

ORDINANCE NO. NS - 2408

AN ORDINANCE ANNEXING APPROXIMATELY 12.1 ACRES OF LAND IN A PORTION OF THE NORTHEAST EDGE UGB EXPANSION MASTER PLAN AREA, FOR EXPANSION OF THE PETROSA MASTER PLANNED DEVELOPMENT.

Findings:

- A. Bend Development Code Section 4.9.400A.3 provides for annexation of real property to the City when 100 percent of the property owners that represent more than half the assessed value of all real property in the contiguous territory proposed to be annexed consent to the annexation.
- B. The City received an application for annexation of the territory shown on Exhibit B and described in Exhibit C (the "Area").
- C. One hundred percent of property owners within the Area have filed statements of consent to this annexation.
- D. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On April 1, 2021, notice was mailed by the Planning Division to surrounding owners of record of property within 500 feet of the subject properties, and to the Mountain View and Boyd Acres Neighborhood Association representatives. Notice was also posted in four public places on April 2, 2021, and posted in The Bulletin on April 4, 2021 and April 11, 2021. On April 6, 2021, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at three locations, no more than 10 feet from adjacent rights of way.
- E. The City Council held a public hearing on April 21, 2021 to receive evidence and comments on the question of annexation.
- F. The Area is contiguous to the City limits of the City of Bend along the west and north boundaries of the properties within the Area.
- G. The abutting rights of way were previously annexed into the City limits.
- H. The applicant and the City have reached agreement on a proposed Annexation Agreement that sets forth the obligations of the applicant for the provision of urban infrastructure needed to serve the newly annexed area and other areas.

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

- Section 1. The territory containing approximately 12.1 acres of land as described in Exhibit A and depicted in Exhibit B, is annexed to the City of Bend upon the Annexation Agreement (Exhibit C) taking

effect.

Section 2. The City Manager is authorized to execute the Annexation Agreement (Exhibit A) in the substantially the form presented to Council.

Section 3. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit D.


Section 4. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated in accordance with the Modification to the Petrosa Master Planned Development (PLMOD20210109), which is consistent with the underlying Comprehensive Plan designations.

First Reading: April 21, 2021

Second reading and adoption by roll call May 5, 2021

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

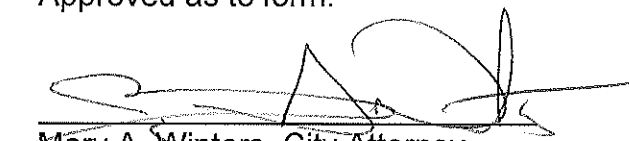
NO: none


Sally Russell, Mayor

Attest:


Robyn Christie, City Recorder

Approved as to form:


Mary A. Winters, City Attorney

After recording, return to:

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

FIRST AMENDMENT TO PETROSA ANNEXATION AGREEMENT

This First Amendment to Petrosa Annexation Agreement ("Amendment") is made this 10th day of June, 2021 between the City of Bend ("City") and Pahlisch Homes, Inc. (the "Owner").

RECITALS

1. On February 19, 2020, the City adopted Ordinance No. NS-2363 (the "Ordinance"), approving the annexation of approximately 186 acres of land within the Petrosa Master Planned Development (the "Master Plan") and authorizing the execution of the Annexation Agreement attached to the Ordinance as Exhibit A (the "Annexation Agreement").
2. On March 12, 2020, the Annexation Agreement was recorded in the real property records of Deschutes County, Oregon at Document No. 2020-11217.
3. Pursuant to PLMOD20210109, the Owner has sought to amend the Master Plan to include approximately 12 additional acres of land south of Butler Market Road into the Master Plan area, more particularly identified on Exhibits A through D (the "Additional Property");
4. Under Section 5 of the Annexation Agreement, Owner was required to construct a multi-use path more particularly identified on Exhibit F1(L) (the "Multi-Use Path").
5. Based on subsequent discussions and negotiations with the Bend Parks and Recreation Department and the City, the parties have determined that the Multi-Use Path is no longer necessary.
6. Through this Amendment, the parties desire to add the Additional Property to the Annexation Agreement and remove the obligation to construct the Multi-Use Path.

AGREEMENT

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

1. **Annexation of Additional Property.** The Owner will seek approval to amend the Master Plan under BDC Chapter 4.5 concurrent with approval of this Amendment. This Amendment will become effective upon the authorized signatures of all parties, approval of the amendment to the Master Plan by the City Council, and expiration of all applicable appeal periods or when the City's approval of the amendment to the Master Plan is otherwise final. The Annexation Agreement is hereby amended to include the Additional Property. The Additional Property is hereafter a part of the Master Plan and is subject to all terms and conditions of the Annexation Agreement.
2. **Multi-Use Path.** Exhibit F1(L) to the Annexation Agreement is hereby deleted in its entirety. The Owner shall have no further obligation to construct the Multi-Use Path.
3. **Effect of Amendment:** Except as specifically modified in this Amendment, all terms, covenants and conditions of the Annexation Agreement remain unmodified and in full force and effect. By executing this Amendment, the parties agree and covenant that the Annexation Agreement remains in full force and that no default exists under the Annexation Agreement.
4. **Invalidity.** If any provision of this Amendment is deemed unenforceable or invalid, such enforceability or invalidity will not affect the enforceability or validity of any other provision of this Amendment.
5. **State Law.** The validity, meaning, enforceability and effect of this Amendment and the rights and liabilities of the parties shall be determined in accordance with the laws of the State of Oregon.
6. **Effective Date.** This Amendment will become effective upon authorized signatures by all parties.

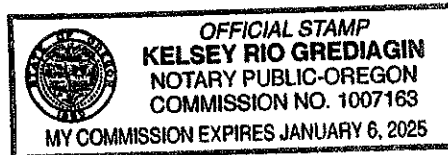
SIGNATURES ON NEXT PAGE

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

OWNER:


Jerry Jones Jr., Senior Director of Land Development
Pahlisch Homes, Inc.

State of Oregon)
)
County of Deschutes)



This instrument was acknowledged before me on June 10, 2021, by Jerry Jones Jr., Senior Director of Land Development of Pahlisch Homes, Inc.


Notary Public for Oregon


CITY OF BEND


Eric King, City Manager

STATE OF OREGON)
)
County of Deschutes)

This instrument was acknowledged before me on June 11, 2021, by Eric King as City Manager of the City of Bend.




Notary Public for Oregon



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6777

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

EXHIBIT A

City of Bend Annexation

A tract of land and road rights-of-way located in the Northwest One-Quarter of Section 23, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the North One-Quarter corner of said Section 23; thence along the north line of said North One-Quarter, North $89^{\circ}58'58''$ West 1285.16 feet to the northerly extension of the easterly right-of-way line of Deschutes Market Road (30.00 feet from centerline); thence along said northerly extension and said easterly right-of-way line, South $00^{\circ}01'30''$ East 380.97 feet; thence continuing along said easterly right-of-way line on a curve to the right with a Radius of 127076.62 feet, Delta of $01^{\circ}15'20''$, Length of 566.80 feet, and a Chord of South $00^{\circ}06'10''$ West 566.80 feet; thence South $00^{\circ}13'50''$ West 650.29 feet to the westerly right-of-way line of North Unit Main Canal and the True Point of Beginning; thence along said westerly right-of-way line, North $74^{\circ}12'02''$ East 160.43 feet; thence continuing along said westerly right-of-way line on a curve to the left with a Radius of 196.50 feet, Delta of $75^{\circ}01'00''$, Length of 257.28 feet, and a Chord of North $36^{\circ}41'32''$ East 239.29 feet; thence North $00^{\circ}48'58''$ West 37.39 feet to the north line of the Southeast One-Quarter of the Northwest One-Quarter of said Section 23 and the Bend city limits line; thence along said south line and along said city limits line, North $89^{\circ}57'41''$ East 160.01 feet to the easterly right-of-way line of North Unit Main Canal; thence along said easterly right-of-way line and continuing along said city limits line, South $00^{\circ}48'58''$ East 35.25 feet; thence continuing along said easterly right-of-way line and said city limits line on a curve to the right with Radius 356.50 feet, Delta $75^{\circ}00'38''$, Length of 466.72 feet, and Chord of South $36^{\circ}41'43''$ West 434.10 feet; thence continuing along said easterly right-of-way line and said city limits line, South $74^{\circ}12'02''$ West 194.78 feet to the northerly line of Document Number 2012-39283; thence along said northerly line and continuing along said city limits line, North $87^{\circ}35'08''$ East 152.21 feet to the easterly line of said Deed; thence along said easterly line and continuing along said city limits line, South $00^{\circ}19'13''$ East 103.65 feet; thence leaving said city limits line and continuing along said easterly line, South $00^{\circ}19'13''$ East 145.95 feet to the southerly line of said Deed; thence along said southerly line, North $89^{\circ}42'13''$ West 165.62 feet to the easterly right-of-way line of Deschutes Market Road (30.00 feet from centerline) and to said city limits line; thence along said easterly right-of-way line and along said city limits line, North $00^{\circ}13'50''$ East 405.64 feet to the True Point of Beginning.

The above described tract of land contains 3.06 acres, more or less.

03/05/2021

REGISTERED
PROFESSIONAL
LAND SURVEYOR

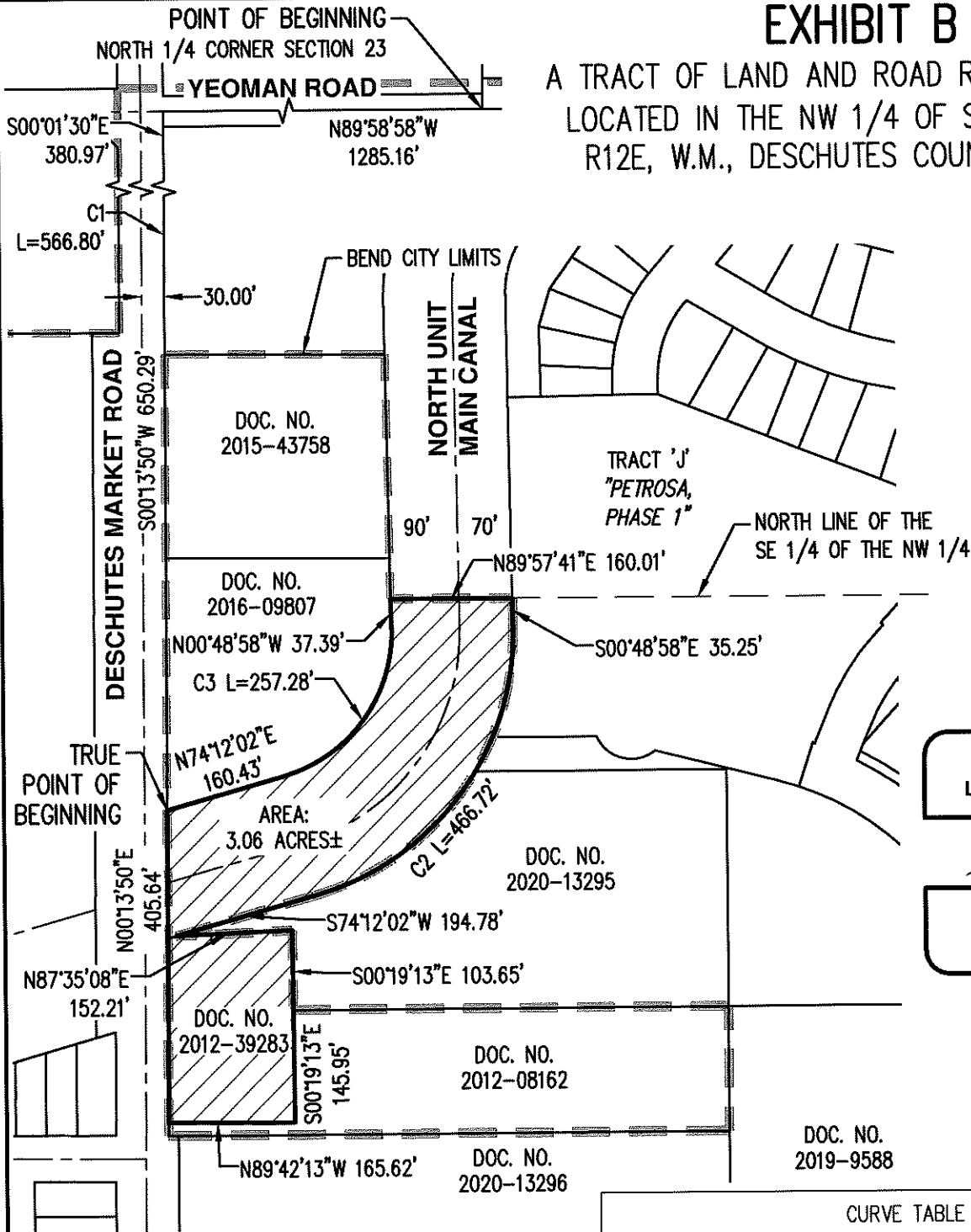
Mike Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEW: 6/30/21

EXHIBIT B

A TRACT OF LAND AND ROAD RIGHTS-OF-WAY
LOCATED IN THE NW 1/4 OF SEC. 23, T17S,
R12E, W.M., DESCHUTES COUNTY, OREGON

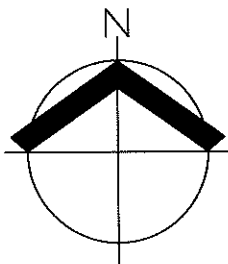


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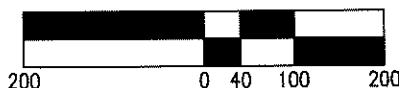
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael S. Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/21



SCALE: 1"= 200 FEET



CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	127076.62'	0°15'20"	566.80'	S0°06'10"W 566.80'
C2	356.50'	75°00'38"	466.72'	S36°41'43"W 434.10'
C3	196.50'	75°01'00"	257.28'	N36°41'32"E 239.29'

CITY OF BEND ANNEXATION

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM

AKS

EXHIBIT
B

DRWN: MHJ
CHKD: MSK
AKS JOB:
6777



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6777

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

EXHIBIT C

City of Bend Annexation

A tract of land and road rights-of-way, located in the Southeast One-Quarter of Section 23, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the South One-Quarter corner of said Section 23; thence along the west line of said Southeast One-Quarter, North 00°03'06" West 2600.25 feet to a line parallel with and 40.00 feet southerly of the north line of said Southeast One-Quarter; thence along said parallel line, North 89°53'31" East 30.00 feet to the True Point of Beginning; thence continuing along said parallel line and along the city of Bend city limits, North 89°53'31" East 538.60 feet to the west line of Document Number 2013-12256; thence leaving said parallel line and said city limits line tracing said westerly line on the following courses: South 29°40'14" East 82.17 feet; thence South 24°26'45" East 56.56 feet; thence South 22°35'16" East 67.59 feet; thence South 26°16'21" East 90.21 feet; thence South 16°31'06" East 46.45 feet; thence South 01°00'50" East 24.80 feet; thence South 25°53'02" West 46.29 feet; thence South 36°02'54" West 35.25 feet; thence South 25°07'19" West 45.64 feet; thence South 11°36'02" West 25.96 feet; thence North 89°43'45" East 35.20 feet; thence South 07°17'55" East 53.44 feet; thence South 14°07'12" East 33.22 feet; thence South 21°28'09" East 67.29 feet to the northerly line of Document Number 2014-7579; thence along said northerly line, South 89°55'15" West 691.94 feet to a line parallel with and 30.00 feet easterly of the west line of said Southeast One-Quarter and to said city limits line; thence along said parallel line and said city limits line, North 00°03'06" East 620.08 feet to the True Point of Beginning.

The above described tract of land contains 9.08 acres, more or less.

10/21/2020

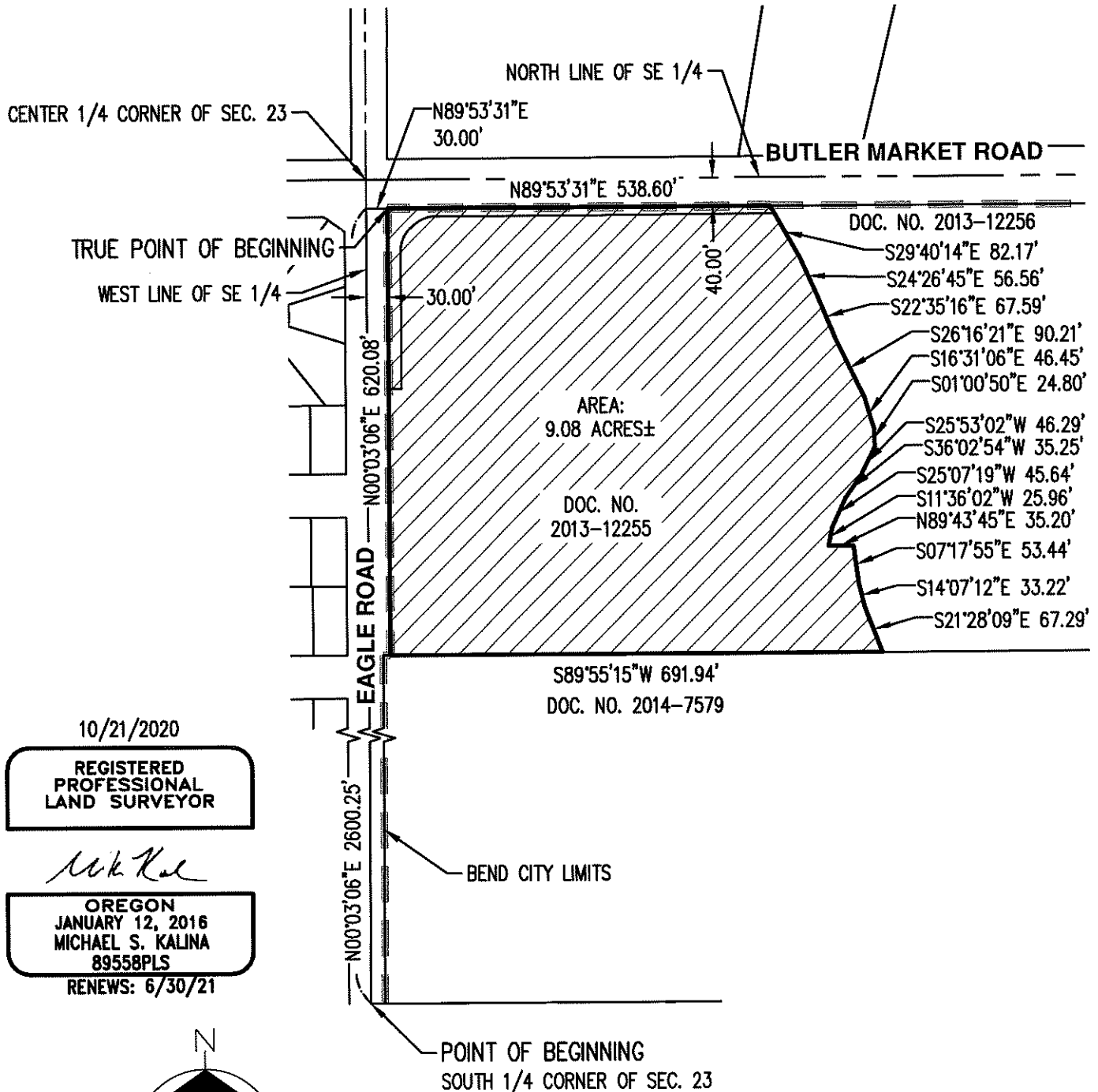
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/21

EXHIBIT D

A TRACT OF LAND AND ROAD RIGHTS-OF-WAY LOCATED IN THE
SE 1/4 OF SEC. 23, T17S, R12E, W.M., DESCHUTES COUNTY, OREGON



CITY OF BEND ANNEXATION

EXHIBIT
D

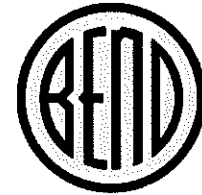
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503.563.6151 WWW.AKS-ENG.COM

AKS

DRWN: MHJ
CHKD: MSK
AKS JOB:
6777

EXHIBIT D

**FINDINGS FOR
PETROSA ANNEXATION**



**COMMUNITY
DEVELOPMENT**

PROJECT NUMBER: PLMOD20210236

HEARING DATE: April 21, 2021

APPLICANT: Pahlisch Homes, Inc.
210 SW Wilson Ave #100
Bend, OR 97702

OWNERS: Jennifer Lynn and Magdalena Beth Davidson
63060 Deschutes Market Road
Bend, OR 97701

North Unit Irrigation District
2024 NW Beech St
Madras, OR 97741

Stewart Revocable Trust
21435 Butler Market Rd
Bend, OR 97701

LOCATIONS: 63060 Deschutes Market Rd, Bend, OR 97701; Tax Lot 1712230000711
21435 Butler Market Rd, Bend, OR 97701; Tax Lot 1712230001501
No situs address; Tax Lot 1712230000099

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

COMP PLAN: Commercial (CG) – Tax Lot 771
Residential Standard Density (RS) – Tax Lots 99 & 1501

REQUEST: A Type III Quasi-judicial request for Annexation of 12.1 acres of the
Northeast Edge UGB Expansion Area to expand the Petrosa Master
Planned Development.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Criteria

Bend Development Code

Chapter 4.9 Annexations

Bend Comprehensive Plan

Chapter 7, Transportation Systems

Chapter 11, Growth Management

Oregon Administrative Rules

Procedures

Bend Development Code

Chapter 4.1 Development Review and Procedures

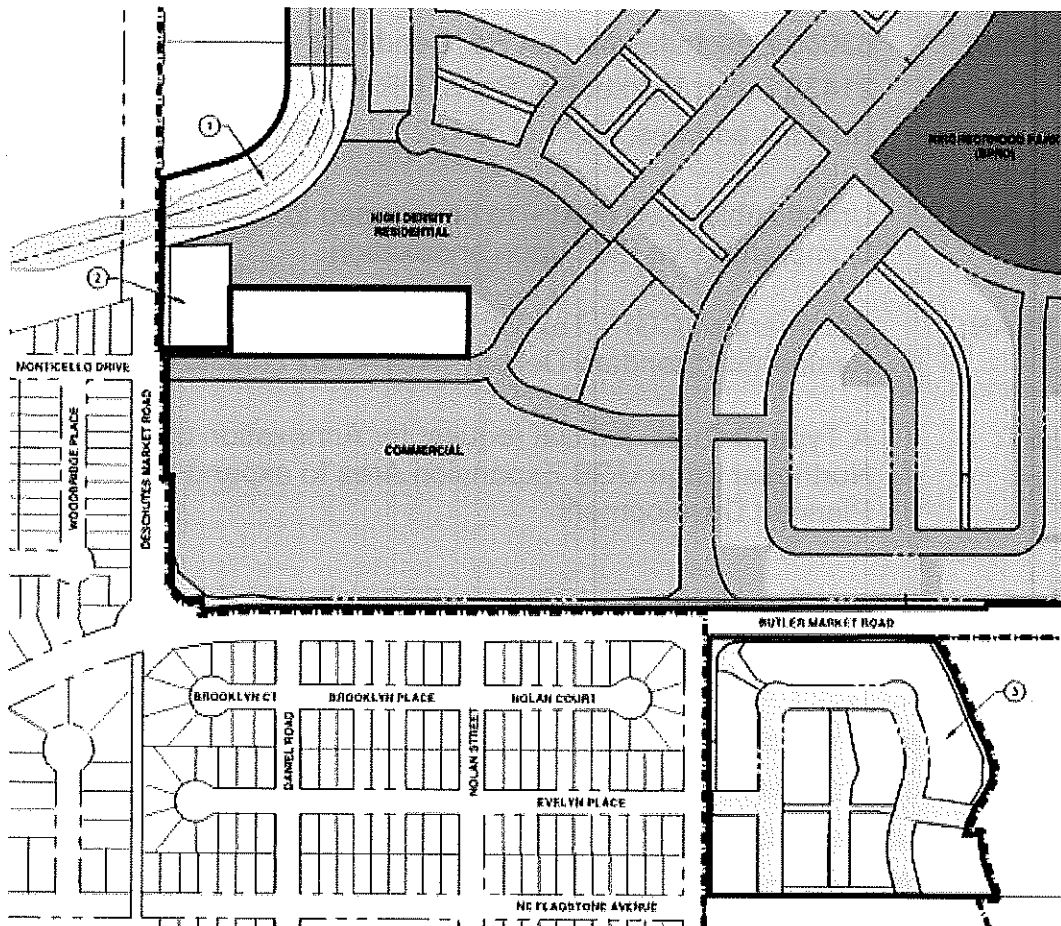
4.1.400 Type II and Type III Applications

4.1.800 Quasi-Judicial Hearings

FINDINGS OF FACT:

- 1. SITE DESCRIPTION AND LOCATIONS:** As currently approved, the Petrosa Master Plan encompasses 177 acres of the 261-acre Northeast Edge Urban Growth Boundary (UGB) Expansion Area. The properties planned to be added to the Petrosa master plan total ± 12.1 acres and include three tax lots. Tax Lots 99 and 711 are located at the western boundary of the Northeast Edge Expansion Area along Deschutes Market Road. The third property to be added is located south of Butler Market Road and east of Eagle Road.

Tax Lot 99 is ± 2.1 acres, designated RS, and contains a portion of the North Unit Irrigation District (NUID) canal. Tax Lot 771 is ± 0.9 acres, designated CG, and contains a single-family home. Tax Lot 1501 is ± 9.1 acres, designated RS, and contains two single-family homes and various outbuildings. Existing vegetation across all three properties is typical of the northeast side of Bend and includes coniferous trees—primarily juniper—of varying heights and maturities.



3. **PROPOSAL:** A Type III Quasi-judicial request for Annexation of 12.1 acres of the Northeast Edge UGB Expansion Area for the expansion of the Petrosa Master Planned Development.
4. **PUBLIC NOTICE AND COMMENTS:** Prior to submittal of this application and related applications, the applicants hosted a virtual public meeting through Zoom on October 14, 2020, in accordance with BDC 4.1.215. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On April 1, 2021, the Planning Division mailed notice to surrounding owners of record of property within 500 feet of the subject properties, and to the Mountain View and Boyd Acres Neighborhood Association representatives. Notice was also posted in four public places on April 2, 2021, and posted in *The Bulletin* on April 4 and April 11, 2021. On April 6, 2021, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at three locations, visible from adjacent rights of way.
5. **APPLICATION ACCEPTANCE DATE:** This Type III Quasi-judicial Annexation petition was submitted on March 5, 2021. The application was deemed complete on April 1, 2021.

APPLICATION OF THE CRITERIA:

Bend Development Code

Chapter 4.9, Annexations

4.9.200 Applicability.

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

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

4.9.300 Review Processes.

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

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

FINDING: The proposed annexation is initiated by all of the property owners for specific properties, and is therefore considered a quasi-judicial application. Notice for the City Council Hearing followed the notification process required for Type III

applications, as well the requirements for publishing notice in the newspaper and in four public places as required under BDC4.9.300.A.3.

On April 1, 2021, notice was mailed by the Planning Division to surrounding owners of record of property within 500 feet of the subject properties, and to the Mountain View and Boyd Acres Neighborhood Association representatives. On April 2, 2021, Notice of Proposed Development signs were posted by the applicant along the property frontages at three locations, visible from adjacent rights of way. Notice was also posted in four public places on April 2, 2021, and posted in The Bulletin on April 4 and April 11, 2021.

B. Area and Master Planning. Unless exempted in subsection (B)(1) of this section, expansion areas as shown in Figure 4.9.300 will require area and/or master plan approval prior to or concurrently with annexation. The exemptions to master planning in BDC Chapter 4.5, Master Planning and Development Alternatives, are not applicable to properties in the Urbanizable Area (UA) District. Development in expansion areas must comply with the applicable Bend Comprehensive Plan Specific Expansion Area Policies in Table 4.9.300.

Table 4.9.300 - Specific Expansion Area Policies

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies
Northeast – Butler Market Village	11-74 through 11-81

FINDING: The subject properties are located in the Northeast Edge (Butler Market Village) expansion area. The planned annexation includes three tax lots, totaling 12.1 acres, added to the Petrosa Master Plan, as well as abutting rights-of-way not already annexed into the City. With the addition of 12.1 acres of new land, Petrosa will encompass 189.1 contiguous acres of the 261-acre Northeast Edge UGB Expansion Area.

The Petrosa Master Plan was adopted in April 2020. A concurrent modification to that major community master plan was submitted on January 28, 2021, under PLMOD20210109. On March 8, 2021, the Planning Commission made a recommendation to the City Council for approval of the modification to the Petrosa MPD. The Petrosa MPD modification is scheduled to be heard by the City Council concurrently with this annexation request. As addressed in the Planning Commission findings for PLMOD20210109, the Petrosa MPD modification complies with Bend Comprehensive Plan Policies 11-74 through 11-81.

4.9.400 Initiation Procedures.

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

- 3. More than half the owners of land in the contiguous territory proposed to be annexed, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory, consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.**

FINDING: The additional Petrosa master plan properties are under contract by Pahlisch Homes, Inc., who has initiated this application and all property owners consented in writing to annexation in compliance with the procedures in A.3.

4.9.500 Submittal Requirements.

A. The application must include:

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

FINDING: The application materials uploaded to CityView for PLANX20210236 contain all of the above requirements.

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

FINDING: The Applicant has coordinated with the Bend Park and Recreation District (BPRD) on the modification to the Petrosa Master Plan. The properties added to the Master Plan will create the opportunity for additional future pathway locations. BPRD identifies the North Unit Canal Trail as a high priority in their 2018 Comprehensive Plan, and the City of Bend's Transportation System Plan (TSP) also identifies this facility as a primary multiuse path. Exhibit F of the application submittal includes a letter from BPRD acknowledging the ongoing coordination and communication for this project. The requirement is met.

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

FINDING: The subject property is located within the boundaries of the Bend Park and Recreation District. Therefore, a BPRD annexation agreement is not required.

- 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: Exhibit G of the application submittal is a letter from the Bend-La Pine School District indicating that the ±10.3-acre potential school site can meet their needs for a future elementary school site and the 12.1 acre master plan modification does not trigger the need for additional school sites. The requirement is met.

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

FINDING: Exhibit M includes correspondence from the Central Oregon Irrigation District (COID) confirming ongoing coordination with the Applicant and its consultants on the impacts to existing irrigation. Written comments from COID following application submittal are also included in the project file. Future subdivision applications will further detail existing irrigation facilities, water rights, and how future construction and subdivision will impact these existing conditions. The submittal 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 Petrosa Master Plan contemplated how the entire expansion area can be served by existing or planned utilities, transportation networks, and public services. Throughout the planning process for the Petrosa Master Plan, the Applicant and City staff worked to identify the infrastructure necessary to serve the variety of planned uses within the entire Northeast Edge Expansion Area as they are built out over the next decade and beyond. The sequencing and financing mechanisms for the needed infrastructure were outlined and formalized in the Annexation Agreement with the City (PZ-20-0005) and will be modified to include the additional properties to be annexed (PLANX20210236). The approved Petrosa Master Plan (PZ-19-0515) and the planned modification shows how public facilities, including sanitary sewer and potable water, are available and planned throughout the project site and can serve the properties within the Northeast Edge Expansion Area that are not participating in the Petrosa Master Plan. .

4.9.600 Approval Criteria.

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

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

FINDING: The planned annexation includes 12.1 acres of land to be included in the approved Petrosa Master Plan (PZ-19-0515). The added property will result a complete community encompassing 189.1 acres of the 261-acre Northeast Edge UGB Expansion Area, along with abutting rights-of-way. BCP Policies 11-56 through 11-63 are applicable to the Northeast Edge Expansion Area (i.e. Northeast—Butler Market Village). Compliance with these plan policies is addressed and will be implemented in conjunction with the modification to the Petrosa Master Plan. The modified Petrosa Master Plan will be incorporated into the Bend Development Code (BDC), and future land use applications will be required to demonstrate consistency with the Master Plan for approval. The criterion is met.

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

FINDING: The planned annexation includes 12.1 acres of land located in the Northeast Edge

Expansion Area which will be added to the Petrosa Master Plan (PZ-19-0515) and annexed into the City of Bend. The modified boundary of the Petrosa Master Plan will be incorporated into the Bend Development Code (BDC), and future land use applications will be required to demonstrate consistency with the Master Plan for approval. The Petrosa Master Plan modification (PLMOD20210109) is being reviewed concurrently with this annexation.

- 3. The proposal demonstrates how the annexed territory is capable of being served by public facilities and services with adequate capacity as determined by the City, including sanitary sewer collection, domestic water, transportation, schools, and parks, consistent with the City's adopted public facility plans, transportation system plan, and applicable district plans, either as provided in an applicable area or master plan or by demonstrating how such public facilities and services will be provided in an orderly, efficient and timely manner.**

FINDING: The Applicant and City/Agency staff have worked to identify the infrastructure necessary to serve the variety of planned uses within the entire Northeast Edge Expansion Area as they are built out over the next decade and beyond. The Petrosa Master Plan contemplated how the entire expansion area can be served by existing or planned utilities, transportation networks, and public services. The additional properties to be annexed with this application were evaluated under the original Petrosa Master Plan application. The Annexation Agreement formalized the sequencing and financing mechanisms for needed infrastructure and has been revised to incorporate the additional property. The Petrosa Master Plan Modification (Exhibit C of the application) shows how public facilities, including sanitary sewer and potable water, are available and planned throughout the project site.

The Transportation Element included with the Petrosa Master Plan was prepared by Transight Consulting, LLC, and includes a Transportation Facilities Report, Transportation Impact Analysis, TPR analysis, and proposed mitigation addressing the impacts of the entire Northeast Edge Expansion Area.

Furthermore, the Applicant's traffic engineer submitted a Transportation Facilities Report on October 28, 2020 (BP20-5299) detailing the modification of the Petrosa Master Plan to include three parcels that were already assumed and included in the Petrosa Master Plan transportation documents. The City's Traffic Analysis Memo is included in Exhibit I of the application. Consequently, the modification to the Petrosa Master Plan shows that public facilities and services will be provided in an orderly, efficient, and timely manner. The 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 Petrosa Master Plan contemplated how the entire expansion area can be served by existing or planned utilities, transportation networks, and public services. The additional

properties to be annexed with this application were evaluated under the original Petrosa Master Plan application. The Annexation Agreement formalized the sequencing and financing mechanisms for needed infrastructure and has been revised to incorporate the additional property. The Petrosa Master Plan Modification (Exhibit C of the application) shows how public facilities, including sanitary sewer and potable water, are available and planned throughout the project site.

The Applicant's traffic engineer submitted a Transportation Facilities Report on October 28, 2020 (BP-20-5299) detailing the modification of the Petrosa Master Plan to include three parcels that were already assumed and included in the Petrosa Master Plan transportation documents. The City's Traffic Analysis Memo is included in Exhibit I of the application. An updated Utility Availability Memo – SWA Certificate (SWA 20-5211) provided by the City Engineering Division is included as Exhibit H of the application. A "Will Serve" letter from Avion Water Company is included in Exhibit J of the application.

Consequently, the modification to the Petrosa Master Plan shows that public facilities and services will be provided in an orderly, efficient, and timely manner. The 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: Exhibit M includes correspondence from COID confirming ongoing coordination with the Applicant and its consultants on existing irrigation facilities impacted by this modification, and additional written comment from COID regarding water rights has been uploaded to the project file. In addition, the owners continue to coordinate with COID regarding the transfer of ownership and timing mechanisms. The transfer can occur prior to the platting of a land division or prior to certification of final occupancy for developments subject to site plan review, whichever occurs first. Therefore, the criteria are or can be 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: OAR 660-012 implements Oregon Statewide Planning Goal 12. Goal 12 imposes a requirement on local governments to develop, maintain and update transportation plans consistent with the planning and implementation guidelines of Goal 12. The City's Comprehensive Plan dictates the minimum number of units to be developed within the Northeast

Edge expansion area, and the master plan proposes to meet those requirements. However, compliance with the TPR was not addressed at the time of UGB acknowledgement for the expansion areas, instead being deferred to individual master plan/annexation applications. This section requires a local government to put in place certain measures if an amendment would significantly effect a transportation facility.

The TPR requires a two-step analysis. First, under OAR 660-012-0060(1), the Applicant must determine if the application "significantly affects a transportation facility", as that term is defined in OAR 660-012-0060(1). If not, then the analysis ends, and the TPR is satisfied. The City may rely on transportation improvements found in transportation system plans and planned facilities, as allowed by OAR 660-012-0060(4)(a), (b), and (c), to show that failing intersections are not made worse or intersections not now failing do not fail. If the application "significantly affects a transportation facility," then the Applicant must demonstrate appropriate mitigation under OAR 660-012-0060(2).

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

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

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

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

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

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

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the

remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule.

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

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

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

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

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

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

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

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

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

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

government may proceed with applying subsections (a) through (c) of this section.

FINDING: The Petrosa Master Plan contemplated how the entire expansion area can be served by existing or planned utilities, transportation networks, and public services, and included TPR analysis which considered the subject properties to be added to the Master Plan and annexed into the City. The Applicant and City collaborated on an Annexation Agreement adopted under PZ-20-0005 to formalize the timing and sequencing of transportation improvements necessary to mitigate impacts to, and expand capacity within, the affected transportation facilities; the Annexation Agreement has been revised to incorporate the additional property. For purposes of TPR compliance, through collaborative efforts between the Applicant, Oregon Department of Transportation (ODOT), the City, and Deschutes County, the Applicant is relying on OAR 660-012-0060(2)(e). In particular, the City, County, and ODOT each provided written statements of approval that the system-wide benefits provided through the required mitigation are sufficient to balance the significant effects. The applicable standards are met.

Furthermore, the Applicant's traffic engineer submitted a Transportation Facilities Report on October 28, 2020 (BP-20-5299) detailing the modification of the Petrosa Master Plan to include three parcels that were already assumed and included in the Petrosa Master Plan transportation documents. The City's Traffic Analysis Memo is included in Exhibit I of the application.

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

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

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

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

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

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

constrained regional transportation system plan.

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

FINDING: The Petrosa Master Plan contemplated how the entire expansion area can be served by existing or planned utilities, transportation networks, and public services, and included TPR analysis which considered the subject properties to be added to the Master Plan and annexed into the City. The Applicant and City collaborated on an Annexation Agreement adopted under PZ-20-0005 to formalize the timing and sequencing of transportation improvements necessary to mitigate impacts to, and expand capacity within, the affected transportation facilities. This Annexation Agreement has been revised to incorporate the additional property. For purposes of TPR compliance, through collaborative efforts between the Applicant, Oregon Department of Transportation (ODOT), the City, and Deschutes County, the Applicant is relying on OAR 660-012-0060(2)(e). In particular, the City, County, and ODOT each provided written statements of approval that the system-wide benefits provided through the required mitigation are sufficient to balance the significant effects. The applicable standards are met.

BDC 4.9.600.A. Approval Criteria (*Continued*)

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

FINDING: The Petrosa Master Plan Modification (PLMOD20210109) includes specific street cross-sections showing how all internal and abutting right-of-way will be improved to urban standards. The street cross-sections and transportation network to serve the annexed property is included in Exhibit C of the master plan modification application and will be codified in the BDC. The 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: Upon annexation, the current UA zoning will cease to apply, and the zoning map will be automatically updated with the Petrosa Master Plan zoning scheme that implements the applicable Comprehensive Plan Map designation. The applicable criteria are met.