

ORDINANCE NO. NS-2351

AN ORDINANCE REPEALING THE SHILO MASTER PLANNED DEVELOPMENT

Findings:

- A. On July 12, 2019, the JL Ward Company (Applicant) submitted a Type III Quasi-judicial application for a Development Code Amendment and Zoning Map Amendment to repeal the Shilo Master Plan.
- B. On August 26, 2019, the Planning Commission held a public hearing and voted to recommend approval of the Development Code and Zoning Map Amendments to repeal the Shilo Master Plan.
- D. The City Council held a public hearing on the proposed amendments on September 18, 2019 to take testimony and consider the Planning Commission recommendation.
- E. The City Council has determined that the Development Code Amendment and Zoning Map Amendment to repeal the Shilo Master Plan code and zoning overlay meets all applicable Development Code criteria.

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Development Code is amended as contained in Exhibit A.
- Section 2. The Zoning Map is amended to remove the Shilo Master Plan overlay.
- Section 3. The City Council adopts and incorporates the Findings in support of this ordinance as contained in Exhibit B.

First Reading Date: September 18, 2019

Second reading and adoption by roll call vote: October 2, 2019

YES: Sally Russell, Mayor NO: none
 Bruce Abernethy
 Bill Moseley
 Justin Livingston
 Gena Goodman-Campbell
 Chris Piper



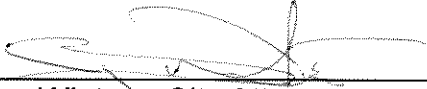
Sally Russell, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney

NOTE:

Text in underlined typeface is proposed to be added.

Text in ~~strikethrough~~ typeface is proposed to be deleted.

CITY OF BEND DEVELOPMENT CODE

Title 2 LAND USE DISTRICTS

Chapter 2.7 SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS

~~Article XV. Shilo Master Planned Development~~

~~2.7.3300 Shilo Master Planned Development~~

~~2.7.3310 Purpose~~

~~The purpose of this article is to implement the Shilo Master Plan and the Bend Comprehensive Plan policies, and to create special standards for the residential and commercial areas within the Shilo Master Development Plan boundaries. The Master Plan standards and districts will:~~

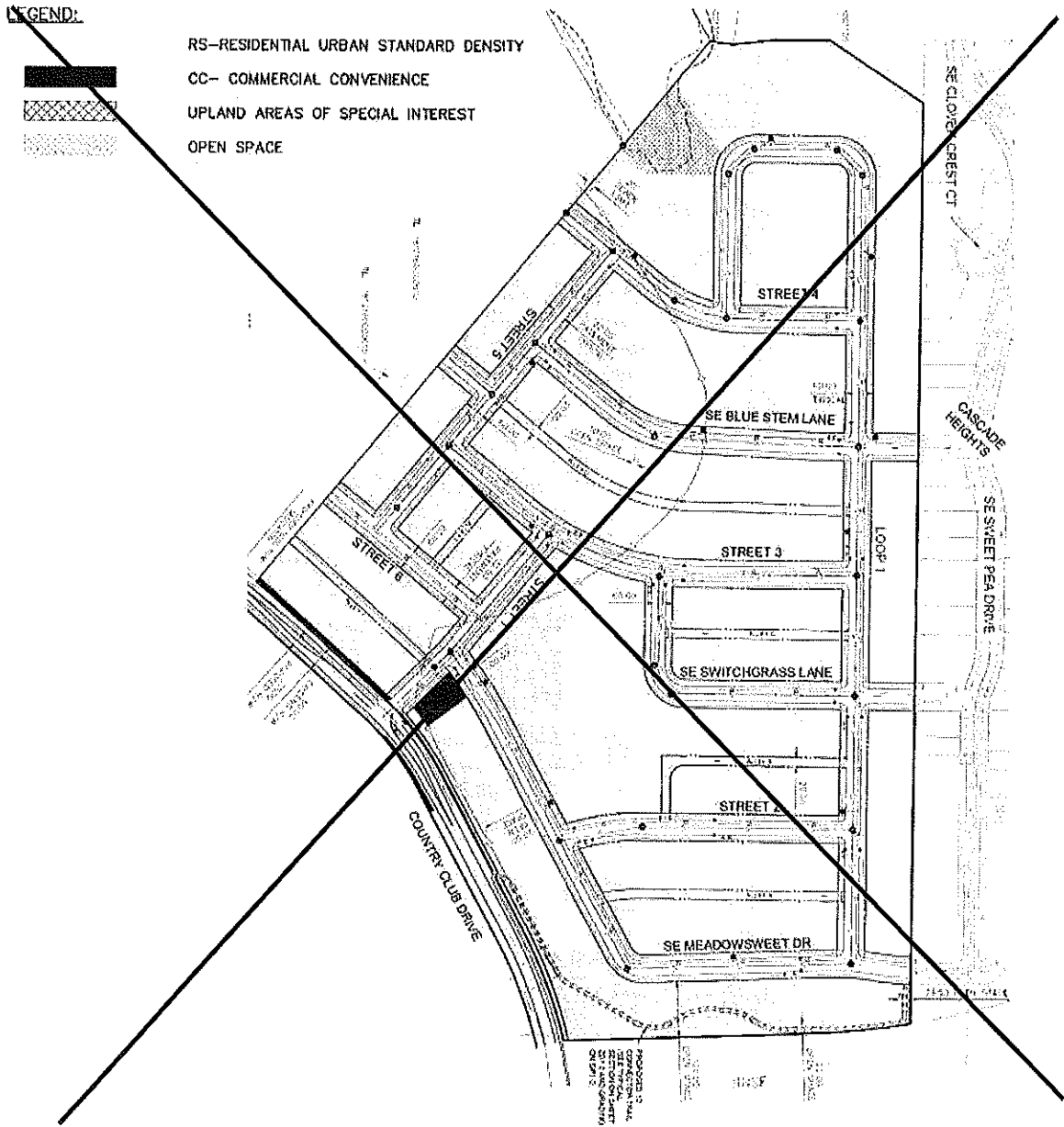
- ~~A. Provide housing types consistent with the RS Zone.~~
- ~~B. Protect ASIs and trees, to the extent possible.~~
- ~~C. Create an opportunity for a small convenience commercial area to serve the residential neighborhood.~~
- ~~D. Promote pedestrian and other multi-modal transportation options, including trails and separated sidewalks.~~
- ~~E. Create an interconnected system of public streets appropriate to the site.~~
- ~~F. Create streetscapes that will meet emergency access requirements and enhance pedestrian and bicycle access. [Ord. NS-2290, 2017]~~

~~2.7.3320 Applicability~~

~~The area regulated by the Shilo Master Plan is approximately 48 acres of land east of Country Club Drive, west of the Cascades Heights subdivision, and south of vacant lands abutting Murphy Road. The area contains one mapped Upland Area of Special Interest (ASI).~~

Figure 2.7.3320

Shilo Master Planned Development Districts



Note: Alleys are also shown, but subject to removal on a block by block basis as determined at the time of tentative plan approval, except for Alley H. Parking bays on Country Club Drive may be allowed north of Street 1 only, subject to infrastructure review.

{Ord. NS-2290, 2017}

2.7.3340 Shilo Residential District

The purpose of the Shilo Residential District is to provide single-family dwellings with an interconnected pedestrian-friendly circulation system



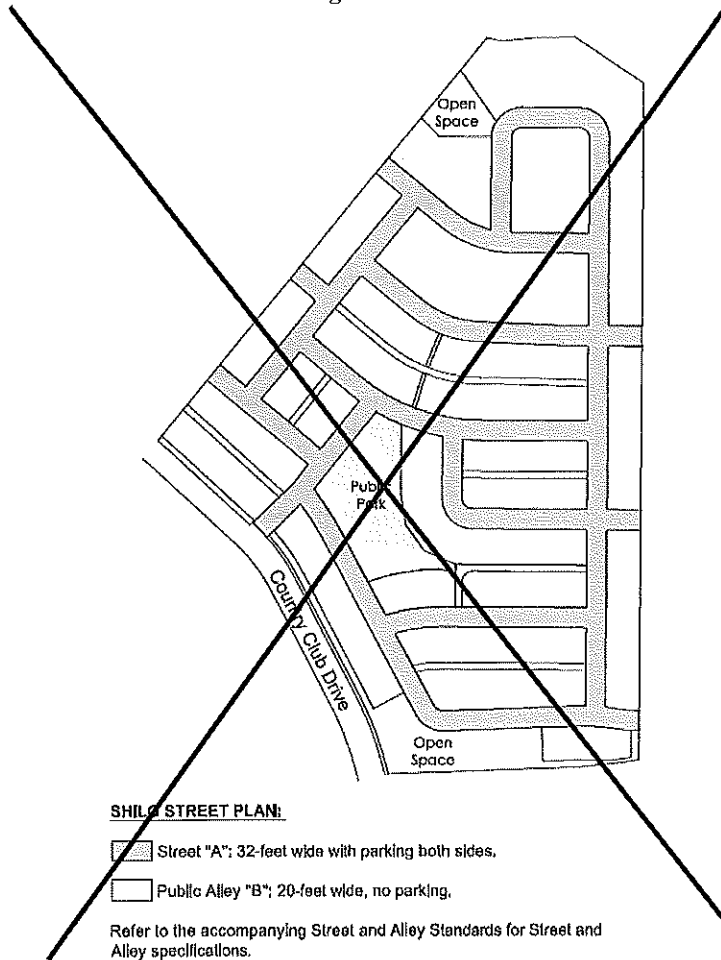
surrounding a public park. Duplex lots may be an element of the residential development and, if so, they will be identified for individual lots by phase on each tentative plan.

- A. Permitted Uses. Permitted uses are contained in BDC Table 2.1.200 for the Residential Standard Density Zone (RS).
- B. Development Standards. The lot size and development standards of the RS Zone uses are contained in BDC Chapter 2.1.
- C. Minimum Density. The minimum number of units within the Residential District of the Shilo Master Plan is 212 units. [Ord. NS 2290, 2017]

2.7.3350 Street and Pedestrian Standards

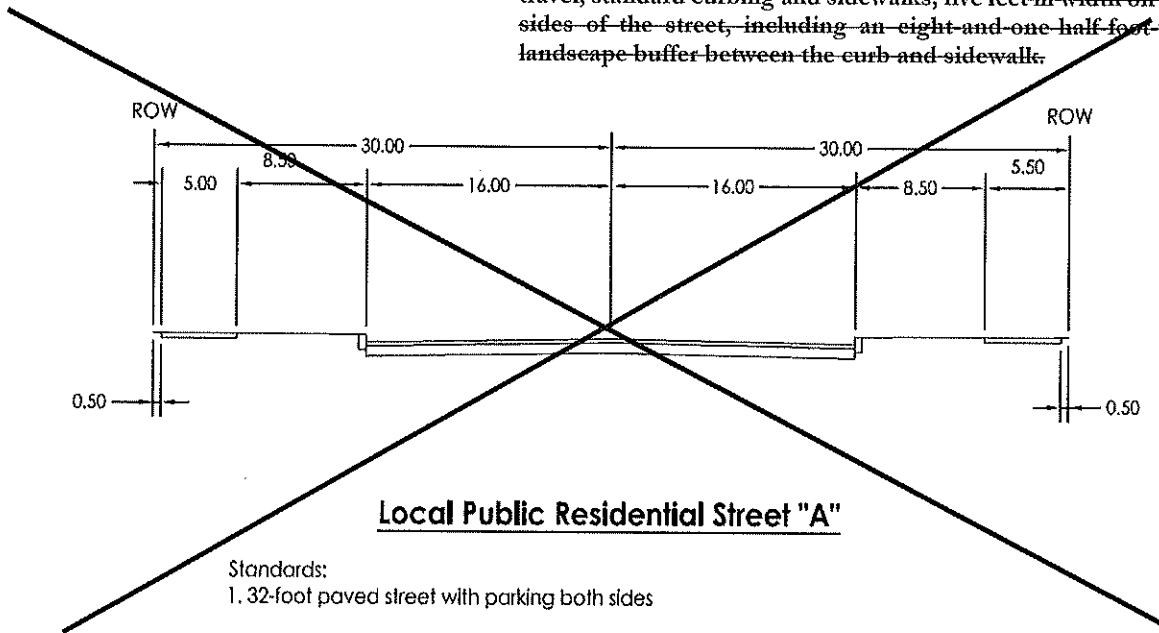
The Shilo Master Planned Development's internal roads will be public, constructed to the horizontal cross-sections identified below. Sidewalks will be provided on all streets, separated from the roadway except where feasible to preserve trees. Street and pedestrian standards shall be consistent with the requirements of this code as set forth below, except that variations may be approved through the tentative plan review and/or site plan review processes to allow for meandering of sidewalks and variation in landscape buffer locations where necessary to preserve existing topography and trees.

Figure 2.7.3350

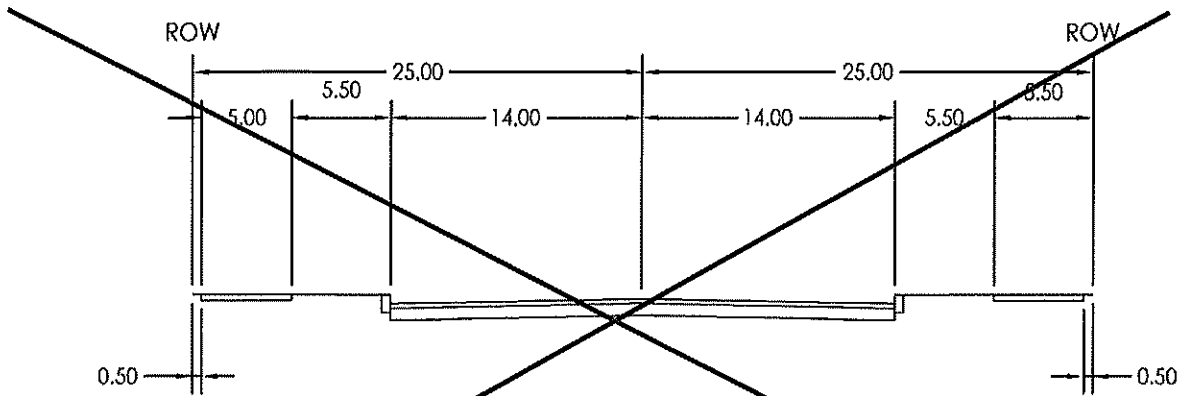


A. Public Road Standards:

1. ~~Residential Street "A." Two-way travel road 32 feet in width in a 60-foot wide right-of-way, with parking on both sides. Sidewalks will be a minimum of five feet in width on both sides of the street, with an eight and one-half foot wide landscape buffer between the curb and sidewalk. Sidewalk location may meander, with a variable width landscape buffer to fit the need given trees, topography, and drainage, and potentially for driveway access for lots without alley access.~~
2. ~~Commercial Streets adjacent to the commercial lot will be consistent with local public residential street "A." Two-way travel, standard curbing and sidewalks, five feet in width on both sides of the street, including an eight and one-half foot wide landscape buffer between the curb and sidewalk.~~



3. ~~Residential Street "B." Two-way travel road 28 feet in width, with parking on one side in a 50-foot wide right-of-way. Sidewalks will be a minimum of five feet in width on both sides of the street, with an eight foot wide landscape buffer between the face of the curb and sidewalk. Sidewalk location may meander, with a variable width landscape buffer to fit the need given trees, topography, and drainage, and potentially for driveway access for lots without alley access.~~

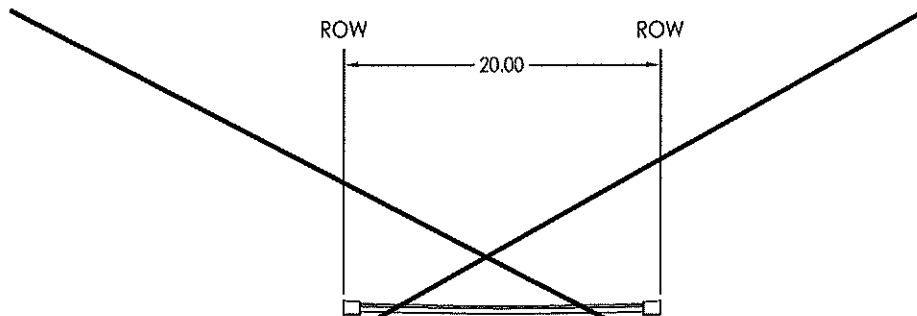


Local Public Residential Street "B"

Standards:
1. Parking one side.

B. Public Alley Standards:

1. Residential. No parking either side. Eighteen feet of paved surface in width with one-foot low-profile curbs each side, generally an inverted crown to assist with best drainage practices.



Public Alley "C"

1. Residential - No Parking either side. Twenty feet in width, including mountable curb. Generally inverted crown to assist with best drainage practices.

- C. Connector Trail. The connector trail from Country Club Road through the open space to the eastern property boundary must be located on private property abutting the east side of the Country Club right-of-way and north of the railroad right-of-way.

The trail must be a minimum of 10 feet in width within a 20-foot wide public access easement. The final alignment of this trail will be determined through the land division process. The trail must be designed and constructed to conform to PROWAG guidelines or other guidelines as approved by the City Engineer. [Ord. NS-2290, 2017]

EXHIBIT B

**CITY OF BEND
CITY COUNCIL FINDINGS**



**COMMUNITY
DEVELOPMENT**

PROJECT NUMBER: PZ-19-0497

REPORT DATE: September 6, 2019

**APPLICANT/
OWNER:** JL Ward Company

LOCATION: No address assigned; east of Country Club Drive and north of railroad tracks. Tax Lot 619 on Assessor's Map 18-12-16

REQUEST: Repeal of Shilo Master Plan – BDC 2.7.3300 through BDC 2.7.3500 and repeal of the Shilo Master Plan zoning overlay. Underlying zoning will remain the same.

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

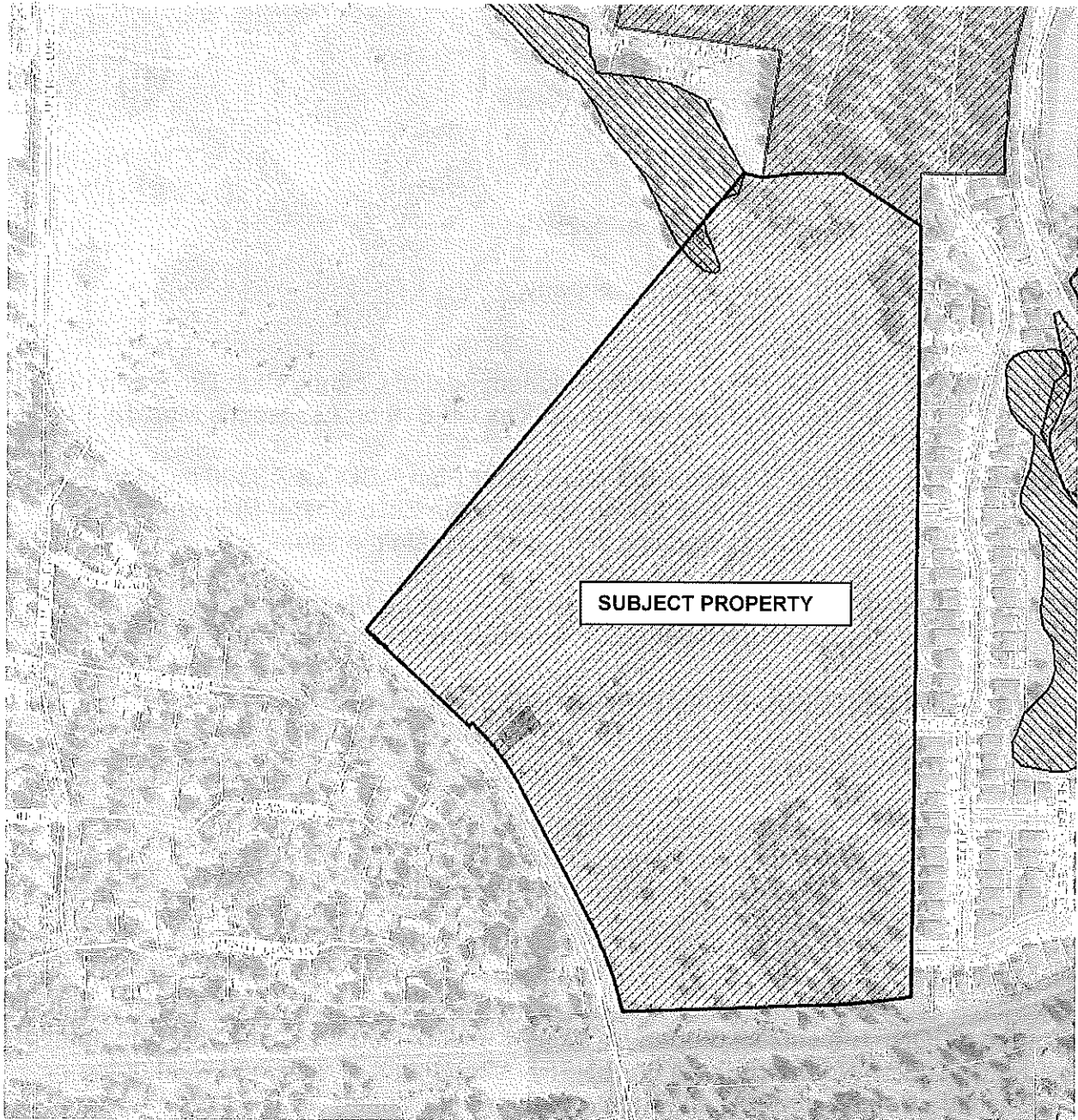
APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

City of Bend Development Code

Chapter 2.1, Residential Zoning Districts (RS)
Chapter 2.2, Commercial Zoning Districts (CC)
Chapter 4.1, Development Review and Procedures

FINDINGS OF FACT:

- 1. LOCATION:** The subject property is located east of Country Club Drive and north of the Burlington Northern Sante Fe (BNSF) railroad right-of-way, and west of the Cascade Heights subdivision. The property is also identify as Tax Lot 619 on the Deschutes County Assessor's Map 18-12-16.
- 2. EXISTING ZONING & GENERAL PLAN DESIGNATION:** The subject property is zoned Residential Urban Standard Density (RS) zoning, along with a small, ±0.20-acre portion zoned Commercial Convenience (CC). The subject property also includes a zoning overlay for the Shilo Master Plan.



3. SITE DESCRIPTION & SURROUNDING USES: The subject property is approximately 48.1 acres in size and irregular in shape with the south property line following the Burlington Northern railroad tracks, the west property line abutting Country Club Drive, the northwest property line abutting undeveloped property owned by the School District, the north property line abutting the Crown Villa RV Resort, and the east property line abutting the Cascade Heights subdivision. The topography is relatively flat with a few trees in the southern portion of the property, primarily in the southeast corner, and near the proposed property access. The property is otherwise generally devoid of vegetation. A large rock outcropping located near the northern property line is a mapped Area of Special Interest (ASI). An old overflow pond for the Shilo well is also in the central-western portion of the property.

4. **PROPOSAL:** Type III application to repeal the Shilo Master Plan which is codified in the Bend Development Code in BDC 2.7.3300 through BDC 2.7.3500, and a zoning map amendment to remove the Shilo Master Plan zoning overlay.
5. **BACKGROUND:** The Shilo Master Plan was approved in 2017 under PZ-16-0822. The master plan included a minimum of 212 residential lots, a small commercially zoned lot, a 2.3 acre park and other associated open space. The master plan was approved prior to the code amendments amending the master plan chapter of the Development Code in the spring of 2017. Since the master plan approval, the applicant has acquired ownership of the property to the north, previously owned by the Bend-LaPine School District. The applicant has elected to repeal the Shilo Master Plan in order to develop a master plan for the entire area under common ownership. This application is for the repeal of the approved Shilo Master Plan only.
6. **PUBLIC NOTICE AND COMMENTS:** On July 19, 2019, the City mailed a public hearing notice to property owners within 250 feet of the subject property, and the land use representative of the Southeast Bend Neighborhood Association. While City Planning staff received two phone calls with questions about the application, no substantive comments about the repeal proposal were received. City staff sent the Oregon Department of Land Conservation and Development (DLCD) notice of the pending application on July 18, 2019, more than 35 days prior to the first scheduled public hearing (DLCD File No. 009-19). Staff received two written comments prior to the Planning Commission public hearing which are included in the official record.

The Planning Commission held a public hearing on August 26, 2019 to consider the proposed amendments. After considering oral testimony (one individual), the Planning Commission recommended approval of the proposed amendments.

Public notice of the City Council public hearing was mailed on September 3, 2019 to property owners within 250 feet of the subject property, the land use representative of the Southeast Bend Neighborhood Association, and all parties of record. One comment letter was received by City staff which stated that the individual did not want any development to occur on the open field.

On September 18, 2019, the City Council held a public hearing to consider the application and the Planning Commission recommendation of approval. No members of the public provided oral testimony.

7. **APPLICATION ACCEPTANCE DATE:** This Development Code/Zoning Map Amendment application was submitted on July 9, 2019 and deemed complete on July 15, 2019.

APPLICATION OF THE CRITERIA:

CHAPTER 4.1, DEVELOPMENT REVIEW AND PROCEDURES

4.6.300 Quasi-Judicial Amendments

A. Applicability, Procedure and Authority. Quasi-judicial amendments generally refer to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. Quasi-judicial amendments shall follow the Type III procedure, as governed by BDC Chapter 4.1, Development Review and Procedures, using the standards of approval in subsection (B) and/or (C) of this section, as applicable. Based on the applicant's ability to satisfy the approval criteria, the applicant may be approved, approved with conditions, or denied.

FINDING: The zone change and text amendment to repeal the Shilo Master Plan Development Code text and zoning overlay applies to a single property owned by the applicant. Therefore, it will be reviewed as a quasi-judicial amendment under a Type III procedure. No change to the Comprehensive Plan Map is proposed, therefore only the criteria under subsection C below applies.

B. Criteria for Quasi-Judicial Comprehensive Plan Map Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the relevant Statewide Planning Goals that are designated by the Planning Director or designee;

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

FINDING: The City of Bend has an established citizen involvement program. The application will be processed according to the applicable procedures in BDC Section 4.1.500 and 4.1.800, which involve public notification and public hearings. Therefore, Goal 1 is satisfied.

Goal 2: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

FINDING: The Text Amendment application will be processed in accordance with the applicable procedures in BDC Section 4.1.500 and 4.1.800. The City will review and process this application consistent with the procedures detailed in the BDC, including consideration of any public comments received regarding the application. The City's established review criteria and procedures for evaluating land use decisions ensure that the affected governmental entities and decision-making bodies are involved in the

process and are aware of the factual basis for the actions and requests. Therefore, Goal 2 is satisfied.

Goal 3, Agricultural Lands

Goal 4, Forest Lands

FINDING: Goals 3 and 4 are not applicable because the proposal does not impact any agricultural land or forest land.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Furthermore, there are no inventoried Goal 5 resources on the subject property except for a relatively small area of mapped Upland Area of Special Interest (ASI) in the northwest portion of the property. BDC 2.7.700 contains established standards and procedures for reviewing applications involving ASI, which will apply to future land use applications. Therefore, Goal 5 is satisfied.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Therefore, net impact to air, water, and land resources will be negligible. Therefore, Goal 6 is satisfied.

Goal 7: Natural Hazards

To protect people and property from natural hazards.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing

zoning. The subject property does not contain any lands where Goal 7 natural hazards have been identified or mapped. Therefore, Goal 7 is satisfied.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. While the Shilo Master Planned Development was required to dedicate 10% of the gross area as public space.

Goal 9 Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning, and will not diminish the availability or viability of existing commercial land. Therefore, Goal 9 is satisfied.

Goal 10: Housing

To provide for the housing needs of citizens of the State.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Therefore, Goal 10 is satisfied.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is

zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Additionally, due to the timing of construction, the City's Murphy Corridor Improvements Project is completing some improvements that were identified as mitigation for future subdivision within Shilo. Future land use applications will be evaluated for their impact on public facilities and services, and appropriate mitigation (if necessary) will be identified at that time. Therefore, Goal 11 is satisfied.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Future land use applications will include an analysis of transportation impacts, and appropriate mitigation (if necessary) will be identified at that time. Therefore, Goal 12 is satisfied.

Goal 13: Energy

To conserve energy.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Therefore, no net change to energy consumption is anticipated. Therefore, Goal 13 is satisfied.

Goal 14 Urbanization – “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

FINDING: The subject property is located within the Urban Growth Boundary and City Limits. Therefore this goal is not relevant to the proposed amendment.

Goals 15 through 19 –

FINDING: These goals are not applicable because they only pertain to areas in western Oregon.

4.6.300.B. Criteria (cont.)

2. Approval of the request is consistent with the relevant policies of the Comprehensive Plan that are designated by the Planning Director or designee;

Policy 5-12 To promote complete neighborhoods and the integration of other supporting uses, the City will employ a master planning process for large development sites which are 20 acres or greater. The master plan process will offer two options for approval: 1) applying clear and objective standards or 2) applying discretionary standards for more flexibility.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Furthermore, at ±48 acres in area, this land will be subject to the City's updated master plan standards in Bend Development Code Chapter 4.5 when developed.

Approval Criterion #3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property;

FINDING: The property will be provided with adequate public facilities, services and transportation networks concurrent with development of the property when developed under a new master plan, as submitted separately by the applicant (PZ-19-0517).

Approval Criterion #4. Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use District Map regarding the property that is the subject of the application; and

FINDING: Since adoption of the Shilo Master Plan in 2017, the applicant has obtained ownership of the property to the north of the original 48 acres. The applicant requests withdrawal of the Shilo Master Plan in order to apply for a new master plan for the larger area including the original 48 acres (PZ-19-0517).

Approval Criterion #5. Approval of the request is consistent with the provisions of BDC 4.6.600, Transportation Planning Rule Compliance.

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not substantively change the uses or residential densities allowed on the subject property under the existing zoning. Therefore, no increase in trip generation is projected; thus there is no significant effect to a transportation facility. The new master plan that incorporates the original 48

acre Shilo master plan must be consistent with BDC 4.6.600, which will be reviewed under PZ-19-0517.

C. Criteria for Quasi-Judicial Zone Changes. The applicant must submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial zone change must be based on meeting both of the following criteria:

- 1. The amendment will bring the zone map into conformance with the Comprehensive Plan map.**

FINDING: The underlying zoning (RS and a small portion of CC) is consistent with the Comprehensive Plan map. The underlying zoning will not change with the repeal of the Shilo Master Plan overlay.

- 2. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.**

FINDING: The land within the Shilo Master Planned Development has been identified in the Bend Comprehensive Plan as appropriate for housing and commercial uses, and is zoned Standard Density Residential (RS) and Commercial Convenience (CC). Withdrawal of the Shilo Master Planned Development does not change the uses or residential densities allowed on the subject property under the existing zoning. Additionally, due to the timing of construction, the City's Murphy Corridor Improvements Project is completing some improvements that were identified as mitigation for future subdivision within the Shilo Master Plan. Future land use applications will be evaluated for their impact on public facilities and services, and appropriate mitigation will be identified at that time.

G. Duration of Approval.

- 1. An approved institutional master plan will remain valid indefinitely unless withdrawn by all owner(s) of property within the institutional master plan. The City may deny withdrawal when a switch to otherwise applicable standards would not be in the public interest because of sufficient development under the institutional master plan. Standards and regulations identified in the approved institutional master plan will control all subsequent site development as long as the approved institutional master plan is valid. If alternative standards and regulations are not specifically identified in the approved institutional master plan, the applicable City standard at the time any development application is submitted will apply.**

FINDING: The applicant and property owner requests the withdrawal of the Shilo Master Planned Development through a Text Amendment and Zoning Map Amendment

application. The land within the Shilo Master Planned Development has been undeveloped since the approval was granted in 2017, and there have been no submittals or approvals for tentative subdivisions or site construction. Therefore, the withdrawal is not in violation of the public interest, as “sufficient development” under the master plan has not occurred. Therefore, the applicable criteria are met, and the withdrawal is warranted.

4.1.429 Review Authority for Site-Specific Zone Change.

A. The following is the review authority for site-specific zone change requests (Type III process) that bring the zoning into conformance with the Bend Comprehensive Plan.

2. The City Council is the review authority for site-specific zone change requests processed concurrently with a major master plan.

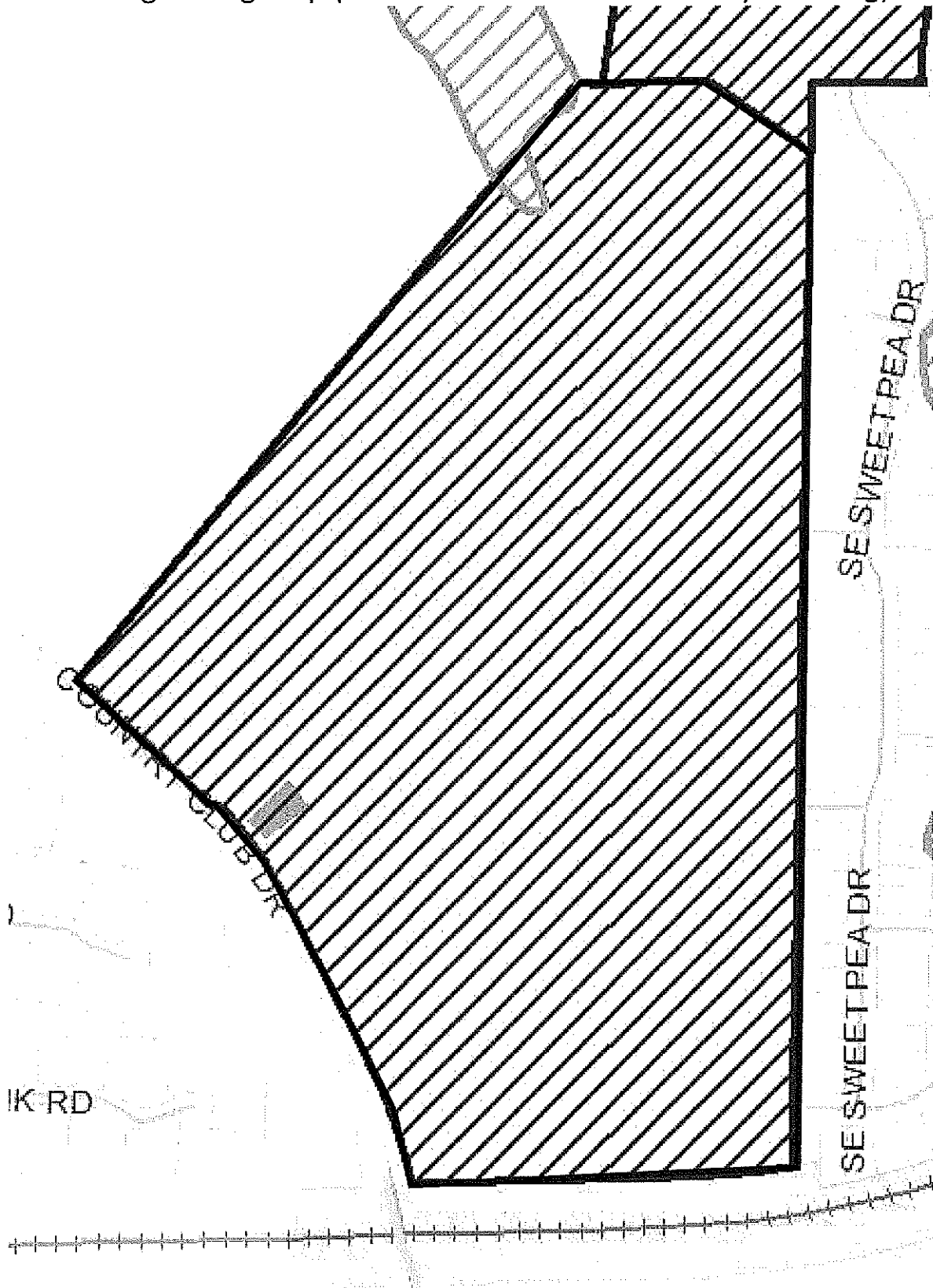
FINDING: The request is for the withdrawal or repeal of the Development Code text and zoning overlay associated with a major master plan. The City Council is the final review authority for this application.

CONCLUSIONS:

The City Council finds that the proposed Development Code Amendment and Zone Change to repeal the Shilo Master Plan code and zoning overlay meets all applicable Development Code criteria.

Exhibit C

Existing Zoning Map (with Shilo Master Plan overlay hatching)



Proposed Zoning Map (without Shilo Master Plan overlay hatching)

