

ORDINANCE NO. 2489

**AN ORDINANCE ANNEXING LAND IN THE SOUTHEAST AREA FOR THE
MAGNOLIA MEADOWS ANNEXATION AND ASSIGNING A SIGN DISTRICT PER BC
9.50.040.C.**

Recitals

- A. Bend Development Code Section 4.9.400.A.1 provides for annexation of real property to the City when all of the owners of land in the contiguous territory proposed to be annexed and not less than 50 percent of the electors, if any, residing in the territory, consent to the annexation.
- B. Hayden Homes, LLC ("Applicant") submitted an application to the City of Bend ("City") for annexation of the territory described on Exhibit B and depicted in Exhibit C ("Area").
- C. All of the owners of land within the Area have filed statements of consent to this annexation. There are no registered electors residing within the Area.
- D. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On November 28, 2023, the City Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the Area, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on November 28, 2023, and in The Bulletin on November 30, 2023 and December 7, 2023. On November 27, 2023, the Applicant posted Notice of Proposed Development signs along the Area frontage at two locations, no more than 10 feet from adjacent rights-of-way.
- E. The City Council held a public hearing on December 20, 2023 to receive evidence and comments on the question of annexation.
- F. The Area is contiguous to City limits along the Area's northern boundary.
- G. The Applicant and the City have agreed on a proposed Annexation Agreement that sets forth the obligations of the Applicant for the provision of urban infrastructure needed to serve the newly annexed area and other areas, attached as Exhibit A.

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

- Section 1. The territory containing approximately 19 acres of land, as described in Exhibit B and depicted in Exhibit C, is annexed to the City of Bend upon the Annexation Agreement (Exhibit A) taking effect.
- Section 2. The City Manager is authorized to execute the Annexation Agreement (Exhibit A) in substantially the form presented to Council.
- Section 3. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit D.
- Section 4. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated in accordance with the

underlying Comprehensive Plan land use designations (Exhibit E).

Section 5. On the date the annexation becomes effective, the Sign District Map will be automatically updated (Exhibit F).

Section 6. 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.

Section 7. This ordinance shall be voidable at the City's sole discretion if the Applicant does not return a signed copy of the Annexation Agreement (Exhibit A) to the City within 30 days of the passage of this Ordinance.

First Reading: December 20, 2023

Second reading and adoption by roll call vote: January 3, 2024

YES: Mayor Pro Tem Megan Perkins
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Ariel Méndez
Councilor Mike Riley

NO: none

ABSTAIN: Mayor Melanie Kebler



Mayor Melanie Kebler

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

After recording, return to:

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

MAGNOLIA MEADOWS ANNEXATION AGREEMENT

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

The purposes of this Agreement are:

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

RECITALS

A. Hayden Homes intends to develop the Property pursuant to the Bend Comprehensive Plan (the "BCP"), the Bend Development Code (the "BDC"), including BDC Chapter 2.7.3300-2.7.3390, the Southeast Area Plan ("SEAP"). The Property is within the City's Urban Growth Boundary (UGB) and is contiguous to the city limits on the south side of SE Hearthstone Lane. Therefore, the Property is eligible for annexation subject to BDC Chapter 4.9.

B. Owner intends to develop the Property with a mix of single unit detached dwellings and townhomes consistent with BCP Specific Expansion Area Policies for the Southeast Expansion Area. This intended development (the "Development"), together with BDC Chapter 4.9, is the basis for the infrastructure requirements in this Agreement. Owner

intends to submit a development application for the Property at the time the annexation becomes effective.

C. The Property consists of approximately 19.12 acres located in the southeast portion of the Urban Growth Area that is subject to the requirements and limitations of the BCP Specific Expansion Area Policies for the Southeast Expansion Area.

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

E. On June 29, 2023 Owner submitted a request to the City to annex the Property to the City (City File No. PLANX20230396).

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

G. In order to meet the BDC 4.9.600 criteria and to satisfy the City's conditions for an affirmative decision to annex the Property, and in exchange for the obligations of the City set forth in **Section 8** of this Agreement, Owner agrees to comply with all requirements imposed in this Agreement and all other City codes, regulations, and standards applicable to the Property, including the SEAP. This Agreement is consistent with and intended to implement the SEAP and BCP Specific Expansion Area Policies for the Southeast Expansion Area as these policies specifically relate to the Property and other applicable policies of the BCP and SEAP.

AGREEMENT

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

1. Obligations of Owner. Consistent with the above Recitals, Owner agrees to perform the obligations of this Agreement and comply with and meet all City codes, standards, and regulations, including the SEAP. Nothing in this Agreement prohibits refinements to meet City standards as part of the required development applications.

2. Future Development. Owner intends to seek approval of a land division under BDC 4.3 consistent with BCP Specific Expansion Area Policies for the Southeast Expansion Area and other applicable policies of the BCP, the BDC, and the SEAP. In accordance with BDC 4.1.240, Owner agrees the standards that will apply to any future development application for the Property are those in effect on the date the development application is submitted. Any future development application, and any corresponding land development approval, may be subject to additional infrastructure requirements. Such land development approvals are referred to herein as the "Entitlements". In the event there is a conflict between the Entitlements and this Agreement, the Entitlements shall control.

3. Water. In order to serve the Property with water consistent with BCP Specific Expansion Area Policies for the subject property and other applicable policies of the BCP, the BDC, and the SEAP, Owner must construct the water system improvements as directed by Avion Water Company (“Avion”) to comply with City standards and Oregon Fire Code flow and pressure requirements and pursuant to the phasing and development schedule set forth in the Entitlements. The Property is in the Avion service territory and will be served by Avion water.

4. Sewer. In order to serve the Property with sewer consistent with BCP Specific Expansion Area Policies for the Property and other applicable policies of the BCP, the BDC, and the SEAP, Owner must construct the wastewater collection system improvements pursuant to the phasing and development schedule set forth in the Entitlements, and as further described below.

4.1 The City has authorized funding for a regional pump station in the South East Area (the “Southeast regional pump station”). Based on the timing of construction of the Southeast regional pump station, Owner has three options for achieving flow through the installation of a minimum 8-inch gravity sewer main to and through the Property limits.

4.1.1 Option A: If the City’s future gravity sewer main and Southeast regional pump station are constructed to substantial completion prior to approval of a right-of-way permit for sewer, Owner must construct a gravity main within the new local streets, discharging to the east of the Property where it will connect to the City’s gravity sewer main and Southeast regional pump station. If the connection to the City’s gravity sewer main requires construction across private property, Owner must obtain a City sewer easement from the adjacent property owner(s), tax lot 1812150000201. Owner understands that City’s and developer’s infrastructure must be fully operational prior to the issuance of a certificate of occupancy for the first residential dwelling.

4.1.2 Option B: If the City’s future gravity sewer main and Southeast regional pump station are not constructed to substantial completion prior to approval of a right-of-way permit for sewer, Owner may connect to the North Peak¹ development’s gravity sewer northeast of the Property in Magnolia Lane if the North Peak gravity sewer main is deep enough to service the Property, discharging into the North Peak temporary pump station. Double pumping from the site to the North Peak sewer system will not be permitted. In order for Owner to exercise this **Option B**, the Engineer of Record must first verify that the North Peak temporary pump station and sanitary sewer infrastructure are adequately sized and operational for the Development’s flows into the North Peak temporary pump station, meeting City and DEQ standards.

¹ Area annexed under Ordinance No. NS-2469

4.1.3 Option C: If the City's future gravity sewer main and Southeast regional pump station are not constructed to substantial completion prior to approval of a right-of-way permit for sewer, Owner may construct a public pump station within the bounds of the Property. The pump station must be constructed to City standards, and must be located within a City public sewer easement. The pump station must be in a location where, once decommissioned, the Property can be served with a future gravity main. The sewer force main must discharge to a City-approved gravity main. Double pumping will not be allowed. The applicant will need to obtain the necessary easement(s), where applicable, to get sewer to any City approved discharge point(s). When the Southeast regional pump station is finished being constructed and becomes operational (including necessary sewer gravity main line(s) installed at the Property boundary), Owner must remove the temporary pump station and construct a gravity main up to City standards to discharge to the Southeast regional pump station.

4.2 All wastewater collection system improvements shall be installed on land that is or will be within public rights-of-way, City easements, or Public Utility Easements. All required easements shall be granted to the City free and clear of all liens and encumbrances prior to the commencement of construction or, if approved by the City Engineer, prior to final acceptance of the infrastructure and approval of any final plat. Owner will be responsible for arranging for the release of any existing liens and encumbrances, and the payment of all associated costs, if any. Owner may request that the City Engineer make a determination that an encumbrance may be maintained if there are significant legal or other impediments to moving or releasing the encumbrance and the encumbrance does not materially conflict with the City's potential or actual uses of an easement, in the sole determination of the City Engineer.

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

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

5.1.1 ODOT payment. Per Appendix GG of the Southeast Area Plan, a \$323 per PM peak hour trip fee is required for development within the

boundaries of the SEAP. This fee will be due at the time of final plat submittal for each phase; the total amount due will be calculated by the City with the associated Entitlements. The City will collect the fee as a conduit to ODOT.

5.1.2 Supplemental SDC. As part of any City initiated SEAP transportation system development coordination, Owner agrees not to oppose any supplemental SDC proposed by the City to cover costs for City-provided infrastructure in the SEAP based on a pro rata share of the PM peak hour trips generated by the Property. This **Section 5.1.2** does not obligate the City to consider or adopt a supplemental SDC.

5.2 Dedication of Right of Way. Owner agrees to dedicate sufficient Right-of-Way under Owner's control to the City to accommodate the transportation improvements set forth in the Entitlements and to meet the minimum right-of-way widths required by BDC Chapter 3.4. Owner agrees that all dedication of Right-of-Way will be free and clear of all existing liens and encumbrances, including existing easements. Owner will be responsible for arranging for the release of any existing liens and encumbrances, and the payment of all associated costs, if any. Owner may request that the City Engineer make a determination that an encumbrance may be maintained if there are significant legal or other impediments to moving or releasing the encumbrance and the encumbrance does not materially conflict with the City's potential or actual use of a Right-of-Way, in the sole determination of the City Engineer. To the extent there is a conflict between the street standards set forth in BDC Chapter 3.4 and those set forth in the Entitlements, the standards in the Entitlements shall control.

5.2.1 Cabin Lane Dedication and Improvement. As further provided in the Entitlements, Owner must dedicate and improve Cabin Lane along the entire western frontage of the Property as follows: Owner agrees to dedicate the westernmost 30-foot-wide strip of the Property, which partially comprises Cabin Lane, to the City as Right-of-Way. Owner understands that all property owners to the west of the Property must also release existing private easement(s) over Cabin Lane and dedicate their previously-burdened portion of Cabin Lane to the City as Right-of-Way. Together, these Right-of-Way dedications will achieve a full 60-foot-wide Right-of-Way on all of Cabin Lane bordering the entire western frontage of the Property, which Owner shall construct as a partial local street per the City of Bend Standards and Specifications effective at time of land use application. The projection of Cabin Lane to the south must align with the existing portion of Cabin Lane located north of Hearthstone Lane. If the City declines to condemn the 30-foot-wide strip west of the Property pursuant to **Section 7** of this Agreement, additional options for the provision of transportation access to the Property on Cabin Lane may be identified through the Entitlements, and this option is not intended to describe the only options for transportation access to the Property on Cabin Lane.

5.2.2 Magnolia Lane Dedication and Improvement. As further provided in the Entitlements, Owner must dedicate and improve Magnolia Lane along the entire eastern frontage of the Property as a partial local street per the City of Bend Standards and Specifications effective at time of land use application.

5.2.3 Caldera Drive Dedication. As further provided in the Entitlements, Owner must dedicate along the southeastern portion of the Property to ensure sufficient area for the intersection of Magnolia Lane (local residential street) and Caldera Drive (Collector Street), per the City of Bend Standards and Specifications effective at time of land use application.

6. Stormwater. Owner will contain all stormwater consistent with the Entitlements and all applicable City requirements. Owner will complete all on-site stormwater requirements as required by the Entitlements and all subsequent development applications.

7. Condemnation by City.

7.1 If Owner does not control sufficient right-of-way or areas for temporary or permanent public easements (the “Easements”) to satisfy obligations under BDC Chapter 3.4 and this Agreement, including **Section 4** and **Section 5.2** (“Third-Party Rights-of-Way or Easements”), Owner agrees to use its best efforts, with reasonable diligence and negotiation, to obtain such Easements or Third-Party Rights-of-Way or Easements. In the event Owner cannot obtain such Third-Party Rights-of-Way or Easements through its best efforts, Owner may request that City undertake the exercise of eminent domain in order to acquire such Third-Party Rights-of-Way or Public Easements, subject to adoption of a resolution by the City Council and entry into a Reimbursement Agreement, as described below.

7.2 Reimbursement. If City elects to exercise its power of eminent domain pursuant to **Section 7.1**, all of City’s out-of-pocket costs for acquiring the subject property rights shall be reimbursed by Owner. Such costs shall include consideration paid for the property, costs for City staff time spent on the condemnation effort, any costs or reasonable attorney fees paid to the property owner as a condition of a settlement agreement, or awarded by a court of competent jurisdiction or an arbitrator; and any independent-contractor costs, including appraisers, acquisition consultants, and/or outside legal counsel related to the property right acquisition efforts. City and Owner will use good faith efforts to negotiate and enter into a Reimbursement Agreement governing the above reimbursement obligations of Owner. City will not commence any property acquisition efforts pursuant to **Section 7.1** or this **Section 7.2** until a Reimbursement Agreement is executed and effective and Council has approved a resolution authorizing condemnation.

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

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

- 8.2 Conduct a timely review of and issue a decision on the Entitlements applications.
- 8.3 Owner acknowledges that the City cannot prospectively agree to any specific outcomes.

9. Covenants Running with the Land. It is the intention of the parties that the terms and obligations of this Agreement are necessary for the annexation and development of the Property, and as such will run with the Property and will be binding upon the heirs, executors, assigns, administrators, and successors of the parties and are construed to be a benefit and burden upon the Property. This Agreement must be recorded with the Deschutes County Recorder upon execution. Execution and recording of this agreement are preconditions to the annexation of the Property into the City. These covenants will expire for each portion of the Property upon (i) recording of a final plat for that portion of the Property, (ii) completion of the improvements set forth in Sections 3 through 6 above, and (iii) the payment of ODOT fees set forth in Section 5.1.1. The parties will execute and record any document necessary to release such covenants upon the termination of this Agreement.

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

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

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

13. Land Use Approval. Except as set forth in **Section 14** below, nothing in this Agreement is to be construed as waiving any requirements of the Bend Code, Bend Development Code or Bend Comprehensive Plan provisions which may be applicable to the use and development of the Property. Nothing in this Agreement is to be construed as the City providing or agreeing to provide approval of any building, land use, or other development application or grading permit application.

14. Exactions. Owner knows and understands its rights under *Dolan v. City of Tigard* and its progeny. By entering into this Agreement, Owner waives any requirement that the City demonstrate that the public improvements and other obligations imposed on Owner in this Agreement are roughly proportional to the burden and demands placed upon the urban facilities and services by the development of the Property. Owner acknowledges that the requirements and obligations of Owner, including but not limited to the required public improvements, are roughly proportional to the burden and demands on urban facilities and services that will result from development of the Property. This waiver applies only to the obligations imposed by this Agreement and specifically does not apply to the "Entitlements"

as described in paragraph 2 herein.

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

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

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

[Signature Pages to Follow]

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

CITY OF BEND:

Eric King, City Manager

State of Oregon)
)
County of Deschutes)

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

Notary Public for Oregon

HAYDEN HOMES, LLC

By: _____
Its: _____
Hayden Homes, LLC

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by _____, _____ of Hayden Homes, LLC.

Notary Public for Oregon

REAL PROPERTY OWNERS

Signatures and Notary Blocks are on Exhibit A.

Nancy B. Gabert

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Nancy B. Gabert.

Notary Public for Oregon

Susan M. Osterman

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Susan M. Osterman.

Notary Public for Oregon

Antoinette M. Rotsolk

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Antoinette M. Rotsolk.

Notary Public for Oregon

Michael J. Rotsolk

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2023, by Michael J. Rotsolk.

Notary Public for Oregon



901 NW Carlon Avenue, Suite 3 | Bend, OR 97703
(541) 797-0954 - www.sflands.com

2021-395-01
MAY 4, 2023
BRR

EXHIBIT B

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (E1/2 SW1/4 NE1/4) OF SECTION 15, TOWNSHIP 18 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON;

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE BOUNDARIES OF HEARTHSTONE LANE.

SUBJECT TO: EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
MAY 11, 2021
BRAD R. RHOADES
91917PLS

RENEWS: 12/31/2024

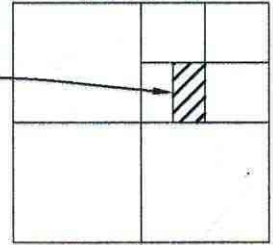
EXHIBIT "C"

ANNEXATION EXHIBIT

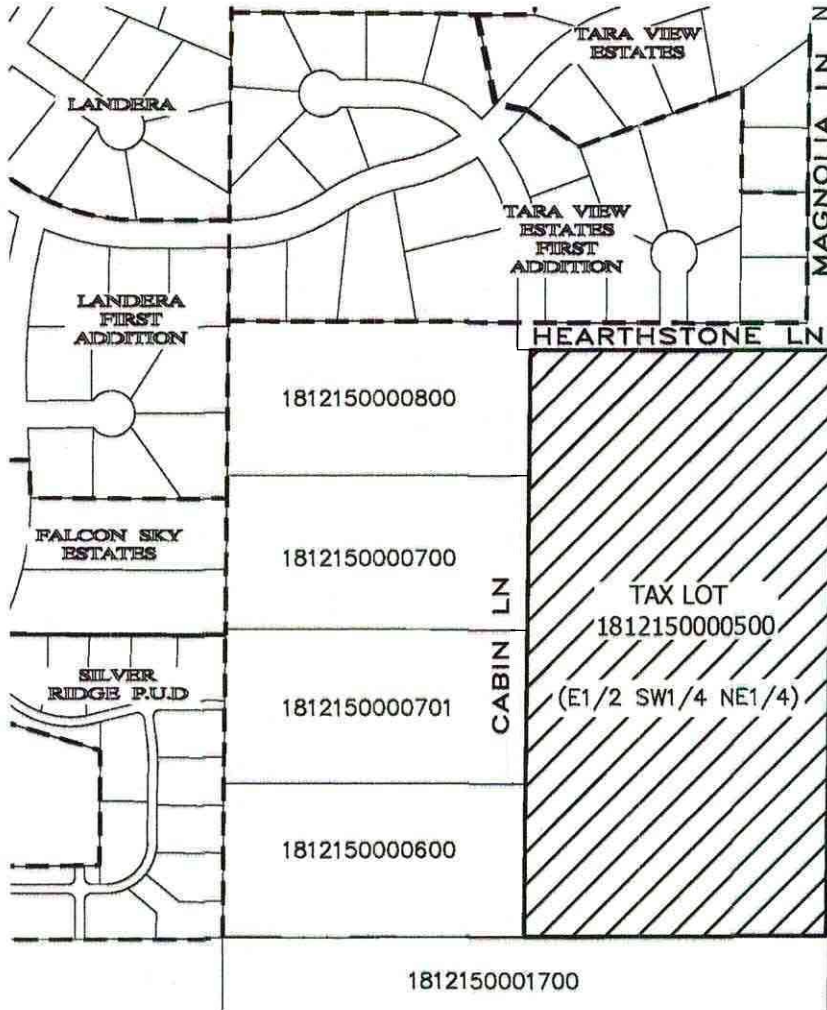
LOCATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 15,
TOWNSHIP 18 SOUTH, RANGE 12 EAST W.M.,
DESCHUTES COUNTY, OREGON

E1/2 SW1/4 NE1/4

SECTION 15



VICINITY MAP
NOT TO SCALE



1812150000100


1812150000201

1812150000202

LEGEND:

 ANNEXATION EXPANSION BOUNDARY

 AREA TO BE ANNEXED

 APPROXIMATE TAX LOT LINE

 SUBDIVISION/PARTITION BOUNDARY

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
MAY 11, 2021
BRAD R. RHOADES
91917PLS

RENEWS: 12/31/2024



400' 0 200' 400' 800'



SCALE: 1" = 400'

S&F Land Services

Date: 5/4/2023
Proj No: 21-395-01

901 NW CARLON AVENUE,
STE 3, BEND, OR 97703
(541) 797-0954

www.sflands.com
info@sflands.com

EXHIBIT D

FINDINGS FOR
MAGNOLIA MEADOWS ANNEXATION



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLANX20230396

HEARING DATE: December 20, 2023

APPLICANT: Hayden Homes, LLC
2464 SW Glacier Place
Redmond, OR 97756
colandpermitting@hayden-homes.com

OWNER #1
TL1812150000500:
(Majority) Calvin E and Nancy B Gabert
20683 Overton Place #2
Bend, OR 97701

OWNER #2
TL1812150000500: Michael J and Antoinette M Rotsolk
PO Box 126
Otis, OR 97368

OWNER #3:
TL1812150000500: Dana L Bratton
476 W Sisters View Place
Sisters, OR 97759

Susan M Osterman
3185 Normil Terrace
Medford, OR 97504

Nancy B Gabert
20683 Overton Place #2
Bend OR 97701

**APPLICANT'S
PLANNER:** Blackmore Planning and Development Services, LLC
19454 Sunshine Way
Bend, OR 97702
greg@blackmoreplanning.com

**APPLICANT'S
ENGINEER:** Know Ledge Engineering LLC
901 NW Carlon Avenue, Suite 3
Bend, OR 97702
adam@kl-engineering.com

LOCATION: 61150 Cabin Lane; TL1812150000500.

REQUEST: A Type III Quasi-judicial request to annex 19.12 acres in the Southeast Area to include City zoning designations of Medium Density Residential (RM) and Standard Density Residential (RS) upon annexation.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Criteria

Bend Development Code

Chapter 4.9 Annexations

Bend Comprehensive Plan

Chapter 11, Growth Management

Oregon Administrative Rules

Chapter 660-012-0000, Transportation Planning

Procedures

Bend Development Code

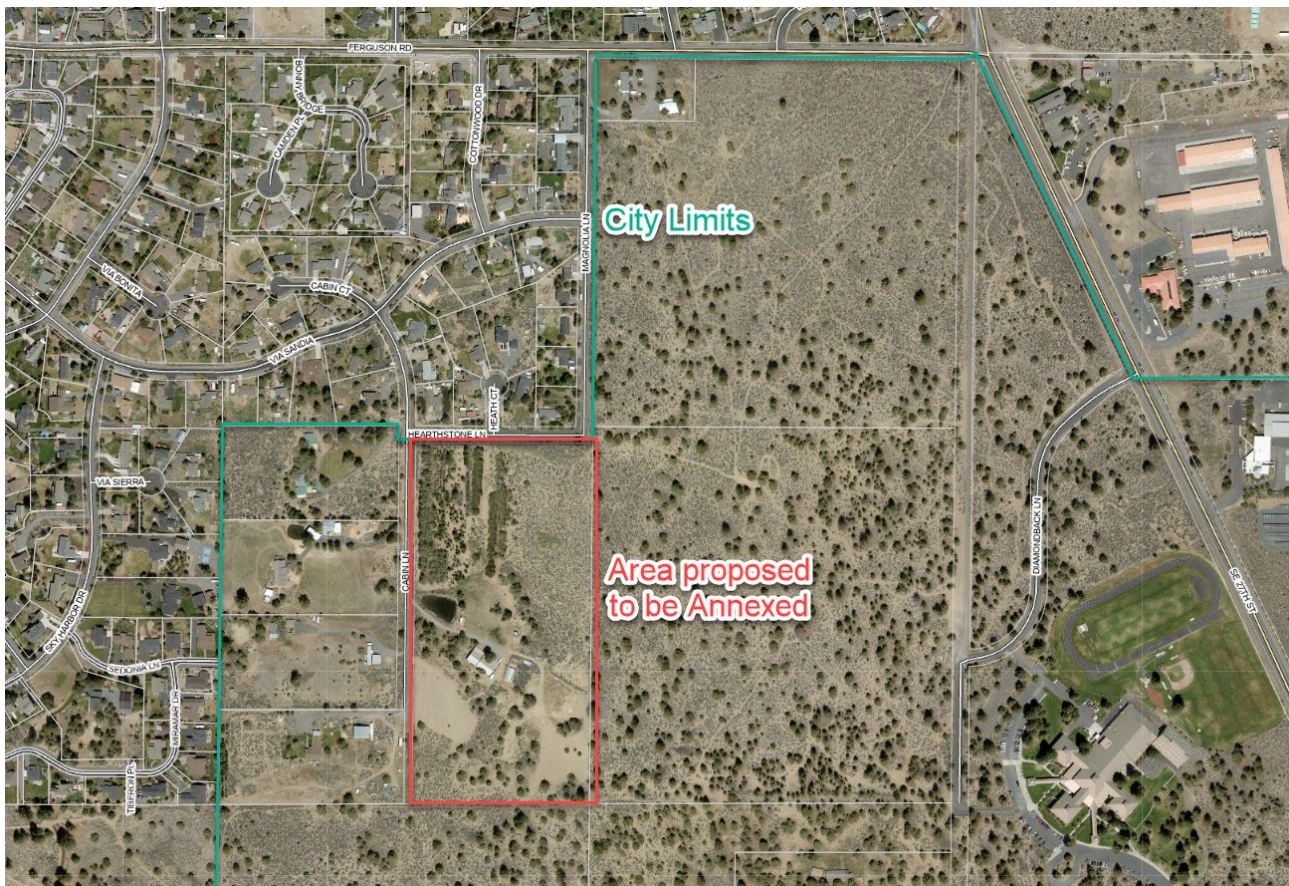
Chapter 4.1 Development Review and Procedures

4.1.400 Type II and Type III Applications

4.1.800 Quasi-Judicial Hearings

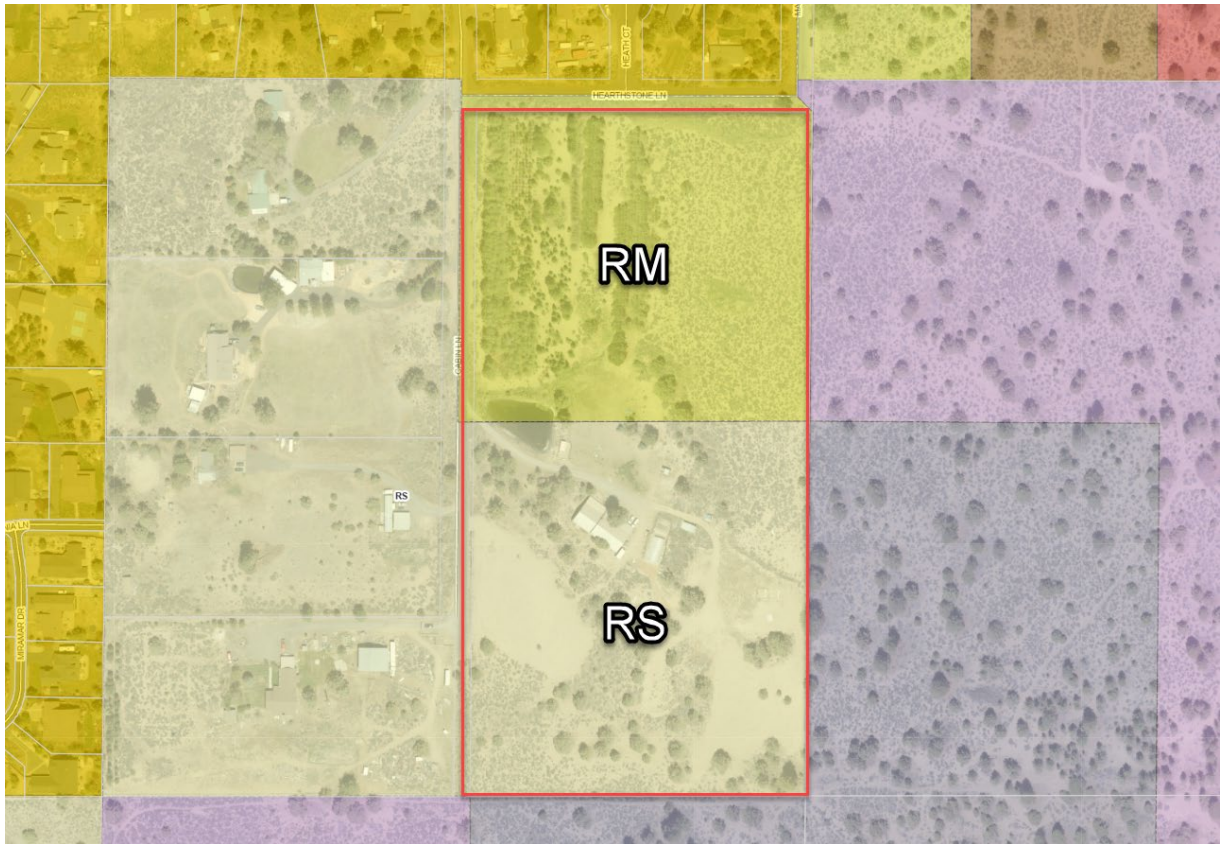
FINDINGS OF FACT:

- 1. SITE DESCRIPTION AND LOCATION:** The 19.12-acre subject property is identified as 61150 Cabin Lane (TL181250000500). It is located south of Hearthstone Lane, abutting the City limits along Hearthstone Lane to the north. The eastern boundary of the property aligns with the future southward extension of Magnolia Lane. The western boundary of the



property abuts Cabin Lane, a private street. The subject property includes the eastern half (30 feet) of Cabin Lane. The property is currently developed with several farm and utility buildings and one dwelling unit.

- ZONING:** The subject property is in Deschutes County in the Bend Urban Growth Boundary and the Southeast Area Plan. The property is zoned Urbanizable Area (“UA”). The Bend Comprehensive Plan designates approximately 8.46 acres of the northern portion of the property as Medium Density Residential (RM), and approximately 10.66 acres of the southern portion of the property as Standard Density Residential (RS). Upon annexation, the Zoning Districts will be updated to reflect the Comprehensive Plan designations.



Current Comprehensive Plan Designations for the subject property

- PROPOSAL:** A Tyle III Quasi-judicial request for Annexation of approximately 19 acres in the Southeast Area to include City zoning designations of Medium Density Residential (RM) and Standard Density Residential (RS) upon Annexation. The applicant has submitted a Land Division proposal for the site, consisting of 151 lots (103 single unit detached dwelling lots and 48 townhome lots), to be developed over four phases (PLLD20230395). The land division proposal will be considered by the City after the annexation goes into effect and will be reviewed administratively at that time.
- PUBLIC NOTICE AND COMMENTS:** Prior to submittal of this application and related applications, the Applicant hosted a public meeting on April 26, 2023, in accordance with BDC 4.1.215. Public notice for this City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On November 28, 2023, the

Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the subject property, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on November 28, 2023, and posted in *The Bulletin* on November 30, 2023 and December 7th, 2023. On November 27, 2023, the Applicant posted *Notice of Proposed Development* signs along the property frontages at two locations, visible from adjacent rights of way.

- 5. APPLICATION ACCEPTANCE DATE:** This Type III Quasi-Judicial Annexation petition was submitted on June 29, 2023 and the full application fee was paid on June 30, 2023. The application was deemed incomplete on July 21, 2023, and was accepted as complete with the submission of previously missing materials on November 13, 2023.

APPLICATION OF THE CRITERIA:

Bend Development Code

Chapter 4.9, Annexations

4.9.200 Applicability.

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

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

4.9.300 Review Processes.

A. Annexation. The following general processes apply to all annexation proposals:

- 1. Annexations are reviewed using the Type III or Type IV process as determined by the City, based on a consideration of the factors for treating an application as quasi-judicial or legislative. Since annexations are a jurisdictional transfer, the City Council is the sole review authority.**
- 2. City Council approval of annexations will be by ordinance.**
- 3. Notice of the City Council hearing to consider the annexation proposal must follow the notification process required for the Type III or Type IV application, except a notice of the hearing must be published in a newspaper of general circulation in the City once each week for two successive weeks prior to the day of hearing, and notices of the hearing must be posted in four public places in the City for a like period.**

FINDING: The proposed annexation is initiated by the property owners and is therefore considered a quasi-judicial application. Notice for the City Council Hearing followed the notification process required for Type III applications, as well as the requirements for publishing notice in the newspaper and in four public places as required by BDC 4.9.300.A.3.

On November 28, 2023, the Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the subject property, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on November 28, 2023, and posted in *The Bulletin* on November 30, 2023 and December 7, 2023. On November 27, 2023, the Applicant posted *Notice of Proposed Development* signs along the property frontages at two locations, visible from adjacent rights of way.

B. Development Review Requirements.

1. **Unless exempted in subsection (B)(1)(a) of this section, expansion areas as shown in Figure 4.9.300 will require land use approval in accordance with Table 4.9.300 prior to or concurrently with annexation. For properties located within an approved area plan, also see subsection (B)(2) of this section. The exemptions to master planning in BDC Chapter 4.5, Master Plans, are not applicable to properties in the Urbanizable Area (UA) District. Development in expansion areas must comply with the applicable Bend Comprehensive Plan Specific Expansion Area Policies in Table 4.9.300.**
2. **Properties located within an approved area plan must comply with the following prior to or concurrently with annexation:**
 - a. **An applicant must provide a development proposal (e.g., site plan review or land division) for the entire property for evaluation of compliance with the applicable approval criteria (e.g., a site plan review proposal is subject to BDC 4.2.500(D) and a land division is subject to BDC 4.3.300(E), and specific expansion area policies in the Bend Comprehensive Plan Chapter 11, Growth Management.**
 - b. **In lieu of a master plan application for any property or combination of adjacent properties under common ownership totaling 20 acres or larger, the applicable master plan approval criteria in BDC Chapter 4.5, Master Plans, will be assessed along with the approval criteria of the respective development proposal cited above in subsection (B)(2)(a) of this section.**
3. **Final procedural steps and decision issuance for concurrent development applications will occur after the annexation ordinance becomes effective.**

Table 4.9.300 - Specific Expansion Area Policies

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

FINDING: The subject property is in the “Elbow” UGB expansion area, also known as the Southeast Area. Since this property lies within an approved area plan, the Southeast Area Plan, no master plan application is required nor is a master plan application proposed. Concurrent with the annexation application, however, the Applicant is required to submit a development proposal for the entire property.

The Applicant has submitted a Land Division proposal (PLLD20230395) for 151 lots (103 single unit detached dwelling lots and 48 townhome lots). The land division proposal will be reviewed administratively after the annexation goes into effect. These findings are for the annexation only. Final procedural steps and decision issuance for the land division will occur after the annexation is effective.

4.9.400 Initiation Procedures.

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

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

FINDING: The land proposed to be annexed in the annexation proposal is comprised of one property with multiple owners. All property owners consented in writing to annexation in compliance with the A.1, per the submitted annexation application packet. There are no registered electors residing in the property.

4.9.500 Submittal Requirements.

A. The application must include:

- 1. A completed and signed annexation application packet on forms provided by the City.**
- 2. A petition including the statement of consent, on City forms, completed by property owners and/or electors residing in the territory that meets the requirements of BDC 4.9.400, Initiation Procedures.**
- 3. Legal description of the territory including abutting right-of-way to be annexed and a boundary survey certified by a registered engineer or surveyor.**
- 4. A map showing the territory including abutting right-of-way to be annexed and properties within 300 feet of the territory.**
- 5. A narrative which addresses the approval criteria in BDC 4.9.600 and the requirements of BDC 4.9.300(B).**

FINDING: The application materials uploaded to the project file for PLANX20230396 contain all of the items listed above. These submittal requirements are met.

- 6. A letter or other written documentation from the Bend Park and Recreation District which indicates that the applicant has met with the District to discuss the proposed annexation, and provided the District an opportunity to review the annexation area for options to enhance existing parks and trails, and develop new parks and trails.**

FINDING: The Applicant received a letter from the Bend Parks and Recreation District (BPRD) dated April 20, 2023, which was submitted with this annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #28. The letter indicates that the district has no planned trails within the proposed annexation area, nor is BPRD requesting coordination of the development of a neighborhood park in the proposed area. This requirement is met.

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

FINDING: The Applicant's petition to annex the subject property into the BPRD service area was accepted by Deschutes County on July 13, 2023. The annexation was subsequently recorded on October 10, 2023, under Document No. 2023-25249 and is included in the project file. This requirement is met.

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

FINDING: The Applicant received a letter from the Bend-La Pine School District (BLPSD) dated July 11, 2023, which was submitted with this annexation application and is included in the project file. The letter shows that BLPSD was provided an opportunity to comment on the proposed annexation and shows coordination between the Applicant and BLPSD. No comments were provided by BLPSD. This requirement is met.

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

- a. A map of all appurtenant water rights.**
- b. A surveyed map of any district facility (e.g., canal, head gate, and crossing) that clearly identifies easements, rights-of-way, access roads, etc., for any conveyance facilities that may remain that are either irrigation district owned or privately owned on the property upon annexation.**
- c. A signed statement by the applicant, including any letters or other written documentation provided by the irrigation district, confirming that the applicant has met with the irrigation district to discuss the proposed annexation and the extent to which any issues identified in BDC 4.9.600(A)(6) have been resolved or, if they have not yet been resolved, setting forth a plan with a timeline to resolve any issues.**

FINDING: The subject property is located within the Arnold Irrigation District. The Applicant received a letter from Arnold Irrigation District dated March 3, 2023, which was submitted with this annexation application and is included in the project file. The letter states that the subject property does not have any Arnold Irrigation District water rights appurtenant to it, nor does it have any assets, facilities or easements that are the property of the district. With the inclusion of the letter, the application constitutes a signed statement that the Applicant has met with Arnold Irrigation District to discuss the proposed annexation and resolve any issues. This requirement is met.

10. If the City has not yet amended its public facilities and transportation plans for the affected expansion area, inclusion of an applicant initiated amendment to the relevant plan(s) or other evidence that the necessary infrastructure planning under Statewide Planning Goals 11 and 12 will take place prior to or concurrently with annexation.

FINDING: The Applicant and City staff have closely coordinated to identify necessary water, sewer, and transportation infrastructure improvements to serve the site based on the planned land uses per the land division proposal (PLLD20230395). The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the Applicant and the City.

The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202300232), and a Traffic Impact Analysis prepared by Transight Consulting, LLC (reviewed under PRTFR202300290). These documents indicate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with the subsequent subdivision development. The annexation agreement memorializes the Applicant's obligation to improve the area with urban infrastructure constructed to City of Bend Standards. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development.

Subsequent to the effective date of the annexation, the land division proposal (PLLD20230395) will be reviewed by the City of Bend. The supporting analyses document that the site can be designed in conformance with Bend Development Code requirements. As required by the Bend Development Code standards, the proposed development will extend public facilities to and through the property.

Upon annexation approval, the Applicant will undertake all required steps to design and extend services (as required through the subsequent Land Division process) to accommodate the proposed development of the site. The proposal is consistent with the current public facilities master plans (including the Integrated Water System Master Plan, Collection System Master Plan, and Transportation System Plan). The materials uploaded to PLANX20230396 and PLLD20230395 demonstrate that the property can be provided public facilities and services concurrent with development. The proposal is therefore consistent with Statewide Planning Goal 11 and 12. With the Annexation Agreement, Goal 11 and 12 will be satisfied.

4.9.600 Approval Criteria.

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

- 1. The annexation proposal is consistent with the Bend Comprehensive Plan policies and plan designations applicable to the territory as determined by the Planning Director or designee.**

FINDING: The proposed annexation consists of approximately 19 acres located within the Southeast Area (known as the “Elbow” UGB Expansion Area in BDC 4.9.300). The annexation is subject to Bend Comprehensive Plan (BCP) Policies 11-59 through 11-68 (Annexations) and 11-93 through 11-104 (Specific Expansion Area Policies for the Elbow). Findings of compliance with these policies are presented below. This criterion is met.

Chapter 11 Growth Management

Annexation Policies

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

FINDING: As provided in BDC 4.9.100, the City of Bend has established procedures and criteria for annexation under the provisions of the Oregon Revised Statutes (ORS), including but not limited to ORS Chapter 222. By complying with BDC Ch. 4.9, the annexation application will follow the procedural requirements of state law.

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

FINDING: As demonstrated throughout these findings, the annexation will be consistent with the applicable Bend Comprehensive Plan policies, and applicable procedures and approval criteria of the BDC.

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

FINDING: The submitted annexation application includes a development proposal (PLLD20230395) consisting of a 151-lot residential subdivision (4 phases). The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202300232), and a Traffic Impact Analysis prepared by Transight Consulting, LLC (reviewed under PRTRF202300290). These documents demonstrate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend urban facilities and services in association with subdivision development. The annexation agreement memorializes the Applicant’s obligation to improve the area with urban infrastructure constructed to City of Bend Standards. Additionally, the Applicant submitted a letter signed by the BLPSD stating there were no comments on the proposed annexation. A letter was also provided from BPRD stating that there are no park requirements within the area to be annexed. The Applicant and BPRD have executed an annexation agreement for the subject property to be included in the park district boundaries.

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

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

FINDINGS (11-62 and 11-63): The subject property is located within the boundary of the Southeast Area Plan (SEAP), which was adopted in 2021 under Ordinance No. 2405. As addressed in the findings under Policy 11-93 below, the conceptual land division (PLLD20230395) that would be administratively reviewed after the annexation is effective is consistent with the applicable policies of the SEAP.

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

FINDING: The property to be annexed is contiguous to City limits on the property’s northern boundary, along Hearthstone Lane.

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

FINDING: At 19.12 gross acres in size, the subject property is under the 20-acre threshold required for master plans; thus, no master plan is required. A draft annexation agreement was submitted by the Applicant with the application materials. The draft annexation agreement was revised and finalized through close coordination between the Applicant and the City of Bend. The annexation agreement will ensure subsequent development applications include infrastructure improvements and compliance with SEAP policies.

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

FINDING: The subject property is currently developed with several farm and utility buildings, and one dwelling unit. The submitted annexation application includes a conceptual development proposal (PLLD20230395) consisting of a 151-lot residential subdivision (4 phases). The annexation agreement memorializes Applicant’s obligation to modernize and construct existing infrastructure on the property up to City of Bend standards. Accordingly, the subsequent review of the subdivision proposal will include requirements to install infrastructure in compliance with City standards to ensure adequate urbanization of the annexed area. Infrastructure improvements anticipated with the future subdivision proposal include $\frac{3}{4}$ street improvements to Cabin Lane, $\frac{3}{4}$ street improvements to Magnolia Lane, and full street improvements for five new local streets. Water and sewer mains will be extended to and through the property.

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

FINDING: The Applicant and City staff have worked together closely to identify necessary infrastructure improvements to serve the subject property and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the Applicant and the City.

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

FINDING: The subject property is within the boundary of the SEAP and at 19.12 gross acres is under the threshold of 20 acres to require a master plan application or compliance with master plan approval criteria (BDC 4.5.200.E, Community Master Plans). As addressed in the findings under Policy 11-93 below, the conceptual land division (PLLD20230395) is consistent with the SEAP.

Specific Expansion Area Policies: The Elbow a.k.a Southeast Expansion Area

11-93 The City adopted an Area Plan for the Elbow area, also known as the Southeast Expansion Area, which became effective on May 21, 2021. The Area Plan addresses policies 11-94 through 11-104. Annexation and development of individual properties or groups of properties of any size, consistent with the Area Plan, may be approved in compliance with the Bend Development Code.

FINDING: The subject property is approximately 19 acres and is located within the boundary of the SEAP, specifically within the Northeast Subarea of the SEAP. Pages 55-60 of the SEAP Summary Report¹ describe the Northeast Subarea as “a walkable mixed-use community and a complementary neighbor to the existing neighborhoods to the north and west. Residential uses are planned to transition from low-density development west of Magnolia Lane to medium and higher densities east of Magnolia Lane...”. The figure below illustrates “community design opportunities” for the Northeast Subarea of the Southeast Area.

The associated development proposal (PLLD20230395) will implement this vision for the Northeast Subarea of the SEAP with a 151-lot subdivision west of Magnolia Lane, creating a transition zone between the higher density / commercial development to the east and the existing low-density development to the west. The development will contain townhomes in the northern portion of the property in the RM designated area, and single unit detached dwellings to the southern portion of the property in the RS designated area.

The SEAP code requires preservation of significant trees and rock outcroppings (BDC 2.7.3360). While the SEAP identified two potential rock outcroppings within the subject property, subsequent field observations and analysis show that these outcroppings do not meet the minimum height or size as required to be considered significant. The proposed land division (PLLD20230395) shows the site contains five significant trees as defined in the SEAP (trees

¹ Southeast Area Plan Summary Report:
<https://www.bendoregon.gov/home/showpublisheddocument/48999/638144923125930000>

over 24" in DBH). Tree preservation will be addressed in further detail upon review of the formal subdivision application (PLLD20230395).

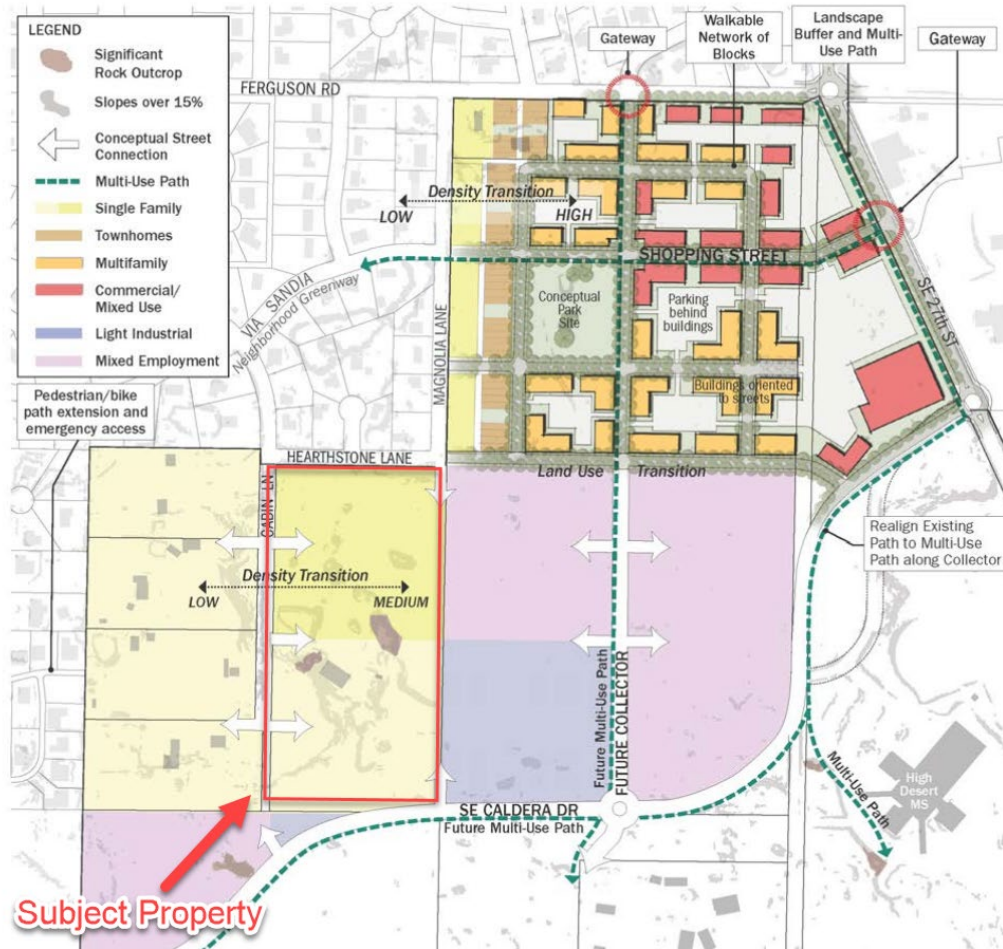


Figure 17, Northeast Subarea Community Design Opportunities (SEAP Report Page 56)

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

FINDING: The SEAP designates the southern portion of the subject property for lower-density residential uses (specifically designated for residential standard density). This area was specifically designed to help transition from existing low-density residential lots with single-unit homes (located west of the subject property, within current city limits) to medium and higher density / commercial development further east of the subject property (approved under the North Peak annexation, Ordinance No. NS-2469). The area proposed for annexation includes development of a 151-lot subdivision (PLLD20230395) which will contain both medium and standard densities, ideal for the transition area.

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

FINDING: The subject property accounts for approximately 19 acres of residential land to the Southeast Area, as designated in the Bend Comprehensive Plan and the SEAP.

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

FINDING: The subject property accounts for 10.66 acres of RS-designated land and 8.46 acres of RM-designated land to the Southeast Area, as designated in the Bend Comprehensive Plan and the SEAP.

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

FINDING: The SEAP, consistent with the Transportation System Plan, planned for a north-south collector street aligned with Ferguson Court. To address this policy, a collector street was proposed under the North Peak annexation, Ordinance No. NS-2469, northeast of the subject property. The current annexation request is west of this street alignment and therefore not included with the proposal.

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

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

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

FINDING: As shown in the SEAP and TSP, no low-stress networks or multi-use paths are located in the area planned for annexation under this application.

All proposed and extended streets within the conceptual development under PLLD20230395 will be classified as local streets to provide for connectivity. All five proposed streets within the conceptual development will be fully improved. While Cabin Lane (which borders the western boundary of the subject property) is presently a private street, adequate right-of-way will be dedicated to the City to provide at least a ¾ local street improvement from the existing Cabin Lane intersection with Hearthstone Lane to the southern extent of the subject property. The future development also includes extending Magnolia Lane south as a local street from the existing terminus in the northeast corner of the subject property, where it intersects with Hearthstone Lane (at City limits). Caldera Drive is conceptually proposed to intersect with

Magnolia Lane with the buildout of the Raintree Drive development to the southwest; however, construction of this intersection will be a requirement of the Raintree Drive development and is not required to be constructed by this Applicant. At the time Caldera Drive is constructed by the adjacent developer, it will include facilities for a low stress network as identified on the Transportation System Plan (TSP) and in the SEAP. As proposed, the transportation network complies with the TSP and the SEAP, and satisfies this policy.

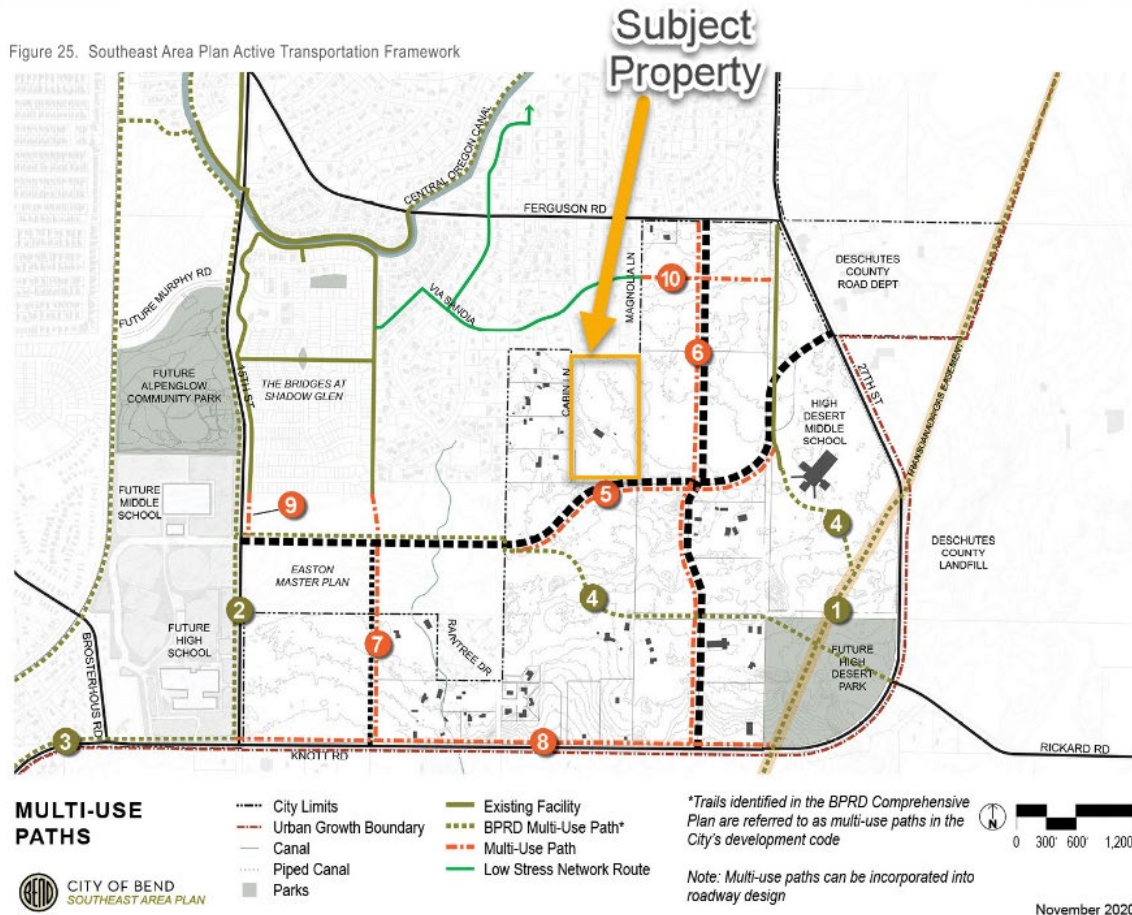


Figure 25, Southeast Area Plan Active Transportation Framework (SEAP Report Page 79)

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

FINDING: The Applicant received a letter from BPRD dated April 20, 2023, which was submitted with the annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #28. The letter indicates that the district has no planned trails within the proposed development area, nor is BPRD requesting coordination of the development of a neighborhood park in the proposed area. This requirement is met.

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

FINDING: The Applicant received a letter from BLPD dated July 11, 2023, which was submitted with the annexation application. The letter shows that BLPD was provided an

opportunity to comment on the proposed annexation and shows coordination between the Applicant and BLPSD. No comments were provided by BLPS. This requirement is met.

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

FINDING: The associated land division proposal (PLLD20230395) includes Will-Serve letters from the Avion Water Company, Central Electric Cooperative, TDS/Bend Broadband, Cascade Disposal, and Cascade Natural Gas. This policy is met.

11-103 *The City will ensure that a total of 38 acres designated for industrial land uses on the Comprehensive Plan map with the 2016 UGB expansion that were subsequently changed to non-industrial designations through adoption of the Southeast Area Plan will be replaced to ensure an adequate supply of industrial land for industrial jobs. The City will designate new industrial lands on the Comprehensive Plan map through a rezoning of land within the UGB and/or an amendment adding land to the UGB, and within five years of the City Council's adoption of the Southeast Area Plan.*

FINDING: This policy is directed toward future action by the City to designate additional industrial lands elsewhere in the UGB. This policy does not apply to the subject property or current application.

11-104 *The City will ensure that a total of 28.5 acres of land designated for commercial land uses on the Comprehensive Plan map with the 2016 UGB expansion that were subsequently changed to non-employment designations through adoption of the Southeast Area Plan will be replaced to ensure an adequate supply of commercially designated land for commercial uses. The City will complete an inventory of existing commercial lands and evaluation of need for new commercial lands within seven years of the City Council's adoption of the Southeast Area Plan. The City may replace these commercial lands through a rezoning of land within the UGB, an amendment to the UGB that adds land for commercial land uses, or some combination of the two.*

FINDING: This policy is directed toward future action by the City to designate additional commercial lands elsewhere in the UGB. This policy does not apply to the subject property or current application.

4.9.600 Approval Criteria. (continued from page 9)

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

FINDING: The subject property is located within the boundary of the SEAP, which was adopted in 2021. The proposed annexation is consistent with applicable SEAP policies as described throughout these findings. At 19.12 gross acres, the property is under the threshold of 20 acres to require a master plan application or compliance with master plan approval criteria (BDC 4.5.200.E, Community Master Plans).

- 3. The proposal demonstrates how the annexed territory is capable of being served by public facilities and services with adequate capacity as determined by the City, including sanitary sewer collection, domestic water, transportation, schools, and**

parks, consistent with the City's adopted public facility plans, transportation system plan, and applicable district plans, either as provided in an applicable area or master plan or by demonstrating how such public facilities and services will be provided in an orderly, efficient and timely manner.

FINDING: As noted in findings above, the Applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the subject property and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in the annexation agreement between the Applicant and the City.

The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202300232), and a Traffic Impact Analysis prepared by Transight Consulting, LLC (reviewed under PRTFR202300290). These documents indicate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with future subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments. The property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development. No requirements for additional parks or trails on the property have been identified by BPRD, though the property has been annexed into BPRD boundaries. This criterion is met. This criterion is met.

- 4. The proposal demonstrates how public facility and service impacts, including as applicable: on- and off-site improvements, construction and modernization of existing infrastructure (water, sewer, stormwater, transportation) to City standards and specifications, and impacts to existing infrastructure inside the City's current city limits, will be adequately mitigated through an annexation agreement or other funding mechanism approved by the City Council prior to annexation. The City will use the standards and criteria of BDC Chapter 4.7, Transportation Analysis, for analysis and mitigation of transportation impacts.**

FINDING: The Applicant and City staff have coordinated closely to identify necessary infrastructure improvements to serve the subject property and the planned land uses based on the conceptual land division proposal. The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the Applicant and the City. This criterion is met.

- 5. Owner(s) have committed to transfer all irrigation district water rights from the property, unless exempted in subsection (A)(5)(a)(i) of this section.**
- 6. Sufficient evidence acceptable to the City has been provided demonstrating that the irrigation district had an opportunity to review the layout and design for any impacts on irrigation district conveyance facilities and to recommend reasonable protections for such facilities consistent with the irrigation district's adopted rules and regulations, system improvement plans and/or development policies.**

FINDING (4.9.600.A.5 and .6): The subject property is located within the Arnold Irrigation District. A letter from the Arnold Irrigation District was provided in the application materials (and is included in the project file), which states that the subject property does not have any Arnold

Irrigation District water rights appurtenant to it, nor does it have any assets, facilities or easements that are the property of the district. These criteria are met.

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

4.6.600 Transportation Planning Rule Compliance.

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

FINDING: The subject property is designated in the Bend Comprehensive Plan as a combination of Residential Standard Density (RS) and Residential Medium Density (RM). Upon annexation, the existing zoning of Urbanizable Area (UA) will be converted to RS and RM, implementing the land use designation.

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

To ensure compliance with the SEAP, all future development within the SEAP area is required to contribute \$323 per PM peak hour trip to ODOT to mitigate impacts to ODOT facilities, which will be assessed at the final plat for each phase within the subdivision.

- 8. The proposal demonstrates how rights-of-way will be improved to urban standards as determined by the City, including rights-of-way in cherry stem annexations.**

FINDING: All internal and abutting rights-of-way will be dedicated and improved to City of Bend urban standards per the submitted land division proposal (PLLD20230395) and as required by the annexation agreement. This criterion is met.

4.9.700 Zoning of Annexed Areas.

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

FINDING: The Bend Comprehensive Plan designates approximately 8.46 acres of the northern portion of the property as Medium Density Residential (RM), and approximately 10.66 acres of the southern portion of the property as Standard Density Residential (RS). Upon annexation, the current UA zoning will cease to apply, and the zoning map will be automatically updated to implement the applicable underlying Comprehensive Plan Map designation. The applicable criteria are met.

Exhibit E
Zoning Map

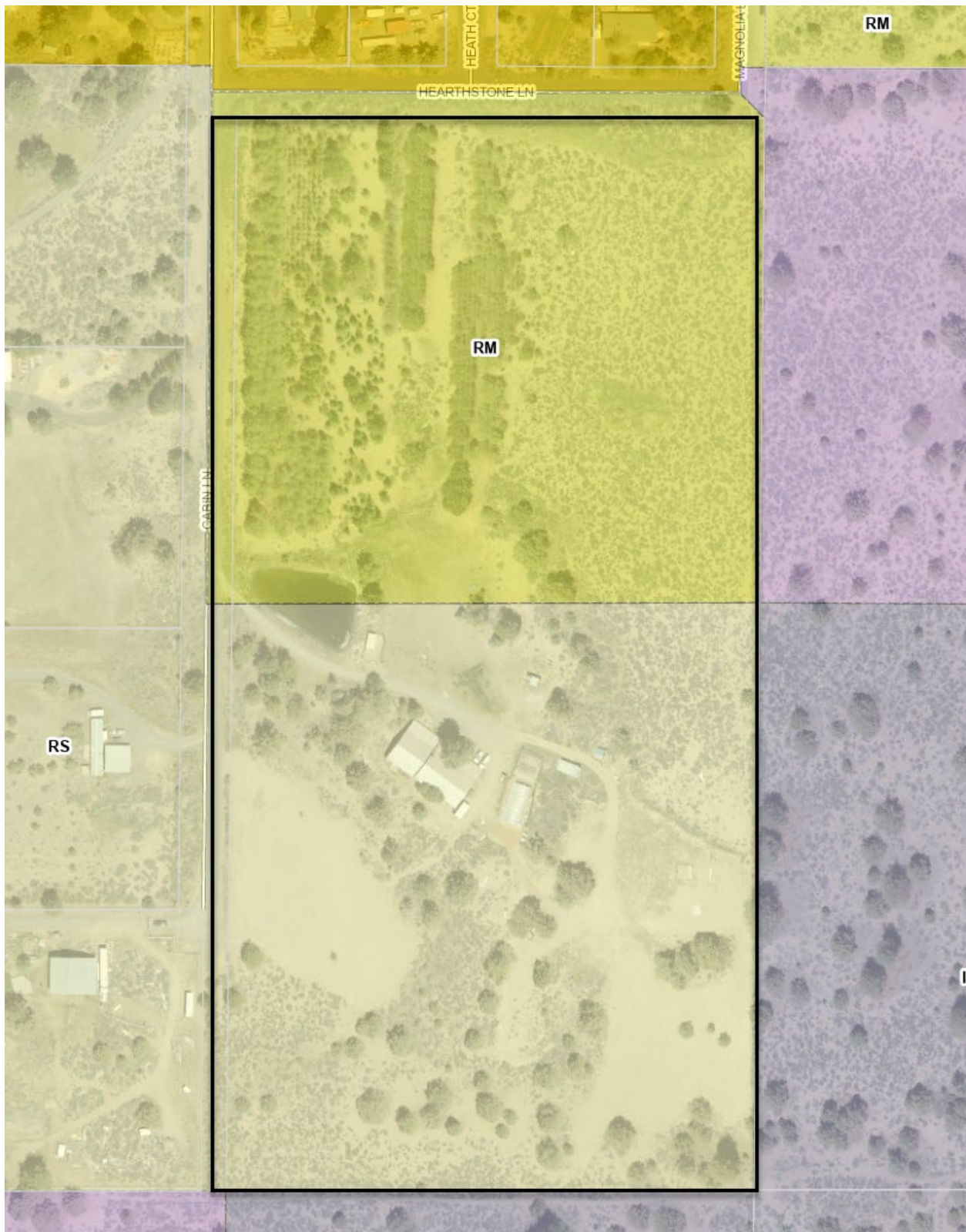


Exhibit F – Sign District Map

No changes

FIGURE 9.50.040 Sign District Map

