

## ORDINANCE NO. NS-2478

### AN ORDINANCE ADOPTING A STATUTORY DEVELOPMENT AGREEMENT TO PARTITION LAND OFF SIMPSON AVENUE FOR FUTURE AFFORDABLE HOUSING DEVELOPMENT

#### Findings:

A. This ordinance adopts a Statutory Development Agreement (the "Development Agreement") between the City of Bend ("City"), Deschutes County ("County"), Central Oregon Regional Housing Authority dba Housing Works ("Housing Works") and Kor Community Land Trust ("Kor"). The Development Agreement was initiated to allow for alternate timing for completion of infrastructure otherwise required for a final partition plat. Timing is requested to be adjusted so that two legal lots can be created to meet deadlines for funding applications for the future affordable housing projects proposed for the land. Due to the cycles and availability of funding for affordable housing, neither Housing Works nor Kor has funds to complete the infrastructure improvements necessary for a partition on the standard partition timeline. This Development Agreement application was processed in accordance with Bend Development Code (BDC) Section 4.1.1500 *Development Agreements*.

B. The County authorized sale of the Property, located along Simpson Avenue between SW 15<sup>th</sup> Street and Mount Washington Drive, to Housing Works and Kor for development of affordable housing. It is anticipated the sale will close after this Development Agreement is approved. The sale also anticipates Council's approval of a vacation petition for SW 17<sup>th</sup> Street which is separately before Council at the June 7, 2023, Council meeting.

C. The purpose of the Development Agreement is to provide for the timing of infrastructure required due to the impacts of the partition and proposed development on public infrastructure, and under the provisions of the BDC related to partitions, BDC Chapter 4.3. This infrastructure includes serving the Property with sewer and water, and improvements to the transportation system along Simpson Avenue. Other improvements for the Property will be required as part of future development applications, currently anticipated to be a cottage cluster subdivision by Kor on Parcel 1 for owner-occupied affordable housing, and multi-unit affordable rental housing site plan by Housing Works on Parcel 2.

D. The Development Agreement provides that the County, Housing Works, and Kor may apply for a final plat to create two legal lots of record, prior to completion of required infrastructure. Water, sewer, and transportation improvements detailed in the Agreement will be required prior to issuance of any certificate of occupancy for each parcel, as described in the Development Agreement.

E. The City provided timely and sufficient notice of the public hearing for the Development Agreement in accordance with the Type III application procedures contained in Section 4.1.400 of the Bend Development Code. On May 18, 2023, notice

of the June 7, 2023, City Council public hearing was mailed to surrounding residents and owners of record of property within 500 feet of the Property, as shown on the most recent property tax assessment roll, and to the River West and Century West Neighborhood Association representatives. Additionally, Notice of Proposed Development signs were posted on the subject property along abutting public ways throughout the duration of the required public comment period.

F. The City Council held a public hearing on June 7, 2023, to accept evidence, receive public testimony and consider the staff recommendation. The City Council finds that the Development Agreement follows the provisions of ORS 94.504 through 94.528, which are specifically addressed within the Development Agreement.

G. The State of Oregon changed its funding schedule for certain funds for affordable housing for the 2023 funding cycle. Kor was awarded funding in the 2023 funding cycle and has a short timeframe to complete construction of its project. The City finds this constitutes an emergency and this Development Agreement should go into effect on the date of the second reading.

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

Section 1. The Development Agreement is adopted in the form contained in Attachment A and applies to the Property, which is further described and identified in Exhibit A and B of the Development Agreement.

Section 2. The City declares an emergency exists and this ordinance will be effective June 21, 2023.

Section 3. 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: June 7, 2023

Second reading and adoption by roll call vote: June 21, 2023

YES: Mayor Melanie Kebler  
Councilor Barb Campbell  
Councilor Megan Perkins  
Councilor Ariel Méndez  
Councilor Mike Riley

NO: none




\_\_\_\_\_  
Melanie Kebler, Mayor

ATTEST:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mary A. Winters, City Attorney



## EXHIBIT 'A'

File No. 515146AM

A parcel of land lying in Section Six (6), Township Eighteen (18) South, Range Twelve (12) East, Willamette Meridian, Deschutes County, Oregon, said parcel being more particularly described as follows:

Beginning at the West 1/4 corner of said Section 6; thence along the West boundary of the Northwest 1/4 of said Section 6 North 00°36'35" East 1166.45 feet to a point on the North Right-Of-Way of Simpson Avenue, said point being the TRUE POINT OF BEGINNING; thence continuing North 00°36'35" East 158.62 feet to the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of said Section 6; thence leaving said West boundary and along the North boundary of said Southwest 1/4 of the Northwest 1/4 South 89°39'34" East 2170.65 feet to the Northwest corner of parcel 5 of that property described in Volume 2005, Page 72604 Deschutes County Official Records; thence leaving said North boundary and along the West line of said Parcel 5 South 43°25'03" East 65.52 feet to a point on said North Right-Of-Way of Simpson Avenue; thence leaving said West line and along said North Right-Of-Way South 72°24'44" West 164.95 feet; thence 385.46 feet along the arc of a 1233.24 foot radius curve to the right, the chord of which bears South 81°21'54" West 383.90 feet; thence North 89°40'51" West 1680.59 feet to the TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM those portions lying within SW 17th Street and SW 18th Street.

EXISTING PROPERTY  
HOUSING WORKS

LOCATED IN THE NW 1/4 OF SECTION 6,  
TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.,  
CITY OF BEND, DESCHUTES COUNTY, OREGON

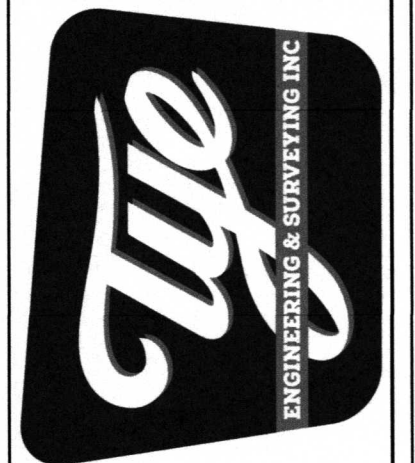
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
OREGON  
May 12, 2010  
DIRK P. DYRVEE  
65694PLS  
RENEWS: 12/31/23

JOB NO: 2864 - HOUSING WORKS PARTITION  
DATE: 03-15-2023  
DRAWN BY: ATT/PAT  
SCALE:  
DWG: 2864-Simpson Ave-Housing Works.dwg

HOUSING WORKS  
SIMPSON AVENUE  
EXISTING PROPERTY

FOR:  
HOUSING WORKS  
405 SW 6TH ST.  
REDMOND, OR. 97756  
541-323-7412

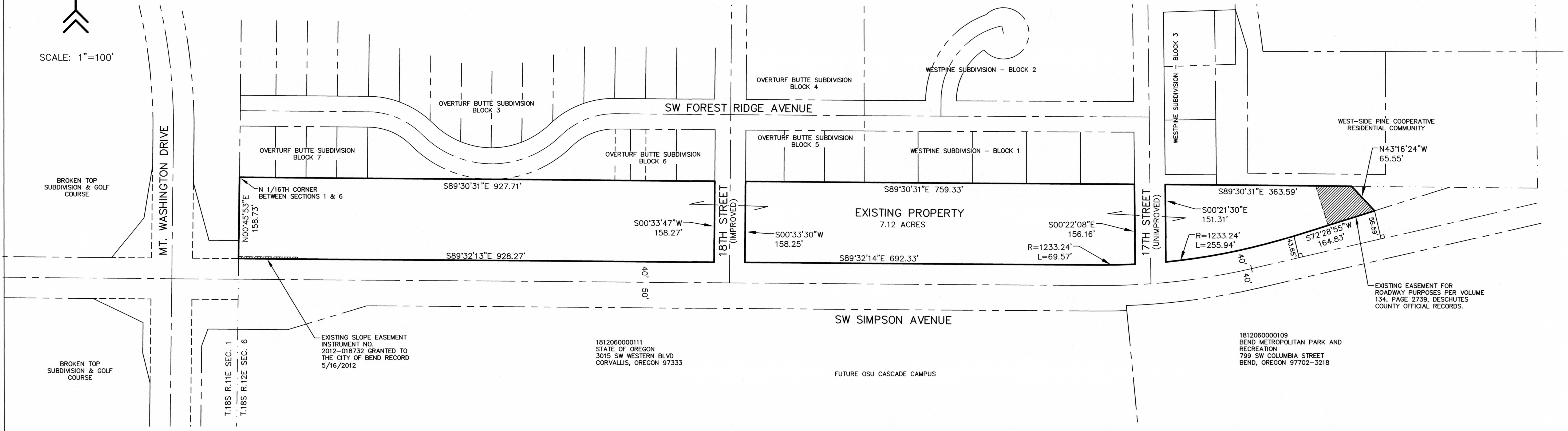
TYE ENGINEERING & SURVEYING, INC.  
725 NW HILL STREET  
BEND, OREGON 97703  
ph: 541-389-8989  
email: office@tyeengineering.com  
www.tyeengineering.com



SHEET 1 OF 1



SCALE: 1"=100'



EXISTING EASEMENT FOR  
ROADWAY PURPOSES PER VOLUME  
134, PAGE 2739, DESCHUTES  
COUNTY OFFICIAL RECORDS.

1812060000109  
BEND METROPOLITAN PARK AND  
RECREATION  
799 SW COLUMBIA STREET  
BEND, OREGON 97702-3218

1812060000111  
STATE OF OREGON  
3015 SW WESTERN BLVD.  
CORVALLIS, OREGON 97333

EXISTING SLOPE EASEMENT  
INSTRUMENT NO.  
2012-018732 GRANTED TO  
THE CITY OF BEND RECORD  
5/16/2012

T:18S R:11E SEC. 1  
T:18S R:12E SEC. 6

MT. WASHINGTON DRIVE

SW SIMPSON AVENUE

SW FOREST RIDGE AVENUE

18TH STREET  
(IMPROVED)

17TH STREET  
(UNIMPROVED)

EXISTING PROPERTY  
7.12 ACRES

WEST-SIDE PINE COOPERATIVE  
RESIDENTIAL COMMUNITY

OVERTURF BUTTE SUBDIVISION  
BLOCK 4

WESTPINE SUBDIVISION - BLOCK 2

WESTPINE SUBDIVISION - BLOCK 3

OVERTURF BUTTE SUBDIVISION  
BLOCK 5

WESTPINE SUBDIVISION - BLOCK 1

OVERTURF BUTTE SUBDIVISION  
BLOCK 7

OVERTURF BUTTE SUBDIVISION  
BLOCK 6

N 1/16TH CORNER  
BETWEEN SECTIONS 1 & 6

OVERTURF BUTTE SUBDIVISION  
BLOCK 3

BROKEN TOP  
SUBDIVISION & GOLF  
COURSE

BROKEN TOP  
SUBDIVISION & GOLF  
COURSE

FUTURE OSU CASCADE CAMPUS



VICINITY MAP  
SCALE: NTS

TENTATIVE PARTITION  
HOUSING WORKS

LOCATED IN THE NW 1/4 OF SECTION 6,  
TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.,  
CITY OF BEND, DESCHUTES COUNTY, OREGON

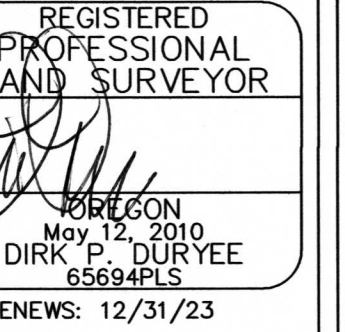
APPLICANT:  
HOUSING WORKS  
CONTACT: KEITH WOODEN  
405 SW 6TH STREET  
REDMOND, OREGON 97756  
503-580-9063

OWNER:  
DESCHUTES COUNTY  
CONTACT: KRISTIE BOLLINGER  
P.O. BOX 6005  
BEND, OREGON 97708-6005  
541-385-1414

SURVEYING:  
TYE ENGINEERING & SURVEYING, INC.  
725 NW HILL STREET  
BEND, OREGON 97703  
541-389-6959

SITE ADDRESS:  
19755 SIMPSON AVE,  
BEND, OR 97702

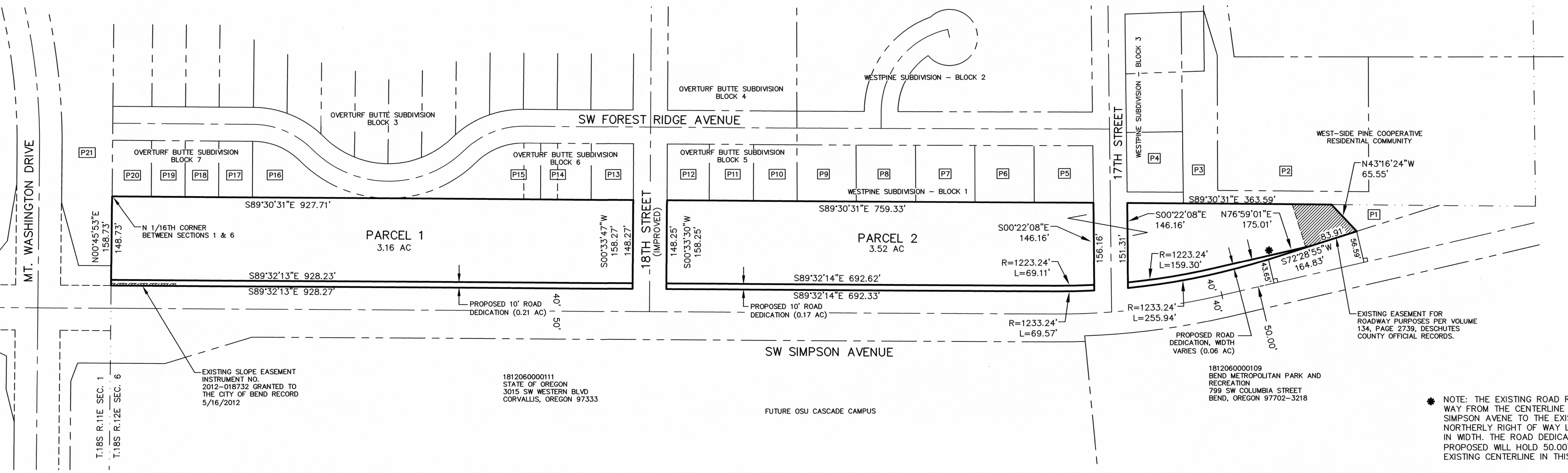
TAX MAP & LOT: 1812060000100  
ZONE: RM  
CURRENT AREA: 7.12 AC  
PRESENT USE: VACANT LOT  
PROPOSED USE: 2 PARCEL PARTITION  
ROAD DEDICATION: 0.44 AC  
PARCEL 1: 3.16 AC  
PARCEL 2: 3.52 AC  
WATER: CITY OF BEND  
SEWER: CITY OF BEND  
POWER: PACIFIC POWER  
PHONE: CENTURY WEST  
GAS: CASCADE NATURAL GAS  
IRRIGATION DIST: NONE



JOB NO: 2864 - HOUSING WORKS PARTITION  
DATE: 03-15-2023  
DRAWN BY: ATT/PAT  
SCALE:  
DWG: 2864-Simpson Ave-Housing Works.dwg



SCALE: 1"=100'



PARTITION OVERVIEW MAP  
SCALE: 1"=100'

- |  |  |   |
|--|--|---|
| <p>P1<br/>181206BA00099<br/>WEST-SIDE PINES COOPERATIVE<br/>P.O. BOX 1643<br/>BEND, OREGON 97709</p> <p>P2<br/>181206BA03400<br/>WEST-SIDE PINES COOPERATIVE<br/>P.O. BOX 1643<br/>BEND, OREGON 97709</p> <p>P3<br/>181206BA03000<br/>WEST-SIDE PINES COOPERATIVE<br/>P.O. BOX 1643<br/>BEND, OREGON 97709</p> <p>P4<br/>181206BA03900<br/>POLIS, DANIEL S<br/>1305 7TH ST<br/>ANACORTES, WA 98221-1810</p> <p>P5<br/>181206BA04000<br/>HAMERS-BOYD, NATHAN &amp; MARINE<br/>P.O. BOX 709<br/>SAN ANSELMO, CA 94979</p> <p>P6<br/>181206BA04100<br/>HOPLA, GREG &amp; SHAWNA<br/>217 BISHOP WAY<br/>BROWNSVILLE, OR 97327</p> <p>P7<br/>181206BA04200<br/>SUNNY DAY REAL ESTATE LLC<br/>5 BEAR ORCHARD RD<br/>WINTHROP, WA 98862</p> | <p>P8<br/>181206BA04300<br/>SUNNY DAY REAL ESTATE LLC<br/>5 BEAR ORCHARD RD<br/>WINTHROP, WA 98862</p> <p>P9<br/>181206BA04400<br/>SHEARER, RICHARD A &amp; AMY<br/>47147 WESTFIR RD<br/>WESTFIR, OR 97492</p> <p>P10<br/>181206BB06500<br/>ANDREA &amp; ARTHUR FURBER REV LIVING TRUST<br/>3737 NE PETROSA AVE<br/>BEND, OR 97701</p> <p>P11<br/>181206BB06400<br/>ROBERTS, BUTCH R JR &amp; JAMIE L<br/>1775 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P12<br/>181206BB06300<br/>MONDRY, MARITA M<br/>1783 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P13<br/>181206BB06200<br/>MARTIN, MICHAEL W<br/>P.O. BOX 148<br/>BEND, OR 97709</p> <p>P14<br/>181206BB06100<br/>DOZA, PHILIP R &amp; WEST, HOLLY K<br/>1817 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> | <p>P15<br/>181206BB05900<br/>SUNNY DAY REAL ESTATE LLC<br/>5 BEAR ORCHARD RD<br/>WINTHROP, WA 98862</p> <p>P16<br/>181206BB05800<br/>GINGERICH, BRIAN<br/>1927 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P17<br/>181206BB05700<br/>JOE WENNERBERG LIVING TRUST<br/>1939 FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P18<br/>181206BB05600<br/>CHENOWETH, CRAIG C &amp; WILSON, DANA R<br/>1945 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P19<br/>181206BB05500<br/>OGORZALEK, AARON S<br/>1953 SW FOREST RIDGE AVE<br/>BEND, OR 97702</p> <p>P20<br/>181206BB05400<br/>FRANK X &amp; CHRISTINA FIEDLER REV LIV TRUST<br/>61281 KING JERBOAM<br/>BEND, OR 97702</p> <p>P21<br/>18101A007600<br/>ACCT 58850 IRA<br/>P.O. BOX 1529<br/>ELYRIA, OH 44036</p> |
|--|--|---|

HOUSING WORKS  
SIMPSON AVENUE  
TENTATIVE PARTITION

HOUSING WORKS  
405 SW 6TH ST.  
REDMOND, OR. 97756  
541-323-7412

FOR:  
TYE ENGINEERING & SURVEYING, INC.  
725 NW HILL STREET  
BEND, OREGON 97703  
ph: 541-389-6959  
email: office@tyeengineering.com  
www.tyeengineering.com



**EXHIBIT D  
PARTITION FINDINGS**



COMMUNITY  
DEVELOPMENT

**PROJECT NUMBER:** PLRPDA20220926

**OWNER:** Deschutes County  
PO Box 6005  
Bend, OR 97708  
[Kristie.Bollinger@deschutes.org](mailto:Kristie.Bollinger@deschutes.org)

**APPLICANT:** Keith Wooden  
Housing Works  
405 SW 6<sup>th</sup> St  
Redmond, OR 97756  
[kwooden@housing-works.org](mailto:kwooden@housing-works.org)

**LOCATION:** 19755 Simpson Ave, Bend, OR 97702; Tax Lot 1812060000100

**ZONE:** Residential Urban Medium Density (RM)

**COMP PLAN:** RM

**PROPOSAL:** A 2-parcel residential land division of 7.12 acres

**STAFF REVIEWERS:** Karen Swenson, AICP, Senior Planner; 541-388-5567;  
[kswenson@bendoregon.gov](mailto:kswenson@bendoregon.gov)

Gus Hobson, Engineering Associate, (541) 323-7174,  
[ghobson@bendoregon.gov](mailto:ghobson@bendoregon.gov)

**APPLICABLE CRITERIA:**

Bend Development Code

- Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments

**APPLICABLE STANDARDS:**

- Chapter 2.1 Residential Districts
- Chapter 3.1 Lot, Parcel and Block Design, Access and Circulation
- Chapter 3.2 Landscaping, Street Trees, Fences and Walls
- Chapter 3.4 Public Improvement Standards
- Chapter 3.5 Other Design Standards
- Chapter 4.7 Transportation Analysis

**APPLICABLE PROCEDURES:**

- Chapter 4.1 Development Review and Procedures



## FINDINGS OF FACT:

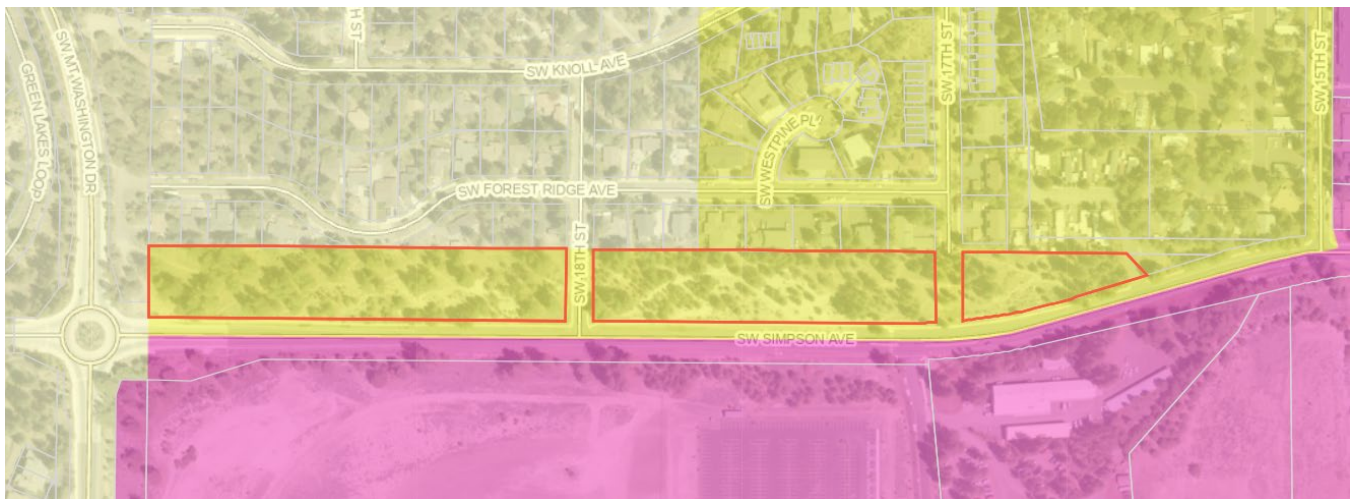
- 1. SITE DESCRIPTION & SURROUNDING USES:** The subject property is approximately 7.12 acres in size and generally rectangular in shape except for the eastern end of the property where Simpson Avenue bends slightly northward. The property is undeveloped and contains varied topography. A geotechnical report submitted by the applicant indicates the presence of pumice soil that could impact the placement of buildings and infrastructure.

The property abuts Simpson Avenue to the south, which is a minor arterial with 80 feet of right-of-way, developed with sidewalks along the entire length not entirely curb-tight or property-tight. The pavement width varies due to the presence of a westbound left turn lane at 17<sup>th</sup> Street and a roundabout at the western end of the frontage; curbs are present along the south frontage only from just west of 17<sup>th</sup> Street to 15<sup>th</sup> Street. A pedestrian refuge is located immediately west of the intersection of 17<sup>th</sup> Street and Simpson Avenue at the OSU-Cascades campus northern entrance. A roundabout is located at the western end of the property frontage at the intersection of Simpson Avenue and Mt. Washington Drive. The property does not directly abut Mt. Washington Drive due to a narrow intervening parcel that abuts a portion of the western property line.

The property is divided by the rights-of-way of 17<sup>th</sup> Street and 18<sup>th</sup> Street (local streets both 60 feet in width), but is one legal lot of record. The portion of 17<sup>th</sup> Street that divides the property is undeveloped but the portion north of the property is developed with 36 feet of pavement and curb-tight sidewalks on both sides. The portion of 18<sup>th</sup> Street that divides the property is developed with curb-tight sidewalks and 28 feet of pavement that starts to widen at the northern end to an eventual pavement width of 36 feet near the intersection with Forest Ridge Avenue. The right-of-way of Forest Ridge Avenue touches the western portion of the property at a tangential point with no width connecting to the subject property; Forest Ridge Avenue is developed with 36 feet of pavement and curb-tight sidewalks on both sides.

The properties to the north along the western portion of the property are zoned Standard Density Residential (RS) and are developed with single-unit homes in the Overturf Butte subdivision platted in 1978. The properties to the north along the eastern portion of the property are zoned Medium Density Residential (RM) and are developed with duplexes, fourplexes, and multi-unit structures in the Westpine subdivision also platted in 1978. East of 17<sup>th</sup> Street to the north of the subject property is a stubbed alley 100 feet in length that terminates in a tract for the Westside Pines Cooperative, a manufactured home park.

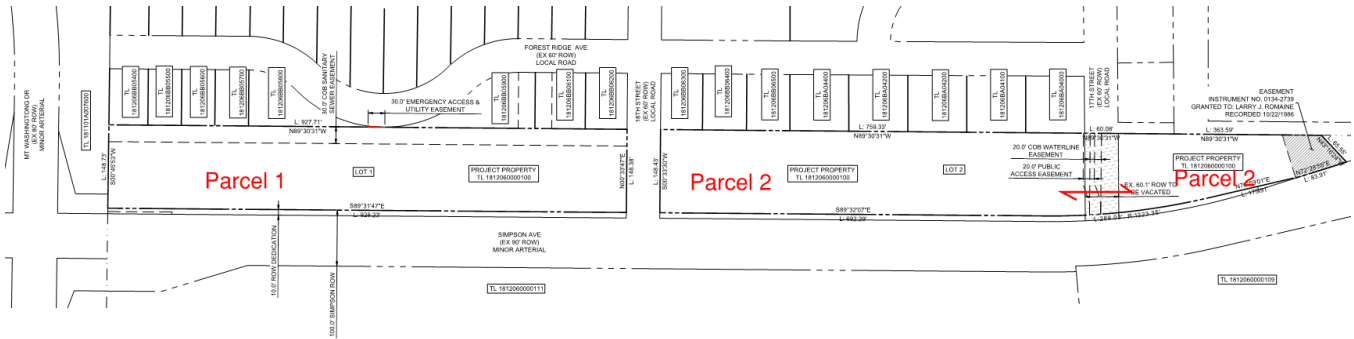
The property across Simpson Avenue from the subject property, to the southwest of 17<sup>th</sup> Street, is part of the OSU-Cascades campus; the portion abutting Simpson Avenue and 17<sup>th</sup> Street is developed with a large surface parking lot while the remainder to the west is undeveloped at this time. The property to the southeast of 17<sup>th</sup> Street is owned by the Bend Parks and Recreation District (BPRD) and is developed as an equipment and materials yard.



*Comprehensive Plan and Zoning Designations (light yellow – RS; gold – RM; pink – MU)*

**2. PROPOSED PARCEL LAYOUT:**

Parcel 1 will extend from the western property boundary to 18<sup>th</sup> Street, and result in 3.16 acres, after the required right-of-way dedication on Simpson Avenue. Parcel 2 will extend from the eastern boundary of the 18<sup>th</sup> Street right-of-way to the eastern property boundary east of 17<sup>th</sup> Street, and result in 3.71 acres after the required right-of-way dedication on Simpson Avenue. Parcel 2 will result in 3.91 acres if the undeveloped portion of 17<sup>th</sup> Street right-of-way is vacated per concurrent application PLMISC20220927. Parcel 2 will be bisected by the 17<sup>th</sup> Street right-of-way if the concurrent right-of-way vacation is not approved.



3. **PROCESS:** The requested partition is being processed as part of a development agreement as allowed under BDC 4.1.1500 to allow for the partition to be recorded in advance of the required infrastructure improvements, due to funding restrictions for affordable housing, which will be constructed on the parcels subsequent to the partition. The required infrastructure associated with this partition is outlined in the findings below and conditioned in the development agreement. The partition will be recorded after or concurrently with the development agreement and the infrastructure will be constructed as outlined in the development agreement. This document outlines the findings of compliance with the standards in BDC Chapter 4.3 that apply to a partition.
  
4. **CONCURRENT APPLICATION:** The applicant has concurrently applied for a right-of-way vacation to vacate the undeveloped portion of 17<sup>th</sup> Street (PLMISC20220927). This right-of-way vacation is requested due to the poor soil suitability of the property between the rights-of-way of 17<sup>th</sup> and 18<sup>th</sup> Street which reduces the development potential of the property. The right-of-way vacation will allow the applicant to push more of the development eastward while providing a multi-use path and accessway for the existing City of Bend water main between the developed portion of the 17<sup>th</sup> Street right-of-way and Simpson Avenue. The right-of-way vacation application will be considered by the City Council concurrently with the development agreement. The findings below address the potential of both the approval and denial of the right-of-way vacation by Council.
  
5. **PUBLIC NOTICE AND COMMENTS:** On May 18, 2023, the City of Bend Planning Division sent notice of the public hearing for the development agreement/partition request to residents and surrounding owners of record of property as shown on the most recent property tax assessment roll within 500 feet of the subject property and the land use representatives of the River West and Century West Neighborhood Associations. Notices for the public hearing were posted on the site within 10 feet of Simpson Avenue, 18<sup>th</sup> Street and the terminus of 17<sup>th</sup> Street per BDC 4.1.425.A.

Transmittals describing the proposal were also sent to participating City departments and other agencies for comment. The comments and responses received by the Bend Planning Division are contained in the file and addressed throughout this decision.

3. **APPLICATION ACCEPTANCE DATE:** This application was received on December 28, 2022, and the application fee was paid on January 17, 2023. The applicant submitted additional required information on February 14, 2023, and the application was deemed complete on February 16, 2023. The Notice of Complete Application was sent to the

applicant on February 16, 2023. Development agreements are exempt from the 120-day review period.

**APPLICATION OF THE CRITERIA (the City of Bend has determined that in order to enter into this development agreement, the approval criteria of 4.3.300 must be satisfied unless the Development Agreement, approved and adopted by City Council, states otherwise):**

## **Conformance with the Bend Development Code**

### **Chapter 4.3 Subdivisions, Partitions, Replats and Property Line Adjustments**

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

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

- 1. The proposal provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural and historic resources to the maximum degree practicable.**

**FINDING:** The property is designated Residential Medium Density (RM) on the Comprehensive Plan Map and zoned Residential Medium Density (RM); the property is intended for residential use. The property does not have any recorded significant natural features, special terrain, or historical resources.

The property does not contain any streams or lakes, and it has not been identified as a riparian corridor, wetland, Federal Wild and Scenic River, State Scenic Waterway, groundwater resource, Approved Oregon Recreation Trail, natural area, wilderness area, mineral and aggregate resource, energy resource, or cultural area. Additionally, the City does not maintain the property on a current inventory of Historic Resources.

The property does contain some significant trees and native underbrush. A future land division application for a planned cottage development on Parcel 1 and a future Site Plan Review application for a planned multi-unit development on Parcel 2 will address compliance with BDC 3.2 (Landscaping, Trees, Fences and Walls). Tree removal on the subject property will be limited to those areas impacted by construction of public improvements around the property frontages; no additional tree removal is planned with this land division application. The proposal preserves natural features in accordance with BDC 3.2 and to the maximum degree practical; therefore, the proposal conforms to this approval criterion.

- 2. The proposal allows for the development of adjacent property in accordance with the provisions of this Code.**

**FINDING:** The proposal is for infill development of a relatively long and narrow property (less than 160 feet deep) that is located between Simpson Avenue and the developed properties to

the north and extends from just east of Mt. Washington Drive to about 400 feet east of 17<sup>th</sup> Street. The only abutting property that is undeveloped is a narrow property abutting the western property boundary and Mt. Washington Drive. Forest Ridge Avenue is currently stubbed to that abutting property providing local street access upon development of that property. That property also abuts Troon Avenue to the north providing a potential additional access point. No additional access is required through this property to that abutting property to the west.

Development of the OSU-Cascades campus south of Simpson Avenue is governed by the OSU-Cascades Master Plan (BDC Chapter 2.7, Article XVII), which provides future access to Simpson Avenue, between 17<sup>th</sup> Street and Mt. Washington Drive. This partition does not preclude the planned development of the OSU-Cascades campus; therefore, the proposal conforms to this approval criterion.

### **3. The proposal meets all standards and requirements of this Code.**

#### ***Chapter 2.1 Residential Districts.***

##### ***2.1.200 Permitted Land Use.***

***A. Permitted Uses. The land uses listed in Table 2.1.200 are permitted in the Residential Districts, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.1.200, land uses that are incidental and subordinate to a permitted use and land uses that are approved as “similar” to those in Table 2.1.200 may be permitted.***

**FINDING:** Residential uses are permitted outright in the RM zone. See BDC 2.1.500 below for the types of uses that would be allowed within the proposed lot sizes.

##### ***2.1.300 Building Setbacks.***

**FINDING:** The setbacks in this section will be applied at the time of Site Plan Review or building permit application submittal. The current setback standards are 5 feet from the rear and side property lines and 10 feet from the front property line, with the exception of a garage which must be 20 feet from the front property line.

**2.1.500 Lot Area and Dimensions.**

**Table 2.1.500  
Lot Areas and Dimensions in the Residential Districts By Housing Type and Zone**

<b>Residential Use</b>	<b>Zone</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width/Depth</b>	<b>Exceptions</b>
<b>Single-Family Detached Housing</b>	<b>RM</b>	<b>2,500 sq. ft.</b>	<b>Width: 30 ft. at front property line Depth: 50 ft.</b>	<b>Bulb of a cul-de-sac minimum width: 30 ft. min. at the front property line except for townhomes and flag lots. Except for townhomes, corner lots or parcels must be at least five feet more in width than the minimum lot width required in the zone Development alternatives: see <u>BDC Chapter 3.8</u></b>
<b>Two- and Three-Family Housing (duplex/triplex) See BDC 3.6.200(H)</b>	<b>RM</b>	<b>Duplex, Triplex &amp; Quadplex: 2,500 sq. ft.</b>	<b>Width: 30 ft. at front property line Depth: 50 ft.</b>	
<b>Townhomes See BDC 3.6.200(D)</b>	<b>RM</b>	<b>Average minimum lot or parcel size: 1,500 sq. ft. for each unit</b>	<b>Width: 20 ft. at front property line Depth: 50 ft</b>	
<b>Multi-Unit Dwelling (more than 4 units)</b>	<b>RM</b>	<b>None</b>	<b>Width: 30 ft. at front property line Depth: 50 ft.</b>	

**FINDING:** Parcel 1 is 3.16 acres in size (137,853 square feet), after the required right-of-way dedication along Simpson Avenue. Per the submitted application and project narrative, Parcel 1 (the westernmost parcel) is intended for cottage development (about 40 cottage units) which is regulated by BDC 3.8.500 and 3.8.900; there is no minimum lot size for cottage housing developments (BDC 3.8.500) and the minimum lot size for a cottage cluster development (BDC 3.8.900) is 4,000 square feet. The proposed parcel size of Parcel 1 is sufficient for cottage development consistent with the standards in the above table.

Parcel 2 is 3.71 acres in size (161,493 square feet), after the required right-of-way dedication. If the concurrent right-of-way vacation is approved, Parcel 2 will increase by 8,646 square feet to a total of 3.91 acres (170,139 square feet). Parcel 2 is intended for multi-unit development (total of about 60 units within two buildings). There is no minimum lot size for multi-unit development in the RM zone; the width of this parcel exceeds 30 feet and the depth exceeds 50 feet. The proposed parcel size of Parcel 2 is sufficient for development consistent with the standards in the above table. These standards are met.

**2.1.600 Residential Density.**

**A. Residential Density Standard. The following density standards apply to all new developments and subdivisions in all of the Residential Districts, except as specified in subsection (B) of this section. The density standards shown in Table**

**2.1.600 are intended to ensure efficient use of buildable lands and provide for a range of needed housing, in conformance with the Bend Comprehensive Plan.**

- 1. The density standards may be averaged over more than one development phase (i.e., as in a subdivision or Master Planned Development).**

**Table 2.1.600  
Residential Densities**

<b>Residential Zone</b>	<b>Density Range</b>
<i>Medium Density Residential (RS)</i>	<i>7.3 – 21.7 units/gross acre</i>

**B. Exemptions.**

- 2. The following are exempt from the maximum density standards in subsection (A) of this section:**

**c. Duplexes, triplexes, quadplexes, townhomes and cottage cluster developments.**

**d. Multi-unit affordable dwellings. See BDC 3.6.200(C).**

**FINDING:** The density requirements in this section will be applied at the time of Site Plan Review, land division or building permit application submittal. The subject property is 7.12 gross acres in size, which requires 51 units to meet minimum density requirements in the RM zone ( $7.12 \times 7.3 = 51.9$ , rounded down to 51).

Per the conceptual plans submitted with the infrastructure analyses, approximately 100 units are proposed between the two sites; therefore, the minimum density requirement would be met.

Per subsection B.2.c. above, cottage cluster developments and multi-unit affordable dwellings are exempt from maximum density requirements. The future proposals assume a cottage development and multi-unit affordable dwellings. Therefore, based on these conceptual plans, the maximum density standards would not apply to the future land use applications for cottages and affordable housing.

**2.1.1100 Other Design Standards**

- A. On-site surface water drainage, including roof drainage, must be retained on the lot or parcel of origin and not flow onto the public right-of-way or other private property.**

**FINDING:** As noted above, the existing topography is undulating throughout the property. The proposed lots are adequately sized to accommodate storm drainage runoff on-site. Surface water drainage from developed lots will be reviewed with future Site Plan Review and building permit submittals to ensure no drainage flows onto other private property or the public right-of-way.

**B. Development must comply with BDC 3.5.200, Outdoor Lighting Standards, and 3.5.400, Solar Standards.**

**FINDING:** Compliance with BDC 3.5.400, Solar Standards, is addressed in findings below. Compliance with outdoor lighting standards will be reviewed with future submitted building permits.

**Chapter 3.1 LOT, PARCEL AND BLOCK DESIGN, ACCESS AND CIRCULATION**

**3.1.200 Lot, Parcel and Block Design.**

**C. General Requirements for Lots and Parcels.**

- 1. Depth and width of new lots or parcels shall meet the minimum standards specified for the zoning district.**

**FINDING:** As stated above, the proposed parcels meet the minimum standards for lot depth and lot width for the RM zone.

- 2. On steep slopes, increased lot or parcel sizes may be required to avoid excessive cuts, fills and steep driveways.**

**FINDING:** The subject property is undulating and future grading may create some sloped areas due to the pumice soils, but the parcels are of sufficient size to avoid excessive cuts and fills; no additional parcel size is required per this section.

- 3. On tracts containing watercourses or rock outcroppings, increased lot or parcel sizes may be required to allow adequate room for development and protection of the topographic or natural feature.**

**FINDING:** The site does not have significant watercourses and is not within an Upland Area of Special Interest (ASI) as defined in BDC 2.7.700. Therefore, increased parcel sizes are not required.

- 4. Each lot or parcel shall abut upon a street other than an alley for the minimum width required for lots or parcels in the zone, except:**

**FINDING:** As depicted on the Tentative Plan, the proposed design allows each lot to abut a street for the minimum width required, as noted above under BDC 2.1.500.

- 5. All side lot or parcel lines shall be at right angles to the street lines or radial to curved streets for at least one-half the lot or parcel depth wherever practical.**

**FINDING:** The side lot lines of the proposed parcels are generally perpendicular to the abutting street. This standard is met.

- 6. Corner lots or parcels shall be at least five feet more in width than the minimum lot width required in the zone.**



**FINDING:** The proposed partition results in two corner parcels. Each parcel is at least 5 feet more in width than the required minimum lot width. This standard is met.

- 7. All permanent utility service to lots or parcels shall be provided from underground facilities. The developer shall be responsible for complying with requirements of this section, and shall:**
  - a. Make all necessary arrangements with the utility companies and other persons or corporations affected by the installation of such underground utilities and facilities in accordance with rules and regulations of the Public Utility Commission of the State of Oregon.**
  - b. All underground utilities and public facilities installed in streets shall be constructed prior to the surfacing of such streets.**

**FINDING:** An array of franchise utility providers may exist within the existing rights-of-way of Simpson Avenue and 18<sup>th</sup> Street. No known franchise utility facilities are located within the unimproved portion of 17<sup>th</sup> Street. Future Site Plan Review or Land Division submittals must be accompanied by “Will Serve” letters from each of the utility providers for the site, to document their willingness to serve the property proposed to be developed at that time. Upon future development, all utilities will be extended to each parcel, as will be conditioned in future land use applications. The utilities will be extended underground in accordance with City Standards and utility provider requirements. All new utilities, including power, will be installed underground prior to any surfacing of streets. Engineered public facility/utility plans will be submitted to the City of Bend Engineering Division for review and approval prior to installation.

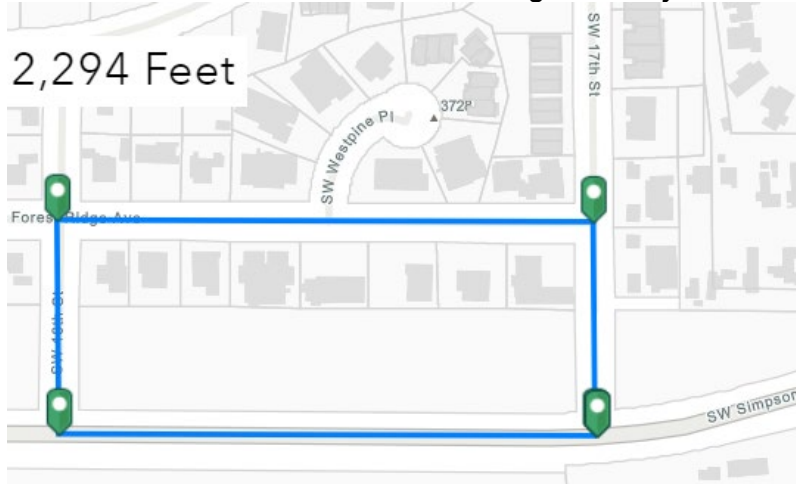
**D. Street Connectivity and Formation of Blocks. To promote efficient multi-modal circulation along parallel and connecting streets throughout the City, developments shall produce complete blocks bounded by a connecting network of streets, in accordance with the following standards:**

- 1. New development shall construct and extend planned streets (arterials, collectors and locals) in their proper projection to create continuous through streets and provide the desirable pattern of orderly developed streets and blocks. Streets shall be developed within a framework that is established in the Bend Urban Area Transportation System Plan and any applicable Special Area Plan, Refinement Plan, Master Neighborhood Development Plan or other adopted or approved development plan. Where such plans do not provide specific block length and perimeter standards, the requirements listed below shall apply:**
- 2. Block lengths and perimeters shall not exceed the following standards as measured from centerline to centerline of through intersecting streets.**
  - a. Six hundred sixty feet block length and 2,000 feet block perimeter in all Residential Zones;**
  - d. An exception may be based on the existing pattern of development, or other relevant factors. When an exception is granted, the Review Authority may require the land division or site plan to provide blocks divided by one or more access corridors in conformance with the provisions of BDC 3.1.300, Multi-Modal Access and Circulation. Access corridors shall be**

**located to minimize out-of-direction travel by pedestrians and bicyclists and shall meet all applicable accessibility standards.**

**FINDING:** The proposed partition includes one fully constructed bisecting street – 18<sup>th</sup> Street. If 17<sup>th</sup> Street was fully constructed as a vehicular street, the block perimeter would be less than 2,300 lineal feet, exceeding the maximum block perimeter by 300 lineal feet. The block length between 17<sup>th</sup> Street and 18<sup>th</sup> Street is set by previous subdivisions to the north at 815 lineal feet. Therefore, the block perimeter cannot be reduced further due to existing abutting development.

*East of 18<sup>th</sup> Street – without 17<sup>th</sup> St right-of-way vacation, 17<sup>th</sup> St fully constructed*



The applicant, however, proposes to vacate the unimproved section of 17<sup>th</sup> Street (concurrent application PLMISC20220927) due to pumice soils on the subject property limiting development between 17<sup>th</sup> and 18<sup>th</sup> Street, shifting development eastward. With this right-of-way vacation, the block perimeter extends to over 5,200 lineal feet and the block length extends to 1,675 lineal feet, or over 2-1/2 times the maximum allowed. In order to be granted an exception to the maximum block length and perimeter per subsection (d) above, the vacated portion of 17<sup>th</sup> Street must include a multi-modal pathway from the paved terminus of 17<sup>th</sup> Street to Simpson Avenue.

*East of 18<sup>th</sup> Street – with 17<sup>th</sup> St right-of-way vacation and multi-modal pathway (circled in red)*





**3. New street connections to arterials and collectors shall be governed by BDC 3.1.400, Vehicular Access Management.**

**FINDING:** 18<sup>th</sup> Street is an improved local street that currently connects to Simpson Avenue, a minor arterial. 17<sup>th</sup> Street is also an existing local street right-of-way, but is unimproved where it divides the subject property. The applicant proposes to vacate the unimproved section of 17<sup>th</sup> Street (concurrent application PLMISC20220927), as noted above. If the right-of-way vacation is approved, no new street connection to Simpson Avenue is required. If the right-of-way vacation is denied, then the existing 17<sup>th</sup> Street right-of-way will be required to be improved to local street standards.

**E. New Lot and Parcel Access. In order to protect the operations and safety of arterial and collector roadways, access management is required during lot and parcel development. New lots and parcels created through land division that have frontage onto an arterial or collector street shall provide alternative options for access as indicated below:**

- 1. Residential lots or parcels not intended for multifamily housing shall provide alley access to the individual lots fronting onto the arterial or collector.**
  - a. Exception to Residential Alleys. The Review Authority may determine that an alley is impractical due to physical or topographical constraints. In this situation, double frontage lots may be permitted.**

**FINDING:** Parcel 1 west of 18<sup>th</sup> Street is proposed for future cottage development. Parcel 2 east of 18<sup>th</sup> Street is proposed be developed in the future with multi-unit housing. No vehicular access is proposed from the proposed parcels to Simpson Avenue, a minor arterial. Vehicular access will be from local streets; access to both Parcel 1 and Parcel 2 will also be from 18<sup>th</sup> Street and access to Parcel 2 will be from 17<sup>th</sup> Street whether or not the concurrent right-of-way vacation (PLMISC20220927) is approved. This standard will be met.

**Condition of Approval:** *No direct vehicular access to the proposed parcels will be permitted from SW Simpson Avenue.*

- 3. The land division shall also provide for local street grid connections to the arterial and collector street in accordance with the block length and perimeter standards of this section.**

**FINDING:** As noted in findings above, no new street connections are proposed with this partition. Vehicular access is from local streets; access to both parcels will be from 18<sup>th</sup> Street and access to Parcel 2 will also be from 17<sup>th</sup> Street whether or not the concurrent right-of-way vacation (PLMISC20220927) is approved. This standard will be met.

### **3.1.300 Multi-Modal Access and Circulation.**

**A. Purpose.** *The purpose of this section is to ensure safe, accessible, direct and convenient multi-modal circulation by developing an on-street and off-street system of access corridors and public sidewalks throughout the City.*

#### **C. Off-Site Multi-Modal Facilities.**

- 1. Developments subject to development and having an access corridor alignment shown on the City of Bend Urban Area Bicycle and Pedestrian System Plan shall dedicate either right-of way or an access easement to the public for a primary or connector multi-use as outlined below.**
  - a. Primary multi-use paths shall be in the alignment shown on the City of Bend Urban Area Bicycle and Pedestrian System Plan to the greatest degree practical unless, with consideration of recommendations from the Bend Park and Recreation District, an alternate alignment is approved by the City through the development review process.**
  - b. Connector multi-use paths ...**
  - c. Primary and Connector Multi-Use Path Dedication and Construction.** *Primary and Connector multi-use path alignments shall be dedicated and constructed in accordance with the City's Design Standards and Construction Specifications.*

**FINDING:** The City adopted a Transportation System Plan (TSP) Update in August 2020 (effective September 2020) which replaced the Bend Urban Area Bicycle and Pedestrian System Plan with a Low Stress Bicycle Network and Key Bicycling and Walking Routes. The TSP update shows a Low Stress Bicycle Network route along Simpson Avenue. In accordance with the TSP, and as conditioned below under BDC 3.4.200.L, a minimum 8-foot multi-use path is required along the frontage of Simpson Avenue.

### **3.1.400 Vehicular Access Management.**

**C. Approval of Access Required.** *Proposals for new access shall comply with the following procedures:*

- 1. Permission to access City streets shall be subject to review and approval by the City based on the standards contained in this chapter and the provisions of BDC Chapter 3.4, Public Improvement Standards. Access will be evaluated and determined as a component of the development review process.**

**FINDING:** As detailed in findings below, vehicular access has been designed in conformance with BDC 3.4.

**D. Traffic Study Requirements.** *A transportation impact analysis (TIA) may be required under BDC Chapter 4.7, Transportation Analysis, for certain types and intensities of development proposals and to determine access restrictions of driveways onto arterial and collector roadways.*

**FINDING:** The applicant submitted a Transportation Facilities Report (TFR) in accordance with BDC 4.7. Compliance with BDC 4.7 is detailed in findings below.

***F. Access Management Requirements. Access to the street system shall meet the following standards:***

- 1. Except as authorized under subsection (F)(4) of this section, lots and parcels in all zones and all uses shall have one access point. Single-family dwellings on corner lots at the intersection of two local streets may have one access point per frontage.***
- 2. If a lot or parcel has frontage on two or more streets of different street classifications, the property shall access the street with the lowest classification.***

***4. Additional Access Points.***

- c. All Other Uses. An additional access point may be allowed when it is demonstrated that the additional access improves on-site circulation, and does not adversely impact the operations of the transportation system...***

**FINDING:** Parcels 1 and 2 will have access onto a local street, 18<sup>th</sup> Street. Parcel 2 will also have direct vehicular access onto 17<sup>th</sup> Street whether the 17<sup>th</sup> Street right-of-way vacation is approved or not (driveway access to the 17<sup>th</sup> Street stub to the north will be required as a future Site Plan Review condition on Parcel 2 if the right-of-way vacation is approved). This standard will be met.

- 5. Access Spacing Requirements. The maximum distance achievable between two driveways or a driveway and an intersection shall be provided. Access spacing shall accommodate City of Bend Standards and Specifications for curb reveal between driveway apron wings.***

**FINDING:** No driveway locations have been proposed by the applicant as part of this partition request, but will be reviewed at the time of future Site Plan Review and Land Division application submittal. However, as shown in the concept plans submitted in the Transportation Facilities Report, the proposed driveway onto 18<sup>th</sup> Street is located as far north from the intersection with Simpson Avenue as possible but still a sufficient distance (over 125 feet) from the intersection with Forest Ridge Avenue. No driveway location is shown on 17<sup>th</sup> Street due to the concurrent right-of-way vacation request (PLMISC20220927). If the vacation request is denied and 17<sup>th</sup> Street must be constructed, then the driveway location will be a similar distance from those same two parallel roadways. This standard will be met.

- 6. Access Operations Requirements. Backing from an access onto a public street shall not be permitted except for single-family, duplex or triplex dwellings backing onto a local street or for any use when backing into an alley if adequate backing distance is provided. The design of driveways and on-site maneuvering and loading areas shall include the anticipated storage length for entering and exiting vehicles, in order to prevent vehicles from backing into***

***the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.***

**FINDING:** As shown on the submitted Transportation Facilities Report, the proposed parking lot layouts based on conceptual plans will provide on-site circulation, preventing the need to back out onto a public street. This standard will be met.

- 7. Driveways shall be designed and located to provide a vehicle in the driveway with an unobstructed view of the roadway for a sufficient distance as required by City Standards and Specifications or the American Association of State Highway and Transportation Officials (AASHTO) policy on intersection sight distance requirements as determined by the City.***
- 8. Driveway widths, designs, and materials shall comply with City of Bend Standards and Specifications.***

**FINDING:** Driveways will be reviewed with the future Site Plan Review and Land Division applications as well as infrastructure plans. These standards can be met.

***G. Shared Access. For traffic safety and access management purposes, the number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City may require shared driveways as a condition of development approval in accordance with the following standards:***

- 1. Shared Driveways and Frontage Streets. Shared driveways and frontage streets are encouraged, and may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable land to indicate future extension. For the purpose of this code, stub means that a driveway or street temporarily ends at the property line, and shall be extended in the future as the adjacent property develops, and developable means that a property is either vacant or it is likely to redevelop.***
- 2. Access Easements. Access easements for the benefit of affected properties shall be recorded for all shared driveways, including walkways, at the time of final plat approval or as a condition of development approval.***
- 3. Cross Access. Cross access is encouraged, and may be required between contiguous sites in the Public Facilities, Mixed-Use, Commercial and Industrial Zones and for multifamily housing developments in the Residential Zones in order to provide for direct circulation between sites and uses for pedestrians, bicyclists and drivers and to enable compliance with the collector and arterial access management requirements of this chapter.***

**FINDING:** Parcels 1 and 2 will have access onto a local street, 18<sup>th</sup> Street. Parcel 2 will also have direct vehicular access onto 17<sup>th</sup> Street whether the 17<sup>th</sup> Street right-of-way vacation is

approved or not (driveway access to the 17<sup>th</sup> Street stub to the north will be required if the right-of-way vacation is approved). No cross access easement is required.

During a future Site Plan Review for Parcel 2, depending on whether 17<sup>th</sup> Street's right of way is vacated, an emergency access easement may be required through Parcel 2 to allow for an emergency vehicle to pull through at the dead end of 17<sup>th</sup> Street to avoid a required turn-around area.

***H. Driveway Widths. Driveway openings (or curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (10 feet minimum width for each travel lane). When obtaining access to off-street parking areas backing onto a public street shall not be permitted except for single-family, duplex or triplex dwellings backing onto a local street or when backing into an alley for all uses if adequate backing distance is provided. The following standards provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:***

- 1. Single-family, two-family, and three-family residential uses shall have a minimum driveway opening width of 10 feet, and a maximum width of 24 feet. Wider driveways may be necessary to accommodate approved paved recreational vehicle pads; however, the driveway opening or connection to the street shall not be wider than 24 feet.***

**FINDING:** Driveways will be reviewed with the future Site Plan Review and Land Division applications as well as infrastructure plans. These standards can be met.

***I. Fire Access and Parking Area Turn-around. A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive as measured around the building. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner (except for single-family dwellings and alleys that provide adequate backing width).***

**FINDING:** No structures are proposed with this partition. Compliance with this standard will be reviewed with future Site Plan Review and Land Division applications. This standard will be met.

***L. Construction. The following development and maintenance standards shall apply to all driveways and private streets. The City of Bend Standards and Specifications document shall prevail in the case of conflicting rules related to the design and construction of public infrastructure.***

- 1. Surface Options. Driveways, required parking areas, aisles, and turn-arounds may be paved with asphalt, concrete or comparable surfacing or a durable nonpaving material (e.g., grass-crete, eco-stone) may be used to reduce surface water runoff and to protect water and air quality. Gravel is not allowed.***



2. **Surface Water Management.** When an impervious surface is used, all driveways, parking areas, aisles and turn-arounds shall have on-site collection or infiltration of surface waters to prevent the flow of stormwater onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with City specifications. Durable nonpaving materials (e.g., grass-crete, eco-stone) are encouraged to facilitate on-site infiltration of stormwater. [Ord. NS-2177, 2012; Ord. NS-2016, 2006]

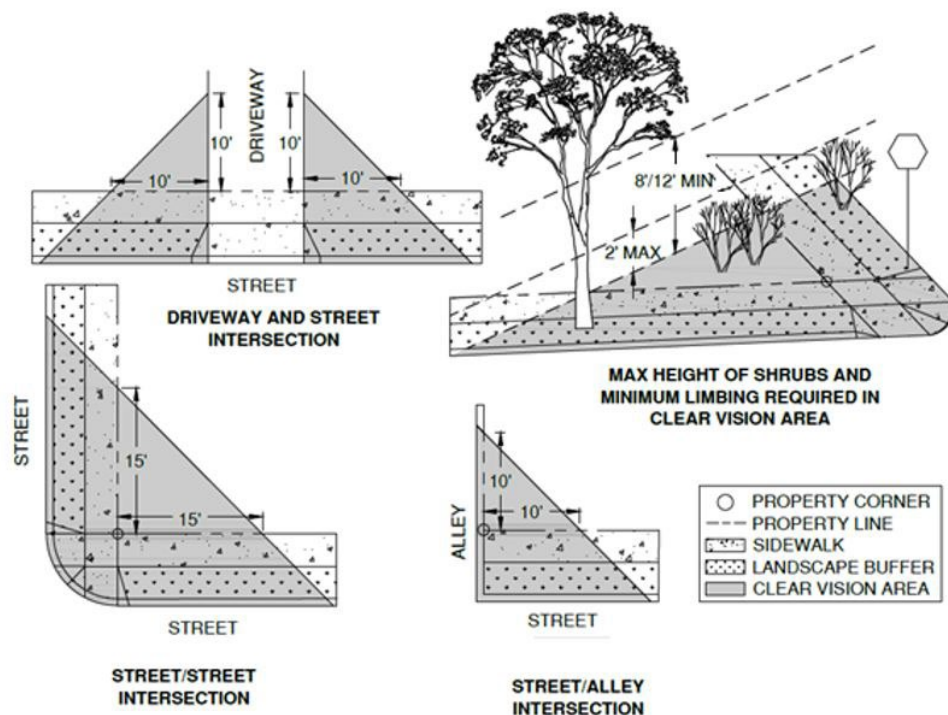
**FINDING:** All driveways will be reviewed with future Site Plan Review/subdivision and building permit applications and be required to paved and designed in compliance with surface water management regulations. This standard will be met.

### 3.1.500 Clear Vision Areas

C. The following standards apply to clear vision areas:

1. The clear vision area is in the shape of a triangle and extends across the corner of private property to the face of curb at the street or alley as shown in Figure 3.1.500.A. The two legs of the clear vision triangle are each measured from the point of intersection of the two corner lot lines, special setback lines, or access easement lines. Where lot lines have rounded corners, the lot lines are extended in a straight line to a point of intersection. Measurements along a driveway are taken at the edge of pavement.

Figure 3.1.500.A



**2. The following measurements define the clear vision areas:**

**Table 3.1.500.B**

<b>Intersection at a Street and the following:</b>	<b>Minimum Distance of Triangle Side</b>
<b>Street</b>	<b>15 feet</b>
<b>Alley</b>	<b>10 feet</b>
<b>Driveway</b>	<b>10 feet</b>
<b>Railroad</b>	<b>15 feet</b>

- **Unless exempted below, there must be no fence, wall, vehicular parking, sign, building, structure, or any other obstruction to vision within the clear vision area between the height of two feet and eight feet above the top of the curb. In cut sections, embankments must be graded to comply with these requirements. Shrubs or foliage must not exceed two feet in height. Existing trees must be limbed to a minimum of eight feet above the top of curb or 12 feet above adjacent bike lanes. New trees are not permitted within the clear vision area.**
  - a. **Exemptions.**
    - i. **Street sign, post or pole (e.g., power, signal, or luminaire pole).**
    - ii. **Any private post or pole eight inches or less in diameter (width or length).**
- 4. **Driveway approaches and driveways are not permitted within the clear vision area. On-street parking is not permitted within 20 feet of an accessible ramp or within 10 feet of a driveway approach.**
- 5. **Additional clear vision areas may be required as directed by the City Engineer.**

**FINDING:** The proposal does not include structural development and as depicted on the Tentative Plan, development does not impose upon clear lines of vision. Clear vision areas will be further reviewed upon submittal of future Site Plan Review and building permit submittals. As designed, the proposal conforms to these development standards.

**Chapter 3.2 Landscaping, Street Trees, Fences and Walls**

**3.2.200 Landscape Conservation.**

**B. Significant Vegetation. Significant vegetation means individual trees with a specific trunk diameter as measured four feet above the ground (known as DBH, “diameter at breast height”); shall be inventoried during the site design process and protected during construction unless otherwise approved for removal through the site plan review process. For the purpose of this section, deciduous**

**trees measuring six inches or greater and coniferous trees measuring 10 inches or greater shall be considered significant vegetation.**

**D. Protection Standards. Significant trees identified as meeting the criteria in subsection (B) of this section shall be retained unless approved by the City to be removed for development. Preservation shall be considered impracticable when it would prevent development of public streets, public utilities, needed housing or land uses permitted by the applicable land use district. The term prevent in this standard means that the development cannot be designed to avoid the significant tree(s). An inability to achieve maximum permitted density by complying with this subsection shall not in itself be considered to prevent development.**

**FINDING:** The proposed partition does not include any development of the parcels. No trees will be removed on the subject property as a result of this partition. Infrastructure improvements within the rights-of-way required by this partition may require removal of some significant trees, but removal of trees within existing rights-of-way is regulated by Bend Code 3.60, not by this section of the Bend Development Code. The requirements of this section for development on the proposed parcels will be addressed under future Site Plan Review and Land Division applications. This standard will be met.

**Condition of Approval:** *All areas of significant trees shown to be retained under the Tier III (infrastructure) permit shall be protected, as well as the root systems of trees immediately off-site, prior to, during, and after construction. Only trees that are impacted by the construction of the public improvements around the property frontages will be permitted to be removed. The proposed tree protection fencing shall be installed prior to any construction activities on the site, and shall remain in place until construction has been completed. Grading, operation of vehicles and heavy equipment, and storage of supplies and construction materials is prohibited within the drip zone of significant trees to be retained.*

### **3.2.400 Street Trees.**

**D. Spacing and Location. Street trees must be planted within existing and proposed planting strips or in City-approved sidewalk tree wells on streets without planting strips. Where the landscape strip and/or sidewalk is not wide enough to accommodate street trees the Planning Director may allow the street trees to be planted within five feet from the back of the sidewalk. Where practical, small stature trees must be planted no closer to the curb or sidewalk than three feet, medium trees – three feet and large trees – four feet. Root barriers may be required with street tree planting to protect the City's curb and sidewalk. Street tree spacing must be based upon the type of tree(s) selected and the canopy size at maturity. Small canopy trees and columnar shaped trees must be planted no further than 25 feet apart; medium and large canopy trees must be planted no further than 35 feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. A random spacing of street trees may be approved for the equivalent number of trees required for the length of the frontage. Street trees must be planted no closer than 35 feet from a stop sign.**

**FINDING:** No street trees exist along 18<sup>th</sup> Street or Simpson Avenue. The infrastructure plan set must show the location and species of street trees, in compliance with this section. Street trees must be shown on the respective building permit submittal. Existing significant trees located within or 5 feet from the right-of-way may be counted as a street tree. Future Site Plan Review and Land Division review will require that street trees be planted prior to Certificate of Occupancy of the first building on each parcel.

***Condition of Approval:*** Street tree locations must be shown on the Tier III Right-of-Way permit (infrastructure) plan set in compliance with BDC 3.2.400.A, B and D. The street trees must not conflict with utility placement nor be located in clear vision areas. Where existing sidewalks are curb-tight and will remain, street trees must be planted within five feet from the back of the sidewalk. Existing significant trees located within or 5 feet from the right-of-way may be counted as a street tree. Street trees must also be shown on the respective building permit submittals and be planted prior to Certificate of Occupancy of the first building on each parcel.

### **3.3.300 Vehicle Parking Standards for On-Site Requirements**

**FINDING:** No development is proposed as part of this partition. Compliance with this section will be reviewed upon future Site Plan Review and Land Division applications.

## **CHAPTER 3.4, PUBLIC IMPROVEMENT STANDARDS**

### **3.4.100 Purpose and Authority.**

- B. Public Improvements Needed for Development. Development shall not occur unless the public improvements serving the development comply with the public facility requirements established or incorporated by this chapter, unless compliance is exempted by this code or unless the applicable standard is modified or waived under BDC 3.4.150.***
- C. Compliance with Standards. All public improvements constructed as part of a development or to comply with a condition of development approval shall comply with all applicable standards, including but not limited to any standards and specifications adopted by the City applicable to public works or public improvements. The provisions of this chapter prevail over any inconsistent standard or specification unless the applicable standard is modified or waived under BDC 3.4.150.***

**FINDING:** As noted in findings and conditioned below, the required public improvements comply with the standards of BDC 3.4.

- D. Conditions of Development Approval. No development shall occur unless required public facilities are in place or guaranteed. Improvements required to be constructed by the developer as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development on public facilities and services. Findings in the development approval shall indicate how the required improvements are related to and roughly proportional to the impact. The City may deny an application if required public improvements are not in place, or the City may impose conditions of approval***

***tying the timing of construction and/or occupancy of a proposed development to anticipated public improvements without requiring the applicant to construct the public improvements.***

**FINDING:** This partition is proposed under a development agreement as allowed under BDC 4.1.1500 to allow for the partition to be recorded in advance of the required infrastructure improvements. The partition will be recorded after or concurrently with the development agreement and the infrastructure will be constructed as outlined in the development agreement upon development of each parcel.

### **3.4.150 Waiver and Modification of Public Improvement Standards.**

**A. Authority to Grant Waiver or Modification. Waivers and/or modifications of the standards of this chapter and/or the City of Bend Standards and Specifications may be granted as part of a development approval only if the criteria of subsection (B) of this section are met. A waiver for sidewalks for the Woodriver Village subdivision is not permitted under this subsection. See BDC 3.4.160, Payment in Lieu of Sidewalk Construction.**

**FINDING:** The applicant has proposed multiple waivers to public improvement standards, including:

#### **Waiver 1 (Transportation):**

- a. Waiver to Public Improvement Standards Section BDC 3.4.200, to allow less than the 56 feet of pavement width on Simpson Avenue.
- b. Waiver to Bend City Standards regarding the arterial street pavement width design (including median width and bike lane buffer) for Simpson Avenue.
- c. Waiver to Bend City Standards regarding arterial street sidewalk design, to allow a 10-12 foot multi-use path instead of a sidewalk along Simpson Avenue.

**Waiver 2 (Water):** Waiver to a looped water system, required by City of Bend Standards and Specifications, Part II, Chapter 5, Section 5.1 Main Line

**Waiver 3 (Water easement crossing):** Waiver to the prohibition of private utilities within the water easement on Parcel 2.

Each of these requested waivers are addressed individually below.

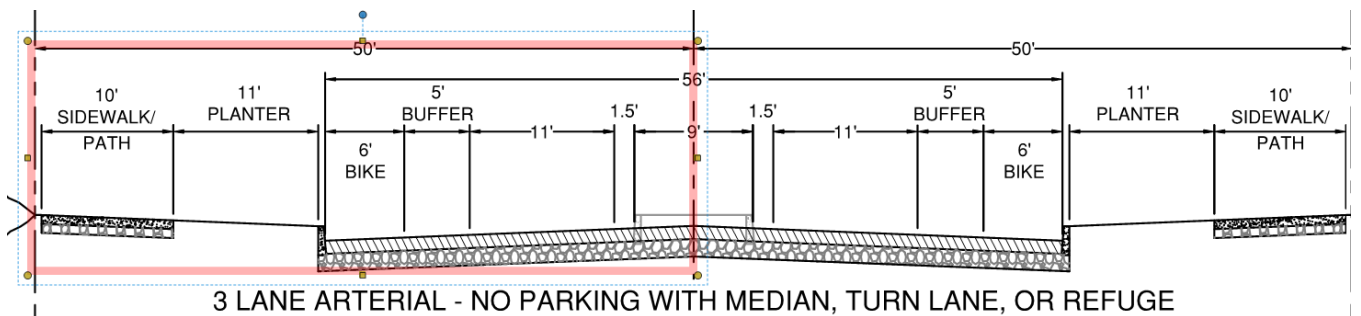
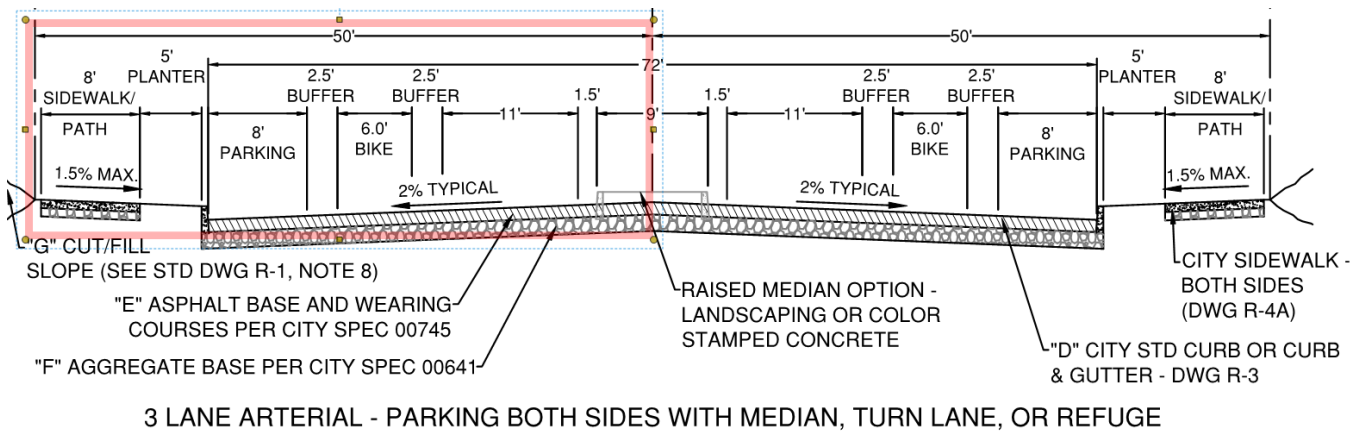
#### **Waiver 1 (Transportation):**

**B. Criteria. The Review Authority, after considering the recommendation of the City Engineer, may waive or modify the standards of this title and the City of Bend Standards and Specifications based on a determination that (1) the waiver or modification will not harm or will be beneficial to the public in general; (2) the waiver and modification are not inconsistent with the general purpose of ensuring adequate public facilities; and (3) one or more of the following conditions are met:**

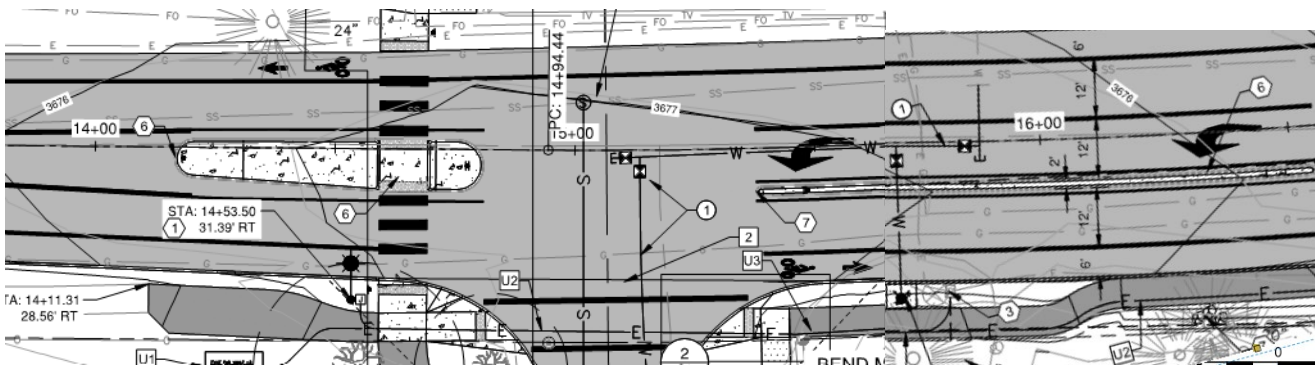
7. The existing infrastructure (a) does not meet current standards, (b) is and will remain functionally equivalent to current standards, and (c) there is little likelihood that current standards will be met in the area.

11. Required street frontage improvements for individual single-unit dwellings, manufactured dwellings, accessory dwelling units, duplexes, triplexes, quadplexes, townhomes and cottage developments could best be accomplished by planned area-wide improvements at a future date.

**FINDING:** Per BDC 3.4.200.F., the required pavement width of a minor arterial is 56 feet, not including on-street parking. City standards require a center median on arterials, with a 72-foot full street pavement width with on-street parking and a 56-foot full street pavement width without on-street parking (City standard drawing R-1A).



On the south side of Simpson Avenue is the OSU-Cascades campus. When OSU-Cascades constructed the existing campus entrance on Simpson Avenue along the eastern frontage of the applicant's property, the street width was constructed to a 50-foot-wide asphalt section, accounting for no on-street parking and a 2-foot median for the protected left turn lane into the campus (due to the offset of 17<sup>th</sup> Street north and south of Simpson Avenue). This was the approved street section at the time of the development under an approved master plan and prior to the current City standard street sections approved in April 2022. Today's standards require bike lane buffers which were not captured with the OSU-Cascades improvements, as Level of Stress requirements for pedestrian and bike users were not accounted for in design requirements or a requirement of the standards and specification at time of the OSU-Cascades Site Plan Review triggering improvements on Simpson Avenue.



From City permit PR20-1905, Existing OSU-Cascades Simpson Ave entrance

In addition, under the approved master plan improvements for Simpson Avenue, Bend Development Code (BDC) 2.7.3500 requires that OSU-Cascades construct an enhanced pedestrian crossing in Simpson Avenue at the future campus entrance located between 18<sup>th</sup> Street and Mt. Washington Drive.



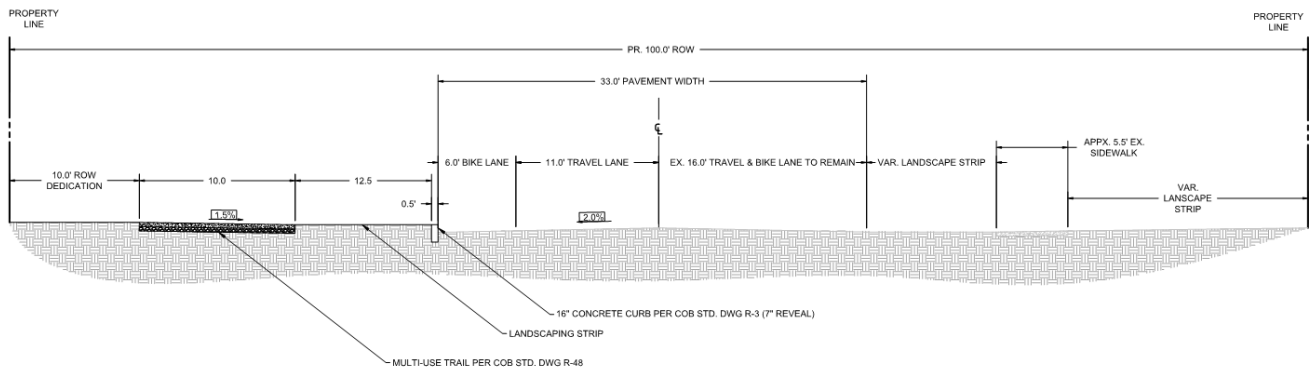
OSU-Cascades western site access on Simpson Avenue between 18<sup>th</sup> & Mt Washington Dr

Access Location Description	Enhanced Ped Crossing Warranted?	Left Turn Lane Criteria Met?	Right Turn Lane Criteria Met?
Century Drive (Main Access)	Yes	Yes	Yes
Century Drive (Donovan Access)	Yes	Yes	No
Simpson Avenue (Main Access)	Yes	Yes	No
Simpson Avenue (15th Street)	Yes	Yes	No
Simpson Avenue (West Entrance)	Yes	No	No
Mt. Washington Drive (Main Entrance)	No	Yes	No
Mt. Washington Drive (Metolious Drive)	No	Yes	No

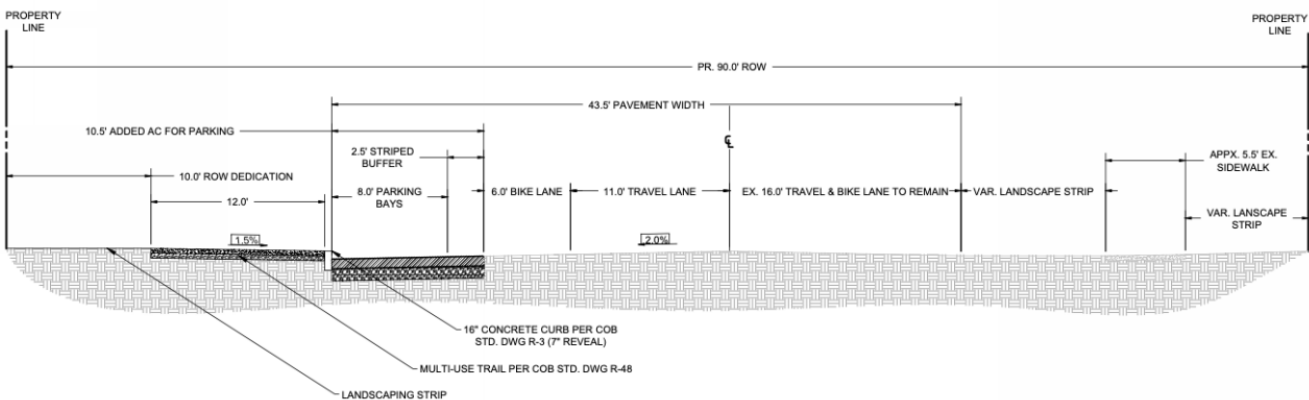
OSU-Cascades TIA (BP-17-5592)  
Kittelson & Associates TIA Table 13 "Turn Lane and Crossing Warrant"

Simpson Avenue, a minor arterial, currently has 33-50 feet of pavement along the site frontage (with the wider pavement width constructed recently by OSU-Cascades as described above). As part of the partition, the applicant will dedicate 10 feet of right-of-way, which will bring the right-of-way width into conformance with Code standards (50 feet right-of-way to right-of-way centerline). The requested waiver is to maintain 33 feet of pavement width, (or 17 feet to right-

of-way centerline), rather than 56 feet, required in BDC 3.4.200.F, Table A (or 28 feet to right-of-way centerline), with a 10-foot multi-use path in areas with no on-street parking. In areas where on-street parking is proposed, the applicant is requesting a 43.5-foot pavement width (or 27.5 feet to right-of-way centerline) to add 8-foot wide parking bays, with a 2.5-foot buffer between the parking bays and the bike lane, rather than 72 feet of pavement width (or 36 feet to the right-of-way centerline), and a curb-tight 12-foot wide multi-use path (to provide an extra 2 feet for step out from vehicles).



PROPOSED SIMPSON CROSS-SECTION (NO PARKING)



PROPOSED SIMPSON CROSS-SECTION (PARKING)

The applicant stated in the submitted narrative that *“the median is not needed or desired at this time, and the lack of a buffered bike lane is more than mitigated with the extra-wide multi-use path that is planned. Furthermore, the lesser width will improve pedestrian connectivity in the area (as it will lessen the distance of street crossings).”* The applicant also states *“if and when the full corridor is improved (including right-of-way dedicated from the property to the south), a right-of-way widening project (including a center median) could be developed along the entire corridor.”*

OSU-Cascades has 50-feet of right-of-way to the right-of-way centerline of Simpson Avenue along their property frontage. The applicant’s argument that additional right-of-way can be dedicated by OSU-Cascades when the enhanced crossing is required in the future would create an offset roadway centerline. As noted above, the applicant is required to dedicate 10 feet of right-of-way along their frontage to provide 50 feet to the right-of-way centerline which creates an overall right-of-way width of 100 feet, which is the required right-of-way width for



arterials. The City cannot require additional right-of-way from OSU-Cascades per the Bend Development Code and the findings of their master plan.

The buffered bike lane and multi-use path is not an 'either/or' requirement. Both components of the cross-section are required. The buffer between the bike lane and the vehicle lane provides added safety to the bicyclist from inattentive drivers or large vehicles. The multi-use path is for pedestrians (perhaps in pairs or more, or with strollers) and more inexperienced bicyclists (particularly children) that require more width than a standard sidewalk. The proposed construction of a wider path does not mitigate the requirement for the experienced cyclist on the street within the bike lane or the requirement for the buffers from the on-street parking or travel lane, needing to meet the lower level of street requirements in the City's design standards and specification.

The applicant also states that the proposed Simpson Avenue street section is "*consistent with the OSU-Cascades Special Planned District to the south*". The OSU-Cascades Special Street Standards (BDC 2.7.3560) does not include a unique cross-section for Simpson Avenue, only for internal private streets. The applicant also states "*the OSU-Cascades Master Plan to the south, will have impacts too, but have no responsibility for the corridor*". As noted above, when OSU-Cascades develops the northwest quadrant of the campus, improvements on Simpson Avenue, including additional pavement width for a bike lane and bike lane buffer as well as curbs along their property frontage, **and the enhanced pedestrian crossing between 18<sup>th</sup> Street and Mt. Washington Drive, will be required**. A multi-use path already exists along the OSU-Cascades property frontage. Where the multi-use path does not exist, or where the sidewalk/path is found to be out of conformance with City of Bend standards or PRWOAG, it will be removed and brought into conformance when the frontage improvements are triggered with OSU-Cascade's future construction phase.

The applicant also states "*The current proposal will allow for the continuation of the established design for the SW Simpson Avenue corridor.*" As stated above, City standards have changed since a section of Simpson Avenue was improved with the north entry of the OSU-Cascades campus, requiring additional safety measures for bicyclists, including a bike lane buffer and a parking bay buffer, as well as a wider multi-use path instead of a sidewalk. This improved section on either side of the OSU-Cascades northern entrance, approximately 720 feet of new pavement, is less than a quarter of the Simpson Avenue corridor between Mt. Washington Drive and Century Drive. In addition, these existing improvements do not include curb on the north side of the street segment. These improvements are not substantial enough to establish the standard design for entire corridor. The City is not requiring the construction of on-street parking on Simpson Avenue; the applicant desires to include on-street parking as a component of their site's development. The additional pavement width of Simpson Avenue can be avoided with the removal of proposed on-street parking improvements.

For the reasons stated above, the requested reduced pavement width would not be beneficial to the public and would not be consistent with ensuring adequate public facilities (BDC 3.4.150.B). Current standards can be met in the area with development on both sides of the corridor, including the applicant and OSU-Cascades. Thus, the conditions of BDC 3.4.150.B.7 and 11 are not met.

However, a reduced pavement width of 51 feet (rather than the required 56 feet) at full buildout could encompass all the components of the arterial cross section without on-street parking, including bike lanes and bike lane buffers, as well as the future enhanced pedestrian crossing.

Specifically, where no on-street parking bays are proposed, a pavement width of 19.5 feet of pavement width to the right-of-way centerline will be required + 11-foot travel lane + 2.5-foot bike buffer + 6 foot bike lane). The south side of the right-of-way will be constructed by OSU-Cascades in the future with their frontage improvements.

Where on-street parking bays are proposed by the applicant, a 30-foot pavement width from the right-of-way centerline will be required (19.5 feet as stated above + 8-foot parking bay + 2.5-foot parking bay buffer to allow for door swing).

Finally, the applicant has proposed a 10-12 foot multi-use path *“instead of a sidewalk”* along the property frontage. Per City standards, a minimum 8-foot multiuse path is required where on-street parking is proposed and 10-feet wide where on-street parking is not proposed. Rather than have a path of undulating width, an 8-foot path will be required along the entire corridor, installed property tight unless it can be shown to meet hillside standards or have a conflict with existing utilities or existing trees, in which case the path can meander away from the property line at those locations. A sidewalk in addition to the path is not required and the existing sidewalk will be required to be removed.

Based on the findings in this section, the waiver for a reduced pavement width of 33 feet in areas of no on-street parking and 43.5 feet in areas with on-street parking is **not approved as part of the development agreement**. However, a **reduced pavement width is granted**, as outlined above. An 8-foot multi-use path is required along the entire frontage, instead of a 10-foot path where on-street parking is not proposed, instead of a sidewalk.

**Waiver 2 (looped water system):**

***B. Criteria. The Review Authority, after considering the recommendation of the City Engineer, may waive or modify the standards of this title and the City of Bend Standards and Specifications based on a determination that (1) the waiver or modification will not harm or will be beneficial to the public in general; (2) the waiver and modification are not inconsistent with the general purpose of ensuring adequate public facilities; and (3) one or more of the following conditions are met:***

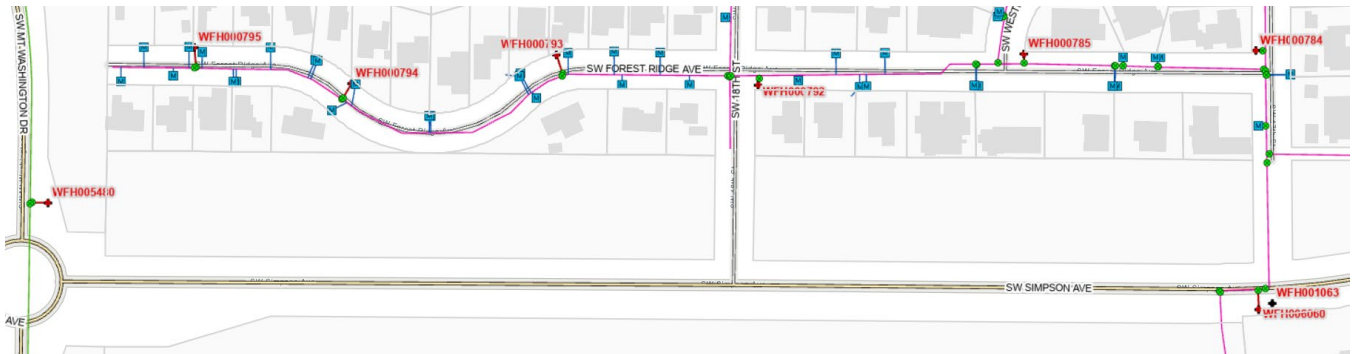
***7. The existing infrastructure (a) does not meet current standards, (b) is and will remain functionally equivalent to current standards, and (c) there is little likelihood that current standards will be met in the area.***

***11. Required street frontage improvements for individual single-unit dwellings, manufactured dwellings, accessory dwelling units, duplexes, triplexes, quadplexes, townhomes and cottage developments could best be accomplished by planned area-wide improvements at a future date.***

**FINDING:** The City Standards and Specifications document, specifically Part II, Chapter 5, Section 5.1 Main Line, requires that the water system be looped. This section states:

The City's water distribution system is designed to meet peak hour demands and all fire flow requirements with minimal impacts to City of Bend water customers. All new elements added to the existing system need to be designed with these requirements in mind. Where new water infrastructure is being constructed, water systems shall be looped into existing water pipes in the project vicinity or as directed by the City Engineer.

The applicant is requesting for a waiver of the requirement to loop the water system between SW 17<sup>th</sup> Street and SW 18<sup>th</sup> Street.



The applicant studied water capacities with and without the 17th to 18th Street water main connection and concluded that the system would see minimum improvements with the SW 17<sup>th</sup> Street / SW 18<sup>th</sup> Street extension, a 5% increase in pressure. The applicant stated this proves that adequate capacities and pressures will be provided, for domestic needs and for fire, life and safety needs. However, this conclusion is only true for the subject property and does not meet the city's standards for water analyses.

Per City design standards 5.6, *"The City of Bend requires all new developments or extension of existing facilities to have a fire flow analysis performed. This analysis must be performed by the City of Bend. All relevant information to the proposed development or extension of services must be provided..... The fire flow analysis uses a calibrated hydraulic model to determine available flow....No other analysis for fire flow can be substituted for the analysis performed by the City using its calibrated hydraulic model."* The City does not recognize the analysis provided for the project's engineer as it is not being completed under an acceptable model and the effects of the development are not modeled to identify the impacts of the adjacent uses.

All new development in the City of this size is analyzed by City staff as part of the land use process using the City's water system analysis model. Such an analysis was performed by City staff (PRSWA202208958) simulating a connection from the main within SW 18<sup>th</sup> Street brought south to SW Simpson Avenue and extended west to a hydrant set besides the roundabout of SW Simpson Avenue and SW Mt Washington Drive as well as projected flows for the development of Parcel 1. A similar analysis was performed based on the cumulative project flows for the development of both Parcel 1 and Parcel 2.



To the south of SW Simpson Avenue are two hydrants (WFH006075 and WFH006104). The property that needs these hydrants for fire suppression is the OSU-Cascades Campus. The property is within the Mixed-Use Zone (MU), and thus per City of Bend Design Standards Table 5.6.1, a minimum fire flow of 2,500 gallons per minute is required. With the input of the proposed development flows and extension of the main from 18<sup>th</sup> Street to a necessary hydrant, the southern hydrant on the OSU-Cascades Campus reaches failure with the development, including the initial development of only Parcel 1 without Parcel 2, and vice versa.

A secondary analysis was performed by the City simulating all the above conditions as well as a main extension and connection from the intersection of SW 17<sup>th</sup> Street west to the main intersection at SW 18<sup>th</sup> Street and SW Simpson Avenue. The fire flows provided from the simulation show that a full extension of the water main from SW 17<sup>th</sup> Street west to the hydrant located beside the roundabout of SW Mt Washington Drive, with connection to the main extension of SW 18<sup>th</sup> Street, will be required so that minimum fire flow will continue to be provided to existing City of Bend water customers.

The applicant has not presented how the project can meet the fire coverage requirements, with combustible construction on the site outside the coverage areas of the existing hydrants. There are currently no hydrants located along Simpson Avenue, so the ability to combat a fire on the site is not achievable under existing conditions or without the installation of hydrants along the frontage of the site. Per City design standards 5.6.4, hydrants are required every 400 feet. Without the construction of a main within Simpson Avenue, this requirement cannot be met.

The applicant stated that *“The proposed design will have a dead end at the western end of SW Simpson Avenue, until such time as the City connects this line to the water main in Mt. Washington Drive under the roundabout. Therefore it will temporarily not be looped west of 18<sup>th</sup> Street. The surrounding area is mostly developed to the west, north, and east. On the east side of the subject property, the existing water main line is looped. The only location where a water main will not be looped is at the west side of the site. Furthermore, the lack of a looped system is only temporary; it will occur until such time as the City extends the main to connect to the main in Mt. Washington Drive.”* It is unknown when, if ever, the proposed water main west of 18<sup>th</sup> Street will be connected to the main in Mt. Washington Drive. As stated above, the “temporary” result of not requiring looping of the water main between 17<sup>th</sup> and 18<sup>th</sup> Street is unacceptable as it results in substandard fire flows to an adjacent property. Not looping the water main does not meet current standards and will not remain functionally equivalent to current standards, resulting in substandard flows for adjacent users of the water system. Current standards can be met with looping the water main between 17<sup>th</sup> and 18<sup>th</sup> Street. The waiver to looping this water main is **not approved as a part of the development agreement.**

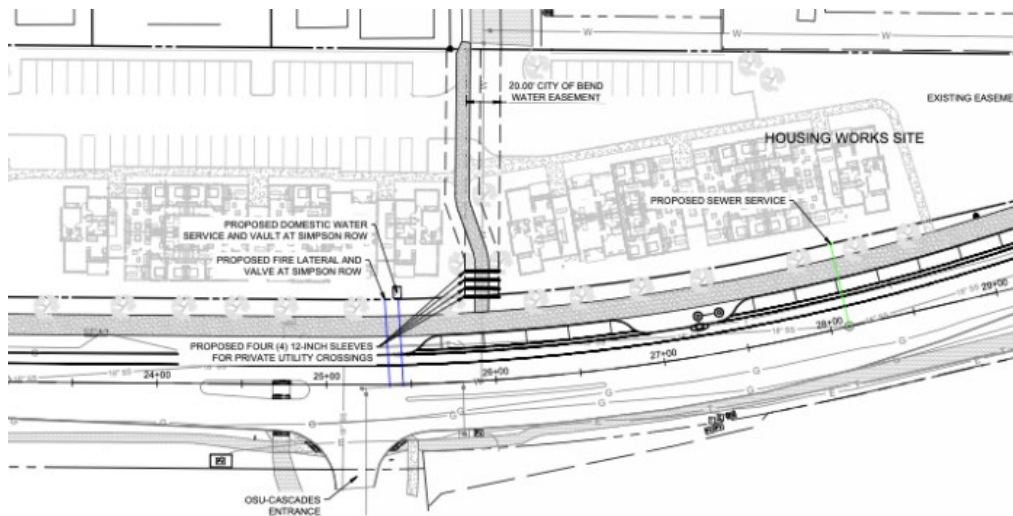
**Waiver 3 (water easement crossing):**

***B. Criteria. The Review Authority, after considering the recommendation of the City Engineer, may waive or modify the standards of this title and the City of Bend Standards and Specifications based on a determination that (1) the waiver or modification will not harm or will be beneficial to the public in general; (2) the waiver***

**and modification are not inconsistent with the general purpose of ensuring adequate public facilities; and (3) one or more of the following conditions are met:**

- 2. An existing structure such as a substantial retaining wall makes widening a street or right-of-way or required placement of lines impractical or undesirable.**
- 4. Building on an existing lot would be infeasible without the waiver or modification.**
- 6. The modification or waiver is needed to allow development of, or street access to, the property because of topographical constraints.**

**FINDING:** The applicant has concurrently applied for a right-of-way vacation for the unimproved section of 17<sup>th</sup> Street from its current terminus to Simpson Avenue (PLMISC20220927). If the right-of-way vacation is approved, a 20-foot wide water easement will be required over the existing water main. The proposed Parcel 2 is proposed to be developed as one unit of land bisected by this existing water main in alignment with 17<sup>th</sup> Street. The applicant's conceptual plan shows that buildings will be proposed on both the east and west sides of the proposed water easement, as shown below.



The applicant's concept plan above shows private utility lines crossing the planned water main easement. Crossing of public utility easements is not allowed due to the possibility of impacting the main or other utility lines should a repair be needed; the City's standard easement language states that the underlying property owner may use the surface of the Easement provided such use does not interfere with City's use of the Easement. As described below, private utility crossings interfere with the City's use of the Easement and are not allowed per Bend Code 3.40.005.B. To mitigate for the potential concern, the applicant is proposing to isolate the private utility crossing to the southern side of the parcel and include the installation of four 12-inch sleeves to allow the utilities to cross the easement. The applicant claims with these mitigations, any potential harm to public (such as that from interrupted service due to repair impacts) will be sufficiently mitigated.

The applicant states that *“Development will necessitate that private utilities cross this easement. The water main is an existing structure that makes development without a waiver impractical.”*

The City needs clarification that the “private utilities” being requested for a waiver are not franchise utilities. Franchise utilities that are owned by a franchise utility under a public utility easement (PUE) or within the right-of-way, are permitted to cross City utilities as they are locatable and permitted by the City’s franchise utility agreements. Locatable means that the City would be able to find and avoid the utility lines during maintenance or repair activities. Non-locatable private utilities within a public easement are dangerous because they may be inadvertently ruptured by utility workers which would expose the worker and the surrounding environment with potentially dangerous electrical, sewage, water and/or natural gas exposure. Franchise utilities are required to be constructed in conformance with City of Bend standards and follow the requirements of the City’s franchise utility agreements.

The City is willing to grant a deviation to the City design standards to allow separate water and sewer taps on either side of the main, to avoid the crossing of the public water main. If structures are proposed on both sides of the existing water main in the 17th Street right-of-way, then a water and sewer lateral will be allowed on each side of the 17th St right-of-way or public utility easement, to allow water and sewer service connections for development on either side of the right-of-way or easement.

### **3.4.200 Transportation Improvement Standards.**

***A. Development Requirements. No development shall occur unless the development has frontage or approved access to a public or private street, in conformance with the provisions of BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, and the following standards are met:***

**FINDING:** As detailed on the submitted partition plan, each of the lots will have frontage on a public or private street. A complete review of compliance with Chapter 3.1 was included in findings above, and as detailed and conditioned therein, the lot design, layout, access, and circulation all conform to the applicable requirements. Therefore, the proposal conforms to this section.

- 1. Streets within or adjacent to a development shall be improved in accordance with the Bend Urban Area Transportation System Plan (TSP), provisions of this chapter and other pertinent sections of this code.***
- 2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this section, and public streets shall be dedicated to the applicable City, County or State jurisdiction.***
- 3. All new and/or existing streets and alleys shall be paved per the City of Bend Standards and Specifications document.***

**FINDING:** The project abuts Simson Avenue, a minor arterial. As conditioned below, Simpson Avenue improvements along the frontage will conform to the City of Bend Standards and Specifications including widening the pavement width to 24 feet to the right-of-way centerline including bike lane and buffer striping, curb, landscaping strip and an 8-foot multi-use path. The applicant has also requested on-street parking bays along Simpson Avenue, which will increase the pavement width in those areas by an additional 8 feet with the addition of a 2.5-foot bike lane buffer to account for door swing.

As noted above, the applicant has requested the vacation of the 17<sup>th</sup> Street right-of-way in a separate application (PLMISC20220927). If approved, a multi-use path will be required within a public access easement in the vacated right-of-way. If the right-of-way vacation request is not approved, 17<sup>th</sup> Street will need to be improved to local street standards from its current southern terminus to Simpson Avenue.

***C. Creation of Rights-of-Way for Streets and Related Purposes. Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a Public Right-of-Way by acceptance of a deed, where no plat will be recorded, and provided that the street is deemed essential for the purpose of implementing the Bend Urban Area Transportation System Plan, and the deeded right-of-way conforms to this Code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public" as grantee.***

**FINDING:** As conditioned below, an additional 10 feet of right-of-way dedication is required along Simpson Avenue to create 50 feet right-of-way width from the right-of-way centerline. No additional right-of-way is required for 17<sup>th</sup> or 18<sup>th</sup> Street.

***D. Creation of Vehicular Access Easements. The City may require a vehicular access easement established by deed when the easement is necessary to provide for vehicular access and circulation in conformance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation. Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207 and City of Bend Standards and Specifications.***

**FINDING:** As noted above, no vehicular access easements are proposed or required.



**E. Street Location, Width and Grade.** Except as noted below, the location, width and grade of all streets shall conform to the City of Bend Standards and Specifications document, the provisions of this chapter and an approved street plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.

**FINDING:** No new street locations are proposed with this partition; the rights-of-way exist. Future engineering and construction drawing submittals will ensure compliance with applicable City of Bend Standards and Specifications. The applicable standards are, or can be, met.

If the 17<sup>th</sup> Street right of way is not vacated, and the street is required to be constructed to intersect Simpson Avenue, the street will be limited to a right-in/right-out intersection due to the OSU-Cascades center median and turn pocket conflict.

**F. Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements shall be the widths defined in Street Improvement Standards Tables A through E. Additional right-of-way may be required at intersections of local streets with major collectors or arterial streets. The following tables and attached notes describe street improvement standards as follows:

**Table A: Improvement Standards for Dedicated Public Roadways in Residential Zones.**

Street Classification	Minimum Right of Way	Minimum Pavement Width	Minimum Planter Strip	Max Grade	Sidewalk Both Sides	Bike Lanes	Curbs
Minor Arterial	100'	56'	5'	6%	Yes	Yes	Yes
Local Street	60'	24'/28'/32'	5'	10%	5'	No	Yes

**Requirements:**

1. Local Streets:
  - a. 24-foot-wide street – No parking allowed on either side of the street.
  - b. 28-foot-wide street – Parking allowed on one side.
  - c. 32-foot-wide street – Parking allowed both sides in UAR, RL, RS, and RM-10 Zones.

**FINDING:** The property abuts Simpson Avenue to the south, which is a minor arterial with 80 feet of right-of-way, developed with sidewalks along the entire length not entirely curb-tight or property-tight. The pavement width varies due to the presence of a westbound left turn lane at 17th Street and a roundabout at the western end of the frontage; curbs are present along the south frontage only from just west of 17th Street to 15th Street. A pedestrian refuge is located immediately west of the intersection of 17th Street and Simpson Avenue at the OSU-Cascades campus northern entrance. An additional 10 feet of right-of-way for Simpson Avenue is required to provide 50 feet of right-of-way to the road centerline. As noted above in BDC 3.4.150 above, the requested waiver for a reduced pavement width of 33 feet (with no on-street parking) and 43.5 feet (with on-street parking) is denied, but a waiver for reduced pavement width (with no on-street parking) is granted. If the applicant desires on-street parking, additional pavement width of 10.5 feet will be required.

Specifically, where no on-street parking bays are proposed, a pavement width of 19.5 feet of pavement width to the right-of-way centerline will be required + 11-foot travel lane + 2.5-foot bike buffer + 6 foot bike lane). The south side of the right of way will be constructed by OSU-Cascades in the future with their frontage improvements. Where on-street parking bays are proposed, a 30-foot pavement width from the right-of-way centerline will be required (19.5 feet as stated above + 8-foot parking bay + 2.5-foot parking bay buffer to allow for door swing).

18th Street is developed with curb-tight sidewalks and 28 feet of pavement that starts to widen at the northern end to an eventual pavement width of 36 feet near the intersection with Forest Ridge Avenue. These curb-tight sidewalks may remain if compliant with PROWAG standards and are undamaged, but panels must be replaced if out of compliance or are damaged, as conditioned below.

The portion of the 17<sup>th</sup> Street right-of-way that bisects the property is undeveloped but the portion north of the property is developed with 36 feet of pavement and curb-tight sidewalks on both sides. If the 17<sup>th</sup> Street right-of-way vacation (PLMISC20220927) is not approved, this local street must be extended to Simpson Avenue and constructed to local street standards, as conditioned below under subsection 'I'. If the right-of-way vacation is approved, a multi-use path must be constructed between the 17<sup>th</sup> Street current terminus and Simpson Avenue within a public access easement. This multi-use path, within a public access easement, will be recorded over or within close proximity of the existing water main currently in 17<sup>th</sup> Street. If the right of way vacation is approved, the water main must be placed within a 20-foot City of Bend water easement. The multi-use path will provide multi-modal access between 17<sup>th</sup> Street and Simpson Avenue as well as City of Bend public works access for maintenance of the City's water main. It will not be open to public vehicular traffic.

The right-of-way of Forest Ridge Avenue touches the western portion of the property at a tangential point with no easement width connecting to the subject property. Forest Ridge Avenue is developed with 36 feet of pavement and curb-tight sidewalks on both sides. To provide a secondary fire access to the western parcel upon future development, a fire gate will be required at the northern property boundary within a 24-foot wide emergency access easement to Forest Ridge Avenue with the future cottage subdivision. The emergency access easement will be required under the future tentative plan/Site Plan review and will be dependent on the site's proposed development plan.

***Condition of Approval:*** *With the final plat, the applicant must dedicate 10 feet of right-of-way along the frontage of Simpson Avenue to bring the public right of way distance from centerline to 50-feet. All right of way dedications and public easements, when applicable, must be completed under a survey plat or separate recordable document prepared and recorded by the City of Bend.*

***Condition of Approval:*** *Prior to final plat, all existing encumbrances (easements, agreements, etc.), if applicable, must be released prior to dedication of right of way unless a separate acceptable agreement with the City of Bend can be obtained to allow the encumbrance to either remain or otherwise be released at a later date as determined by the agreement.*

**Condition of Approval:** For Parcels 1 and 2: Simpson Avenue must be widened to provide an asphalt width of 19.5 feet from right of way centerline to face of curb, providing for a 6-foot bike lane, 2.5-foot bike lane/travel lane buffer, and 11-foot travel lane. If on-street parking is proposed, 8-foot parking bays will be constructed with 2.5-foot parking/bike lane buffers, resulting in a half street width of 30 feet from right of way centerline to face of curb. Tapering of pavement width will be required if these improvements on Parcel 1 and 2 are not constructed concurrently.

**Condition of Approval:** If on-street parking is proposed on Simpson Avenue, an analysis and exhibit must be prepared by a registered engineer showing existing and/or proposed sight distance lines and clear vision areas along the site frontage. No on-street parking will be permitted where:

- Adjacent to the Mount Washington roundabout. The parking bays will not be permitted within a road taper section or within 100 feet of the roundabouts bike ramp
- Sight distance and clear vision, determined by City of Bend and AASHTO requirements, do not exist based on 35 mph speeds.
- Parking conflicts with ADA curb ramps at intersections or enhanced crossings.
- Impacted by the pedestrian refuge at the future OSU campus entrance west of 18<sup>th</sup> Street.

#### **G. Traffic Controls.**

#### **H. Medians.**

**FINDING:** Traffic controls (signals and roundabouts) and medians are not proposed and are neither required nor necessary; therefore, these standards do not apply.

#### **I. Future Street Plan and Extension of Streets.**

- 2. When no adopted street plan exists for the site, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision, in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within not less than 400 feet of the site boundaries, and other developed streets or public rights-of-way or natural barriers surrounding and adjacent to the proposed land division. The street plan is not binding; rather, it is intended to show potential future street extensions with future development.**
- 3. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the Review Authority determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to subsections (I)(3)(a) through (c) of this section:**
  - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs, since they are intended to continue as through streets when the adjoining property is developed.**

- b. **A City-approved barricade shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The Review Authority may also require signs that indicate the location of a future road connection.**
  - c. **Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.**
4. **Construction of partial width streets shall not be permitted, except as approved by the City Engineer. A residential partial street improvement may be approved only at the outer boundaries of a subdivision where the street is required by other land use requirement and it is likely that adjacent underdeveloped property of residential zoning will complete the street construction.**

**FINDING:** The right-of-way of 17<sup>th</sup> Street is stubbed to the northern property line. The portion of the 17<sup>th</sup> Street right-of-way that bisects the property is undeveloped but the portion north of the property is developed with 36 feet of pavement and curb-tight sidewalks on both sides. If the 17<sup>th</sup> Street right-of-way vacation (PLMISC20220927) is not approved, this local street must be extended to Simpson Avenue and constructed to local street standards with a 36-foot pavement width to match the cross section to the north, as conditioned below. If the right-of-way vacation is approved, a 14-foot multi-use path must be constructed between the 17<sup>th</sup> Street current terminus and Simpson Avenue within a public access easement. This multi-use path will provide a multi-modal connection between 17<sup>th</sup> Street and Simpson Avenue as well as allow City maintenance staff vehicular access to the City of Bend watermain.

**Condition of Approval:** *For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation application (PLMISC20220927) is not approved, 17<sup>th</sup> Street must be improved to local street standards with 36 feet of pavement, bound by curb on both sides with landscape strips and 6-foot property-tight sidewalk. Vehicular access to the SW 17<sup>th</sup> Street extension from Parcel 2 must be constructed to conform to current City of Bend concrete driveway apron Standards and PROWAG guidelines. Access from 17<sup>th</sup> Street onto Simpson Avenue will be limited to right-in, right-out due to the existing median for the protected left-turn lane at the OSU-Cascades northern entrance.*

**Condition of Approval:** *For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation application (PLMISC20220927) is approved, a multi-use is required between the terminus of 17<sup>th</sup> Street and Simpson Avenue. The width of the multi-use path will be determined at a future Site Plan application for Parcel 2. The path must meet City of Bend and PROWAG standards and be fully constructed within a public access easement. This public access easement must be within or adjacent to the required 20-foot City water main easement, with the multi-use path doubling for City public works access to the City water main.*

#### **K. Street Alignment and Connections.**

1. **Staggering of streets making “T” intersections at collectors and arterials shall be located to conform with the spacing standards contained in the Bend Urban Area**

**Transportation System Plan and BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.**

- 2. Spacing between local/local street intersections shall conform to the spacing standards contained in the City's Standards and Specifications document and BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation. This standard applies to four-way and three-way (offset) intersections. Offset local street alignments shall be at least 125 feet distance between the centerlines of the streets.**
- 3. All streets that abut a development site shall be extended within the site to provide through circulation, unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this code. This exception applies only when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15 percent for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes a street connection.**
- 4. Proposed streets or street extensions shall be located to provide access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.**
- 5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of developments and alignment of new streets shall conform to the standards in BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.**

**FINDING:** If 17<sup>th</sup> St is required to be constructed, the offset between 17<sup>th</sup> Street and the existing northern entrance to OSU will be approximately 100 feet. Due to the existence of the 2-foot median to protect the left turn lane into the campus, southbound users of newly constructed 17<sup>th</sup> Street would be restricted to a right turn only. Therefore, the offset of these intersections is not a safety issue.

**L. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the applicable provisions of the Bend Urban Area Transportation System Plan, the General Plan, City of Bend Standards and Specifications and the following standards:**

- 2. Sidewalks shall be separated from the street by a planter strip and placed at the property line, where practicable, or as otherwise directed by the City Engineer.**

**FINDING:** As noted above, sidewalks exist along the Simpson Avenue frontage that are neither curb-tight or property-tight. The sidewalks along 18<sup>th</sup> Street are curb-tight. As conditioned below, the existing sidewalks on 18<sup>th</sup> Street may remain if in compliance with PROWAG standards and not damaged. The existing sidewalk on Simpson Avenue must be

removed and replaced with an 8-foot property-tight path along the entire property frontage, consistent with City standards for arterials with on-street parking.

***Condition of Approval:*** For Parcel 1 and Parcel 2: The existing sidewalk on Simpson Avenue must be removed and replaced with an 8-foot property-tight path. The path must widen to 12 feet where on-street parking is proposed to provide a buffer between doors of parked cars. The multi-use path may meander around trees and/or rock outcroppings as allowed by the Development Code and City Standards.

***Condition of Approval:*** For Parcel 1 and Parcel 2: The existing curb-tight sidewalk on the 18<sup>th</sup> Street frontage may remain provided it is in conformance to PROWAG and is not damaged. The project's Engineer of Record must review the existing sidewalk and prepare an engineered stamped report to the City of Bend indicated any non-conformities to PROWAG or damaged sidewalk panels. These non-conformities or damaged panels must be brought into conformance under a right-of-way permit.

***Condition of Approval:*** All sidewalks and paths must be constructed property tight, unless otherwise specified in this decision, and are permitted to meander to avoid existing utilities, existing trees and steep topography as approved during the right of way permit review. All sidewalk and path construction must conform to City of Bend Standards and PROWAG guidelines at the time of permit review. Where the sidewalk is designed and/or constructed outside the right of way, a public access easement must be recorded over the encroachment. Water meter boxes, manholes and valves are not permitted within sidewalks or paved paths.

**4. Bicycle lanes shall be constructed on all collector and arterial streets unless otherwise designated.**

**FINDING:** Bike lanes are required on Simpson Avenue, an arterial street. The pavement width conditioned above provides sufficient width for a 6-foot bike lane and a 2.5 foot bike buffer.

**M. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle. In no case shall the centerline angle be less than 80 degrees.**

**FINDING:** 17<sup>th</sup> Street and 18<sup>th</sup> Street intersect Simpson Avenue at a right angle. This standard is met.

**N. Existing Rights-of-Way. Whenever existing rights-of-way adjacent to or within a property are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or site development, in conformance with Tables A through E in this section.**

**FINDING:** The right-of-way of 17<sup>th</sup> Street and 18<sup>th</sup> Street are 60 feet in width, meeting the required standard width. As conditioned above, an additional 10 feet of right-of-way is required to be dedicated for Simpson Avenue, a minor arterial, to provide 50 feet to the road centerline.

**O. Cul-de-Sacs. A cul-de-sac street shall only be used when the applicant demonstrates that environmental or topographical constraints, existing development patterns, or**

**compliance with other standards in this code precludes street extension and through circulation.**

- 1. All cul-de-sacs shall terminate with a circular turnaround. Circular turnarounds shall have a curb radius of no less than 45 feet. Turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of 20 feet in width.**

**FINDING:** No cul-de-sac street is proposed. Upon development, Parcel 1 may require an on-site fire-truck turnaround easement due to the presence of the adjacent roundabout, which would be conditioned with a future cottage subdivision. This future fire-truck turnaround is not a cul-de-sac. This standard does not apply.

**P. Grades and Curves. Grades shall not exceed those shown in Tables A through E in this section, unless approved through a waiver in accordance with BDC 3.4.150.**

- 1. Centerline curve radii and vertical curves shall conform to the American Association of State Highway and Transportation Officials (AASHTO) design criteria.**
- 2. At the intersections of arterial and/or collector streets, the approach grade shall average no more than +/- four percent for 250 feet from the edge of the intersecting roadway at full improvement. Local streets intersecting arterials or collectors shall provide a minimum of 50 feet of approach grade at no more than an average of +/- four percent.**
- 3. Existing conditions may warrant additional design criteria. All streets and intersection designs shall be subject to the approval of the City Engineer.**
- 4. Lesser grades may be required at intersections as per City specifications. Grades in excess of 10 percent are subject to Fire Department approval.**

**FINDING:** The existing street grades comply with City standards. If the 17<sup>th</sup> Street right-of-way vacation is not approved and this local street is required to be extended to Simpson Avenue, this potential new street grade can also meet City standards. Future engineering and construction drawings will demonstrate compliance with all grade and curve criteria. The applicable standards can be met.

**Q. Curbs, Curb Cuts, Ramps, and Driveway Approaches. Concrete curbs, curb cuts, curb ramps, bicycle ramps and driveway approaches shall be constructed in accordance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, City of Bend Standards and Specifications and the following standards:**

- 1. Curb exposure shall be per City Standards and Specifications.**

**FINDING:** Curbs and ramps are planned to be constructed consistent with City of Bend Standards and Specifications and will be reviewed with final engineering and construction drawings. Driveway aprons for access to the lots will not be constructed, unless otherwise approved by the City Engineer, until after tentative plan/Site Plan review has been completed for the onsite developments. Therefore, the criteria can be met.

**Condition of Approval:** Conceptual driveway aprons must be shown on the right of way permit. Construction of the driveway aprons will not be permitted, unless otherwise approved by the City Engineer, until after tentative plan/Site Plan review and future right-of-way permit review and approval.

**Condition of Approval:** For Parcel 1: All abutting intersections, and enhanced crossings if applicable, must have directional curb ramps installed on all corners in conformance to City of Bend standards and PROWAG guidelines, including but not limited to, two directional ramps at the northwest corner of the Simpson Avenue and 18<sup>th</sup> Street intersection.

**Condition of Approval:** For Parcel 2: All abutting intersections must have directional curb ramps installed on all corners in conformance to City of Bend standards and PROWAG guidelines, including but not limited to, two directional ramps at the northeast corner of the Simpson Avenue and 18<sup>th</sup> Street intersection, replacement of the existing ramp on the north side of Simpson Avenue at the enhanced crossing at the existing OSU access road entrance, and replacement of the existing ramps on the north side of Simpson Avenue for the property to the east with a driveway apron.

**Condition of Approval:** For Parcel 2: If the right-of-way vacation of 17<sup>th</sup> Street is approved, vehicular access to SW 17<sup>th</sup> Street from Parcel 2 must be constructed to conform to current City of Bend concrete driveway apron Standards and PROWAG guidelines. Where the driveway does not extend the full width of the existing street, curb must be constructed to define the property line and the terminus of the right-of-way. Stormwater must be addressed to prevent water from 17<sup>th</sup> Street from entering Parcel 2. A City of Bend fire gate or removable bollards, to be determined at right of way permit review, must be constructed across the driveway to prevent public travel across the driveway apron but to allow City maintenance staff access to the City of Bend watermain. An accessible ramp to the existing sidewalk at the terminus of 17<sup>th</sup> Street must be constructed to allow bike and pedestrian travel from 17<sup>th</sup> Street to Simpson Avenue and not be blocked by the gate or bollards constructed at the terminus of 17<sup>th</sup> Street.

**S. Development Adjoining Arterial Streets. Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall provide access to/from the arterial consistent with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, and City of Bend Standards and Specifications.**

**FINDING:** As noted and conditioned above, no vehicular access will be allowed from Simpson Avenue. This standard does not apply.

**T. Alleys, Public or Private. Alleys must conform to the standards in Tables A through E in this section. While alley intersections and sharp changes in alignment must be avoided, the corners of necessary alley/alley intersections must have an inside radius of not less than 14 feet, except where Fire Department access is required, the inside radius must not be less than 30 feet. Right-of-way dedication for public alleys or roadway dedication for private alleys will be increased to match the pavement width. Private alleys must contain a public access easement for the entire width of the pavement and for the entire length of the alley.**



**FINDING:** Alleys are not proposed or required with this partition. The proposed drive aisle for the future parking lots associated with future Site Plan Review and cottage land division applications is not an alley. This standard does not apply.

**V. Street Names.** *All street names shall be approved by Review Authority. No street name shall be used that will duplicate or be confused with the names of existing streets in Deschutes County, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers and shall comply with City of Bend Standards and Specifications.*

**FINDING:** No new streets are proposed as part of this partition. This standard does not apply.

**Y. Street Light Standards.** *Street lights shall be installed in accordance with City of Bend Standards and Specifications.*

**FINDING:** Per City of Bend Specs 3.6.10, street lights are required at all roundabouts, signalized intersections, and all street intersections with collectors or arterials. As conditioned below, a luminaire is required at the intersection of 18<sup>th</sup> Street and Simpson Avenue. If the 17<sup>th</sup> Street right-of-way is not vacated and is required to be improved to local street standards, a luminaire will also be required at the intersection of 17<sup>th</sup> Street and Simpson Avenue.

**Condition of Approval:** *For Parcel 1 and Parcel 2: At all abutting intersections with Simpson Avenue and at enhanced crossings, if applicable, a luminaire must be constructed to illuminate the pedestrian crossing according to City of Bend Standards and PROWAG guidelines. Luminaires must be constructed under an approved right of way permit and the location be shown on all applicable sheets.*

### **3.4.300, Public Use Areas**

***Public open space and parks contribute to the livability of a growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Metro Park and Recreation District (BMPRD). Future public use areas are evaluated through the City's land use application process.***

**A. Neighborhood Parks.** *The following standards will be used to evaluate a proposed subdivision to determine if the property includes an area that is suitable for a neighborhood park. Upon meeting these standards, the developer shall enter into negotiations with the Bend Metro Park and Recreation District regarding district purchase of land within the property proposed for subdivision for development of a neighborhood park.*

**1. The subject property is located within a service area identified on the Neighborhood Parks Plan Map adopted by the Bend Metro Park and Recreation District as needing neighborhood parks.**

**2. The property proposed for subdivision is 10 acres or larger in area.**

- 3. The Bend Metro Park and Recreation District has indicated that the subject property contains a sufficient area that is suitable for neighborhood park development based on the Bend Metro Park and Recreation District Neighborhood Park Classification and Development Standards.***

***B. Dedication Requirements.***

- 1. Where a proposed park, playground or other public use shown in a plan adopted by the Bend Metro Parks and Recreation District is located in whole or in part in a proposed subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision.***

**FINDING:** The subject property is only 7.12 acres in size. This section does not apply.

***3.4.400 Sanitary Sewer and Water Service Improvements.***

- A. Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications as described in the City of Bend Standards and Specifications document and the applicable General Plan policies.***
- B. Sewer and Water Plan Approval. Construction of sewer and water improvements shall not commence until the City Engineer has approved all sanitary sewer and water plans in conformance with City of Bend Standards and Specifications.***

**FINDING:** The subject property is not currently served by City of Bend sewer. An 18-inch sewer main exists within Simpson Avenue. An 8-inch main also exists within Forest Ridge Avenue north of both parcels but is not of sufficient depth to serve the subject property with gravity sewer, and is not accessible to Parcel 1 without an easement from adjacent private properties. Generally, the topography identifies that the site is falling toward SW Simpson Avenue and SW 18<sup>th</sup> Street. The City anticipates that parcels must be serviced from SW Simpson Avenue to provide gravity service to the proposed parcels.

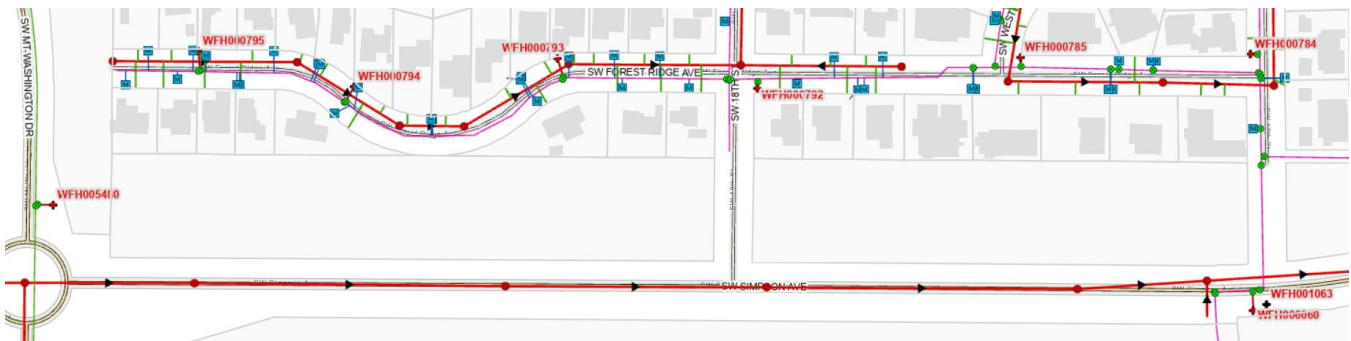
The applicant's proposed utility plan identifies sewer being serviced to Parcel 1 from a main extension along the north property line from 18<sup>th</sup> Street. This will be permitted provided:

- 1) it can be demonstrated that all lots can be serviced by gravity (per City Design standard 4) and
- 2) the sewer is installed as a public sewer main to City of Bend standards within a minimum 20-foot public easement. The easement will be required to be wider if the depth is in excess of 10 feet. Within the easement, no private utilities or structures can be constructed, and access must be available to all manholes.

If these two conditions cannot be met, sewer must be extended to Parcel 1 and each future individual lot on Parcel 1, where applicable, from the main in Simpson Avenue. Final determination of the sewer location will be determined at time of the Tier III right of way permit and/or under future cottage subdivision review.

Sewer service to Parcel 2 must be provided from the main in Simpson Avenue. As noted above under BDC 3.4.150, a sewer lateral will be allowed on either side of the 17th St right-of-way or public utility easement, to allow sewer service connections for structures on either side of the right-of-way or easement.

The subject property is not currently served by City of Bend water. An 8-inch water main exists within Forest Ridge Avenue and extends down 18<sup>th</sup> Street to the northern boundary of the property. An 8-inch main also exists within 17<sup>th</sup> Street from Forest Ridge Avenue to Simpson Avenue within the existing right-of-way. A short portion of 8-inch water main extends in Simpson Avenue from 17<sup>th</sup> Street north of Simpson Avenue and 17<sup>th</sup> Street south of Simpson Avenue (the OSU-Cascades northern entry) and then extends into the OSU-Cascades campus. There is also a 30-inch main located west of the property within SW Mt Washington Drive.



*Existing water and sewer mains*

The applicant has requested a waiver to not loop the water system between 17<sup>th</sup> Street and 18<sup>th</sup> Street. As noted above under BDC 3.4.150, that waiver request is denied due to resulting substandard fire flow for existing adjacent properties.

If structures are proposed on both sides of the existing water main in the 17<sup>th</sup> Street right-of-way, then a water and sewer lateral will be allowed on each side of the 17th St right-of-way or public utility easement, to allow water and sewer service connections for development on either side of the right-of-way or easement.

The City's water and sewer analysis memo (PRSWA202208958) demonstrates adequate capacity to serve the proposed development, as conditioned below.

***Condition of Approval:*** For Parcel 1: A sewer lateral is required for approval of a partition application. The location of sewer service to Parcel 1 will be determined at site plan or future subdivision. No additional development shall be permitted on Parcel 1 without a sewer lateral to the Parcel.

***Condition of Approval:*** For Parcel 1: The development must extend a new 8-inch water main in Simpson Avenue west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) installed for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances must meet City of Bend Standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right of way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the

*main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, Developer may provide a payment in lieu of the PRV and connection to the Mt Washington Drive waterline to meet this condition.*

**Condition of Approval:** *For Parcel 1: The development must extend the water main south within SW 18<sup>th</sup> Street and connect it to the new main within SW Simpson Avenue. The new main must be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.*

**Condition of Approval:** *For Parcel 1: One water service per parcel is permitted. Water service for each parcel may be taken from existing or new mains in SW Forest Ridge Drive, SW 18<sup>th</sup>, or the new main in SW Simpson Avenue. The laterals need to meet City of Bend Standards. The size and location of the laterals will be determined by the Engineer of Record. All lateral extensions must be done through a Right of Way Permit.*

**Condition of Approval:** *For Parcel 1: Fire hydrants will be required with the installation of any new water mains. Additional Fire Hydrants may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan or Subdivision Review.*

**Condition of Approval:** *For Parcel 2: Parcel 2 is required to be serviced by domestic water supply. If structures are approved on either side of the future Public Utilities Easement in the former 17th Street Right of Way, a single domestic water lateral may be provided on each side of the future Public Utility Easement. The lateral(s) must meet City of Bend Standards. The size and location of the lateral will be determined by the Engineer of Record at the time of Site Plan or future development application for Parcel 2. No further development shall be permitted on Parcel 2 without provision of domestic water.*

**Condition of Approval:** *For Parcel 2: If Parcel 2 develops before Parcel 1, the development must do one of the following options:*

- *Option 1: A new 8-inch water main must be extended from the intersection with SW 18<sup>th</sup> St east to connect to the existing water main in Simpson Avenue at 17<sup>th</sup> Street.*
- *Option 2: Extend a new 8-inch water main in Simpson Avenue from the intersection with SW 18th Street west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances, including a vault, must meet City of Bend standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right-of-way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, Developer may provide a payment in lieu of the PRV and connection to the Mt Washington Drive waterline to meet this condition.*

**Condition of Approval:** For Parcel 2: If not already completed by Parcel 1, the developer of Parcel 2 must extend the water main south within SW 18th Street and connect it to the main within SW Simpson Avenue. The new main must be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.

**Condition of Approval:** For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation is approved, the existing 8-inch ductile iron water main must be protected in place and a minimum 20-foot City of Bend water easement recorded over the main, centered on the pipe. A minimum 14 foot paved access, as required by City Design Standards, must be constructed over the main to allow for maintenance vehicle access to the main.

**Condition of Approval:** For Parcel 2: A fire hydrant may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan Review.

**Condition of Approval:** If the development of Parcel 2 requires a fire lateral to service Parcel 2 and if structures are approved on either side of the water main within the future public utility easement, a fire lateral may be provided on each side of the public utility easement. If structures are proposed on only one side of the public utility easement, a single fire lateral will be allowed to Parcel 2. The lateral(s) must meet City of Bend Standards. The size and location of the lateral will be determined by the City Engineer at the next development application or Site Plan Review for Parcel 2. All fire laterals over 4-inch diameter must be done through a Tier 3 Right of Way (Infrastructure) Permit.

**Condition of Approval:** Fire lines, if applicable, require a separate tap from the domestic supply. The tap is required to be located two feet away from any other taps. Buildings that are located within 20 feet of the property line can place the backflow within the structure, with the premise isolation located on the exterior wall immediately beyond the wall penetration. Buildings located further away from the property line than 20 feet, require a premise isolation vault per the City of Bend Standards and the Oregon Building Code. The fire line must be done through a Tier 3 Right of Way (Infrastructure) Permit. The Fire Department Connection (FDC) must be within 100 feet of a hydrant, unless otherwise approved by the Fire Department.

**Condition of Approval:** Hydrants shall be spaced at no more than 400-foot intervals measured as the hose would lay within the right of way. The applicant shall coordinate with the City Engineer and the Fire Department for the required location and number of fire hydrants. All hydrants must be constructed according to City of Bend Standards and will be reviewed during the Tier 3 Infrastructure permit.

**Condition of Approval:** For Parcel 2: If structures are approved on either side of the water main in the existing 17<sup>th</sup> Street right-of-way, a single sewer lateral from the sewer main within Simpson Avenue may be approved on each side of the water main. If structures are proposed on only one side of the water main, a single lateral from the sewer main within SW Simpson Avenue must be extended to Parcel 2.

**Condition of Approval:** Sewer laterals must meet City of Bend standards. Lateral sizing and location will be determined during Right of Way Permit review. Only one sewer service per parcel will be permitted unless otherwise allowed in this decision or approved by the City Engineer.

### **3.4.500 Storm Drainage Improvements.**

- A. Storm Drainage Improvements Required. Storm drainage facilities shall be depicted on City-approved engineered construction drawings and installed to serve each new development in accordance with applicable City construction specifications as described in the City of Bend Standards and Specifications and BC Title 16, Grading, Excavation, and Stormwater Management.**
- B. Accommodation of Upstream Drainage. Drainage facilities shall be designed and constructed to accommodate increased runoff so that discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbance or development activity. Such facilities shall be subject to review and approval by the City Engineer.**
- C. Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for management of additional runoff caused by the development in accordance with City of Bend Standards and Specifications. Drainage shall not be directed to an existing watercourse, channel, stream or canal. Storm drainage facilities shall comply with applicable State and Federal regulatory requirements.**

**FINDING:** This section pertains to storm drainage for public improvements (public roadways) only. Onsite surface water drainage from the proposed parcels will be addressed under BDC 2.1.1100 in future Site Plan Review and cottage land division applications.

Grading/clearing and drainage plan approval is required in conjunction with public facilities improvement plans; such plans must include design assumptions, calculations, erosion control plan, and proposed temporary and permanent slope stabilization measures as outlined in the Title XVI - Grading Excavation and Stormwater Management and Central Oregon's Storm Water Manual (COSM).

**Condition of approval:** Prior to the issuance of any permits, the applicant must submit a Final Drainage Report and Grading/Clearing/Erosion Control Plan for review by the Private Development Engineering Division (PDED) which complies with Bend Code Title 16, Grading, Excavation, and Stormwater Management and the Central Oregon Stormwater Manual (COSM).

**Condition of approval:** Storm drainage within the right of way must be designed by a registered Engineer and constructed in conformance with City of Bend Standards, Title 16 of the City Code, and the Central Oregon Stormwater Manual (COSM).

**D. Easements for Existing Watercourses.** Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, there shall be provided and recorded an easement conforming substantially with the lines of such existing watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer.

**FINDING:** No existing watercourse traverses the subject property. This standard does not apply.

**E. Easements for Developed Drainage Facilities.** Where new drainage facilities are provided that include elements located outside the dedicated public right-of-way, such facilities shall be located within an area provided for in a recorded easement. The easement shall be adequate for conveyance and maintenance as determined by the City Engineer.

**FINDING:** The wider pavement width required for on-street parking on Simpson Avenue may require that drainage facilities be located outside of the public right-of-way. A stormwater easement on an abutting parcel may be necessary. As conditioned, this standard will be met.

**Condition of approval:** If applicable, where the stormwater facilities for the public right-of-way cannot be fully constructed within the right-of-way, a City stormwater easement must be recorded with the City of Bend on the plat or separate recordable easement prepared and recorded by the City. All stormwater encroachments onto private property must be within the City storm easement.

### **3.4.600 Utilities.**

**A. Underground Utilities.** All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, shall be placed underground, except for surface-mounted transformers; surface-mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground.

**The following additional standards apply to all development, in order to facilitate underground placement of utilities:**

- 1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. All above-ground equipment shall not obstruct clear vision areas and safe intersection sight distance for vehicular traffic in conformance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.**

2. ***The City reserves the right to approve the location of all surface-mounted facilities.***
3. ***All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets.***
4. ***Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.***

**FINDING:** All new utilities, including telephone, television cable, natural gas and power, shall be installed underground prior to surfacing the streets and alley and installing sidewalks. The placement of underground utilities must be coordinated with each utility, and shown on the public facility improvement plans for the subdivision that will be reviewed and approved by the City of Bend Engineering Division.

**Condition of Approval:** *All utility lines must be installed underground prior to surfacing the streets. except that surface-mounted transformers, connection boxes and meter cabinets, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above, may be placed above ground, so long as they are not located within required clear vision areas.*

***B. Easements. Easements shall be provided and recorded for all underground utility facilities where required by the City.***

### **3.4.700 Easements.**

- A. Requirement. Easements for sewer facilities, storm drainage, water facilities, street facilities, electric lines or other public/private utilities shall be dedicated on a final plat, or provided for in the deed restrictions.***
- B. Provision. The developer or applicant shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.***
- B. Standard Width. The City's standard width for exclusive public main line utility easements shall be 20 feet, unless otherwise specified by the utility company, applicable district, or City Engineer.***

**FINDING:** All new City utilities must be placed underground within the public right-of-way. Franchise utilities may be located in the public right-of-way or within public utility easements. All existing easements that will remain must be shown on the final plat.

**Condition of Approval:** *All easements must be shown on all right of way permits and on the final plat.*

### **3.4.800 Construction Plan Approval and Assurances.**

- A. Plan Approval and Permit. Public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements, shall not be undertaken except after the plans have been approved by the City and the developer has signed a Public Facilities Infrastructure Agreement (PFIA), paid***



*permit fees, and received a permit. The amount of the permit fee shall be set by City Council with the annual adoption of a fees resolution.*

- B. Performance Guarantee.** *The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements in accordance with the provisions of BDC 4.2.500, Bonding and Assurances for All Developments, and 4.3.400, Final Plat.*

### **3.4.900 Installation.**

- A. Conformance Required.** *Improvements installed by the developer, either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City, referenced within the City of Bend Standards and Specifications.*
- B. Commencement.** *Work shall not begin until the City has reviewed and approved the construction plans and notified the contractor of the approval.*

**FINDING:** This is a standard condition of approval.

**Condition of Approval:** *All work performed within the right of way must be under and approved right of way permit and completed by a City of Bend Qualified Contractor.*

## **CHAPTER 3.5, OTHER DESIGN STANDARDS**

### **3.5.400 Solar Setbacks.**

#### **B. Solar Lot Standards.**

- 1. Applicability.** *Solar lot standards apply to the creation of lots within subdivisions in RS and RM Zones.*
- 2. Solar Lot Requirements.** *In RS and RM Zones, at least 70 percent of the lots in a subdivision shall have a minimum north-south lot dimension of 80 feet or more.*
- 4. Exemptions to the Solar Lot Requirements.** *A proposed lot shall not be identified as a “solar lot” but shall be counted as a lot that satisfies subsection (B)(2) of this section when the lot satisfies subsection (B)(4)(a), (b), (c) or (d) of this section.*
  - d. Housing Mix.** *The lot is designated for a housing type other than single-unit detached dwellings in a proposed subdivision that identifies at least 10 percent of the lots for a housing type other than single-unit detached dwellings.*

**FINDING:** All proposed parcels are intended for cottages and multi-unit development. This section does not apply.

**4.3.300(E) continued...**

- 4. All required public facilities have adequate capacity, as determined by the City, to serve the proposed subdivision, partition or replat.**

**FINDING:** The submitted Transportation Facilities Report and Transportation Analysis Memo (PRTFR202300131) and the Utility Availability Memo (PRSWA202208958) show that required public facilities have adequate capacity to serve the planned subdivision as conditioned in this document. The criterion is met.

- 5. The proposal contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and allows for continuation and expansion of existing public access easements within or adjacent to the subdivision, partition or replat.**

**FINDING:** If the concurrent 17<sup>th</sup> Street right-of-way vacation is not approved, then this local street must be constructed connecting the existing paved portion of 17<sup>th</sup> Street to Simpson Avenue, which will reduce emergency vehicle response times, reduce the block perimeter and provide an orderly transportation network. If the 17<sup>th</sup> Street right-of-way vacation is approved, then a multi-use path must be constructed in the vacated right-of-way within a public access easement, providing a multi-modal connection from the existing neighborhood to Simpson Avenue.

- 6. Each lot, parcel, or designated unit of land is suited for its intended use.**

**FINDING:** The subject property is zoned RM and is intended for residential use. The applicable RM development and dimensional standards are addressed in the findings in BDC Chapter 2.1, above. The applicable criteria are met.

- 7. That the placement of utilities is in accordance with the adopted city standards.**

**FINDING:** Sewer and water service will be reviewed for conformance with City Standards and Specifications through the infrastructure plan review process. All new utilities will be placed underground. This criterion can be met.

- 8. The proposal meets the requirements of the Fire Code, adopted flood protection standards, and other adopted standards intended to protect against natural hazards.**

**FINDING:** The subject property is not located within or near a flood plain and no other natural hazard concerns have been identified. A water main is required along Simpson Avenue which will allow the location of fire hydrants along this frontage. In addition, the water main must be looped between 17<sup>th</sup> Street and 18<sup>th</sup> Street in order to not adversely affect fire flows on adjacent properties. The Fire Department will also further review the infrastructure plans through the construction plan review and approval process for conformance with Fire Code

requirements, to ensure adequate fire flow, coverage, hydrant locations and access. Therefore, the criteria can be met.

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

**FINDING:** There is no master plan, refinement plan, or special area plan for this site. Therefore, this criterion does not apply.

**10. *The proposal complies with the standards of the zoning district in which the project is located and the standards of the zoning district that implements the Comprehensive Plan designation of the subject property.***

**FINDING:** As stated in previous findings, the proposed development complies with the standards of the RM zone which implement the Comprehensive Plan designation of the subject property which is also RM.

**11. *The proposal complies with BDC Chapter 4.7, Transportation Analysis.***

**CHAPTER 4.7, TRANSPORTATION ANALYSIS**

**4.4.700 Approval Criteria.**

***Prior to land use approval, the City must review the applicant's transportation analysis to determine whether or not the proposal will create excessive demand on the public facilities and services required to serve the proposed development. The City will assess the impacts of new development on the transportation system. The key factors used to assess the impacts to the transportation system include, but are not necessarily limited to:***

- Number of trips by all modes associated with the proposal;***
- Turning movement demand by vehicles of various types;***
- Operations analyses results;***
- Location of the project;***
- Safety issues, location of the driveways (evaluated for conflict points and location criteria established in BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation).***

***The City Engineer will determine if the development or study area has adequate transportation facilities to support the proposed development based on compliance with the operations standards. The City shall also evaluate the crash histories and crash rates provided to identify any queuing issues. Crash rates greater than 1.0 per million entering vehicles and inadequate queue storage may need to be mitigated. Mitigation shall ensure that the transportation facilities are providing adequate capacity and safety concurrent with the development of the property.***

***A. Transportation System Assessment. This assessment of the transportation system will be used as the basis for requiring mitigation and imposing conditions***

*of approval. Review measures for the transportation system include an evaluation of the existing and proposed transportation system.*

***B. Operations Standards. The intersection analyses provided in the Transportation Impact Study will be evaluated for safety deficiencies, queuing deficiencies, compliance with the Transportation Planning Rule, and the Bend Urban Area Transportation System Plan, any applicable Development Agreements, and regional transportation system plans. Intersections under the jurisdiction of the Oregon Department of Transportation shall also be evaluated for compliance with the Oregon Highway Plan. Intersections that do not comply with the criteria listed in those documents, as well as those criteria listed below, may be required to be mitigated.***

**FINDING:** A Transportation Facilities Report (TFR) was submitted with the application as required by Chapter 4.7 of the Code. The report concludes that the conceptual development of the proposed parcels was forecasted to generate 50 new p.m. peak hour trips and 579 new daily trips. Based upon this summary, the project will generate less than 700 average daily trips, and thus a Traffic Impact Analysis is not required. On February 9, 2023, the City of Bend Engineering Division issued a Traffic Analysis Memo TFR-Review (PRTFR202300131) which summarized their review of the proposed project. The mitigation measures identified in the memo that are specific to the partition, not future development of the parcels, are included as conditions of approval in this decision.

## **DECISION:**

Based on the submitted plans and application materials, and the findings in this document, the applicant's 2-parcel partition request under PRDA20220926 meets the applicable standards of Title 2 and 3 of the Bend Development code, subject to the following conditions of approval.

## **CONDITIONS OF APPROVAL:**

1. Where specific improvements are proposed and approved as submitted, the construction of those improvements may not be listed as a specific condition of approval. Any substantial alteration of the approved plans, other than revisions required to comply with the conditions of approval, may require a new application. Development must not commence until the applicant has received all required approvals, including Right of Way Permits, Grading and Drainage Permits, and Building Permits.
2. No direct vehicular access to the proposed parcels will be permitted from SW Simpson Avenue.
3. All areas of significant trees shown to be retained under the forthcoming Tier III (infrastructure) permit shall be protected, as well as the root systems of trees immediately off-site, prior to, during, and after construction. Only trees that are impacted by the construction of the public improvements around the property frontages will be permitted to be removed. The proposed tree protection fencing shall be installed prior to any construction activities on the site, and shall remain in place until construction has been

completed. Grading, operation of vehicles and heavy equipment, and storage of supplies and construction materials is prohibited within the drip zone of significant trees to be retained.

4. Street tree locations must be shown on the Tier III Right-of-Way permit (infrastructure) plan set in compliance with BDC 3.2.400.A, B and D. The street trees must not conflict with utility placement nor be located in clear vision areas. Where existing sidewalks are curb-tight and will remain, street trees must be planted within five feet from the back of the sidewalk. Existing significant trees located within or 5 feet from the right-of-way may be counted as a street tree. Street trees must also be shown on the respective building permit submittals and be planted prior to Certificate of Occupancy of the first building on each parcel.
5. The construction of public improvements shall not begin until the right of way plans have been reviewed and approved by the City Engineer and the developer has signed a Public Facilities Improvement Agreement (PFIA), paid permit fees, and received a permit and notice to proceed. Final Plat approval will not be granted until all required public improvements have been completed, inspected, and accepted by the City or as otherwise approved under separate agreement with the City.
6. The final plat must dedicate 10 feet of right-of-way along the frontage of Simpson Avenue to bring the public right of way distance from centerline to 50-feet. All right of way dedications and public easements, when applicable, must be completed under a survey plat or separate recordable document prepared and recorded by the City of Bend.
7. Prior to final plat, all existing encumbrances (easements, agreements, etc.), if applicable, must be released prior to dedication of right of way unless a separate acceptable agreement with the City of Bend can be obtained to allow the encumbrance to either remain or otherwise be released at a later date as determined by the agreement.
8. If on-street parking is proposed on Simpson Avenue, an analysis and exhibit must be prepared by a registered engineer showing existing and/or proposed sight distance lines and clear vision areas along the site frontage. No on-street parking will be permitted where:
  - Adjacent to the Mount Washington roundabout. The parking bays will not be permitted within a road taper section or within 100 feet of the roundabouts bike ramp
  - Sight distance and clear vision, determined by City of Bend and AASHTO requirements, do not exist based on 35 mph speeds.
  - Parking conflicts with ADA curb ramps at intersections or enhanced crossings.
  - Impacted by the pedestrian refuge at the future OSU campus entrance west of 18<sup>th</sup> Street.
9. Fire lines, if applicable, require a separate tap from the domestic supply. The tap is required to be located two feet away from any other taps. Buildings that are located within 20 feet of the property line can place the backflow within the structure, with the premise isolation located on the exterior wall immediately beyond the wall penetration. Buildings located further away from the property line than 20 feet, require a premise isolation vault per the City of Bend Standards and the Oregon Building Code. The fire line must be done

through a Tier 3 Right of Way (Infrastructure) Permit. The Fire Department Connection (FDC) must be within 100 feet of a hydrant, unless otherwise approved by the Fire Department.

10. Hydrants shall be spaced at no more than 400-foot intervals measured as the hose would lay within the right of way. The applicant shall coordinate with the City Engineer and the Fire Department for the required location and number of fire hydrants. All hydrants must be constructed according to City of Bend Standards and will be reviewed during the Tier 3 Infrastructure permit.
11. Prior to the issuance of any permits, the applicant must submit a Final Drainage Report and Grading/Clearing/Erosion Control Plan for review by the Private Development Engineering Division (PDED) which complies with Bend Code Title 16, Grading, Excavation, and Stormwater Management and the Central Oregon Stormwater Manual (COSM).
12. Storm drainage within the right of way must be designed by a registered Engineer and constructed in conformance with City of Bend Standards, Title 16 of the City Code, and the Central Oregon Stormwater Manual (COSM).
13. If applicable, where the stormwater facilities for the public right-of-way cannot be fully constructed within the right-of-way, a City stormwater easement must be recorded with the City of Bend on the plat or separate recordable easement prepared and recorded by the City. All stormwater encroachments onto private property must be within the City storm easement.
14. All utility lines must be installed underground prior to surfacing the streets. except that surface-mounted transformers, connection boxes and meter cabinets, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above, may be placed above ground, so long as they are not located within required clear vision areas.
15. All easements must be shown on all right of way permits, building permits and on the final plat.
16. All work performed within the right of way must be under and approved right of way permit and completed by a City of Bend Qualified Contractor.
17. Sewer laterals must meet City of Bend standards. Lateral sizing and location will be determined during Right of Way Permit review. Only one sewer service per parcel will be permitted unless otherwise allowed in this decision or approved by the City Engineer
18. All sidewalks and paths must be constructed property tight, unless otherwise specified in this decision, and are permitted to meander to avoid existing utilities, existing trees and steep topography as approved during the right of way permit review. All sidewalk and path construction must conform to City of Bend Standards and PROWAG guidelines at the time of permit review. Where the sidewalk is designed and/or constructed outside the right of way, a public access easement must be recorded over the encroachment. Water meter boxes, manholes and valves are not permitted within sidewalks or paved paths.

19. Conceptual driveway aprons must be shown on the right of way permit. Construction of the driveway aprons will not be permitted, unless otherwise approved by the City Engineer, until after tentative plan/Site Plan review and future right-of-way permit review and approval.

#### Parcel 1

20. For Parcel 1: Simpson Avenue must be widened to provide an asphalt width of 19.5 feet from right of way centerline to face of curb, providing for a 6-foot bike lane, 2.5-foot bike lane/travel lane buffer, and 11-foot travel lane.

21. If on-street parking is proposed, 8-foot parking bays will be constructed with 2.5-foot parking/bike lane buffers, resulting in a half street width of 30 feet from right of way centerline to face of curb. Tapering of pavement width beyond the parcel frontage will be required if these improvements on Parcel 1 and 2 are not constructed concurrently.

22. For Parcel 1: All abutting intersections, and enhanced crossings if applicable, must have directional curb ramps installed on all corners in conformance to City of Bend standards and PROWAG guidelines, including but not limited to, two directional ramps the northwest corner of the Simpson Avenue and 18<sup>th</sup> Street intersection.

23. For Parcel 1: The existing curb-tight sidewalk on the 18<sup>th</sup> Street frontage may remain provided it is in conformance to PROWAG and is not damaged. The project's Engineer of Record must review the existing sidewalk and prepare an engineered stamped report to the City of Bend indicated any non-conformities to PROWAG or damaged sidewalk panels. These non-conformities or damaged panels must be brought into conformance under a right-of-way permit.

24. For Parcel 1: The existing sidewalk on Simpson Avenue must be removed and replaced with an 8-foot property tight path. The path must widen to 12 feet where on-street parking is proposed to provide a buffer between doors of parked cars. The multi-use path may meander around trees and/or rock outcroppings as allowed by the Development Code and City Standards.

25. For Parcel 1: At all abutting intersections with Simpson Avenue and at enhanced crossings, if applicable, a luminaire must be constructed to illuminate the pedestrian crossing according to City of Bend Standards and PROWAG guidelines. Luminaires must be constructed under an approved right of way permit and the location be shown on all applicable sheets.

26. For Parcel 1: The development must extend a new 8-inch water main in SW Simpson Avenue west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) installed for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances must meet City of Bend Standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right of way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the

main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, the developer may provide a payment in lieu of the PRV and connection to the Mt. Washington Drive waterline to meet this condition.

27. For Parcel 1: The development must extend the water main south within SW 18<sup>th</sup> Street and connect it to the new main within SW Simpson Avenue. The new main must be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.
28. For Parcel 1: One water service per parcel is permitted. Water service for each parcel may be taken from existing or new mains in SW Forest Ridge Drive, SW 18<sup>th</sup>, or the new main in SW Simpson Avenue. The laterals need to meet City of Bend Standards. The size and location of the laterals will be determined by the Engineer of Record. All lateral extensions must be done through a Right of Way Permit.
29. For Parcel 1: Fire hydrants will be required with the installation of any new water mains. Additional Fire Hydrants may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan or Subdivision Review.
30. For Parcel 1: A sewer lateral is required for approval of a partition application. The location of sewer service to Parcel 1 will be determined at site plan or future subdivision. No additional development shall be permitted on Parcel 1 without a sewer lateral to the Parcel.

## Parcel 2

31. For Parcel 2: Simpson Avenue must be widened to provide an asphalt width of 19.5 feet from right of way centerline to face of curb, providing for a 6-foot bike lane, 2.5-foot bike lane/travel lane buffer, and 11-foot travel lane.
32. If on-street parking is proposed, 8-foot parking bays will be constructed with 2.5-foot parking/bike lane buffers, resulting in a half street width of 30 feet from right of way centerline to face of curb. Tapering of pavement width beyond the parcel frontage will be required if these improvements on Parcel 1 and 2 are not constructed concurrently.
33. For Parcel 2: The existing sidewalk on Simpson Avenue must be removed and replaced with an 8-foot property tight path.
34. For Parcel 2: All abutting intersections must have directional curb ramps installed on all corners in conformance to City of Bend standards and PROWAG guidelines, including but not limited to, two directional ramps at the northeast corner of the Simpson Avenue and 18th Street intersection, replacement of the existing ramp on the north side of Simpson Avenue at the enhanced crossing at the existing OSU access road entrance, and replacement of the existing ramps on the north side of Simpson Avenue for the property to the east with a driveway apron.



35. For Parcel 2: At all abutting intersections with Simpson Avenue and at enhanced crossings, if applicable, a luminaire must be constructed to illuminate the pedestrian crossing according to City of Bend Standards and PROWAG guidelines. luminaires must be constructed under an approved right of way permit and the location be shown on all applicable sheets.
36. For Parcel 2: The existing curb-tight sidewalk on the 18<sup>th</sup> Street frontage may remain provided it is in conformance to PROWAG and is not damaged. The project's Engineer of Record must review the existing sidewalk and prepare an engineered stamped report to the City of Bend indicated any non-conformities to PROWAG or damaged sidewalk panels. These non-conformities or damaged panels must be brought into conformance under a right-of-way permit.
37. For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation application (PLMISC20220927) is not approved, 17<sup>th</sup> Street must be improved to local street standards with 36 feet of pavement, bound by curb on both sides with landscape strips and 6-foot property-tight sidewalk. Vehicular access to the SW 17<sup>th</sup> Street extension from Parcel 2 must be constructed to conform to current City of Bend concrete driveway apron Standards and PROWAG guidelines. Access from 17<sup>th</sup> Street onto Simpson Avenue will be limited to right-in, right-out due to the existing median for the protected left-turn lane at the OSU-Cascades northern entrance.
38. For Parcel 2: If the right-of-way vacation of 17<sup>th</sup> Street is approved, vehicular access to the SW 17<sup>th</sup> Street from Parcel 2 must be constructed to conform to current City of Bend concrete driveway apron Standards and PROWAG guidelines. Where the driveway does not extend the full width of the existing street, curb must be constructed to define the property line and the terminus of the right-of-way. Stormwater must be addressed to prevent water from 17<sup>th</sup> Street from entering Parcel 2. A City of Bend fire gate or removable bollards, to be determined at right of way permit review, must be constructed across the driveway to prevent public travel across the driveway apron but to allow City maintenance staff access to the City of Bend watermain. An accessible ramp to the existing sidewalk at the terminus of 17<sup>th</sup> Street must be constructed to allow bike and pedestrian travel from 17<sup>th</sup> Street to Simpson Avenue and not be blocked by the gate or bollards constructed at the terminus of 17<sup>th</sup> Street.
39. For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation application (PLMISC20220927) is approved, a minimum 14-foot multi-use is required between the terminus of 17<sup>th</sup> Street and Simpson Avenue. The path must meet City of Bend and PROWAG standards and be fully constructed within a public access easement. This public access easement must be within or adjacent to the required 20-foot City water main easement, with the multi-use path doubling for City public works access to the City water main.
40. For Parcel 2: Parcel 2 is required to be serviced by domestic water supply. If structures are approved on either side of the future Public Utilities Easement in the former 17th Street Right of Way, a single domestic water lateral may be provided on each side of the future Public Utility Easement. The lateral(s) must meet City of Bend Standards. The size and location of the lateral will be determined by the Engineer of Record at the time of Site Plan

or future development application for Parcel 2. No further development shall be permitted on Parcel 2 without provision of domestic water.

41. For Parcel 2: If Parcel 2 develops before Parcel 1, the development must do one of the following options:

- Option 1: A new 8-inch water main must be extended in Simpson Avenue from the intersection with SW 18<sup>th</sup> Street east to connect to the existing water main in Simpson Avenue at 17<sup>th</sup> Street.
- Option 2: Extend a new 8-inch water main in Simpson Avenue from the intersection with SW 18<sup>th</sup> Street west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances, including a vault, must meet City of Bend standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right-of-way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, Developer may provide a payment in lieu of the PRV and connection to the Mt. Washington Drive waterline to meet this condition

42. For Parcel 2: A fire hydrant may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan Review.

43. For Parcel 2: If the development of Parcel 2 requires a fire lateral to service Parcel 2 and if structures are approved on either side of the water main within the future public utility easement, a fire lateral may be provided on each side of the public utility easement. If structures are proposed on only one side of the public utility easement, a single fire lateral will be allowed to Parcel 2. The lateral(s) must meet City of Bend Standards. The size and location of the lateral will be determined by the City Engineer at the next development application or Site Plan Review for Parcel 2. All fire laterals over 4-inch diameter must be done through a Tier 3 Right of Way (Infrastructure) Permit.

44. For Parcel 2: If not already completed by Parcel 1, the developer of Parcel 2 must extend the water main south within SW 18<sup>th</sup> Street and connect it to the main within SW Simpson Avenue. The new main must be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.

45. For Parcel 2: If the 17<sup>th</sup> Street right-of-way vacation is approved, the existing 8-inch ductile iron water main must be protected in place and a minimum 20-foot City of Bend water easement recorded over the main, centered on the pipe. A minimum 14 foot paved access, as required by City Design Standards, must be constructed over the main to allow for maintenance vehicle access to the main.

46. For Parcel 2: If structures are approved on either side of the water main in the existing 17<sup>th</sup> Street right-of-way, a single sewer lateral from the sewer main within Simpson Avenue may be approved on each side of the water main. If structures are proposed on only one side of the water main, a single lateral from the sewer main within SW Simpson Avenue must be extended to Parcel 2.

## STATUTORY DEVELOPMENT AGREEMENT

This Statutory Development Agreement ("Agreement") is between the City of Bend, a municipal corporation of the State of Oregon (the "City"), Kor Community Land Trust, an Oregon nonprofit corporation ("Kor"), Central Oregon Regional Housing Authority, a public body corporate and politic, dba Housing Works ("Housing Works"), and Deschutes County, a political subdivision of the State of Oregon (the "County" or "Owner") (each a "Party" and, collectively, the "Parties"), in accordance with ORS 94.504 through 94.528 and Bend Development Code 4.1.1510, *et seq.* The purpose of this Agreement is to partition certain real property and provide for the timing of the construction of urban infrastructure necessary to support that partition.

### RECITALS

- A. County is the owner of approximately 7.12 acres of undeveloped real property described and shown in the attached Exhibit A and Exhibit B. Housing Works and County executed a purchase and sale agreement for Housing Works to purchase the Property from County. Housing Works and Kor have executed an Option Agreement and Housing Works will convey a portion of the Property to Kor, and Housing Works and Kor (referred to together and separately as "Developer") each intend to develop portions of the Property for affordable housing.
- B. County has agreed to cooperate with Housing Works prior to Closing with all applications and submissions to the City for approval of the property division and the right-of-way vacation; however, Housing Works assumes any and all costs of submissions, preparation of any plat or survey, and other related costs for these activities. County is assuming no risk, cost, or liability in executing this Agreement.
- C. Developer wishes to partition the Property into two legally created units of land to allow Kor and Housing Works to independently develop affordable housing projects. The Kor project is planned to be a cottage cluster subdivision consisting of a maximum of 40 lots (the "Kor Density") and the Housing Works Project is planned to include a maximum of 59 dwelling units (the "HW Density") (together, the Kor Density and the HW Density are referred to as the "Proposed Density"). Kor and Housing Works intend to complete development on different timelines, with Kor proceeding first. Due to the cycles and availability of funding for affordable housing, neither Developer has funds to complete the infrastructure improvements necessary for a partition on the standard partition timeline. The Parties require a final partition plat, and two legal lots of record, prior to Developer being able to acquire the Property complete construction of the infrastructure. This Development Agreement is intended to allow a partition to be completed and set out a timeline for Developer, or any successors in interest, to complete necessary infrastructure related to the partition.

- D. This Agreement was initiated pursuant to Bend Development Code (“BDC”) 4.1.1530 and is subject to the standards of BDC 4.1.1510 – 4.1.1560.
- E. Housing Works seeks to vacate a portion of SW 17<sup>th</sup> Street right of way, which runs through a portion of the Property. This vacation was initiated by the City Council on March 1, 2023, and will be considered by the City by separate action.
- F. The Parties agree and understand that the vacation of 17<sup>th</sup> is a material pre-condition to the Housing Works’ execution of the sales agreement with the County, and if the vacation of 17<sup>th</sup> St is not approved, the sale of the Property will not proceed and Kor, Housing Works, and the County will withdraw the Partition application and not proceed with this Agreement, even if it has already been approved by City Council.

## **AGREEMENT**

In consideration of the mutual promises and performance obligations of each Party set out in this Agreement, the Parties agree to the following terms and conditions.

**1. Effective Date and Term of Agreement (ORS 94.504(2)(a); ORS 94.504(6)).** This Agreement shall be effective upon: (a) adoption of an ordinance by the City approving this Agreement in accordance with ORS 94.508; and (b) execution of this Agreement by the Parties. The effective date of this Agreement shall be the later of (i) the date the Agreement is last signed by a Party or (ii) the effective date of the City’s adopting ordinance (as applicable, the “Effective Date”). This Agreement shall continue in effect for a period of 15 years after the Effective Date, or until development of the improvements described in Section 4 are completed, whichever comes first. Nothing in this section precludes the Parties from mutually agreeing to reopen, extend, terminate, or consider amendments to this Agreement at any time, if otherwise allowed by statute. Any amendments shall be made as provided in Section 10 below.

1.1 Following the Effective Date, Housing Works shall prepare and submit to the City a final partition plat that is substantially in conformance with this Agreement and the Findings. If approved by the City, and after Property conveyance from the County to Housing Works is final and close, Housing Works may record the final partition plat in substantial conformance with the tentative plat attached as Exhibit C and the Findings. A copy of the final plat must be filed with the City as required by BDC 4.3.400.H.2.

**2. Description of Development Authorized and Required by this Agreement.**

2.1 Generally (ORS 94.504(2)(b)). This Agreement approves a two-parcel partition of the Property, in the configuration shown in the attached Exhibit C, subject to the Findings and compliance with the Conditions of Approval in the attached Exhibit D and completion of the infrastructure improvements described below in Section 4. Approval is based on the plans submitted in file number PLRPDA20220926, including the Proposed Density, and the improvements to the site and public facilities required under this Agreement and in the Findings, attached as Exhibit D. Kor intends to develop Parcel 1,

and Housing Works intends to develop Parcel 2, as each are shown in Exhibit C (together, the “Parcels”).

2.2 Density and Intensity (ORS 94.504(2)(c)). Density and intensity of uses on the Property are governed by the BDC at the time of subsequent development application submittal.

2.2.1 The Property is zoned Medium Density Residential. Development of particular uses of the Property will be subject to the standards of the BDC at the time of future development applications.

2.2.2 This Agreement only approves a partition, subject to the improvements required in this Agreement. No development on the Parcels is approved with this Agreement, regardless of any on-site improvements that are shown on drawings submitted with the above file number. On-site uses and improvements will be reviewed by the City with future development applications. By this Agreement, the City does not waive application of any development standard in the Bend Development Code for future development of the Parcels unless specifically set forth herein.

2.3 Height and Size of Structures (ORS 94.504(2)(d)). Height and size of structures will be governed by the requirements of the BDC at the time of development application submittal.

2.4 Reservation or Dedication of Land for Public Purposes (ORS 94.504(2)(e)). Exhibit C shows the right-of-way required to be dedicated to the public with the partition plat. Provided that the development applications for the Parcels do not exceed the Proposed Density, the City will not require any further reservation or dedication of additional land for public purposes. If development applications exceed the Proposed Densities, any requirements for reservation or dedication of additional land for public purposes will be determined at the time of development approval for the Property in accordance with City regulations in effect at the time of development application submittal.

2.5 Schedule of Fees and Charges (ORS 94.504(2)(f)). Fees for this Development Agreement and related reviews have been paid by the Developer. Except as expressly provided for in this Agreement, fees and charges for subsequent applications will be determined at the time of specific development applications for the Property in accordance with the applicable City regulations in effect at the time of application submittal.

**3. Schedule and Procedure for Compliance Review (ORS 94.504(2)(g))**. Kor intends to submit an application for a cottage cluster housing development subdivision, and Housing Works intends to submit a site plan review application, for development of affordable multifamily housing units on the Parcels. Though not bound to these specific plans for future applications, any future development application must demonstrate compliance with applicable BDC approval criteria, including setbacks and other standards and requirements of the BDC based on the intensity of uses in the application submitted, at the time of future development application.

**4. Infrastructure Improvements (ORS 94.504(2)(h)).** Because the Parcels will be developed separately by Kor and Housing Works separately, the purpose of this Agreement is to set forth the required infrastructure to support the partition of the Property and the required timing for those improvements. To support the partition approved by this Agreement, construction of at least one of the following improvements must be commenced within five years of the Effective Date.

4.1 The following public improvements are required to be completed and accepted by the City prior to certificate of occupancy for any building on Parcel 1, unless otherwise noted:

4.1.1 Transportation.

- A. The north side of Simpson Avenue must be widened to provide an asphalt width of 19.5 feet from right of way centerline to face of curb, providing for a 6-foot bike lane, 2.5 foot bike lane/travel lane buffer, and 11-foot travel lane. If on-street parking is proposed, 8-foot parking bays will be constructed with 2.5-foot parking/bike lane buffers, resulting in a half street width of 30 feet from platted centerline to face of curb. Tapering of pavement width beyond the parcel frontage will be required if the transportation improvements on Parcel 2's Simpson frontage are not constructed concurrently.
- B. All abutting intersections, and enhanced crossings if applicable, on the north side of Simpson Avenue must have directional curb ramps installed on all corners in conformance to City of Bend standards and Public Right-of-Way Accessibility Guidelines (PROWAG) guidelines, including but not limited to, two directional ramps at the northwest corner of the Simpson Avenue and 18<sup>th</sup> Street intersection.
- C. The existing curb-tight sidewalk on the 18<sup>th</sup> Street frontage may remain provided it is in conformance to PROWAG and is not damaged. The project's Engineer of Record must review the existing sidewalk and prepare an engineered stamped report to the City of Bend indicating any non-conformities to PROWAG or damaged sidewalk panels. These non-conformities or damaged panels must be brought into conformance under a right-of-way permit.
- D. The existing sidewalk on Simpson Avenue must be removed and replaced with a minimum 8-foot wide property-tight multi-use path per City Standards and Specifications. The multi-use path may meander around trees and/or rock outcroppings as allowed by the Development Code and City Standards.
- E. If applicable, at all abutting intersections with Simpson Avenue and at enhanced crossings, a single luminaire must be constructed on

the north side of SW Simpson Avenue to illuminate the pedestrian crossings according to City of Bend Standards and PROWAG guidelines. Luminaires must be constructed under an approved right of way permit and the location be shown on all applicable plan sheets.

- F. Provide stormwater drainage system improvements for all public rights-of-way that meet City of Bend Standards and the Central Oregon Stormwater Manual. This includes removing and replacing the existing piped discharge location on the private parcel (future parcel 1) that is currently treating runoff from SW Simpson Avenue. Due to the geological conditions of the area, these improvements are assumed to consist primarily of stormwater swales. Final design will be determined with the infrastructure plans based on final review by City Engineering. All stormwater infrastructure must be done through a Tier 3 Right of Water (Infrastructure) Permit.

4.1.2 Water – because Parcel 1 is proposed to be developed before Parcel 2, the following are requirements for Parcel 1:

- A. Extend a new 8-inch water main in Simpson Avenue from the intersection with SW 18th Street west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) installed for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances, including a vault, must meet City of Bend standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right-of-way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, Developer may provide a payment in lieu of the PRV and connection to the Mt Washington Drive waterline to meet this condition.
- B. The development must extend an 8-inch water main south within SW 18<sup>th</sup> Street and connect it to the new main within SW Simpson Avenue. The new main must meet City of Bend Standards and be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.



- C. One water service per parcel is permitted. Water service for each parcel may be taken from existing or new mains in SW Forest Ridge Drive, SW 18<sup>th</sup>, or the new main in SW Simpson.
- D. Fire hydrants will be required with the installation of any new water mains. Additional Fire Hydrants may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan or Subdivision Review.

4.1.3. Sewer – A sewer lateral is required for approval of a partition application. The location of sewer service to Parcel 1 will be determined at site plan or future subdivision. No additional development shall be permitted on Parcel 1 without a sewer lateral to the Parcel.

4.2 The following public improvements are required to be completed and accepted by the City prior to certificate of occupancy for any building on Parcel 2, unless otherwise noted:

4.2.1 Simpson frontage/Transportation.

- A. Simpson Avenue must be widened to provide an asphalt width of 19.5 feet from right of way centerline to face of curb, providing for a 6-foot bike lane, 2.5 foot bike lane/travel lane buffer, and 11-foot travel lane. Where on-street parking is proposed, 8-foot parking bays will be constructed with 2.5-foot parking/bike lane buffers (an additional road widening of 10.5 feet), resulting in a half street width of 30 feet from right of way centerline to face of curb. Tapering of pavement width beyond the parcel frontage will be required if the transportation improvements on Parcel 1's Simpson frontage are not constructed concurrently.
- B. The existing sidewalk on Simpson Avenue must be removed and replaced with a minimum 8-foot property-tight path per City Standards and Specifications. The path must widen to 12 feet where on-street parking is proposed to provide a buffer between doors of parked cars. The multi-use path may meander around trees and/or rock outcroppings as allowed by the Development Code and City Standards.
- C. All abutting intersections on the north side of Simpson Avenue must have directional curb ramps installed on all corners in conformance to City of Bend standards and PROWAG guidelines, including but not limited to, two directional ramps at the northeast corner of the Simpson Avenue and 18<sup>th</sup> St intersection, replacement of the existing ramp on the north side of Simpson Avenue at the enhanced crossing at the existing OSU access road entrance, and replacement of the existing

ramps on the north side of Simpson Avenue for the property to the east with a driveway apron.

- D. At all abutting intersections with Simpson Avenue and at enhanced crossings, if applicable, a single luminaire must be constructed on the north side of SW Simpson Avenue to illuminate the pedestrian crossings according to City of Bend Standards and PROWAG guidelines. Luminaires must be constructed under an approved right of way permit and the location be shown on all applicable sheets.
- E. The existing curb-tight sidewalk on the 18th Street frontage may remain provided it is in conformance to PROWAG and is not damaged. The project's Engineer of Record must review the existing sidewalk and prepare an engineered stamped report to the City of Bend indicating any non-conformities to PROWAG or damaged sidewalk panels. These non-conformities or damaged panels must be brought into conformance under a right-of-way permit.
- F. If the application to vacate that portion of SW 17<sup>th</sup> Street that crosses Parcel 2 (PLMISC20220927) is approved, vehicular access to the north to SW 17<sup>th</sup> Street from Parcel 2 must be constructed to conform to current City of Bend concrete driveway apron Standards and PROWAG guidelines. Where the driveway does not extend the full width of the existing street, curb must be constructed to define the property line and the terminus of the right-of-way. Stormwater must be addressed to prevent water from 17<sup>th</sup> Street from entering Parcel 2. An accessible ramp to the existing sidewalk at the terminus of 17<sup>th</sup> Street must be constructed to allow bike and pedestrian travel from 17<sup>th</sup> Street to Simpson Avenue.
- G. Primary access to Parcel 2 shall be from 17<sup>th</sup> Street, and secondary access shall be from 18<sup>th</sup> Street.
- H. If the 17<sup>th</sup> Street right-of-way vacation application (PLMISC20220927) is approved, a minimum 20-foot-wide public access and utility easement is required, centered on the existing waterline. A multi-use path will be required within this public access easement with the width determined at a future Site Plan application for Parcel 2.
- I. Provide stormwater drainage system improvements for all public rights-of-way that meet City of Bend Standards and the Central Oregon Stormwater Manual. Due to the geological conditions of the area, these improvements are assumed to consist primarily of stormwater swales. Final design will be

determined with the infrastructure plans based on final review by City Engineering. All stormwater infrastructure must be done through a Tier 3 Right of Water (Infrastructure) Permit.

#### 4.2.2 Water –

- A. If Parcel 2 develops before Parcel 1, the development must do one of the following options:
  - a. Option 1: A new 8-inch water main in Simpson Avenue must be extended from the intersection with SW 18th Street east to connect to the existing water main in Simpson Avenue at 17<sup>th</sup> St.
  - b. Option 2: Extend a new 8-inch water main in Simpson Avenue from the intersection with SW 18th Street west, connecting to the existing 30-inch water main in Mt. Washington Avenue with a pressure reducing valve (PRV) for the connection to the Mt. Washington Drive waterline. The new main and PRV and related appurtenances, including a vault, must meet City of Bend standards. The new main and PRV vault must be located within the City of Bend right of way. If approved by the City Engineer to deviate outside the right-of-way, the main must be within a minimum 20-foot water easement centered over the mains. Final alignments of the main and location of the PRV vault will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit approved by the City. If approved by the City, Developer may provide a payment in lieu of the PRV and connection to the Mt Washington Drive waterline to meet this condition.
- B. If not already completed by Parcel 1, the developer of Parcel 2 must extend the 8-inch ductile iron water main south within SW 18th Street and connect it to the main within SW Simpson Avenue. The new main must be located within the City of Bend right of way. Final alignments of the main will be determined with the infrastructure plans based on final review by City Engineering. All main extensions must be done through a Tier 3 Right of Way (Infrastructure) Permit.
- C. Parcel 2 is required to be serviced by domestic water supply. If structures are approved on either side of the future Public Utilities Easement in the former 17<sup>th</sup> Street Right of Way, a single domestic water lateral may be provided on each side of the future Public Utility Easement. The lateral(s) must meet

City of Bend Standards. The size and location of the lateral within the Public Utilities Easement in the former 17<sup>th</sup> Street right of way will be proposed by the Engineer of Record and approved by the City Engineer at the time of Site Plan or future development application for Parcel 2. No further development shall be permitted on Parcel 2 without provision of domestic water.

- D. If the development of Parcel 2 requires a fire lateral to service Parcel 2 and if structures are approved on either side of the water main within the future public utility easement, a fire lateral may be provided on each side of the public utility easement. If structures are proposed on only one side of the public utility easement, a single fire lateral will be allowed to Parcel 2. The lateral(s) must meet City of Bend Standards. The size and location of the lateral within the Public Utilities Easement in the former 17<sup>th</sup> Street right of way will be proposed by the Engineer of Record and approved by the City Engineer at the next development application or Site Plan Review for Parcel 2.
- E. The existing 8-inch ductile iron water main within the future Public Utilities Easement within the former 17<sup>th</sup> St. right of way must be protected in place and a minimum 20-foot-wide City of Bend water easement recorded over the main, centered on the pipe.
- F. A fire hydrant may be required along the frontage of SW Simpson Avenue and will be determined at time of Site Plan Review.

#### 4.2.3 Sewer –

- A. If structures are approved on either side of the existing 17<sup>th</sup> Street right-of-way, a single sewer lateral from the sewer main within Simpson Avenue may be approved on each side of the 17<sup>th</sup> Street water main. If structures are proposed on only one side of the 17<sup>th</sup> Street water main, a single lateral from the sewer main within SW Simpson Avenue must be extended to Parcel 2.

## **5. Effect of Agreement/Vesting.**

5.1 This Agreement serves as approval for the Developer to record a final partition plat, in substantially the form shown in the attached Exhibit C, with Deschutes County, creating two legal lots of record. Findings demonstrating compliance are included with this Agreement as Exhibit D.

5.2 Agreement Binding on the Parties for the Term of the Agreement. This Agreement is binding on the Parties, including County and Developer or any successors in interest and future owner(s) of the Property for the term of the Agreement, unless a final plat is not recorded within two years of the date of this Agreement. If a Final Plat is not timely recorded as provided in the Findings, this Agreement shall terminate and be of no further effect. A Final Plat shall not be recorded until after the sale of the Property from County to Developer has closed and is complete. The Developer acknowledges that the infrastructure improvements required by this Agreement are imposed as conditions of the Partition. If, for whatever reason, Parcel 1 or Parcel 2 are not developed as contemplated in Recital C, the Developer or any subsequent owner of Parcel 1 or Parcel 2 will be required to complete the improvements required by Section 4.1 for the owner of Parcel 1 and Section 4.2 for Parcel 2 of this Agreement prior to occupancy of any structure on Parcel 1 or Parcel 2 respectively.

5.3 Improvements Related to Future Development. Provided that the development applications for the Parcels do not exceed the Proposed Density, the City will not require any additional transportation, water or sewer off-site improvements in addition to those set forth in Section 4 of this Agreement. For any development applications which exceed the Proposed Density, additional improvements, whether on-site or off-site, may be required as a condition of approval to further develop the Property if required by the then-applicable provisions of the Bend Comprehensive Plan, BDC, or any other applicable regulation.

**6. Continuing Effect of Agreement (ORS 94.504(2)(i)).** In the case of any change in regional policy or federal or state law or other change in circumstance that renders compliance with this Agreement impossible or unlawful, or inconsistent with such laws, rules, or policies, the Parties will attempt to give effect to the remainder of this Agreement, but only if such effect does not prejudice the substantial rights of any Party under this Agreement. If the substantial rights of any Party are prejudiced by giving effect to the remainder of this Agreement, then the Parties shall negotiate in good faith to revise this Agreement to give effect to its original intent. If, because of a change in policy, law, or circumstance, this Agreement fails its essential purpose—vesting of allowed uses and limitations on development conditions and certain payments—then the Parties shall be placed into their original position to the extent practical.

**7. Assignability of Agreement (ORS 94.504(2)(k)).** This Agreement runs with the land until termination and will bind the Parties and their successors, affiliates, and assigns.

**8. Effect of Annexation (ORS 94.504(2)(L)).** All Properties subject to this Agreement are currently within the boundaries of the City. The Properties are not subject to future annexation.

**9. Default; Remedy (ORS 94.504(2)(j)).**

9.1 Default/Cure. The following shall constitute defaults by a Party:

9.1.1 A breach of a material provision of this Agreement, whether by action or inaction of a Party that continues and is

not remedied within 60 days after the other Party has given notice specifying the breach—provided that if the nonbreaching Party determines that such breach cannot with due diligence be cured within a period of 60 days—the nonbreaching Party may allow the breaching Party a longer period of time to cure the breach and, in such event, the breach shall not constitute a default so long as the breaching Party diligently proceeds to effect a cure, and the cure is accomplished within the longer period of time granted by the nonbreaching Party; or

9.1.2 Any assignment by a Party for the benefit of creditors, or adjudication that a Party is bankrupt, or appointment of a receiver, trustee, or creditor's committee over a Party.

9.2 Remedies. Each Party shall have all available remedies at law or in equity to recover damages and compel the performance of the other Party under to this Agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by any other Party, including without limitation the right to compel specific performance.

9.3 Mediation. Notwithstanding the forgoing, the Parties agree to try to resolve any dispute or issue arising under this Agreement amicably and at a project level. If the dispute is not settled, the Parties shall participate in mediation as a next alternative step for dispute resolution before commencement of litigation. Such mediation will occur in Bend, Oregon. The Parties shall seek a mediator with experience in land use, real estate, or development. The mediation must commence within 90 days of the date the mediator is retained. The mediator's fees and expenses will be shared equally by all the Parties. All Parties agree to exercise their best efforts in good faith to resolve all disputes in the mediation.

**10. Amendment or Termination of Agreement.** This Agreement may only be amended or terminated by the mutual consent of all the Parties or their successors in interest in accordance with ORS 94.522. County and Housing Works have entered into a Purchase and Sale Agreement for the Property. Upon the Closing Date for the sale of the Property, County's participation in this Development Agreement shall terminate automatically, and County will no longer be considered a Party to this Agreement. Any and all obligations will be assumed by the remaining Parties. If Housing Works does not purchase the Property, County at its sole discretion has the option to terminate this Agreement by providing written notice to the City.

**11. Miscellaneous Provisions.**

11.1 Notice. A notice or communication under this Agreement by any Party shall be in writing and shall be dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by either personal delivery or nationally-recognized overnight courier (such as UPS or FedEx), or by electronic mail, delivered during business

hours (i.e., before 5:00 p.m., Pacific Time), with a hard copy of such electronically-delivered notice subsequently delivered personally or by overnight courier, and

11.1.1 In the case of a notice to Kor, addressed as follows:

Kor Community Land Trust  
150 NE Hawthorne Ave, #110  
Bend, OR 97701

With a copy to:  
Michael H. McGean  
Francis Hansen & Martin LLP  
1148 NW Hill St.  
Bend, OR 97701

11.1.2 In the case of a notice to Housing Works, addressed as follows:

Housing Works  
405 SW 6th St.  
Redmond, Oregon 97756

With a copy to:  
Steven P. Hultberg  
Radler White Parks Alexander, LLP  
PO Box 2007  
Bend, OR 97709

11.1.3 In the case of a notice to the County, addressed as follows:

Deschutes County:  
1300 NW Wall Street  
Bend, Oregon 97703

*With a copy to:* [legalcounsel@deschutes.org](mailto:legalcounsel@deschutes.org)

11.1.4 In the case of a notice to the City, addressed as follows:

City of Bend  
710 NW Wall Street  
Bend, Oregon 97703

*With a copy to:* [legalnotice@bendoregon.gov](mailto:legalnotice@bendoregon.gov)

11.1.5 A Party may from time to time designate other or additional notice parties for the purpose of this Section 11 in writing and delivered as provided in this Section 11.

11.2 Headings. Section headings in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

11.3 Effect of Recitals (ORS 94.504(6)). The Recitals set forth above are the assumptions of the Parties and are incorporated as part of this Agreement. The Exhibits consist of the following and are incorporated as part of this Agreement:

- A. Property legal description
- B. Property boundary map
- C. Tentative plan plat map
- D. Findings and Conditions of Approval

11.4 Counterparts. This Agreement may be executed digitally and in one or more counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

11.5 Waivers.

11.5.1 No waiver made by any Party with respect to the performance, or the manner or time thereof, of any obligation of any other Party, or any condition inuring to its benefit under this Agreement, shall be considered a waiver of any other rights of the Party making the waiver. No waiver by a Party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing, and no such waiver shall be construed to be a continuing waiver.

11.5.2 The Parties know and understand their rights under *Dolan v. City of Tigard* and its progeny and by entering into this Agreement waive any requirement that the City demonstrate that the public improvements and other obligations of the Parties set forth in this Agreement as they relate to the Partition and Proposed Density are roughly proportional to the burden and demands placed on the urban facilities and services by the partition of the Property and Proposed Density. The Parties further acknowledge that the requirements and obligations of the Parties, 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 the Proposed Density and the Partition of the Property approved by this Agreement. The waivers in this Section 11.5 apply only to the improvements contemplated by this Agreement in connection with the Partition and Proposed Density. The Parties expressly reserve their rights to challenge any conditions of approval or requirements imposed by the City in connection with future development of the Property in excess of the requirements set forth in this Agreement. This waiver does not apply to public improvements, payments, or other exactions not governed by this Agreement.



11.6 Attorney Fees. In the event of a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including without limitation any action in which a declaration of rights is sought or an action for rescission, the prevailing Party shall be entitled to recover from the losing Party its reasonable attorney, paralegal, accountant, and other expert fees, and all other fees, costs, and reasonably necessary expenses actually incurred, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorney fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law. In the event the prevailing Party is represented by "in-house" counsel, the prevailing Party shall nevertheless be entitled to recover reasonable attorney fees based on the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the Bend, Oregon, area for the type of legal services performed.

11.7 Time of the Essence. Time is of the essence for this Agreement.

11.8 Choice of Law. This Agreement shall be interpreted under the laws of the State of Oregon.

11.9 Calculation of Time. All periods of time referred to in this Agreement shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Oregon, the period shall be extended to include the next day that is not a Saturday, Sunday, or legal holiday.

11.10 Construction. In construing this Agreement, singular pronouns shall be taken to mean and include the plural, and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.

11.11 Severability. If any clause, sentence, or any other portion of the terms and conditions of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

11.12 Merger. This Agreement constitutes the entire agreement between all the Parties and supersedes all prior agreements except as such prior agreements are expressly incorporated by reference.

11.13 Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any of the Parties shall be brought in the Circuit Court of the State of Oregon for Deschutes County or in the United States District Court for the District of Oregon.

11.14 Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally, and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in

the case of a Party being given "sole discretion" or being allowed to make a decision in its "sole judgment."

11.15 Condition of City Obligations (ORS 94.504(5)). All City obligations under this Agreement that require the expenditure of funds are contingent on future appropriations by the City as part of the local budget process. Nothing in this Agreement implies an obligation on the City to appropriate any such monies.

11.16 Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties agree to cooperate in defending such action.

11.17 Enforced Delay, Extension of Times of Performance. In addition to the specific provisions of this Agreement, delayed performance or nonperformance by any Party shall not be a default when such delayed performance or nonperformance is caused by war, insurrection, strikes, riots, floods, drought, earthquakes, fires, casualties, acts of nature, epidemic or pandemic, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation or litigation, or similar bases for excused performance that are not within reasonable control of the Party to be excused.

11.18 Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents and take such additional acts (which, in the case of the City, may require adopting necessary ordinances and resolutions) as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of rights and privileges under this Agreement.

11.19 No Partnership. This Agreement does not create a partnership or joint venture among the Parties. Each Party is solely and independently responsible for its obligations under this Agreement, and no Party is responsible for payment or performance by any other Party.

11.20 Recording. The City shall cause this Agreement to be recorded in accordance with ORS 94.528. The Parties shall reimburse the City for the cost of recording this Agreement.

## **SIGNATURES ON FOLLOWING PAGES**

**Kor Community Land Trust**

\_\_\_\_\_  
Name:

STATE OF OREGON                    )  
  )ss.  
County of Deschutes                )

This instrument was acknowledged before me on \_\_\_\_\_ by  
\_\_\_\_\_, as \_\_\_\_\_ TITLE of Kor Community Land Trust.

\_\_\_\_\_  
Notary Public for Oregon

Approved as to form:

\_\_\_\_\_  
Counsel for Kor Community Land Trust

**Deschutes County**

\_\_\_\_\_  
Name:

STATE OF OREGON            )  
  )ss.  
County of Deschutes        )

This instrument was acknowledged before me on \_\_\_\_\_ by  
\_\_\_\_\_, as \_\_\_\_\_ TITLE of Deschutes County.

\_\_\_\_\_  
Notary Public for Oregon

Approved as to form:

\_\_\_\_\_  
Counsel for Deschutes County

**Central Oregon Regional Housing Authority dba HousingWorks**

\_\_\_\_\_  
Name:

STATE OF OREGON                    )  
  )ss.  
County of Deschutes                )

This instrument was acknowledged before me on \_\_\_\_\_ by  
\_\_\_\_\_, as \_\_\_\_\_ TITLE of  
\_\_\_\_\_ Central Oregon Regional Housing Authority.

\_\_\_\_\_  
Notary Public for Oregon

Approved as to form:

\_\_\_\_\_  
Counsel for Central Oregon Regional Housing Authority

**City of Bend, an Oregon municipal corporation**

\_\_\_\_\_  
Eric King, City Manager

STATE OF OREGON                    )  
  )ss.  
County of Deschutes                )

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

\_\_\_\_\_  
Notary Public for Oregon

Approved as to form:

\_\_\_\_\_  
City Attorney