

**ORDINANCE NO. NS-2327**

**ORDINANCE ANNEXING APPROXIMATELY 36.64 ACRES OF LAND SOUTH OF EGYPT DRIVE ENCOMPASSING THE EXISTING ROCKRIDGE PARK AND A PORTION OF NE 18<sup>TH</sup> STREET ABUTTING THE PARK AND A PORTION OF NE BOBWHITE COURT/ALPINE RIDGE PLACE, AND REQUESTING JURISDICTIONAL TRANSFER OF THE RIGHT-OF-WAY PER ORS 393.270.**

Findings

- A. Bend Development Code Section 4.9.400A.1 provides for annexation of real property to cities when 100 percent of the property owners and a majority of electors, if any, registered in the territory proposed to be annexed consent to the annexation.
- B. The City has received an application for annexation of the territory described on Exhibit A and shown on Exhibit B (the "Area").
- B. One hundred percent of property owners within the Area have filed a statement of consent to this annexation.
- C. There are no registered electors within the Area.
- E. Notice of the hearing was published in the Bend Bulletin on Sunday, March 3, 2019 and Sunday, March 10, 2019. In addition, the notice was posted in four public places in the City and a land use action sign was posted on the property for a like period. Notice was also sent on February 25, 2019, to the Boyd Acres Neighborhood Association representative, and to surrounding owners of record of property within 250 feet of the subject property, as shown on the most recent property tax assessment rolls.
- D. Council held a public hearing on March 20, 2019 to enable the public to appear and be heard on the question of annexation.
- F. The Area is contiguous to the City limits of the City of Bend on the north, west and south sides and the NE 18<sup>th</sup> Street right of way is part of the annexation area.
- H. The applicant has entered into an Annexation Agreement, attached as Exhibit C, with the City which includes dedication of right of way for a portion of the Bobwhite Court/Alpine Ridge Place that is fully constructed.
- I. The City of Bend deems it necessary and expedient for the City to acquire jurisdiction from Deschutes County over the portion of 18<sup>th</sup> Street, a County road, within the annexed area.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

SECTION 1. The territory containing approximately 36.64 acres of land, described in Exhibit A and depicted in Exhibit B, is annexed to the City of Bend, subject to the provisions of the Annexation Agreement (Exhibit C).

SECTION 2. In addition to the findings set forth above, the City Council adopts the findings in Exhibit D.

SECTION 3. The City requests that Deschutes County surrender to the City of Bend jurisdiction over the portion of 18<sup>th</sup> Street within the annexed area in compliance with ORS 373.270.

First reading: March 20, 2019.

Second reading and adoption by roll call vote: April 3, 2019.

YES: Sally Russell, Mayor  
Bruce Abernethy  
Barb Campbell  
Bill Moseley  
Justin Livingston  
Gena Goodman-Campbell  
Chris Piper

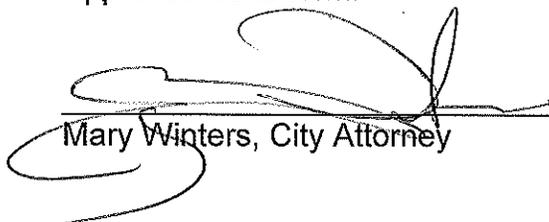
NO: none

  
\_\_\_\_\_  
Sally Russell, Mayor

Attest:

  
\_\_\_\_\_  
Robyn Christie, City of Bend Recorder

Approved as to form:

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

**EXHIBIT A**

The Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section 15, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon.

EXCEPTING THEREFROM the northerly 30.00 feet of said SW1/4 NW1/4.

**Subject to:** All easements, restrictions and right-of-ways of record and those common and apparent on the land.

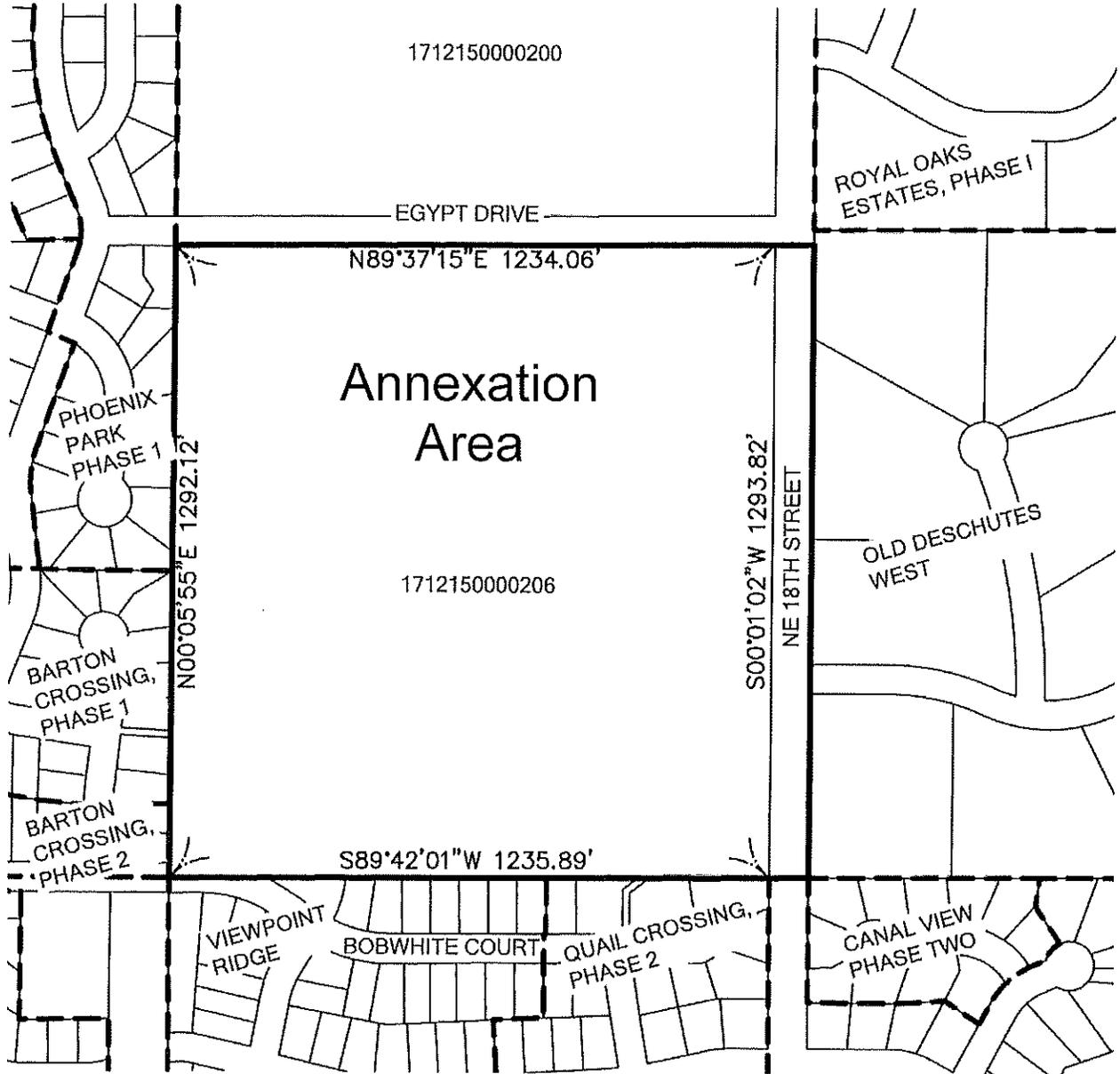
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Patrick Gage Cole* 10/13/18

OREGON  
JULY 10, 2007  
PATRICK GAGE COLE  
79157

EXPIRES: 12/31/19

EXHIBIT B



**EXHIBIT C**  
**ANNEXATION AGREEMENT**

**EXHIBIT D**  
**STAFF RECOMMENDATION**

## ROCKRIDGE PARK ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2019, between the City of Bend, ("City"), and the Bend Park and Recreation District ("District"), the owner of record of the property described in Exhibit A and depicted in Exhibit B ("Property"). The District is a public agency pursuing the public purpose of extending urban services to the 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 annex 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.** District developed the Property as a park under permits from Deschutes County, which had land use jurisdiction at the time. District now wishes to extend sanitary sewer to serve the Property, which requires annexation under state law and the City of Bend and Deschutes County's intergovernmental agreement for jurisdiction of the Urbanizable Area. The Property is contiguous to the city limits on the north, west and south boundaries and is thus eligible for annexation subject to Bend Development Code (BDC) Chapter 4.9.

**B.** On October 16, 2018 the District submitted a request to annex the Property to the City (City File No. PZ18-0826).

**C.** The Property is currently designated as Public Facilities (PF) on the Bend Comprehensive Plan Diagram and is zoned Urbanizable Area (UA).

**D.** Annexation of the Property requires a showing under BDC 4.9.600 that the annexation is consistent with the Comprehensive Plan policies and designations; that the property complies or is exempt from having an approved master or area plan; that the area is capable of being served by public facilities and services; that impacts to public facilities and services are adequately mitigated; and that the owner has agreed to transfer irrigation district water rights, if any, from the property or that the City Council agrees to allow irrigation water to continue to be used after annexation.

F. To meet the preceding criteria, 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 below in Section 2, the District agrees to comply with all requirements imposed by this Agreement and all other City codes and standards applicable to the development of the Property pursuant to Paragraph 3 of this Agreement.

In consideration of the mutual promises and obligations set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## **AGREEMENT**

**1. Obligations of the District.** Consistent with the above recitals, District agrees to perform the obligations set forth in this section and comply with all City codes, standards and regulations.

### **1.1 Sewer**

**1.1.1** Within one year of the date of annexation, the District agrees to obtain a City plumbing permit, connect to the existing sewer lateral located at the northern property line, and extend a private sewer service to the permanent restroom facility as approved by Deschutes County in Conditional Use Permit file number 247-15-000457-CU and Site Plan Review file number 247-15-000458-SP.

### **1.2 Right of Way Dedication**

**1.2.1** Within six months of the date of annexation, the District agrees to dedicate sufficient right of way, including the preparation and recording of any necessary documents, for Alpine Ridge Place at the southwest edge of the Property such that the right of way is 60 feet wide (30 feet from centerline).

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

**2.1** Process the application to annex the Property into the City Limits.

**2.2** Waive the Annexation per-acre fee of \$27,750. Because of the relatively low impacts from a community park and because the District has completed all missing frontage infrastructure with the park construction this waiver is warranted.

**3. Limitations on Development.** No portion of the Property may be further developed with park or other uses without City approval of applicable planning, engineering and/or building permits.

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

**5. Modification of Agreement.** This Agreement may be modified upon mutual agreement of both parties.

**6. Land Use Approval.** Nothing in this Agreement is to be construed as waiving any requirements of the Bend Code, Bend Development Code or Bend Comprehensive Plan 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.

**7. 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.

**8. 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.

**9. Effective Date.** This Agreement takes effect upon signature by both parties.

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

**DISTRICT**

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By:

Its:

**CITY OF BEND**

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By: Eric King  
Its: City Manager

[Notary on Next Page]

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was executed before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_ for the Bend Park and Recreation District.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was executed before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Eric King, City Manager for the City of Bend, Oregon.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

**EXHIBIT D  
FINDINGS OF FACT  
ROCK RIDGE PARK ANNEXATION AMENDMENT PZ-18-0826**

**PROJECT NUMBER:** PZ-18-0826

**REPORT DATE:** March 13, 2019

**HEARING DATE:** March 20, 2019 at 7:00 PM  
City of Bend Council Chambers  
710 NW Wall St., Bend, Oregon

**APPLICANT/  
OWNER:** Bend Parks and Recreation District ("District")  
c/o Jason Powell  
799 SW Columbia Street  
Bend, OR 97702

**SUBJECT PROPERTY:** The subject property is addressed as 20885 Egypt Drive and is located at Deschutes County Assessor's Tax Map 1712150000206 and includes the portion of NE 18<sup>th</sup> Street and NE Bobwhite Court/Alpine Ridge Place abutting Rockridge Park.

**REQUEST:** Type III annexation application for approximately 36.64 acres of land south of Egypt Drive encompassing the existing Rockridge Park to serve the park with permanent restroom facilities, and the portion of NE 18<sup>th</sup> Street and NE Bobwhite Court/Alpine Ridge Place abutting the park.

**STAFF REVIEWER:** Karen Swenson, AICP, Senior Planner  
541-388-5567, kswenson@bendoregon.gov

**APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:**

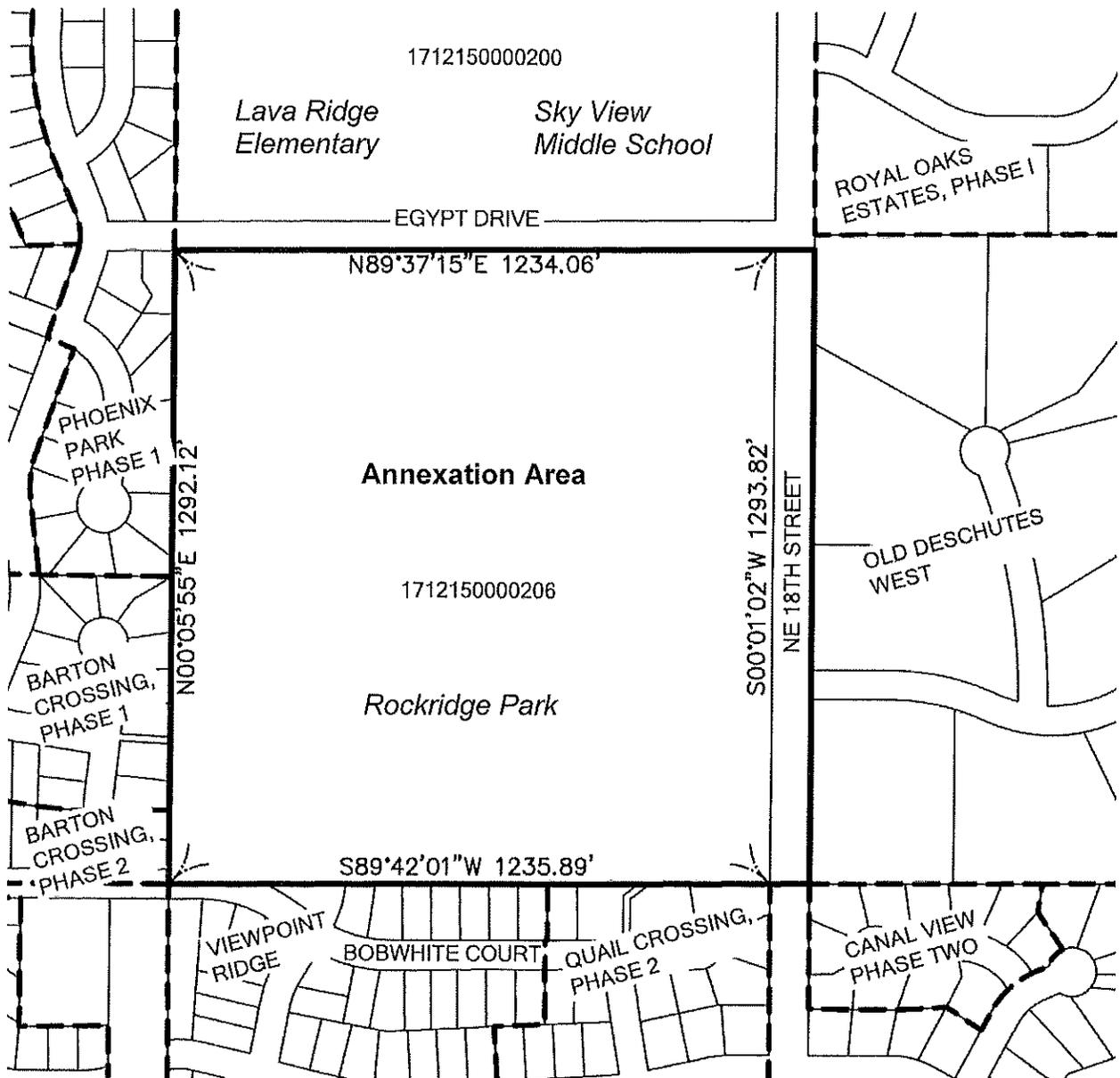
City of Bend Development Code

Chapter 4.9, Annexations

City of Bend Comprehensive Plan

**FINDINGS OF FACT:**

- 1. LOCATION:** The subject property is addressed as 20885 Egypt Drive and is located at Deschutes County Assessor's Tax Map 1712150000206. The portion of NE 18<sup>th</sup> Street abutting the existing Rockridge Park on the east and the portion of NE Bobwhite Court/NE Alpine Place abutting the park on the south is also included in the annexation.



2. **PUBLIC NOTICE AND COMMENTS:** On February 27, 2019, the City of Bend Planning Division sent a public hearing notice to the Boyd Acres Neighborhood Association representative, and to surrounding owners of record of property within 250 feet of the subject property, as shown on the most recent property tax assessment rolls. As of the date of this staff report, no public comments were received by the Planning Division. Notice was also posted in the Bend Bulletin for two consecutive weeks prior to the day of the hearing, and notices of the hearing were posted in four public places in the City for a like period.
3. **APPLICATION ACCEPTANCE DATE:** This Type III Annexation application was submitted and deemed complete on February 14, 2019.
4. **BACKGROUND:** The property was acquired by the Park District in 1991. The Rockridge Park project was planned and funded in association with the 2012 Park

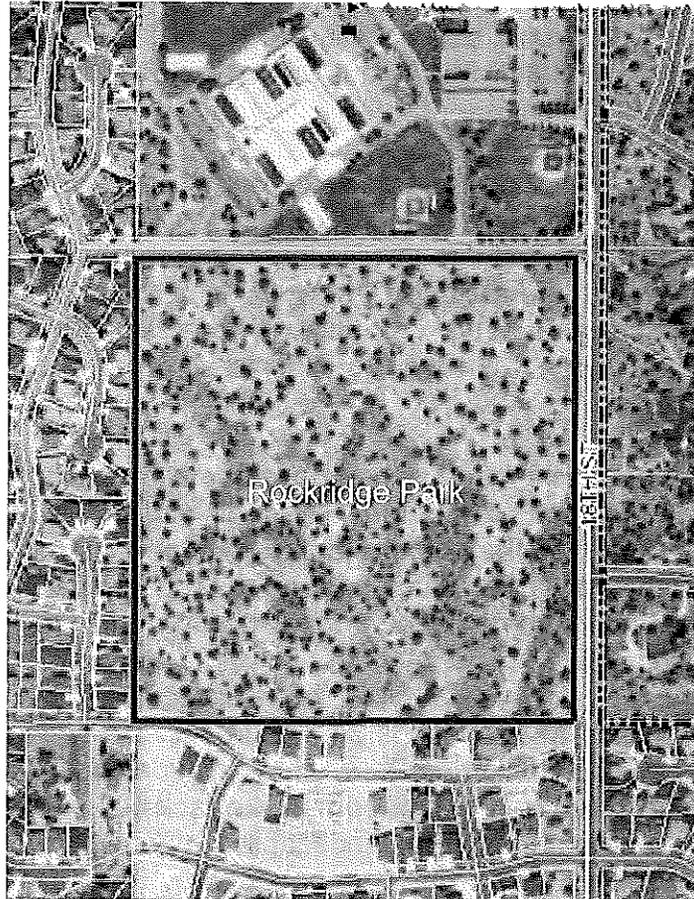
District Bond. In January 2016 Deschutes County approved a Site Plan (247-15000458-SP) and Conditional Use Permit (247-15-000457-CU) for construction of the park, and development activities occurred thereafter. A temporary portable restroom is located on the site.

5. **LOT OF RECORD:** Rockridge Park was reviewed and approved in Deschutes County File 247-15-000456-LR / 457-CU / 458-SP. Within that decision, Deschutes County provided a finding that documents that the property is a Lot of Record, a unit of land that was in separate ownership and conformed to all subdivision/partition requirements in effect on the date that the unit of land was created; therefore the property is a Lot of Record as defined in the Bend Development Code.
6. **ZONING:** The property is located within the Urbanizable Area (UA) Zoning District and it is designated Public Facilities (PF) on the City of Bend Comprehensive Plan Map. Per BDC 4.9.700, on the date the annexation becomes effective, the UA zoning will cease to apply and the zoning map will be automatically updated with the zoning district that implements the underlying Comprehensive Plan map designation, which is PF.
7. **SITE DESCRIPTION:** The property is 36.64 acres in size and square in shape. The site is developed as Rockridge Park, which includes access points, a parking lot, a disc golf course, temporary restrooms, bike racks, a skate park, shelters, bike paths, walkways, a nature play area, landscaping, planting beds, traditional park play areas, and signage. The property is bounded by Egypt Drive to the north and NE 18th Street to the east. Avion water service has been extended to the site, a City sewer main exists within Egypt Drive, and a City sewer service line has been constructed to the edge of the property, but is not yet extended onto the site.

To the north, across Egypt Drive, are Lava Ridge Elementary School and Sky View Middle School, within the Bend City Limits. To the east, across NE 18th Street, are rural residential uses on lands that are zoned SR 2.5 (outside of the Bend City Limits and UGB). To the south and west are urban residential uses on lands within the City of Bend that are zoned Residential Standard Density (RS).

#### 8. **PUBLIC FACILITIES AND SERVICES:**

- **Road access** – The property is accessed by vehicle from Egypt Drive.
- **Domestic water** – Avion Water
- **Fire protection** - City of Bend
- **Police protection** – City of Bend
- **Sewer** – Temporary portable restrooms



9. **PROPOSAL:** Annexation of approximately 36.64 acres of land south of Egypt Drive encompassing the existing Rockridge Park, which will be zoned PF following annexation.

## CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

### 4.9.300 Review Process

- 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 proposal is reviewed via the Type III process and the City Council will be the sole review authority and the approval will be by ordinance. The notice of the required hearing was published in the Bend Bulletin for two consecutive week, posted in four public places, and mailed to property owners within 250 feet, in accordance with the provisions of these sections.

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

**1. Exemptions from Area and Master Planning.**

- a. Land not subject to an Area Plan or Master Plan as shown in Figure 4.9.300, Expansion Areas.
- c. City initiated annexations of property intended for uses such as publicly owned rights-of-way or City initiated annexation of additional lands brought into the Urban Growth Boundary for affordable or market rate housing, in programs such as authorized under Oregon House Bill 4079, or other specified uses as authorized by Oregon statute.
- d. For areas subject to these exemptions, applicants may submit annexation and development applications for processing concurrently under the anticipated zoning district. Any development approvals will be final decisions for processing purposes but will not be effective until completion of annexation.

**FINDING:** Pursuant to subsection (1)(a), the park is exempt from Area/Master Planning because the subject parcel is noted in Figure 4.9.300, Expansion Areas, as not subject to an Area Plan or Master Plan. The abutting rights-of-way are also exempt pursuant to subsection (1)(c).

**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 applicant has provided the required forms, exhibits and information.

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.
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 is the Bend Park and Recreation District and the annexation encompasses an existing park within the District.

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 has submitted a letter from the Bend-LaPine School (BLS) District indicating that the two districts have been in communication regarding the annexation and BLS supports the annexation of the park.

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 (canal, head gate, crossing) that clearly identifies easements, right-of-ways, 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 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 property is not within an irrigation district, does not have appurtenant water rights, and does not impact any irrigation district conveyance facilities.

**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 right-of-way immediately to the north of the property is situated within the Bend City Limits and has been improved with City Standard transportation and sewer facilities. Also, the property is served by Avion Water Company, constructed to the required City and Avion Standards. Regarding public facility and transportation planning, the planned demands of, and supplies to, the subject property are based upon the PF Comprehensive Plan designation. Adjacent to the developed site, sewer, water and transportation systems (vehicular, pedestrian and bicycle) have been extended. A sewer service line extension from the abutting mainline will only generate a small impact. The City Engineering Division determined that a sewer analysis is not needed based on anticipated minor flows. Updates to the Wastewater Collection System Master Plan are not necessary because the Master Plan is based upon the Comprehensive Plan designation/zone - PF (which will exist post annexation). The area is served by water, sewer and transportation facilities and the development site is served with water and transportation. The sewer system can be accommodated (as planned by the Wastewater Collection System Master Plan) by allowing for the planned sewer service line extension after annexation, in compliance with Goals 11 and 12.

#### **4.9.600 Approval Criteria**

**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:** BDC Chapter 4.9 implements the Bend Comprehensive Plan and thus consistency with BDC Chapter 4.9 ensures consistency with the Comprehensive Plan. However, the following Comprehensive Plan policies are applicable.

#### **COMPREHENSIVE PLAN POLICIES**

**2-2 The city and Bend Metro Park and Recreation District shall share the responsibility to inventory, purchase, and manage public open space, and shall be supported in its efforts by the city and county.**

**FINDING:** This policy establishes that the Park District has a responsibility to manage public open space and that the City shall support its efforts. Regarding Rockridge Park, this facility is an established park that is identified in the Park District Comprehensive Plan and serves an identified need in the northern quadrant of Bend. The Park District has determined that the park facility would best serve the public with permanent

restrooms that are connected to the City sewer system, rather than temporary restroom facilities and/or restrooms on a septic system. This policy establishes that Park District established management plan should be supported by the City; therefore City approval of the annexation would be consistent with this policy.

**3-5 The City will apply a new “Public Facilities” zone for public parks and recreation facilities within the planning area.**

**FINDING:** The property is currently zoned Urbanizable Area (UA) and cannot be rezoned to Public Facilities (PF) until the property is annexed. The BDC Chapter 4.9 establishes that the property will be rezoned upon annexation; therefore approval of the annexation would be consistent with this policy.

**3-6 The City shall support efforts by the Park and Recreation District and Bend-La Pine School District to jointly develop school-park sites to meet neighborhood park and school recreation needs.**

**3-8 The City shall refer to the park district, for its review and recommendations, all development proposals that include or are adjacent to existing or proposed parks or trails.**

**FINDING:** Rockridge Park is adjacent to Lava Ridge Elementary School and Sky View Middle School, to the north. A fully operational park site (with permanent restrooms) is needed to serve the neighborhood. The Park District is submitting the application, thus supports the proposal. Approval of the annexation would be consistent with these policies

## **Chapter 8 Public Facilities and Services**

### **Sewer Collection Facilities**

**8-1 All new development within the City Limits should be connected to City sewer.**

**8-2 The city is the primary provider of sewage collection and treatment services for the City’s service area under Statewide Planning Goal 11.**

**8-3 To reduce the reliance on individual sewage disposal systems within the Urban Growth Boundary the city will work with unsewered neighborhoods to find solutions for sewer service.**

**FINDING:** Collectively, these policies establishes that, within the UGB, sewers are preferable to septic systems and that the City of Bend is, and should be, the provider of wastewater management. The proposed annexation will allow for a connection to the City sewer system, instead of providing a septic system on-site. Approving the annexation and allowing for the connection to the City sewer system would be consistent with these policies.

## Chapter 11- Growth Management

**11-28** Some UGB expansion areas have identified preliminary needs for schools and parks. The need and location for schools and parks is determined by the facility planning of the School District and Park District. The School Attendance Areas and Park Service Areas may change and the Area Plans for the UGB expansion areas should take into account any updated school and park needs when the plan is prepared.

**FINDING:** The site is a developed park and it serves an identified recreation need. Allowing for full urban development (including extension of the sewer system) through the annexation process will allow for intended with these growth management policies.

### Annexation Policies

**11-41** Annexations will follow the procedural requirements of state law. **Applicant Response:** The application is being submitted in conformance with the adopted City of Bend annexation procedures, which have been adopted to implement this policy and the requirements of state law.

**11-42** Annexations will be consistent with the Comprehensive Plan and applicable annexation procedures and approval criteria. **Applicant Response:** This narrative addresses all applicable Comprehensive Plan Policies, all applicable annexation criteria, and all applicable approval criteria. As detailed throughout this narrative, the proposal conforms to the applicable standards and criteria, and therefore is consistent with this policy.

**11-43** 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 detailed above, the right of way immediately to the north of the property is situated within the Bend City Limits and has been improved with City Standard transportation and sewer facilities. Also, the property is served by Avion Water Company, constructed to the required City and Avion Standards. Regarding public facility and transportation planning, the planned demands of, and supplies to, the subject property are based upon the PF Comprehensive Plan designation. Adjacent to the developed site, sewer, water and transportation systems (vehicular, pedestrian and bicycle) have been extended. A sewer service line extension from the abutting mainline will only generate a small impact. The City Engineering Division indicated that, based the expected minor flows, a sewer analysis was not needed. The area is served by water, sewer and transportation facilities and the development site is served with water and transportation. The sewer system can be accommodated by allowing for the planned sewer service line extension after annexation.

Regarding schools, the annexation of the property will not change the use, and will not place any additional demands on the school system. Regarding parks, the property is a

park, owned and operated by the Bend Metropolitan Park and Recreation District; the annexation will not increase demands to the park system, but will allow for an improvement to the available supply (permanent restrooms) of parks. The annexation request has been coordinated with the School and Park Districts and the applicant has been informed that the proposed annexation is consistent with their respective plans.

**11-46 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 abuts the City Limits to the north, west, and south, thus is contiguous to the City Limits; consistent with this policy.

**11-47 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 site is developed with a park and is not identified as being subject to an area plan or a master plan. The proposed annexation will allow for a sewer service line extension; it is not anticipated that additional requirements will be imposed through the annexation agreement.

**11-48 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 site is developed and City standard infrastructure exists adjacent to the site; therefore it is not anticipated that any system will be required to be modernized or constructed in association with the proposed annexation.

**11-50 Properties over 20 acres (including adjacent property in common ownership) as of the adoption of the UGB expansion (shown on Figure 11-4) are subject to master plan requirements, regardless of property acreage upon annexation.**

**FINDING:** BDC Chapter 4.5 has been adopted in a way that implements this policy. Furthermore, BDC Chapter 4.9 has been adopted, in part, to implement this policy, in relation to annexation timing. BDC Chapter 4.9 clearly establishes the subject property as being exempt from a Master Plan prior to annexation. Aside from timing, and referring to the master planning provisions of BDC Chapter 4.5, BDC establishes that master plans are required of properties over 20 acres; however BDC Chapter 4.5 also allow "exemptions" for properties that are 20 acres or larger that are developed. Rockridge Park is developed, so under BDC Chapter 4.5 is exempt from the Master Planning requirements. Overall, annexation does not require a Master Plan and the developed property, while over 20 acres is exempt from Master Plan requirements at this time; consistent with this policy.

## Specific Expansion Area Policies

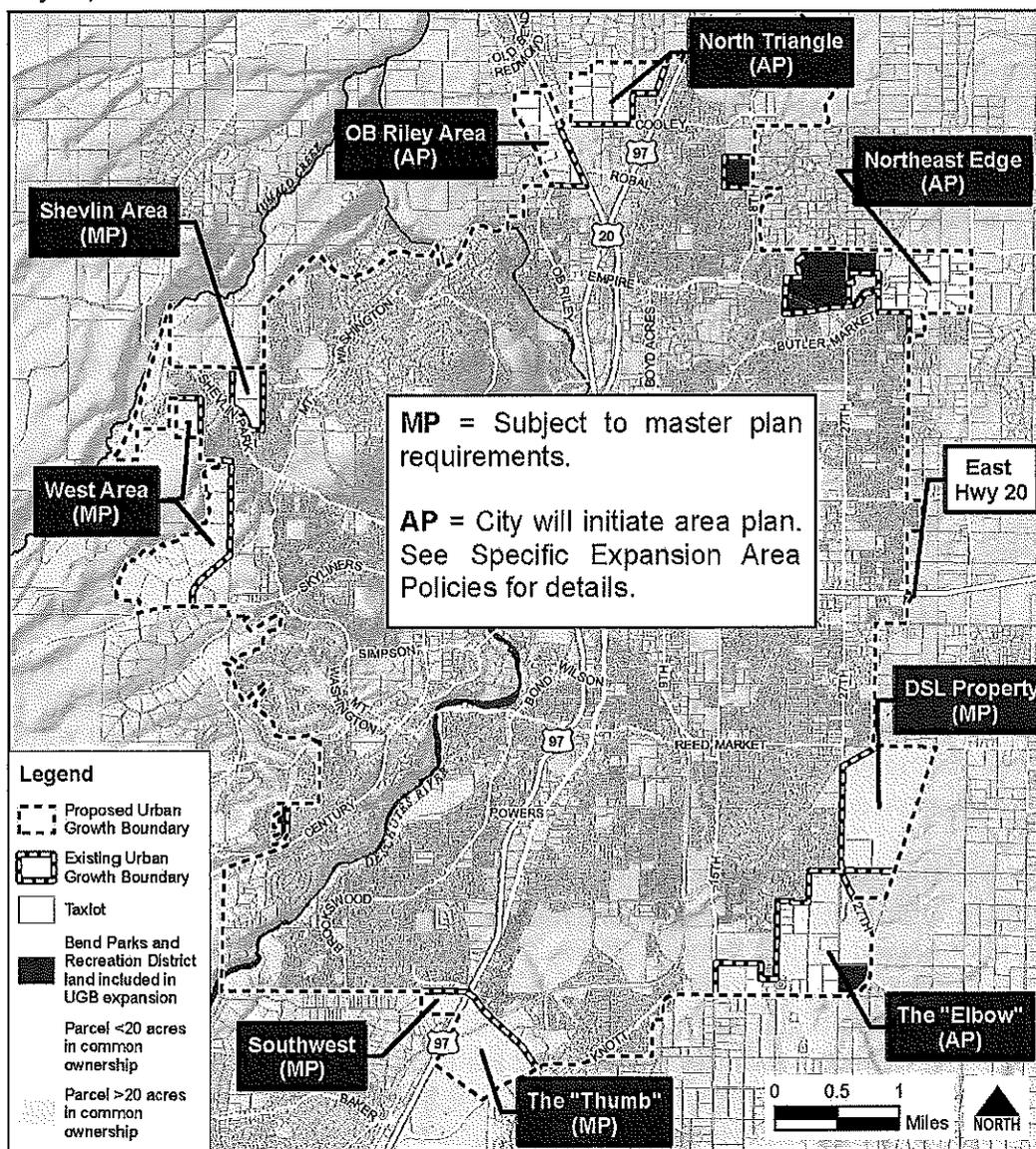
Area-specific policies for land added to the UGB established in 2016 are intended to guide the development of Area Plans (including Master Plans) for expansion areas (see Figure 11-4). These areas are also subject to policies in this Chapter regarding urbanization and annexation.

**Figure 11-4: UGB Expansion Subareas and Area Planning Requirements**

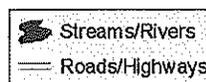
### Bend UGB

*UGB Expansion Subareas and Area Planning Requirements*

July 18, 2016



Data source: Deschutes County GIS (2014)



**FINDING:** The subject property is labeled as “Bend Parks and Recreation District land included in UGB expansion” in Figure 4.3.900 and is not identified as being subject to Master Plan or Area Plan requirements. Furthermore, the property is not identified as being an expansion area that is subject to Bend Comprehensive Plan Specific Expansion Area Policies; therefore the Comprehensive Plan Policies of this section do not apply.

**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:** As detailed above, the proposal is exempted under BDC 4.9.300(B)(1)(a); therefore area and master planning review do not apply to the application.

**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 detailed above, the right of way immediately to the north of the property is situated within the Bend City Limits and has been improved with City Standard transportation and sewer facilities. Also, the property is served by Avion Water Company, constructed to the required City and Avion Standards. Regarding public facility and transportation planning, the planned demands of, and supplies to, the subject property are based upon the PF Comprehensive Plan designation. Adjacent to the developed site, sewer, water and transportation systems (vehicular, pedestrian and bicycle) have been extended. A sewer service line extension from the abutting mainline will only generate a small impact. The City Engineering Division determined that, based the expected minor flows, a sewer analysis was not needed. The area is served by water, sewer and transportation facilities and the development site is served with water and transportation. The sewer system of the site can be accommodated by allowing for the planned sewer service line extension after annexation.

Regarding schools, the annexation of the property will not change the use, and will not place any additional demands on the school system. Regarding parks, the property is a park, owned and operated by the Bend Metropolitan Park and Recreation District; the annexation will not increase demands to the park system, but will allow for an improvement to the available supply (permanent restrooms) of parks. The annexation request has been coordinated with the School and Park Districts and the proposed annexation is consistent with their respective plans. Overall, because the site is a developed site, that has been developed with water and transportation infrastructure and because sewer service can be extended to the site from the existing mainline north of the property, public facilities have been established in an orderly manner, consistent with this policy.

**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, storm water, 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:** As noted above, Avion Water Company provides water to the site and City Standard transportation improvements exists to the north of the property. Also, a sewer main exists within Egypt Drive north of the property and the City Engineer has determined that a service line extension will be minor and not necessitate a sewer analysis. Also, the annexation of the developed site will not result in any additional vehicular trips and is not identified as an application type that requires a Transportation Facilities Report. All needed facilities exist to serve the established use and it is not anticipated that mitigation measures or funding mechanisms will be needed in the annexation agreement.

**5. Owner(s) have committed to transfer all irrigation district water rights from the property, unless exempted in BDC 4.9.600(A)(5)(a)(i). The timing of the transfer of irrigation district water rights may be worked out between the owner(s) and the irrigation district, but in any event, the transfer must occur prior to the platting of a land division or prior to certification of final occupancy for developments subject to Site Plan Review, whichever occurs first. For phased subdivisions or developments, however, the transfer may occur by individual phase prior to the platting of each phase or prior to certification of final occupancy of the development on each phase.**

**a. Exemption.**

**i. In limited instances where the City Council finds that continued use of irrigation district water rights will not conflict with the Bend Comprehensive Plan Specific Expansion Area Policies for the land to be annexed and the transition to urban land uses, an Owner may continue to use the irrigation district water rights until certain events occur or certain conditions are met as set forth in a written agreement. Council may consider additional factors such as efficiency of use, size of the lot or parcel, environmental demands and sustainability, protection of public health, and cost to the city.**

**FINDING:** The subject property does not have any irrigation district water rights.

**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 property is not within an irrigation district. It is a developed site, which has been through land use review and approval, with opportunity for public (and irrigation district) comment. The site does not have water rights, and through the past decision, the nearby irrigation districts have not identified any impacts to irrigation district conveyance facilities. The fact the property is not within an irrigation district, that there are not any water rights on the property, and that there are not any conveyance facilities on the site document conformance with this criterion.

**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.**

**FINDING:** The application is for an annexation, which will also change the existing Urbanizable Area zoning of the property to Public Facilities zoning, and make the zone consistent with the Comprehensive Plan designation. The TSP is based upon Comprehensive Plan Designations throughout the City and site is developed. The annexation will not result in any new trips, it will not impact any transportation facility, and it will not "significantly affect" any transportation facility; therefore the proposal is consistent with the Transportation Planning Rule.

**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 surrounding rights-of-way have previously been improved to urban standards; therefore further right-of-way improvements are not necessary.

**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 property is located within the Urbanizable Area (UA) Zoning District and is designated Public Facilities (PF) on the City of Bend Comprehensive Plan Map. Per BDC 4.9.700, on the date the annexation becomes effective, the UA zoning will cease to apply and the zoning map will be automatically updated with the zoning district that implements the underlying Comprehensive Plan map designation, which is PF.

**4.9.800 Effective Date and Notice of Approved Annexation.**

**A. The effective date of an approved annexation must be set in accordance with ORS 222.040 or 222.180.**

**B. Notice of Approved Annexation.**

1. Not later than 10 working days after the passage of an ordinance approving an annexation, the Planning Director will:
  - a. Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City.
  - b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Deschutes County Clerk, Deschutes County Assessor, affected districts, and owners and electors in the annexed territory. The notice must include:
    - i. A copy of the ordinance approving the annexation;
    - ii. A legal description and map of the annexed territory;
    - iii. The findings; and
    - iv. Each site address to be annexed as recorded on Deschutes County assessment and taxation rolls.
  - c. The notice to the Secretary of State will also include a copy of the statement of consent as required in BDC 4.9.400, Initiation Procedures.

**FINDING:** ORS 222.180 provides that the effective date of the annexation is the date that the appropriate filing is made with the Secretary of State. The annexation is the date that the appropriate filing is made with the Secretary of State..

**4.9.900 Extraterritorial Extension and/or Connection of Water and Sewer Service.** The City Council may approve an extraterritorial extension and/or connection of water and sewer services consistent with the requirements of Goal 11 Public Facilities and OAR 660-011-0060 and 660-011-0065 and may require an annexation contract. The review is a Type III process in accordance with BDC Chapter 4.1, Development Review and Procedures with the City Council as the sole review authority.

**FINDING:** Following adoption of the annexation ordinance and perfection of the annexation with the Secretary of State, the subject property will be located within the City limits and no extraterritorial service will be needed.

## **V. CONCLUSION**

Staff finds that the proposed annexation satisfies all the applicable criteria for the requested annexation.

**RECOMMENDATION:** Staff recommends that the City Council approve the applicant's request for Annexation.