

ORDINANCE NO. NS - 2467

AN ORDINANCE ANNEXING APPROXIMATELY 41.36 ACRES OF LAND IN THE EXPANDED EAST HIGHWAY 20 UGB EXPANSION MASTER PLAN AREA FOR THE PARKSIDE PLACE MASTER PLANNED DEVELOPMENT, ASSIGNING A SIGN DISTRICT PER BDC 9.50.040.C AND REQUESTING JURISDICTIONAL TRANSFER OF THE RIGHT OF WAY PER ORS 373.270.

Findings:

- A. Bend Development Code Section 4.9.400A.3 provides for annexation of real property to the City when 100 percent of the property owners that represent more than half the assessed value of all real property in the contiguous territory proposed to be annexed consent to the annexation.
- B. The City received an application for annexation of the territory shown on Exhibit A and described in Exhibit B (the "Area").
- C. One hundred percent of property owners within the Area have filed statements of consent to this annexation. There are no registered electors within the Area; the existing structure within the Area is vacant.
- D. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On January 24, 2023, notice was mailed by the Planning Division to surrounding residents and owners of record of property within 500 feet of the subject properties, and to the Larkspur and Mountain View Neighborhood Association representatives. Notice was also posted in four public places on February 1, 2023, and posted in The Bulletin on February 1, 2023 and February 8, 2023. On January 25, 2023, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at three locations, no more than 10 feet from adjacent rights of way.
- E. The City Council held a public hearing on February 15, 2023 to receive evidence and comments on the question of annexation.
- F. The Area is contiguous to the City limits of the City of Bend along the western boundary of the properties within the Area.
- G. 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, attached as Exhibit C.

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

- Section 1. The territory containing approximately 41.36 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 C) 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 to the Parkside Place Master Planned Development zoning scheme (Exhibit E).

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

Section 6. The City deems it necessary and expedient to for the City to acquire jurisdiction and requests that Deschutes County surrender to the City of Bend jurisdiction over the portion of Bear Creek Road within the annexed area in compliance with ORS 373.270.

Section 7. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: February 15, 2023

Second reading and adoption by roll call vote: March 1, 2023

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

NO: none



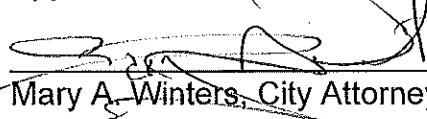
Melanie Kebler, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney

After recording, return to:

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

HAYDEN HOMES – PARKSIDE PLACE MASTER PLAN

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is made this _____ day of _____, 2023 between the City of Bend ("City") and Hayden Homes, LLC an Oregon limited liability company ("Hayden Homes") and Porter Kelly Burns Landholdings, LLC an Oregon limited liability company ("PKB"), collectively referred to as "Owner," who are the owners of record on the real property described in and depicted on Exhibit B ("Property"),

The purposes of this Agreement are:

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

RECITALS

A. Hayden Homes owns and/or is in contract to purchase the Property and intends to develop the Property pursuant to the Bend Comprehensive Plan (the "BCP"), the Bend Development Code (the "BDC") and a City-approved Major Community Master Plan. The Property was brought into the City's Urban Growth Boundary (UGB) via City of Bend Ordinance No. NS-2449, consistent with the Bend Pilot Project approved under HB 4079 and City Resolution 3133 and 3271. The property is contiguous to the City limits. Therefore, the Property is eligible for annexation subject to BDC Chapter 4.9.

B. Hayden Homes intends to develop the Property in accordance with the Revised Concept Plan approved in Resolution 3271 which includes both affordable and market rate housing, a total of 346 units, 138 of which will qualify as affordable under HB 4047.

C. The Property consists of approximately 41.36 acres located on the eastern border of Bend's UGB at 21455 and 21415 Highway 20 in Deschutes County, Oregon.

The development is subject to a major community master plan approval under BDC Chapter 4.5.

D. The Property is currently zoned Urbanizable Area ("UA") and is designated Residential Medium Density ("RM") and Residential High Density ("RH") on the Comprehensive Plan Map.

E. On September 28, 2022 Hayden Homes submitted a request to the City to change the Comprehensive Plan designation of a portion of the property from RM to RS (City File No. PLCPMA20220715), in order to implement the Conceptual Plan of the Bend Pilot Project approved under HB 4079 and City Resolution 3133 and 3271. This request also includes a modification to the Transportation System Plan Map to extend street classification and the low-stress bicycle network onto the Property.

F. On September 28, 2022 Hayden Homes submitted a request to the City to modify Comprehensive Plan Policy 11-82, allowing for northwestern triangle portion of the property to be developed as part of the Parkside Place Master Plan (City File No. PLCPMA20220716).

G. On September 28, 2022 Hayden Homes submitted a request to the City for approval of the Parkside Place Master Plan ((City File No. PLCPMA20220715)).

H. On November 18, 2022, Hayden Homes submitted a request to the City to annex the Property to the City (City File No. PLANX20220849).

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

J. 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 7 of this Agreement, Hayden Homes agrees to comply with all requirements imposed in this Agreement and all other City codes, regulations, and standards applicable to the Property, including the Parkside Place Master Plan. This Agreement is consistent with and intended to implement City Resolutions 3133 and 3271, the intent and purpose of HB 4079 and the implementing regulations and the applicable policies of the BCP.

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 Hayden Homes.** Consistent with the above Recitals, Hayden Homes agrees to perform the obligations of this Agreement and comply with and meet all City codes, standards, and regulations, including the Parkside Place Master Plan. All

exhibits attached are conceptual and nothing in this Agreement prohibits refinements to meet City standards as part of the required development applications.

2. Master Plan Approval. Hayden Homes will seek approval of a Major Community Master Plan under BDC Chapter 4.5 for the Parkside Place Master Plan concurrent with approval of annexation associated with this Annexation Agreement. This Agreement will become effective upon authorized signatures of all parties, approval of the Parkside Place Master Plan, and expiration of all applicable appeal periods or when the City's approval of the Master Plan is otherwise final.

3. Affordable Housing. Hayden Homes will develop the Property in accordance with the Revised Concept Plan which includes both market rate and affordable housing, a total of 346 units, 138 of which will qualify as affordable under the Pilot Project Rules. A Declaration of CC&Rs (Affordable Declaration) must be recorded concurrent with the recordation of this annexation agreement, ensuring the affordable units will remain affordable for at least 50 years.

3.1 Following final plat recordation for each phase and prior to transfer to a third party, Hayden Homes will record a deed restriction for each affordable unit/lot on each newly created parcel of land.

3.2. The market rate units/lots are not subject to the Affordable Declaration. If requested by Hayden Homes, the parties will record an amended Affordable Declaration upon the approval of each final plat with a map showing the affordable units bound by the deed restriction.

4. Phasing Requirement. The affordable housing requirement shall be met in proportion to the development of the Property as specified by this section. Percentages of development on the Property are measured by the number of dwelling units specified in land use decisions. The project phasing and construction will be planned and approved as follows:

4.1. 50% Checkpoint - Prior to the City issuing a Certificate of Occupancy or Building Final Inspection for the 174th dwelling unit, Hayden Homes must document that at least 70 Affordable Housing Units have been issued Certificates of Occupancy.

4.2. 75% Checkpoint - Prior to the City issuing a Certificate of Occupancy or Building Final Inspection for the 260th dwelling unit, Hayden Homes must document that at least 139 Affordable Housing Units have been issued Certificates of Occupancy.

5. Transportation. In order to serve the Property consistent with applicable policies of the BCP and the BDC, Hayden Homes shall construct the transportation system improvements identified in Bend Development Code Sections 2.7.4550 and 2.7.4560 and in Exhibit C pursuant to the phasing and development schedule set forth in the Parkside Place Master Plan.

5.1 **Transportation System SDC Credits.** Pursuant to Bend Municipal Code (BMC) 12.10.130, transportation improvements to Bear Creek Road will be eligible for

50 percent TSDC Credits if that improvement is included in the most current approved and adopted TSDC Project List. If, because of a future update to the TSDC methodology, additional improvements on Bear Creek Road are added to the TSDC Project List before commencement of construction by Hayden Homes for the improvement, Hayden Homes may apply for TSDC credits based on the City's TSDC methodology and code in effect at that time.

5.2 Dedication of Right of Way. Hayden Homes agrees to dedicate sufficient right of way under its control to the City to accommodate the Transportation Projects described in Section 5 above, and to meet the minimum right of way widths required by BDC Chapter 3.4 and the Parkside Place Master Plan. To the extent there is a conflict between the street standards set forth in BDC Chapter 3.4 and those set forth in the Parkside Place Master Plan, the standards in the Parkside Place Master Plan shall control.

6. Water. In order to serve the Property consistent with applicable policies of the Bend Comprehensive Plan and the Bend Development Code, Hayden Homes must construct the water system improvements pursuant to the phasing and development schedule set forth in the land division approval. The property is in the Avion service territory and will be served by Avion water.

7. Sewer. In order to serve the Property consistent with applicable policies of the Bend Comprehensive Plan and the Bend Development Code, Hayden Homes must construct the sewer system improvements pursuant to the phasing and development schedule set forth in the land division approval.

8. Stormwater. Hayden Homes will contain all stormwater consistent with the Parkside Place Master Plan and all applicable City requirements. Hayden Homes will complete all on-site stormwater requirements as required by the Parkside Place Master Plan and all subsequent development applications (e.g., site plan review, subdivision).

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

9.1 Process the application for annexing the Property into the City Limits within two years of the acknowledged urban growth boundary expansion per Ordinance 2447, or August 19, 2024.

9.2 Conduct a timely review of and issue a decision on the Parkside Place Master Plan applications.

10. 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.

11. **Limitations on Development.** Upon annexation Owner agrees that no portion of the Property may be developed (except any activities necessary for the piping of the COID canal) prior to the City's final approval of the Parkside Place Master Plan.

Development of the Property under the Parkside Place Master Plan will be subject to additional land use and permit approval as provided in the BDC.

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

13. **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.

14. **Land Use Approval.** Except as set forth in Section 15 below, nothing in this Agreement is to be construed as waiving any requirements of the Bend Municipal 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.

15. **Exactions.** Hayden Homes knows and understands its rights under *Dolan v. City of Tigard* and its progeny. By entering into this Agreement Hayden Homes waives any requirement that the City demonstrate that the public improvements and other obligations imposed on Hayden Homes in this Agreement or the Parkside Place Master Plan are roughly proportional to the burden and demands placed upon the urban facilities and services by the development of the Property. Hayden Homes acknowledges that the requirements and obligations of Hayden Homes, 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.

16. **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.

17. **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.

18. **Effective Date.** This Agreement will become effective upon authorized signatures by all parties, approval of the Parkside Place Master Plan by the City Council, and expiration of all applicable appeal periods or when the City's approval of the Parkside Place Master Plan is otherwise final.

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

OWNER:

By:
Hayden Homes, an Oregon corporation

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2022, by
_____ of Hayden Homes, an Oregon corporation, on behalf of the
corporation.

Notary Public for Oregon

By:
Porter Kelly Barns Landholdings, LLC,
An Oregon limited liability company

State of Oregon)
)
County of Deschutes)

This instrument was acknowledged before me on _____, 2022, by
_____ of Porter Kelly Barns Landholdings, LLC, an Oregon limited
liability company, on behalf of the corporation.

Notary Public for Oregon

CITY OF BEND

Eric King, City Manager

STATE OF OREGON)
)
County of Deschutes)

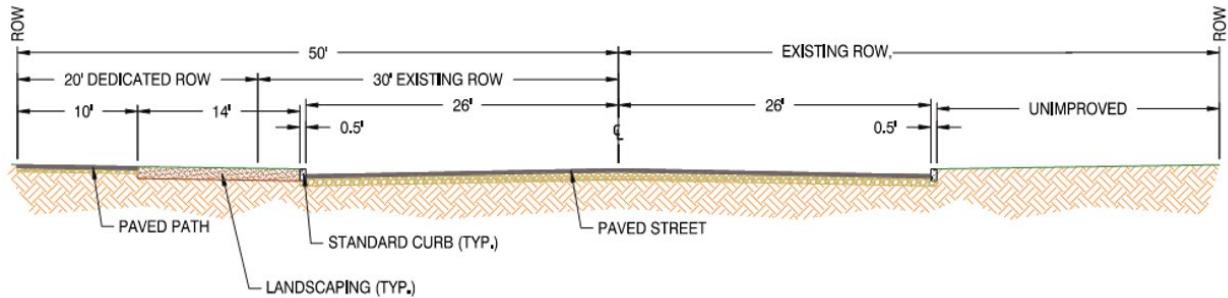
This instrument was acknowledged before me on January ____, 2022, by Eric King as
City Manager of the City of Bend.

Notary Public for Oregon

EXHIBIT A
Legal Description of Property

EXHIBIT B
Map of Property

EXHIBIT C
Bear Creek Improvements



TYPICAL SECTION
ARTERIAL STREET: PARTIAL IMPROVEMENT
BEAR CREEK ROAD
NTS

EXTENTS OF BEAR CREEK ROAD IMPROVEMENTS END AT THE WESTERN PROPERTY LINE AND DO NOT INCLUDE CONSTRUCTION OF A CROSSING OVER COID'S IRRIGATION LATERAL LOCATED OFFSITE AND WEST OF PARKSIDE PLACE'S FRONTAGE. IMPROVEMENT PLAN WILL INCORPORATE STRIPING, TAPERS, AND DELINEATORS TO SAFELY TRANSITION TRAFFIC FROM A TYPICAL COUNTY ROAD SECTION TO A CITY OF BEND ARTERIAL SECTION (TO BE DETERMINED DURING FINAL ENGINEERING DESIGN).

EXHIBIT D



FINDINGS FOR PARKSIDE PLACE ANNEXATION

COMMUNITY DEVELOPMENT

PROJECT NUMBER:	PLANX20220849
HEARING DATE:	February 15, 2023
APPLICANT/ OWNER: (21415 Hwy 20)	Hayden Homes LLC 2464 SW Glacier Pl, Suite 110 Redmond, OR 97756
OWNER: (21455 Hwy 20)	Porter Kelly Burns Landholding LLC 5691 Miramar Dr Frisco, TX 75034
APPLICANT'S REPRESENTATIVE:	Greg Blackmore Blackmore Planning 19454 Sunshine Way Bend, OR 97702
LOCATION:	21455 Hwy 20; Tax Lot 171235DC00100 21415 Hwy 20; Tax Lot 171235DC00200 Between Highway 20 and Bear Creek Road
REQUEST:	A Type III Quasi-judicial request for Annexation of 41.36 acres for the Parkside Place Master Planned Development and abutting rights-of-way (PLSPD20220717).

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Criteria

Bend Development Code

Chapter 4.9, Annexations

Bend Comprehensive Plan

Chapter 7, Transportation Systems
Chapter 11, Growth Management

Oregon Administrative Rules

Chapter 660-012-0000, Transportation Planning

Procedures

Bend Development Code

Chapter 4.1, Development Review and Procedures

- 4.1.400 Type II and Type III Applications
- 4.1.800 Quasi-Judicial Hearings

FINDINGS OF FACT:

- SITE DESCRIPTION AND LOCATION:** The property is located immediately east of the Bend City limits between Highway 20 and Bear Creek Road. The property is identified as 21415 and 21455 Highway 20 and is further identified as Tax Lots 100 and 200 on Deschutes County Tax Assessor's Map 17-12-35DC. The Parkside Place Annexation encompasses 41.36 acres and is bounded by Highway 20 to the north, the Urban Growth Boundary to the east, Bear Creek Road and the Urban Growth Boundary to the south, and the City limits to the west. An existing single-unit dwelling built in 1940 with two outbuildings are located in the southwestern portion of the site next to a large irrigation pond.



- ZONING:** The subject property is located in Deschutes County, in the Bend Urban Growth Boundary and zoned Urbanizable Area ("UA"). The Bend Comprehensive Plan identifies a 1.77 acre area in the northwest quadrant as Residential High Density (RH) and the remainder of the site as Residential Medium Density (RM). A concurrent Comprehensive Plan Map amendment (PLCPMA20220715) proposes to change 23.34 acres of the RM-designated land to RS (Standard Density Residential).
- PROPOSAL:** A Type III Quasi-judicial request for Annexation of 41.36 acres for the Parkside Place Master Planned Development and abutting rights-of-way.
- PROCEDURAL OVERVIEW:** The current proposal is a necessary step to implement Oregon House Bill (HB) 4079, the Affordable Housing Pilot Project. In 2016, the Oregon Legislature passed HB 4079, which formed a pilot program aimed to help cities build affordable housing. The program allows selected cities to add new housing units on lands currently outside their urban growth boundaries (UGBs) without going through the normal UGB expansion process.

The law directed the Land Conservation and Development Commission (LCDC) to set up a process to select two pilot projects. The selected cities would be able to use an expedited UGB process, if at least 30 percent of the newly built housing is affordable and the newly added land is protected for this use for at least 50 years. LCDC adopted the pilot program

process and project requirements in OAR 660-039.

In June 2018 the City of Bend submitted an application to LCDC for the Affordable Housing Pilot Project (utilizing the subject property) and in November 2018 LCDC selected the City of Bend for the Pilot Project. In 2020, the applicant entered into a contract on the pilot project site (with the original developer) and began a revised feasibility study. On September 1, 2021, the Bend City Council adopted Resolution No. 3271 to implement a Revised Concept Plan, based on its selection as a HB 4079 Affordable Housing Pilot Project. In October of 2021, the agency charged with administering the Pilot Project, the Department of Land Conservation and Development (DLCD) approved the modified HB 4079 Plan. The concurrent master plan proposal (PLSPD20220717) is consistent with the Revised Concept Plan approved by DLCD.

In 2016, as part of the City's Comprehensive Plan Update, a small portion (1.77 acres) of the subject property in the northwest corner was included in the UGB and designated High Density Residential (RH). On July 20, 2022, the Bend City Council approved the Urban Growth Boundary expansion to include the remainder of the subject property per Ordinance 2449 (Exhibit Q of this application). This UGB expansion also included a Comprehensive Plan designation of Medium Density Residential (RM) for the property. Deschutes County subsequently approved the Urban Growth Boundary expansion per Ordinance No. 2022-006 (Exhibit R of this application) with a concurrent rezone to Urbanizable Area (UA).

Subsequent to this application/review, additional City of Bend applications needed to implement Oregon HB 4079 – the Affordable Housing Pilot Program include:

- Master Plan (concurrent with Council review of this application)
- Land Division
- Site Plan (for the multi-unit residential development and park)

5. CONCURRENT APPLICATIONS: The applicant has submitted the following applications to be reviewed by the Council concurrently with this annexation application:

- Parkside Place Master Plan (PLSPD20220717)
- Comprehensive Plan Text Amendment to Policy 11-82 and Figure 11-7 (PLTEXT20220716)
- Comprehensive Plan Map Amendment to change 23.34 acres of the RM-designated property to an RS designation and a TSP Map amendment to add road classifications and low stress network to the site (PLCPMA20220715)

Each of these three applications were reviewed by the Planning Commission at a public hearing on January 23, 2023 and recommended to the City Council for approval.

6. PUBLIC NOTICE AND COMMENTS: Prior to submittal of this application and related applications, the applicants hosted a public meeting on September 28, 2022, 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 January 24, 2023, the Planning Division mailed notice to surrounding residents and owners of record of

property within 500 feet of the subject properties, and to the Mountain View and Larkspur Neighborhood Association representatives. Notice was also posted in four public places on February 1, 2023, and posted in *The Bulletin* on February 1 and 8, 2023. On January 25, 2023, *Notice of Proposed Development* signs were posted by the applicant along the property frontages at three locations, visible from adjacent rights of way.

7. APPLICATION ACCEPTANCE DATE: This Type III Quasi-judicial Annexation petition was submitted on November 18, 2022 and the application fee was paid on December 2, 2022. The application was deemed complete on January 5, 2023.



Proposed Comprehensive Plan and Zoning Designations (PLCPMA20220715)

APPLICATION OF THE CRITERIA:

Bend Development Code

Chapter 4.9, Annexations

4.9.200 Applicability.

Parkside Place Annexation

PLANX20220849

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 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 two property owners, and is therefore considered a quasi-judicial application. Notice for the City Council hearing followed the notification process required for Type III applications, as well the requirements for publishing notice in the newspaper and in four public places as required under BDC 4.9.300.A.3.

On January 24, 2023, notice was mailed by the Planning Division to surrounding residents and owners of record of property within 500 feet of the subject properties, and to the Mountain View and Larkspur Neighborhood Association representatives and to those who submitted comments prior to the hearing before the Planning Commission for the Parkside Place Master Plan (PLSPD20220717). On January 25, 2023, 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 February 1, 2023, and posted in The Bulletin on February 1 and 8, 2023.

B. Development Review Requirements.

1. Unless exempted in subsection (B)(1)(a) of this section, expansion areas as shown in Figure 4.9.300 will require area and/or master plan approval 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 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 and Land Use Approval Requirements

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	Land Use Approval Required Prior to or Concurrently with Annexation
East Highway 20 Property	11-82	See BDC 4.9.300(B)(1)(a)(i)

FINDING: A portion of the subject property is located in the East Highway 20 UGB expansion area and the associated Comprehensive Plan Text Amendment (PLTEXT20220716) expands the East Highway 20 UGB expansion area to the entire property and amends Policy 11-82 to provide a framework for the Parkside Place master plan. While Table 4.9.300 indicates a master plan is not required (BDC 4.9.300.B.1.a.i), since the East Highway 20 area subject to Policy 11-82 has been expanded as proposed under PLTEXT20220716, the expanded area exceeds 20 acres and is thus subject to a master plan.

A major community master plan in accordance with BDC Chapter 4.5 was submitted on September 28, 2022, under PLSPD20220717. On January 23, 2023, the Planning Commission made a recommendation to the City Council for approval of the Parkside Place Master Planned Development (MPD). The Parkside Place MPD is scheduled to be heard by the City Council concurrently with this annexation request. As addressed in the Planning Commission findings for PLSPD20220717, the Parkside Place MPD complies with Bend Comprehensive Plan Policy 11-82, as modified under PLTEXT20220716.

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: A portion of the Parkside Place master plan property is owned by Hayden Homes LLC, who has initiated this application. The remainder of the property to be annexed is owned by Porter Kelly Burns Landholding LLC. Both 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, the City's Online Permit Center, for PLANX20220849 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 and BPRD have been in close coordination on the provision of a park and the extension of the Big Sky Park regional trail within the Parkside Place site, as described further and acknowledged in the provided letter from BPRD (Exhibit H of the application). BPRD's 2018 Comprehensive Plan identifies this area as within Park Search Area #14 and the location of a planned trail as an extension of the Big Sky Park regional trail within the western edge of the subject property. The Parkside Place Master Plan provides a 4-acre park in the southwest quadrant of the subject property and an extension of the Big Sky Park trail between Bear Creek Road and Highway 20 to assist BPRD in implementing their 2018 Comprehensive Plan. 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 subject property is within the existing Bend Parks and Recreation District boundary, which extends to Hamby Road along Highway 20. This requirement does not apply.

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 is a letter provided by the Bend-La Pine School District (BLS) indicating coordination between the applicant and BLS and the district's capacity to serve the new housing units proposed on the subject property. 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: Exhibit I_1 of the application indicates the extent of the water rights, irrigation facilities and easements at the time of annexation application submittal. Exhibit I_2 is a letter from the Central Oregon Irrigation District (COID) indicating coordination with the applicant is ongoing. In response to the City's Agency Review notice for the master plan, the COID submitted a letter on December 29, 2022 indicating that the applicant has removed and quitclaimed the water rights back to COID, and will pipe and re-route COID's A-Lateral to COID's specifications subsequent to future subdivision approval. 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: Pursuant to OAR 660-039-0030, which implements HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 11 and 12, except that portion applicable to the impact of development of the pilot project site upon existing and planned public facilities within the qualifying city's urban growth boundary.

The applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Parkside Place site 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. The Parkside Place Master Plan (PLSPD20220717) demonstrates how public facilities, including sanitary sewer and potable water, are available and planned throughout the master plan area.

The concurrent Master Plan (PLSPD20220717) is consistent with the public facilities and services goal that requires the City to plan and develop land in a timely, orderly and efficient fashion, based upon the availability of public services. The concurrent amendment to the Transportation System Plan (TSP), will further memorialize the higher order facilities that are planned to transect the property.

The master plan submittal (PLSPD20220717) includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202207084), and a Traffic Impact Analysis, prepared by Transight Consulting LLC reviewed under PRTFR202108739. These documents indicate the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with future subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development.

Subsequent to a Master Plan decision being rendered on this property, an associated subdivision application will be reviewed by the City of Bend. The Master Plan and supporting analyses document that the site can be designed in conformance with Development Code requirements. As required by Development Code standards, the proposed development will extend public facilities to and through the property.

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

With the Annexation Agreement, which has been submitted for concurrent review of this Master Plan by the City Council (PLANX20210849), Goal 11 and 12 are satisfied, although exempted under HB 4079.

4.9.600 Approval Criteria.

- A. The City Council may approve, or approve with conditions, the proposed annexation application if all of the following criteria are met:**
 - 1. The annexation proposal is consistent with the Bend Comprehensive Plan policies and plan designations applicable to the territory as determined by the Planning Director or designee.**

FINDING: The proposed annexation includes the Parkside Place site and adjacent rights-of-way, consisting of approximately 41.36 acres. The Parkside Place site (identified as East Highway 20 Property in BDC 4.9.300) is subject to the master planning process and BCP Policy 11-82. The applicant has submitted a Major Community Master Plan application for the proposed Parkside Place Master Plan (PLSPD20220717), which demonstrates compliance with Policy 11-82. The Parkside Place Master Plan will be incorporated into BDC Chapter 2.7 as a master plan, and future land use applications will be required to demonstrate compliance with the master plan overlay code for approval. Further, findings of compliance with applicable annexation policies (11-59 through 11-68) 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: This annexation application for the Parkside Place site is submitted consistent with the City's identified procedures, which implement the procedural requirements as set by State law.

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

FINDING: Conformance with applicable Comprehensive Plan policies, annexation procedures, and approval criteria is demonstrated in the findings of this document. This policy is met.

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: As noted in findings above, the applicant and City staff have closely coordinated to identify necessary infrastructure improvements to serve the Parkside Place site 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 Parkside Place Master Plan (PLSPD20220717) demonstrates how public facilities, including sanitary sewer, potable water, and streets are available and planned throughout the master plan area.

The master plan submittal (PLSPD20220717) includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202207084), and a Traffic Impact Analysis, prepared by Transight Consulting LLC reviewed under PRTFR202108739. These documents indicate the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with future subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development. The land area to be annexed includes a site for a future 4-acre park as well as an extension of the Big Sky Park regional trail along the property's western boundary, which is shown in the Parkside Place master plan. This policy is met.

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.

FINDING: A portion of the subject property is located in the East Highway 20 UGB expansion area and the associated Comprehensive Plan Text Amendment (PLTEXT20220716) expands the East Highway 20 UGB expansion area to the entire property and amends Policy 11-82 to provide a framework for the Parkside Place master plan. While Table 4.9.300 indicates a master plan is not required (BDC 4.9.300.B.1.a.i), since the East Highway 20 area subject to Policy 11-82 has been expanded as proposed under PLTEXT20220716, the expanded area exceeds 20 acres and is thus subject to a master plan.

A major community master plan in accordance with BDC Chapter 4.5 was submitted on September 28, 2022, under PLSPD20220717. On January 23, 2023, the Planning Commission made a recommendation to the City Council for approval of the Parkside Place Master Planned Development (MPD). The Parkside Place MPD is scheduled to be heard by the City Council concurrently with this annexation request. As addressed in the Planning Commission findings for PLSPD20220717, the Parkside Place MPD complies with Bend Comprehensive Plan Policy 11-82, as modified under PLTEXT20220716.

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

FINDING: This annexation request is for the Parkside Place site, which is identified as the East Highway 20 property on Figure 4.9.300. This annexation request includes approximately 41.36

acres, including the Parkside Place subject property and portions of public rights-of-way adjacent to the site. The applicant has submitted a Major Community Master Plan application for the site (PLSPD20220717), which was recommended by approval by the Planning Commission on January 23, 2023. Therefore, this plan policy is not applicable because area planning for the site is occurring concurrent with the processing of this annexation request.

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 land proposed for annexation abuts the City limits on portions of its western, boundary, and is therefore contiguous to the existing City limits. A “cherry-stem” annexation is not proposed. This policy is met.

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: The applicant has submitted a Major Community Master Plan application for the site (PLSPD20220717), which was recommended for approval by the Planning Commission on January 23, 2023. Compliance with BCP Policy 11-82 is demonstrated in the applicant’s Major Community Master Plan application. The Parkside Place Master Plan will be incorporated into BDC Chapter 2.7 as a master plan, and future land use applications will be required to demonstrate compliance with the master plan overlay code for their approval.

Furthermore, as detailed in the annexation agreement, the applicant plans to construct affordable housing units in proportion to the development of the property so that the minimum 30% ratio required by HB 4079 and 40% required by the City Council (Resolution 3271) is always met. Covenants on the subject property and the subsequent lots developed with affordable housing units will ensure affordability for at least 50 years. This policy is met.

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 Parkside Place Master Plan (PLSPD20220717) demonstrates how public facilities, including sanitary sewer, potable water and streets, are available and planned throughout the master plan area. The existing septic system serving the subject property will be required to be removed or abandoned. Future land division applications, site plan review applications, and site infrastructure permits will include site-specific analysis to ensure adequate infrastructure systems are constructed per applicable City standards. This policy is met.

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 coordinated closely to identify necessary infrastructure improvements to serve the Parkside Place site and the planned land uses. The sequencing and financing mechanisms for the necessary infrastructure improvements are

outlined in and will be formalized with the annexation agreement between the applicant and the City. This policy is met.

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: This annexation request is for the Parkside Place site, which exceeds 20 acres. This annexation request includes approximately 41.36 acres, which includes the Parkside Place subject property and portions of public rights-of-way adjacent to the site. The applicant has submitted a Major Community Master Plan application for the site (PLSPD20220717), which was recommended for approval by the Planning Commission on January 23, 2023. The annexation and master plan applications will be heard concurrently by the City Council for a final decision.

4.9.600 Approval Criteria. (continued)

- 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 proposed annexation includes the Parkside Place site and adjacent rights-of-way, consisting of approximately 41.36 acres. A portion of the subject property is located in the East Highway 20 UGB expansion area and the associated Comprehensive Plan Text Amendment (PLTEXT20220716) expands the East Highway 20 UGB expansion area to the entire property and amends Policy 11-82 to provide a framework for the Parkside Place master plan. While Table 4.9.300 indicates a master plan is not required (BDC 4.9.300.B.1.a.i), since the East Highway 20 area subject to Policy 11-82 has been expanded as proposed under PLTEXT20220716, the expanded area exceeds 20 acres and is thus subject to a master plan.

A major community master plan in accordance with BDC Chapter 4.5 was submitted on September 28, 2022, under PLSPD20220717. On January 23, 2023, the Planning Commission made a recommendation to the City Council for approval of the Parkside Place Master Planned Development (MPD). The Parkside Place MPD is scheduled to be heard by the City Council concurrently with this annexation request.

- 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 Parkside Place site 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 Parkside Place Master Plan (PLSPD20220717) demonstrates how public facilities, including sanitary sewer, potable water, and streets are available and planned throughout the master plan area.

The master plan submittal (PLSPD20220717) includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202207084), and a Traffic Impact Analysis, prepared by Transight Consulting LLC reviewed under PRTFR202108739. These documents indicate the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with future subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development. The land area to be annexed includes a site for a future 4-acre park as well as an extension of the Big Sky Park regional trail along the property's western boundary, which is shown in the Parkside Place Master Plan.

Therefore, the Parkside Place Master Plan demonstrates that public facilities and services will be provided in an orderly, efficient, and timely manner. 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 Parkside Place site and the planned land uses. The Parkside Place Master Plan (PLSPD20220717) demonstrates how public facilities, including sanitary sewer, potable water and streets, are available and planned throughout the master plan area. The City of Bend Sewer Analysis (PRSWA202207084) and the Transportation Analysis Memo issued under PRTFR202108739 outline the mitigation measures to be implemented upon future subdivision applications. 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.**

FINDING: Exhibit I_1 of the application indicates the extent of the water rights, irrigation facilities and easements at the time of annexation application submittal. Exhibit I_2 is a letter from COID indicating coordination with the applicant is ongoing. In response to the Agency Review notice for the master plan, the COID submitted a letter on December 29, 2022 indicating that the applicant has removed and quitclaimed the water rights back to COID. This criterion is met.

- 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: The COID A-Lateral main canal crosses the western portion of the site. Exhibit I_2 is a letter from COID indicating coordination with the applicant is ongoing. In response to the Agency Review notice for the master plan, the COID submitted a letter on December 29, 2022 indicating that the applicant will pipe and re-route COID's A-Lateral to COID's specifications subsequent to future subdivision approval. This criterion is met.

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

4.6.600 Transportation Planning Rule Compliance.

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

FINDING: OAR 660-012 implements Oregon Statewide Planning Goal 12. Pursuant to OAR 660-039-0030, which implements HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 12, which includes compliance with the Transportation Planning Rule. This criterion does not apply.

Nonetheless, the Traffic Impact Analysis that was included with the master plan application demonstrates that the proposed development (and associated applications) does not have a significant affect; the associated Transportation Analysis Memo issued by the City of Bend outlines specific mitigation measures to be implemented upon future subdivision of the property. The annexation agreement formalizes the transportation improvements necessary to mitigate impacts to, and expand capacity within, the affected transportation facilities, and identifies the specific timing, responsibilities, and cost allocation associated with traffic mitigation. Thus, the proposal will not significantly impact a transportation facility as defined in 660-012-0060 and the proposed concurrent Comprehensive Plan Map and Transportation System Plan Map amendments comply with the TPR.

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 Parkside Place Master Plan (PLSPD20220717) includes specific street cross-sections showing how all internal and abutting rights-of-way will be improved to urban standards. The annexation agreement further demonstrates how rights-of-way will be improved to the applicable City standard. This criterion is met.

4.9.700 Zoning of Annexed Areas.

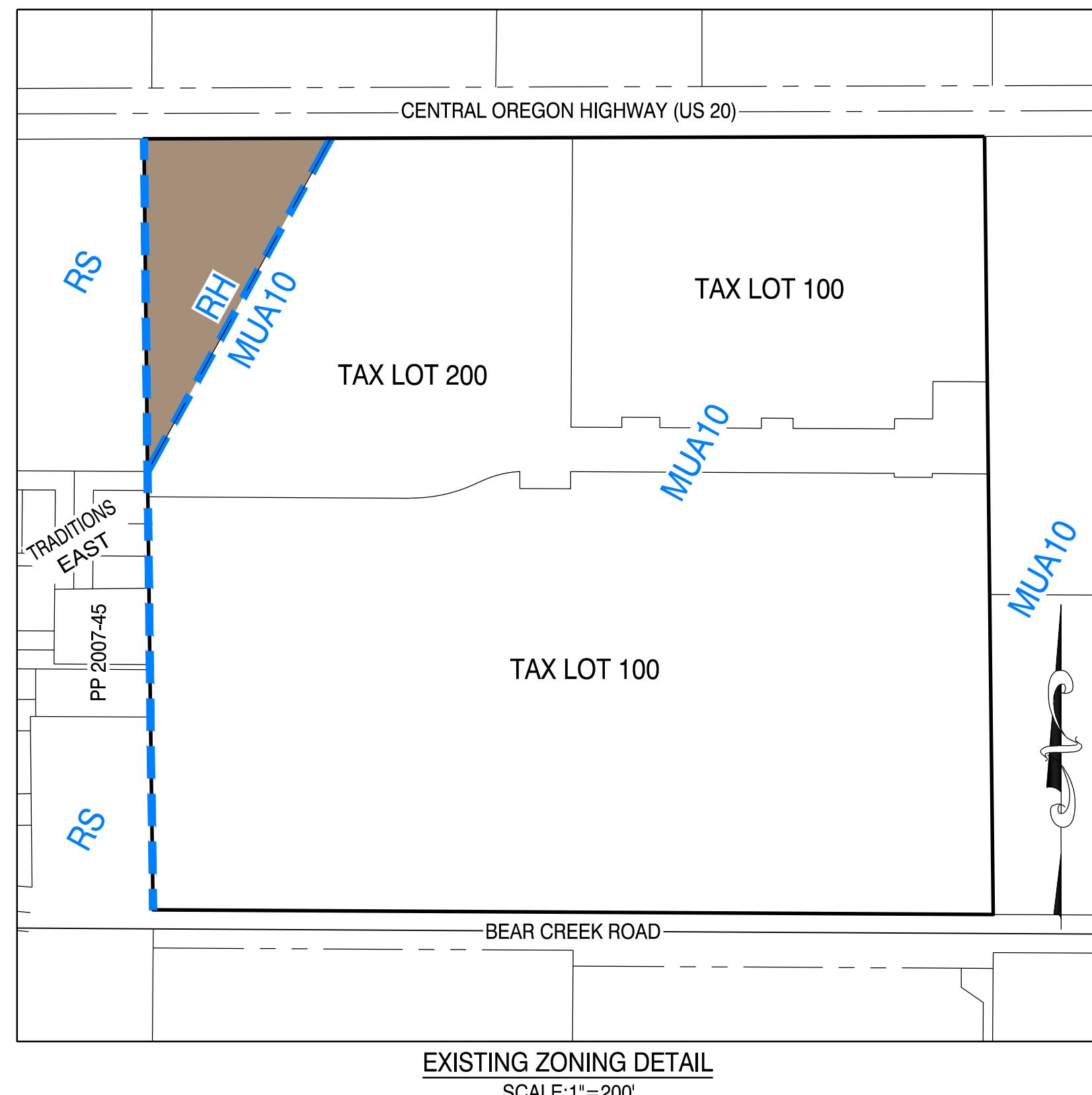
The Bend Comprehensive Plan map provides for the future City zoning classifications of all property within the City's Urbanizable Area (UA) District. On the date the annexation

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 identifies a 1.77 acre area in the northwest quadrant of the project site as Residential High Density (RH) and the remainder of the site as Residential Medium Density (RM). A concurrent Comprehensive Plan Map amendment (PLCPMA20220715) proposes to change 23.34 acres of the RM-designated land to RS (Standard Density Residential).

Upon annexation, the current UA zoning will cease to apply, and the zoning map will be automatically updated with the Parkside Place Master Plan zoning scheme that implements the applicable Comprehensive Plan Map designation, as amended under PLCPMA20220715. The applicable criteria are met.

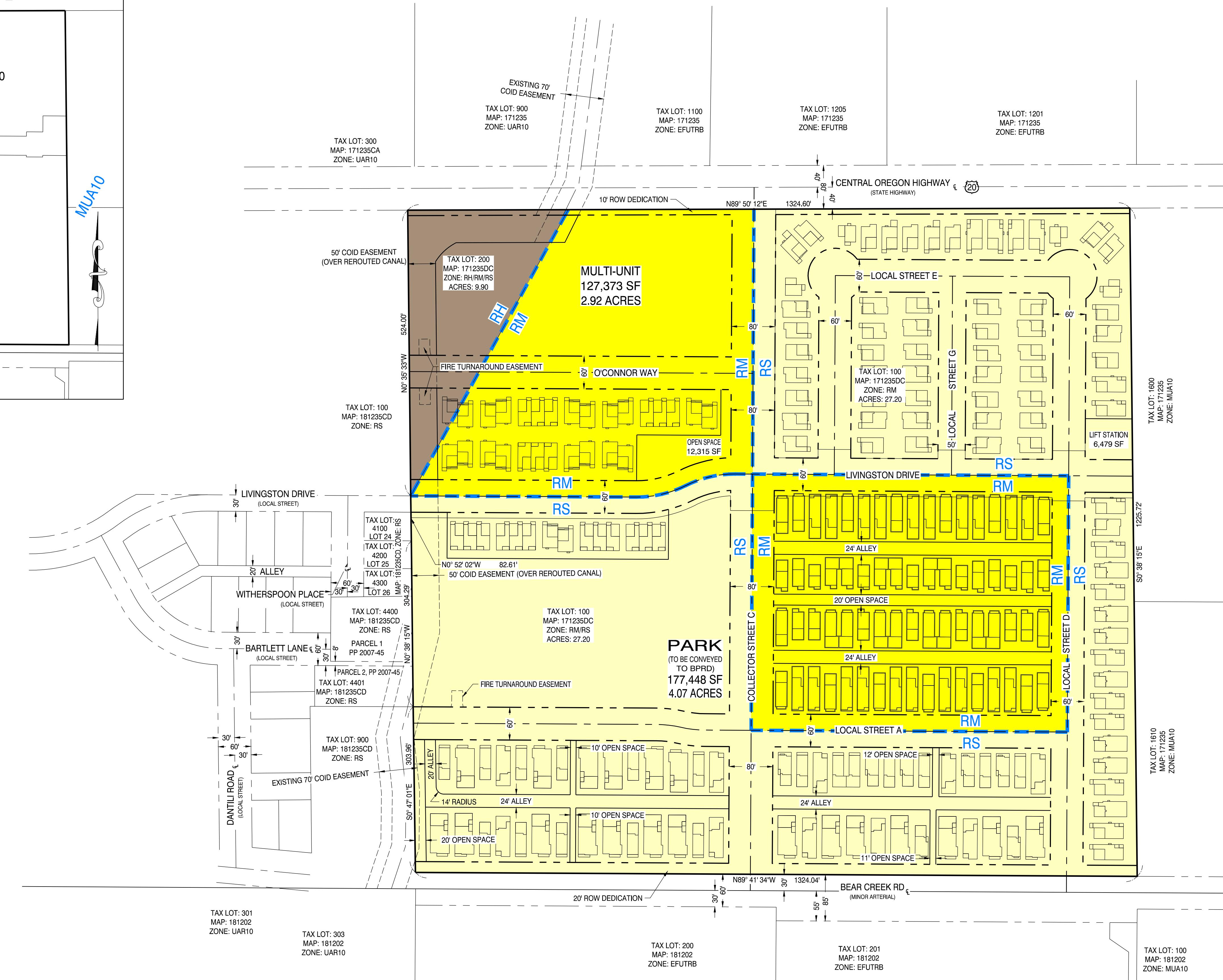
CONCLUSION: Based on the application materials submitted by the applicant, and these findings which are based on the applicant's narrative addressing the relevant criteria for approval, the proposed annexation request meets all applicable criteria for City Council approval.



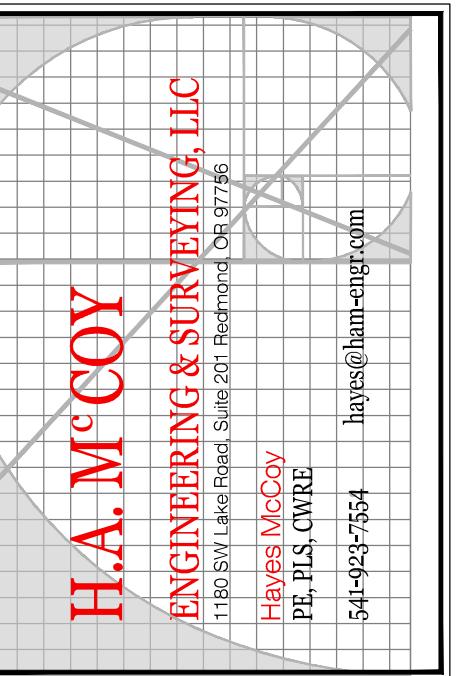
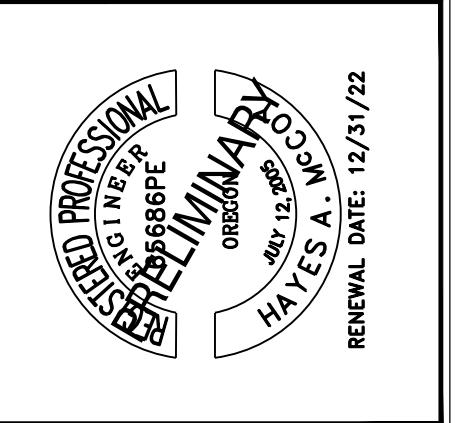
<u>ZONING AND UNIT DISTRIBUTION LEGEND</u>	
	RS- RESIDENTIAL URBAN STANDARD DENSITY
	RM- RESIDENTIAL URBAN MEDIUM DENSITY
	RH- RESIDENTIAL URBAN HIGH DENSITY

<u>ZONE</u>	<u>GROSS ACRES</u>
RH	1.77
RM	11.99
RS	23.34
<u>TOTAL</u>	<u>37.10</u>

SCALE: 1" = 100'
FOR 34"x22" SHEETS



COMPREHENSIVE PLAN MAP AMENDMENT AND ZONING PLAN



PROJECT: PARKSIDE PLACE
PROJECT LOCATION: BEND, OR
CLIENT: HAYDEN HOMES LLC

SHEET TITLE:

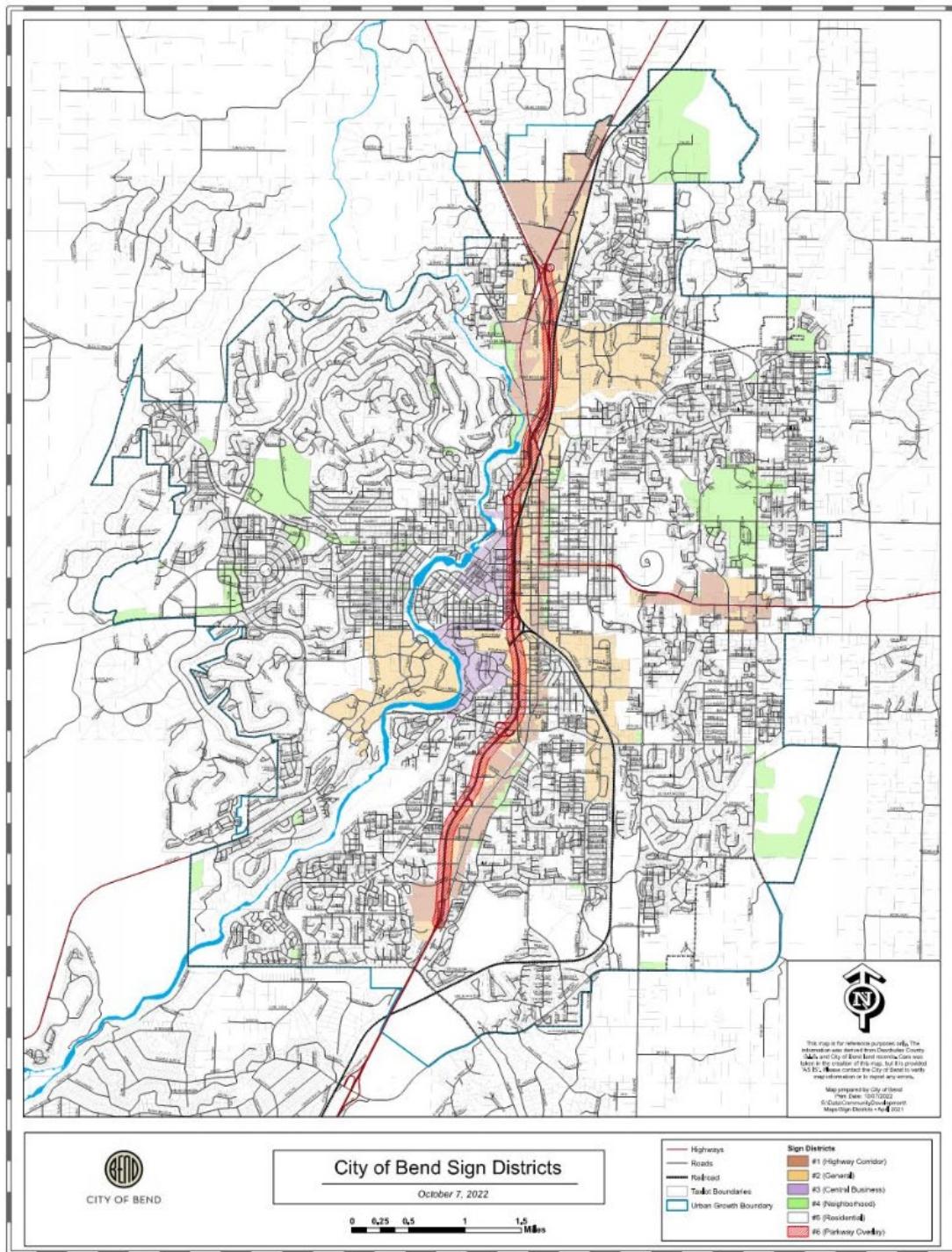
**COMPREHENSIVE PLAN
MAP AMENDMENT AND
ZONING PLAN**

JOB NO.	20-101
DRAWN BY:	JJW
DRAWING:	P1.2C

EXHIBIT F – SIGN DISTRICT MAP AMENDMENT

Delete this figure:

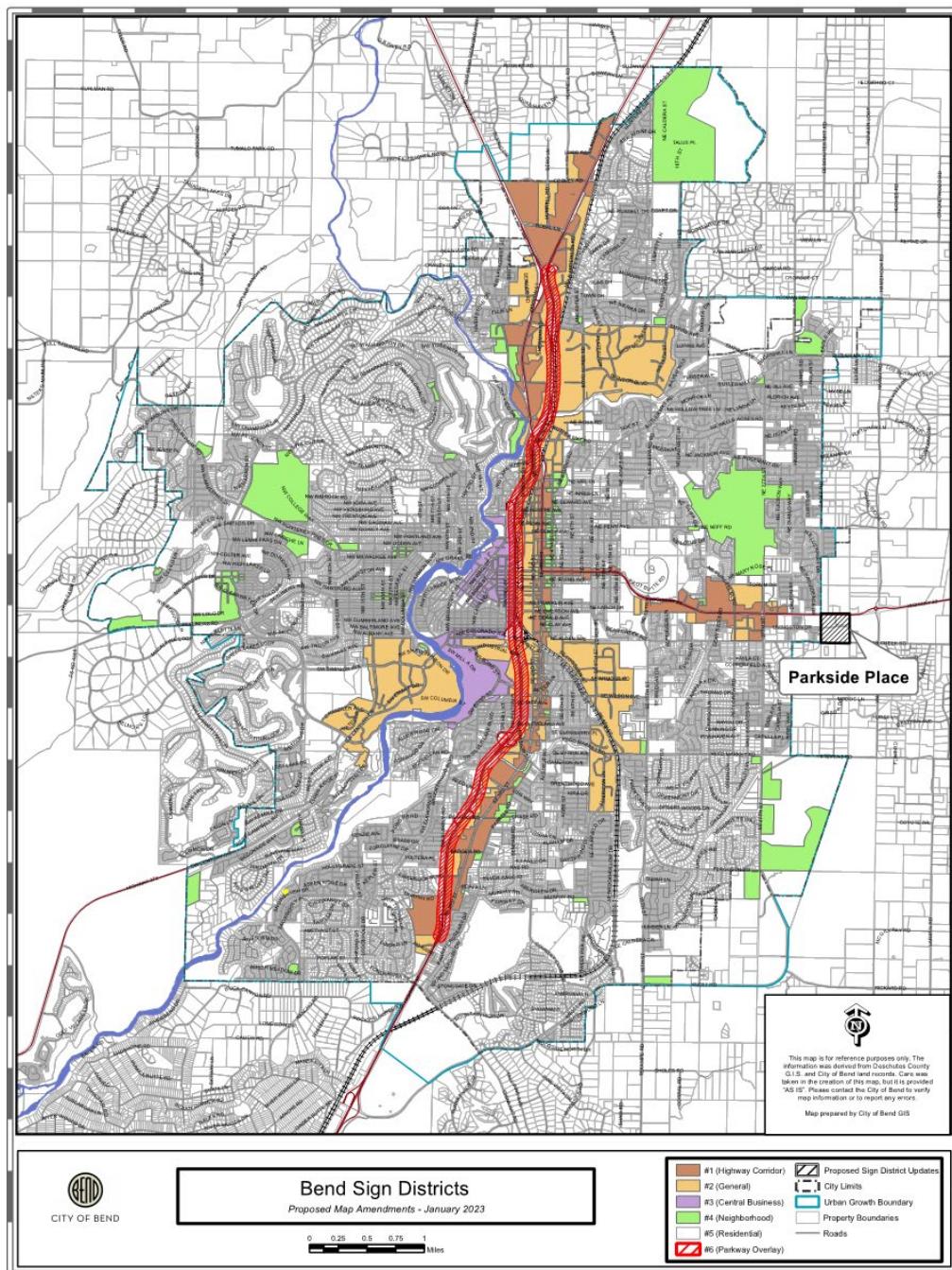
FIGURE 9.50.040. Sign District Map



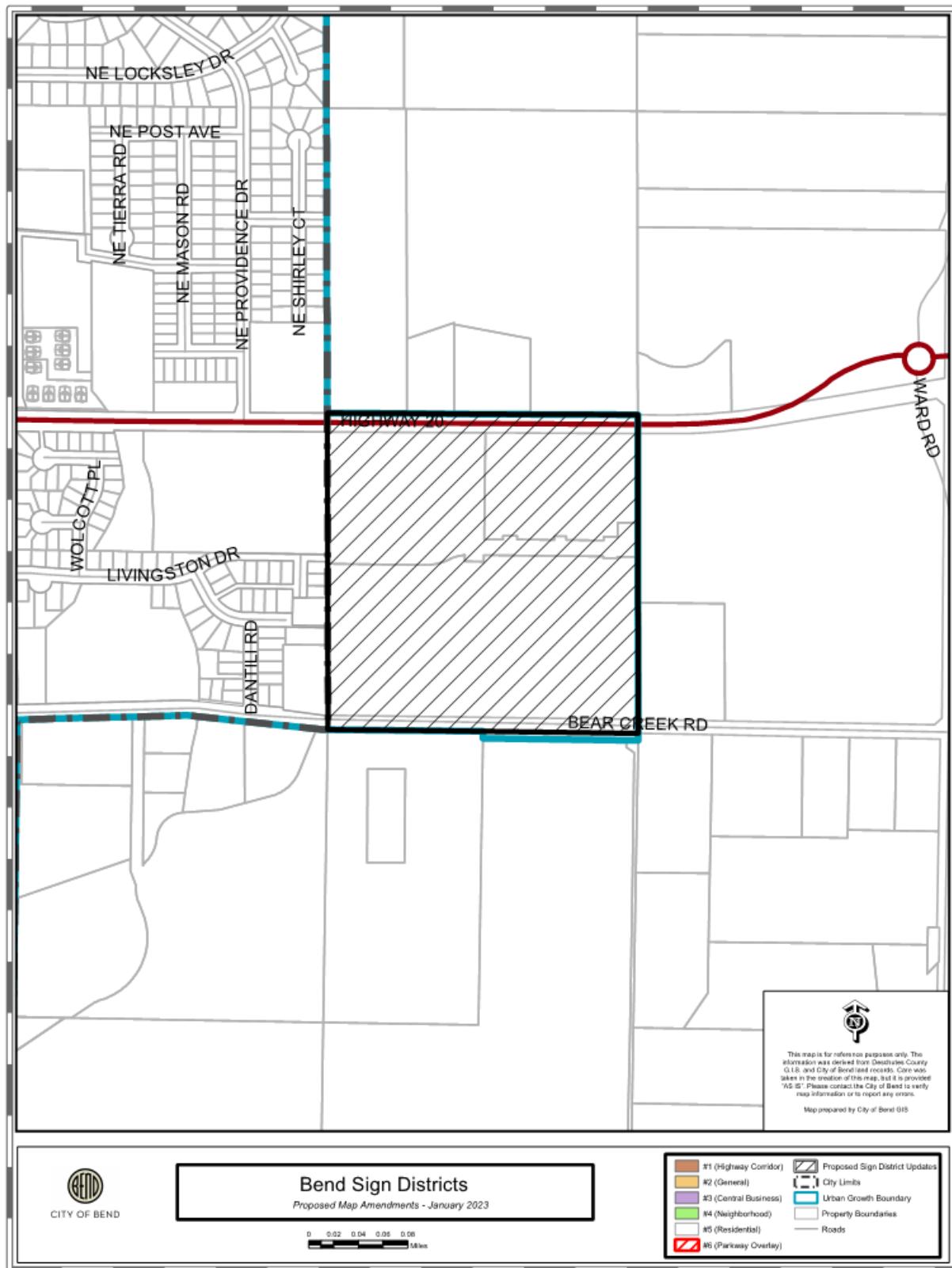
Insert this figure

FIGURE 9.50.040. Sign District Map

<callout and hatching for clarity only>



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



Type III Major Community Master Plan / Comp Plan Policy Amendment / Comp Plan & TSP Map Amendments - PLSPD20220717 / PLTEXT20220716 / PLCPMA20220715

Exhibit G
After Recording Return To:

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND CONTRACT UNDER ORS 456.270 TO 456.295**

This declaration of covenants, conditions and restrictions ("Declaration") is made by _____, an Oregon _____, ("Declarant").

RECITALS

A. Declarant is the Owner of all the real property described as: _____ (the "Property").

B. The City of Bend ("City") was selected, under House Bill 4079, as a qualifying city for a pilot project site on the Property. The City intends to expand its urban growth boundary ("UGB") and annex Declarant's property into the UGB within two years of the acknowledged urban growth boundary amendment.

C The City has a need for additional affordable housing beyond what is or can be provided within the existing UGB. A requirement of the HB 4079 selection process was that the City would adopt measures to ensure that affordable housing development on the pilot project site remains affordable for at least 50 years after the selection of the site.

D. Declarant has committed to ensuring that a portion of the Property will be developed with affordable housing when the Property is included in the UGB expansion under House Bill 4079.

E. Declarant and City agree that because this Declaration is enforceable by the City, it constitutes a contract made by a public body and therefore is a "subsidy" as that term is defined in ORS 456.270(6)(a). Declarant and City agree that this affordable housing covenant contains a Third-party right of enforcement in the City, as defined in ORS 456.270(7).

F. The Property shall be held, transferred, sold, conveyed, and occupied subject to the terms of this Declaration and the following covenants, conditions, restrictions and easements, which shall run with the land, which shall be binding on all parties having or

acquiring any right, title, or interest in the Property or any part thereof, and may be enforced by the City as an eligible covenant holder under ORS 456.270 to 456.295.

DECLARATION:

1. **Affordable Housing Definition.** “Dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Affordable housing unit” means a dwelling unit that is affordable to households earning up to a specified percentage of the Bend Area Median Income (i.e. 80% AMI), as defined by the most recent published Federal Department of Housing and Urban Development (HUD) income limits for the Bend-Redmond Metropolitan Statistical Area (Bend MSA).

As used in this section, “affordable housing unit for rent” means housing costs are affordable to persons at or below 80% of Area Median Income, and “affordable housing unit for sale” means housing costs are affordable to persons at or below 80% of Area Median Income, as defined by HUD for the Bend MSA.

In the case of an “affordable housing units for sale”, housing costs include mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, at no more than 30 percent of the household’s gross household income.

In the case of an “affordable housing unit for rent”, housing costs include rent and utilities, at not more than 30 percent of the household’s gross household income.

2. **Affordable Housing Requirement.** The sale and subsequent resales of any affordable housing unit developed to meet the requirements under this section shall include a deed restriction requiring that it shall remain affordable (as defined in Section 1, above) while this Declaration remains in effect.
 - a. At least 138 of the housing units on the Property will be developed as deed restricted affordable housing.
 - b. The affordable housing requirement does not apply to market rate housing units.
3. **Planning Requirement.** The number, location, and type of affordable housing units, and binding agreements with affordable housing providers to construct the affordable housing units, shall be specified in land use decisions preceding the issuance of any building permits on the Property, to demonstrate the terms of this Declaration will be met. Land use decisions include, but not limited to, Land Divisions and Site Plans.

4. **Phasing Requirement.** The affordable housing requirement shall be met in proportion to the development of the Property as specified by this section. Percentages of development on the Property are measured by the numbers of dwelling units specified in land use decisions in Section 3. The project phasing and construction will be planned and approved as follows:
 - a. 50% Checkpoint - Prior to the City issuing a Certificate of Occupancy or Building Final Inspection for the 174th dwelling unit, Hayden Homes must document that at least 70 Affordable Housing Units have been issued Certificates of Occupancy.
 - b. 75% Checkpoint - Prior to the City issuing a Certificate of Occupancy or Building Final Inspection for the 260th dwelling unit, Hayden Homes must document that at least 139 Affordable Housing Units have been issued Certificates of Occupancy.
5. **Term of Declaration and Covenants, Conditions and Restrictions.** This Declaration is effective for a term of fifty years following the effective date of the annexation of the Property to the City, March ___, 2023, including after the resolution of land use appeals if any, without regard to the term of any mortgage or deed, or the transfer of ownership.
6. **Foreclosure by Lender.** This Covenant will automatically expire upon foreclosure by a lender or other transfer in lieu of foreclosure. The affordability period shall be suspended if the foreclosure by a lender or other transfer in lieu of foreclosure recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability. However, if at any time following transfer by foreclosure or transfer in lieu of foreclosure, but still during the term of the affordability period as determined above, the owner of record prior to the foreclosure, or any newly formed entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property, the affordability period shall be revived to its original terms.
7. **Transfer, Leasing and Subletting.** No transfer, including any assignment, lease or sublease of any unit developed as an affordable housing unit under this Declaration shall be at a price or rate that does not meet the affordability standard of Section 1. If a unit developed as an affordable housing is rented to two or more tenants or subtenants, the total rent charged shall be at a rate that meets the affordability standard of Section 1.
8. **Waiver.** The failure by City or other beneficiary of this Declaration at any time to require strict performance of any provision of this Declaration shall not be a waiver of or prejudice the right to subsequently enforce that provision or any other provision of this Declaration.
9. **Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall not affect the other provisions and the same shall remain in full force and effect.

10. **Run with the Land/Successor Interest.** This Declaration is appurtenant to, and the covenants, conditions, and restrictions of this Declaration shall run with and bind the land. It is binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof.
12. **Recitals.** The recitals are incorporated into and made a part of this Declaration.
13. **Enforcement.** Monetary damages would not be an adequate remedy because an award of monetary damages would not further the identified need of providing affordable housing. The parties agree that specific enforcement and other equitable relief is appropriate to enforce the provisions of this Declaration. The City has a Third-party right of enforcement of this Declaration.

DECLARANT

Date: _____

STATE OF OREGON)
County of Deschutes)

This instrument was acknowledged before me on _____ by
_____, as _____ of _____.

Notary Public for Oregon

ACCEPTED AND AGREED TO BY THE CITY OF BEND

Date: _____

STATE OF OREGON)
County of Deschutes)

This instrument was acknowledged before me on _____ by
_____, as _____ of _____.

Notary Public for Oregon