main. The temporary pump station and gravity main to the south Property line must be designed to be removed and allow for continued gravity flow to a future regional sewer pump station to service the entire basin south of the property near the basin low point. If the regional pump station is operational, including necessary sewer gravity main line(s) installed at Property boundary, prior to final occupancy of the commercial development or the final phase of multi-unit residential buildout, the temporary pump station must be removed and a gravity main constructed to the edge of the southern Property boundary, to City standards to discharge to the regional pump station.

4.1.2 Option B: If the City's regional pump station is constructed prior to certificate of occupancy of the multi-unit residential or commercial development on the Property, the Owner must construct a gravity main in the new north-south collector street discharging to the north for the northern portion of the development, otherwise discharging to the south Property boundary where it will connect to the City's gravity main and regional pump station.

5. **Transportation.** In order to serve the Property consistent with BCP Specific Expansion Area Policies for the Southeast Expansion Area and other applicable policies of the BCP, the BDC and SEAP, together with the Transportation Planning Rule (OAR 660-012-0060), the Owner must construct the transportation system improvements pursuant to the phasing and development schedule set forth in the Entitlements, and as identified on Exhibits 1 and 2.

5.1 **Transportation System SDC Credits.** Pursuant to Bend Code 12.10.130(C), Owner's completion of the single-lane roundabout at Ferguson Road and 27th Street will be 100 percent eligible for SDC credits as noted on the City's SDC

Transportation project list. The City shall not remove this project from the City's SDC Transportation project list or CIP prior to construction of the roundabout.

5.2 Ferguson Road and 15th Street Roundabout. The Owner must complete construction of a single lane roundabout at the intersection of Ferguson Road and 15th Street prior to receiving final inspection of the first building on the commercially-zoned portion of the Property, unless a Request for Bids for the roundabout has been issued by the City or the roundabout has already been constructed by the City of Bend as a General Obligation (GO) Bond project, or the roundabout has been otherwise constructed by the any other entity, or the condition is otherwise waived under any other agreement with the City or an Entitlement issued by the City. If the Owner is responsible for constructing the roundabout, the Owner must purchase necessary right of way from the adjacent property owners and dedicate the right of way to the City of Bend. If , after reasonable efforts, the Owner is not able to obtain the necessary land to construct the roundabout at fair market value, the City must obtain the needed right-of-way and temporary or permanent easements. The Owner must reimburse the City in an amount equal to the price paid on a square foot basis for the land acquired (or easements granted) multiplied by the square footage of the land dedicated as right of way (or easements granted for such purposes). If the Owner is required to construct the roundabout, the City and the Owner will discuss potential public and/or shared public/private funding options, such as but not limited to Transportation SDC Credits and/or formation of Reimbursement Districts, for construction of the single-lane roundabout.

5.3 Transportation Planning Rule Compliance. The Parties acknowledge that the Property is part of the SEAP. When the City adopted the SEAP, the City accounted for the urbanization of the SEAP area through one or more amendments to the City's Transportation System Plan. Consequently, for purposes of compliance with the Transportation Planning Rule, OAR 660-012-0060, the annexation of the Property and the zoning of the Property consistent with the BCP zoning for the Property, will not significantly affect an existing or planned transportation facility pursuant to the exemption set forth in OAR 660-012-0060(9)(a-c).

5.3.1 ODOT payment. Per Appendix GG of the Southeast Area Plan, a \$323 per PM peak hour trip fee is required for development within the boundaries of the Southeast Area Plan. This fee will be due at final plat for the residential lots in the RM zone and building permit issuance for multi-unit residential or commercial development; the total amount due will be calculated by the City with the associated Entitlements. The City will collect the fee as a conduit to ODOT.

5.4 Dedication of Right of Way. The Owner agrees to dedicate sufficient right of way under Owner's control to the City to accommodate the Transportation Projects described in Section 5 above, and to meet the minimum right of way widths required by BDC Chapter 3.4 and the Entitlements. To the extent there is a conflict between the street standards set forth in BDC Chapter 3.4 and those set forth in the Entitlements, the standards in the Entitlements shall control.

6. **Stormwater.** The Owner will contain all stormwater consistent with the Entitlements and all applicable City requirements. The Owner will complete all on-site stormwater requirements as required by the Entitlements and all subsequent development applications (e.g., site plan review, subdivision).

7. **Open Space.** The Owner will provide a minimum of 10 percent of the annexed property (minimum 3.824 acres) as public or private open space with tracts within an open space easement in accordance with BDC 4.5.200.E.4., which will be required by the Entitlements and all subsequent development applications (e.g., site plan review, subdivision) until the minimum area is platted.

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

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

8.2 Conduct a timely review of and issue a decision on the Entitlements applications.

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

9. **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 (i) recording of a final plat for that portion of the Property, (ii) upon completion of the improvements set forth in Sections 3 through 7 above, and (iii) the payment of ODOT fees set forth in Section 5.3.1. The parties will execute and record any document necessary to release such covenants upon the termination of this Agreement.

10. **Limitations on Development.** Upon annexation the Owner agrees that no portion of the Property may be developed prior to the City's final approval of the Entitlements. Development of the Property under the Entitlements will be subject to additional land use and permit approval as provided in the BDC.

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

12. **Modification of Agreement.** This Agreement may be modified only in writing upon mutual agreement of all parties. This Agreement may not be modified such that urban facilities and services are not provided in a timely manner to the Property.

13. **Land Use Approval.** Except as set forth in Section 14 below, 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.

14. **Exactions.** The 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 the Owner in this Agreement or the Entitlements are roughly proportional to the burden and demands placed upon the urban facilities and services by the development of the Property. The Owner acknowledges that the requirements and obligations of the 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.

15. **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.

16. **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.

17. **Effective Date.** This Agreement will become effective upon authorized signatures by all parties, approval by the City Council, and expiration of all applicable appeal periods.

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

DEVELOPER:

Kody Fordyce, Registered Agent
North Peak Development Group, LLC., an Oregon limited liability company

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by _____, _____ of North Peak Development Group, LLC, an Oregon limited liability company, on behalf of the company.

Notary Public for Oregon

CITY OF BEND

Eric King, City Manager

STATE OF OREGON)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by
Eric King as City Manager of the City of Bend.

Notary Public for Oregon

EXHIBIT A

Property Owners, Signatures and Notary Blocks

Kevin Vergho, Trustee
Vergo Family Trust

Susan Vergho, Trustee
Vergo Family Trust

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Kevin and Susan Vergho of Vergo Family Trust.

Notary Public for Oregon

Millenium Trust Company, LLC, an Oregon limited liability company
FBO Jeffery D Reed Traditional IRA

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by _____, _____ of Millenium Trust Company, LLC, an Oregon limited liability company, on behalf of the company.

Notary Public for Oregon

Bryan Harrison,
Harrison Residential Holdings, LLC

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by
_____, _____ of Harrison Residential Holdings, LLC, an
Oregon limited liability company, on behalf of the company.

Notary Public for Oregon

Willie E. Lebeda

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Willie E.
Lebeda.

Notary Public for Oregon

EXHIBIT B
Legal Description of Property

EXHIBIT C
Map of Property

EXHIBITS 1 and 2
Transportation System Improvements

EXHIBIT 3
Water System Improvements

EXHIBIT 4

Sewer System Improvements (Option A: Regional Pump Station constructed)

Exhibit 5

Sewer System Improvements (Option B: Regional Pump Station not constructed)

EXHIBIT D

FINDINGS FOR FERGUSON ANNEXATION



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLANX20220463

HEARING DATE: March 1, 2023

APPLICANT: North Peak Development Group
8 N State Street, Suite 101
Lake Oswego, OR 97034
jeb@northpeakdev.com

OWNERS: Millennium Trust Company LLC
(61105 Ferguson Rd) 2001 Spring Rd #700
Oak Brook, IL 60523

(61105 Ferguson Rd) Vergho Family Trust
2001 Spring Rd #700
Oak Brook, IL 60523

(61190 Magnolia Ln) Harrison Residential Holdings
21075 Scottsdale Dr
Bend, OR 97701

APPLICANT'S REPRESENTATIVE: Otak, Inc.
808 SW Third Ave
Portland, OR 97204
steven.mcatee@otak.com

APPLICANT'S ENGINEER: Ashley & Vance Engineering
33 NW Franklin Ave
Bend, OR 97703
jim@ashleyvance.com

LOCATION: 61105 Ferguson Road; Tax Lot 1812150000100
61190 Magnolia Lane; Tax Lot 1812150000300

REQUEST: A Type III Quasi-judicial request for Annexation of 40 acres in the Southeast Area.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Criteria

Bend Development Code

Chapter 4.9 Annexations

Bend Comprehensive Plan

Chapter 11, Growth Management

Oregon Administrative Rules

Chapter 660-012-0000, Transportation Planning

Procedures

Bend Development Code

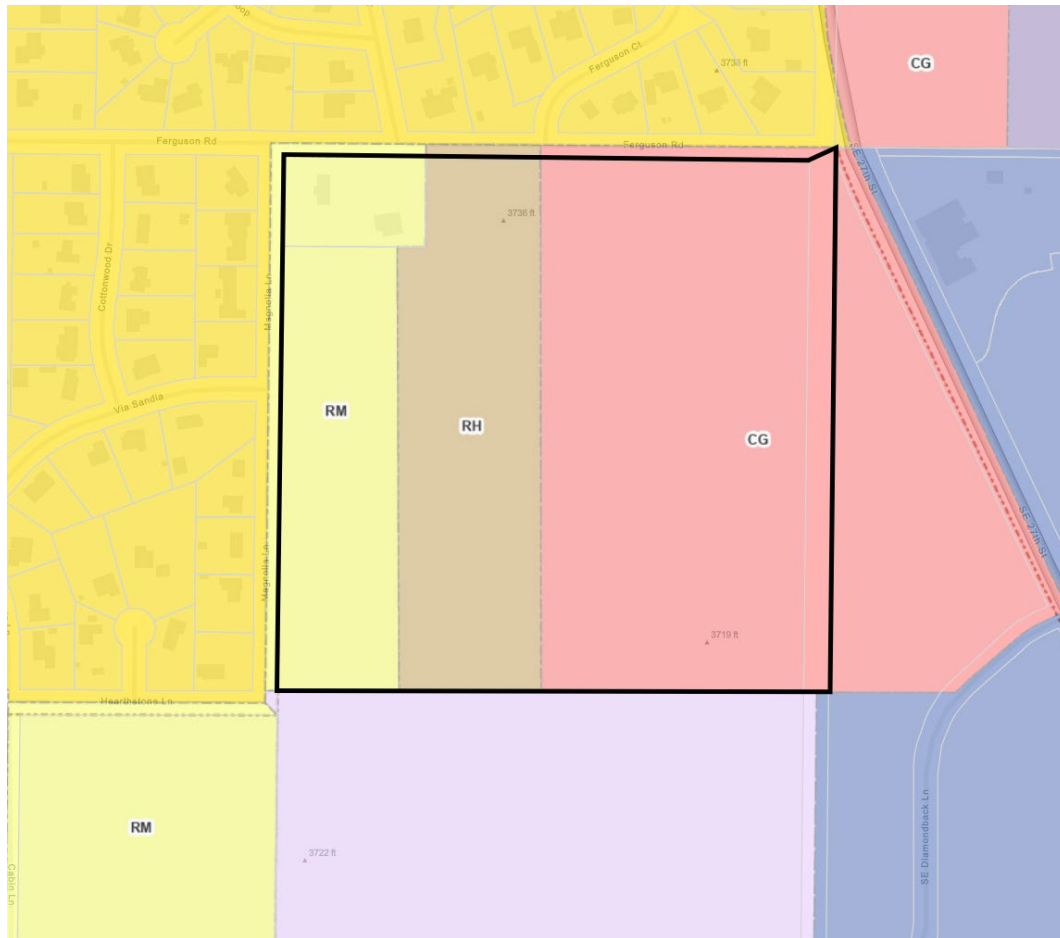
Chapter 4.1 Development Review and Procedures

4.1.400 Type II and Type III Applications

4.1.800 Quasi-Judicial Hearings

FINDINGS OF FACT:

- 1. SITE DESCRIPTION AND LOCATION:** The 38.24-acre property is located south of Ferguson Road and east of Magnolia Lane, abutting the City limits. The southern boundary aligns with the future northern boundary of the extension of Hearthstone Lane. The property is identified as 61105 Ferguson Road and 61190 Magnolia Lane and is further identified as Tax Lots 100 and 300 on Deschutes County Tax Assessor's Map 181215. The annexation encompasses 40.0 acres which includes the subject property and the unnamed right-of-way bordering the eastern boundary. An existing manufactured home and an outbuilding are located in the northwest corner of the property.



2. **ZONING:** The subject property is located in Deschutes County, in the Bend Urban Growth Boundary and zoned Urbanizable Area (“UA”). The Bend Comprehensive Plan designates 8.9 acres of the property in the western quarter as Medium Density Residential (RM), the central western 10-acre portion of the property as High Density Residential (RH), and the eastern half (21.1 acres, including the abutting unnamed right-of-way) of the property as General Commercial (CG). The property is also located within the Southeast Area Plan.
3. **PROPOSAL:** A Type III Quasi-judicial request for Annexation of 40.0 acres, including abutting right-of-way, in the Southeast Area.
4. **CONCURRENT APPLICATIONS:** The applicant has submitted the following applications which will be reviewed administratively subsequent to the approval of this annexation application:
 - Land Division for 138 townhome lots, 2 multi-unit lots and one commercial lot (PLLD20220466)
 - Site Plan Review for 264-unit multi-unit residential complex (PLSPR20220465)
5. **PUBLIC NOTICE AND COMMENTS:** Prior to submittal of this application and related applications, the applicants hosted a public meeting on November 8, 2021, in accordance with BDC 4.1.215. Public notice for this 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 January 25, 2023, the Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the subject properties, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on February 1, 2023, and posted in *The Bulletin* on February 15 and 22, 2023. On January 26, 2023, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at four locations, visible from adjacent rights of way.
6. **APPLICATION ACCEPTANCE DATE:** This Type III Quasi-judicial Annexation petition was submitted on June 17, 2022 and the full application fee was paid on November 19, 2022. The application was deemed complete on January 5, 2023.

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 and northern boundaries.

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 two property owners, 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 BDC 4.9.300.A.3.

On January 25, 2023, notice was mailed by the Planning Division to surrounding residents and owners of record of property within 500 feet of the subject properties, and to the Old Farm District Neighborhood Association representative. On January 26, 2023, Notice of Proposed Development signs were posted by the applicant along the property frontages at four locations, visible from adjacent rights of way. Notice was also posted in four public places on February 1, 2023, and posted in The Bulletin on February 15 and 22, 2023.

B. 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 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 Plans, 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.**
- 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 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 Plans, will be assessed along with the approval criteria of the respective development proposal cited above in subsection (B)(2)(a) of this section.

3. Final procedural steps and decision issuance for concurrent development applications will occur after the annexation ordinance becomes effective.

Table 4.9.300 - Specific Expansion Area Policies

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	Land Use Approval Required Prior to or Concurrently with Annexation
The Elbow	11-93 through 11-104	Southeast Area Plan approved. See BDC 4.9.300(B)(2)

FINDING: The subject property is located in the “Elbow” UGB expansion area, also known as the Southeast Area. Since this property lies within an approved area plan, the Southeast Area Plan, a master plan application is not required. Concurrent with the annexation application, however, the applicant is required to submit a development proposal for the entire property and compliance with the master plan criteria is required.

The applicant submitted an application for a land division for 138 townhome lots, 2 multi-unit lots and one commercial lot (PLLD20220466) and an application for Site Plan Review for a 264-unit multi-unit residential complex (PLSPR20220465). Based on these submittals, compliance with the master plan criteria will be assessed in the findings below. Otherwise, these findings are for the annexation only. The land division (PLLD20220466) and Site Plan Review (PLSPR20220465) applications submitted by the applicant will be reviewed administratively after the annexation is effective.

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.*

FINDING: The proposed development proposed for the area to be annexed, according to the submitted land division and Site Plan Review applications (PLLD20220466 and PLSPR20220465), is for residential and commercial development. Based on the purpose statement above, the most applicable type of master plan is the community master plan. Findings of compliance with the community master plan criteria are addressed below, based on the submitted land division and Site Plan Review applications.

D. Community Master Plan Approval Criteria.

FINDING: Compliance with the master plan criteria for a minor master plan is addressed in findings below.

1. *Minor or Major Community Master Plan. The City may approve, approve with conditions, or deny a proposed minor or major community master plan application based on meeting all of the following criteria:*

a. *The community master plan complies with subsection (E) of this section, Standards and Regulations.*

FINDING: See BDC 4.5.200.E. below for compliance with that section.

b. *Existing water and sewer facilities have adequate capacity to serve the proposed development in compliance with the Collection Systems Master Plan and the Water System Master Plan, latest editions, or adequate facilities will be installed prior to occupancy or use.*

FINDING: The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Ferguson site and the planned land uses per the submitted land division and Site Plan Review applications (PLLD20220466 and PLSPR20220465, respectively). 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 annexation application submittal includes a Will-Serve letter from the Avion Water Company and the City of Bend Sewer Analysis (PRSWA202203184). These documents indicate the subject property is able to be served by domestic water and sanitary sewer, and the applicant is committed to making the extensions needed to provide/extend the noted facilities in association with subdivision development.

Subsequent to this annexation, an associated subdivision application (PLLD20220466) will be reviewed by the City of Bend. The supporting analyses document that the site can be designed in conformance with Development Code requirements. As required by Development Code standards, the proposed development will extend water and sewer facilities to and through the property.

c. *The community master plan complies with BDC Chapter 4.7, Transportation Analysis.*

FINDING: In accordance with the City of Bend's Development Code 4.7, a Traffic Impact Analysis (TIA) is required since the site is anticipated to exceed 700 average daily trips (ADT) and/or impact a major intersection with 50 PM Peak trips within 1 mile of the site. The TIA was submitted under PRTFR20210807. The TIA is based on anticipated development associated with the submitted land division application (138 townhomes; PLLD20220466), the submitted Site Plan Review application (264 multi-family units), and a conceptual plan for the commercial

area encompassing 70,400 square feet of commercial uses (ITE 821 – Shopping Plaza), a 56,270 square-foot grocery store (ITE 850 – Super Market), and 349 self-storage units/RV storage stalls (ITE 151 – Self-Storage). With buildout of these uses, a total of 11,644 average weekday daily trips (ADT) are anticipated, with 744 weekday P.M. peak hour trips (total in and out).

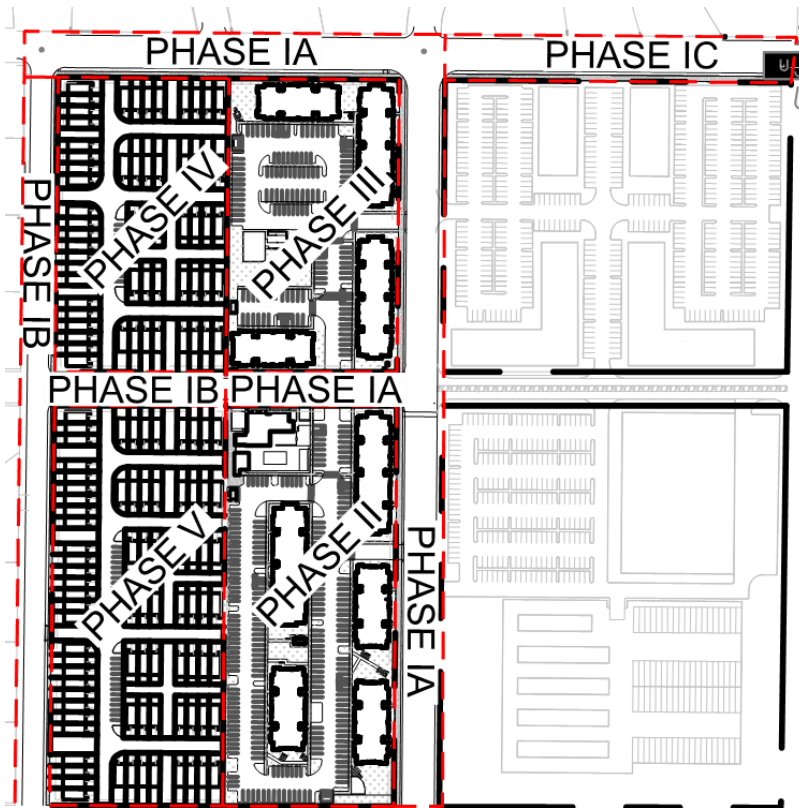
Proposed site use – Figure 4:

Land Use	ITE Code	Units	Weekday Daily Trips	Weekday PM Peak Hour		
				Total	In	Out
Townhomes	220	138	930	71	45	26
Multifamily Housing	221	264	1,198	103	63	40
TOTAL			2,128	174	108	66

Potential Commercial use – Figure 5:

Land Use	ITE Code	Units	Weekday Daily Trips	Weekday PM Peak Hour		
				Total	In	Out
Self-Storage	151	349	64	6	3	3
Shopping Plaza	821	70,400	4,754	365	179	186
Super Market	850	56,270	5,310	506	253	253
Pass-by Trips				-268	-133	-135
Internal Capture		-612		-39	-21	-18
TOTAL			9,516	570	281	289

The City issued a Transportation Analysis Memo (TAM) which outlined the required mitigation measures for these anticipated traffic impacts, which was submitted as Appendix H of the annexation application. Two offsite improvements include a roundabout at 27th Street and Ferguson Road and a roundabout at 15th Street and Ferguson Road. These roundabouts must be constructed prior to occupancy of any building on the commercially zoned property. The annexation agreement addresses the timing, responsibility, and funding of these roundabouts. Other transportation improvements will occur in Phase 1 of the proposed subdivision (see figure below).



2. Minor Community Master Plan. In addition to the approval criteria in subsection (D)(1) of this section the City may approve, approve with conditions, or deny a proposed minor community master plan application based on meeting all of the following criteria:

a. The community master plan land uses and densities are consistent with the Bend Comprehensive Plan Map designations.

FINDING: Approximately 8.9 acres of the subject property is designated RM and will be developed with 138 townhomes per the submitted subdivision application (PLLD20220466). Townhomes are a permitted use in the RM zone. The resulting density of the townhomes subdivision is 15.5 units per acre, which is within the density range of the RM zone (7.3 - 21.7 units/acre).

Approximately 10.0 acres of the subject property is designated RH and will be developed with 264 multi-family units per the submitted Site Plan Review application (PLSPR20220465). Multi-unit residential units are a permitted use in the RH zone. The resulting density of this multi-unit residential development is 26.4 units per acre, which is within the density range of the RH zone (21.7 - 43 units/acre).

The submitted Traffic Impact Analysis included development assumptions for the commercially designated property (approximately 19.35 acres). Proposed uses included general commercial uses, including a grocery store, and self-storage units. Retail sales and service, office uses and a wide spectrum of other commercial uses are permitted in the CG zone, as is commercial storage. A future Site Plan Review application for the CG-designated portion of the property will

ensure compliance with the permitted use chart in BDC 2.2 and prohibit the list of uses in BDC 2.7.3320 (Southeast Area Plan – General Commercial Districts).

- b. The applicant has demonstrated how the standards and regulations contained in BDC Title 2, Land Use Districts, and BDC Title 3, Design Standards, can be met through future site plan review or land division applications.***

FINDING: Per BDC 4.9.300.B.3, final procedural steps and decision issuance for concurrent development applications will occur after the annexation ordinance is effective. City staff has reviewed the submitted land division and Site Plan Review applications (PLLD20220466 and PLSR20220465, respectively) for completeness and general compliance with the standards and regulations contained in BDC Titles 2 and 3.

E. Standards and Regulations. Minor and major community master plans must comply with the following standards:

- 1. Access to Commercial Goods and Services. Access to commercial goods and services must be provided in compliance with the following standards:**
 - a. The community master plan must have access to commercial goods and services by walking or biking a distance not greater than a one-half mile radius measured from all points along the perimeter of the master plan boundary to any land planned, zoned or developed for one or more such services. Such commercial uses may be provided within nearby neighborhoods or nonresidential districts as long as the minimum distance standard is met. In satisfying such distance standard, commercial goods and services that are not accessible by walking or biking because of physical or geographic barriers (e.g., rivers, Bend Parkway, canals, and railways) may not be used. Except for minor community master plans that are proposing needed housing as defined by state statutes, the Review Authority may find that this provision is met when the commercial uses are located further away than one-half mile but the purpose and intent of providing reasonable access to the commercial uses has been met.***

FINDING: The eastern half of the subject property is designated General Commercial (CG). This property is within ½ mile of all points along the perimeter of the residentially designated property to the west. This standard is met.

- 2. Multimodal Connections. Multimodal connections must be provided on site in compliance with the Bend Urban Area Transportation System Plan (TSP) and the Bend Parks and Recreation District Parks, Recreation, and Green Spaces Comprehensive Plan, latest editions, and the existing and planned trail systems adjacent to the community master plan must be continued through the entire community master plan.**

FINDING: Wide multi-use paths and bike lanes will be provided along the frontage of Ferguson Road (an arterial) and the new north-south collector street (that bisects the property and aligns with Ferguson Court) per the City’s TSP and standards and specifications. The TSP Low-Stress

Network Map identifies Via Sandia that bisects the property as a Neighborhood Greenway. A Neighborhood Greenway is a shared roadway located along a traffic-calmed local road. Traffic calming features could include curb extensions and raised crosswalks to reduce speeds which could be conditions of approval for the submitted land division application (PLLD20220466).

The paved High Desert Park Trail lies within the unnamed right-of-way that abuts the subject property to the east and is part of this annexation. A multi-modal path connecting High Desert Middle School to Ferguson Road must be maintained upon development of the commercial portion of the property. Upon development of the eastern half of the site (zoned CG), a local street connection must be provided from Via Sandia to the southern property boundary; details of the provision of the multi-modal path (High Desert Park Trail) within or abutting this street section will be determined upon submittal of a Site Plan Review application for the CG-portion of the subject property.

3. *Housing Density and Mix. Community master plans 20 acres or larger must provide a mix of housing types and achieve minimum housing densities in conformance with the standards of subsections (E)(3)(a) and (b) of this section. To the extent that the Bend Comprehensive Plan Chapter 11, Growth Management, proposes a different mix of housing and/or density standards in the specific expansion area policies, then those policies apply.*

FINDING: BDC 4.9.300.B.3 requires compliance with this section for properties within the Southeast Area Plan.

- a. *Density Calculations and Exceptions. Minimum and maximum densities must be calculated in conformance with BDC 2.1.600(C), except as follows:***
 - i. *Public and Institutional Uses and Miscellaneous Uses in Opportunity Areas. In opportunity areas as shown in the Bend Comprehensive Plan Figure 11-1, a maximum of 20 acres of residential designated land proposed for public and institutional uses and miscellaneous uses (BDC Table 2.1.200) may be excluded from the density calculation and housing mix. The density for the 20 acres must be taken from the residential designation with the lowest maximum density standard in the opportunity area. The master plan must provide the density and housing mix for the residential designated property in excess of 20 acres. No more than 20 acres may be exempted from the density and housing mix in an opportunity area;***

FINDING: The proposal does not include public uses, institutional uses, and/or miscellaneous uses in an opportunity area; therefore, this section does not apply.

- ii. *Open Space. Open space in compliance with subsection (E)(4) of this section may be excluded from the applicable density calculation; and***

FINDING: The submitted subdivision application (PLLD20220466) includes multiple open space tracts totaling 0.82 acres within the RM-designated portion of the property; some townhome lots will front these open space tracts and be accessed by vehicles by rear shared courts. This 0.82 acres of open space is not included in the density calculation below for the RM designated property under subsection b.iii.

The same submitted subdivision application shows various pockets of open space easements for the multi-unit buildings within the RH-designated portion of the property. As noted in findings below, these open space areas must be located within tracts. These open space areas appear to comprise approximately 0.76 acres of the RH-designated property and is not included in the density calculation below for the RH designated property under subsection b.iv.

iii. Comprehensive Plan Designations. Land designated as Commercial, Mixed-Use, Industrial and Public Facilities may be excluded from the applicable density calculation.

FINDING: The site includes 21.1 acres of land designated General Commercial (CG), which is excluded from the density calculations below.

b. Minimum standards are as follows:

iii. RM Comprehensive Plan Designation. At least 60 percent of the maximum gross density of the RM Comprehensive Plan designation, with two- and three-unit dwellings, quadplexes, townhomes, and/or multi-unit residential housing units comprising at least 67 percent of total housing units.

FINDING: Within the RM designated area, the site has 8.08 acres of land to be included in the density calculation (after excluding 0.82 acres for the open space tracts). Sixty (60) percent of the maximum gross density of the RM Comprehensive Plan designation of 21.7 units per acre is 13.02 units per acre. The resulting minimum number of units is 106 units ($8.08 \times 13.02 = 105.2$, rounded up to 106). The submitted land division application (PLLD20220466) is for 138 townhome lots, which is in conformance with this requirement.

This standard also requires that at least 67% of the units need to be two- and three-unit dwellings, quadplexes, townhomes, and/or multi-unit residential housing units. Each of the lots are sized to be developed as townhomes only. This standard is met.

iv. RH Comprehensive Plan Designation. The minimum density of the RH Comprehensive Plan designation applies. Single-unit detached dwellings are not permitted in the RH Zone.

FINDING: Within the RH designated area, the site has 9.24 acres of land to be included in the density calculation (after excluding the 0.76 acres of open space shown on Sheet C2_0 of the submitted subdivision application PLLD20220466). The minimum density of the RH Comprehensive Plan designation of 21.7 units per acre. As detailed on the submitted Plan Set, the RH designated area requires a minimum of 201 units ($9.24 \times 21.7 = 200.5$, rounded up to 201) and the proposed design provides 264 dwelling units in multiple multi-unit buildings. The proposed design conforms to these standards.

4. The community master plan must contain a minimum of 10 percent of the gross area as public or private open space such as parks, pavilions, squares and plazas, multi-use paths within a minimum 20-foot wide corridor, areas of special interest, tree preservation areas, or public and private recreational facilities and must comply with the following:

a. The open space area must be shown on the conceptual site plan and recorded with the final plat or separate instrument.

- b. The open space must be conveyed in accordance with one of the following methods:**
- i. By dedication to the Park District or City as publicly owned and maintained open space. Open space proposed for dedication to the Park District or City must be acceptable with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities; or**
 - ii. By leasing or conveying title (including beneficial ownership) to a corporation, owners association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) acceptable to the City. Private open space must be located in a tract and include an open space easement.**
- c. Adequate guarantee must be provided to ensure permanent retention of common open space and recreation areas which may be required as conditions of approval.**

FINDING: The subject property is 38.24 gross acres, thereby requiring 3.82 acres of park and open space. The submitted land division application (PLLD20220466) includes 0.82 acres of open space in tracts within the RM-zoned townhome subdivision and 0.76 acres of open space within easements within the RH-zoned multi-unit lots of the subdivision. These open space areas are also shown on Sheet LU – Open Space Plan of the submitted Site Plan Review application (PLSPR20220465). As noted in subsection b.ii. above, private open space must be located in a tract as well as within an open space easement. This condition will be placed on the administrative subdivision approval subsequent to the effective date of the annexation. The total open space currently proposed in tracts and easements on the RM and RH-designated portions of the property is 1.58 acres ($0.82 + 0.76 = 1.58$). Thus, an additional 2.24 acres is required to fulfill the requirements of this section ($3.82 - 1.58 = 2.24$). The submitted land division application (PLLD20220466) shows an open space easement with the CG-designated portion of the property, which is approximately 2.19 acres. A deficit appears to exist, but the applicant did not provide square footages of the open space easements on the RH and CG-designated land and the measurements above are taken from manual measurements on Sheet C2_0 of the land division application (PLLD20220466). This small deficit (2200 square feet) could be due to manual measurements and the minimum acreage could be met if verified with digital measurements from the applicant.

The applicant received a letter from the Bend Parks and Recreation District (BPRD) dated September 1, 2022, which was submitted with this annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #29 and located adjacent to Park Search Area #23 (across Ferguson Road) in the district's comprehensive plan. The district has plans to develop a park within Park Search Area #29, however BPRD states that the planned park is located more than ½-mile from the proposed development. In addition, opportunities to develop a park within Search Area #23 are severely limited. Thus, BPRD determined that a park is necessary to meet the ½-mile walk level of service target and to contribute toward the 7.85 acres per person level of service target in the district's comprehensive plan. The district has requested a least two acres be set aside for development of a neighborhood park. Further discussions between the applicant and BPRD will occur to address this request prior to submittal of a Site Plan Review application for the commercially designated portion of the property. Regardless, at least 2.24 acres of open space, whether a

public park or private open space, must be located within tracts to achieve a total of 3.82 acres for the entire subject property; this requirement is included in the annexation agreement.

Chapter 4.9, Annexations (continued from page 5)

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 subject property is comprised of two units of property. All property owners consented in writing to annexation in compliance with the procedures in A.3, per the submitted annexation application packet.

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, the City's online permit portal, for PLANX20220463 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 received a letter from the Bend Parks and Recreation District (BPRD) dated September 1, 2022, which was submitted with this annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #29 and located adjacent to Park Search Area #23 (across Ferguson Road) in the district's comprehensive plan. The district has plans to develop a park within Park Search Area #29, however BPRD states that the planned park is located more than ½-mile from the proposed

development. In addition, opportunities to develop a park within Search Area #23 are severely limited. Thus, BPRD has determined that a park is necessary to meet the ½-mile walk level of service target and to contribute toward the 7.85 acres per person level of service target in the district's comprehensive plan. The district has requested a least two acres be set aside for development of a neighborhood park. Further discussions between the applicant and BPRD will occur to address this request. 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 submitted a petition for annexation into the Bend Parks and Recreation District (BPRD) boundary, which is included in the submittal, dated April 25, 2022. Per discussions between City staff and BPRD staff, the annexation agreement between BPRD and the applicant has been signed, but it has not been formally adopted by the Deschutes County Board of Commissioners as of the date of the drafting of this report. This submittal requirement only requires a completed and signed annexation agreement, which has been fulfilled.

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: Appendix C of the annexation application submittal is a letter provided by the Bend-La Pine School District (BLPS) indicating coordination between the applicant and BLPS. This requirement is met.

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.**

FINDING: Appendix E of the application submittal is a letter from the Arnold Irrigation District which states that the district does not have any water rights, facilities or easements on the subject property. 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 Ferguson site and the planned land uses per the submitted land division and Site Plan Review applications (PLLD20220466 and PLSPR20220465, respectively). 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 annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202203184), and a Traffic Impact Analysis, prepared by Kittleson & Associates reviewed under PRTFR202108087. These documents indicate the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development.

Subsequent to this annexation, an associated subdivision application (PLLD20220466) will be reviewed by the City of Bend. The supporting analyses document that the site can be designed in conformance with Development Code requirements. As required by Development Code standards, the proposed development will extend public facilities to and through the property.

Upon approval, the applicant will undertake all required steps to design and extend services (as required through the subsequent Land Division and Site Plan processes) to accommodate the proposed development of the site. The proposal is consistent with the current public facilities master plans and it has been shown that the property can be provided public facilities and services, concurrent with development. The proposal is therefore consistent with Statewide Planning Goal 11 and 12.

With the Annexation Agreement, Goal 11 and 12 are satisfied.

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 subject property and adjacent rights-of-way to the east and northeast, consisting of approximately 40.0 acres. The annexation (located within the “Elbow” UGB Expansion Area in BDC 4.9.300) is subject to Bend Comprehensive Plan (BCP) Policies 11-93 through 11-104. Findings of compliance with these policies are presented below. This criterion is met.

Chapter 11 Growth Management

11-93 The City adopted an Area Plan for the Elbow area, also known as the Southeast Expansion Area, which became effective on May 21, 2021. The Area Plan addresses policies 11-94 through 11-104. 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.

FINDING: The subject property is approximately 38.24 acres and is located within the boundary of the Southeast Area Plan. The Southeast Area Plan denotes this Northeast Subarea of the Plan (addressed on pages 55-60 of the Southeast Area Plan Summary Report) as “a walkable mixed-use community and a complementary neighbor to the existing neighborhoods to the north and west. Residential uses are planned to transition from low-density development west of Magnolia Lane to medium and higher densities east of Magnolia Lane. A shopping street anchors the commercial area...” and “a conceptual neighborhood park is shown at the key intersection of Via Sandia Street and the future north-south collector street”. The Southeast Area Plan dictates that “existing streets, including Via Sandia...will be extended to provide a continuous framework of walkable local streets” and “two new multi-use paths are planned along the collector street and along Via Sandia Street.” The figure below illustrates “community design opportunities” for this subarea of the Southeast Area.

*Southeast Area Plan Summary Report
Figure 17. Northeast Subarea Community Design Opportunities*



The proposed development in the associated land division and Site Plan Review application (PLLD20220466 and PLSPR20220465) implement this vision for this subarea in the Southeast Area Plan with a townhome development along the western boundary, abutting a new apartment complex to the east, and future commercial development on the east side of the new north-south collector street. A multi-use path will be constructed on the property frontage of Ferguson Road and the west side of the new north-south collector street, with an enhanced pedestrian crossing at the intersection of Via Sandia.

The conceptual location of the park site on Figure 17 of the Southeast Area Plan Summary Report is within the RH-designated area, which is proposed for multi-unit housing. Appendix S (Shadow Plat) of the land division application shows a conceptual plan for the commercially-designated area east of the north-south collector street and Sheet C-2.0 of the land division application indicates an open space easement near the southern boundary of the property that could be developed as a park. This proposed conceptual open space location is separated from the new residential uses by a collector street, which presents a barrier for users. Open space contributing toward meeting the open space standard for master plans must be platted in a separate tract, as noted in findings above. While it appears that the property can accommodate the required open space area, the final location will be determined with a future Site Plan Review application for the CG-designated portion of the property. A supplemental Transportation Facilities Report will be required to be submitted with that application which will address multi-modal connectivity to this future open space/park. Finally, discussions with BPRD are ongoing for the ownership, development and maintenance of this open space area intended for a park in this subarea of the Southeast Area Plan.

The Southeast Area Plan code requires preservation of significant trees and rock outcroppings (BDC 2.7.3360). There are no rock outcroppings on the subject property and the proposed land division and Site Plan Review applications (PLLD20220466 and PLSPR20220465) show the preservation of the required percentage of significant trees, which will be required to be retained as conditions of approval for those two land use applications.

11-94 This area, as identified in Figure 11-7, is intended to provide for employment uses to take advantage of good transportation access on Knott Road and 27th and existing city streets (and future improved access with the Murphy Extension) with a mix of residential uses providing a compatible transition from the employment lands to existing neighborhoods to the west. This mix of uses is also intended to increase the completeness of the existing low density neighborhoods.

FINDING: The Southeast Area Plan designates the western half of the subject property for residential uses, transitioning from existing low-density residential lots with single-unit homes within the current city limits to townhome lots zoned Medium Density Residential (RM) to an apartment complex zoned High Density Residential (RH) on the subject property, and then the CG-zoned property on the eastern half of the site that will provide commercial and employment opportunities. This CG-zoned property will abut an arterial street to the north (Ferguson Road) and a new north-south collector street to the west, and is proximate to the Ferguson Road/27th Street/Knott Road intersection that will be improved to a roundabout; this location provides good transportation access for the future employment uses on this site. This mix of uses also increases the completeness of the existing low density neighborhoods to the west and north of the subject property.

11-95 This area provides for a mix of residential, commercial and industrial uses, including 158.5 gross acres of residential plan designations, 38.5 gross acres of commercial plan designations, 38 gross acres of industrial designations, 142 gross acres of mixed employment plan designations, and 66 gross acres of public facilities (excluding existing right of way).

FINDING: The subject property contributes approximately 18.9 gross acres of residential land and 21.1 gross acres of commercial land to the Southeast Area, as designated in the Bend Comprehensive Plan and the Southeast Area Plan.

11-96 *In order to provide sufficient housing capacity and mix, the residential plan designations must include 105 acres of RS, 35 acres of RM, and 10 acres of RH (excluding existing right of way).*

FINDING: The subject property contributes approximately 8.9 acres of RM-designated land and 10.0 acres of RH-designated land to the Southeast Area, as designated in the Bend Comprehensive Plan and the Southeast Area Plan.

11-97 *The alignment of a new collector street between 15th Avenue and 27th Avenue / Knott Road shall be determined in coordination with the City, consistent with the Transportation System Plan.*

FINDING: The Southeast Area Plan, consistent with the Transportation System Plan, established the extension of a north-south collector street, aligned with Ferguson Court to address this policy. The proposed development applications will include dedicating 80 feet of right-of-way and constructing this collector street through the subject property.

11-98 *Subsequent planning for this subarea shall address funding for the Murphy Road extension from Brosterhous to 15th Avenue.*

FINDING: The Murphy Road extension capital improvement project is now constructed and complete.

11-99 *The street, path and bikeway network shall provide connectivity throughout this area, connect to existing abutting local roads, and provide opportunities for connections to adjacent undeveloped land inside the UGB. The transportation network shall be consistent with the Bend Transportation System Plan.*

FINDING: Via Sandia will be extended eastward through the subject property and a new north-south collector street, aligned with Ferguson Court, will be constructed as shown on the associated land division application (PLLD20220466). A multi-use path will be constructed on the property frontage of Ferguson Road and the west side of the new north-south collector street, with an enhanced pedestrian crossing at the intersection of Via Sandia, consistent with the Southeast Area Plan and the low-stress network in the Transportation System Plan. The High Desert Park trail abuts the eastern boundary of the subject property.

11-100 *Coordination with Bend Park and Recreation district is required in order to address provision of parks and/or trails within this area.*

FINDING: The applicant received a letter from the Bend Parks and Recreation District (BPRD) dated September 1, 2022, which was submitted with this annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #29 and located adjacent to Park Search Area #23 (across Ferguson Road) in the district's comprehensive plan. The district has plans to develop a park within Park Search Area #29,

however BPRD states that the planned park is located more than ½-mile from the proposed development. In addition, opportunities to develop a park within Search Area #23 are severely limited. Thus, BPRD has determined that a park is necessary to meet the ½-mile walk level of service target and to contribute toward the 7.85 acres per person level of service target in the district's comprehensive plan. The district has requested a least two acres be set aside for development of a neighborhood park. Further discussions between the applicant and BPRD will occur to address this request.

11-101 Coordination with the Bend-La Pine School District will occur during area planning within this subarea.

FINDING: Appendix C of the application submittal is a letter provided by the Bend-La Pine School District (BLPS) indicating coordination between the applicant and BLPS. This policy is met.

11-102 Coordination with other special districts and utility providers is required within this area.

FINDING: The associated land division application submittal (PLLD20220466) includes a Will-Serve letter from the Avion Water Company, Central Electric Cooperative, Bend Broadband and Cascade Natural Gas. This policy is met.

11-103 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.

FINDING: The subject property is not designated for industrial land uses in the Southeast Area Plan. This policy is directed toward future action by the City regarding designating future industrial lands. This policy does not apply to the current application.

11-104 The City will ensure that a total of 28.5 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 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.

FINDING: This development contributes approximately 21.1 acres of commercial land to the Southeast Area, as designated in the Bend Comprehensive Plan and the Southeast Area Plan. This policy is directed toward future action by the City regarding a commercial lands inventory. This policy does not apply to the current annexation application.

4.9.600 Approval Criteria. (continued from page 15)

- 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 subject property is located within the boundary of the Southeast Area Plan, which was adopted in 2021. As addressed in the findings under Policy 11-93 above, the submitted land division and Site Plan Review application (PLLD20220466 and PLSPR20220465, respectively) are consistent with the Southeast Area Plan. A future Site Plan Review application for the CG-designated portion of the property will ensure compliance with the Area Plan on that portion at that time, including the required open space area.

The subject property is within the boundary of the Southeast Area Plan so a separate master plan application is not required but compliance with the master plan criteria is required. Compliance with BDC 4.5.200.E., Community Master Plans – Standards and Regulations, is outlined in findings above.

- 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: As noted in findings above, the applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the subject property 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 annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202203184), and a Traffic Impact Analysis, prepared by Kittleson & Associates reviewed under PRTFR202108087. These documents indicate the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development. The land area to be annexed includes a large open space area within the CG-designated portion of the property which could be developed as a park. The annexation area also includes the High Desert Park trail along the property’s eastern boundary. 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 coordinated closely to identify necessary infrastructure improvements to serve the subject property 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 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.**
- 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: Appendix E of the annexation application submittal is a letter from the Arnold Irrigation District which states that districts does not have any water rights, facilities or easements on the subject property. 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 subject property is designated in the Bend Comprehensive Plan as a combination of High Density Residential (RH), Medium Density Residential (RM), and Commercial General (CG). Upon annexation, the existing zoning of Urbanizable Area (UA) will be converted to the corresponding zoning districts that implement each land use designation.

The designations within the Comprehensive Plan were analyzed as part of the Southeast Area Plan to identify impacts associated with the State's Goal 12, as implemented by the Oregon Administrative Rule (OAR 660-012-0060, the "Transportation Planning Rule (TPR)"). Per findings from the Southeast Area Plan, future development of the area and the associated planned infrastructure complies with TPR requirements. Given that the planned annexation and development are consistent with the Comprehensive Plan, the anticipated zoning, the City's TSP, and the Southeast Area Plan, the proposal does not represent a "significant effect" as measured by the TPR. Therefore, no additional analyses are needed as part of this proposal to ensure consistency with the requirements of OAR 660-012-0060 (9)(a).

To ensure compliance with the Southeast Area Plan, all future development within the SEAP area is required to contribute \$323 per PM peak hour trip to mitigate impacts to ODOT facilities, which will be assessed at final plat for the subdivision and Certificate of Occupancy for

development subject to Site Plan Review.

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: All internal and abutting rights-of-way will be improved to urban standards per the submitted land division application (PLLD20220466). 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: The Bend Comprehensive Plan designates 8.9 acres of the property in the western quarter as Medium Density Residential (RM), the central western 10-acre portion of the property as High Density Residential (RH), and the eastern half (21.1 acres, including the unnamed abutting right-of-way) of the property as General Commercial (CG).

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

EXHIBIT E

Zoning Map upon annexation

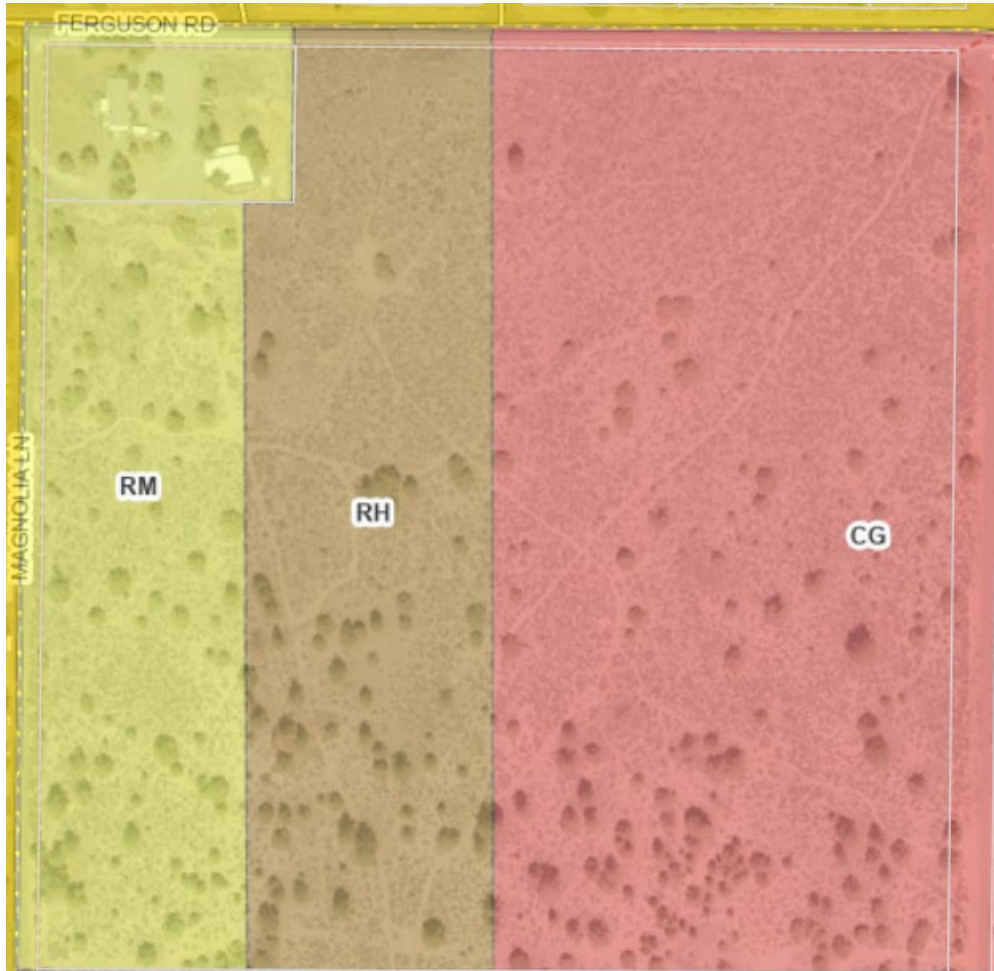
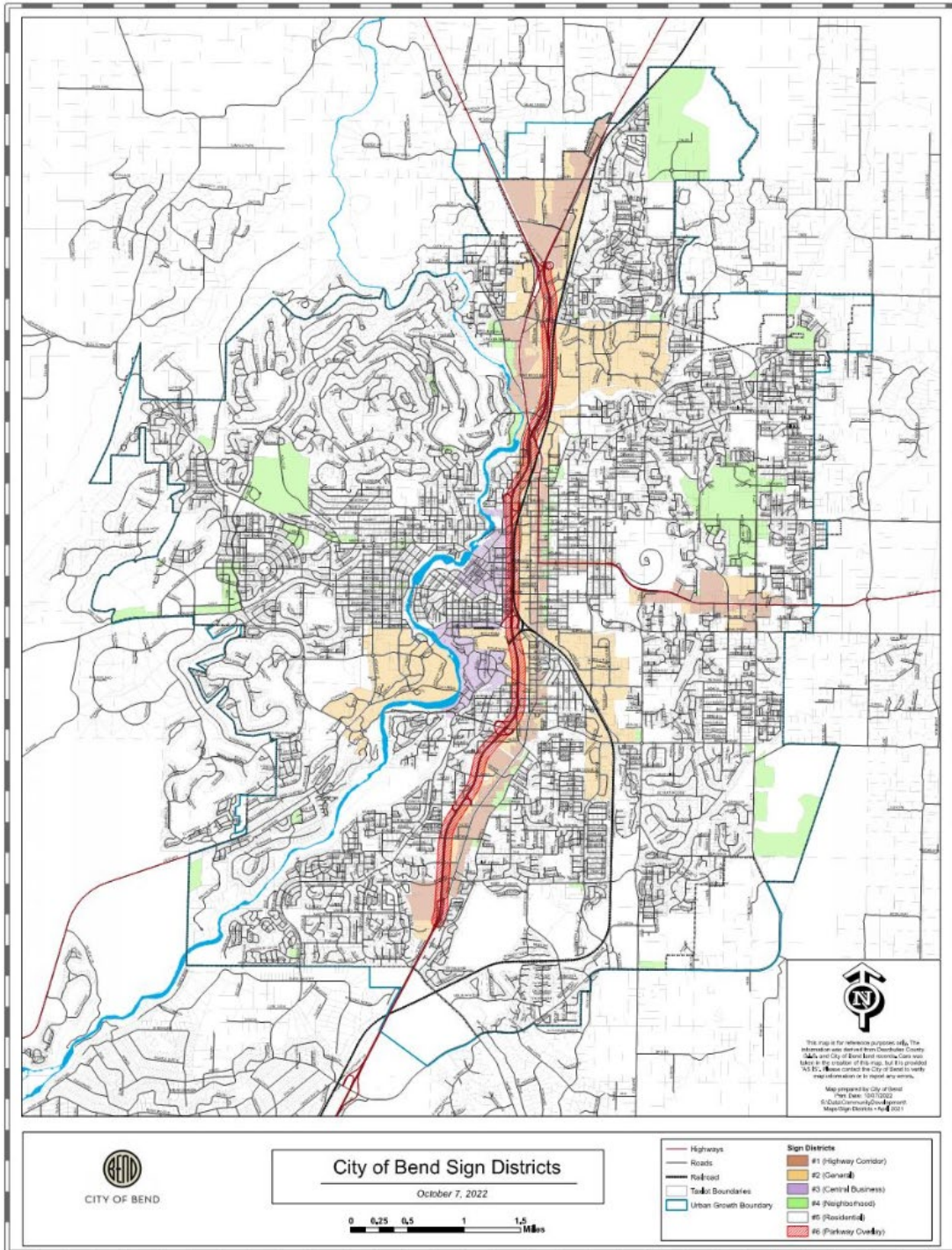


EXHIBIT F – SIGN DISTRICT MAP AMENDMENT

Delete this figure:

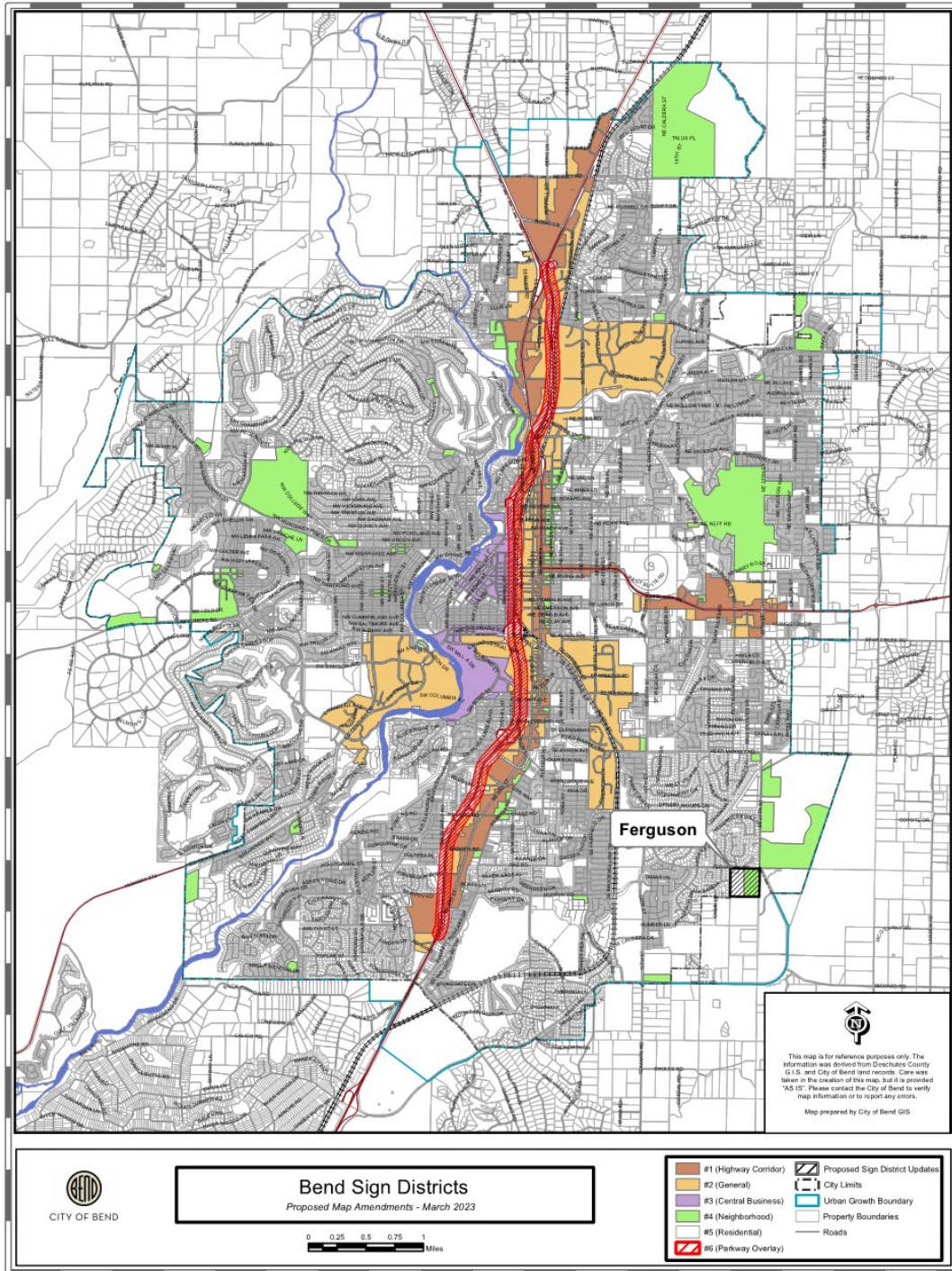
FIGURE 9.50.040. Sign District Map



Insert this figure

FIGURE 9.50.040. Sign District Map

<callout and hatching for clarity only>



<Map for clarity only – not for incorporation into code>

