

ORDINANCE NO. 2468

AN ORDINANCE ANNEXING COOLEY ROAD FROM BROWNRIGG LANE TO US 20 AND ADJACENT LANDS

Findings

- A. A portion of Cooley Road from Brownrigg Lane to US Highway 20 and other adjacent lands, identified in Exhibits A and B (the "Area"), is outside of the City limits, within the City's Urban Growth Boundary, and currently under the jurisdiction of Deschutes County, Oregon ("County"). The segment is bordered on each side by a road segment under the jurisdiction of the City, creating alternating jurisdictions along the Cooley Road corridor.
- B. Bend Development Code (BDC) Section 4.9.400.C. provides for annexation of real property when initiated by City Council Resolution.
- C. On December 21, 2023 City Council approved resolution 3315 under City Code 4.9.400C to initiate annexation of the Area.
- D. The Revised Joint Management Agreement Regarding the Area Within the Bend Urban Growth Boundary, 2017-423 ("JMA") Section 7.4 stipulates that roads and rights-of-way will be accepted by the City i) under the City's annexation regulations and ii) to avoid creating segments of alternating jurisdictions.
- E. The City's annexation regulations, BDC 4.9.600 subsections (4) and (8), require that roads to be annexed are improved to urban standards as determined by the City, through an annexation agreement or other funding mechanism approved by the City Council prior to annexation. The segment of Cooley Road from Brownrigg Lane to US Highway 20 did not have urban standard improvements identified when the adjacent segment to the east was annexed, and now has a funded and scheduled improvement project as part of the Agreement No. 34647 between the City and the Oregon Department of Transportation (ODOT), Cooperative Improvement Agreement for US97 and US20 Bend North Corridor. The North Corridor project includes a waterline, bike lanes, and a multi-use path on the south side of this section of Cooley Road to be constructed by ODOT.
- F. Under ORS 222.120 and through the provisions of the BDC, the road segment can be annexed through a public hearing on annexation and with the consent of the record owners of the property to be annexed. Deschutes County and the Oregon Department of Transportation are the current record owners or jurisdictional authorities for the segments of right-of-way within the Area, and both have consented to the annexation.
- G. Under BDC 4.9.200(B)(1)(a)(iii) City initiated annexations of property for publicly owned rights-of-way do not require land use approval prior to or concurrently with annexation.

H. Under BDC 4.9.300.B.1.a., annexation of public right of way does not require a master plan.

I. Public Notice in accordance with ORS 222.120 and the BDC was posted in the Bulletin on February 15 and 22, 2023, and notice was also posted in four public places on February 1, 2023.

J. The City Council held a public hearing on March 1, 2023 to receive evidence and comments on the question of annexation.

Based on these findings, the City Council of the City of Bend ordains as follows:

Section 1: The territory described in Exhibit A and depicted in Exhibit B is annexed to the City of Bend.

Section 2: In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit C.

Section 3: On the date the annexation becomes effective, the UA district will cease to apply and the zoning map will be automatically updated to apply Commercial General (CG) zoning to the Area as depicted in Exhibit D.

Section 4: 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:

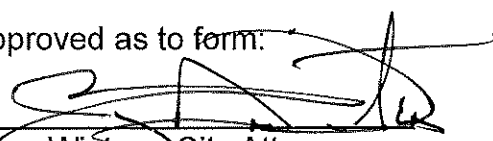


Robyn Christie, City Recorder



Melanie Kebler, Mayor

Approved as to form:



Mary Winters, City Attorney



**EXHIBIT A
COOLEY ROAD
LEGAL DESCRIPTION FOR ANNEXATION**

THAT PORTION OF COOLEY ROAD, PER DESCHUTES COUNTY ROAD RECORDS, ON FILE AT THE DESCHUTES COUNTY ROAD DEPARTMENT, LYING WESTERLY OF THE SOUTHWESTERLY RIGHT OF WAY OF BEND-SISTERS HIGHWAY 20 (200 FEET WIDE) LOCATED WITHIN THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER (W1/2 SE1/4) OF SECTION 8;

AND THAT PORTION OF SAID COOLEY ROAD, LYING WESTERLY OF THE SOUTHWESTERLY RIGHT OF WAY OF BEND-SISTERS HIGHWAY 20 (200 FEET WIDE) AND LYING NORTHERLY OF THAT PROPERTY DESCRIBED IN THAT WARRANTY DEED, RECORDED FEBRUARY 9, 2004, IN VOLUME 2004, PAGE 06665, DESCHUTES COUNTY OFFICIAL RECORDS, LOCATED IN THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 NE1/4) OF SECTION 17, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY OREGON;

TOGETHER WITH:

THAT PROPERTY DESCRIBED IN THAT WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, HIGHWAY DIVISION, RECORDED SEPTEMBER 28, 1992, IN VOLUME 277, PAGE 1651, DESCHUTES COUNTY OFFICIAL RECORDS;

AND THAT PROPERTY DESCRIBED IN THAT WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, RECORDED AUGUST 24, 2022, AS INSTRUMENT NO. 2022-32260, DESCHUTES COUNTY OFFICIAL RECORDS;

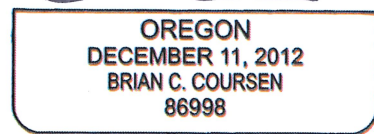
AND THAT PROPERTY DESCRIBED IN THAT WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, RECORDED NOVEMBER 11, 2022, AS INSTRUMENT NO. 2022-40664, DESCHUTES COUNTY OFFICIAL RECORDS;

AND THAT PROPERTY DESCRIBED IN THAT DEDICATION DEED TO THE PUBLIC, RECORDED DECEMBER 5, 2018, AS INSTRUMENT NO. 2018-48032, DESCHUTES COUNTY OFFICIAL RECORDS.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.



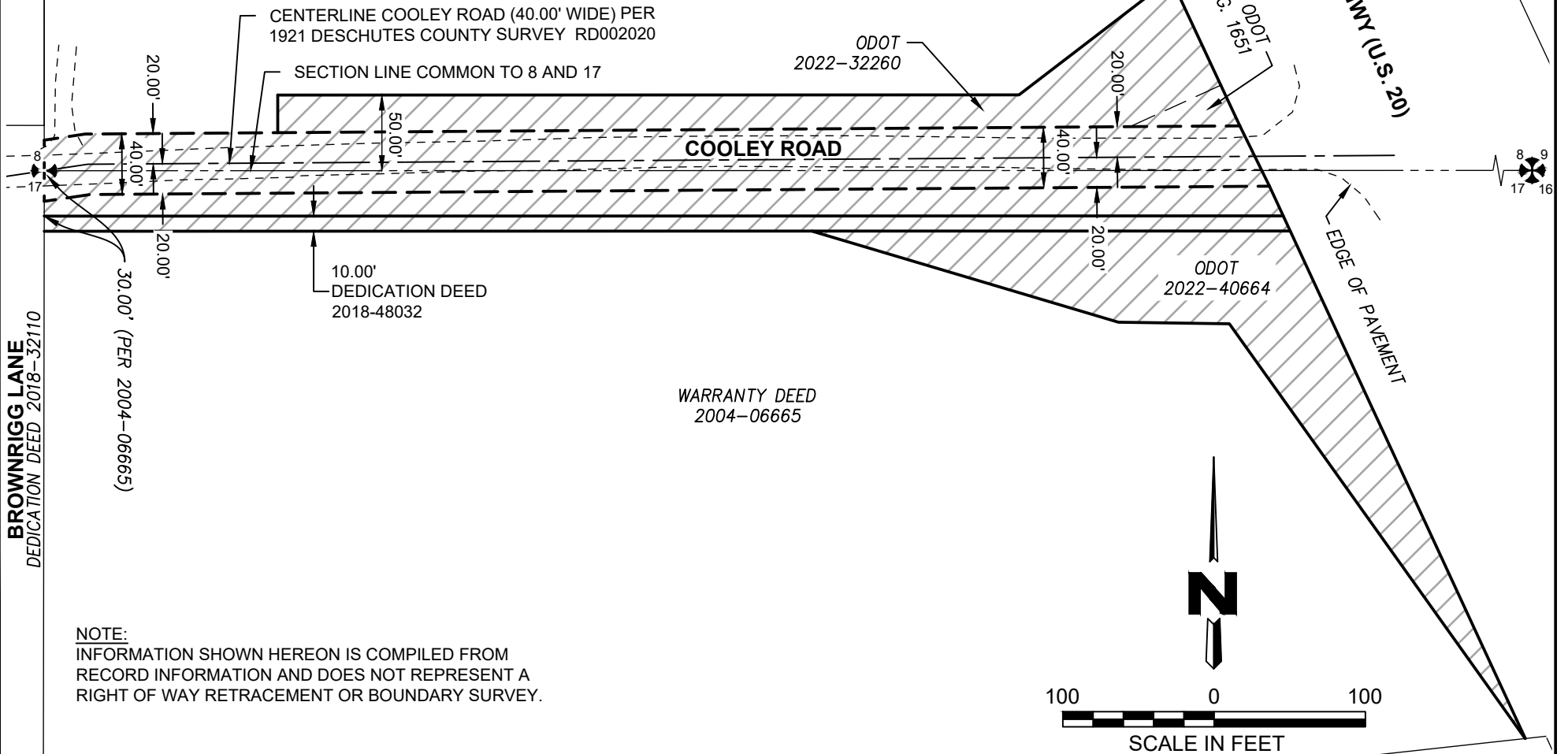
B. C. 1-18-23



Renews: 12-31-2023

A PORTION OF COOLEY ROAD
 LOCATED IN THE W1/2 SE1/4 SECTION 8 AND THE W1/2 NE1/4 SECTION 17,
 TOWNSHIP 17 SOUTH, RANGE 12 EAST WILLAMETTE MERIDIAN, DESCHUTES
 COUNTY OREGON.

STATUTORY BARGAIN AND SALE DEED
 2017-4483



NOTE:
 INFORMATION SHOWN HEREON IS COMPILED FROM
 RECORD INFORMATION AND DOES NOT REPRESENT A
 RIGHT OF WAY RETRACEMENT OR BOUNDARY SURVEY.

DOWL

WWW.DOWL.COM

963 SW Simpson Avenue, #200
 Bend, Oregon 97702
 541-385-4772

COOLEY ROAD
 ANNEXATION EXHIBIT
 CITY OF BEND

PROJECT	14923-01
DATE	1/18/2023

EXHIBIT B

EXHIBIT C



COMMUNITY
DEVELOPMENT

FINDINGS FOR COOLEY ROAD ANNEXATION

PROJECT NUMBER: PLANX2023039

HEARING DATE: March 1, 2023

APPLICANT: City of Bend

LOCATION: Cooley Road right-of-way from Brownrigg Lane to Highway 20

ZONE: Urbanizable Area (UA) – to be rezoned to be consistent with the Comprehensive Plan upon annexation

COMP PLAN: Commercial (CG)

REQUEST: A Type III Quasi-judicial request for Annexation of 1.9 acres of right-of-way

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 site is located in northwest Bend, Oregon and is the public street right of way for the arterial street segment of Cooley Road from Brownrigg Lane to US 20 as shown on the map below.



2. **PROPOSAL:** A Type III Quasi-judicial request for Annexation of 1.9 acres of right-of-way.
3. **PUBLIC NOTICE AND COMMENTS:** 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 February 8, 2023, the Planning Division mailed notice to surrounding owners of record of property within 500 feet of the subject property, and to the Boyd Acres 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 February 2, 2023, *Notice of Proposed Development* signs were posted by the applicant along the property frontage at two locations, visible from adjacent rights of way.
4. **APPLICATION ACCEPTANCE DATE:** This Type III Quasi-judicial Annexation petition was submitted on January 19, 2023. The application was deemed complete on February 2, 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 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 City Council via Resolution 3315 on December 21, 2022, 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 February 7, 2023, notice was mailed by the Planning Division to surrounding owners of record of property within 500 feet of the subject properties, and to the Boyd Acres Neighborhood Association representative. On February 2, 2023, Notice of Proposed Development signs were posted by the applicant along the property frontages at two 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 February 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.**
 - a. Exemptions from Area and Master Planning.**
 - iii. City-initiated annexations of property intended for uses such as publicly owned rights-of-way or City-initiated annexation of additional lands brought into the Urban Growth Boundary for affordable or market rate housing, in programs such as authorized under Oregon House Bill 4079, or other specified uses as authorized by Oregon statute.**

FINDING: The planned annexation includes only the existing right-of-way of Cooley Road between Brownrigg Lane and Highway 20. BDC 4.9.300B.1.a.iii exempts City-initiated annexations of property intended for use as publicly owned right-of way from the master planning requirement. The existing street does provide connectivity and through an intergovernmental agreement between the City and the Oregon Department of Transportation, the road will be improved to provide bike lanes on both sides of the street and a shared use path on the south side.

4.9.400 Initiation Procedures.

C. An annexation proposal may be initiated by City Council resolution.

FINDING: City Council Resolution 3315 adopted on December 21, 2022, authorized the initiation of right of way annexation for this street segment.

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 PLANX20230039 contain all of the above applicable 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 has coordinated with the Bend Park and Recreation District (BPRD) on this annexation of right-of-way. The right-of-way will be improved with a multi-use path as part of the ODOT North Corridor project. The 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 northern boundary of the BPRD is Cooley Road and the district is not clear whether the right-of-way is included in the district or not. However, since this annexation is only public right-of-way and includes a sidewalk/path, BPRD has indicated that annexation into the

district (if it hasn't already occurred) is not necessary at this time. When properties to the north of Cooley Road are annexed into the Parks District, the right-of-way will be included in that annexation, if the right-of-way is not already within the district boundary. Therefore, a BPRD annexation agreement is not required at this time.

- 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: The planned annexation includes only the existing right-of-way of Cooley Road between Brownrigg Lane and Highway 20, and does not include private property. While there is no impact to the school district with the proposed right-of-way annexation, the letter was requested and the school has indicated no comments.

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

FINDING: The planned annexation includes only the existing right-of-way of Cooley Road between Brownrigg Lane and Highway 20, which does not include irrigation water rights. A Swalley Irrigation District canal lies just to the west of the annexation area that crosses the existing City right-of-way but it is outside of this proposed new right of way segment. A lateral to the private pond appears to cross the edge of the right of way. The Swalley Irrigation District indicated they do not need any additional conveyances.



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: This segment of Cooley Road is already on the adopted Comprehensive Plan street maps (Figure 7-1 Bend Urban Area Roadway System Plan and TSP Figure 4-3 Functional Classification Map). There is existing water infrastructure within the right-of-way and the North Corridor project work includes waterline upgrades per the City's water system master plan as well as the surface multimodal improvements. The City Utility department is not requiring sewer upgrades at this time as the final alignment and sizing has not been determined; sewer infrastructure within this corridor will be required with annexation of properties in the OB Riley UGB Expansion Area.

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 planned annexation of public right-of-way includes 1.9 acres of land within the OB Riley UGB expansion area. The policies referenced in Table 4.9.300 apply to private property except for Policy 11-140, which states "The street, path and bikeway network shall provide connectivity throughout this area and connect to existing abutting local roads." The planned annexation includes only the existing right-of-way of Cooley Road between Brownrigg Lane and Highway 20. The ODOT North Corridor project includes enhancing the bike lanes and sidewalk/path to provide walking and biking system connectivity in addition to the existing vehicular connectivity.

- 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 planned annexation of public right-of-way is exempt from the area/plan master plan requirement per BDC 4.9.300(B)(1)(a)(iii) as "City-initiated annexations of property intended for uses such as publicly owned rights-of-way."

- 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 infrastructure plans with the North Corridor project include street and water infrastructure upgrades to meet water master plan requirements and complete street facilities for walking, biking, and driving. The City Utility department is not requiring sewer upgrades at this time as the final alignment and sizing has not been determined; sewer infrastructure within

this corridor will be required with annexation of properties in the OB Riley UGB Expansion Area. Since there are no residences and this is not a school site, there is no impact to the school district. The Bend Parks and Recreation District has indicated that no park facilities or annexation into the district are required.

- 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: This is an existing street and there is no associated land use development impacting infrastructure. The street and utility infrastructure are being modernized as described in the findings for Section 3 above.

- 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: There are no irrigation district water rights within the right-of-way. There is a Swalley Irrigation District facility at the southwest corner of the street segment. The property served by this facility is not being annexed, and the water rights and irrigation facilities for that property will be addressed if & when the property owner requests to be annexed into the City of Bend. Construction of the street with the right-of-way to be annexed will be coordinated with the District per their rules and regulations. No additional measures are required.

- 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: 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. This application is for annexation of right-of-way only for an existing street alignment. The associated improvements to this street section supports the planned and programmed transportation system with bike lanes

and a sidewalk/ shared use path on the south side of the street. Since there is no proposed development associated with this annexation, the application does not affect the transportation facility and the TPR is satisfied.

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.

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:

(a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;

(b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;

(c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.

FINDING: For purposes of TPR compliance, this is an annexation of right-of-way only and there is no land use adding demand to the transportation network. Cooley Road is already identified in City's the Transportation Systems Plan. The identified infrastructure improvements with the North Corridor project modernizes the street section to improve multi-modal travel by building the City standard complete street cross-section already planned for this corridor on the south side of the street in the same way that the recent annexation for the school to the west improved the street. Through collaborative efforts between the applicant, ODOT, the City, and Deschutes County, the applicant is relying on OAR 660-012-0060(2)(e). In particular, the City, County, and ODOT have each provided written statements of approval that the system-wide benefits provided through the required mitigation are sufficient to balance the significant effects. Again, there is no significant

effect from the right-of-way annexation itself.

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

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(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.

FINDING: This proposal is to annex an existing street with no land use development that impacts the transportation facilities. ODOT and the City have agreed to the proposed improvements as documented in the intergovernmental agreement for the North Corridor. The County surrendered jurisdiction of this segment to the City by Deschutes County Ordinance 2020-011.

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 right of way will be improved as previously described.

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: Upon annexation, the current UA zoning will cease to apply, and the zoning map will be automatically updated with the Commercial General (CG) zoning scheme. The applicable criterion is met.

Exhibit D
Zoning Map upon annexation

