

## **ORDINANCE NO. NS-2501**

### **AN ORDINANCE ANNEXING LAND IN THE SOUTHEAST AREA FOR THE LEGORE ANNEXATION AND ASSIGNING A SIGN DISTRICT PER BDC 9.50.040.C.**

#### **Recitals**

- A. Bend Development Code (BDC) Section 4.9.400.A.3 provides for annexation of real property to the City when 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 to the annexation.
- B. Tepuy Investments, LLC ("Applicant") submitted an application to the City of Bend ("City") for annexation of the territory described on Exhibit B and depicted in Exhibit C ("Area").
- C. Applicant, the sole owner of land within the Area, has filed a statement of consent to this annexation. There are no registered electors residing within the Area.
- D. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On May 10, 2024, the Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the Area, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on May 13, 2024, and posted in The Bulletin on May 21, 2024 and May 28, 2024. On May 8, 2024, the Applicant posted *Proposed Development* signs along the Area frontage at two locations, no more than 10 feet from adjacent streets.
- E. The City Council held a public hearing on June 5, 2024 to receive evidence and comments on the question of annexation.
- F. The Area is contiguous to the City limits along the Area's eastern and western boundaries.
- G. The Applicant and the City have agreed on a proposed Annexation Agreement that sets forth the obligations of the Applicant for the provision of urban infrastructure needed to serve the newly annexed area and other areas, attached as Exhibit A.

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

- Section 1. The territory containing 5 acres of land, as described in Exhibit B and depicted in Exhibit C, is annexed to the City of Bend upon the Annexation Agreement (Exhibit A) taking effect.

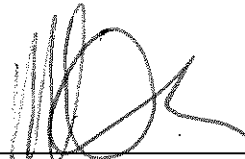
- Section 2. The City Manager is authorized to execute the Annexation Agreement (Exhibit A) in substantially the form presented to Council.
- Section 3. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit D.
- Section 4. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated in accordance with the underlying Comprehensive Plan land use designation (Exhibit E).
- Section 5. On the date the annexation becomes effective, the Sign District Map will be automatically updated (Exhibit F).
- Section 6. If any provision, section, phrase or word of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.
- Section 7. This Ordinance shall be voidable at the City's sole discretion if the Applicant does not return a signed copy of the Annexation Agreement (Exhibit A) to the City within 30 days of the passage of this Ordinance

First Reading Date: June 5, 2024

Second Reading and Adoption by Roll Call Vote: June 20, 2024

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

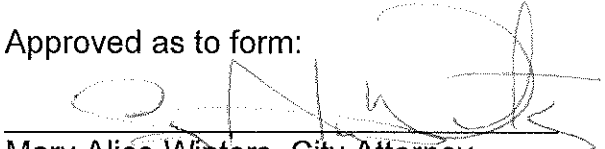
NO: none

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

ATTEST:

  
\_\_\_\_\_  
Morgen Fry, City Recorder

Approved as to form:

  
\_\_\_\_\_  
Mary Alice Winters, City Attorney

Ordinance No. NS-2501

Page 2 of 2

**After recording, return to:**

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

## **LEGORE ANNEXATION AGREEMENT**

This Annexation Agreement ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2024, between the City of Bend, an Oregon municipal corporation ("City"), Tepuy Investments, LLC, an Oregon domestic limited liability company ("Owner"), which is the owner of record of the property described in **Exhibit A** and shown on **Exhibit B** ("Property") (collectively referred to as the "Parties").

### **PURPOSES**

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 between the Parties for performance of certain requirements to develop the Property;
3. To memorialize the Agreement between the Parties on the allocation of financial responsibility for the public facilities and services that are necessary to serve the Property; and
4. To guarantee the City's requirements for the provision of urban services to the Property.

### **RECITALS**

**A.** Owner intends to develop the Property pursuant to the Bend Comprehensive Plan (the "BCP"), the Bend Development Code (the "BDC") including BDC Chapter 2.7.3300, and the Southeast Area Plan ("SEAP"). The Property is within the City's Urban Growth Boundary (UGB) and is contiguous to the city limits at the termination of Sedonia Lane. Therefore, the Property is eligible for annexation subject to BDC Chapter 4.9, "Annexations."

**B.** Owner intends to develop the Property with residential homes as required by BCP Specific Expansion Area Policies for the Southeast Expansion Area. This Agreement is predicated, in part, on an understanding between City and Owner that Owner's anticipated development of the Property will provide residential lots as outlined in, and in compliance with the SEAP.

**C.** The Property consists of 4.77 acres identified as tax lot 181215000701 located in the southeast portion of the Urban Growth Area that is subject to the requirements and limitations of the BCP Specific Expansion Area Policies for the Southeast Expansion Area.

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

**E.** On April 27, 2023, Owner submitted a request to annex the Property to City (City File No. PLANX20230258).

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

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

## **AGREEMENT**

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

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

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

**3. Water.** In order to serve the Property consistent with BCP Specific Expansion Area Policies for the Southeast Expansion Area and other applicable policies of the BCP, the BDC,

and the SEAP, Owner must construct water system improvements as directed by Avion Water Company (“Avion”) and pursuant to the timing under the Entitlements. The Property is in the Avion service territory and will be served by Avion water.

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

**4.1** As further provided in the Entitlements, Owner must construct a gravity main in the new section of Sedonia Lane that is proposed to be dedicated as public right-of-way on the Property. The following options have been identified for sewer provision to the Property. Additional or other options may also be identified in the Entitlements, and the following options are not intended to describe the only options for sewer provision:

**4.1.1 Option 1:** Sewer may discharge to the sewer main in the existing section of Sedonia Lane (private) to the west. Where gravity sewer cannot service lots discharging west to Sedonia Lane, a pressure main will be permitted to service the lots. If gravity sewer from Cabin Lane is available to the subdivision lot frontage or adjacent to dedicated public right-of-way, gravity sewer must be provided to service lots, and pressure sewer will not be permitted.

**4.1.2 Option 2:** Owner must construct a gravity main in Cabin Lane, or through adjacent property(s) in public right-of-way or under a sewer easement, discharging to where it will connect to the City’s gravity main and regional pump station.

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

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

**5.1 Transportation Planning Rule Compliance.** The Parties acknowledge that the Property is part of the SEAP. When City adopted the SEAP, City accounted for the

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

**5.1.1 ODOT payment.** Per Appendix GG of the Southeast Area Plan, a \$323 per PM peak hour trip fee is required for development within the boundaries of the SEAP. This fee will be due at final plat for the residential lots in the RS zone; the total amount due will be calculated by City with the associated Entitlements. City will collect the fee as a conduit to ODOT.

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

**5.2 Dedication/Acquisition of Right of Way.** Owner agrees to dedicate sufficient Right-of-Way (ROW) under Owner's control to the City to accommodate the transportation improvements set forth in the Entitlements and to meet the minimum ROW widths required by BDC Chapter 3.4. Owner agrees that all dedication of Right-of-Way will be free and clear of all existing liens and encumbrances, including existing easements. To the extent there is a conflict between the street standards set forth in BDC Chapter 3.4 and those in the Entitlements, the standards in the Entitlements shall control.

**5.2.1 Cabin Lane Dedication and Improvement.** Pursuant to **Section 5.2**, Owner agrees to dedicate to the City the easternmost 30-foot-wide strip of the Property which partially comprises Cabin Lane. Owner agrees that prior to dedication, that portion of Cabin Lane will be free and clear of all existing liens and encumbrances. Owner may request discretionary track review as part of the land division application that the City Engineer make a determination that an encumbrance may be maintained if there are significant legal or other impediments to moving or releasing the encumbrance and the encumbrance does not materially conflict with the City's potential or actual use of a right-of-way, in the sole determination of the City Engineer. Owner will be responsible for arranging for the release of any existing liens and encumbrances, and the payment of all associated costs, if any. Upon subdivision of the Property, Owner will be responsible for improving the portion of Cabin Lane to be dedicated to the City pursuant to this **Section 5.2.1** in accordance with BDC standards for dedicated public rights-of-way and the Entitlements.

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

**7. Condemnation by City.**

**7.1** If Owner does not control sufficient right-of-way or areas for temporary or permanent public easements (the “Easements”) to satisfy obligations under BDC Chapter 3.4 and this Agreement, including **Section 4.1** and **Section 5.2.1** (“Third-Party Rights-of-Way or Easements”), Owner agrees to use its best efforts, with reasonable diligence and negotiation, to obtain such Easements or Third-Party Rights-of-Way or Easements. In the event Owner cannot obtain such Third-Party Rights-of-Way or Easements through its best efforts, Owner may request that City undertake the exercise of eminent domain in order to acquire such Third-Party Rights-of-Way or Public Easements, subject to adoption of a resolution by the City Council and entry into a Reimbursement Agreement, as described below.

**7.2 Reimbursement.** If City elects to exercise its power of eminent domain pursuant to **Section 7.1**, all of City’s out-of-pocket costs for acquiring the subject property rights shall be reimbursed by Owner. Such costs shall include consideration paid for the property, costs for City staff time spent on the condemnation effort, any costs or reasonable attorney fees paid to the property owner as a condition of a settlement agreement, or awarded by a court of competent jurisdiction or an arbitrator; and any independent-contractor costs, including appraisers, acquisition consultants, and/or outside legal counsel related to the property right acquisition efforts. City and Owner will use good faith efforts to negotiate and enter into a Reimbursement Agreement governing the above reimbursement obligations of Owner. City will not commence any property acquisition efforts pursuant to this **Section 7** until a Reimbursement Agreement is executed and effective and Council has approved a resolution authorizing condemnation.

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

**8.1** Process the application for annexing the Property into the City limits.

**8.2** Conduct a timely review of and issue a decision on the Entitlements application.

**8.3** Owner acknowledges that City cannot prospectively agree to any specific outcomes.

**9. Covenants Running with the Land.** The Parties agree that the terms and obligations of this Agreement are necessary for the annexation and development of the Property. As such, the terms and obligations of this Agreement will run with the Property and will be binding on the heirs, executors, assigns, administrators, and successors of the Parties, and are construed to be a benefit and burden upon the Property. This Agreement must be recorded with the Deschutes County Recorder upon execution. Execution and recording of this agreement are preconditions to the annexation of the Property into the City. These covenants will expire for

each portion of the Property upon (i) recording of a final plat for that portion of the Property, (ii) completion of the improvements set forth in **Sections 3 through 6** above, and (iii) the payment of ODOT fees set forth in **Section 5.1.1**. If necessary, the Parties will execute and record any document necessary to release such covenants upon the termination of this Agreement.

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

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

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

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

**14. Exactions.** Owner knows and understands its rights under *Dolan v. City of Tigard* and its progeny. By entering into this Agreement, Owner waives any requirement that City demonstrate that the public improvements and other obligations imposed on Owner in this Agreement or the Entitlements are roughly proportional to the burden and demands placed upon the urban facilities and services by the development of the Property. Owner acknowledges that the requirements and obligations of Owner, including but not limited to the required public improvements, are roughly proportional to the burden and demands on urban facilities and services that will result from development of the Property. This waiver applies only to the obligations imposed by this Agreement and specifically does not apply to the "Entitlements" as described in paragraph 2 herein.

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

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

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



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

**CITY OF BEND**

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

STATE OF OREGON       )  
                                      )  
County of Deschutes       )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by Eric King, City Manager of the City of Bend.

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

**TEPUY INVESTMENTS, LLC**

\_\_\_\_\_  
Tepuy Investments, LLC

By: \_\_\_\_\_  
its \_\_\_\_\_

STATE OF OREGON       )  
                                      )  
County of Deschutes       )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, the \_\_\_\_\_ of Tepuy Investments, LLC.

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

## Exhibit "A"

The North Half of the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (N1/2 SW1/4 SW1/4 NE1/4) of Section Fifteen (15), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, and more particularly described as follows:

Commencing at the Center 1/4 Corner of Section 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon;

Thence North 00°36'46" East 333.87 feet to the Point of Beginning;

Thence North 00°36'46" East 333.87 feet;

Thence South 89°58'18" East 655.75 feet;

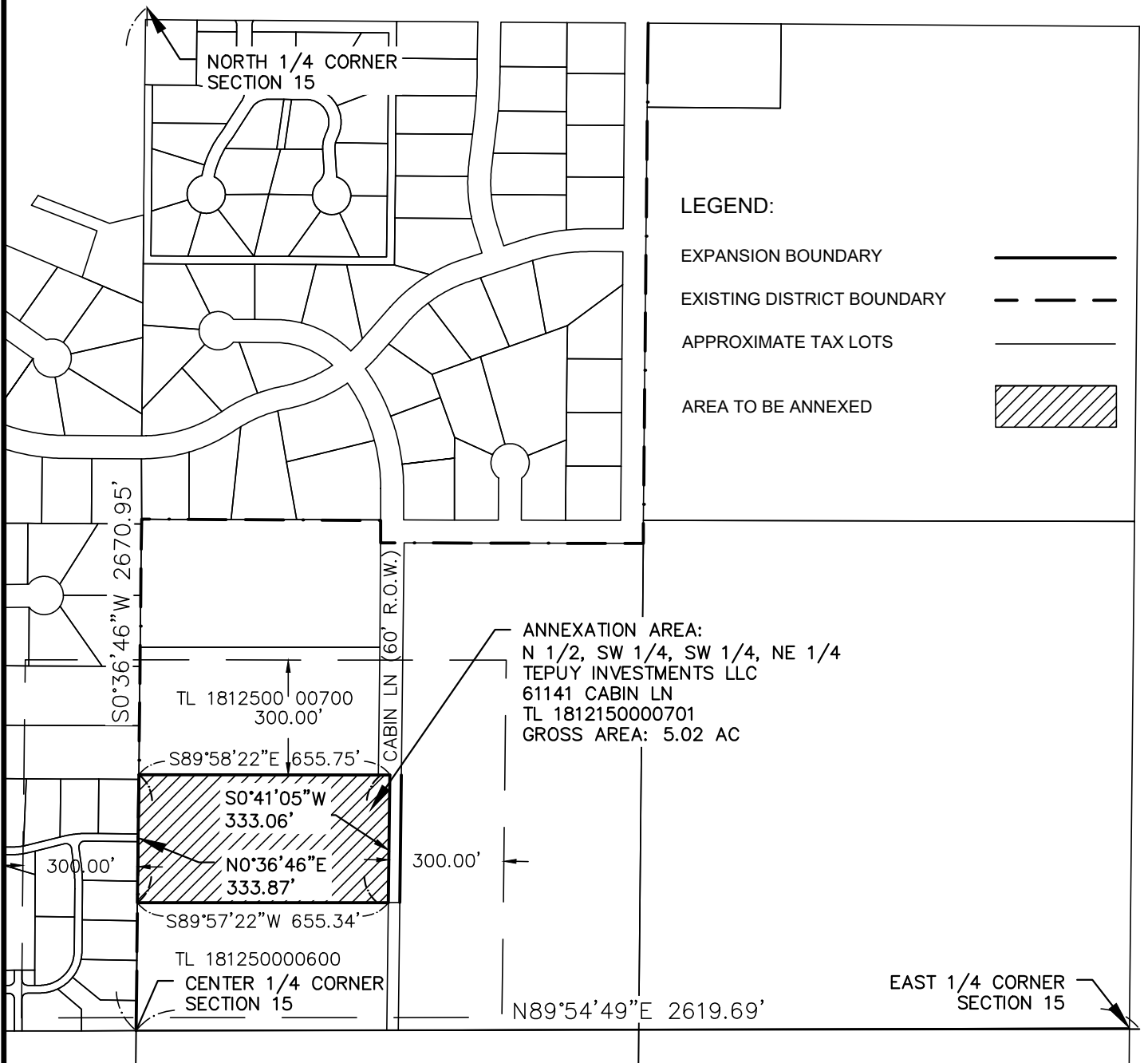
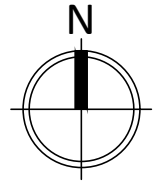
Thence South 00°41'05" West 333.06 feet;

Thence South 89°57'22" West 655.34 feet to the Point of Beginning.

Contains 5.02 acres, more or less.

## EXHIBIT "B"

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



549 SW MILL VIEW WAY  
SUITE 100  
BEND, OREGON 97702  
(541) 633-3140  
www.beconeng.com

FOR: ATIAS GROUP

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
DEC. 16, 2009  
ERIK J. HUFFMAN  
70814

RENEWES: JUN. 30, 2025

DATE: 08/03/2023

SCALE: 1" = 400'

DRAWN BY: EJH

PROJ: 22037

Exhibit "A"

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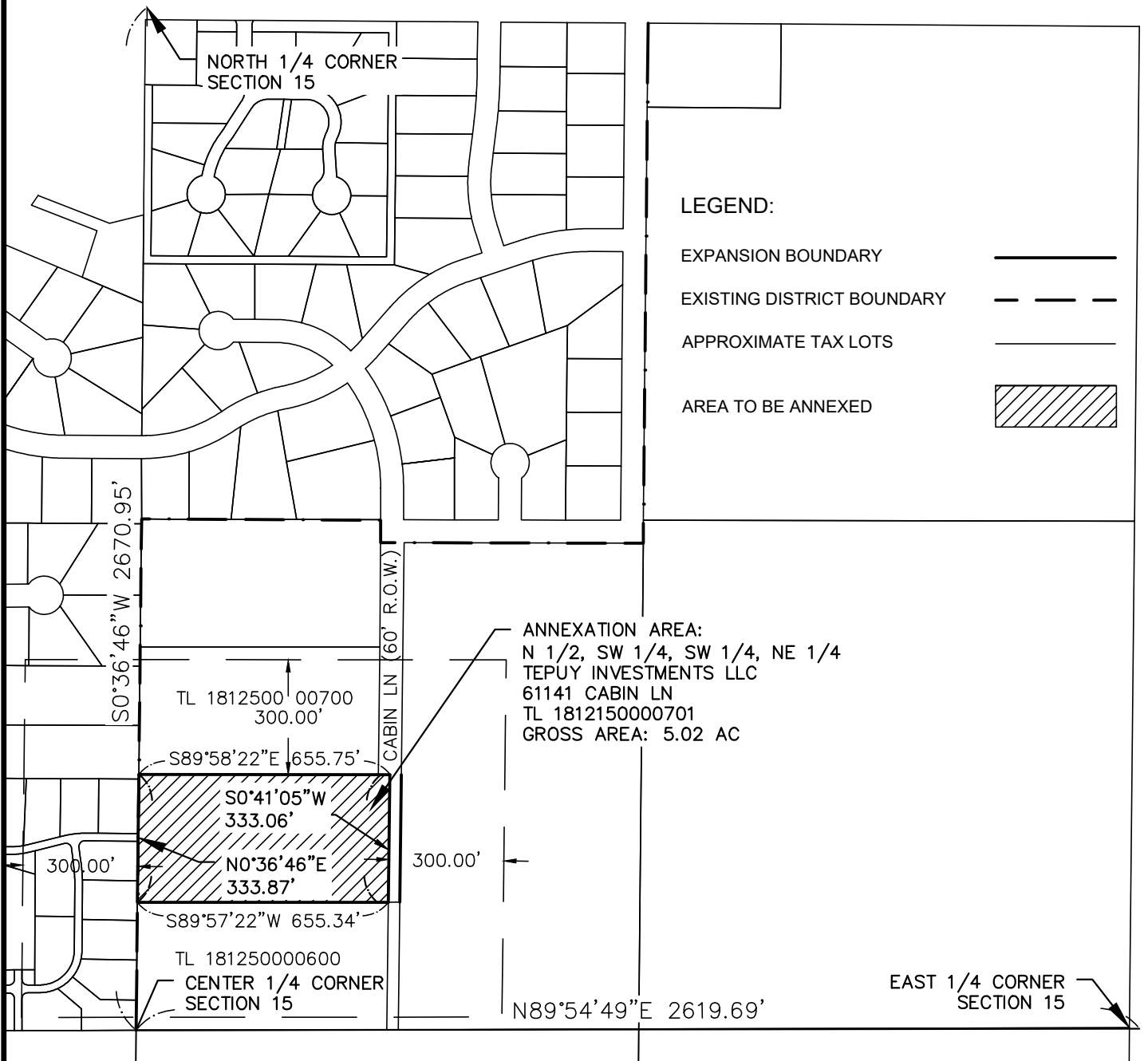
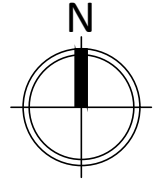
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Contains 5.02 acres, more or less.

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15, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.  
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SCALE: 1" = 400'

DRAWN BY: EJH

PROJ: 22037

## EXHIBIT D

### FINDINGS FOR LEGORE ANNEXATION



COMMUNITY  
DEVELOPMENT

**PROJECT NUMBER:** PLANX20230258

**HEARING DATE:** June 5, 2024

**APPLICANT/  
OWNER:** Tepuy Investments, LLC  
c/o Natascha Atias  
534 SW 4th Street  
Madras, OR 97741  
[general@atiasgroup.com](mailto:general@atiasgroup.com)

**APPLICANT'S  
ENGINEER/  
SUBMITTER:** BECON Engineering  
c/o April Pust  
549 SW Mill View Way, Suite 100  
Bend, OR 97702  
[apust@beconeng.com](mailto:apust@beconeng.com)

**LOCATION:** 61141 Cabin Lane; TL1812150000701

**REQUEST:** A quasi-judicial request to annex 5 acres in the Southeast Area to include the City zoning designation of Standard Density Residential (RS) upon annexation (Type III application to the City Council).

### APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

#### Criteria

##### **Bend Development Code**

Chapter 4.9 Annexations

##### **Bend Comprehensive Plan**

Chapter 11, Growth Management

##### **Oregon Administrative Rules**

Chapter 660-012-0000, Transportation Planning

#### Procedures

##### **Bend Development Code**

Chapter 4.1 Development Review and Procedures

4.1.400 Type II and Type III Applications

4.1.800 Quasi-Judicial Hearings

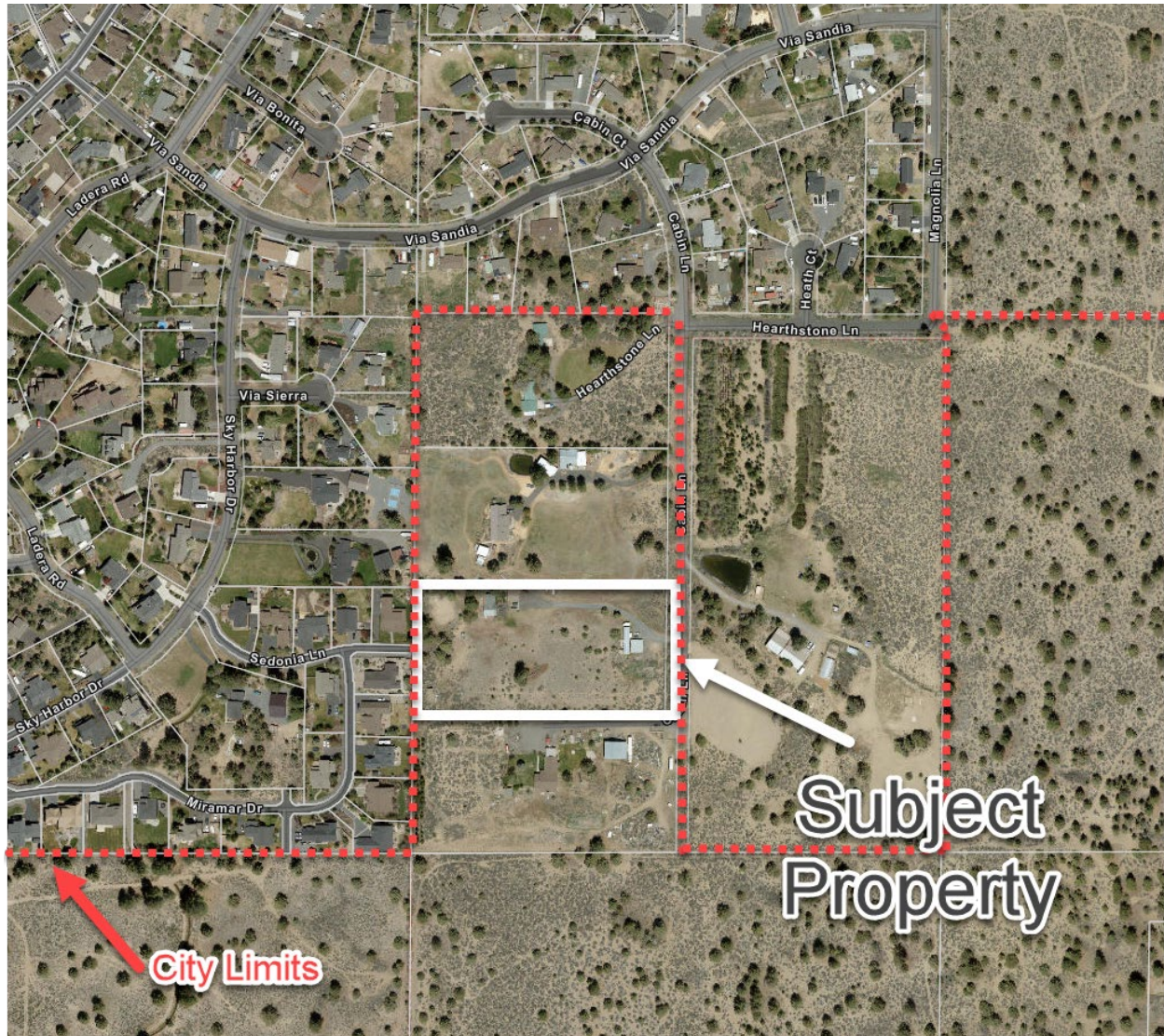
### FINDINGS OF FACT:

- 1. SITE DESCRIPTION, LOCATION, AND SURROUNDING USES:** The 5-acre subject property is identified as 61141 Cabin Lane (TL181250000701). The western boundary of the property abuts the terminus of Sedonia Lane and City of Bend limits. The eastern boundary of the property also abuts the City of Bend limits, and aligns with Cabin Lane, a private

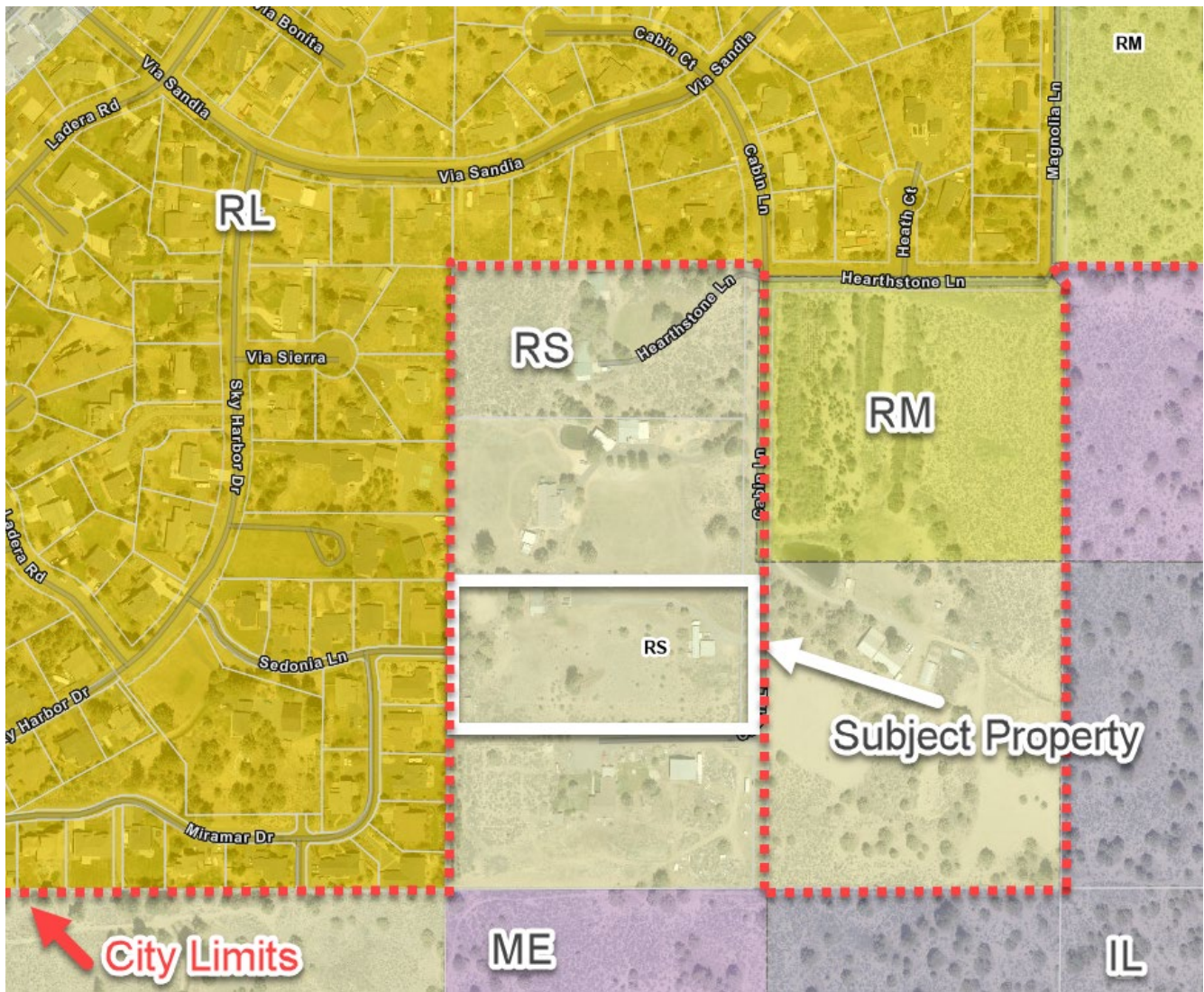


street. The property includes the western half (30 feet) of Cabin Lane. The property is currently developed with two dwelling units and two accessory structures.

The subject property abuts UA zoned land (designated RS in the Bend Comprehensive Plan) to the north and south. The northern and southern abutting properties (both approximately 5-acres) are developed with single unit detached dwellings. To the west, properties are zoned Low Density Residential (RL) and developed primarily with single unit detached dwellings within the Silver Ridge Planned Unit Development (PUD). The property to the east was recently annexed under PLANX20230396 as Standard Density Residential (RS) and Residential Medium Density (RM) zoning; that property is intended for residential development and a 151-lot, four-phase subdivision was approved under PLLD20230395.







**Figure 2: Current Comprehensive Plan Designation for the subject property**

2. **ZONING:** The subject property is in Deschutes County in the Bend Urban Growth Boundary and the Southeast Area Plan. The property is zoned Urbanizable Area (“UA”). The Bend Comprehensive Plan designates the whole property as Standard Density Residential (RS). Upon annexation, the Zoning District will be updated to reflect the Comprehensive Plan designation of RS (see Figure 2 above).
3. **PROPOSAL:** A Type III Quasi-judicial request for Annexation of 5 acres in the Southeast Area to include the City zoning designation of Standard Density Residential (RS) upon Annexation. The Applicant has submitted a Land Division proposal for the site, consisting of 16 lots, each containing one single unit detached dwelling (PLLD20230259). According to the Applicant’s burden of proof narrative, at least three lots will also contain an Accessory Dwelling Unit (ADU). The land division proposal will be considered by the City of Bend after the annexation goes into effect and will be reviewed administratively at that time.
4. **PUBLIC NOTICE AND COMMENTS:** Prior to submittal of this application and related applications, the Applicant hosted a public meeting on December 19, 2022 in accordance with BDC 4.1.215. Public notice for this City Council hearing was provided in accordance



with the requirements of BDC 4.9.300.A.3, and BDC 4.1.423-4.1.425. On May 10, 2024, the Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the subject property, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on May 13, 2024, and posted in *The Bulletin* on May 21, 2024 and May 28, 2024. On May 8, 2024, the Applicant posted *Proposed Development* signs along the property frontages at two locations, visible from the adjacent streets.

- 5. APPLICATION ACCEPTANCE DATE:** This Type III Quasi-Judicial Annexation petition was submitted on April 27, 2023, and the full application fee was paid on May 1, 2023. The application was deemed incomplete on May 15 and again on August 3, 2023. The application was accepted as complete with the submission of previously missing materials on August 4, 2023.

### **APPLICATION OF THE CRITERIA:**

#### **Bend Development Code**

#### **Chapter 4.9, Annexations**

#### **4.9.200 Applicability.**

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

**FINDING:** The land to be annexed is contiguous to the existing City limits along the land's eastern and western boundaries.

#### **4.9.300 Review Processes.**

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

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

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

On May 10, 2024, the Planning Division mailed notice to surrounding residents and owners of record of property within 500 feet of the subject property, and to the Old Farm District Neighborhood Association representative. Notice was also posted in four public places on May 13, 2023, and posted in *The Bulletin* on May 21, 2024, and May 28, 2024. On May 8, 2024, the Applicant posted *Proposed Development* signs along the property frontages on Sedonia Lane and Cabin Lane, visible from each street.

**B. Development Review Requirements.**

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

**Table 4.9.300 - Specific Expansion Area Policies**

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

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

The Applicant has submitted a Land Division proposal (PLLD20230259) for 16 lots (each lot is proposed to contain a single unit detached dwelling, and three lots will contain an ADU). The land division proposal will be reviewed administratively after the annexation goes into effect. These findings are for the annexation only. Final procedural steps and decision issuance for the land division will occur after the annexation is effective.

#### **4.9.400 Initiation Procedures.**

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

- 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 land involved in the annexation proposal is comprised of one property with one owner. The owner consented in writing to annexation in compliance with A.3, per the submitted annexation application packet.

#### **4.9.500 Submittal Requirements.**

**A. The application must include:**

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

**FINDING:** The application materials uploaded to the project file for PLANX20230258 contain all of the items listed above. These submittal requirements are met.

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

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

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

**FINDING:** The Applicant's petition to annex the subject property into the BPRD service area was accepted by Deschutes County on May 19, 2023. The BPRD annexation was subsequently recorded on June 16, 2023, under Document No. 2023-14463 and is included in the project file. This requirement is met.

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

**FINDING:** The Applicant received a letter from the Bend-La Pine School District (BLPSD) dated January 9, 2023, which was submitted with this annexation application and is included in the project file. The letter shows that BLPSD was provided an opportunity to comment on the proposed annexation and shows coordination between the Applicant and BLPSD. No comments were provided by BLPSD. This requirement is met.

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

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

**FINDING:** The subject property is located within the Arnold Irrigation District. The Applicant received a letter from Arnold Irrigation District dated February 15, 2023, which was submitted with this annexation application and is included in the project file. The letter states that the subject property does not have any Arnold Irrigation District water rights appurtenant to it, nor does it have any assets, facilities or easements that are the property of the district. With the inclusion of the letter, the application constitutes a signed statement that the Applicant has met with Arnold Irrigation District to discuss the proposed annexation and resolve any issues. This requirement is met.

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

**FINDING:** The Applicant and City staff have closely coordinated to identify necessary water, sewer, and transportation infrastructure improvements to serve the site based on the planned land uses per the land division proposal (PLLD20230259). The sequencing and financing mechanisms for the necessary infrastructure improvements are outlined in and will be formalized with the annexation agreement between the Applicant and the City.

The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202202734), and a Traffic Impact Analysis prepared by Lancaster Mobley (reviewed under PRTFR202203473). These documents indicate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with the subsequent subdivision development. The annexation agreement memorializes the Applicant's obligation to improve the area with urban infrastructure constructed to City of Bend Standards. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments and the property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development.

Subsequent to the effective date of the annexation, the land division proposal (PLLD20230259) will be reviewed by the City of Bend. The supporting analyses document that the site can be designed in conformance with Bend Development Code requirements. As required by the Bend Development Code standards, the proposed development will extend public facilities to and through the property.

Upon annexation approval, the Applicant will undertake all required steps to design and extend services (as required through the subsequent Land Division process) to accommodate the proposed development of the site. The proposal is consistent with the current public facilities master plans (including the Integrated Water System Master Plan, Collection System Master Plan, and Transportation System Plan). The materials uploaded to PLANX20230258 and PLLD20220259 demonstrate that the property can be provided public facilities and services concurrent with development. The proposal is therefore consistent with Statewide Planning Goal 11 and 12. With the Annexation Agreement, Goal 11 and 12 will be satisfied.

#### **4.9.600 Approval Criteria.**

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

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

**FINDING:** The proposed annexation consists of 5 acres located within the Southeast Area (known as the “Elbow” UGB Expansion Area in BDC 4.9.300). The annexation is subject to Bend Comprehensive Plan (BCP) Policies 11-59 through 11-68 (Annexations) and 11-93 through 11-104 (Specific Expansion Area Policies for the Elbow). Findings of compliance with these policies are presented below, demonstrating how this criterion is met.

### ***Chapter 11 Growth Management***

#### ***Annexation Policies***

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

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

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

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

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

**FINDING:** The submitted annexation application includes a development proposal (PLLD20230259) consisting of a 16-lot residential subdivision. The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202202734), and a Traffic Impact Analysis prepared by Lancaster Mobley (reviewed under PRTFR202203473). These documents demonstrate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend urban facilities and services in association with subdivision development. The annexation agreement memorializes the Applicant’s obligation to improve the area with urban infrastructure constructed to City of Bend Standards. Additionally, the Applicant submitted a letter signed by the BLPD stating there were no comments on the proposed annexation. A letter was also provided from BPRD stating that there are no park requirements within the area to be annexed. The Applicant and BPRD have

executed an annexation agreement for the subject property to be included in the park district boundaries.

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

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

**FINDINGS (11-62 and 11-63):** The subject property is located within the boundary of the Southeast Area Plan (SEAP), which was adopted in 2021 under Ordinance No. 2405. As addressed in the findings under Policy 11-93 below, the conceptual land division (PLLD20230259) that would be administratively reviewed after the annexation is effective is consistent with the applicable policies of the SEAP.

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

**FINDING:** The property to be annexed is contiguous to City limits on the property’s eastern and western boundaries, as shown in Figures 1 and 2 above.

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

**FINDING:** At 5 gross acres in size, the subject property is under the 20-acre threshold required for master plans; thus, no master plan is required. A draft annexation agreement was submitted by the Applicant with the application materials. The draft annexation agreement was revised and finalized through close coordination between the Applicant and the City of Bend. The annexation agreement will ensure subsequent development applications include infrastructure improvements and compliance with SEAP policies.

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

**FINDING:** The subject property is currently developed with two dwelling units and an accessory structure. The submitted annexation application includes a conceptual development proposal (PLLD20230259) consisting of a 16-lot residential subdivision. The annexation agreement memorializes the Applicant’s obligation to modernize and construct infrastructure on the property up to City of Bend standards. Accordingly, the subsequent review of the subdivision proposal will include requirements to install infrastructure in compliance with City standards to ensure adequate urbanization of the annexed area. Infrastructure improvements anticipated with the future subdivision proposal include  $\frac{3}{4}$  street improvements to Cabin Lane and full street improvements for the extension of Sedonia Lane through the property and one new local street. Water and sewer mains will be extended to and through the property.

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

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

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

**FINDING:** The subject property is within the boundary of the SEAP and at 5 gross acres is under the threshold of 20 acres to require a master plan application or compliance with master plan approval criteria (BDC 4.5.200.E, Community Master Plans). As addressed in the findings under Policy 11-93 below, the conceptual land division (PLLD20230259) is consistent with the SEAP.

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

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

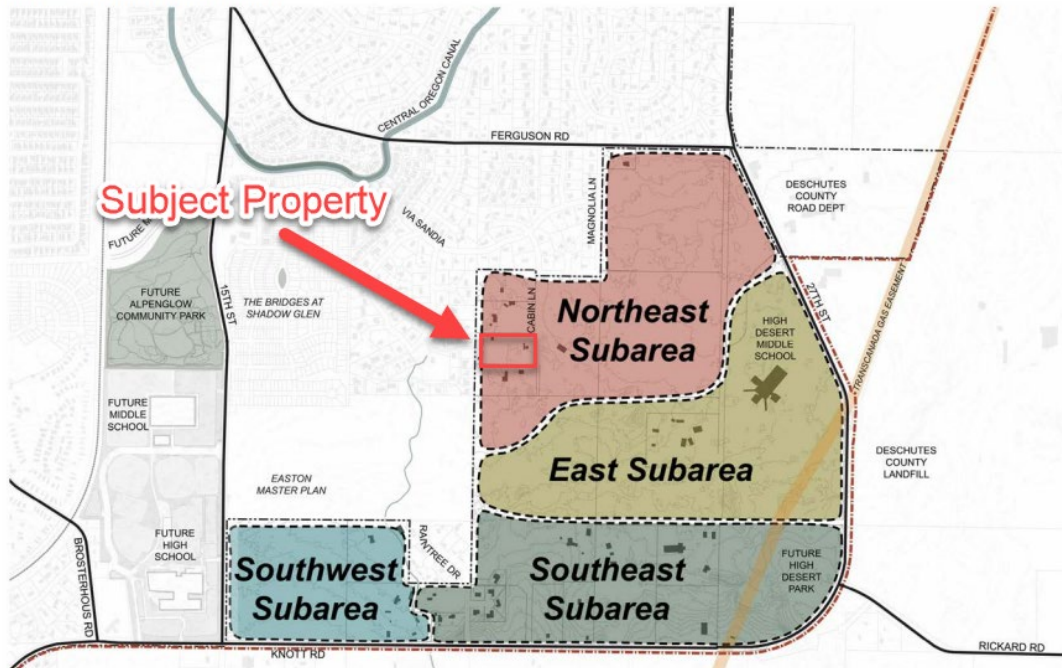
**FINDING:** The subject property is five gross acres and is located within the boundary of the SEAP, specifically within the Northeast Subarea. Pages 54-60 of the SEAP Summary Report<sup>1</sup> describe the Northeast Subarea as “a walkable mixed-use community and a complementary neighbor to the existing neighborhoods to the north and west. Residential uses are planned to transition from low-density development west of Magnolia Lane to medium and higher densities east of Magnolia Lane...”. The figure below illustrates “community design opportunities” for the Northeast Subarea of the Southeast Area.

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



Figure 15. Southeast Area Plan Subareas



**Figure 3: SEAP Subareas, SEAP Report Page 54**

The associated development proposal (PLLD20230259) will implement this vision for the Northeast Subarea of the SEAP with a 16-lot subdivision west of Cabin Lane, as part of a transition zone between the existing low-density development to the west and the higher density, industrial, mixed use, and commercial designated areas to the east and northeast. The development will be zoned RS and contain single unit detached dwellings. At least three properties will include Accessory Dwelling Units, according to the applicant's burden of proof narrative.

The SEAP code requires preservation of significant trees and rock outcroppings (BDC 2.7.3360). No rock outcroppings have been identified on the subject property. The proposed land division (PLLD20230259) shows the site contains six significant trees as defined in the SEAP (trees over 24" in DBH). Tree preservation will be addressed in further detail upon review of the formal subdivision application (PLLD20230259).

Figure 17. Northeast Subarea Community Design Opportunities

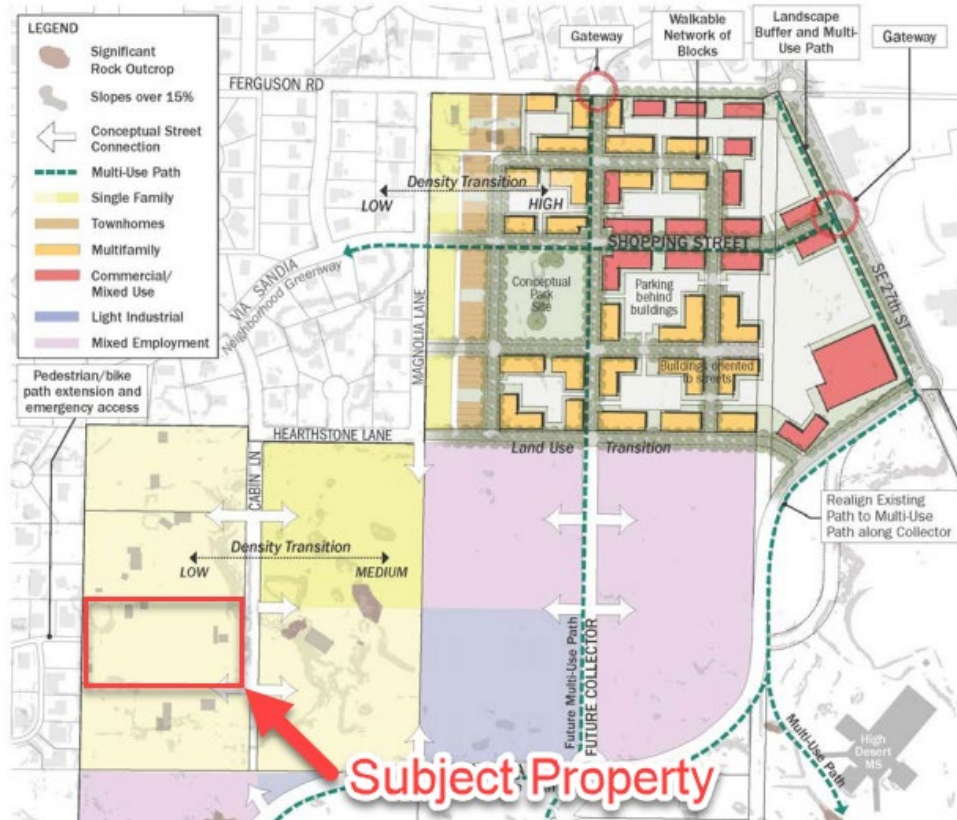


Figure 4: Northeast Subarea, SEAP Report Page 56

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

**FINDING:** The SEAP designates the subject property for lower-density residential uses (specifically designated for residential standard density). This area was specifically designed to help transition from existing low-density residential lots with single-unit homes (located west of the subject property, within current city limits) to medium and higher density / commercial development further east of the subject property (approved under the North Peak annexation, Ordinance No. NS-2469 and Magnolia Meadows annexation, Ordinance No. NS-2489). The area proposed for annexation includes conceptual development of a 16-lot subdivision (PLLD20230259), designed to be standard density (RS).

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

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

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

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

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

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

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

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

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

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

The proposed new street and extended streets within the conceptual development under PLLD20230259 will be classified as local streets to provide for connectivity. The new proposed north-south local street and the extension of Sedonia Lane within the conceptual development will be fully improved. Cabin Lane (which borders the eastern boundary of the subject property) is presently a private street. Adequate right-of-way will be dedicated to the City to provide at least a ¾ local street improvement along the entire eastern boundary of the property on Cabin Lane. As proposed, the transportation network complies with the TSP and the SEAP and satisfies this policy.

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

**FINDING:** The Applicant received a letter from BPRD dated April 28, 2023, which was submitted with the annexation application. This letter from BPRD indicates that the subject property is located within Park Search Area #28. The letter indicates that BPRD has no planned

trails within the proposed development area, nor is BPRD requesting coordination of the development of a neighborhood park in the proposed area. This requirement is met.

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

**FINDING:** The Applicant received a letter from BLPD dated January 9, 2023, which was submitted with the annexation application. The letter shows that BLPD was provided an opportunity to comment on the proposed annexation and shows coordination between the Applicant and BLPD. No comments were provided by BLPD. This requirement is met.

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

**FINDING:** The associated land division proposal (PLLD20230259) includes Will-Serve letters from the Arnold Irrigation District, Avion Water Company, Central Electric Cooperative, TDS/Bend Broadband, Cascade Natural Gas, and Republic Services (Waste Disposal). This requirement is met.

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

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

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

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

**4.9.600 Approval Criteria. (continued from page 9)**

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

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

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

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

The annexation application submittal includes a Will-Serve letter from the Avion Water Company, the City of Bend Sewer Analysis (PRSWA202202734), and a Traffic Impact Analysis prepared by Lancaster Mobley (reviewed under PRTFR202203473). These documents indicate the subject property can be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend the noted facilities and services in association with future subdivision development. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments. The property is located within the Bend-LaPine School District, which has facilities to accommodate the planned development. No requirements for additional parks or trails on the property have been identified by BPRD, though the property has been annexed into BPRD boundaries. This criterion is met.

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

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

- 5. Owner(s) have committed to transfer all irrigation district water rights from the property, unless exempted in subsection (A)(5)(a)(i) of this section.**

- 6. Sufficient evidence acceptable to the City has been provided demonstrating that the irrigation district had an opportunity to review the layout and design for any impacts on irrigation district conveyance facilities and to recommend reasonable protections for such facilities consistent with the irrigation district's adopted rules and regulations, system improvement plans and/or development policies.**

**FINDING (4.9.600.A.5 and .6):** The subject property is located within the Arnold Irrigation District. A letter from the Arnold Irrigation District was provided in the application materials (and is included in the project file), which states that the subject property does not have any Arnold Irrigation District water rights appurtenant to it, nor does it have any assets, facilities or easements that are the property of the district. These criteria are met.

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

***4.6.600 Transportation Planning Rule Compliance.***

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

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

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

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

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

**FINDING:** All internal and abutting rights-of-way will be dedicated and improved to City of Bend urban standards per the submitted land division proposal (PLLD20230258) and as required by the annexation agreement. This criterion is met.

#### **4.9.700 Zoning of Annexed Areas.**

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

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



**Exhibit E**  
**Zoning Map**

